

# NATIONAL ASSEMBLY

## OFFICIAL REPORT

Thursday, 26<sup>th</sup> January, 2017

The House met at 2.30 p.m.

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

PRAYERS

QUORUM

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

*(The Quorum Bell was rung)*

Very well. We can now commence the proceedings. Those Members still making their way from the dinning, I know you could be full.

Proceed.

## COMMUNICATION FROM THE CHAIR

### APPOINTMENT OF MEMBERS TO THE MEDIATION COMMITTEES

**Hon. Speaker:** Hon. Members, this Communication relates to the appointment of Members to the Mediation Committee on Health Bill, National Assembly Bill No.14 of 2015 and the Public Fundraising Appeals Bill, Senate Bill No.28 of 2014.

Hon. Members, you will recall that on 24<sup>th</sup> November, 2016, this House while in the Committee of the whole House rejected several Senate Amendments to the Health Bill, National Assembly Bill No.14 of 2015.

In addition, the Public Fundraising Appeals Bill, Senate Bill No.28 of 2014 was lost at Second Reading on 5<sup>th</sup> October, 2016.

*(Applause)*

Accordingly and in light of the House's decisions, the two Bills stand committed to Mediation Committees in accordance with Article 112(2)(b) of the Constitution.

Consequently, in consultation with the leadership of the Majority and the Minority parties in the House, I hereby appoint Members to represent the National Assembly in the Mediation Committees to consider the two Bills.

(a) Members for the Mediation Committee on the Health Bill, National Assembly Bill No.14 of 2015 are:

(i) Hon. (Dr.) Rachael Nyamai, M.P;

- (ii) Hon. (Dr.) Robert Pukose, M.P;
  - (iii) Hon. (Dr.) Naomi Shaban, M.P;
  - (iv) Hon. (Dr.) James Nyikal; and,
  - (v) Hon. (Dr.) Enoch Kibunguchy.
- (b) Members for the Mediation Committee on the Public Fundraising Appeals Bill, Senate Bill No.28 of 2014 are:
- (i) Hon. Priscilla Nyokabi, M.P;
  - (ii) Hon. T.J. Kajwang', M.P; and,
  - (iii) Hon. Stephen Bitok, M.P.

Hon. Members, it is advisable that in attempting to develop agreed versions of the said Bills, the committees should confine themselves to the contentious matters. In addition, the committees should expedite this process to ensure that there are mediated versions to the respective Houses soonest before Members commence their campaigns for party primaries.

I have a special concern for the need to expedite the passage of the Health Bill given the fact that crucial health matters have remained unresolved for quite some time now.

Thank you, Hon. Members.

### PAPERS LAID

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

The Reports of the Auditor-General on the Financial Statements in respect of the following constituencies, for the year that ended 30<sup>th</sup> June, 2015 and the Certificates therein:

- (i) Homa Bay Town Constituency;
- (ii) Kisumu Central Constituency;
- (iii) Nyakach Constituency;
- (iv) Bonchari Constituency;
- (v) Bomachoge Borabu Constituency;
- (vi) Nyando Constituency;
- (vii) Kitutu Chache South Constituency;
- (viii) Kitutu Chache North Constituency; and,
- (ix) Kisumu East Constituency.

Thank you, Hon. Speaker.

**Hon. Speaker:** Very well. Next Order!

### NOTICES OF MOTIONS

#### ADOPTION OF PIC REPORT ON INSPECTION VISIT OF SGR

**Hon. Keynan:** Hon. Speaker, I beg to give notices of the following Motions:

THAT, this House adopts the Report of the Public Investments Committee on Inspection Visit of Phase 1 of the Standard Gauge Railway (SGR) (Mombasa-Nairobi Line) undertaken from 16<sup>th</sup> to 18<sup>th</sup> June, 2016, and the implementation status of Phases I and II of the SGR, laid on the Table of the House on Wednesday, 23<sup>rd</sup> November, 2016.

## ADOPTION OF PIC ON PROCUREMENT IRREGULARITIES AT KEBS

THAT, this House adopts the Report of the Public Investments Committee on Inquiry into Allegations of Procurement Irregularities in Award of the Kenya Bureau of Standards Tender No.KEBS/T057/2014, for the provision of pre-export inspection services for used motor vehicles, laid on the Table of the House on Wednesday, 23<sup>rd</sup> November, 2016.

## ADOPTION OF PIC SPECIAL REPORT ON KAA DUTY FREE SHOPS CONTRACT

THAT, this House adopts the Public Investments Committee Special Report on Kenya Airports Authority (KAA) Duty Free Shops contract at Jomo Kenyatta International Airport and Moi International Airport from 1989 to 2015, laid on the Table of the House on Tuesday, 1<sup>st</sup> December, 2015.

Thank you, Hon. Speaker.

**Hon. Speaker:** Very well.

## STATEMENT

BUSINESS FOR THE WEEK COMMENCING 31<sup>ST</sup> JANUARY TO 2<sup>ND</sup> FEBRUARY 2017

**Hon. A.B. Duale:** Hon. Speaker, pursuant to the provisions of Standing Order No.44(2)(a), and on behalf of the House Business Committee (HBC), I rise to give the following Statement regarding Business scheduled to come before the House for the week beginning Tuesday, 31<sup>st</sup> January 2017:

The HBC met on Tuesday this week at the rise of the House to prioritise the business for consideration. The House will consider the following Bills for Second Reading:

- (i) The Statute Law (Miscellaneous Amendments) Bill (National Assembly Bill No.45 of 2016);
- (ii) The SACCO Societies (Amendment) Bill (National Assembly Bill No. 26 of 2016);
- (iii) The National Coroners Service Bill (National Assembly Bill No.46 of 2016);
- (iv) The Prevention of Torture Bill (National Assembly Bill No.47 of 2016); and,
- (v) The Movable Property Security Rights Bill (National Bill No.50 of 2016).

Hon. Speaker, I do hope that the Departmental Committees have undertaken public participation on the said Bills. It is noteworthy that the Statute Law (Miscellaneous Amendments) Bill (National Assembly Bill No.45 of 2016) is particularly proposing to amend several pieces of legislation.

Following its First Reading in the last Session, you referred the Bills to the various committees according to their subjects. Should any of the committees get late to table its report, I urge you to allow the Second Reading to commence so that the views of the public can be considered during the Committee of the whole House in the form of amendments by various committees.

Hon. Speaker, on Wednesday morning, the following business will be given priority:

- (i) A Motion regarding persuasive measures to encourage the citizens to turn out for voter registration and ultimately to vote during the next General Election. This is sponsored by the Member for Kiambu, Hon. Jude Njomo.
- (ii) The Second Reading of the Sexual Offences (Amendment) Bill 2016.
- (iii) The Second Reading of the Clinical Officers (Training, Registration and Licensing) Bill (National Assembly Bill No.27 of 2016).
- (iv) The Second Reading of the National Authority for the Campaign Against Alcohol and Drug Abuse (Amendment) Bill (National Assembly Bill No.35 of 2016).

It is also expected that next week, we will commence debate on the Supplementary Estimates 2016/2017. I also envisage that in the same week I will lay the substantive Estimates for the Financial Year 2017/2018 Budget in accordance with the revised Budget Calendar.

Finally, the HBC will reconvene on Tuesday, 31<sup>st</sup> January, 2017 at the rise of the House to consider Business for the coming week.

I now lay the Statement on the Table of the House.

*(Hon. A.B. Duale laid the document on the Table)*

**Hon. (Ms.) S.W. Chege:** On a point of order.

**Hon. Speaker:** What is your point of order, Hon. Sabina Chege?

**Hon. (Ms.) S.W. Chege:** Hon. Speaker, I kindly request your indulgence to raise an issue on the Petition which I brought to this House on Nanga Kihoto Land Buying Company.

We went with the Departmental Committee on Lands to Naivasha, and I was expecting the Report would be ready for the House. I am raising the matter because I am just from the village. On the matter that the petitioners had raised, there are people who have already advertised their land for sale but they have been frustrated by the courts and the police. The only hope they had was with this House.

Hon. Speaker, I kindly request that you direct the Departmental Committee on Lands because it had already met with the petitioners, to table the Report in this House so that we can know the way forward.

Thank you, Hon. Speaker.

**Hon. Speaker:** The Departmental Committee on Lands is chaired by one Alex Mhuri Mwiru while the Vice-Chair is one Moses ole Sakuda. I think he wants to become an elder somewhere. But they have two active Members namely the Member for Rangwe and the Member for Naivasha. That is the way that Committee operates. The Member for Rangwe and the Member for Naivasha, in the absence of the Chair and the Vice-Chair, can handle the matter. Can you respond to what Hon. Sabina Chege is raising?

**Hon. Kihagi:** Thank you, Hon. Speaker. As the Hon. Member has said, the Committee visited Naivasha sometime in October, last year and met the petitioners and other interested parties. The Report has been written but the Committee is yet to meet and adopt it. After this Sitting, the Committee is headed to Meru to listen to another Petition by Hon. Cyprian Iringo. We expect to sit next week. We will table the Report after adopting it.

**Hon. Speaker:** Also a notable ranking Member of the Committee, Hon. Sammy Mwaita is seated next to you. Of course, we also have the indomitable Chairman of the Members' Welfare Committee, Hon. (Dr.) Otuoma. At least, you can tell I have information about how the Committee operates. Can you table the report in the House by Tuesday, Hon. Kihagi?

**Hon. Kihagi:** If the Committee meets by Tuesday, I will talk to my Chairman. My Chairman is hosting the President in his constituency today but after this, I will meet with him in Meru and pass the same information to him. If the Report can be scheduled to be adopted by the Committee on Tuesday, then maybe it can be tabled by Wednesday next week.

**Hon. Speaker:** I also want to appreciate that when Members of Parliament or members of the public present petitions and then the matters about which they complain are left to go unchecked, the Committee's work becomes superfluous. I am sure you can meet on Tuesday and adopt the Report. Member for Rangwe, perhaps you want to add another dimension to the discussion.

**Hon. Ogalo:** Thank you, Hon. Speaker. Adopting the Report is something I am sure we can do on Tuesday. Everything about the Report has been agreed on. We have several pending reports in this House - those we have tabled and have never been adopted by the House. Some have never even reached the House having submitted them to your office, Hon. Speaker. Sometimes, even though we are trying to beat the deadlines, the House frustrates the Committee in that the very many reports we submit do not get debated or approved. I have an example of the Mombasa Cement Report that was in the House for one year before it was debated. Those which came in before that are still lying in the House. They have not been debated. We have a number of them. We can submit a list of the reports pending before the House on Tuesday.

**Hon. Speaker:** Your problem is one report?

**Hon. Ogalo:** We will finish this one. We can table it on Tuesday.

**Hon. Speaker:** It is so obvious.

**Hon. Ogalo:** Having the Report reach the Committee on Implementation is the problem. It reaches the House and does not go past that. So what do we do?

**Hon. Speaker:** Can you table that Report on Wednesday?

**Hon. Ogalo:** We will table the Report on Wednesday. I can give you that guarantee.

**Hon. Speaker:** What is it, Leader of the Majority Party?

**Hon. A.B. Duale:** Hon. Speaker, this Mombasa Cement Report is becoming very controversial. The Departmental Committee on Lands is not serious about the petition by Hon. Sabina Chege. It is a serious matter touching on the lives of our people. The Members of the Committee are very interested in land grabbed by a tycoon. I want to ask Hon. Oner to please avail the list of all the reports and I will get it from the Clerk so that I take it to the House Business Committee (HBC), chaired by the Speaker, so that we give it priority. This refers to all your reports not just the one on Mombasa Cement but it should also be included.

**Hon. Speaker:** Hon. Oner, all of them will be prioritised so that they can be debated on the Floor of the House. That is a living example. But even the petition by Hon. Sabina Chege should assume some life. Let us move on to the next Order.

## BILLS

### *Second Readings*

#### THE PUBLIC PRIVATE PARTNERSHIPS (AMENDMENT) BILL

*(Hon. (Dr.) Shaban on 19.10.2016)*

*(Debate concluded on 25.1.2017 – (Afternoon Sitting))*

**Hon. Speaker:** Order, Members! Debate on this Bill was concluded yesterday. What remains is for the Question to be put.

*(Question put and agreed to)*

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

#### THE PRIVATISATION (AMENDMENT) BILL

**Hon. A.B. Duale:** Hon. Speaker, I beg to move that the Privatisation (Amendment) Bill, 2016 be now read a Second Time.

By way of introduction, for some time now, the Privatisation Act No.2 of 2005 needed to be reformed in order for that law to be aligned with the new constitutional dispensation. More so, in line with the new dynamism and changes that are taking place in the privatisation of public assets and operations. It is in this line that His Excellency the President, Uhuru Kenyatta, appointed a taskforce on parastatal reforms on 29<sup>th</sup> July, 2013, which came up with a raft of recommendations which the Government or the Executive is implementing.

This Bill has been submitted by the Cabinet Secretary for the National Treasury in line with the proposal announced in the Budget for the 2016/2017 Financial Year. This is one of the Bills that accompanied the Budget that was read by the Cabinet Secretary for the 2016/2017 Financial Year. We must pass this Bill. It should not stay in the House and wait for the next Budget to be read again by the Cabinet Secretary.

The Cabinet Secretary informed the House on 8<sup>th</sup> June 2016, that the Government is committed to implement parastatal reforms and that the Government Owned Entities Bill is currently before the Cabinet and will be brought before this House. The Government Owned Entities Bill is the one that will deal with the merger and scrapping of many parastatals that the task force report showed are not of any value to the taxpayer. These legislative measures, including the Bill before this House, are a deliberate systematic reform of our State corporations for better governance within Government-owned entities.

The Privatisation (Amendment) Bill 2016 which was read the First Time in the House on 19<sup>th</sup> July, 2016 seeks to amend the Privatisation Act, here referred to as the Act. It addresses, among other issues, the reappointment of serving members of this Commission upon expiry of their first term in office. The key thing this Bill tries to do, and I hope that Members have read that Bill, is to address or seek to amend the Act to address the element of reappointment of the serving members of the Commission upon expiry of their first term in office and the appointment of the members of the Commission.

I now seek to highlight the proposed amendments contained in this Bill clause by clause. Clause 2 seeks to amend the definition section of the Act to include the terms “Cabinet Secretary” and “county governments” in order to align the Act to the Constitution. The Privatisation Bill will deal with both levels of government. This Act which was enacted in 2005 before the promulgation of the new Constitution still retains the term “minister”, which is not there now. Therefore, we need to change that to “Cabinet Secretary” and define what a county government is.

Hon. Speaker, the amendment contained in Clause 3 of the Bill proposes to amend Section 5(1)(d) of the Act, to change the process of the appointment of the seven members of the Privatisation Commission from the current process which requires the appointees to be vetted by the relevant Committee of Parliament and instead, these members must be recruited competitively. They must apply for the job, have relevant qualifications and be interviewed. Unlike the case now where the Executive just appoints people then their names are brought to Parliament for vetting.

The amendment contained in Clause 4 seeks to amend the provisions of the term of office for the members of the Commission to require that any reappointment of the members appointed under Section 5 (1)(d) of the Act be subject to a favourable performance evaluation. Therefore, we are saying that days are gone when Parliament received some names then they were vetted by the Committee. We want these Kenyans to apply for the job. If you want to become a commissioner with the Privatisation Commission, you will apply and you must be recruited competitively. If your term is over there must be a serious performance appraisal; you will not just be reappointed. We need to bring the private sector investments to our country.

The amendment contained in Clause 5 proposes to amend Section 23(1) of the Privatisation Act. This it does and makes a requirement that the Commission submits to the CS the specific proposals for privatisation. The CS shall in turn submit the proposals to the Cabinet for approval. This is where a Government entity needs to be privatised. The CS for National Treasury will receive the proposal and if in his honest opinion the proposal to either partly or wholly sell or privatise entity is convincing, then the CS will take the same proposal to the Cabinet for approval.

The provision in the Act currently is very unclear on what should be done next after a specific proposal is made by the Privatisation Commission. For example, if the Kenya Meat Commission is an entity that should have private sector injection, either in terms of technology or resources. If that proposal is found, the current Act does not tell us where you should take the proposal. Therefore, this amendment says the proposal goes to the CS, National Treasury who then takes it to the Cabinet. That is the process which this Bill is creating. That is important for the privatisation process.

Clause 6 of the proposed amendment seeks to amend the quorum necessary for meetings to be at least two thirds of the Commission. That is what is currently provided for in the Act.

Therefore, basically, those are the key highlights of this small Bill. I said it seeks to amend the Privatisation Act to expedite the approval process for privatisation proposals after wide consultations with key stakeholders, including various Committees of the National Assembly and the Senate.

The other highlight is the eligibility for reappointment for a further term of three years without undergoing performance evaluation with the best corporate practice. Now, the Bill says that there must be a performance evaluation for these members to secure reappointment.

The last key one is the procedure for appointing the Privatisation Commission members through approval by relevant Committee of Parliament. We are now saying that they must apply to be considered competitively like any other Kenyan and we pick the best of the best.

Having said all this and as I conclude, I wish to assure Hon. Members that the proposals contained in this Bill are part of the continuous reforms in our parastatals, particularly in the light of the recommendations given by the taskforce. The privatisation process is a critical component to our economy. Reforms are needed in order to do a noble undertaking for the private sector and

for privatisation of Government owned entities to be done in a more transparent and clear manner.

Without many remarks, I ask the Member for Igembe North to second.

**Hon. Speaker:** Member for Igembe North, Joseph M'eruaki.

**Hon. M'uthari:** Thank you, Hon. Speaker. I rise to support this Bill. It is important to second this Bill. It has important amendments because it aligns with the current constitutional dispensation and at the same time, it looks at the process of appointment of members to the Commission. Our parastatals are important entities. In my opinion, these are entities which should be considered as cost centres. They can be bodies which can be involved to support development and evaluation because they are more or less like private companies. If they are managed well, they could stimulate development.

We have seen the Chinese companies that are working in this country but are more or less Government owned and are more competitive than even private companies. Therefore, these amendments are going to improve the process of appointment. It will reduce time taken, especially in the approval for appointment of members to the Privatisation Commission. They will also bring the element of competitiveness in the appointment of members. I believe this will improve the quality and efficiency in terms of those people who are appointed to these particular bodies.

This time, instead of bringing members to be reappointed, they have to go through the process of performance appraisal. This again follows the principles of good corporate governance and in this process we identify the best. The people working also know that it is not automatic. They have to do the right things so that they can be considered for further reappointment. In the process this can lead to efficiency and improvement in service delivery. This is where we would like those bodies to add value to the nation. We have seen cases where some of our bodies have been privatised at a loss, like the privatisation of the telecommunication sector. Again, some of these parastatals are sold for a song. For the taxpayers, it becomes a big loss. We also need to look at how these are managed and what exactly we get as a nation so that by the end of the day, the people who are entrusted with these responsibilities can take responsibility. It is my belief that the Members here will look at this favourably. We need to pass this Bill so that it streamlines and strengthens the process of privatising our entities and also strengthens the process of reform within our parastatals. It is also my hope that the people entrusted with the responsibility will consider the good of the country first and what can be done to stimulate growth in the sectors.

With this, I second.

*(Question proposed)*

**Hon. Speaker:** Member for Kiminini.

**Hon. Wakhungu:** Thank you, Hon. Speaker. This is a very important Bill and I wish hon. Members would pay attention. This is another section that we have had loopholes in terms of privatisation. Having been a Member of the Public Investments Committee (PIC), we have seen that most of the time Government shareholding or Government assets are being sold at a throw-away price. It is indeed important that this amendment is going to strengthen the framework of this law so that Government cannot lose out when it comes to privatisation.

A friend of mine was asking me what we mean by privatisation. I thought the Leader of the Majority Party should have highlighted it. It simply means selling of public shareholding to



the private. There must be a clear process to be followed so that the Government or the public cannot lose out. On the issue of performance appraisal, I totally agree with this inclusion. In today's modern business environment, performance appraisal is very critical and the commissioners must be subjected to this evaluation process so that for them to be reappointed---

**Hon. Speaker:** Sorry Hon. Chris, we will give you an additional two minutes. Allow me, hon. Members, to recognise the presence, in the Public Gallery, of students from St. Alberts Ulanda Girls from Awendo Constituency, Migori County. They are welcome to observe the proceedings in the National Assembly. Thank you very much.

Proceed, Hon. Wamalwa. You will have an additional two minutes.

**Hon. Wakhungu:** Thank you, Hon. Speaker. I was just emphasising the issue of performance appraisal. Performance appraisal is very critical. The commissioners should not just be reappointed for the sake of it or based on politics or their relationship with the appointing authority. This is a situation which has brought problems in this country. You find that somebody does not have what it takes and is taken to become a commissioner of that particular parastatal yet there is no value addition.

Performance appraisal is simply carrying out an evaluation so as to know how a person performed. It is like getting a report card on how you did. If a report card shows you did very well, definitely it is good for you to be reappointed.

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

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

When it comes to performance appraisal, there must be clear targets. Targets are very important. We know very well this was something which was brought up by the Mwai Kibaki Government, particularly when it came to the economic recovery strategy. Move to Vision 2030 and there is this element of the public sector going for target setting. At the end of every financial year, you find that parastatals and ministries come together for evaluation. Normally, by the end of the financial year, there is an evaluation index.

I remember in the *Nusu Mkate* Government, this docket was under the Prime Minister. By now, in the current Government, it should be under the Ministry of Public Service so that by the end of this financial year, there were those agreed targets. The targets must be SMART. They must be Specific, Measurable, Attainable and also there must be clear indicators because when it comes to measuring performance, it is not like temperature where you can have a thermometer to measure. There must be clear indicators maybe in terms of profitability for that case. This is a situation where a lot of public sector assets and a lot of parastatals are going down because some of them do not have a clear framework when it comes to performance appraisal. That is why we say performance appraisal must be results-based. On the issue of the CEOs, there must be clear, agreed indicators or agreed profits or maybe dividends. These measurabilities must be there, they cannot lie. If at all by the end of the financial year, you have managed to achieve these targets, then you can reappoint these commissioners for another term. Days have gone of appointing your cronies because you are related to the President or you are related to the relevant Cabinet Secretary (CS) yet you do not have what it takes. You are a liability yet you are being reappointed just because you are related to so-and-so.

Sometime back, we had this issue of Youth Fund where we had somebody called Bruce Odhiambo. Looking at some people's academic credentials, you find some are being appointed, not because they have what it takes but maybe because they went to school with so-and-so. So, in terms of performance appraisal, such issues should not be there. Issues of being a certain clan or maybe a relative coming from a certain region should not be there at all. There must be clear framework that is agreed upon, that there is absence in terms of bias and that is very objective so that you measure your performance. If indeed you have achieved, then you must be reappointed. Another issue when it comes to this Clause is that there must be a proposal for purposes of privatisation. World over, Government does not involve itself in business. The Government is supposed to provide a conducive environment for business, but you find that the Government is involved, for example, in commercial parastatals. In case of bureaucracy, you can decide to privatise. For instance, we have seen Kenya Airways was privatised but it is not making profits. So, we wonder why we privatised it. There must be a concept paper that explains the merits and the demerits why a certain parastatal must be privatised. If at all it can be run better in terms of efficiency and effectiveness, so be it. By providing a framework that there must be a concept paper that maybe has been submitted to the CS in charge of National Treasury, from there, the CS has to submit it to the Cabinet. Who chairs the Cabinet? It is chaired by His Excellency the President so that they look at that concept paper, look at the merits and demerits before they make any decision for privatising. I am saying this because we have a conspiracy when it comes to privatisation for purposes of corruption. They look at an entity, they see it is profit-making and conspire to privatise.

In the long run, you find the Government shareholding is diluted and the people who are buying may have seen a business venture and are going to benefit. They then go into it for their own interest. So, it is indeed important that this amendment Bill is giving a provision of doing that concept paper to the CS in charge of National Treasury, then it is discussed at the Cabinet level which is chaired by His Excellency the President.

It is at the Cabinet level that a final verdict is made whether an entity should be privatised or not. Many organisations have been privatised. The Kenya Seed Company (KSC) plays a critical role when it comes to food security in this country. During its privatisation, there was no full disclosure. Individuals conspire to privatise yet we do not have full disclosure in terms of valuation.

I will bring an amendment on an important point during the Committee of the whole House stage that before privatisation, valuation must be done. There must be two or three companies to carry out valuation so that there is no deliberate effort to undervalue an entity because somebody is interested in buying it. In the long run, the public loses. We can have a provision to have two or three companies for purposes of objectivity and comparison where you get an average so that you can have a true value of a given entity before you go into privatisation. Many parastatals have gone down and the Government comes in to inject some money yet its shareholding remains stagnant. In the case of Kenya Airways, how many times has the Government come in to rescue it yet its shareholding is not going up? This is not acceptable. We must have full disclosure when it comes to privatisation.

**The Temporary Deputy Speaker** (Hon. Omulele): Hon. Wamalwa, I will add you two minutes.

**Hon. Wakhungu:** The quorum of two-thirds to transact business is key because you are making a very critical decision in terms of privatisation. We have seen cases where people conspire but without a quorum, they go ahead to conduct business yet they do not meet the

minimum threshold. To provide checks and balances, it is important to have the two-thirds as the threshold to transact business. We have seen a case of National Social Security Fund (NSSF) making critical decisions without quorum. I support this Bill because it has a provision in terms of a quorum of two-thirds to carry out business so that we do not have a few individuals calling each other for a meeting for their own conflict of interests. We hope this will also apply in the sugar industry because at the moment, Nzoia, SONY and Muhoroni sugar companies are under the process of privatisation. We should quickly move to provide this framework so that when it comes to privatisation people get value for their money.

I support.

**The Temporary Deputy Speaker** (Hon. Omulele): Let us now have the Member for North Imenti.

**Hon. Dawood:** Thank you, Hon. Temporary Deputy Speaker. I want to support the Privatisation (Amendment) Bill. At the outset, I want to state that it is important to have leadership in this commission competitively chosen.

*(Loud consultations)*

Hon. Temporary Deputy Speaker, please protect me from Members who are consulting loudly.

**The Temporary Deputy Speaker** (Hon. Omulele): Hon. Members, the levels of consultations are a bit too high. Let us hear the Member for North Imenti.

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

*(Hon. Kangara consulted loudly)*

**The Temporary Deputy Speaker** (Hon. Omulele): Hon. Kangara, kindly allow the Member for North Imenti to be heard.

**Hon. Dawood:** I support the Privatisation (Amendment) Bill. People running the Privatisation Commission are not doing a good job. They should be sent home. Privatisation of corporations have been done half-way. We put so much money into these corporations but our shareholding goes down instead of rising. In the morning during a Committee meeting, there was a Supplementary Budget of Kshs500,000 to be pumped into Uchumi Supermarket. For how long are we going to pump money into Uchumi Supermarket that keeps going down the drain? We must offload State corporations that are not making money because we will be wasting the taxpayers' money if we hold onto them.

This country has so many parastatals. There was a policy paper done in the first year of the Jubilee Government but we have unfortunately done nothing about these parastatals. We have to get the bull by the horns and get control of these parastatals. Yesterday, we had a meeting with the Ministry of Tourism which has nine parastatals under it compared to South Africa which has two parastatals yet it has a bigger tourism industry. Parliamentarians and the country leadership should have a way of doing away with these parastatals that are not of help to us. This commission and other provisions in the Bill will help us to move ahead with privatisation. There are many State corporations that are partially owned by Government but we hardly get dividends from them. The State should do its core mandate of providing services. We should streamline and remove parastatals. People elected to be chairmen of boards should not be people we know. They should be applying. People who run our boards are not qualified. These chairmen should not be political appointees. They should be able to articulate issues of

parastatals because people are at times appointed because of their political connections. For example, the former Chairman of LAPTRUST did not know anything about it. We should have clear guidelines on how people should be appointed to the parastatals and boards. The Government should do its core mandate and leave business to the business people.

I support.

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

**The Temporary Deputy Speaker** (Hon. Omulele): Member for South Imenti, What is out of order?

**Hon. Murungi:** On a point of order, Hon. Temporary Deputy Speaker. Hon. Dawood mentioned that the President appointed someone who was not qualified as the Chairman of LAPTRUST. He should give a clarification because the Chairman of LAPTRUST, Mr. Muriuki is a qualified person. He was a former Member of this House. I was wondering whether it is in order for him to be given a political appointment when he fails to come back here.

**The Temporary Deputy Speaker** (Hon. Omulele): Let us have the Member for North Imenti to answer those concerns.

**Hon. Dawood:** Hon. Temporary Deputy Speaker, that is the very reason we say we do not need political appointees to chair boards and the Privatisation Commission. That is why we need competitive people who are qualified. Regarding the LAPTRUST, I still say that the chairman who was there was not qualified. That is all I wanted to say.

Thank you, Hon. Temporary Deputy Speaker and I support the Bill.

**The Temporary Deputy Speaker** (Hon. Omulele): The Member for North Imenti, I think this is not the right place for us to determine right now who is qualified for a job or not. That is outside what we should do here. Let us move on.

We shall give this opportunity to the nominated member, Hon. Patrick Wangamati.

**Hon. Wangamati:** Thank you, Hon. Temporary Deputy Speaker, for giving me this opportunity that I may also contribute on this important Bill on privatisation in this country. I stand to support this Bill and I want to say that I listened very carefully to those who have spoken and I see now that Parliament is alive and keen. If the Privatisation Commission is there, I think it will rise up to the expectations of the people of Kenya because when you look at parastatals and other organisations where our Government has had interest, the Government has invested so much in this privatisation and when it is privatised, people play with it. I studied the past commissioners who have been there.

*(Hon. Dawood consulted loudly)*

**The Temporary Deputy Speaker** (Hon. Omulele): Hon Dawood, we heard you in silence. I do not know whether you are now examining the suitability or otherwise of the chairman of that parastatal, LAPTRUST, together with the member for South Imenti. Let us contain our discussions. Let Hon. Wangamati be heard.

**Hon. Wangamati:** Thank you, Hon. Temporary Deputy Speaker. We should not bring in personal politics. I want to say that I have seen how privatisation in this country has gone to wastage. They privatise a government parastatal and it ends up in ruin and collapse. I am happy Hon. Chris Wamalwa has said much about this. I do not want to repeat but even now, I am getting worried that we want to do privatisation of other parastatals and I am opposed to it. If we get this Bill passed before we finish this 11<sup>th</sup> Parliament and the Government implements it, I think other privatisations in this country will get the support of many Kenyans. This is because

people are worried. Two or three people sit somewhere and decide that we should buy this firm or parastatal. They go and sit, work it out and buy it. Look at Pan-African Paper Mills, it stands on 300 acres, and then the factory itself and yet they have bought it at Kshs900 million. Then you say: "What is wrong with Kenya of today?" I support this amendment because it is going to save public money, public investment and the economy of this country can be seen to be working out.

I do not want to say much. Hon. Chris said a lot. Hon. Chris, I thank you for having done your research the way you have done. I support the Bill very highly.

**The Temporary Deputy Speaker** (Hon. Omulele): Hon. Wangamati, the passion is noted. We shall now have Hon. Birdi to contribute.

**Hon (Ms.) Sunjeev:** Thank you, Hon. Temporary Deputy Speaker. Just yesterday, we were discussing the Public Private Partnerships (Amendment) Bill and today, we are discussing the Privatisation (Amendment) Bill. If we all heard what the Leader of the Majority Party said in the beginning in which he gave a very detailed description as to why this Bill is brought on the Floor, you will understand that there must have been some apparent reasons that some changes needed to take place so that the relevant organisations can move ahead. So, I am happy to support this Bill because one thing which is very prevalent is that members of this committee will be brought through a competitive process.

*(Hon. Kaluma smiled)*

Hon. Temporary Deputy Speaker, I do not seem to understand why my colleague is laughing at me from the other side. Maybe if I am wrong he can highlight it. Otherwise, perhaps he can stop distracting me.

**The Temporary Deputy Speaker** (Hon. Omulele): Hon. Birdi, do not be distracted by the big smile on the face of Hon. Kaluma.

**Hon (Ms.) Sunjeev:** Hon. Temporary Deputy Speaker, let me just reiterate that privatisation in any economy is like a big boost. In countries like the United States of America, we have privatisation of drinking water companies from one state to another. That is the level at which the western world has taken privatisation. We also find a general tendency of the private industry to have a whet appetite to get funds into the economies where they know that there is potential for their investment to increase. That is what we are, as Kenya, offering to people out there. Just before me, the example of Pan Paper was highlighted. I must say that the investment input was actually Kshs100 million above the Ksh900 million. So, it was actually Kshs1 billion because Kshs900 million plus Kshs100 million becomes Kshs1 billion, which is exceptional. It brings a lot of jobs to the table and there will be a positive change in the economy in the area.

Yesterday, I mentioned something and I will reiterate it; that I really wish at some point, counties could be held accountable and they could be in competition with one another so that the persons who are actually behind the counties, the governors, are actually held accountable for the way they are utilising funds. Because a lot of funding goes into our counties, it is about time we judged our counties in all matters.

This Bill also brings a cleanup and I will cite examples. Recently, we went to the Ministry of Mining where we observed that the technology of making tiles was actually shown to us through the offices of the Ministry of Mining. Some local clever businessmen went ahead and borrowed the technology and moved on and they have multiplied their businesses three times. Whereas our government organisations are lagging behind, in the case of the Ministry of Mining,

it is struggling to get more money from the Government. If there was a system in place where private investors could come and pump funds in these Ministries, it would have been excellent.

Hon. Temporary Deputy Speaker, I think Kenyans lack a *passionometer*. It is time we held a *passionometer* in front of Kenyans and told them that there was opportunity to apply for jobs. Those days of saying that nothing will happen are gone. They should apply and those who show potential should be given jobs.

I would like to finalise by saying that I support the Bill and that Rome was not built in a day. Mistakes were made, but those mistakes should not deter us from moving forward. So I do urge this House to support this Bill.

**The Temporary Deputy Speaker** (Hon. Omulele): Let us have Hon. Kaluma. Hon. Kaluma, I just want to notify you that while you were away yesterday, we had the opportunity to discuss the Sexual Offences (Amendment) Bill in this House and one of the submissions that took a large space in the latitude of social media out there was the demonization of winking and smiling robustly at members of the opposite sex. I hope you are only demonstrating that you are smiling with a good intention not a bad one.

Let us hear your submission.

(Laughter)

**Hon. Kaluma:** Hon. Temporary Deputy Speaker, I was not in the House when the amendments to the Sexual Offences Act were being debated by my good brothers and sisters yesterday. You can be sure that I am going to bring amendments to that Bill to delete all those provisions. The idea that I smile or wink at my sister the other side being made a sexual offence is just immoral, not modern and archaic. It is not acceptable. I must smile to my sister.

Back to business, this is the most dangerous Bill that has been brought by this Government to this Parliament. I want to urge colleagues in Parliament that when we debate these Bills we take time to read them, contextualize them and to understand what they seek to achieve. What is being proposed in this Bill, contrary to the submissions and presentations already made, is not to make privatisation of parastatals or bodies in which there is public interest easier instead, what is being proposed in this Bill is that you legislate a way, your role as the representatives of the people in the formation of the Privatisation Commission. I wish Members read the provisions of Clause 4 against the substantive provision sought to be brought now.

In fact in Clause 3, the only thing being removed from the current provision is the requirement that when the Cabinet Secretary is to appoint members of the Privatisation Commission, those members must be brought before this House for approval. You want to begin asking why as Members of Parliament, knowing we approve State officers in these critical bodies, would agree so casually to accept a situation where appointment of persons running critical parastatals or public bodies such as Kenya Airways, Kenya Ports Authority (KPA) and Kenya Oil Refineries is done in such a manner. We have an oversight committee in the name of Public Investments Committee. How do you sit there and just agree that the role of Parliament in the appointment of the members of the commission, that is to superintend privatisation, can be undertaken without the intervention of Parliament. That means we are going to have a team of people there determining whether or not we are privatising bodies into which we have budgeted billions without our knowledge and our approval of the team there.

The worst is to be found in Clause 5. The provisions ought to be amended. Clause 5 says:

“...requires the CS concerned to take the report on a proposal to privatise a parastatal or public body, to bring it before this House for approval”.

What is being removed is the requirement that when there is a report on a proposal for privatisation, Parliament should not see it. What we are being told is, now the CS concerned will discuss it with the Cabinet and the Departmental Committee concerned will not have a day with it. Read it keenly. What does it mean for us?

We have a situation with Kenya Airways now. We have been injecting billions of money. There are thoughts that we should be putting more billions there and you will hear that the CS sat with the Cabinet somewhere and without the representatives of the people in this House knowing, Kenya Airways has been privatised. How can we imagine that in this day and world? This is a dangerous Bill. You can imagine a situation where there is a parastatal and in as much as the Member for Homa Bay Town Constituency--- I am also a national leader. You are going to privatise KPA and the proposal will be treated by the CS concerned and the Cabinet without the relevant Departmental Committee knowing about it or the people's representative in this House discussing it. This is what is being proposed for us to legislate. How do we accept that situation knowing as we do, that we have political leaders who are engaged in business? You will hear they have taken over these companies in their Cabinet committees and their Cabinet meetings of CS appointed by them and appointed by us. It cannot be. This is a Bill that is very dangerous.

I am hoping for a situation where all Members of this House, can read through this Bill and internalize what it is seeking to deal with.

In the last clause, what is being proposed is to reduce the quorum for meetings in the Commission so that the decisions or resolutions on privatisation are made easy. They are removing them from a minimum of eight to two-thirds, which is a threshold so low following these amendments. This will allow a few people to sit and resolve without so many sectors being involved, then you will hear a resolution has been made and this particular firm is gone. I urge Members not to support this Bill for the sake of it; interrogate the public interest in these matters. If they are against the general public interest just like this one, we should deal with it. I am personally looking into a situation where privatisation will be involving as much public participation as possible. This is why the Members of Parliament and the representatives of the people here are required to approve the members of the Commission and then they are required to approve in a debate a proposal to privatise any public firm. How do we remove such a thing? We will have a situation in which in the discharge of our role to the Budget, you inject billions then you are stuck with it. It is a dangerous way to go. I am looking forward to a situation where, instead of thinking of an issue such as this, we would make privatisation as open as possible and if possible, as easy and as efficient as possible.

Hon. Temporary Deputy Speaker, I have two examples. My law firm was involved in the acquisition of what was Kenya Agricultural Chemical Food Engineering now called Molasses Plant in Kisumu. It was my law firm. I am saying this so that people who know and who can understand why we want clear laws can understand them. That was a public parastatal with loans and loans from the Kenya Commercial Bank (KCB) held together on the basis of a debenture. Then the KCB was seeking repayment of monies and the Government was saying “we are spending so much money” on what is now called Molasses Plant; “go ahead and sell it.” A public auction was held somewhere and my law firm went ahead to bid for Spectre International.

I can tell this House today that there are difficulties we need to deal with in the realm of privatisation. We bid as a law firm at Kshs580 million for Spectre International. The second bid

was Twiga Chemicals at Kshs230 million, of course, there were other lesser ones. The bid was won. When Spectre International went to take over the plant upon paying the deposit which was required, it was told: “You bought the plant, not the land below it.” Then, we went to court. Lawyers in Parliament today will tell you. We went to court saying: “There is no way you can buy the Molasses Plant without buying the land on which it stands. It goes together.” There is no way you can be told you bought Parliament Buildings without the land around it. Do you know during that time courts were not independent institutions like we have now? The court actually told us: “You bought the plant, go and take them and go with them – not the land.” Of course, the Molasses Plant rusts for years. Another bid was called and, of course, we have a situation where it succeeded. We bid again and Spectre International succeeded.

Despite that, when the Ndung’u Commission sat, we were told the land was irregularly acquired through a public auction. If you are a genuine investor in a privatisation scheme and you buy a property legitimately through a public auction, like Spectre International, it should be respected. It is because of that, that you still get people talking politics about irregular acquisition and so on, not having sneaky ways of politicians engaged in businesses like the leaders we have in the country today, creating easy avenues to privatise public assets without public participation and without the representatives of Parliament.

I oppose this Privatisation (Amendment) Bill. If it will not succeed, I will amend it to zero.

I thank you, Hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. Omulele): Very well, Hon. Kaluma.

Members, I would like to recognise the presence, in the Speaker's Gallery, of students from Talai High School from Baringo Central Constituency, which is represented by Hon. Sammy Mwaita.

*(Applause)*

We would like you to enjoy the warmth of your people’s parliament.

We are moving on. Due to our procedures in this Parliament, we will allow the Chairman of the relevant Committee to have his say at this point. Hon. Benjamin Langat, Chairman of the Departmental Committee on Finance, Planning and Trade.

**Hon. Langat:** Thank you very much, Hon. Temporary Deputy Speaker for this opportunity to contribute to the Privatisation (Amendment) Bill (National Assembly Bill No. 27 of 2016).

Privatisation of public entities arose out of the fact that Government is not supposed to do business, but provide services to *wananchi*. Therefore, the thought of privatisation process of all public entities was to ensure that those entities are run more efficiently and more profitably.

Despite the general theoretical framework we expect, when public entities are privatised, they should do more. They should be more efficient and more profitable. In this country, since we came up with the privatisation law and for all the attempted privatisation and all the companies which have been privatised, I want to say, sadly, we have never got it right even on a single one.

When you look at all the examples of what has been privatised, you will realise they perform and then there is looting and looting at some point and then the Government is expected to inject in more money, something we should not accept any more.



We have a case of the Kenya Airways which was privatised and it showed signs of good progress. It is only the other day that we realised there has been a lot of looting. The company is a shell. Then, this House is again asked to chip in with money out of the taxpayers. That is a very sad state of affairs. We have a case of Telkom which was privatised. Somewhere along the way, this House is again expected to get money from the public. That is still a sad state of affairs. We have Uchumi---

**The Temporary Deputy Speaker** (Hon. Omulele): Do I hear you on record saying that it is a matter of public notoriety that Kenya Airways has been looted?

**Hon. Langat:** Hon. Temporary Deputy Speaker, it is in public domain. There is nothing to hide. It is a shell. This House has dealt with the matter. Even the Senate has dealt with the matters.

We have the case of Uchumi – we have so many examples. The Mumias Sugar Company is another one. The best I know of this amendment, though it is coming at this time, we need to look at the whole Act so that we are able to see how, after---

**The Temporary Deputy Speaker** (Hon. Omulele): Hon. Ali Wario of Bura, what is out of order?

**Hon. Wario:** Mheshimiwa Naibu Spika wa Muda, Mwenyekiti anaunga huu Mswada mkono au anaupinga? Ni kwa sababu simuelewi.

**Hon. Member:** Kizungu kigumu.

*(Laughter)*

**The Temporary Deputy Speaker** (Hon. Omulele): He is still explaining himself. He is the Chairman of the Committee. They are the owners of the amendment. I think he is going to tell us at the end of it. I also see a point of order from the Hon. Manson Nyamweya.

Let us also hear what he has to say.

**Hon. Langat:** You know he always speaks---

**The Temporary Deputy Speaker** (Hon. Omulele): Just one second, Hon. Chairman. You will have your time.

**Hon. Nyamweya:** Hon. Temporary Deputy Speaker, is the Hon. Member in order to say that Kenya Airways has been looted, Mumias Sugar Company has been looted and all parastatals have been looted and that is why we are doing the amendment? Is he in order? Where is evidence? Can he provide evidence? From his statement, he is trying to imply these amendments are coming because parastatals have been looted. Is he in order?

**The Temporary Deputy Speaker** (Hon. Omulele): Yes, Hon. Chairman of the Committee? That is why I was just referring you back to your statement. You have confirmed that it is a matter of public notoriety. But, we are a House of records. We deal with records. I think Hon. Nyamweya is quite in order to raise this.

**Hon. Langat:** Hon. Temporary Deputy Speaker, Hon. Wario seems not to understand me. In a way, maybe he is asking me to speak in Kiswahili which I am not conversant with. I want him to allow me to build my case. He will understand when I finalise.

For my good friend Hon. Nyamweya, I think we all live in this country. We know what has happened in Mumias. We know we have even bailed it out. We know what has happened to Kenya Airways, we have even bailed it out. We know what has happened everywhere. Let us not bury our heads in the sand, that we do not live in this country. I was just talking about privatisation generally. I am coming to the Bill. I want Hon. Nyamweya to hold his horses

because I am coming to the Bill. When you are debating, we debate generally about the whole sector and Act before we narrow down to the specifics.

I was telling the House that we need to look at the whole Act so that any future privatisation is done and succeeds from day one to the last day. When you look at all the cases, and we have been dealing with these matters, you will find after privatisation, there is a question of corporate governance. We privatise to so many shareholders; no shareholder has majority shares to be able to make a decision. You find there is nobody to control because everybody owns just 10 or 20 per cent. Nobody has a majority stake. We need to be very clear going forward that, and this is what we need for the privatisation of the sugar companies which is still ongoing, this House recently approved the privatisation of five sugar companies, although the matter eventually went to court. The model we adopted, and this House may remember, was that we said we need to have a strategic investor – somebody who will own more than 51 per cent stake, and therefore he will have a controlling interest in the company as opposed to having several small shareholders with none having a controlling interest. We need to look at that very widely. It is very sad that instead of building roads and water projects, we go back to look for funds to support already privatised companies. We need to look at it in a bigger picture so that we get it right. We have never got it right in what we have done so far.

Let me come to the Bill itself. It is a fairly small Bill. When you look at the first sections, you will realise that it deals with the clean-up of the Bill so that it complies with the Constitution. For example, instead of saying “minister” we say “Cabinet Secretary” just to be in tune with the Constitution. Then there is another section which this House needs to decide on. We are removing the power of Parliament to vet the appointees to the Commission. Under Clause 3 of the Bill, now instead of the CS nominating and Parliament approving, we are saying the CS will do it competitively without parliamentary approval. This House will have to decide. My Committee also will eventually decide for the relevant amendments, if necessary.

Initially, I had wanted to support that section because there is also a requirement that once the proposals have been approved by Cabinet, they should come to this House for approval. But when you read the Bill, you realise the power of the House to approve the proposals is also being removed. Either we agree with Clause 3 or we delete the amendment in Clause 5, which tries to remove the requirement for the proposal to come from the Cabinet to the National Assembly for approval. These companies belong to Kenyans, and representatives of the people, I believe, they should have a say in what is being privatised. Those are the scenarios which we need to look at during the Committee of the whole House stage.

The Ministry is saying there are delays when they send proposals for approval by Parliament. Perhaps what we can do to avoid the delay, just as what we have done in the vetting of public officers, we have made it time-bound that Parliament shall consider these proposals, say, within a month so that if there have been delays then we can improve on that. Parliament can be given a limit within which to consider the proposals, but at least Parliament should have a say on what is being privatised.

I see my time is ending. I support but there will be need for some consultations and some amendments at the relevant stage. We want to pass a law that improves the privatisation process but that does not take us back to a situation where Parliament is left behind in this process.

I support with some amendments. Thank you.

**The Temporary Deputy Speaker** (Hon. Omulele): Those are very good submissions. You are in partial agreement with Hon. Kaluma that public participation is key.

I will now give this opportunity to Hon. Manson Nyamweya.

**Hon. Nyamweya:** Thank you, Hon. Temporary Deputy Speaker. At the outset, I oppose this Bill. It has no relevance for it to have been brought here. What we are talking about privatising, apart from Kenya Airways (KQ), are companies like Mumias, Nzoia, South Nyanza, Muhoroni, Miwani sugar companies. These are parastatals not only owned by the Government but the community in which they sit donated land for those factories to be built. It is very wrong for somebody to bring a Bill and say we want to remove Parliament from playing any role in public assets. What is it and where is the hurry? If it is the issue of the sugar companies, the communities must be involved and amicable solution be found. What is the hurry to rush and pass the amendment now? We are going home in June. Why is somebody trying to rush this thing before we go through the elections due? It beats common sense and logic.

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

**The Temporary Deputy Speaker** (Hon. Omulele): Hon. Benjamin Langat.

**Hon. Langat:** Hon. Temporary Deputy Speaker, it is good to be honest. It is very bad to impute improper motives. The Member knows very well that the privatisation of the sugar companies did not start in this term of Parliament. That process began in the 10<sup>th</sup> Parliament. In fact, it began by way of waiver of Government loans to the sugar sector, amounting to Kshs41 billion. It is a process which started five years ago. There were consultations and there continues to be consultations. It is wrong to mislead the House and the public that the process of privatisation of sugar companies is being rushed, especially because of elections. In any case, the process is a court case, so nothing is going on now. The Member should be truthful and nothing but truthful.

**The Temporary Deputy Speaker** (Hon. Omulele): Hon. Benjamin Langat, I think we are all alive to the fact that this is an ongoing process and that Parliament is still in session, so we can discuss any business.

Hon. Nyamweya, I think you have heard that.

**Hon. Nyamweya:** Hon. Temporary Deputy Speaker, what I am saying is that if we pass this Bill the way it has been brought to us, Parliament will have no role. If we pass this Bill the way it is, all those parastatals where people have been negotiating, the cases that are in court may become irrelevant because the process is going through the Cabinet. The Cabinet will approve and then sell the property. That is what this Bill says. It does not say more than that. I am saying we have the Public Investments Committee. It is a constitutional office to oversee how public funds are used in parastatals. If we privatise this, the Public Investments Committee will not have a role to play. I oppose this. Let us sober up. If there is a challenge or a dispute, we need to bring everybody on board in order to understand the process. Otherwise, it is wrong and unconstitutional. This will be challenged in court just like the issue of title deeds which were issued. They have been challenged and the court made a ruling. It said there are irregular title deeds.

So, Hon. Speaker, we should not rush and pass this just because it has been brought to the National Assembly. We should not pass it because our role as Parliament has been removed. I want to go to the Memorandum which says that the Bill does not delegate any legislative powers nor limit any fundamental rights of freedom. That is not true because it actually removes the role of Parliament if we pass it. Let the Chair confirm if it is not true that if, indeed, we pass this Bill the way it is, it removes that power. This is under the Memorandum of Objects and Reasons. It is very clear. So, we cannot pass this. That is why I am saying that this Bill should not be in the National Assembly for discussion. We are wasting our valuable time. We should be doing something else.

I oppose this Bill.

Thank you, Hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. Omulele): On that point, I think we are in agreement with the previous two speakers including the Chairman. He has said that he will do some clean up on it before it comes for the Third Reading.

I would like to give this opportunity to the Member for Gatanga.

**Hon. (Dr.) H.K. Njuguna:** Thank you, Hon. Temporary Deputy Speaker. I want to contribute to this Bill. This is because it touches on very core issues in this country. This is because we are talking about privatising of public assets. We are also in an area where we can interrogate the achievements we have made so far. This is because privatisation started some decades ago.

I was reading in the newspapers today that Kenya is one of the countries at the rock-bottom in terms of scores. As a country, we are being judged very harshly by Transparent International in terms of corruption. We are not being judged very well worldwide.

When we talk about privatisation of Kenya Airways, Uchumi, Mumias Sugar Company and other parastatals in this country because they are numerous, it gives a very worrying trend. What is there in Nakumatt that cannot be in Uchumi because basically, they are birds of the same feather? These are chains of supermarkets. One is very successful while the other one is a failure. We are just pumping taxpayers' money. We need to do a spot analysis and find out what has really gone wrong in our privatisation mission.

We also know the reasons people fight so much for power. Like now, we are going to fight so much for power in August, 2017 to be able to manage and control public resources. Part of the public resources is what is before us; privatisation of public assets. I have listened to submissions from Hon. Kaluma. I am also convinced that when you talk about public resources, the public has a role to play.

Hon. Speaker, our Constitution was a product of social fact. The people of Kenya determined the way they want to be governed. Part of the spirit of our Constitution is public participation. That spirit is echoed in Article 1 where the sovereign of the Republic is the people, and the people to exercise that authority themselves or through their democratically elected representatives. Therefore, this means that you cannot alienate the role of Parliament when it comes to such matters. If the people are not participating directly then Parliament must participate. It is a constitutional right. If such a Bill alienates the right of people to participate then that Bill is unconstitutional.

If you read Clause 3 of this Bill together with Clause 5, you will find that the role of Parliament is ignored. The people are no longer playing a major role. Although I am a Member of this House, I got very surprised when we approved for appointment the Chairman of the Ethics and Anti-Corruption Commission (EACC), who is a retired and tired Archbishop. It is like we can no longer trust ourselves and we have to go for divine intervention to manage public resources. It is very important that we respect our Constitution when we are talking about public resources. Public participation, which is part of Parliament, cannot be ignored.

To that extent, I oppose this Bill.

Thank you.

(Applause)

**The Temporary Deputy Speaker** (Hon. Omulele): Very well, Hon. Member for Gatanga. We shall now have the Kakamega County Women Representative.

**Hon. (Ms.) Amolo:** Thank you, Hon. Temporary Deputy Speaker. I rise to oppose this Bill. As much as privatisation is a good thing, it is not in Kenya today. We have heard a number of institutions that have been mentioned here earlier on by my fellow Hon. Members. If privatisation is well managed it can bring profits. However, when it comes to sharing these profits, they cannot be shared without Members of Parliament knowing because they are the major representatives of people in this country. I do not see the importance of this Bill in this House today because it says that the role of Members of Parliament will not be required.

On profits, they have never been shared. They have only been shared by few people who are well connected in the privatisation of these organisations. That is exactly what happened in Mumias Sugar Company and Kenya Airways which has a problem now.

The problem is also the reappointment of members of the Commission who have been there forever. We have fresh blood that can come in and come up with more innovative ways to make more profits to be shared by Kenyans who own these organisations.

The biggest asset in this country is land. Land belongs to the people of Kenya. Any other thing that is put on that land belongs to Kenyans who own that piece of land wherever it is. So, they have a right to take the largest share or part of the cake when it comes to privatisation of these organisations.

Hon. Temporary Deputy Speaker, the other thing is political interference. If you look at the Memorandum of Objects and Reasons, you will find it talks about reappointment of serving members of Commission upon the expiry of their first term of office. I want to believe that this should come to Parliament. We should be the ones to re-appoint these people by looking at their records of performance. We should not be re-appointing people who have failed these organisations to an extent of them coming down.

Telkom has also come down. There is no way you can re-appoint somebody who has brought down a whole institution. It is the responsibility of the National Assembly to vet members of the Commission.

Hon. Temporary Deputy Speaker, it is very important that Parliament should be involved when it comes to shareholders because we represent the people in the 47 counties in this country. It is crucial that Members of Parliament as the representatives of the Kenyan people are involved in privatisation. For now, I do not think this is the right Bill in the House because we need proper consultation. Hon. Members should be involved as they represent their people before any privatisation is done. .

The few companies that have been privatised have let us down. We do not have any good example that we can copy so that we can move on with the issue of privatisation. So, I rise to oppose this Bill.

Thank you, Hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. Omulele): Let us now have Hon. Njogu Barua, the Member for Gichugu.

**Hon. Barua:** Thank you, Hon. Temporary Deputy Speaker for this opportunity to make my brief remarks on the Privatisation (Amendment) Bill of 2016. Before anything else, I would like to say that I support the Bill. However, as I support it, there are some glaring issues which should be corrected through some amendments so that the Bill can conform to the will of the Kenyan people.

In terms of appointments, there are several ways through which somebody can join a commission. One of the ways of getting into a commission is through appointment by the appointing authority. The other one is through competitive processes like those proposed here. As much as somebody is recruited through a competitive process, it does not mean that you deny other institutions their respective roles to play. That is why we need to bring some amendments during the Third Reading to ensure that the role of Parliament is not removed from this process of getting the commission in place as proposed by this Bill.

There are two issues which the Bill is strong on. One of them is the reappointment of members of the Commission for a second term. I support that. If some members of the Commission are re-appointed - not necessarily all of them - the new team will carry along the institutional memory and very relevant experience. The other thing is that the reappointment will be based on performance. It is only for those who perform who should be re-appointed for a maximum of another term and not a second, third and fourth term. In my opinion, we should provide for reappointment for only one more term.

Hon. Temporary Deputy Speaker, for people to perform, there must be a requirement. This Commission should be given a conducive environment and the instruments to carry out its mandate. One of them is giving the resources at the right time so that they do not have an excuse that they did not perform because they did not have money for this or infrastructure.

On behalf of the people of Gichugu Constituency, I support the reappointment not for the entire Commission but some members of the Commission who have shown some competence.

The Bill is concerned about the delay of presentation of reports to Parliament. This is a serious issue and there must be a cure for it. One cure for it that should be proposed is for this Commission to be given a timeline on when they should present their reports to Parliament. So that if they do not observe the timelines provided, they will be failing in their responsibility and they should be held responsible or culpable because everything is provided for them.

Privatisation is very critical. This is because since Independence, the respective governments have been financing parastatals. These parastatals have been operating with a belief that by the end of a financial year they would get more finances to carry on. These parastatals have been operating without a profit motive; they have been operating without a motive to entrench within the institution elements of sustainability. Time for putting taxpayers' money into a bottomless pit must come to an end.

Time has come for parastatals that do not make profit within a specified time and do not display sustainability or cannot carry on with their duties and responsibilities and offer the same social and economic benefits to the intended beneficiaries; those that cannot survive after the withdrawal of Government funding and subsidy to be privatised or another solution found for them not to continue milking public finances.

The other thing about the Bill are the consequential amendments which are meant to ensure that the Bill conforms to the Constitution such as replacing the word "Minister" with "Cabinet Secretary". Basically, that cannot be opposed because it is trying to conform to the new Constitution.

On quorum, the new proposals suggest that the quorum should be, at least, two-thirds, which means that the decisions of this Commission will be made by the majority. If the quorum level is lowered to an extent that you can have 50 or 40 percent making quorum, it will dilute the seriousness of the Commission. It will also make it possible for few people to collude, sit and make a decision which could be unfavourable to the State. So, I support the quorum issue. We can even raise it, if possible so that each and every member of that Commission makes a

contribution and the Commission takes responsibility in toto and not in part so that we do not have blame games in future.

Hon. Temporary Deputy Speaker, parastatals have done lot for this country in terms of offering services. What is clear is that the original intention of having State institutions has not been achieved. Parastatals were established to alleviate poverty but some of them have not even achieved 20 per cent of what they were meant to achieve after Independence. We are now 50 years down the line.

That brings me to my final statement. Members of the Commission and boards of parastatals and any other public organ should be based on competence. People who are not competent should not get access to management of our resources.

I want to respond to a comment made by one of the previous speakers who talked about a former Member of Parliament being appointed to a commission or board. I want to state here clearly for the public to hear that Members of this House, the Senate and county Assemblies are competent enough to serve in other institutions. Serving a political office should not be used as a tool to criminalise or undermine the capability of politicians.

Politicians make a lot of sacrifice to serve their constituencies and various regions. When their terms come to an end, they should be given an opportunity to serve elsewhere. We, as politicians, are not shy of displaying our competencies. We are also not shy of going to interviews. Most of us in this House are competent to perform many roles in the development of this nation. When these things are being done, they should be done with an aim of uniting this nation.

Hon. Temporary Deputy Speaker, this is one nation under the flag of Kenya. We should ensure that tribalism is not an aspect of appointments. It should never be considered. What we should consider are competencies. The time when we should consider regional balance is when we have two or three nominees with similar capacities, but coming from different regions. I want to propose that in future this House should put a lot of emphasis on scrutinising the capabilities of nominees so that we can get the best people to serve this nation.

With those few remarks or many words, I support the Bill with some amendments.

Thank you, Hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. Omulele): Very well spoken. I think with due regard to the final part of your submission that Members of Parliament provide a huge input in this country, I would like to give this opportunity to the Member for Rongo who has served this country in various capacities as Minister and also Minister for Planning so that he can enrich our discussions this afternoon. Although he was not on top of the list on this side, I think in recognition of his seniority, I will allow him to speak at this time.

**Hon. Anyango:** Thank you, Hon. Temporary Deputy Speaker. Honestly, when we were doing the new Constitution we thought we were going to improve governance in this country. In doing so---

*(Technical hitch)*

I hope you will give me the minutes that I have lost when technology failed.

I have said that when we were crafting the new Constitution, the challenge was to improve on the governance of our country. In doing so, we thought we got the formula. One is by separation of powers enjoyed by the Executive, the Judiciary and the Legislature, and two, by

the establishment of Independent Constitutional Commissions. We then specifically enacted that Parliament shall play the oversight, legislative and representation of the people roles.

I have observed this Government from 2013 up to now, and there are very clear efforts to renege on key constitutional provisions through amendments hammered through the House using the tyranny of numbers. You will realise that Independent Constitutional Commissions have now been directed. Some powers of even the National Police Service Commission (NPSC) have been withdrawn. The same case applies to the Independent Electoral and Boundaries Commission (IEBC). The Public Service Commission (PSC) has now been told to send so many names for chairpersons and other members. This is because the President complained that he has no power. Even if we are corruption and ethnicity-driven to an extent that we are becoming a corrupt and gambling nation, the President feels he is powerless. We knew all these because the previous President had those powers but these mischiefs were there.

This is no Bill. There is no Bill here. The key object is to remove Parliament from supervising appointees to the Commission and the privatisation process. Open bigger windows for corruption so that if I decide which tribe will belong to which company among the parastatals--- If one dies, I will replace with the same tribe. If it is Kenya Ports Authority (KPA), Kenya Pipeline Company (KPC) or Kenya Power (KP), who replaces? This is so, so that you give me more room to practise ethnicity and advance the corrupt practices that are going on. So, there is a serious mischief in this Bill. In fact, there is no Bill here. There are only two clauses and not the one that talks about Cabinet Secretary instead of Minister. That is no amendment because we did it. It is automatic and you do not have to put it in any law here.

It is not even quorum. If anything quorum was nine but when you say two-thirds, you are reducing the quorum to six so that you open more room for me to practise tribalism and corruption. The Chairman has nothing to amend---

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

**The Temporary Deputy Speaker** (Hon. Omulele): Hon. Chairman, you have a point of order.

**Hon. Anyango:** You are risking something Benjamin.

**Hon. Langat:** Hon. Temporary Deputy Speaker, is it in order for Hon. Dalmas to seem to direct his anger to the Chairman and yet I made my point correctly, that in many of the things he is raising I am actually in agreement? Hon. Dalmas Otieno knows the current legislative procedure.

**The Temporary Deputy Speaker** (Hon. Omulele): So, Chair you are just reinforcing your agreement with him. Let him submit because he is submitting to the Speaker and not to you.

**Hon. Langat:** Hon. Temporary Deputy Speaker, protect me from him because he seems to be very angry at me.

**The Temporary Deputy Speaker** (Hon. Omulele): You are very well protected, Chair. Proceed.

**Hon. Anyango:** Hon. Temporary Deputy Speaker, I am a very keen observer of things in this country. I analyse things deeply. This Chairman is under the threat of intimidation because of the Anti-Hopping Bill. So, the sycophancy is hitting the roof. You do not expect Hon. Members to oppose these amendments. It is not only these amendments. Even the one of the IEBC was wrong. This is done so that you can choose a Member you want to do some things with. It was done with Kinisu and we saw it. He was pre-set to go and clear somebody to go and stand to be a governor. After that it was revealed he was eating with the same person he went to clear.



(Applause)

I am saying that Parliament specifically has oversight, legislation and representation roles.

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

**The Temporary Deputy Speaker** (Hon. Omulele): The Member for Kibra, what is out of order?

**Hon. Okoth:** Hon. Temporary Deputy Speaker, the Member for Rongo has said that the former Chairman of the EACC, Kinisu was facilitated into that position to clear somebody else to go and run for a governor's seat. Can he substantiate? Can he give us names which can be verifiable and go on the record of the House?

**Hon. Members:** Name them!

**Hon. Anyango:** Hon. Temporary Deputy Speaker, I will answer him because he is a new Member. But I am sure he knows enough about Madam Waiguru. So, he can do his research because he is a good Member on that one.

We provided that most of the appointments shall be competitive and approved by the relevant House. You now want to fold us back, leave parliamentary approval and only take the competitive direction. Competitive alone is not enough. Even the marks given by those panels are rigged these days. How can other people give 60 or 70 per cent and somebody from nowhere in the panel gives 96 per cent? Who scores 96 per cent in an interview for a job?

That tells you we are corruption and ethnicity-driven to a destination we cannot be sure of and many Members in the Jubilee Alliance are aware of this. We know them. They are very intelligent and capable Members like the Chairman of the relevant Committee here. There is nothing to amend in this Bill because it is useless. It should just be thrown out because there are only two key objectives. If you oppose them you have no Bill left. What do you have to amend? We have seen the mischief in this Bill to promote corruption. Another Amendment Bill will be tabled about the Attorney-General (AG). He is being too rigid. It is as if there is nostalgia of the past practices when you had your way and appointed whomever you wanted. Somebody who was in standard two could be a director of Kenya Power. You knew very well that he knew nothing about electricity or investment, let alone directorship. The Leader of the Majority Party who moved this Bill is not here but I am happy that the Chairman is here. Just say there is no Bill after the two key things are removed.

I wish in the short period we still have here, this practice of proposing amendments which are definitely a clawback on the principles that govern and direct the new Constitution are not increased. It looks like after the Bill against party-hopping was passed and the Members know that this is the last year in Parliament, sycophancy levels tend to rise because Members want to please the bosses so that they can buy nomination tickets and come back for another five years. They know that they want to bring these amendments and if you oppose any of them, you are at a risk of not getting your nomination under the party. I sympathise with the other side where all the parties were collapsed into one under a dictatorship with only two officials. There are no other officials of that party. I sympathise. Please, do not use those practices to come and bulldoze wrong amendments that are clawing back on key principles and values of the Constitution that we had established. When we take them to court for interpretation, you know they will take one year in court so that we will have no chance to bring them back. In the meantime, you would have rigged our elections. Please, excuse us.

**The Temporary Deputy Speaker** (Hon. Omulele): The last submission also touches on the Member for Ugenya who is walking out. The Member for Ugenya has seen what the Member for Rongo has spoken to about party-hopping and the risk of Members becoming malleable to the wishes of the party lords and has chartered a fresh coat for himself. I can see him confidently walking out of the Chamber without any fear that he will not have a chance to come back.

Having said that, I would like to give this opportunity to Hon. Ronald Tonui, Member for Bomet Central.

**Hon. Tonui:** Thank you, Hon. Temporary Deputy Speaker for this opportunity to also contribute to this Bill. Initially, I was to support it but having listened to the many comments about this Bill, I am convinced that there is a big problem. The Chairman also failed to highlight the report of the Departmental Committee on Finance, Planning and Trade in which it made some observations where it says that Parliament is supreme in the issues of privatisation and it should not be excluded in the approval process, especially on the issues of disposal of assets of the public.

I understand that possibly, this Bill came with very good intentions. Currently, Parliament is very slow in approving various Bills and Motions which come to this House and it brings paralysis in the Executive such as the nominees to the Privatisation Commission where I understand the Commission stayed for more than a year or nearly a year without commissioners simply because Parliament never had time to approve those who had been appointed to hold the positions in the Privatisation Commission. That was why there was this proposal of going through the competitive recruitment rather than through the parliamentary approval. That was not a bad intention. It was a good intention. I tend to think it can be highly misused. Parliament has that very important role of oversight. Whatever Parliament does not approve directly, it can still deal with through oversight.

There are certain sections of this Bill which are also very good which we do not need to throw away, such as Clause 4(2) which deals with favourable performance evaluation for reappointment. This needs to be retained so that whoever needs to be reappointed must first of all be re-evaluated to see if they perform during their first term. The process of this evaluation needs to also be captured in this Bill, which is missing at the moment.

Clause 5 which also tries to exclude Parliament in coming up with proposals on privatisation is also negative and we should not support it. We can only support with an amendment that those proposals which come from Cabinet must come through Parliament and this House. Otherwise, I believe the whole idea of privatisation is good. We need to privatise those non-performing parastatals and those which are siphoning out public funds so that we can use those public funds in a more effective way like ensuring that we provide better health services, better roads and supply our people with water instead of investing lots of resources in those loss-making parastatals. We need to privatise all of them completely not partially, the way we did for Mumias Sugar Company or Kenya Airways where the Government still owns some shares so that every now and then we are called upon to provide more funds to these wasteful institutions.

I appreciate what happened at the Webuye Pan Paper Mill which was privatised and it will take off. That is the direction we need to go and ensure that those institutions perform, especially those ones in the agriculture sector. I have had problems in my place when we write off debts for farmers in the coffee sub-sector and the sugar sub-sector but when it comes to farmers in the tea sub-sector, no write-offs are ever done, which is quite discriminatory. If we are to privatise parastatals such as those in the sugar sub-sector, that should be welcome so that it

does not continue to rob the public of its money. This will ensure that it is run competitively so that it does not take more public funds. How will I explain to my people that they cannot be subsidised in the tea sub-sector but in the sugar sub-sector you are able to write off debts?

**The Temporary Deputy Speaker** (Hon. Omulele): Hon. Ronald Tonui, just hold on. Hon. Opiyo seems to be on a point of order. What is out of order?

**Hon. Opiyo:** Thank you, Hon. Temporary Deputy Speaker. My very good friend, Hon. Tonui, who is a unionist of very high repute, was trying to make a point that there are write-offs of debts in the coffee sub-sector, tea sub-sector and even the sugar sub-sector. He should not mislead the House and the public that there have been any write-offs in the sugar sub-sector. Every time we hear of write-offs in this House they are either in the tea or coffee sub-sector. I have never heard of any write-offs in the sugar sub-sector.

**The Temporary Deputy Speaker** (Hon. Omulele): Hon. Opiyo, that is argumentative. You will have your opportunity to have your say. Let Hon. Tonui continue.

**Hon. Tonui:** I can provide him with more information. Chemelil Sugar Company, Muhoroni Sugar Company, Mumias Sugar Company---

**The Temporary Deputy Speaker** (Hon. Omulele): Hon. Tonui, would you like to receive information from the Chair?

**Hon. Tonui:** Yes, let me receive the information but be brief.

**Hon. Langat:** Hon. Temporary Deputy Speaker, I want to inform both Hon. Tonui and my good friend from Awendo that this House approved a waiver of loans and interests and taxes amounting to Kshs41 billion in the late hours of the last days of the 10<sup>th</sup> Parliament. So, it is true that the sugar sector has received a major waiver more than any other sector. There is no sector's debt that has been waived by more than Kshs40 billion cumulatively.

**The Temporary Deputy Speaker** (Hon. Omulele): Hon. Benjamin Langat, Chair, let us have Hon. Tonui finish his submission.

**Hon. Tonui:** Thank you. I have lost some time on points of argument and not on points of order, but I wish to continue that we feel that there is a lot of discrimination in the tea sector. We have real challenges in the tea sector. Farmers are unable to service their loans which they used in the construction of tea factories and the Government has not come in to assist. Some factories in my place such as the one by Stegro SACCO is facing real financial challenges of servicing loans from the Cooperative Bank and other banks, but the Government is not providing any relief, the way it did to farmers in the sugar and coffee sub-sectors. I wish that from now onwards we remove this discrimination and take care of all farmers by ensuring that we write off all the debts which are bringing a lot of stress either in the Kenya Tea Development Agency (KTDA) run factories or those privately owned by SACCOS and farmers themselves. We need to assist them. I believe the Government will pay attention to this so that we capture it in the next Budget and write off debts in the tea sub-sector.

Going back to the Bill, the issue of the composition of the Board is well addressed. It talks of reduction of the number from 11 to seven commissioners. I believe this is a good thing. Why would you need a large Board of 11 where some people will disappear in that Board? They may not play a critical role. We need this seven so that they do not become a big burden to the taxpayers.

We only need to have a transition period. If we are now having 11 board members and we want to reduce them to seven, this Bill does not provide for a transition period. How will you reduce the 11 to seven board members? We need to capture that in this Bill, if it is to go through.

On the issue of quorum, I believe the two-thirds as quorum is very important so that we reduce instances of corruption. If you have very few people making major decision worth billions of shillings, I believe---

**The Temporary Deputy Speaker** (Hon. Omulele): Hon. Tonui, Member for Bomet Central was interrupted. I will allow him a minute more so that he can finish.

**Hon. Tonui:** Thank you, Hon. Temporary Deputy Speaker for that addition to my time. I was just about to conclude and I was talking about the issue of reduction of corruption. If you reduce the quorum or you do not have the minimum number of members who can sit and validate whatever decisions are being made by the Board, that may lead to corruption. So, when we have two-thirds as quorum, I believe incidents of corruption are likely to reduce. Of course, we know we have the Kenyan culture of being corrupt. I think, it is nearly becoming a culture. Someone has said that we have to bring back people who have retired and tired to assist us in managing corruption.

I believe these are the issues which we need to address through the law, that we may need to have 100 per cent of the Board when there are certain major decision being made. Not simply the two-thirds which can also turn out to be low.

**The Temporary Deputy Speaker** (Hon. Omulele): Hon. Member for Kibra.

**Hon. Okoth:** Thank you, Hon. Temporary Deputy Speaker. This Bill is mischievous. It has three parts to it.

The first part is what seems like the safe part and cover which are issues that can be handled very easily as part of Statute Law (Miscellaneous Amendments) to get rid of the old references to “ministers” and use the relevant terminology like “Cabinet Secretary”. But, there are two more sections that are very worrisome and I am happy that Members have identified them because they are hawk-eyed and will save the country a lot of grief.

This House is the representative of the people. Our Constitution puts in the framework of governance the key principles of public participation. When it comes to economic and financial issues, where we talk about management of companies that belong to the public as assets with public purposes for the people, and we are now turning them to private sector resources, we have to make sure that the process is clean, well-managed and handed over to competent people. It is no use to give a parastatal that has a key function and hand it over to a company as a shell and at a song and the company you are selling it to is not able to offer services for which that parastatal was established. I will give an example. Kenyatta National Hospital in Kibra Constituency is a public parastatal. If it was to be privatised and sold without the consent, consultation and input of the public, especially through this House, we will be in serious trouble. The Hospital could be sold very cheaply to profiteers and speculators who are well connected and it will fail to serve the purposes for which it was established. So, we have to make sure we think through issues of privatisation very carefully. I am not opposed to privatisation but we must see which sectors of the economy the Government cannot stay in and which are the public goods and services that are only really subsidised and well maintained Government corporation can provide.

We have to be careful in sectors like water and healthcare. We have a hybrid healthcare in this country: private sector and public sector healthcare. I wish we could put our heads around by really boosting our public sector healthcare. Our doctors have been on strike now for nearly two months. It is a sad thing that, that political scenario has not been resolved. We really need to look into it quickly.

Going back to the second issue, this Bill proposes that the people appointed to the Privatisation Commission would not be vetted or approved by this House. So, somebody

somewhere out there, the CS who is appointed by the President will recruit with his whims and send it to the President for appointment. You could see all cronies of a powerful presidency appointed to a key position.

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

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

Two, is oversight by this Parliament. Once they make their decisions and send them to the CS, he will send them to the Cabinet and once they are approved by the Cabinet, they would not come here. That again is very tricky in the system of balance of power between the Executive and the Legislature. We represent the whole interests of the nation in a different way. So, we do not want such a decision to be simply made by a CS and the House is not informed. It is possible to find Kenyatta National Hospital has been sold without awareness or reference to this House. This is just an example of how bad it could get.

This Bill has one piece of it that is barely acceptable; tiny cleaning of it, editorial pieces to make it come into line with current references of Government. On issues of substance, the House must be involved in the appointment of the commissioners, even if they have been vetted in a competitive process. They should be brought to this House for consideration and for the advice and consent of this House.

When we talk about the decisions to privatise and there are recommendations, they should be debated and the relevant Committee of this House looks at them.

We are in tricky times and I urge the Members of Parliament to remain very vigilant in this coming few months. There are a lot of things competing for our attention. It may be voter registration, hunger and famine issues around the country, security issues and campaign issues. All these issues are there eating our minds. But, I beg Members of this House that we do not lose our vigilance and our attention to detail and make sure that Bills like these are rejected.

What I worry about the process is if this debate ends today and the Question is not put and it comes next week as the first item on the Order Paper as happened today to Item No. 8 on the Order Paper. The people who were not there yesterday when we debated this might use tyranny of numbers regardless of the robust debate we have here and go ahead to pass it through Second Reading. This is one of those things that should even just die at Second Reading. There is no good purpose to bring it all the way to the Third Reading. I hope the Chairman in his thinking, wisdom and agreement might help us to mobilise other Members and alert people before this is put up for a vote that for obvious reasons, it should not just appear like that without context. This is one of those things that I think it would be a good thing if it died at the Second Reading stage.

I am not just saying that, I am serious about it because the Order Paper Item No. 12 talks about the Statute Law (Miscellaneous Amendments) Bill. The piece of this Bill that needs to be changed to clean it up can be added to the Statute Law (Miscellaneous Amendments) Bill and we will have lost nothing. But on the comprehensive principal issues and substance issues, whether decisions to privatise should also be referred to the House to make sure that this House concurs or rejects Bills that we think are not in the interest of the Kenyan public. Decision about who will sit on that Commission's board is important. We must make sure that they are the most qualified

people. I am happy to rise up and oppose this Bill. If it does somehow pass the Second Reading, where I hope it dies a natural death, I will be making sure we support any amendments at the Third Reading as promised by the Chair.

With those few remarks, I beg to oppose.

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): Next on my request list is the Member representing the people of Kajiado North, Hon. Manje.

**Hon. Manje:** Thank you, Hon. Temporary Deputy Speaker, for giving me this chance to contribute to this Bill. I normally support anything that contributes to the efficiency of corporate bodies, especially parastatals because I know this is where we lose a lot of money as a country and where we have a lot of corruption going on. It is good to understand these parastatals and the main objective behind them. Why a parastatal is created in a country is, for example, to offer services that private enterprises will not do, like the healthcare of our people maybe in the remote areas. That way, a parastatal can be created to venture into that area.

Education or transport is another example where a private organisation will not feature very well because of the profit. So, that is one of the cardinal rules that a parastatal is not necessarily driven by the profits but the service to the people of a state.

The other purpose of creating a parastatal is to make sure that we do not have natural monopolies. For example, you can have an enterprise that has a pure monopoly and sets high prices for commodities. In that case, you can put a parastatal to compete with it and reduce the price if the Government cannot regulate directly. When I say that these are the cardinal rules, the question we should be asking ourselves is why we have parastatals that are not serving this purpose. For example, why should we have a parastatal like Uchumi which is purely business and the Government has no role in doing business? Why should we have a parastatal like the Bomas of Kenya while we have other enterprises that can do very well in business? We have parastatals like Kenya Utalii College and Kenya Wine Agencies. We want to reduce alcoholism in this country yet our Government has parastatals that are doing business in that line. We should rethink and see which kind of parastatals to retain in this country as we proceed. If you take a parastatal like Kenya Meat Commission (KMC), a Government doing a butchery business, can it do better butchery business than businessmen? We should sit down and come up with parastatals that should be dealt with almost immediately so that we can have efficiency. We have so many organisations. Remember these are created from the taxpayers' money. You get taxes from well-doing businesses then you invest in meat business. That is not logical at all. So, we should know the cardinal rule and know why we should have these parastatals.

Having said that, it is also good to give people who have been doing this privatisation a chance. If somebody is capable, he can be given another chance maybe as a commissioner to continue because three years is quite a short period of time and that is the time you get experience. So, if somebody gets a second term, that would be better. Also those who are doing privatisation, it is good to know that these parastatals have been created with public money. So, it should not be directed towards a small group of people because some of them have been built from the time of our Independence up to now. So, we cannot now take those public assets and give them to a few individuals. That is why we should put amendments in this Bill so that we do not have any shortcut to transfer these parastatals to individuals.

Having said that, we should also note that privatisation is not a new thing in the world. Other countries did that. Like in 1980 or 1990, the United Kingdom privatised the British Petroleum which is a big company, the British Airways, electricity companies and gas companies because the British Government noted that these bodies were very inefficient because

the Government business enterprises are not governed by the cardinal rule of business which is profit. It is governed by other things. So, if we want to improve the efficiency of our parastatals, we should privatise them as much as possible.

The other reason we should privatise is because there is a lot of political interference. World over, government parastatals are normally affected by the political situation in the country. Many governments would like to do the projects within their term, meaning that they would put people using political considerations as opposed to economic considerations.

The other thing is the shareholding. You will find that it cannot open itself to pure competition like any other enterprise because the shareholding is the Government. Whether it is performing or not, that interest of having dividends is not there. That is where we should forget about this.

With those few remarks, I support this and say we should continue amending until we get a good Bill that will make sure that at least we privatise our organisation and move with speed because they are delaying our country. We are spending a lot of money to facilitate and to give enterprises that are not performing chances. Remember the money that we gave Kenya Airways instead of privatising to some extent or maybe leaving the Government with a small majority so that it can offer efficiency.

I support. Thank you.

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): Member for Rangwe.

**Hon. Ogola:** Thank you very much, Hon. Temporary Deputy Speaker. From the outset, I would like to concur with very many of my colleagues who said privatisation of some of these parastatals is a necessity in our economy because most of these parastatals were created when individuals or private sector were not able to come up with them. Over time, private citizens have been able to access capital to invest in these parastatals and are better placed having acquired the technical skills, education and innovation, to run them more profitably than the Kenya Government would have been able to run them.

Hon. Temporary Deputy Speaker, these parastatals have become pork barrel for failed politicians. A President comes to power and looks for all those who were around him and failed the elections and appoints them to chairmanship of those boards and parastatals as a way of reward. This is not the reason why these parastatals were created. They were created to fill a gap that the private systems could not fill at that time. I will give an example of SONY Sugar Company which was created to help develop sugar farming in Southern Nyanza because there were no private systems capable of doing that but they are now there. Privatising them is the only logical way of bringing efficiency into the sugar sector.

The Act that exists created mechanisms through which this process should be carried out. Today, we have a Bill that seeks to amend that Act. I want to take you through what this Bill seeks to do so that you agree with Hon. Dalmas Otieno that we do not have a Bill here.

“The Act may be cited as the Privatisation (Amendment) Bill, 2016”. It ends there. The Act is amended in Section (2) by inserting the word “Cabinet Secretary”. Transitional and consequential provisions of the Constitution already state that any statute that has the word “minister” will mean the Cabinet Secretary. There is no need of creating a Bill to do that.

The Bill defines the county government but does not allocate any work to it. The Act was enacted in 2005 when there were no county governments. There is no reference to county governments in the Act and in this Bill apart from the definition. Why should you define it? There is no reason for defining it. The Bill further deletes the word “minister”. I do not see the need to do that.

Section 3 of the Bill talks about removing Parliament from the appointment of members of the commission. The Chairman of the Committee has said that he does not want Parliament to be removed. What else is the Bill doing if this is not agreeable to the Chairman of the Committee? The Bill is poorly drafted because there is no Section 6 of the Act as required to be put in the Bill because they are amending Section 6 yet it is not in the sections to be amended at the end of the Bill.

Clause 4 of the Bill attempts to amend Section 6. It is only trying to enable the reappointment of those who have been appointed. I do not see the need for that because the appointment process is already provided in the principal Act.

Clause 5 of the Bill seeks to remove Parliament from considering the proposals for privatisation of any parastatal. The Chairman of the Committee said that he does not want that to happen.

Clause 6 of the Bill talks about setting the quorum. All the six sections of the Bill have no real meaning, consequence or betterment of the lives of Kenya. I want to give a scenario: Today, a President tells members of a commission: "Your term expires next year, but I can re-appoint you if you do certain things including accepting the proposal to privatise National Bank", because somebody wants to run for presidency and does not have a bank and they know that it is easier to run for presidency when one has one. He creates something that enables him to acquire National Bank. I am only giving an example. They will sell the National Bank for a song and because Parliament is not required to approve it, it goes to the Cabinet. The current Cabinet under the current Constitution has only two politicians; the President and the Deputy President and everybody else is an appointee of the President and they have only one allegiance to the President. If the President asks them to pass the privatisation plan, they will pass it because it does not have to come to the House. We will only see in the newspapers that the National Bank was sold. Is that what you want to achieve in Kenya? The oligarchs of the Union of Soviet Socialist Republics (USSR) stripped the assets of the USSR through such means. They took the gas and the transport companies and everything else. They became super rich and the Russians became poor. If we allow this to happen, we will make the political class and the connected people strip this country of all its assets for a song. What happened in the USSR will happen in this country. We saw a hotel which was held because there were concerns of taxpayers' monies having been lost in acquiring it.

**Hon. Member:** Which hotel?

**Hon. Ogalo:** It is now called the Laico Regency Hotel. It was sold for a song. When Safaricom was privatised from Telkom Kenya, there is still the five per cent of its shares that nobody knows who owns. We cannot allow these things to happen in this day and age. The only reason this Parliament is set up is to protect the sovereign will of the people of Kenya and exercise it on their behalf. They are the owners of those parastatals. Parliament must approve anything happening to the investments made using taxpayers' money. Any amendment that deprives the people of Kenya an oversight of their resources must be defeated. We will go for the last recess in June and the Cabinet will remain. They will strip you naked in those two months and approve many proposals to privatise parastatals. They will sell everything. Kenya Railways is a parastatal which owns the Standard Gauge Railway (SGR) and the railway from Mombasa-Malaba-Busia and it can be privatised in the morning for a song. What will you do if you find the Kenya Ports Authority privatised? If we can lose money in other more complex systems, giving them easy way of acquiring public property, I can assure you that you will have two months of



bloodbath. They will take everything. Let us unite and defeat this evil scheme that is being presented as a Bill. This is not a Bill but a theft scheme.

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): The next one on my request list is the Member for Bura, Hon. Ali Wario.

**Hon. Wario:** Asante sana, Mhe. Naibu Spika wa Muda kwa kunipa fursa hii. Hapo awali, Mwenyekiti wa Kamati alizungumza lakini sikumwelewa na sio kwa sababu alizungumza kimombo lakini anawezaje leta Mswada hapa tuupitishe ndio aurekebishe baadaye? Sitakuelewa leo wala kesho. Inakuwaje Mwenyekiti wa Kamati anasema kuwa kifungu fulani cha sheria hii ni kibaya na kifungu kingine ni kizuri? Kwa nini hakurekebisha Mswada huu kabla ya kuleta Bungeni? Kwa mujibu wa Katiba ya Kenya, Kifungu cha Saba na Kanuni ya Bunge Kipengele cha 77, Kiswahili ni lugha ya taifa. Vile vile, Kiswahili ni lugha rasmi Bungeni.

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): Hon. Ali Wario, I agree with you that you can either speak in English or Swahili. The two languages are allowed in the House but do not speak your vernacular. Carry on.

**Hon. Wario:** Ndiposa nimechukua Kipengele cha Saba na Kanuni 77 ya Bunge la Kenya kwamba Kiswahili ni lugha rasmi na ni lugha ya taifa na mimi ninajivunia. Kwa wale wanaodhani ni ujinga, samahani.

Mhe. Naibu Spika wa Muda, chimbuko la ubinafsishaji limetoka wapi? Miaka ya 90 taifa la Kenya lilikuwa maskini. Tulikuwa waombaji. Rais alikuwa anachukua kikapu kwenda kuomba Benki ya Dunia. Waziri wa Fedha alikuwa anaenda na bakuli kwenda kuomba Benki ya Dunia. Wale wenye senti hiyo wakatoa masharti yaitwayo kwa lugha ya Kimombo, structural adjustments programmes. Hilo ndilo chimbuko la ubinafsishaji. Kumetokea tukio. Mzungu kaja na mkoba na akatushawishi tuuze reli ya Kenya. Alisema ataleta kampuni kubwa zaidi itakayoshughulikia reli ya Kenya. Tukampa fursa. Akachukua rasilimali yote. Siku ya pili, jina alilotuletea alilichukua hapa River Road. Inaitwa Rift Valley Railways. Hizi ndio athari na madhara ya ubinafsishaji wa mali ya umma.

Kipengele cha 23 cha Mswada huo kimetoa wajibu kwa Bunge la Taifa kupitisha na kuidhinisha ubinafsishaji wakati unapofanyika kwa mashirika ya serikali. Kifungu cha 5 (1)(d) kinaondoa wajibu wa Bunge na kwenda kwa Baraza la Mawaziri. Hii ni dhuluma kwa Wakenya. Hii ni sheria mbaya. Utakaponiita mjinga au mwerevu, hapa nilipo, watu wa Bura walionichagua wanajua kwa nini wamenichagua na mimi naweza kujua sheria mbaya na nzuri kwa lugha yoyote ile utaleta. Nimeomba hapa mara nyingi kwamba Mswada unaoletwa hapa utafsiriwe kwa Kiswahili ili mwananchi pale mashinani wakati tunapochangia ajue sheria hii ni mbaya. Leo ninataka kuwaambia Wakenya kwamba Mswada huu ni mbaya. Ukiletwa na chama changu ni mbaya. Ukiletwa na mtu binafsi ni mbaya na ukiletwa na Upinzani Mswada huu ni mbaya na dawa ya Mswada mbaya ni kuuangusha. Mtoto wangu ataniuliza: “Kwa nini umepitisha sheria kama hii?” Nitakuwa sina jawabu la kujibu mtoto wangu atakaponiuliza swali kama hilo. Ili nilinde haki ya Wakenya na tukio lililotokea Kenya Railways, Posta na Telkom lisitokee tena katika taifa la Kenya, ninapinga Mswada huu.

Wengi wanadhana kwamba ni makosa kwa serikali kufanya biashara. Ikiwa dhana ya kuleta ubinafsishaji ni kutoa Serikali katika biashara, mbona Serikali imeshika benki zote hizi. Zaidi ya asilimia 50 ya riba katika National Bank of Kenya na Kenya Commercial Bank ni ya nani? Hospitali Kuu ya Kenyatta ni ya nani? Mbona mwenyekiti kwa mkono mmoja anasema ni vibaya kwa Serikali kufanya biashara na mkono wa pili anaunga mkono Serikali ifanye biashara? Katika mataifa mengi, serikali inafanya biashara na inapata faida. Inaboresha ushuru wake.

Kwa hayo machache, Mswada huu ni mbaya. Nimesimama kuupinga. Asante, Mhe. Naibu Spika wa Muda.

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): *Asante kwa maoni yako.* Let us have the Member representing the people of Makueni Constituency, Hon. Daniel Maanzo.

**Hon. Maanzo:** Thank you, Hon. Temporary Deputy Speaker, for giving me an opportunity to oppose this law. I am familiar with privatisation of this country and the original Act because it was applied when I was in Government. One of the examples is the New Kenya Cooperative Creameries (New KCC), which was going through a process of privatisation by the Privatisation Commission. You could see the gaps and that, indeed, the common Kenyan and one who had invested in milk and dairy farming had really lost and continues to lose up to today and the matter of New KCC has never been resolved. That is one example of a situation where privatisation has been a big failure in the country and this affects a lot of farmers. A lot of Members of Parliament here are affected by that particular event. As previous colleagues have said, I want to say that this is a bad law. In fact, other than removing Parliament and bringing in the Executive to handle a matter of privatisation and making the quorum two-thirds--- In fact, making the quorum two-thirds is the only thing near reasonableness because two-thirds means you have a majority of some sort. Otherwise, the rest of the Bill is in bad faith and should not be accepted at all, either by the Opposition or the Government. We should go back to the drawing board. In fact, any law which seeks to remove the role of Parliament in a situation---

You know that currently Parliament is constituted on the new Constitution and it is clear that it resolves matters of the people. It approves all the other senior positions like the Cabinet Secretaries. Why now when you already have a law which recognises the role of Parliament and which is in conformity with the current Constitution? Now we make a law to remove the role of Parliament. By that, the whole Act is defective and fails to meet the constitutional requirement that it should be consistent and any inconsistency to that nature should be null and void. Therefore, these amendments are null and void to the consistency of the Constitution. It is my humble opinion that if we go on with this privatisation, then you are legalising theft from the public coffers. We have already legalised theft of votes and now we go on to legalise theft. We are making very bad law through the tyranny of numbers and for the first time, I really want to ask the majority Members of Parliament to, at least, for the first time, reject this Bill so that we can have a free country whereby we are not just rubberstamping statutes from the Executive. In fact, if you look at the Memorandum of Objects and Reasons, you will see that this concerns county governments because county governments will own some of the institutions. Therefore, if this Bill survives in the National Assembly, it will be going to the Senate. So, you can see that recognition.

*(Hon. Shimbwa was dressed inappropriately)*

**Hon. King'ola:** On a point of order, Hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): There is a point of order. When you are raising you points of order, I want you to state the Standing Order that you are raising on.

**Hon. Maanzo:** Hon. Temporary Deputy Speaker, I think the point of order is withdrawn. There was a stranger in the House.

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): Member for Mavoko, what is the point of order?

**Hon. King'ola:** Hon. Temporary Deputy Speaker, we are speaking about the intelligence and dignity of this House. This is a House of rules. I saw a stranger in this House. I was just wondering. Was that a Member of Parliament, *Al-Shabaab* or a thug in this House? Is that the dress code in this House? Are there no Serjeants-At-Arms in this Chamber? Are we safe in this Chamber?

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): Order! You should rise on a point of order. That is just an observation and it is important to tell the public that we are safe. I can say from this point that we are safe. You should have reasoned. The Member who has brought up this issue is an honourable Member of Parliament.

**Hon. F.K. Wanyonyi:** The way he was dressed up?

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): Yes. Hon. Makau should have rose on a point of order about his dressing and we would have decided whether he is well dressed or not. You have spoken though. I know you wanted your voice to be heard. Hon. Members, you should always rise at that moment. We cannot see him, he has walked out. In terms of dressing, you should have risen on a point of order and I would have made a ruling at that point. But I must confirm he was an honourable Member of Parliament.

Let me get other points of order. Member for Kwanza, order!

**Hon. F.K. Wanyonyi:** Hon. Temporary Deputy Speaker, is it in order for a Member to rise up and tell us that we have already legalised theft of votes? Can he explain how that happened? I do not understand whether it is a slip of the tongue or not.

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): I can make a ruling on this. Hon. Members, I must admit that that was a Member of Parliament who walked in. However, we know our dress code. We do not need to call our Members outsiders. Therefore, next time you come dressed as if you are going to the market, I will be the first one to throw you out because that will not be decorum and the way we dress in Parliament.

For the record, it is important for the public to be aware that we are safe. The Member who walked in the Chamber was Hon. Omar Mwinyi Shimbwa, Member for Changamwe of Orange Democratic Movement (ODM). He is locked out but I can confirm he was poorly dressed. Hon. Member for Mavoko, I am sure your issues are addressed. You can always quote dress code. Do not speak like we have a thief in the House. He is an honourable Member who represents people. Hon. Member for Makueni, carry on there is nothing out of order, just finish your minutes.

**Hon. Member:** (*Off record*)

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): Order, Hon. Member!

**Hon. Maanzo:** Thank you, Hon. Deputy Speaker. There has been a point of order raised that I had said we pass a law to allow theft of votes. Without cleaning the voter register---

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

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): Hon. Onyango Oyoo, I am not going to give you time to speak. We have already ruled out the point about dressing. You always want to use interventions to speak. I am not going to give you permission to make your point. I have given direction---

**Hon. Oyoo:** (*Off record*)

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): It does not matter which Chairman he was. I have made a ruling and you are out of order. The Speaker has already made a ruling.

**Hon. Maanzo:** Thank you, Hon. Temporary Deputy Speaker. I wanted to clarify that once we pass that law and say that we could allow manual voting in the country, in my opinion, we passed a bad law and we are just about to pass another one, if this House agrees, the Privatisation (Amendment) Bill. Through the law on elections we allowed theft of votes.

In conclusion, this law is not good because it removes the role of Parliament and leaves the matter of privatisation purely on the Executive. That is dangerous for the country. It means we have the Executive in charge of the country and it removes our role of oversight to the Government. Therefore, with due respect to the Leader of the Majority Party who has brought this Bill, this is a bad law and I oppose it.

Thank you for giving me the opportunity.

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): Hon. Maanzo please remove your card 039 because you are confusing other Members. You are still on the request list and other Members need time to speak. Find out where your card is.

Member for Bahati.

**Hon. Ngunjiri:** Naibu Spika Wa Muda, nashukuru kwa kunipa hii nafasi. Ningependa kuungana na wenzangu kusema napinga Mswada huu kabisa kwa sababu Wabunge wenzangu wanahitaji kuelewa tumechaguliwa na wananchi, kuwasimamia na kuangalia shida zao na masilahi yao.

Hatuwezi kuenda kinyume ya wale waliotuchagua, kusema mambo yawe yakifanywa na kutoa nguvu zetu katika Bunge na kupeleka nje ya Bunge. Tutakua tukipigana na wananchi waliotuchagua. Lazima tuwe na msimamo kamili kama Wabunge kuweza kujua yale mambo tunayopitisha hapa ama yale tunaangalia. Tunaangalia mambo ambayo yanapelekana na matakwa ya wananchi na kufikiria tunafanya mambo ambayo yanafaa.

Ningependa kuwajulisha kuwa, tunaendelea kutoa nguvu kwetu tukipeleka kwa watu wengine. Sisi sote tulipitisha mambo ya vyama. Hata miezi sita haijaisha watu wameanza kulia. Tumepeleka nguvu kwa wachache tumesikia wameanza kusema fulani ndio atasimama hapa and fulani ndio anasimama kule. Kwa nini tuisome yale tunayoyaona sisi wenyewe? Mambo haya tuangalie.

Ninauliza, vile huwa watu wanasema katika Bunge, mmeona hata wakiwa wengi Bungeni wanatumia fikira zao kupinga mambo ambayo wanaona hayafai. Mjifunze kutoka kwa mambo hayo. Tuko kwa wale wengi na tunasema huu Mswada si mzuri.

Sisi sote tuko hapa tukiwa wakilishi wa wananchi kutoka sehemu zote za Kenya. Kwa hivyo, ni muhimu tukiona mambo nyeti, tunaangalia kwa makini ili tusije kupitisha mambo ambayo tukikutana na wananchi itakua ni shida kwa sababu walitupa nafasi ya kuwawakilisha. Sisi ndio macho ya wananchi, walituchagua kwa kura nyingi na ni vizuri tubebe msalaba wetu na tukifanya makosa tutaadhibiwa kwa sababu ya kazi tulioifanya.

Ndugu yangu ameongea juu ya Kenya Railways. Jambo la muhimu ambalo limesaidia nchi hii sana kwa miaka mingi ni sheria zilizokua wakati huo. Tulizivunja tukafanya tulivyofanya, ikaenda kwa wengine wachache, leo tunatafuta tutakavyofanya kuhusu Kenya Railways. Ni vizuri tusome kwa yale tunayoona yanaharibu nchi hii.

Tusichukue mambo haya kama ni ya Upinzani ama ni ya upande ya Jubilee. Ni muhimu tujue tunawajibika wakati tunazungumza mambo ambayo itasaidia wananchi wetu. Napinga Mswada huu kabisa. Tumepitisha mambo mengi na yakaenda kwa wachache ambao wana mpango ya kujitajirisha wao wenyewe na kupora mali ya wananchi.

(Applause)

Mheshimiwa Naibu Spika wa Muda, najulikana kwa kusema ukweli. Hata nikiwa pale nipo, huwa na vita vingi sana kwa sababu mimi ni mtu wa kusema ukweli. Mimi si mtu wa kuambiwa nifanye bila kufikiria. Kuna msembo wa Kiswahili husema akili ni nywele na hakuna asiye na nywele zake kwa kichwa. Umefika wakati sisi watu na nywele zetu kusema tuna fikira zetu kufikiria jambo nzuri na jambo mbaya.

Kwa hivyo, naipinga na ninasema hata haihitajiki kuizungumzia katika hili Bunge. Kama tungekuwa wengi, nafikiri hili ni jambo ungesema uweke swali tu na tujibu. Kuna mambo muhimu yaliyo mbele yetu; kuna mambo ya njaa, kuna mambo ya ukame. Tunapoteza wakati kama Wabunge ambao tumechaguliwa kwa mambo ambayo hayaongezi; ni ya kuharibu. Kwa hivyo kama ni fikira zangu isipokuwa siwezi kaa kwa kiti chako kwa kuwa tunakuheshimu, kama ningepata nafasi ya kusimama hapo, ningeweka swali la kusema tuutupilie mbali ama tuendelee.

Asante sana Mhe. Naibu Spika wa Muda.

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): Okay. Hon. Onesmas Ngunjiri, you have spoken. But, there is a way of always raising a point. You can do that or rise on a point of order. I know you know the procedure.

I have six requests here. Members want to make a contribution to this. Member for Muhoroni, it is your turn. You have the Floor.

**Hon. Oyoo:** Thank you, Hon. Temporary Deputy Speaker for recognising me. This is a very important Bill to me. I have looked at the whole thing and I think it is tailor-made for my constituency. I am taken aback that there are very serious issues in this country that need to be brought by way of a Bill. They are very urgent. There are things to do with health because people are dying in hospitals, innocent Kenyans. The taxpayers are dying because doctors are not on duty. Something needs to be done very urgently to take them back so that people can get treatment.

Students are coming out of universities because teachers are on strike. The Cabinet Secretary (CS) is doing his best. I saw he met the lecturers' union and asked them for time. The Government needs to spend more time on this and seriously do something about the universities' strike so that it can be averted and learning can continue.

On this Bill, I smell a rat. If in this House which is a House of records, a Bill on privatisation of sugar industries was brought by the same Departmental Committee on Finance, Planning and Trade and it was rejected, it is a reminder that privatisation cannot take place until the issue of land is looked at properly. We agreed that for land to be looked at there should be seriousness and justice. The question of land must be taken back to the county governments. The county governments must be part of the privatisation team that will know if you are selling or not. There is intention and that is what we are discussing today. The motivation here is that something must be fast tracked and passed very quickly so that my sugar industries which are Muhoroni Sugar Company, Chemelil Sugar Company and Miwani Sugar Company which are in receivership can be sold very quickly for a song. We said that this land issue must be taken back to the county governments. Today, I have seen a surreptitious motive through the Bill to remove the county governments from this arrangement so that it is the CS who will be able to do it. We must put mechanism that for any privatisation to be effective, there must be public participation. Parliament must be told, discuss and agree. I have seen Parliament wants to be disregarded so that the owners will be left with the CS. As you are all aware and Kenyans are aware, the new constitutional dispensation brought in a mechanism where the Cabinet Members were supposed

to be sourced from technocrats outside. This was for two reasons. The intention was very good. One was to alleviate the fear of corruption because the Cabinet Secretaries who were coming in were technocrats who had no burden on their backs; they were technocrats who had no loyalty; they would not demand employment for their voters; they were not coming in to look for money for *Harambee* because they do not have to do *Harambees*. But, the crop of the Cabinet Secretaries we got in the 11<sup>th</sup> Parliament, God forbid, we leave it to the Jubilee Government which is in power to go and assess their scorecard, whether this is what the Constitution intended.

After we rejected the Bill in this House, I have seen a situation where any intention of privatisation must bring on board public participation and county governments. After we left here, the Privatisation Commission which did not have enough Members called us, stakeholders of the sugar industries intended for privatisation to a hurriedly arranged meeting in Mombasa. While we were going to Mombasa to engage them – even the Governors and the Senators of stakeholders were called - the same Privatisation Commission engaged the public behind our backs where the sugar industries are. When we posed this question in Mombasa, they told us: “No. We had already arranged and it was difficult to demobilise them. So, that is just there for that purpose.” Later on we realised that the group that went to our sugar industries’ zones met officials of the Privatisation Commission. The deliberations were taken as official and were being used.

When we insisted that we must be brought on and the question of land investigated, adjudicated and deliberated on properly, the next thing we saw is that a new commission was appointed with members who did not meet the constitutional threshold. Either, females were fewer than the constitutional requirements or regional balancing was not done properly. They are there.

So, I am afraid. I want to oppose these amendments whose sole intention, the way I am reading it, is to facilitate privatisation of the sugar industry. I am fearful because behind the back of my electorates are serious sugar industries that are going on now, albeit with many challenges.

I realise that certain important people in this land are interested in buying these sugar industries for a song. I can see that in the 10<sup>th</sup> Parliament a way was done where the giant Chemelil Sugar Company was undervalued; where Muhoroni Sugar Company was undervalued despite the huge nucleus farms and Chemelil was supposed to be a holding ground. Muhoroni was supposed to be a minor company. My reading is that somebody serious who is pushing these Bills and creating the Privatisation Commission is interested in acquiring these things for a song so that he can take Chemelil, take the big nucleus farms, take Muhoroni for a song and sell it to private partners at a colossal amount of money. That has happened in Kenya.

Somebody, some famous Asian was given an opportunity to buy the--- What do you call it, is it Telkom, Safaricom? The other one?

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): Hon. Member, you do not consult---

**Hon. Oyoo:** Not Mobitel, Mobitel we know the story. It is this one of Celtel. He bought Celtel for a song.

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): If you consulted the Member for Awendo he lied to you. Just contribute.

(Laughter)

**Hon. Oyoo:** Thank you, Hon. Temporary Deputy Speaker. Thank you for that reminder. They have made money. Then, they were very big businessmen. Today, they are reeling under the weight of poverty because they cannot do those kinds of deals.

This Bill spells doom for my people – the people I represent their interests. I want to oppose and say that anybody that has an opportunity to lead the people should do it well. I want to plead with the Jubilee Government; the people who are coming to this House are not all very gullible. I want to plead with my colleagues, whenever you find a Bill, more so at this eleventh hour, these flurry of amendments that will be coming to this House and their timing when you know Members are very busy outside, to find few Members who are comfortable like me who are seated here, who believe they are as good as re-elected; you need to be careful. Many people are now shaking. You cannot find them here. You will see Chairmen pushing in small amendments which are intended to benefit the interests of some powerful people. This country is not for powerful individuals; powerful few people. It is for Kenyans. Whoever is engrossed in this looting mania, let him be told and, I want to remind him: you will loot your country like Mobutu Sese Seko did. You go to Switzerland and you find big hotels he bought there and they are no longer his; they no longer serve the interest of his country. They have happened everywhere, to Gaddafi and many others. Please, let us be sensitive and let us think about the citizenry of this country. This Bill is not intended for the good of this nation.

There are very urgent Bills. We need to talk about how fast we can stop the doctors' strike and get medication for our citizenry. We need to urgently talk about how we can avert the teachers' strike. We need to talk about how we can urgently mitigate the spiralling hunger occasioned by bad weather – bad weather which is occasioned by felling trees anyhow because powerful individuals are now in that business. These are the things that serious parliaments--- If our leaders cannot do, this Parliament must stand to be counted. This is a House of record. We should not allow ourselves to be used.

The 11<sup>th</sup> Parliament is a laughing stock. People wonder how this Parliament, knowing how our political honchos behave outside, we can come here struggle and pass a Bill on anti-party hopping. Two days later, the Bill is brought back and we are reminded that it was an omnibus Bill: You reject it in toto or pass it in toto. You cannot amend a comma, paragraph or full stop. Two weeks later, our recess is interrupted and we are hounded here as thieves, policemen surround a House of honour---

Your time is over.

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): The Member for Awendo, Hon. Jared Opiyo.

**Hon. Opiyo:** Thank you, Hon. Temporary Deputy Speaker. I have been here the whole afternoon. I do not know how these gadgets work.

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): Order Member! Just make your contribution.

**Hon. Opiyo:** Yes, I am coming there, Hon. Temporary Deputy Speaker. At the outset, I want to oppose this Bill. When I saw this, what first came to my mind was the privatisation of the five sugar companies that had been alluded to by the Chairman of the Departmental Committee on Finance, Planning and Trade.

Members of this House are elected by the people of Kenya first to come and represent them

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): Allow me make this announcement so that we do not repeat ourselves. We will hear contributions in this order: The

Member representing the people of Kipipiri and Hon. Johana Kipyegon, Hon. Cecilia Ngetich and Hon. Ferdinand Wanyonyi, the Member for Kwanza, and debate will be closed. No more requests; these are the only requests I have. I will not take another request because the Mover will have to reply.

**Hon. Opiyo:** Thank you, Hon. Temporary Deputy Speaker, though I can see the Member for Suna East and the Member for Mbita struggling to attract your attention.

Members of this House are elected by the people of Kenya to come and first of all represent them, make laws on their behalf and also exercise oversight on the Executive. As many of my colleagues have pointed out, the intention of this Bill is, to say the least, malicious. The intention is to remove Parliament from discussing the privatisation of any parastatal here in Kenya. I think that has got a bad motive.

With regard to reappointment of members of commissions, it is immoral to just expect that members will be given a blanket reappointment without regard to how they performed in the last term. The vetting process in Parliament has got parameters. Sometimes people are vetted upon the way they delivered while they were in office. Giving them direct appointment and denying Parliament the opportunity to relook at their past performances and behaviour while they were in office is not right.

While some Members were contributing, they alluded to the fact that there were write-offs. Even the Chairman of the Departmental Committee on Finance, Planning and Trade alluded to the fact that in the past there have been write-offs in the sugar sub-sector. I want to put the record straight and state categorically that indeed towards the tail end of the 10<sup>th</sup> Parliament, there were conversations with regard to write-offs of debts within the sugar sub-sector and indeed other agro-based subsectors. Others were effected; the one for the sugar companies was not effected.

This country must wake up. We do not want situations where certain sub-sectors of the economy are discriminated against just by virtue of their geographical location or by virtue of the people who participate in those activities. I can state here that we have been waiting for the write-offs. We have asked questions about the same here but there have not been answers forthcoming. The worst is write-offs of debts owed by farmers directly. Sometimes, due to bad weather, crops fail, the farmers are unable to repay their loans. It is very discriminatory when the coffee sub-sector debts are written off and the ones for the sugar sub-sector are not written off.

We have expressed fears that we must be careful---

*(Hon. Oyoo, Hon. (Ms.) Odhiambo-Mabona  
and Hon. Nuh consulted loudly)*

Hon. Temporary Deputy Speaker, the consultations in the House---I think we are nearing nominations and the consultations in the House are a little bit too high.

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): Hon. Members, please allow the other Members to make their contributions. Hon. Oyoo, make the level of your consultations low.

**Hon. Opiyo:** I know he is agitated because we are nearing nominations and everyone is having fever.

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): You carry on. I am protecting you.



**Hon. Opiyo:** Thank you, Hon. Temporary Deputy Speaker. We have to be careful. We are on the homestretch. This is the time that we will expect Bills to be sneaked into this House because Members are busy out there campaigning or even struggling to register voters. It is this time when such Bills that do not mean well for this country will be sneaked into this House. I want to urge all my colleagues, both in the Minority and Majority sides, to be very vigilant so that we do not pass laws that end up muzzling the people of Kenya. Just like the example that has been given, just recently Members of this House passed a Bill on anti-party hopping. A few days later, everyone is saying that was a bad law, and they passed it here in broad daylight and everyone seemed to have liked it. I want us to be very vigilant as we go towards the homestretch.

The problem with the parastatals we are talking about here is not really that they are not profitable or sustainable. The problem is corporate mismanagement. If that is handled, I think there are--- We cannot privatise everything. It is like saying we completely privatise KQ. A national carrier cannot absolutely be privatised because of the status symbol that it gives to a country. Indeed, even with other industries, like now if we pass this Bill and say that the Executive can manage these things without consulting Parliament, you will be surprised that we have put up a Standard Gauge Railway (SGR) with Kshs380 billion, of course most of it stolen, and it will be sold just like that. We will have a country where the main railway trunk does not belong to that country but to an individual having acquired it for a song.

Hon. Temporary Deputy Speaker, I want to state here that this is a bad Bill. If it comes into law, it will be the worst law that will encourage corruption and all manner of ills committed economically. This House must wake up and reject this Bill for what it is. It is a bad Bill.

Thank you, Hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): Thank you. Hon. Members, you may not want to repeat yourselves because you know what is in the Standing Orders.

The Member for Kipipiri, the Floor is yours.

**Hon. Gichigi:** Thank you, Hon. Temporary Deputy Speaker. I rise to support this Bill subject to certain amendments. In as much as I am opposed to the removal of the participation of Parliament - the National Assembly - in the recruitment process as well as receipt of reports by the Commission, there are certain positive clauses here which I do not think we should throw out. We should just amend and delete the offending clauses.

There is a proposal that the commissioners in this body be recruited competitively. That is a clause that is positive. If you read the current law, you will find that it says that the Minister shall appoint these commissioners without any requirement or competitive process. We need that in law.

Secondly, the proposal that the commissioners be given a chance for reappointment for a second term is a standard clause in many of our laws that govern parastatals. I see no problem with that. It is something that we need to put here instead of appearing like after serving three years these commissioners ought to go home. It is a good clause. I would also like it to be amended further to state that it is a second and final term. That is a positive proposal.

Thirdly, there is a proposal that the quorum to conduct business of the commission be raised to two-thirds. That again is a good requirement. The current position is that the quorum is much lower. That is what is going to cause corruption, as my colleagues are saying rather than curbing it. Let us not throw out the baby with bath water just because we are offended by the clauses that seem to remove Parliament from playing its oversight role. I agree, indeed, that the Government should not get itself into doing business. This is an important Commission.

Most parastatals that the Government keeps on bailing out other than the ones that are strategic likes KQ--- Let us go the Safaricom way where the Government can become a shareholder. We should leave the management and its control to a competitive and private sector driven process. We have seen a very vast graveyard of parastatals that have attempted to do business in this country and they have really lost.

Kenyan taxpayers lost a lot of money because of corruption and incompetence. Even as we speak, we keep on pumping a lot of money into these parastatals. I agree that the Government should get out of business. I also agree that we should have a linier commission as a parastatal since that is where we are heading to. Seven is not a bad number.

Hon. Temporary Deputy Speaker, I, therefore, support subject to deletion of the offending clauses removing the role of Parliament.

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): The other Member was Johana Kipyegon but I will skip him because he left his card and went for consultations.

Let us now have the Bomet County Women Representative, Hon. Cecilia.

**Hon. (Ms.) Ngetich:** Thank you, Hon. Temporary Deputy Speaker for this chance to also contribute on the Privatisation (Amendment) Bill. Just like my colleagues have said, I do not want to repeat much. I want to concur and support this Bill with some reservations on some clauses that I would like to be amended during the Third Reading before the Bill is finally passed into law.

I partly support Clause 5(1)(d). It is talking about approval by the relevant Committee of Parliament. That is substituting with the words “competitive process”. We should have a standard procedure of appointing commissioners. Most of the commissioners that we have approved have followed certain process. First of all, it should be a competitive process and then the names are brought to Parliament for final appointment. This is part of an oversight to see whether this person is suitable for the position or not.

So, taking that away from this House is denying us that responsibility of doing our work on oversight. We know the competitive process is in law. We have to give everyone an opportunity to compete equally with all other Kenyans, but we should not be denied that oversight role of counterchecking competitive process.

I suggest that there should be a procedure on how these commissioners are appointed. It should not be that one commission has its own procedure and yet it is the same Government.

There is a lot of skepticism about the privatisation process. One of the reasons we are privatising is for better services or management. The people who will be appointed to private entities are Kenyans who have been serving in the public sector. What were they doing? Or they decided not to do good work while in the public service but decide to do good work when they are in a private entity. We must bring back performance contracting. It is there but nowadays it is not followed up. Performance contracting was to make the public entities work like private companies where there is good management and result-oriented teamwork.

Hon. Temporary Deputy Speaker, I support the two-thirds quorum because you are letting the majority to deliberate on issues and whatever will be agreed upon will be like more less a general consensus. However, this does not always mean that it is a sure way of ensuring that there is integrity. All we have to say is that whoever is put in charge should be responsible and always uphold integrity that is in Chapter Six of our Constitution. I would like to say that Bills that sometimes come at this time of the year are not really scrutinised by the majority of the Members.

If we are not very careful, we will find that issues that may not conform to what the majority would go for may be passed. So, I call upon the Members who are here to further scrutinise these Bills. Let us be vigilant during the Third Reading so that we make laws that will serve this country and not benefit only few persons.

Hon. Temporary Deputy Speaker, there must be a follow up on the privatised entities. This is because sometimes people just want to propose an entity to be privatised so that they can appoint certain people and not necessarily for providing services. They do that for other selfish reasons. So, if any Government entity has to be privatised, it must go through the process of public participation so that it is the public that will decide that, indeed, it should be privatised.

Otherwise, I am in support of this Bill, I will be proposing some amendments particularly on the fact that the nominees must come to this House during the Third Reading. That is to give us that opportunity to provide our oversight role.

Thank you, Hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. Mbalu): Thank you. Let us have the Member for Kwanza.

**Hon. F.K. Wanyonyi:** Hon. Temporary Deputy Speaker, it is sad. I worked in a private company and in the Government. It is sad that this Bill would have come at this hour. As an Hon. Member has said and I followed it keenly, they are waiting for the Third Reading so that this can be sneaked in.

All we are saying is recycling members who have worked before is a very serious case. Most of these parastatals have failed because of the appointees some who are not knowledgeable in their operations. They are just picked because they are politically-related or related to senior people in the Government. They are appointed to a parastatal to rubberstamp, get allowances and go away. Therefore, removing Parliament and putting the Executive to run this show is dangerous.

Privatisation is not bad but as it is today, I am totally opposed to it. We have cases such as the Kenya Railways which was privatised. You can see where it is today. In a simple case like this one, we have been taken round in circles. Nothing is coming out. This is the wrong way of doing it.

Let us try and look at the current set up in all parastatals and give them a boost in terms of management of resources. That is the only way we can get some of these parastatals move forward.

Hon. Temporary Deputy Speaker, agreeing to this, it means we are actually abdicating our responsibilities and mandate as Parliament to somebody else or a Cabinet that we have vetted. This is because all Cabinet Secretaries apart from the President are appointees of this Parliament. We reject some and approve some. You are now telling me that it should be the other way round. They should tell us what to do other than advising us as technical people. Some of them are there because of their technical abilities. Now, you are telling us that as Members of Parliament, we are here and we are told that this has been done and you can rubberstamp. I can tell you that some of the parastatals that will be privatised will go under and we will go back to square one. Therefore, I am opposed to this Bill. I know it may be sneaked in at the last minute

for it to get the numbers and be passed. But you can see that everybody is opposed to it because it does not mean good for our country.

Lastly but not least, Parliament has what it takes to give the way forward, for example in the case of Chemilil Sugar Company which has been in receivership. We were there the other day and there is no difference from what it was. This is the case and yet it is under private arms.

We are saying that if the Government wants to reduce its shares in some parastatals then we can leave it to members of the public to buy them locally on selective basis and not everywhere. As it is, I am afraid we are going to sell some of these parastatals at a song as an Hon. Member said. We will cause more unemployment in this country and the economy will go down. We will then start to beg the World Bank to come and help us.

I hope the Chairman who is here is listening. Please spare us on this one and let us move forward. Do not move the mandate of Parliament to the Executive. This is because some of those Executives are not able to give us the way forward. They are our employees because we vetted them here in this House. Why should we give them that mandate?

I totally oppose this Bill, and if anything, it should be thrown out because it is not a Bill. I think it was sneaked in because Members are tired. Maybe that is one way of passing some of these Bills. Please, let us not even debate it thoroughly.

Hon. Temporary Deputy Speaker, I oppose.

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): Hon. Members, I had mentioned the Members who will speak on this. I can see a Member I had mentioned earlier on is now here. I will give you a chance at my own discretion. Hon. Members, you can express your interest. Do not assume that the Speaker is aware that you want to speak. Hon. Members, at my own discretion, I want to give Hon. Millie Odhiambo three minutes.

**Hon. (Ms.) Odhiambo-Mabona:** Thank you, Hon. Temporary Deputy Speaker for giving me this opportunity. I take this opportunity to wish you and the Members who are in the House a happy New Year. I also congratulate Mr. Sialai for taking the position of the Clerk of the National Assembly. Hon. Junet told me about it yesterday but I came in a hurry and was unable to contribute.

I oppose this Bill because it seeks to take away the role of Parliament. The issue of privatisation of key institutions in this country is very serious. Indeed, as other Members have said it is regrettable that we are discussing this serious matter at such a time as this when we know Members are very busy on the ground. I know that may not be an excuse but the reality is that Members are very busy with voter registration exercise and the impending elections. I would like to encourage the Leader of the Majority Party that when there are such serious Bills they should bring them much earlier within the Parliament Calendar. This is the reason sometimes people say that some of these Bills are sneaked in at the eleventh hour.

Hon. Temporary Deputy Speaker, I wish to register my opposition.

Thank you for giving me this opportunity.

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): I now give two minutes each to Hon. Junet and Hon. Kipyegon before the Mover replies.

**Hon. Nuh:** Thank you, Hon. Temporary Deputy Speaker. I rise to oppose this Bill.

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): To oppose or propose?

**Hon. Nuh:** To oppose and completely oppose it, Hon. Temporary Deputy Speaker. This Bill is one of the worst legislations that have found themselves on the Floor of this House. It is trying to erode the powers vested in the Legislature of this country. It looks like this is a vendetta-driven Bill in the sense that there are people in certain quarters who are interested in the

privatisation of certain parastatals in this country and they want to find a way that they can keep off the scrutiny of the National Assembly. This Parliament is vested with the sovereign power of the people. The representatives of Kenyans are found in this Assembly. When you say a parastatal that belongs to the people of this country is to be privatised and you do not want Parliament to scrutinise the process; and you even go further and say that the appointees to the Privatisation Commission should not be vetted by Parliament but should just be appointees of the Executive, then you smell a rat.

We are aware that there are certain parastatals that are ready for privatisation such as the National Bank of Kenya and the sugar companies of this country. We know the individuals who are interested in buying them. This is what I call the last leap of looting in this country. If we allow this Bill to be amended as proposed, this country's coffers will be left dry. It will be like what the former Gambian President, Jammeh, did the other day by looting that country. We should not allow it to happen.

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): Let us have Hon. Johana Kipyegon and then I will call upon the Mover, Hon. Benjamin Langat, to reply.

**Hon. Kipyegon:** Thank you, Hon. Temporary Deputy Speaker for giving me this opportunity to express my support of this Bill.

From the outset, like most of the Members of this House, I oppose this Bill. I oppose it because of several reasons. Like everybody knows, this House is vested with the powers to legislate, play oversight role and to represent the people of this Republic. When you decide to erode any of those three areas in which we are vested with powers by the Constitution, then you are eroding the Constitution. As Members of this House and, especially those who belong to particular committees like Public Investments Committee, we are meant to oversee the parastatals and those areas that the Government of the Republic has invested its money in.

Parastatals, as all of us know, are investments of this country. They are public investments. This is where public money is normally invested. These parastatals were not meant to make profits *per se* but to assist in areas where our people would have wished to have investments. For example, the Kenya Cooperative Creameries (KCC) was not meant to make a lot of profits. It was supposed to assist farmers to buy milk, process it and then sell it. The Agricultural Development Corporation (ADC) was meant to assist farmers in researching on the best seeds to provide to farmers such as maize, wheat or any other seed. The Kenya Seed Company (KSC) was meant to research and create the best seed to provide to farmers. When we privatise all these, it must be at the interest of the citizens of this nation. These are their investments.

The reason why we are in Parliament is so that we represent the people of the Republic. One of the ways we represent the public is by overseeing these issues of Government by deciding on their behalf whether certain particular parastatals should be privatised. We do not want a situation which we have been seeing where some parastatals are privatised without the knowledge of the public. Even when leases expire, some people are just buying them privately without the public knowing. We have heard of several parastatals which have been sold. We have heard of tea estates where leases expired and then certain individuals buy them. Recently, I heard of one in Kericho where a few individuals have taken a big tea estate of over 500 acres without the knowledge of the county or the Republic. That is stealing from the public. The reason why these people want to deny Parliament the role of oversight is so that they also steal these parastatals and sell them to themselves.

Hon. Temporary Deputy Speaker, this country is turning into a man eat man society. We must prevent that as Members of Parliament. I urge my dear friends to oppose this Bill so that we do not allow the Government to auction the country to either rich citizens or outsiders. The next thing you will hear is that they are privatising some parastatals and selling them to the Chinese. You will be shocked.

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): You have 30 seconds.

**Hon. Kipyegon:** We must allow these issues to come to this House. The appointment of commissioners should come to this House. Any parastatal the Commission wants to privatise must pass through here so that we ask our people whether they agree or not. If we allow them to just do it themselves and end at the Cabinet Secretary (CS) level, and it is done, then we are auctioning this country.

I oppose.

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): You oppose. I now call upon the Member for Ainamoi, Hon. Benjamin Langat, to reply to the Privatisation (Amendment) Bill, National Assembly Bill No. 27 of 2016.

**Hon. Langat:** Hon. Temporary Deputy Speaker, I want to thank you very much for giving me this opportunity once again this time round to reply. I also want to thank all Hon. Members who have sat very patiently in the House. I also thank all those who made their contributions to this Bill.

As the Chair and on behalf of the Leader of the Majority Party, we have heard the views of the membership loud and clear. Of course, I have noted a lot of opposition to the Bill, but when we will be processing amendments to this Bill, I request the Members who had issues with it to prepare their proposals so that we can correct the offending clauses.

Though I have heard some Members saying that there is no Bill, I insist that there are one or two things we can live with as we correct the ones which seem to be offensive to all of us.

As we have said, generally, the privatisation process in this country and many Members have noted it has not been got right. Going forward, we need, as I said earlier on and as many Members have also repeated, to look at the process and the law once again and see where we are missing the point so that when we privatise Telkom Kenya, Kenya Airways, Mumias Sugar, Safaricom or Uchumi something does not go wrong. Why is it that after some time we find something has gone wrong and we have to go back to our taxpayers to bail out these privatised companies? Something serious needs to be done.

We have heard Members' views. I thank everybody who took time to oppose or support the Bill. This House has 349 Members, but as we can see those who have remained to do the business of the House are very few.

Hon. Temporary Deputy Speaker, with those very few remarks, I thank the House, and you.

In beg to reply.

Thank you very much.

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): The debate has been concluded but because of obvious reasons, I will not put the Question. So, I do order that the Question on the Privatisation (Amendment) Bill (National Assembly Bill No. 27 of 2016) be put in the next appropriate time. I must appreciate the contribution of the Members. This is a House of debate. I am happy that we are able to express ourselves as Members of Parliament in the debate, some opposing and some supporting. You know that at the end of the day, as per our procedures, you take a vote.

**ADJOURNMENT**

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): Hon. Members, the time being 6.30 p.m., this House stands adjourned until Tuesday, 31<sup>st</sup> January 2017 at 2.30 p.m.

The House rose at 6.30 p.m.