

# NATIONAL ASSEMBLY

## OFFICIAL REPORT

Thursday, 27<sup>th</sup> August 2015

The House met at 2.30 p.m.

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

### PRAYERS

### COMMUNICATION FROM THE CHAIR

#### FIFTH LEADERSHIP RETREAT

**Hon. Speaker:** Hon. Members, I wish to notify you that the National Assembly has planned a retreat for the leadership of the House under the theme 'Building Synergies'. The retreat will be held from 13<sup>th</sup> to 16<sup>th</sup> September 2015 at a venue to be communicated in due course.

The National Assembly periodically holds such leadership retreats to review progress made in fulfilling our constitutional mandate. Participants of the Fifth Leadership Retreat include Commissioners of the Parliamentary Service Commission, the presidium of the House, Leaders of Majority and Minority parties and their deputies, other political party leaders in the House, chairpersons of committees and Members of the House Business Committee.

Hon. Members, some of the retreat objectives include taking stock of the business considered by the National Assembly during the second part of the Third Session, prioritizing business for the third part of the Third Session, issues touching on the welfare of Members, among other important subjects. The leadership will also consider measures to deal with the huge backlog of Bills with constitutional timelines.

I wish the participants, as indicated above, fruitful engagement as we forge ahead in fulfilling our obligations.

Thank you.

#### PRESENCE OF DELEGATION FROM THE UGANDA DISTRICT COUNCIL SPEAKERS' ASSOCIATION

Hon. Members, I wish to introduce to you a delegation from the Uganda District Council Speakers' Association (UDICOSA), an association of all District Speakers and Deputy Speakers in Uganda, who are seated at the Speaker's Gallery. The delegation comprises of the following Hon. Members:

- |                       |   |  |
|-----------------------|---|--|
| 1. Hon. Andrew Odongo | - | Chairperson of the District Speakers<br>Association and Leader of Delegation |
|-----------------------|---|--|

- |                                 |   |   |
|---------------------------------|---|---|
| 2. Hon. Efrance Nakiguli        | - | Vice Chairperson and District Speaker<br>Mubende District |
| 3. Hon. Genesis Acema Dria      | - | District Speaker, Arua District                           |
| 4. Hon. Felix Yine              | - | District Speaker, Apac District                           |
| 5. Hon. Fredrick Apil           | - | District Speaker, Kole District                           |
| 6. Hon. Charles Kobong          | - | District Speaker, Kaberamaido District                    |
| 7. Hon. Dan Nabimanya           | - | District Speaker, Ntungamo District                       |
| 8. Hon. Frederick Gerald Okello | - | District Speaker, Serere District                         |
| 9. Hon. Alfred Balingas Oyollo  | - | District Speaker, Abim District                           |
| 9. Hon. Ronald Kyomuhendo       | - | District Speaker, Masindi District                        |
| 10. Hon. Aloysius Sserumaga     | - | District Speaker, Mityana District                        |
| 11. Hon. Haruna Mawanda         | - | District Speaker, Butambala District                      |
| 12. Hon. Enock Nyongore         | - | District Speaker, Nakaseke District                       |
| 13. Hon. George Damba           | - | District Speaker, Namutumba District                      |
| 14. Hon. Shakilla Mbabazi       | - | Deputy Speaker, Masindi District                          |
| 15. Hon. Geoffrey Wandera       | - | District Speaker, Busia District                          |
| 16. Hon. Meresi Mudenga         | - | District Speaker, Sironko District                        |

The delegation is accompanied by Ms. Hailen Mary Jagimere, Administrative Assistant, Uganda Local Governments, and is in the country on a study visit to the Nairobi County Assembly and the Parliament of Kenya. They have been here since Wednesday, 26<sup>th</sup> August 2015 and will depart tomorrow for Uganda.

In the spirit of the East African Community, I wish to welcome them to the National Assembly of the Republic of Kenya and wish them fruitful engagement.

Thank you.

Hon Members making your way in, including the Member for Kikuyu, please take your seats. There is yet another Communication. Come in quickly before shaking hands. You will do that after taking your seats.

#### PROCEDURE FOR APPLICATION OF STANDING ORDER No.62

Hon. Members, this communication relates to procedure for the application of Standing Order No.62 concerning a further vote in instances requiring a fixed majority.

Hon. Members, I wish to inform the House that I have received a letter from Hon. David Ochieng' dated 26<sup>th</sup> August 2015 in which he seeks to have the House undertake a further vote on the question of the Motion for the Second Reading of the Constitution of Kenya (Amendment) Bill (National Assembly Bill No.1 of 2015), which the Member is the sponsor.

The request is based on failure by the Bill to obtain the stipulated threshold of two-thirds of the House membership when the Question was put on 25<sup>th</sup> August 2015. You will recall that upon the putting of the Question and division of the House on the Bill for the Second Reading of the aforementioned, the Ayes totalled 216, the Noes were 28 with 4 abstentions being recorded.

Hon. Members, as you will recall, two other Bills seeking to amend the Constitution, together with a special Motion for the extension of period in respect of legislation having constitutional timelines, were also considered at the same sitting. Concerning the Constitution of Kenya (Amendment) Bill (National Assembly Bill No.26 of 2013) sponsored by Hon. Lati Lelelit, which failed to garner the stipulated majority support of 233 members, I did make

instantaneous ruling directing that a further vote be taken within five sitting days, pursuant to Standing Order No.62(2).

Hon. Members, for avoidance of doubt, Standing Order No. 62(2) and (3) provides as follows:

“(2) Notwithstanding paragraph (1), whenever a Bill or a special Motion the passage of which requires a special majority in the Assembly fails to obtain the required majority and the vote results in a majority of the “Ayes” but the “Noes” have not numbered at least one third of all the Members of the Assembly, the Speaker may direct that a further vote be taken on the particular question, and the further vote shall be taken within five sitting days from the day the first vote was taken.

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

Hon. Members, it is important to note that the provisions of Standing Order No. 62 have been in existence since the 7<sup>th</sup> Parliament and my predecessors applied the provisions of that Standing Order in relation to Bills or Special Motions which required a fixed majority sparingly. Indeed, during the ruling I made on July 28, 2015, I did mention that the provisions of Standing Order 62 ought to be sparingly referred to and seldom used. Similar provisions also exist in other jurisdictions which allow for reconsideration of House decisions upon a Motion to bring back, for further consideration, a matter previously decided. For instance, according to Robert's Rules of Order referred to in the United States of America, a Motion to reconsider must be made after the action on the original Motion. Until the Motion to reconsider is disposed of or lapses, the effect of the original vote is suspended, and no action may be taken to implement it. Further, in the U.S. House of Representatives, immediately following a vote, the Speaker typically announces that, “without objection, a Motion to reconsider is laid on the Table.”

Hon. Members, the Masons Manual of Legislative Procedure, which is the official parliamentary authority in most US legislatures, also states as follows:

“...every legislative body has the inherent right to reconsider a vote on an action previously taken by it. When not otherwise provided by law, all public bodies have a right during the session to reconsider action taken by them as they think proper and it is the final result only that it is to be regarded as the thing done.”

This provision is also replicated in the Rules of Procedure of Canada and in particular, Rule 9A.11 which provides for reconsideration Stage for Private Bills. From the foregoing, it is, therefore, clear that the provisions of Standing Order No. 62(2) not only exist but are also applied in a number of jurisdictions.

Hon. Members, allow me now to examine the issue at hand, which is that Hon. David Ochieng' seeks to have the House undertake a further vote on the Question of the Motion for the Second Reading of the Constitution of Kenya (Amendment) Bill (National Assembly Bill No. 1 of 2015). Indeed, during the afternoon sitting on Wednesday, 26<sup>th</sup> August 2015, the same issue of undertaking a further vote on Hon. Ochieng's sponsored Bill was brought up, with a substantial majority of the Members who contributed to the resultant debate supporting calls for a further vote. Various reasons were advanced as the basis for the further vote, including the premise that the drafters of the Standing Orders foresaw the possibility of crucial Bills and Motions being shot down by a small minority, hence created a window of opportunity for the House to re-think

its stance. There were also considerable views by Members that there was need to allow for a further vote as the Bill was of great national interest, hence it would be fair for the Speaker to allow members to deliberate on the Bill again.

Hon. Members, before I make a determination on the issue arising, allow me to examine the provisions of Standing Order No. 62(2), which I had referred to earlier. A close reading of the provision indicates that the provision does not state expressly the procedure for prompting the Speaker to rule on whether or not a further vote is to be taken. Indeed, in the case of the Bill sponsored by Hon. David Ochieng', the Member did not request a further vote on the Floor immediately after the vote. However, as mentioned earlier, I have in my possession a letter from the sponsor of the Bill seeking to have the House take a further vote on the Motion. The letter was delivered to my office on 26<sup>th</sup> August 2015, more than 15 hours after the vote had been taken. In the case of the Constitution of Kenya (Amendment) (No.2) Bill (National Assembly Bill No. 26 of 2013) by Hon. Lati Lelelit, the Member requested for a further vote soon after the vote had taken place. In addition, a number of Members purporting to support his request also stood in their places claiming a Division, a procedure which is not even required or necessary as per the said Standing Order.

Hon. Members, in view of the foregoing, and pursuant to Standing Order No. 62(2), I am of the view that in the absence of an explicit procedure of prompting the Speaker to rule on whether or not a further vote is to be taken, the request by Hon. David Ochieng' for the House to undertake a further vote on the Motion for the Second Reading of the Constitution of Kenya (Amendment) Bill (National Assembly Bill No. 1 of 2015) should be granted.

*(Applause)*

Indeed, to determine otherwise, Hon. Members, the Speaker would be in clear violation of Standing Order No. 62(2). More particularly, also Article 122 of the Constitution. Furthermore, the issue for determination by the Speaker is one that involves a question on the power of the House to take a further vote and to that extent, the constitutional right of the House. The Practice of the House of Representatives of Australia, states as follows:

“In any matter which might involve or touch on the constitutional rights or powers of a House of Parliament, the view has been taken that, other things being equal, the Speaker should not take decisions which could have the effect of limiting these rights or powers of the House as the House is a master of its own destiny”

It is for this reason that I am of the view that to rule that the House cannot take a further vote on the Bill would be not only in contravention of well-founded principles of Parliamentary Practice but also the Constitution of Kenya, in particular on the powers of the House to make decisions in terms of Articles 95 and 122 of the Constitution. More specifically, Article 162 which clearly provides that the Speakers of Houses of Parliament have no vote. What the hon. Member is seeking is for the House to take a vote. For the Speaker to deny that request, the Speaker would be exercising a vote.

Hon. Members, however, there is need for a procedure to be established for prompting the Speaker to invoke the provisions of Standing Order No. 62(2) to be used in future if such a case arises again. This is to avoid a scenario which creates uncertainty on the fate of Bills. Indeed, as seen in the case of Hon. David Ochieng', after the Motion failed to attain the two-third

threshold when the House was adjourned, Hon. Members went away with the knowledge that the Motion for the Second Reading of the Bill had been defeated and with it the Bill itself.

Hon. Members, allow me to refer to Erskine May on Parliamentary Practice in relation to the procedure of prompting the Speaker in the House. Standing Order No. 59 of the House of Lords in relation to the right of a Lord to record a protest against any decision of the House provides that the “entry of a protest must be made not later than the end of business on the next sitting day.” Further, Robert's Rules of Order referred to in the United States of America, which I alluded to earlier, also provide that a Motion to reconsider must be made within a limited time after the action on the original Motion, usually at the same sitting or on the next day within the session.

Honourable Members, it is for these reasons that I am of the view that in future any Member wishing to prompt the Speaker to invoke the provisions of Standing Order No.62(2) must do so on the Floor of the House immediately after the Speaker announces the result of the vote and must also be supported by other Members in rising.

Indeed, the Bill by Hon. David Ochieng’ is one of national interest; as such Kenyans should be in full knowledge and aware of the debate, and in particular be certain of its fate at all stages to avoid eliciting a debate on its existence. This debate could, as a matter of fact, have arisen in the case of Hon. David Ochieng’s Bill between the time at which the Bill was defeated and the time at which he delivered the letter to the Speaker requesting the House to take a further vote as a considerable period of time had lapsed.

The requirement that certain a number of Members should support a Member wishing to invoke the provisions of Standing Order No. 62(2) is also paramount to avoid an abuse of the process and deter Members from making frivolous and vexatious requests on the premise of invoking Standing Order No. 66(2), even on Motions, or Bills that do not need a fixed majority.

Hon. Members, in summary therefore, it is my finding:-

That, the request by Hon. David Ochieng’ for the House to undertake a further vote on the Motion for the Second Reading of the Constitution of Kenya (Amendment) Bill, No. 1 of 2015 be granted and consequently executed within five sitting days from the day of the first vote in terms of Standing Order No. 62(2). This case will be 1<sup>st</sup> September 2015 and will be preceded by the further vote on the Third Reading of the Constitution of Kenya (Amendment) Bill, No. 26 of 2013 proposed by Hon. Lati Leleit.

That, in future any Member wishing to request a further vote on a Question on a Special Motion or a Bill the passage of which requires a fixed majority of the House membership shall only be granted-

- (a) if the sponsor of the said Special Motion or Bill rises in his or her place immediately the Speaker announces the vote results and seeks the further vote;
- (b) if at least thirty (30) Members stand in their places indicating their support for the further vote.

Hon. Members, as the House dispenses with further votes on the Bills seeking to amend the Constitution sponsored by Hon. David Ochieng’ and Hon. Lati Leleit, I wish to refer Hon. Members back to my aforementioned ruling of July 28, 2015 in which I expressly pointed out that any legislation to amend the supreme law of the land requires sufficient and extensive consultations and consensus-building. I call upon all Members to make use of this window of opportunity to decide with finality whether you wish to amend the Constitution in the manner proposed by your two Hon. Colleagues.

I thank you.

(Applause)

**Hon. Speaker:** Next Order.

### PETITIONS

**Hon. Speaker:** Hon. Members, take your seats. Those who are making their way in, please take your seats. Hon. Mutava Musyimi, please take your seat so that I can dispense with this business.

Hon. Members, I wish to convey to the House that I have received a petition signed by one Mithamo Muchiri on behalf of seven concerned citizens regarding the eminent removal of the portrait of Kenya's first President from the face of the country's currency.

Hon. Members, the petitioners pray that the National Assembly amends Article 231(4) of the Constitution which provides that:

“Notes and coins issued by the Central Bank of Kenya may bear images that depict or symbolise Kenya or an aspect of Kenya but shall not bear the portrait of any individual”

The petitioners are concerned that the implementation of this Article will occasion removal of the portrait of the founding President of Kenya from the face of our currency.

The petitioners have cited a number of jurisdictions whose currencies have portraits of their founding presidents as an honour for their distinguished contribution to their countries.

They are further proposing that the huge cost that will be incurred in effecting this change be reallocated to other development projects. The petitioners are, therefore, praying that the National Assembly, through the Departmental Committee on Finance, Planning and Trade, initiate the process of amending Article 231 of the Constitution and deleting Sub-Article (4).

The House should also amend Section 22 of the Central Bank of Kenya Act Cap 491, so as to provide for symbols, portraits or images to appear on Kenya's currency and the manner in which such symbols, images or portraits would be determined.

Hon. Members pursuant to the provisions of Standing Order No. 227(1), this petition stands committed to the Departmental Committee of Finance, Planning and Trade for consideration.

Thank you.

**Hon. Speaker:** Let us have Hon. Beatrice Nkatha

**Hon. (Ms.) B.N Nyaga:** Thank you, Hon. Speaker for giving me this opportunity to read a petition from the people of Marimanti in Tharaka Nithi County. I will read.

### NON-REFUND OF CASH BAILS BY MARIMANTI LAW COURTS

I, the undersigned on behalf of residents of Tharaka Nithi County, draw the attention of the House to the following:-

That, Article 49(1)(h) of the Constitution entitles an arrested person to the right to be released on bond or bail on reasonable conditions pending a charge, and that unless there are compelling reasons be released;

That, arrested persons who deposit cash bail with courts are entitled, upon determination of the cases for which bail was granted, to refund of the amount so deposited;

That, a number of arrested persons who have been charged at the Marimanti Law Courts since 2012 were granted bail and consequently deposited cash bails ranging from Kshs5,000 to Kshs50,000, but have not received their refunds long after their cases were heard and determined by the court;

That, the majority of petitioners are living in abject poverty and have, therefore, been subjected to untold suffering considering that many of them paid their cash bails from funds secured through loan facilities.

That, the petitioners' representatives have sought redress from relevant authorities, namely court officials, including magistrate and prosecutor of Marimanti Law Courts; the area Criminal Investigation Department (CID); various human rights groups and the area Sub-County Commissioner, but none of these avenues have helped;

That, the matter in respect of which this petition is raised is not pending before any court of law or constitutional body.

Therefore, your humble petitioners pray that the National Assembly, through the Departmental Committee on Justice and Legal Affairs:-

- (a) immediately commences an inquiry into the unclear circumstances under which cash bails due to be refunded to the petitioners have not been paid long after their cases were heard and determined by the court;
- (b) intervenes to ensure that the Judiciary reimburses the petitioners the cash bail owed, together with the accrued interest as computed from the date the cases were determined and institute disciplinary action against any officer who obstructed payment of the said cash bail refunds in one way or another; and,
- (c) makes any other recommendations and orders deemed necessary in addressing the plight of the disillusioned petitioners.

Your petitioners will ever pray.

It is signed by me, Hon. Beatrice Nkatha Nyaga, HSC, MP, and Member for Tharaka Nithi County.

*(Loud consultations)*

**Hon. Speaker:** Hon. Matthew Lempurkel, the Member for some place.

#### ALLEGED ABUSE/TORTURE/LAND CONFLICT IN SEGERA WARD

**Hon. Lempurkel:** Thank you, Hon. Speaker. This is a public Petition on cases of alleged abuse, torture and land conflict in Segera Ward in Laikipia County.

I, the undersigned Member of Laikipia North Constituency, on behalf of the residents of Segera Ward in Laikipia North Constituency, draw the attention of the House to the following:-

- (1) Members of the Maasai and Samburu communities had lived peacefully in their ancestral land in Segera and other parts of Laikipia;
- (2) A land ownership tussle cropped up in 2013 between members of the Maasai community living in Segera and members of the North Tetu Co-operative Society;
- (3) The conflict was initiated by the erection of fences and houses and the digging of trenches to cut off the Maasai community from the local river by the residents, which resulted in a breakout of violence against the Maasai, mainly by the police and gangs hired by the new land claimants;

- (4) The escalation of violence has led to the killings of innocent Maasai community members in cold-blood, accompanied by wanton vandalism and theft of livestock, solar panels, building materials, among other goods and assets;
- (5) There remains a climate of deep anxiety and fear among the Maasai in the area due to the continued harassment and beatings occasioned to them by the police, with the hardest-hit victims being women and children, some of whom still have gunshot wounds on their bodies;
- (6) Members of the Maasai community in Segera appear to have been deprived of their right to gather and deliberate on the issue by the authorities contrary to Article 36 of the Constitution.
- (7) Efforts to resolve the matter have been futile; and,
- (8) Further noting, that the issues in respect of which this petition is made are not pending before any constitutional or legal body,

Therefore, your humble petitioners pray that the National Assembly, through the Departmental Committee on Land and the Departmental Committee on Administration and National Security:

- (a) intervene to ensure that the land ownership issue is investigated fairly and independently and help to bring the aforementioned abuse, torture and harassment of the members of the Maasai community in Segera to an end;
- (b) recommend the prosecution of all Government officers and other citizens who have been involved in the violence; and,
- (c) intervene to ensure that no eviction orders or notices are issued before the land ownership issue is resolved amicably and satisfactorily.

Your petitioners will ever pray.

It is signed by Hon. Matthew Lempurkel, MP, Member for Laikipia North Constituency.

**Hon. Speaker:** Next Order.

### PAPERS LAID

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

The Report of the Auditor-General on the Financial Statements of the Kenya Bureau of Standards (KBS) for the year ended 30<sup>th</sup> June 2014, and the certificate therein.

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

The Report of the Auditor-General on the Financial Statements of the Tea Board of Kenya (TBK) for the year ended 30<sup>th</sup> June 2014, and the certificate therein.

The Report of the Auditor-General on the Financial Statements of the Judges and Magistrates Vetting Board (JMVB) for the year ended 30<sup>th</sup> June 2014, and the certificate therein.

The Report of the Auditor-General on the Financial Statements of the Kenya Revenue Authority (KRA) for the year ended 30<sup>th</sup> June 2014, and the certificate therein.

The Report of the Auditor-General on the Financial Statements of the Registration of Certified Public Secretaries Board (CPSB) for the year ended 30<sup>th</sup> June 2014, and the certificate therein.

The Report of the Auditor-General on the Financial Statements of Eldoret Polytechnic for the year ended 30<sup>th</sup> June 2013, and the certificate therein.



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

*(Hon. Speaker consulted the Clerks-at-the Table)*

Hon. Members, I approved this petition but the staff looked for the hon. Member, because they do not know him physically--- I thought Hon. Sang had the petition, only to be told that he was escorting the hon. Member because he fears approaching the Chair on his own. Member from Gilgil Constituency, I want to reassure you that you have a right to approach the Chair on your own, without the escort of Hon. Leonard Sang. Be a Member of this House, and approach the Chair. Hon. Sang did a good thing to escort you but from today, you can approach the Chair without being escorted. Because it is the last day before we proceed on recess, I would like to give you a chance to read out your petition.

#### AMENDMENTS TO THE HEALTH BILL, 2015

**Hon. Ndiritu:** Thank you, Hon. Speaker. I was consulting with the Clerks-at-the-Table but my colleague came directly to the Chair. So, he did not escort me; it was only that he was faster.

Hon. Speaker, I am happy for the occasion to present the following public petition by the representatives of the Kenya Health Professional Society (KHPS) on recommendations for the review of an amendment to the Health Bill of 2015.

I, the undersigned, on behalf of the representatives of the KHPS, draw the attention of the House to the following:

That, the Health Bill, 2015 (National Assembly Bill No. 14 of 2015), sponsored by Hon. Duale, MP, dated 17<sup>th</sup> April 2015, first read on 30<sup>th</sup> April 2015, is currently undergoing stakeholders' consultations at the public scrutiny stage and the interventions sought by the petitioners are therefore, timely.

That, we represent over 40,000 registered professionals who form the bulk of the health workers within the public and private sectors.

That, the recommendations on the Health Bill are the result of extensive multi-sectoral consultations and concurrence between the petitioners and other stakeholders in the fraternity.

That the petitioners have concerns on the provisions of the Health Bill touching on the derogation of independence, and the emasculation of the statutory regulatory bodies for regulation of health professionals, discrimination of the hiring of various health personnel at the national and county levels, infringement of the rights and fundamental freedoms, especially of health professionals and private health sector providers, lack of clear provisions for the infrastructure and mechanism for inter-governmental relationship co-operation, co-ordination and collaboration between the national Government, county government and other players, including the private sector and doctors; inadequate provisions to provide the roles and mechanisms for collaboration of the two levels of government in management, especially public health threats to national security, including disease outbreak, biological warfare, epidemics and/or any other health incidents or disasters.

That, effort to address the matter has been futile.

That, the matter presented in this petition is not pending before any tribunal or court of law.

Therefore, your humble petitioners pray that the National Assembly, through the Departmental Committee on Health, addresses the concerns of the petitioners and expedites legislation to cater for the said prayers.

Hon. Speaker, your petitioners will ever pray.

**Hon. Speaker:** Before we proceed, I would like to recognize students and pupils from the following institutions seated in the Speaker's Gallery:-

Nasserpuria Primary School from Mvita Constituency, Mombasa County; Joel Omino Primary School from Kisumu Central Constituency, Kisumu County; St. Jude Academy from Bura Constituency, Tana River County; Eldoret Achievers School from Kapseret Constituency, Uasin Gishu County; Little Angels from Isiolo North Constituency; Mwanzo Education Centre from Kipkelion East Constituency, Kericho County; and Mogoiwet Primary School from Sotik Constituency, Bomet County

You are all welcome to the National Assembly.

### PAPERS LAID

**Hon. (Ms.) R.K. Nyamai:** Hon. Speaker, I beg to lay the following Papers on the Table of the House:-

Reports of the Departmental Committee on Health on its consideration of the Petition on non-payment of clinical officers/ interns and the Petition on delay of payment for Interlink Industries for the construction of outpatient block at Igagania Sub-District Hospital.

Petition by the Association of Private Hospitals on their recognition by the National Hospital Insurance Fund (NHIF).

Petition by Mr. Bernard Kiprotich Cheruiyot on review of health care system in Kenya through constitutional amendments.

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

Report of the Departmental Committee on Lands on land dispute in Awendo Township, and land adjudication issues in Rangwe.

**Hon. Speaker:** Hon. Members, in my request list, I have a request by Hon. Gumbo, but I will give him a chance to move what he wants to move later. First of all, I want to clear some small business. I want to skip that aspect of Order No. 7 and move to Order No. 8. We will come back to Order No. 7 after we are done with Order No. 11.

We will come back to Statements after I have cleared with the business appearing as Order Nos. 8, 9, 10 and 11.

### PROCEDURAL MOTION

#### REDUCTION OF PUBLICATION PERIOD FOR BILLS

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

THAT, notwithstanding the provisions of Standing Order No.120, this House resolves to reduce the publication period for the Land Laws (Amendment) Bill (National Assembly Bill No. 55) from 14 days to 9days.

Hon. Speaker, this is a straightforward matter as it is part of the constitutional Bills whose legislation deadlines we were extending.

Once we do the First Reading, the Lands Committee will have an opportunity to do public participation, and will have an opportunity to engage with the stakeholders; when we come back we will then slot it for the Second Reading.

With those many remarks, I ask the Leader of the Minority Party, Hon. Nyenze, to second.

**Hon. Nyenze:** Thank you, Hon. Speaker, I second.

*(Question proposed)*

*(Question put and agreed to)*

## BILLS

### *First Readings*

THE SEEDS AND PLANT VARIETIES (AMENDMENT) BILL

THE LAND LAWS (AMENDMENT) BILL

*(Order for the First readings Read - Read the First Time and ordered to be referred to the relevant Departmental Committees)*

### *Third Reading*

THE COMPANIES AND INSOLVENCY LEGISLATION  
(CONSEQUENTIAL AMENDMENTS) BILL

*(Several hon. Members stood up in their places)*

**Hon. Speaker:** Order, Members, those of you standing! Hon. Members, debate on this Motion was concluded this morning. What remains is for me to put the Question, which I hereby proceed to do.

*(Question put and agreed to)*

*(The Bill was accordingly read  
the Third Time and passed)*

Hon. Members, as I had indicated, we will go back to Order No.7 which is Statements. I want to give the first shot to the Leader of the Majority Party to make his usual announcements.

## STATEMENTS

BUSINESS FOR THE WEEK COMMENCING 29<sup>TH</sup> SEPTEMBER  
TO 1<sup>ST</sup> OCTOBER 2015

**Hon. A.B. Duale:** Hon. Speaker, pursuant to Standing Order No 44(2)(a), on behalf of the House Business Committee, I rise to give the following Statement regarding the Business appearing before the House next week. Without appearing to anticipate debate on the Motion for Adjournment this afternoon, this Statement is for the week after recess and not next week. As it is envisaged, the House will proceed on recess as per the approved Parliamentary Calendar.

When the House resumes after recess, we will give priority to all the Bills with constitutional deadlines, which have since been published and read the First Time. We will also give priority to consideration of the Health Bill 2015, the Fisheries, Management and Co-ordination Bill 2014, the Roads Bill 2015 among many other Public and Private Members' Bills and, indeed, Bills that have emanated from the Senate.

I want to emphasise the resolve of the House Business Committee to prioritise Senate Bills and other pieces of legislation proposed by individual Members of Parliament of this House. Priority will also be accorded to consideration of reports of various committees, including the very important reports laid on the Table by the Public Accounts Committee and the Public Investments Committee.

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

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

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

**Hon. Speaker:** Member for Mbita, what is out of order?

**Hon. (Ms.) Odhiambo-Mabona:** Thank you, Hon. Speaker. I have listened to the brief by the Leader of the Majority Party. I was just wondering because I have seen a practice where we bring Bills and apparently the HBC does not give priority to Bills that have gone through the Second Reading, and should be coming for the Third Reading. Would it not be prudent if we gave priority to Bills that should be coming to the Committee of the whole House like the In-Vitro Fertilisation Bill for purposes of continuity? This is so that we do not have Bills that are done half way and then create a technicality for the next Parliament.

Thank you, Hon. Speaker.

**Hon. Speaker:** Point noted. Hon. Millie what you could do is, because it is fair that Members who have taken trouble to develop Bills follow them, just do the normal communication, so that we can have it prioritised in the House Business Committee as soon as we resume. We cannot now fish it from wherever it may be.

**Hon. Washiali:** Thank you, Hon. Speaker. Last week on Thursday, I stood on Standing Order No.39 asking for the whereabouts of the report on the crisis facing the sugar industry in Kenya. Those of us who have interest in this report were promised that it would be brought to the House on Tuesday. On Tuesday, it appeared on the Order Paper but we could not reach it. Yesterday, it was under Order No.14. This morning it was Order No.15, it was going back. On the current Supplementary Order Paper, it does not appear anywhere. It is only the report that was before it; the report on the resettlement of squatters. For those of us who come from the sugar growing region, we are worried that this report may go the cemetery way. At one point, we had this report on the cemetery. To date, that report has never been debated.

The House should be informed on what is happening, because we are aware that we are going on recess, which will take one month. That one month will make matters worse in my region.

Thank you very much for the opportunity.

**Hon. Speaker:** I thought you said that that Order was on the Order Paper for the morning. Maybe the Leader of the Majority Party could explain.

**Hon. A.B. Duale:** Hon. Speaker, from the outset, it is the business of the House Business Committee to look at squatter issues in petitions, Bills and election related Bills. The House Business Committee does not only deal with sugar, it deals with squatters and many other things like the Fisheries Bill which we were dealing with yesterday.

We stayed very late yesterday.

I want to confirm that the House Business Committee (HBC) slated that report to be debated yesterday afternoon and this morning. This afternoon's Order Paper is different. That report was not part of the HBC agenda for this afternoon. I want to assure the Member that in case the House goes on recess, the report will not be changed. The recommendations will still be the same, the amendments will still be the same, the sugar issue will still be the same and the Member for Mumias will still be there, because Parliament will continue existing. The most important thing is the recommendation. I want to assure the Member that if we go on recess today, the first item of the first Tuesday when we come back will be the report on the crisis facing the sugar industry.

**Hon. Speaker:** The intention of HBC was that the report be debated either yesterday afternoon or today morning. We were cognisant of the fact that the House would be proceeding on the scheduled recess as per the House Calendar. It is for that reason that we had placed the report on the Order Paper on Tuesday afternoon, Wednesday afternoon and today morning. If it was not reached, there is very little I can do from the Chair at this point. The intention of the HBC was to have the report debated. However, recognising how much other business there was-- - That was why it was always considered to be there. That is what we had agreed in the HBC. Remember even Thursday morning has been a sitting day through a resolution of the House. There is nothing much I can do from the Chair at this point. I cannot generate business from the Chair.

## PERSONAL STATEMENT

### CONGRATULATING KENYAN ATHLETES

**Hon. Speaker:** Let me allow Hon. (Eng.) Gumbo to make his Statement.

**Hon. (Eng.) Gumbo:** Thank you, Hon. Speaker. For the past one week, our beloved country Kenya has been and still remains on top of the world. Indeed, the whole world has been bowing to Kenya. Our gallant sons and daughters have proved yet again, in the most emphatic way possible and in the full view of the whole world, that in matters athletics we are, indeed, a hotbed of conquerors.

I had requested to move a Motion for Adjournment to discuss this matter, but considering the uniqueness of today, you have allowed me to make a short statement on this matter. I hope you will allow a few of my colleagues to contribute, so that we congratulate our gallant sons and daughters who have done not only Kenya but Africa proud.

Up to this morning, Kenya had bagged a total of six gold medals through David Lekuta Rudisha in 800m (men), Ezekiel Kemboi in 3,000m steeplechase (men), the pocket rocket Vivian Cheruiyot in 10,000m (women), Julius Yego, the YouTube man, in Javelin, Jepkemoi in 3,000m (women) and my namesake Nicholas Bett in 4,000m hurdles (men). This is in addition to the three silver and two bronze medals that we have already won. We are still expecting to bag more

medals through Abel Kiprop in 1,500m (men), Caleb Mwangangi Indiku, Edwin Soy, Isaiah Koech among others in 5,000m (men) among several others.

Because of Kenya's trailblazing achievements in athletics on the international stage, it is possible to take these staggering achievements for granted. Most of us may remember that since Kenya first participated in the Olympics in 1968, we have to date bagged 25 gold medals, 32 silver medals and 85 bronze medals in the Olympics.

It is important to draw a historical perspective to show how our young men and women have been achieving at the international stage. In 1972, a young Ugandan policeman called John Akii-Bua won Uganda's first gold medal in the 400m hurdles, the same as what my namesake Nicholas Bett has done in Beijing China. John Akii-Bua came from the northern part of Uganda. At that time, Uganda was in the grips of Idi Amin Dada, who hated northern Ugandans. However, much as Amin hated northern Ugandans, Akii-Bua's achievement was so big that Amin not only declared a national holiday to celebrate his achievement, but also renamed the Lira Stadium as John Akii-Bua Stadium.

Because of their tactical nature, the win by the YouTube man, Julius Yego, and my namesake Nichols Bett are particularly unique, noteworthy and trailblazing. Those of us who follow the athletics world will remember that our medal tallies at the Olympic Games and the world championships have tended to be depressed by poor performances in the field of events and sprints. It is my hope that Yego and Bett have now changed all this. We can only hope for a bigger medal tally come next year's Olympics in Rio de Janeiro.

The biggest honour we can give to these gallant sons and daughters of our country is not only to declare them national heroes, but also to give them generous cash and material rewards. We were with a group of my colleagues yesterday at the lobby when our young lady Hyvin Kiyeng Jepkemoi won the 3,000m steeplechase. What struck me was that as we were watching our own, there was no Orange Democratic Movement (ODM), United Republican Party (URP), The National Alliance (TNA), Jubilee, and Coalition for Reforms and Democracy (CORD). We were just one Kenya tribe cheering Kenya.

*(Applause)*

How I wish and pray that this spirit of oneness that our athletes forced upon us can be our way of life, so that those of us who have been blessed by the Almighty God to hold exalted positions of leadership in Kenya can find it in our hearts every morning we wake up to gather the courage and energy to shout that "My tribe is Kenya".

I thank you for giving me the opportunity to make this statement, and to congratulate our men and women who have put our country in the world order as we hope for even a bigger medal tally in the days to come. I request you to allow a few of my colleagues to also make contributions to this important matter of the exceptional achievements of our men and women in Beijing, China.

Thank you, Hon. Speaker.

**Hon. (Ms.) Mbalu:** On a point of order, Hon. Speaker.

**Hon. Speaker:** Hon. Jessica Mbalu, what is your point of order?

**Hon. (Ms.) Mbalu:** Hon. Speaker, is the Chairperson of the Public Accounts Committee (PAC) in order, as he lists the political parties in this House, to forget Wiper Democratic Movement (WDM), the party that is about to give out a president of this country?

**Hon. (Eng.) Gumbo:** Hon. Speaker, my sister is trying to bully me. I said CORD, where WDM is a member.

**Hon. Speaker:** Hon. Members, I thought we were talking about athletes in Beijing. Do you want me to preside over political party matters? There is an organ under the Political Parties Act called Political Parties Disputes Tribunal. They are the ones who deal with coalition matters. The Speaker is not supposed to delve into that.

Hon. Gumbo, you have explained that CORD includes the other smaller parties.

**Hon. (Eng.) Gumbo:** For the sake of my sister, let me say that as we were watching our young girl win the 3,000 metres there was no Orange Democratic Party (ODM), Wiper Democratic Party, The National Alliance Party (TNA) or United Republican Party (URP). We were one tribe called “Kenya”. How I pray that going forward, we who are privileged to be in positions of leadership can find it in our hearts to always proudly say that our tribe is Kenya.

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

**Hon. A.B. Duale:** Hon. Speaker, at the outset, Hon. Jessica Mbalu is new in this Parliament. This is two years to the elections and this is the trick of Hon. Gumbo of ODM--- He has started the process of side-lining you.

(Laughter)

So, when he does not mention you, it is not by mistake or default. It is a strategy. Even when we cheer, I am sure my colleagues will confirm, we have a Jubilee Alliance cheering squad. We do not cheer with other people. So, I disagree with Hon. Gumbo that even in cheering, we wear our colours and our songs are unique. Where we go we go with our manifesto.

However, I want to join him in recognising what the Kenyan athletes have done in the races in Beijing. The Cable News Network (CNN) called our country a hotbed of terrorism. You have seen the CNN top guy come here to apologise. We are proud of those Kenyans. We have seen the hotbed of medals and sports. I am sure this House will not only recognise that but it will also go and look at the relevant laws, amend them and create incentives for the men and women who are making Kenyans proud. This is good because it is happening under the leadership of a Jubilee Coalition President. It happened during the Coalition Government and in the former President Kibaki’s first Government. It is happening better under President Uhuru Kenyatta’s Government. You can see even the men and women who run are now happy with the way things are run. We are getting more medals. The country is moving. We should not just praise them, but should look at the relevant laws and tax incentives for our men. We should build more stadia and ask more Kenyans to support our football teams like Gor Mahia, AFC Leopards and other local teams in my Garissa, which are about 15. We have the camel derby and boat racing in Mbita.

Every community has its own talent. So, when Gor Mahia Football Club is playing, we want to be there. We want Hon. Jakoyo to advise the other fans that *Mashemeji* should allow other Kenyans to come and watch football in peace. When they lose they lose and when they win they win. In future, we will recognise Wiper Democratic Party, not only in the House but, of course, Wiper Democratic Party must also be ready to share space with *Maendeleo Chap Chap*, a new outfit that is coming onto their backyard.

Thank you, hon. Speaker.

**Hon. Speaker:** Hon. Members, I thought the issue raised by Hon. Gumbo was to recognise the exceptional performance of the Kenyan athletes in Beijing. Let us leave our political parties and even those in their formative stage out. Leave them out for the time being.

I will give every Member contributing one minute. Hon. Members, there is important business that you must transact because it has a timeline of only 90 days. That business is the Finance Bill. That is more important but I thought it was also fair to allow Hon. Gumbo to give his statement. He wrote to me yesterday and I thought it was fair that this House should express itself on the performance of our athletes in Beijing. So you have one minute each. Let us start with Hon. Eseli Simiyu.

**Hon. (Dr.) Simiyu:** Thank you, hon. Speaker for this opportunity to also lend my voice to what Hon. Gumbo started. I had the opportunity to be in China just before the competition started. In the hotel we were staying, there was one Chinese who was very good in English. He asked us: “Are your athletes coming?” We said yes. He said: “Are they going to run very hard?” We said they were coming to sweep all the medals. He laughed and said: “Good. Come.” The athletes have gone ahead to prove that.

However, I want to say that as Kenyans, to recognise our heroes as these athletes, as the Leader of Majority Party has said, we need to come up with a legislation as a Parliament to create a kind of Hall of Fame for all these great heroes of this country, so that when our children go through that Hall of Fame and read the history of these famous athletes that we have had in this country, it will inspire them even to---

**Hon. Speaker:** Hon. Asman Kamama.

**Hon. Abongotum:** Thank you, hon. Speaker. I join my colleagues in congratulating our great athletes. I want to say that when the story, or narrative, is told about this country, athletics will rank number one. I had the privilege of attending the camel derby in Maralal recently. You climb on top of a camel, sit on it and run. If you come down, you can also milk the camel while standing. So, I recommend that our athletes should be encouraged by being given cash, material support and national honours. Even those who have retired and who are now living in very poor conditions should be remembered.

**Hon. Speaker:** Hon. Ken Obura.

**Hon. Mirenga:** Thank you, hon. Speaker. I also join my colleagues in appreciating and recognising the exemplary work that our athletes did out there. They were the best of the ambassadors that we have had so far this year. Last evening, while walking out of these Chambers, I saw all the Members of Parliament of this House united in cheering our athletes, a spirit that showed that obviously all of us want unity and we all love this country, except that when it comes to politics we fail to fix it. I just want to urge my colleagues to do exactly what the athletes did. We were not calling them by names. We were saying these were Kenyans. That is the spirit that we all need to embrace to move this country forward. I am happy that those are young people and young people of this nation---

**Hon. Speaker:** Hon. Johnson Sakaja

**Hon. Sakaja:** Hon. Speaker, our athletes have made us proud, and we must congratulate them. Even as we congratulate them, we must look at how we can focus on sports to unite our country. Just as Hon. Gumbo has said, whenever they win, what we only focus on as a county is the pride that they give us. In addition, we need to look at some of the issues we promised in the manifesto that are not being implemented. I am glad that we have members of the Departmental Committee on Labour and Social Welfare. For example, the national lottery was something very important in funding our sports. They are just an example of what our young people can do given a chance. Yego taught himself and he has hit all the records in the world. In fact, people were saying that he can throw corruption out of Kenya because of his exemplary performance. I am



glad that the Chair of the Budget and Appropriations Committee is here. If we invest a bit more in our young people, we will be amazed by what can come out of them.

Thank you.

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

**Hon. Nyenze:** Thank you, hon. Speaker. I want to lend my voice to congratulating these athletes, who have made us proud. They should be rewarded. I also want to raise some concern about doping. Two of the athletes have been put on notice. It is something very bad if it is creeping into athletics. We should also remember people like Conjestina Achieng who is living in abject poverty. We should also remember those athletes who have retired and have done great things in this country. They should be rewarded. Let us be united the way sports united us. When a Kenyan gets a medal, all of us unite and we do not remember our parties. Let us stand united as a country and let sports unite us.

**Hon. Speaker:** Hon. Benjamin Langat

**Hon. Langat:** Thank you very much, Hon. Speaker. I also want to congratulate our young men and women who did us proud in Beijing. On behalf of people back home, I am proud of them. They have also united Kenya. Going forward, we need to host a grand reception for them, because they have done us proud. I would like to encourage the Deputy Leader of the Minority Party, who normally enjoys football--- They should also attempt to make us proud. We need to assist them, so that they can at least defeat Uganda, Tanzania or South Sudan. These young men and women have made us proud internationally; sadly, in football---

**Hon. Speaker:** Thank you very much, hon. Members. It was good for us to record that.

Let me re-organise the Order Paper and go to Order No.6, and allow the Chair of Lands Committee to give notice of Motion; Hon. Mwiru.

## NOTICE OF MOTION

### ADOPTION OF REPORT ON LAND ISSUES IN AWENDO TOWNSHIP/RANGWE

**Hon. Mwiru:** Thank you very much, Hon. Speaker. Sometimes seniority counts, especially when Hon. Duale decides to attract the attention of the Speaker; we are always skipped because we are shorter.

Hon. Speaker, I beg to give notice of the following Motion:-

THAT, this House adopts the Report of the Departmental Committee on Lands on land dispute in Awendo Township and land adjudication issues in Rangwe, laid on the Table of the House today, Thursday, 27<sup>th</sup> August 2015.

**Hon. Speaker:** Very well. I will go to Order No.7 and allow Hon. Mutava Musyimi, Chair of Budget and Appropriations Committee, to make a Statement.

## STATEMENT

### AMENDMENTS TO THE FINANCE/EXCISE DUTY BILLS, 2015

**Hon. Musyimi:** Thank you for indulging me, Hon. Speaker. I wish to read to this House the recommendations of the Budget and Appropriations Committee and the amendments to the Finance Bill 2015 and the Excise Duty Bill, 2015.

My Committee was requested to consider the amendments to the Finance Bill, 2015 and the Excise Duty Bill, 2015 in accordance with Article 114 of the Constitution. My Committee met today this morning, Thursday, 27<sup>th</sup> of August 2015 and deliberated on these amendments.

I note that the Committee of the whole House deliberated and concluded with the Finance Bill, 2015, save for Clauses 5, 43, 46 and New 35A which were recommitted to the House.

I will therefore, give an abridged version of the recommendations by my Committee on various amendments by Members since this Statement is coming after the fact.

My Committee recommends to this hon House that all amendments by Hon. Patrick Musimba and Hon. Kimani Ichung'wa to the Finance Bill, 2015 should not be entered upon in the Committee of the whole House. The recommendations have adverse effects to the macro-economic framework of the country; so we declined them.

Also, the amendments by Hon. Kimani Ichung'wa to the Excise Duty Bill, 2015 should not be entered upon by the Committee of the whole House since they will have adverse impact on both macro-economic framework and revenue target.

With respect to amendment to the Finance Bill by Hon. Jakoyo Midiwo, one, amendment that seeks to remove the provision to increase the core capital of banks and mortgage institutions from Kshs1 billion to Kshs5 billion by the end of 2018, and a proposal to insert a new clause to amend the Banking Act, the intention of controlling bank interest rates by placing a ceiling for lending rate and a flow for deposit rate, my Committee was not seized of the matter in time and therefore was not able to deliberate fully upon it.

On the second proposal, it is noted that this will require the recommendations of both the National Treasury and the Central Bank of Kenya. Further, my Committee is in receipt of a legislative proposal with a similar amendment to control bank interests and it will be able to address the matter adequately through the Bill. Therefore, the Budget and Appropriations Committee recommends that this amendment be declined until such a time that the Committee, the National Treasury, the Central Bank of Kenya and other stakeholders are consulted.

I thank you and I beg to lay this on the Table

*(Hon. Musyimi laid the documents on the Table)*

**Hon. A.B. Duale:** Hon. Speaker, at the outset, I want to thank the Chair of the Departmental Committee on Budget and Appropriations for giving guidelines as per the Constitution and as per the laws of this land, more so to the amendment of Hon. Jakoyo Midiwo, which we discussed this morning.

I want to confirm that at least, the Chair of Budget has asked for due process that the amendment should have gone through the Budget and Appropriations Committee, the relevant stakeholders like the Cabinet Secretary for National Treasury and if that is done, then the Departmental Committee on Budget and Appropriations and the stakeholders will give their views.

This is a very good start. A number of Members of Parliament were saying it is illegal and unconstitutional but now he has made it clear that there is nothing wrong with the amendment, as it is only that it was not subjected to the provisions of Article 114 and the due process. So, I want to thank him, but I am sure next time when the Finance Bill is published and read the First Time and the House deals with it in the Second Reading, Members will be given an opportunity to file their amendments earlier, so that before we come to the Committee of the whole House, the Departmental Committee on Budget and Appropriations and the Departmental

Committee on Finance, Planning and Trade and all the other stakeholders get enough time to discuss the various amendments that touch on provisions of Article 114.

Thank you hon. Chairman but I am sure you can do better. You should have said this, this morning; you should have said it even last night, because the amendments by Hon. Jakoyo and Hon. Ichung'wa have been in the House for the last 72 hours. In future, the Budget Committee must work in harmony, because the committee concerned with finance was sitting as late as 9.00p.m last night, and you can confirm that. So, the Departmental Committee on Budget and Appropriations should have also set that, so that the two committees work harmoniously, so that by the time the matter comes for the Third Reading we have dealt with all issues pertaining to the provisions of Article 114.

Thank you, Hon. Speaker.

**Hon. Musimba:** Thank you, Hon. Speaker for this opportunity.

I rise in accordance with Standing Order No.245, which is very explicit as to the situation which Hon. Duale has spoken about. We gave these proposals in accordance with Standing Orders; these ought to be there for 24 hours. Ours actually came earlier than that. I had occasion to come through your office, and you gave guidance that I should appear before the Departmental Committee on Finance, Planning and Trade last night, which I did. The Committee said that we would deliberate on that issue at 10.00 a.m. in the morning. So, they adjourned the meeting; they did not give time because it was already on the Order Paper; they were going to discuss these issues but they had already referred them to the Budget and Appropriations Committee, which needed to give its input. These issues, as the Chair has said, are coming after the fact and negate the whole purpose of our law-making role and the fact that we are not to be driven by external forces.

This is because all proposals which the House is seized of are, indeed, seized of the people of the Republic of Kenya.

More specifically when you look at Standing Order No. 245 it says very clearly that the Committee, in respect of the Finance Bill, ought to present it in the way it is read in the Budget Speech. The Committee is required to produce a report for consideration by Members. It is supposed to earmark specific things. Just as the Chairman has said, these proposals will affect the macro-economic climate, but we need to go to specific things, which we spoke to during the Second Reading.

You will find, for instance, introduction of the new NHIF rates adversely affects Kenyans today, whose vast majority earn below Kshs.35,000. Such levies infringe on Standing Order No.119 and, indeed, Article 24(b) of the Constitution on fundamental rights. These are not limited by any legislative provision in Money Bills in accordance with Article 114.

**Hon. Speaker:** Hon. Musimba, you want to debate.

**Hon. Musimba:** No, it is not a debate; I want to call upon you because something fundamental has been broken. The Committee on Finance, Planning and Trade has not followed the Standing Orders of this House; it has not come with a report in accordance with Standing Order No.245. These issues are grave to Kenyans. People are bleeding, our constituents are not making their ends meet and when you affect their purchasing power you are, indeed, infringing on their rights. Their fundamental rights and socio-economic rights as enshrined in the Article 42 of the Constitution.

Hon. Speaker, I am calling upon you--- I believe Standing Order No.1 gives you leeway to actually pre-empt this. If a Member brings proposals, they are approved by your

esteemed office and then somebody takes it upon themselves not to list it on the Order Paper, this is grave in justice, otherwise why did the people elect us to be in this House.

**Hon. Speaker:** I am not too sure that I have been able to follow a lot of what you have been saying. In one minute say what you want.

**Hon. Musimba:** Let us follow our own procedures in Standing Order No.245; please read it through and then guide the House.

**Hon. Speaker:** Regarding what?

**Hon. Musimba:** Regarding the way we deal with the Finance Bill. Please read through and see whether the Committee has actually followed it to the letter; they have not.

**Hon. Speaker:** Raise the issue in a formal application, not by way of a point of order.

**Hon. Musimba:** A point of order is the only way; it is an order in the Standing Orders.

**Hon. Speaker:** You can write.

Hon. Koyi, I do not want to be addressed by all of you on this. Surely, Hon. Mutava Musyimi as the Chair of the Budget and Appropriations Committee has read a Statement and I also want to give guidance. There is no time for this. Hon. John Waluke is it on this?

**Hon. Koyi:** Yes, on the same one. Thank you, Hon. Speaker, for giving me this chance. I filed my amendment Bill a month ago.

**Hon. Speaker:** An amendment Bill, now what are we debating?

**Hon. Koyi:** Hon. Speaker, please listen.

**Hon. Speaker:** I will not listen to you, if you are not on this; it is irrelevant.

**Hon. Koyi:** It is on this one, an amendment to the Bill. Hon. Midiwo's amendment took precedence over mine and I had filed before him. I do not know why he jumped the gun, yet mine was already filed at the Clerk's Office.

**Hon. Speaker:** I am not with you; Hon. Midiwo did you understand him?

**Hon. Midiwo:** Yes, I do. Hon. Speaker, with all due respect to my brother, Major Waluke, I understand but I think he is misunderstanding the procedure. Listening to the Chair of the Committee on Budget and Appropriations, I also tend to think they are misunderstanding procedure. However, that is not my intention and I want to assure him that the Bill in which he is seeking to deal with matters on bank interest rates is not even published.

He should be informed that the law allows us, as Members of Parliament, to move these amendments to the Finance Bill. History will bear me witness in the HANSARD that I have been on this issue since the year 2005 or thereabout. I have tried to deal with this issue of interest rates. I have perused his intentions and I see that the issues he is trying to address are not the same ones I am trying to deal with. However, so that there is not so much hullabaloo about this issue, because it is contentious, if it is the view of the Committee on Budget and Appropriations that we need to engage on it, I am willing and ready.

Hon. Speaker, something must happen about interest rates charged by banks on the people of Kenya; that to me cannot be superseded by just mere arguments. I just disagree and that is up to them, because it occasions no money expenditure on the part of the Government. The opposite is that it gives ordinary Kenyans money, which they are already being robbed of by the banks today. It is just common sense, but because I trust your judgment in sending the amendment to them, I will leave it. However, I have one request; I also had an issue about Clause 43 of the Bill, which I seek your guidance on; it deals with the issue of capital requirements of opening new banks. They have said that I have not engaged them and I should not be engaging them as long as I follow the provisions of the Standing Orders. I request you, Hon. Speaker, to allow us to go to the Committee Stage on that particular clause. Let us

recommit it because it has grave implications on how banks will operate in terms of their minimum capital.

Thank you Hon. Speaker.

**Hon. Speaker:** Hon. Members, if I was to go to the issues raised by Hon. Partick Musimba, it would just draw the attention of the House that Standing Order No.245 requires the Committee on Finance, Planning and Trade to come here and table a report on the Bill as published by the Cabinet Secretary (CS) in-charge of the National Treasury and make recommendations. In those recommendations the Committee is required to take into account the various matters listed in Standing Order No.245 (2)(g). More importantly, the report of the Committee on Finance, Planning and Trade should take into account the recommendations of the CS as provided for under Article 114 of the Constitution and Standing Order No. 245 (2)(g); they should take into account taxation and other tariff agreements and obligations that Kenya has ratified, including taxation and tariff agreements under the East African Community Treaty. Those are important matters to bear in mind that when the Committee tables its report it takes into account first of all the recommendations from the CS, Article 114 of the Constitution and what is provided for in Standing Order No.245 (2)(g). So, I do not know in which respect the Departmental Committee has violated Standing No.245 (2).

That has not even come out. If Hon. Patrick Musimba intends to address me on various instances of violation that he may be referring to, I would advise that you write them and I will make a ruling on the matter. It is also fair to inform the House that many of your proposals came to me and I indicated that they had implications of a money Bill. Therefore, in terms of Article 114, they needed to be taken before the Budget and Appropriations Committee to consider them. The procedure of that kind of consideration, indeed, is there in that Article 114, that the Budget and Appropriations Committee has to hold meetings with the Cabinet Secretary in charge of National Treasury, so that they take their views.

Remember that your proposals came yesterday. We may think that we want others to act like machines but I am sure if, indeed, we are motivated by the desire to see good legislation, there is nothing wrong in giving sufficient notice, so that everybody applies their mind properly. I discussed this with Hon. Patrick Musimba yesterday when I tried to convince him that he needed to go before the Budget and Appropriations Committee, but that is not enough. There must also be representation at that meeting from the National Treasury because, I am sure; in matters of money Bills, the Constitution is very clear why it is required that there must be input from there.

To that extent, Hon. Musimba, perhaps, you may have only yourself to blame for sitting on your right for too long, because this Bill was published close to 60 days ago. I am sure that had you put these proposals, they would have been considered. I am sure you would have sat with them. Today, there would be no issue. The proposals which you are making are so important and I discussed them with you. They have such huge monetary implications. It is only fair that there must be input from the National Treasury. That is clearly provided for in the Constitution. I do not think I will entertain introduction of any new matter, save what is on the Order Paper.

This now brings me to another point. It means that following the report from Hon. Mutava Musyimi, that the New Clause 35A which was to be proposed by Hon. Jakoyo Midiwo will not be considered during the re-committal. It has not been rejected; I must make that clear, but it will not be considered during re-committal. What proceeds to the Committee of the whole House at re-committal are Clauses 5, 43 and 46.

*(Loud consultations)*

Hon. Members who represent counties, the county of Nyandarua, the county of Siaya and the county of Busia, what you are doing is useful but do it in low tones, so that you can also understand. This is because you are going into committee. At the Committee during re-committal - I am sure these must be very interesting terms - we are only going to deal with Clauses 5, 43 and 46 of the Bill. It is fair that every Member participates from a position of knowledge and information.

Hon. Members that is what is going to happen, but remember that the Finance Bill, in terms of that same Article 245, must be passed not later than 90 days from the date when it was published. It is in our Standing Orders.

### COMMITTEE OF THE WHOLE HOUSE

*(Order for the Committee read)*

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

### IN THE COMMITTEE

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

### THE FINANCE BILL

#### (CONSIDERATION OF CLAUSES RE-COMMITTED)

**The Temporary Deputy Chairlady** (Hon. (Ms.) Mbalu): Order, Members! We are in the Committee of the whole House to consider the Finance Bill, National Assembly Bill No. 27 of 2015.

Hon. Members, those who are moving out of the Chamber, please, do so in a hurry and in a parliamentary way. We are considering Clauses 5, 43 and 46.

#### *Clause 5*

**Hon. Langat:** I beg to move:-

THAT, Clause 5 be amended-

(a) in Paragraph (b) in the proposed new item 54 by deleting the words “Kenya Film Commission” and substituting therefor the words “local film producers or local filming agents.”

(b) in Part II in the proposed new paragraph 21 by inserting the words “local film producers or local film agents certified by the Cabinet Secretary for National Treasury” immediately after the words “for use by the.”

This is correction of an error. When you look at 54, the intention was to exempt all the goods imported or purchased locally for use by film agents not by the Kenya Film Commission (KFC), because KFC does not produce films; it is only a regulatory body.

*(Question of the amendment proposed)*

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): I see Hon. Johana Kipyegon. Do you want to comment on this?

**Hon. Kipyegon:** Not quite.

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): Let me give the chance to Ken Obura, Member for Kisumu Central.

**Hon. Mirenga:** Thank you, Hon. Temporary Deputy Speaker. I was rising on a point of order which has since been overtaken by events.

*(Laughter)*

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): I will give a chance to one more person; Hon. Makali Mulu.

**Hon. Mulu:** Hon. Temporary Deputy Speaker, I want to support this amendment. From what the Chairman has said, in terms of Kenya Film Commission, that is not the organisation which is supposed to benefit from this amendment. So, I want to support it.

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): The last one on Clause 5. Let us give it to Grace Kipchoim. She is not in.

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

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

*(Clause 5 as amended agreed to)*

#### *Clause 43*

**Hon. Midiwo:** Thank you, Hon. Temporary Deputy Chairlady, for giving me a second chance to do this. I beg to move:-

THAT, Clause 43 be deleted.-

The reason--- *Mheshimiwa*, I beg you please!

**Hon. Sakaja:** On a point of order.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Mbalu): Point of order to which clause? We are already through with Clause 5. Hon. Sakaja, let us hear you.

**Hon. Sakaja:** Look at what you are doing!

**The Temporary Deputy Chairlady** (Hon. (Ms.) Mbalu): Let us hear you Hon. Sakaja.

**Hon. Sakaja:** Hon. Temporary Deputy Chairlady, you have just noticed that there are people who want to contribute, but you are not able to see them because other people have pressed their machines. Is it in order for you to ask those who want to contribute to these clauses

to press the intervention button so that you can give them an opportunity? You have called Hon. Kiptui and she is not here. You have called other people who are not here and yet, we have serious contributions on this. So, just ask people to press the intervention button.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Mbalu): Hon. Sakaja, thank you for your intervention. We have enough requests from Members. We have 10 requests for the same. Two or three Members who were called out were not there. Those who spoke supported. We are in the Committee of the whole House. Just to give advice, we are in Clause 43. If you really feel and you have your way, you can always put your names. You know it very well. Hon. Jakoyo, can you give the import of your proposal?

**Hon. Midiwo:** Thank you, Hon. Temporary Deputy Chairlady. I move that Clause 43 be deleted for the following reason. I have a lot of interest in the way banks are helping or not helping in the development of this country. The import of this particular clause is that the minimum capital requirement to create a new bank will be moved from Kshs1 billion to Kshs5 billion.

What it effectively means is that only the existing banks shall prosper and become a class that is a monopoly. I only wanted to point out that, because we are in Third Reading and not debating. Because of the economic improvement and gains that we are getting as a country, there are so many SACCOS in the counties and across the country. It is only important and fair for this House to give them a chance to become a fully-fledged bank which can take deposits, give loans and do the normal banking activities.

I beg to move and ask my brother to second.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Mbalu): Hon. Duale you want to second.

**Hon. A.B. Duale:** Hon. Temporary Deputy Chairlady. This is one of the proposals that the National Treasury brought, and which I have a serious problem with. The import of this amendment is the creation of two or three major banks in the country. If you look at the history of Equity Bank---

**The Temporary Deputy Chairlady** (Hon. (Ms.) Mbalu): Hon. Duale, can you allow me to propose and then you can second it.

**Hon. A.B. Duale:** That is what I thought.

*(Question of the amendment proposed)*

**The Temporary Deputy Chairlady** (Hon. (Ms.) Mbalu): I now give to the Hon. Leader of the Majority Party.

**Hon. A.B. Duale:** We make laws for posterity. This proposal by the National Treasury on the amendment in the Finance Bill is right, if you look at the trend globally. This amendment will ultimately create three or four major banks. It will set the stage for mergers of banks, if they cannot raise that capital. The history of Equity bank, whose Chairman I respect so much – I mean Mr. Munga started Equity Bank with Kshs2,000 and today, it is a major player in the region.

Secondly – and Hon. Jakoyo will agree with me - in the last Parliament, we reduced for Equity Bank and other banks after they approached us. At one time, we reduced it from Kshs500 million to Kshs250 million. What can make me not start a bank tomorrow? I mean once I retire - together with Hon. Sakaja, Hon. Benjamin Langat and Hon. Midiwo. We can bring our resources together and start a bank. This amendment is knocking out Kenyans from venturing into the



financial sector. So, I totally support. We must have more Kenyan banks. We must give a chance to Kenyans. Hon. Ochieng is going to retire very soon and he can become a shareholder with me, despite the small issues on the election date. But on the banks, we agree and I totally support.

*(Laughter)*

**The Temporary Deputy Chairlady** (Hon. (Ms.) Mbalu): Thank you, Hon. Leader of the Majority Party. Let me give the chance to Hon. Johnson Sakaja.

**Hon. Sakaja:** Hon. Temporary Deputy Chairperson, I stand to support.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Mbalu): The Question was put. Hon. Sakaja, what is wrong with you today? You are even forgetting that I proposed the Question.

**Hon. Sakaja:** The Question was proposed. I support the amendment by Hon. Jakoyo Midiwo for the same reasons as the Hon. Leader of the Majority Party. If anything, we need a more inclusive financial market regime so that we can have more banks in this country. In addition, I want to propose a further amendment that we reduce the capital requirement to half a billion. This is so that most of our micro- finance institutions that can move into being banks can do so. I move that we further amend that provision so as to allow--- I will give you the wording right now to move from Kshs1billion to half a billion

**The Temporary Deputy Chairlady** (Hon. (Ms.) Mbalu): Hon. Sakaja, for you to propose a further amendment on the Floor, you need to concur with the Chairman and he has to -  
--

**Hon. Sakaja:** The Chairman concurs and I am coming to do the drafting.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Mbalu): Let us hold consultations through the Chairman before any proposal of a further amendment is moved.

*(Loud consultations)*

Members, this is a very important Bill. Let us allow the Chairman to consult so that we take a vote on this. Hon. Members, let me take a few points of order as the Chairman of the Departmental Committee on Finance, Planning and Trade consults with Members on requests for further amendments. Let me get it from Hon. Nassir from Mvita Constituency.

**Hon. Nassir:** Thank you very much, Hon. Temporary Deputy Chairlady.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Mbalu): Order, Hon. Members! Hon. Waweru, this is not a market place. Let us listen to the Hon. Member.

**Hon. Nassir:** Thank you for indulging me. Hon. Waweru is my colleague in the Finance Committee.

First of all, this is, without a doubt, something that has created a lot of interest. There is no doubt that the way the current Bill stands, we should increase the minimum core capital by the year 2016 to Kshs2 billion, 2017 to Kshs3.5 billion and 2018 to Kshs5 billion.

*(Loud consultations)*

Hon. Temporary Deputy Chairlady, I would like some protection. I cannot even hear myself.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Mbalu): Order, Leader of the Majority Party! As you guide the House, let the Members consult in low tones. Hon. Member, carry on.

**Hon. Nassir:** Hon. Temporary Deputy Chairlady, there is no doubt that if we try and increase the minimum core capital for banks, we are going to start creating monsters in this country. Those monsters are the ones that are going to be handling all the financial issues in this country. I agree with my colleagues that we should not only maintain the core capital at Kshs1 billion, but we should also consider the amendment sought by Hon. Sakaja - that we reduce the amount even further to Kshs500 million.

We need to believe in a relatively equal society that will be supported by institutions that shall limit the extremes of wealth and poverty. I hope my colleagues are going to hear me out when they are trying to defend the banks. The greatest enemy of freedom is the alignment of political power with wealth. I concur with Hon. Sakaja that we should further reduce the core capital so that we have more enabling players providing finance, so that we can send money back to the grassroots. The most creative and effective way to boost the economy is to re-distribute wealth downwards to the poor people, who have the tendency to spend a higher proportion of their income.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Mbalu): Order, Members! I need to give direction to this House. Hon. Members, we are considering Clause 43 as proposed. As Hon. Sakaja wants to move a further amendment, I need to guide this House that Hon. Midiwo is proposing a deletion to Clause 43. For that matter, it is not possible to propose a further amendment to a deletion.

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

*(Clause 43 deleted)*

*Clause 46*

**The Temporary Deputy Chairlady** (Hon. (Ms.) Mbalu): Mover. Hon. Chairperson of the Departmental Committee on Finance, Planning and Trade.

**Hon. Langat:** Hon. Temporary Deputy Chairlady, I do not have an issue with Clause 46. It was the Hon. Leader of the Majority Party who had moved for a re-committal. There is no problem with Clause 46 and, therefore, I withdraw.

*(Proposed amendment to Clause 46 withdrawn)*

**The Temporary Deputy Chairlady** (Hon. (Ms.) Mbalu): Leader of the Majority Party. Hon. Member, you are moving.

**Hon. Langat:** Hon. Temporary Deputy Chairlady, I beg to move that the Committee doth report to the House its consideration of the Finance Bill (National Assembly Bill No.27 of 2015) and its approval thereof with amendments.

*(Question proposed)*

**The Temporary Deputy Chairlady** (Hon. (Ms.) Mbalu): I will put the Question again for clarity of the House, so that Hon. Sakaja and the other Members are with us.

*(Question put and agreed to)*

Hon. Members we are going to proceed to the next Bill. The next Bill for consideration in the Committee of the whole House is the Excise Duty Bill (National Assembly Bill No.28 of 2015). We are now in the Committee of the whole House.

#### THE EXCISE DUTY BILL

##### *Clause 3*

**The Temporary Deputy Chairlady** (Hon. (Ms.) Mbalu): The Mover has an amendment. The Mover is the Chairperson of the Departmental Committee on Finance, Planning and Trade.

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

THAT, Clause 3 of the Bill be amended in subclause (2) by deleting the words appearing immediately after the words “price the goods and services” and substituting therefor “according to the Fourth Schedule of the East African Community Customs Management Act.”

This is to align the method of determination of values to the Fourth Schedule of the East African Community Customs Management Act.

*(Question of the amendment proposed)*

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

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

*(Clause 3 as amended agreed to)*

*(Clauses 4 and 5 agreed to)*

##### *Clause 6*

**The Temporary Deputy Chairlady** (Hon. (Ms.) Mbalu): The Mover to move the amendment.

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

THAT, Clause 6 of the Bill be amended in subclause (6) by deleting the expression “34” and substituting therefor the expression “35”;

This is basically editorial.

*(Question of the amendment proposed)*

**The Temporary Deputy Chairlady** (Hon. (Ms.) Mbalu): I will give a chance to Hon. Isaac Mwaura.

**Hon. Mwaura:** No, Hon. Temporary Deputy Chairlady. That was for an earlier amendment.

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): Hon. (Ms.) Nyokabi, do you want to speak on Clause 6?

**Hon. (Ms.) Kanyua:** Thank you, Hon. Temporary Deputy Chairlady. My views are actually on the earlier clause. We need to be very careful on the implications of the law we are making. I align myself to the comments of the Budget and Appropriations Committee.

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

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

*(Clause 6 as amended agreed to)*

*(Clause 7 agreed to)*

#### Clause 8

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

THAT, Clause 8 of the Bill be amended in subclause (1) by deleting the word “twenty-five” and substituting therefor the word “ten”.

Clause 8 gives the Cabinet Secretary (CS) power to vary the rate of the Excise Duty by 25 per cent, but subject to him bringing it to Parliament. My Committee felt that is too huge a variation to be made by an individual. Therefore, we decided to narrow it down to 10 per cent, so that we do not have an individual having powers to amend the rates. For example, 25 per cent of Kshs120 is like Kshs30.

*(Question of the amendment proposed)*

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

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

*(Clause 8 as amended agreed to)*

#### Clause 9

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

THAT, Clause 9 of the Bill be amended in subclause (6) by deleting the expression “7 of Part III” and substituting therefor the expression “4 of Part II”.

This is to properly cross-reference the Bill.

*(Question of the amendment proposed)*

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

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

*(Clause 9 as amended agreed to)*

*(Clauses 10, 11, 12, 13, 14, 15, 16,  
17, 18, 19 and 20 agreed to)*

### *Clause 21*

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): There is a proposed amendment to this particular clause by Hon. Ichung'wah.

**Hon. Ichung'wah:** Hon. Temporary Deputy Chairlady, it is a new clause. After discussing with the Departmental Committee Chair, I seek to drop my amendments to Clauses 21 and 19 in favour of the amendments brought by the Chair of the Departmental Committee.

*(Proposed amendment to Clause 21 by Hon. Ichung'wah dropped)*

*(Clause 21 agreed to)*

*(Clauses 22, 23, 24, 25, 26, 27, 28, 29, 30,  
31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41,  
42, 43, 44 and 45 agreed to)*

### *New Clause 22A*

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

THAT, the Bill be amended by inserting the following new clause immediately after Clause 22—

Commissioner to notify  
licensee prior to  
suspension, revocation,  
cancellation or refusal of  
renewal of a licence

22A. (1) Where the Commissioner seeks to suspend, revoke, cancel or not renew a license under this Act, he or she shall give twenty-one days' notice to the licensee prior to taking the intended action, giving the grounds upon which such intended action shall be taken, and requiring the licensee to remedy any circumstances which may require to be remedied.

(2) The licensee shall, within twenty-one days of receipt of the notice, take action as required by the Commissioner.

(3) The Commissioner shall, within fourteen days, acknowledge in writing the action taken by the licensee or proceed to confirm the effect of the intended notified action.

(4) Upon receipt of such notification of confirmation of the

intended action, where the licensee is dissatisfied with the decision of the Commissioner, the licensee may appeal to the Tax Appeals Tribunal within fourteen days of receipt of notification and shall serve the Commissioner with the appeal application within seven days of filing.

(5) The Tax Appeals Tribunal shall hear and determine the appeal without undue delay and its decision shall be binding on the Commissioner.

(6) Any party aggrieved by the decision of the Tax Appeals Tribunal may appeal to the High Court.

Hon. Temporary Deputy Chairlady, the New Clause 22A seeks to address the Question of licensing and cancellation of licences. The Bill gives the commissioner a lot of unfettered powers to cancel the licence of a manufacturer over excisable goods. Looking at what happened recently, it is clear that the country can easily lose investments of up Kshs10 billion because of arbitrary exercise of power. This amendment now says that the commissioner should follow the due process. We are laying out the due process in this amendment. This is to ensure that the rights of the manufacturers and the commissioner are taken care of. We do not want to lose investments because of technicalities. We want to encourage investors but we do not want to lose them because somebody has denied them a licence, and they have to struggle because they have nowhere to go.

We are proposing that before the commissioner cancels a licence, he must give you 21 days notice and ask you to correct any mistake. From there, you can correct the mistake. Upon receipt of such notification of confirmation of the intended action, if the licensee is dissatisfied with the decision of the commissioner, he may appeal to the Tax Appeals Tribunal that we created in this House. The Tribunal will hear the matter and issue a decision but again, you have the right to appeal to the High Court. We are proposing fair administrative action.

*(Question of the new clause proposed)*

*(New clause read the First Time)*

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

**The Temporary Deputy Chairlady** (Hon. (Ms.) Mbalu): Yes, Hon. Ogalo!

**Hon. Ogalo:** Thank you, Hon. Temporary Deputy Chairlady. I want to concur with the Chairman of the Departmental Committee. Article 47 of the Constitution provides that every action carried out by an administrator, or anybody given discretion to decide, must be fair. Outlining a process through which the discretion of the commissioner will be exercised enriches the Act.

With those remarks, I beg to support.

**Hon. Makenga:** Hon. Temporary Deputy Chairlady, I support the amendment as proposed by the Chair. The 21 days period given for the licensee to act is ample time and it does not infringe on his or her rights. Not giving adequate time may have adverse effects like loss of business and the like. So, I support because there are other provisions that the licensee may also appeal. I support the amendment.

**Hon. Wangwe:** Hon. Temporary Deputy Chairlady, I concur with the Chairman of the Departmental Committee on Finance, Planning and Trade but, I have reservations on 22(A)(5), where he has left an open box to the Tax Appeals Tribunal. It says that the Tax Appeals Tribunal shall hear and determine the appeal without undue delay. I feel that the Tribunal will have a whole time to play around with the process of the appeal. So, my request is whether there is room to pass an amendment that will give some timeframe within which the Tribunal is supposed to assess and come up with their ruling. This is an issue of loss or gain of money. So if an investor has time within which he is supposed to be given a ruling, I feel it is okay.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Mbalu): Let me give the last one before we make a decision on the clause.

**Hon. Duba:** Hon. Temporary Deputy Chairlady, I had earlier got concerned because my request had been ignored and you appeared to rule that, at one time, there was nobody on the request list. I particularly wanted to speak on this - especially on the matter that has been raised by Hon. Wangwe. I think that point is very important so that there is no abuse of the process and a time limit is always best. In the new drafting of laws and in matters relating to exercise in terms of time and discretion, a limit must be set. It is so critical. Otherwise, the intention of the Chairman, the Mover, will be defeated if it is left open. So, I agree with the fact that we must put a time limit for the Tribunal.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Mbalu): Hon. (Eng.) Gumbo, what is your comment?

**Hon. (Eng.) Gumbo:** Hon. Temporary Deputy Chairlady, I think this New Clause 22A is very important. The attitude of most commissioners has been to deal with businesses in the same manner as those people who go to milk the cow, but also slice the udder forgetting that they need the udder to be producing more milk in future. So, I think it is important that we safeguard businesses and not give too much leeway to the commissioner to give arbitrary decisions that only end up hurting businesses, and even stopping the flow of the tax that they intend to get. I support.

**Hon. A.B. Duale:** Hon. Temporary Deputy Chairlady, I think it is very clear that even in the Judiciary, we have the Magistrate's Court, the High Court, and the Court of Appeal up to the Supreme Court. We cannot have concentration of power with one individual called a commissioner. He is a human being. We want to give investors a course for appeal. I am sure the Chair has done Solomonic things; the Holy Spirit rarely goes into his heart but I think on this one, it did.

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

*(The new clause was read a Second Time)*

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

*First Schedule*

**Hon. Langat:** Hon. Temporary Deputy Chairlady, I beg to move:-  
THAT, the First Schedule of the Bill be amended—

(a) In paragraph 1 by amending the following items in Part 1—

- (i) by deleting the item on “Fruit juices (including grape must), and vegetable juices, unfermented and not containing added spirit whether or not containing added sugar or other sweetening matter “ and the corresponding rate of excise duty
- (ii) by deleting the expression “10” appearing in the column under Rate of Excise Duty and substituting therefor the expression “5” in the description of “Waters and other nonalcoholic beverages not including fruit or vegetable juices”;
- (iii) by deleting the item on “Cigarettes containing tobacco or tobacco substitutes” and the corresponding rate of excise duty and replacing it with the following new items—

Plain cigarettes or cigarettes with ex-factory selling price of up to Shs.2,750 per mille	Shs.900 per mille
Soft cup cigarettes with ex-factory selling price of Shs. 2,751 to Shs. 3,750 per mille	Shs.1200 per mille
Soft cup cigarettes with ex-factory selling price of Shs.3,751 to Shs. 4, 750 per mille.	Shs.1,800 per mille
Hinge lid cigarettes or cigarettes with ex-factory selling price of more than Shs.4,750 per mille	Shs.2,800 per mille

(iv) in the description of “Motor Vehicles of tariff heading 87.02, 87.03 and 87.04—

(a) by deleting the expression “150,000” appearing in the column under Rate of Excise

Duty and substituting therefor the expression “100,000” ;

(b) by deleting the expression “200,000” appearing in the column under Rate of Excise Duty and substituting therefor the expression “150,000”;

(v) by deleting the item on Motor Cycles of tariff 87.11 other than motor cycles ambulances and the corresponding rate of excise duty.

(b) in paragraph 2 under Part 1 by deleting the words “ B is the adjustment factor for the adjustment day calculated as one plus annual average rate of inflation of the preceding financial year” appearing in proposed formula in subparagraph (2) and substituting therefor “B is the adjustment factor for the adjustment day, calculated as the average rate of monthly inflation of the preceding financial year”;

(c) in Part III by—

(a) deleting the definition of the term “other fees” and substituting therefor the following new definition—

“other fees” includes any fees, charges or commissions charged by financial institutions relating to their licensed financial institutions, but does not include interest on loan or return on loan or an insurance premium or premium based or related commissions;

(b) inserting the following new definitions in its proper alphabetical sequence—



“rate of monthly inflation in each month” means the movement in the consumer price index number published by the Kenya National Bureau of Statistics for that month when compared to the same month in the preceding year;”

In my proposed amendments, we are proposing to remove fruit and vegetable juices from being levied excise duty. We are also proposing to reduce the levy on water and other non-alcoholic beverages but not including the fruit and vegetable juices. We are reducing from Kshs10 per litre to Kshs5 litre jar. We are also changing the manner in which levying on tobacco cigarettes is done so that Hon. Sakaja can pay more and I, the Chair of the Departmental Committee on Finance, Planning and Trade, can pay less. That is categorizing. I am using this example with a light touch. It is just juice. We are proposing this so that the low cadre of Kenyans can access quality cigarettes and those who can pay, can pay more but still access cigarettes so that we do not resort to counterfeit.

On motor vehicles, we checked the type we are talking about. They are the ones from Nissans to Proboxes and small vehicles. We say that if we are to levy a vehicle costing Kshs350,000 or Kshs400,000 an amount of Kshs150,000, it will be very expensive. So, we proposed to reduce it from Kshs150,000 to Kshs100,000, at least, to make it accessible. The ones which we had proposed to levy Kshs200,000, we are reducing it. There was even a proposal to---

**The Temporary Deputy Chairlady** (Hon. (Ms.) Mbalu): Hon. Chair, you can just shorten your comments.

**Hon. Langat:** Hon. Temporary Deputy Chairlady, that is what I am doing. There was a proposal to tax the so called *boda bodas* Kshs10,000. After lengthy deliberations, we agreed that we should not tax them for now because it will impact negatively on the guys who are struggling to find some way of employment. The other things are issues on definitions and the rate of inflation which we are trying to clarify, that we should use the involvement in consumer prices, the number published by the Kenya National Bureau of Statistics from that month and compare to the preceding one. This is just to clarify that the rate of monetary inflation will be determined. That is basically the import of my amendment and I request hon. Members to strongly support because we want to cushion the people who are still struggling.

*(Question of the amendment proposed)*

**Hon. Midiwo:** Hon. Temporary Deputy Chairlady, mine is just to support a thousand times especially this one not to tax *boda bodas*. It is a big thing. We want the National Treasury to help the Executive. We cannot tax everything and for the *boda bodas*, the Executive would have by now gone to China, who is our friend, and brought 10 million of them and assemble them locally for our people.

This thing cannot be Kshs100,000. These things are free. The transport system in the Scandinavian countries provides free bicycles. Why are we obsessed with money that is hurting our people? Even if we were to tax *boda bodas*, how much would we get? That is like shooting your own arm.

The amendment allowing the lessening of excise duty on small vehicles is a welcome move. Because of the porous borders and corruption, if somebody in my village wants a car, he or she can go to Uganda where there is no excise duty because the system has no way of policing. Let us not create such a society of classes because some people cannot afford and we

force them to afford. It is creating too many classes. Let us bring in the vehicles. After all, where these vehicles are, there is very little wear and tear.

The last one is the amendment on cigarettes which comes to this House year in, year out. It is a battle between cigarette manufacturers. The multi-nationals, with the help of the national Treasury, wish to kill the local industry. We cannot allow them. This country must be in the business of creating and supporting local industries. Whatever happens in the national Treasury with this cigarette amendment, I do not know. I wish the Leader of the Majority Party would one day call a *Kamukunji* where those mandarins can come and explain. I was in the Departmental Committee on Finance, Planning and Trade for 10 years, I know what happens. I want to thank the Chairperson and members of the Committee for discovering that the mandarins and the National Treasury are trying to run a Government within a Government. It is killing our people. Therefore, I support you one thousand times.

Thank you.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Mbalu): Hon. Abdikadir Omar.

**Hon. Aden:** Thank you, Hon. Temporary Deputy Chairlady, for giving me this opportunity. While I agree with the taxation proposals with regard to the *boda bodas* and juices, I want to put a word of caution. I am very surprised with the Chairperson of the Committee for what he has proposed to do with the taxation of cigarettes.

This is an industry in which I have quite a bit of experience. The tax regime the Committee is trying to push has failed in the past. We have to be very careful. The proposed system as per the initial Act brings a predictable and sustainable growth in Government revenues. In the year 2010, the four-tier system was introduced only to be withdrawn within six months because the Government lost Kshs1 billion. That is what the Committee is trying to bring back.

Let us not use the excuse of supporting the local industry to allow industries to produce very low quality cigarettes. The system which was introduced by the Act earlier is in line with the view of public health authorities. It is a progressive one considering that the other countries Kenya trades with in the eastern African region have these taxes in place.

The one which is being introduced has a number of limitations. Price wars within the industry are going to be a problem, which is going to make the Government lose revenue.

I put this argument as an expert in this industry. We stand to lose.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Mbalu): Your views have been taken.

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

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

*(First Schedule as amended agreed to)*

*(Second Schedule agreed to)*

Clause 2

**The Temporary Deputy Chairlady** (Hon. (Ms.) Mbalu): I can see the Mover, Hon. Benjamin Langat, has amendments.

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

THAT, Clause 2 of the Bill be amended in the definition of “open market value” by deleting the expression “4” and substituting thereof the expression “3”.  
This is to properly cross-reference the Bill.

*(Question of the amendment proposed)*

**Hon. Sakaja:** Thank you, Hon. Temporary Deputy Chairlady. I support the amendment the Chairperson of the Committee is proposing to Clause 2. On the earlier one, though it has passed, those amendments are in order. Some of these companies, as much as we are trying to tax them highly, are huge taxpayers in this country. We need to draw a fine line between trying to raise revenue and hurting the biggest taxpayers. British-American Tobacco (BAT), for example, is the fourth largest taxpayer in this country after Safaricom, East African Breweries Limited (EABL) and Teachers Service Commission (TSC).

We are truly grateful for the amendment on *boda bodas*. Going forward, we need to have a way through which we can further subsidise better and safer ways of transportation that the lower cadre can afford.

Thank you.

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

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

*(Clause 2 as amended agreed to)*

*(Title agreed to)*

*(Clause 1 agreed to)*

**The Temporary Deputy Chairlady** (Hon. (Ms.) Mbalu): Hon. Members, I call upon the Mover to move reporting.

**Hon. A.B. Duale:** Hon. Temporary Deputy Chairlady, I beg to move that the Committee doth report to the House its consideration of the Excise Duty Bill (National Assembly Bill No. 28 of 2015) and its approval thereof with amendments.

*(Question proposed)*

*(Question put and agreed to)*

*(The House resumed)*

*[The Deputy Speaker (Hon. (Dr.) Laboso) in the Chair]*

**Hon. Deputy Speaker:** Hon. Members, we will begin with the Finance Bill (National Assembly Bill No. 27 of 2015).  
The Chairperson!

## REPORTS AND THIRD READINGS

### THE FINANCE BILL

**Hon. (Ms.) Mbalu:** Hon. Deputy Speaker, I beg to report that a Committee of the whole House has considered the the Finance Bill (National Assembly Bill No. 27 of 2015) and approved the same with amendments.

**Hon. Deputy Speaker:** Let us have the Mover.

**Hon. Langat:** Hon. Deputy Speaker, I beg to move that the House doth agree with the Committee in the said Report. I also request the Vice-Chairman of my Committee to second me.

**Hon. Gaichuhie:** Thank you, hon, Deputy Speaker. I second.

*(Question proposed)*

**Hon. Deputy Speaker:** There is a point where you will give your comment at the Third Reading. Are we in agreement? This is not yet the Third Reading. We are just agreeing with the Report and then I will give you an opportunity when we begin the Third Reading.

*(Question put and agreed to)*

**Hon. Langat:** Hon. Deputy Speaker, I beg to move that the Finance Bill (National Assembly Bill No. 27 of 2015) be now read the Third Time. I request my Vice-Chairman to second me.

**Hon. Gaichuhie:** Hon, Deputy Speaker, I second my Chair and thank all Members who have contributed towards the approval of this Bill. I know it was very important for all of us to concentrate. I thank the Members of the Committee, the stakeholders and all the Members of the House for having brought in their inputs.

Thank you, hon. Deputy Speaker. I second.

*(Question proposed)*

**Hon. Deputy Speaker:** Hon. Sakaja, you may now make your comment.

**Hon. Sakaja:** Hon. Chepkong'a really wants to go and have a cup of tea. I will finish in a few minutes.

Hon. Deputy Speaker, when we were going through this in the Committee, there is an amendment that we tried to bring in following Hon. Jakoyo's amendment, which was to maintain the minimum capital base to start a bank at Kshs1 billion. We tried to push a further amendment to that to reduce it to Kshs500 million. Procedurally, that has not been possible. However, since the substantive law being amended was not the Banking Act, this amendment does not have to be brought after six months. We want to reduce that amount that is required so that the financial market and the institutions do not have to be elitist sectors where only those who can raise Kshs1 billion or

more can play in. Many of our microfinance institutions have the capacity and ability to actually be banks. I hope Members are going to support it.

One other thing that I want to be grateful for was the promise that had been made by the Cabinet Secretary (CS) and even the President that institutions or organisations that are going to hire, at least, 10 graduates within less than six months after their graduation are going to get tax rebate. That is a very progressive provision. It is going to help our young people get employment and help us deal with the issue of unemployment. For that, I applaud the President because he said it in his State of the Nation Address and the CS reiterated it. This is action showing that, indeed, this Government is a Government of *kusema na kutenda*.

With those few remarks, I thank you and I support.

**Hon. Deputy Speaker:** Hon. Members, I know that we all want to make some comments, but you realize that many of our Members have already gone to their constituencies. We need to use the quorum we have now. I have confirmed that we have quorum present in the House for purposes of making a decision. I then put the Question.

*(Question put and agreed to)*

*(The Bill was accordingly read the Third Time and passed)*

#### THE EXCISE DUTY BILL

**Hon. Deputy Speaker:** We will quickly move to reporting on the next Bill, which is the Excise Duty Bill (National Assembly Bill No. 28 of 2015). Let us have the Chairperson.

**Hon. (Ms.) Mbalu:** Hon. Deputy Speaker, I beg to report that a Committee of the whole House has considered the Excise Duty Bill (National Assembly Bill No. 28 of 2015) and approved the same with amendments.

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

**Hon. Chepkong'a:** Hon. Deputy Speaker, I second.

*(Question proposed)*

**Hon. Lentoimaga:** Hon. Deputy Speaker, I pressed the button for the next Motion.

**Hon. Deputy Speaker:** This is for the next Motion?

**Hon. Lentoimaga:** Yes, Hon. Deputy Speaker.

**Hon. Deputy Speaker:** Hon. Abdikadir.

**Hon. Aden:** Thank you, Hon. Deputy Speaker. We have passed a good law but, let me just say that with regard to the area that I had contributed to earlier, let Kenyans take note that what we have done with regard to the excise on cigarette is the example of allowing poor quality cheap liquor, which is killing very many Kenyans now, to be sold in our markets. Unfortunately, because of the law that we have passed today, anybody and everybody can roll everything. Because of that poor quality, they will price it as low as they want to deny the Government the revenue it would have otherwise earned with the proposal of the National Treasury, if that is what the Committee had recommended to pass. Unfortunately, not only will the Government

miss its revenue, but the lives of Kenyans are being put on the line by the amendments that the Committee has put in place. Let us take note of that fact.

I do not know whether Members were cognizant of that fact. I tried my best to explain this but, unfortunately, we have allowed Kenyans to have access to poor quality cigarettes and that is what this Bill has passed. In the earliest opportunity, I will move to amend this Bill when time comes in order to save the lives of Kenyans.

I thank you.

*(Question put and agreed to)*

**Hon. A.B. Duale:** Hon. Deputy Speaker, I beg to move that the Excise Duty Bill, National Assembly Bill No. 28 of 2015 be now read a Third Time. I request Hon. Chepkong'a to second.

**Hon. Chepkong'a:** I thank you, Hon. Deputy Speaker. I rise to second. I totally disagree with the Member of Parliament for Balambala. He can wait until next year in June so that he can bring his amendment. His was time barred. This is a very good Bill and it should pass immediately.

I thank you, Hon. Deputy Speaker.

*(Question proposed)*

**Hon. Deputy Speaker:** Is Hon. Millie Odhiambo for this Bill?

**Hon. (Ms.) Odhiambo-Mabona:** For the next one Hon. Deputy Speaker.

**Hon. Deputy Speaker:** Those in this long list, if you have intervention for the next one, having confirmed that we have quorum present in the House for purposes of making a decision, I will then put the Question.

*(Question put and agreed to)*

*(The Bill was accordingly read the  
Third Time and passed)*

Next Order!

## MOTION

### THE REPORT ON EAST AFRICAN COMMUNITY PEACE AND SECURITY PROTOCOL

*(Hon. A.B. Duale consulted with Hon. (Ms.) Kajuju)*

**Hon. Deputy Speaker:** The Leader of the Majority Party is distracting the Mover.

**Hon. (Ms.) Kajuju:** Hon. Deputy Speaker, I beg to move the following Motion:-

THAT, this House adopts the Report of the Committee on Regional Integration on East African Community (EAC) Peace and Security Protocol and the Mutual Peace and Security Pact, laid on the Table of the House on

Wednesday, 29<sup>th</sup> April 2015 and pursuant to Section 8 of the Treaty Making and Ratification Act, 2012, approves the East African Community (EAC) Peace and Security Protocol and the Mutual Peace and Security Pact.

As I move this Report for debate, I wish to give a background. On 17<sup>th</sup> February 2014, the Leader of the Majority Party tabled a Cabinet Memoranda on Peace and Security Protocol and Mutual Peace and Security Pact in the House for consideration and ratification, pursuant to Article 2 of the Constitution and Section 8 of the Treaty Making and Ratification Act, 2012.

The Cabinet Memoranda was subsequently committed to the Departmental Committee on Regional Integration for consideration and report to the House. Once ratified, the protocol and the pact shall become part of our Kenyan laws as provided for in Article 2(6) of the Constitution. It says that any treaty or convention ratified by Kenya shall form part of the laws of Kenya under this Constitution. During the consideration of the Protocol, the Committee held a total of 10 sittings and met with various stakeholders. Among them was the Cabinet Secretary for Interior and Coordination of National Government and State Law Office. All those stakeholders made various submissions to the Committee which were taken into considerations as at the time of making our decisions in this Report.

The East African Community is a regional inter-governmental organization established under Article 2 as I have stated before, and the five partner states include the United Republic of Tanzania, the Republic of Uganda, the Republic of Rwanda, the Republic of Kenya and the Republic of Burundi. What is before us today is that we are exercising our mandate under Article 151 of the East African Community Peace and Security Protocol that was drafted as per the establishment of the East African Community. That particular provision empowers the East African Community Partner states to establish protocols that are necessary in the areas of co-operation. Article 5 of the treaty states that the objectives of the Community shall be to develop policies and programmes aimed at widening and deepening co-operation among the partner states in political, economic, social and cultural fields, research and technology, defence, security, legal and judicial affairs for mutual benefit.

Further, Article 5(3)(f) of the Treaty states that the Community shall ensure promotion of peace, security and stability within and good neighbourliness among the partner states. Therefore, the objective of the common security policies in the East African Community is to safeguard the common values, the fundamental interest and the independence of the Community, strengthen the security of the Community and its partner states, develop and consolidate democracy, rule of law and respect for human rights and fundamental freedoms which is established under Article 123 of the Protocol.

Hon. Deputy Speaker, if I may slightly go into the background of the enactment of the mutual peace and security pact, the northern corridor is an initiative that is aimed at fast-tracking regional development through joint infrastructure, trade, political and economic development for great integration process within the East African Community region.

Since the inception, the three partner states, that is, Kenya, Uganda and Rwanda, have initiated a number of projects in the areas of infrastructure development, free movement of people and goods and the single customs territory among others. These opportunities however come along with a number of challenges and security is one of them.

This has, therefore, necessitated the partner states to come up with measures to ensure that there is peace and security in the region, to create a conducive environment for integration efforts, and hence the drafting of the mutual peace and security pact by the partner States of the northern corridor tripartite initiative. This particular pact and protocol came up as a result of

various meetings and tripartite summits that were held between our various heads of State between Kenya, Rwanda and Uganda. Various meetings were held in the different capitals of the three partner states. That, therefore, culminated into this particular protocol and pact.

Hon. Deputy Speaker, the benefits of this protocol and pact that we are seeking to ratify today are going to obligate the partner states to jointly undertake to combat crimes and ensure the safety of their people and safeguard development of member countries against instability that might come with the new development initiatives that we are experiencing within the East African partner States.

When you look at the Report, you will find that we have also submitted the various submissions that were made by the Ministry of Interior and Coordination of National Government, the Ministry of the East African Affairs and the State Law Office that was able to guide us on the particular issues that can arise in as far as the ratification of the protocol and the pact are concerned.

It is important to note in the protocol that the objectives of the Community shall be to develop policies and programmes that are aimed at widening and deepening co-operation among the partner States. That is a very key area because that is the vision and the mission of the East African Community on the way that we intend to go as the partner States. In looking at the various issues that were brought before the Committee, we were able to ask ourselves as to where else within the African continent and in the world we have had these kind of protocols being ratified by various agreements that have happened. We did international comparisons.

One of those we looked at is the ECOWAS peace agreement that was signed by the West African States - ECOWAS having been established in 1975. When we looked at it, we found that within the West African partner states; they have been able to pass security protocols. One of them was in 1978 and it brought together the region and ensured that there is peace-keeping and security mechanisms within the West African states. This is not *sui generis*; it is not just one area that applies to East Africa. It is something that has happened within the other continents too. That is why we looked at the West African states.

We also looked at the Common Foreign and Security Policy of the European Union. They have been able also to come together within the United Nations and look at how best they can ensure that there is peace and security within their territories. We thought that within the East African Community, going the same route is going to ensure that there is better integration and more security and peace within the countries. It is also worthy of note that the Cabinet has already approved the East African Protocol on Peace and Security and was submitted to Parliament for ratification. That is why we are asking that this House considers what is before us today. It is also important to note that even as we ratify this particular document, it is not going to interfere with the Constitution of Kenya because it will not need to be harmonized in any way. Neither is it going to contravene or be inconsistent with any of the laws that have been passed in this country so far.

As a Committee, we have made general observations in as far as the pact and the protocol is concerned. We felt even as a Committee, it is important for us to secure countries from threats. Begging from history, as early as in the Roman period, security was regarded as the absence of distress upon which happy life depends. However, presently, most conflicts are civil in nature. They are associated with terrorism which, in the present globalised world, is a threat to the national security of any one state. Therefore, it becomes imperative that we deal with these issues at this point in time. It is also necessary that after the passage of this protocol and pact, we



harmonize the various legislations within the East African states to be able to fight crime and terrorism together to ensure peace and security throughout East African communities.

There is also a general consensus that the East African Protocol on Peace and Security and the Mutual Peace and Security Pact is of benefit to Kenya and the region in light of the existing and emerging threats to peace and security. I dare say that we as Kenyans have had first-hand experience of what terrorism means. I dare say that even Uganda has also experienced the same. We are saying that if we do this together as the East African Community, we can only emerge as a better people. Defence, security and foreign policy fall in the realm of the proposed political federation whose end game will be transformation of the bloc into a single political territory. As you are aware---

**Hon. Deputy Speaker:** Hon. Kajuju, I do not wish to interrupt you. I know you have 60 minutes to move your Motion, but we will be moving the Adjournment Motion at 6.00 p.m. I do not know whether you intend that some other persons contribute or you want to go up to the end, and finish your 60 minutes balance? Can you, please, summarize?

**Hon. (Ms.) Kajuju:** Hon. Deputy Speaker, I will try to summarize. I will take into account your sentiments. As I was saying, we are moving as the East African Community. We have already passed the three pillars that were set up by the East African Community partner states and we are looking at the political federation. We are saying that we cannot go into a political federation without setting up the base upon which that political federation, when it happens, will be able to stand on. Therefore, we were able to come up with a number of recommendations that I am going to indicate to the House in a short while. Note that if we ratify what is before us today, the East African Community will be a better place to be. This particular process will require the entire partner states to fund the initiative. If you have checked, most of the funding for projects within the region is by development partners. The rate is 70 per cent. We are saying that issues of peace and security are matters that must be taken care of by the countries themselves and not development partners.

We are also saying that there are issues that affect our relationships like corruption. That is because corruption can weaken the security infrastructure. We also need to pass a protocol on good governance that is going to ensure that issues of security are not invaded by corruption. The Committee, therefore, came up with various recommendations. Having said that, we are being called upon to ratify the protocol and the pact, I will first of all submit on the protocol, which is the East African Community Peace and Security Protocol.

The Committee, having considered the protocol and examined the presentations from various Government agencies and pursuant to section 8(4) of the Treaty making and Ratification Act, recommends as follows:-

1. The House ratifies the East African Community, Peace and Security Protocol.
2. The Ministry of East African Affairs, Commerce and Tourism, the Ministry of Foreign Affairs and International Trade, the National Treasury, the Ministry of Interior and Coordination of national Government, Parliament and all the implementing agencies should aggressively sensitize the public on the provisions of the Protocol.

Consequently, the National Treasury and Parliament should allocate adequate resources to the implementing agencies to facilitate adequate public sensitization.

Hon. Deputy Speaker, the Ministry of Interior and Coordination of National Government, the Attorney-General and all other implementing agencies should expeditiously identify the legal reforms to be undertaken to facilitate proper and timely implementation of the Protocol.

All partner states should fully commit to implementing the first two pillars of integration, the Customs Union and the Common Market Protocol. Also the Monetary Protocol as contained in the integration road map and all other protocols of the community. That is as far as the Protocol is concerned.

On the Mutual Peace and Security Pact, the Committee having considered the Pact and examined the presentations from various Government agencies and pursuant to Section 8(4) of the Treaty Making and Ratification Act, the Committee recommends as follows:-

(i) The House ratifies the Mutual Peace and Security Pact.

(ii) The Ministry of East African Affairs, Commerce and Tourism, the Ministry of Foreign Affairs and International Trade, the National Treasury, the Ministry of Interior and Coordination of National Government, Parliament and all the implementing agencies should aggressively sensitize the public on the provisions of the Pact in line with the tenets of the people-centered integration process.

Consequently, the National Treasury and Parliament should allocate adequate resources to the implementing agencies to facilitate adequate public sensitization.

The Ministry of Interior and Coordination of National Government, the Attorney General and all other implementing agencies should expeditiously identify the legal reforms to be undertaken to facilitate proper and timely implementation of the pact. Those were our recommendations.

This Committee expresses its acknowledgement and thanks the office of the Hon. Speaker and the Clerk of the National Assembly for facilitation. It further appreciates the technical support offered by the staff of the National Assembly, the State Law Office and the Ministry of Interior and Coordination of National Government in the production of this Report.

I thank the Hon. Members of the Committee who diligently and actively participated in the activities of the Committee and their useful contribution in the compilation of the Report. Therefore, it is my pleasant duty and privilege, on behalf of the Committee on Regional Integration, to present this Report on the East African Community Peace and Security Protocol and the Mutual Peace and Security Pact for consideration and approval by the House pursuant to Section 8(4) of the Treaty Making and Ratification Act 2012 and Standing Order No.199(6).

I, therefore, beg to move and request my Committee Member who is present, and who is none other than Hon. Alloys Lentoimaga, to second this debate.

**Hon. Lentoimaga:** Thank you so much, Hon. Deputy Speaker. I support and second this Report on the Committee on Regional Integration, on Peace and Security Protocol and the Mutual Peace and Security Pact. As my Chairperson has just said, I am a member of this Committee. We went through all those interactions with the stakeholders - the Ministry of Interior and Coordination of National Government and the Attorney General's Office. We also did comparisons with other international organizations like the European Union (EU) and ECOWAS.

The objective of the Protocol is to establish a framework for partner states to collectively combat crime and terrorism. This includes coordinating and co-operation on matters relating to peace and security and peaceful resolving of conflicts between partner states. The Committee notes with great concern that the region currently faces serious security threats from existing and new challenges. This includes drug trafficking, money laundering, economic malpractices, poverty and social exclusion, transitional organized crime and natural disasters. So, this pact will go a long to tackle some of those problems and crimes.

There is trafficking of illegal drugs and linkages in trafficking of small arms and light weapons. There is the issue of prevention and management of conflicts and their resolutions. The issue of combating terrorism is very critical at the moment. In our experience and interactions, we found out that one country cannot combat terrorism. As we have seen before, when one country is attacked, the hostilities can spiral to other countries. So, when we are co-working as partner states, we will be able to strongly fight the menace together.

On combating and suppressing piracy, this country can jointly formulate mechanisms for operationalization of anti-piracy measures. It can jointly formulate mechanisms to fight piracy, develop strategies on how to fight and suppress piracy and conduct combined and joint operations against piracy.

On disaster, risk reduction and management of crisis response, countries can work together and face those issues and combat transnational and border crimes. Another issue is preventing and combating cattle rustling, which is very common in our areas.

On the issue of Mutual Peace and Security Pact, the objective of this partnership is to establish a framework for combating crimes with a view towards collective peace and security among partner states. Kenya has lately become vulnerable to terrorist related security threats. There are acts that are perpetrated in Kenya by organizations that are based outside and inside the country, but not aimed at neighbouring countries. Terror networks operate on the premise that they are likely to decentralize and, perhaps, take over the running of governments.

So, this partnership can go a long way to help us manage crimes and also increase trade, movement of people and even goods. It can help us grow our economy better than we are doing at the moment.

So, I second this Motion. Thank you so much.

**Hon. Deputy Speaker:** Hon. Members, just give me a minute to organize my papers.

*(Question proposed)*

Hon. Millie Odhiambo, do you want to contribute to this? You are the first one on my list.

**Hon. (Ms.) Odhiambo-Mabona:** Thank you, Hon. Deputy Speaker. I rise to support the Committee Report on the Treaty and the Protocol. The Protocol speaks to issues that are of concern to us on the matters of peace and security.

As the Mover and the Seconder have indicated, there are many issues that affect us in the region, some of which are very unique to Kenya, especially the issues of terrorism and our porous borders. It is one of those crimes that would require joint effort by different countries.

Another issue that would require joint effort by different countries is the issue of trafficking in persons. Kenya has become a source, transit point and destination on issues of trafficking in girls and women. For us to combat this, we must work together with our neighbouring countries to enable us to deal with this.

Even as we have embraced East African co-operation, very recently, you saw the sugar wars that were going on in the country. The East African Community Pact (EACP) that was passed earlier is not covered by the Treaty Making and Ratification Act. It indicates that one of the reasons that we passed that Act was to ensure that when Kenya is entering into agreements with other countries, Parliament must be involved. Any new agreement or treaty that is signed after 2012 must come to the Floor of this House.

I am the one who moved this Act. Even as I was moving it, it was one of those things you do to ensure that you meet the constitutional obligations. Increasingly, this is one of the laws that I am very proud of having brought before this House. It gives us a chance, as Parliament, to deal with a lot of the protocols and treaties that Kenya is negotiating on our behalf.

I am only saddened that when we are dealing with issues that are of this magnitude and that affect this country, very few of us are usually present in the House. I have noticed that. Whenever people see anything that touches on the East African Community (EAC), it sounds like Greek to them and so, most Members are rarely interested. At least, in other ones, you even see people going through the Committee Stage. Having been a very keen observer of the processes that have been going on, at some stage, we may need to amend the Treaty-Making and Ratification Act so that the protocols and treaties should go through the same processes as those of other laws. The Constitution provides that any treaty that is ratified by Kenya becomes part of the laws of Kenya. They should go through the same processes namely, First Reading, Second Reading and Third Reading and should come by a way of a report. As the Mover of the Act, I did not think about that then but it should be something that we need to think about.

As a Member of Parliament that serves a constituency that borders Tanzania and Uganda, we are always faced with challenges of security. Very many times people from Mbita are arrested by Ugandans. They normally complain that Tanzanians are even more lethal in what they do. They do not even wait to arrest you; they just kill you. I am hoping that this Treaty is not an end in itself. After passing it and it becomes part of the laws of Kenya, we must look at our laws to make sure that they fit within the framework of this Treaty. I am hoping that as a country, we can make sure that we provide patrol boats in border constituencies like mine so that we contain and protect our own people before we look beyond our borders. Let us not look at protecting Ugandans and Tanzanians before we protect our own Kenyans.

However, I urge the Committee that, unless I missed it as they were talking about the report, I do not think that they strictly applied the provisions of the Act. The Act requires that they indicate the national interests that may be affected. They alluded to that to some extent but I do not think they looked at the whole picture. If we are talking about security, I would have expected them to mention issues of border constituencies like mine and Budalangi.

The law also provides that they should have given the financial implications and estimated expenditure for implementing this Treaty. That, I have not heard. One of the things that is provided for by the Constitution is the issue of public participation. I heard the Mover speaking about public participation after the fact. This is a law making process. It would have been important that public participation happens before and not after.

Finally, I want to take this opportunity to congratulate our athletes who did very well and made us proud by bagging many gold medals for our country. I am also very happy that we have at least started the process of the Committee Stage of the Fisheries Management and Development Bill. Hon. Deputy Speaker, you have been telling me that, that may not be relevant to this Bill, but I am just being mindful of the time. Everybody wants to go on recess and so, instead of waiting for the Motion for Adjournment, with your indulgence, I wanted to speak to that.

We should also take time to reflect and think of the women of Kenya so that when we come back, we remember to implement the two-thirds gender rule. Today was the deadline that was given by the Supreme Court and we have not fulfilled that. I hope that when we come back, we will be ready to remember the women of Kenya.

I support the Motion.

**Hon. Deputy Speaker:** Hon. Ali Rasso.

**Hon. Dido:** Thank you very much, Hon. Deputy Speaker. I rise to support this Report. The essence of the Protocol and the Pact is to create a stable business environment within the EAC.

Secondly, it is to establish a common understanding within the partner states. The Northern Corridor, that we are putting a lot of money in to establish, is going to be a very important business corridor for the partner states of the EAC. If we are not going to consider the issue of protocol and how we are going to provide the necessary impetus, particularly in the area of security---

**Hon. Deputy Speaker:** Hon. Rasso, remember we had said that we want to move the Adjournment Motion as agreed, at 6.00 p.m. You will have a balance of eight minutes when this debate next resumes.

**Hon. Dido:** Thank you, Hon. Deputy Speaker.

**Hon. Deputy Speaker:** I now invite the Leader of the Majority Party.

### MOTION FOR ADJOURNMENT

#### ADJOURNMENT TO A DAY OTHER THAN THE NEXT NORMAL SITTING DAY

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

THAT, pursuant to the provisions of Standing Order 28, this House adjourns until Tuesday, 29th September, 2015, in accordance with the Calendar of the Assembly (Regular Sessions).

From the outset, I want to congratulate the Kenyan sportsmen and sportswomen who are currently flying the Kenyan flag high, through their exemplary performance at the 2015 International Association of Athletics Federations (IAAF) World Championships in Beijing, China. We are truly a hotbed of vibrant talent and this has been clearly demonstrated in the World Championships where Kenya is currently holding the first position with 11 medals in total, 6 of them being gold.

Hon. Deputy Speaker, today Kenya marks five years since the promulgation of the Constitution of Kenya, 2010. Parliament has played its part in putting in place the legislations required for the implementation of the Constitution of Kenya, 2010, in accordance with the Fifth Schedule of the Constitution. All the required legislations have been enacted except the year-five ones, for which we have extended the deadline for their consideration by one year. Parliament cannot be blamed for not passing those Bills by today, 27<sup>th</sup> August 2015 because some of them were submitted to Parliament late. In fact, some of the year-five Bills have not yet been forwarded to Parliament. How can Parliament legislate on a Bill that is not before it?

Without shifting blame, I would like to draw the attention of the House to the provisions of the Sixth Schedule of the Constitution of Kenya, 2010, paragraph 6(b); which states that the function of the Commission for the Implementation of the Constitution (CIC) is to coordinate with the Attorney-General and the Law Reform Commission in preparing for tabling in Parliament the legislations required for implementation of the Constitution. Therefore, failure is not on Parliament but on the other stakeholders.

During the second part of the Third Session of the National Assembly, we have passed several Bills, including the Finance Bill, 2015, which was passed a few minutes ago; the Companies and Insolvency Legislation (Consequential Amendments) Bill, 2015, which we passed in the morning; the Companies Bill, the Insolvency Bill, 2015; the Business Registration Bill, the Special Economic Zones Bill, and the Presidential Memoranda on Ethics and Anti-Corruption, among many other public and private Bills. We have debated several Committee Reports, key among them the Report of the Public Accounts Committee (PAC) on the hire of an aircraft for the Deputy President for a tour of four African nations in May 2013; the Report of the Departmental Committee on Lands on land issues in Taita-Taveta County, and the Report of the Departmental Committee on Transport, Public Works and Housing on the conventions on suppression of unlawful acts relating to the International Civil Aviation and the protocol it covers.

When we resume from recess, the House Business Committee (HBC) will give priority to all the Bills with constitutional deadlines that have been published and read the First Time. We will also give priority to the consideration of the Health Bill, the Fisheries and Management Coordination Bill, 2014; the Roads Bill and Bills that have emanated from the Senate. The House will also consider the Report of the Departmental Committee on Agriculture, Livestock and Fisheries on the crisis facing the sugar industry in Kenya.

I would like to take this opportunity to thank all the hon. Members for their invaluable time. I would also like to thank the Office of the Clerk and the Office of the Speaker for the invaluable contribution they have made to our success this session.

I would also like to thank the Leader of the Minority Party, the Minority Whips, the Majority Whips and my deputy for their invaluable contribution during this period. I hope the break will enable us go back to our constituencies, bond with our families and, above all, make sure that Kenyans achieve the objectives for which this House appropriated monies through the Budget.

Finally, I ask my colleagues from the CORD Coalition to talk to their leader, who is planning to take me to court. Hon. Raila wants to become the President, and I being a serious leader from northern Kenya, it is not good for him to take me to court. I do not want either of us to be chased into the toilets like it happened to Hon. Khalwale when he was chased by supporters of the Governor of Nairobi. I want us to settle our business outside court.

I am sure Hon. Mbadi, the Chairman of ODM and Hon. Junet, as a serious Luo leader from Migori and a stakeholder and a close ally of my former leader, will talk to each other with Hon. Millie Odhiambo so that, when we come back, the case is withdrawn. But for now, I have no choice. I have looked for one of the best lawyers in town Mr. Ahmednassir Abdullahi to represent me in the case. I want to assure them that I will never go to court because I might suffer the fate Sen. Bonny Khalwale suffered. In my community, if you are chased into a toilet, it is like resigning from my seat.

I beg to move and wish all of us a happy recess in the month of September.

**Hon. ole Kenta:** Thank you, Hon. Deputy Speaker, I would also like to join my colleagues in congratulating the Members for the good job they have done. I am sure when we come back, we will do even more.

I would also like to congratulate our athletes, as my colleagues have done before me. Specifically, I would like to congratulate David Rudisha for the good job he has done. I would like to ask Athletics Kenya to scout for new talent all over the country because I think we have a big resource of talent.

The other important thing as we go on recess is that we should be people who preach peace. I would like to request my colleagues, especially from the pastoralist areas, to ensure they continue with peace caravans so that we can also play a big role in the development of this country.

On the issue of the constitutional deadline for some Bills - I am speaking as an authority as the Vice-Chairperson of the CIOC - I would like to assure Kenyans that the delay has nothing to do with Parliament. In fact, those Bills came when we had less than two days to complete. I am sure the Executive, the Commission for the Implementation of the Constitution (CIC) and the Kenya Law Reform Commission must be told to do their job. This issue of blaming Parliament for the failure of other organs of Government is unacceptable.

I would like, once again, to thank you, Hon. Deputy Speaker, and tell Kenyans that we are of one country and we must build this country. Thank you.

**Hon. Deputy Speaker:** Hon. James Nyikal.

**Hon. (Prof.) Nyikal:** Thank you, Hon. Deputy Speaker for giving me this opportunity. May I also start by congratulating our athletes for the work they are doing out there and for the unity they bring to us. I was really amazed when I saw all sides of the divide watching television, ululating and doing all sorts of things together. I said that I wish we could always be doing everything like this. It reminded me of an experience I had last weekend when about 20 young couples, including my daughter, actually visited me. They were visiting parents and they came from all over Kenya: Kambas, Luos, Kikuyus including even people from Uganda and Rwanda. They said they are couples for peace and harmony and they are actually taking this actively and doing something about it. I cannot re-experience the joy that I saw as the children of these couples were playing in my compound in Nyanza, not quite caring where they come from. I thought, maybe, that is the Kenya we need. If these young people can do that, we should copy them.

Today is also the anniversary of our new Constitution. Whatever else we say; this Constitution has brought us a long way in terms of the Bill of Rights. Importantly, is the issue of devolution. There have been many things said about devolution and about the governors. This is a great thing that we, as Kenyans, brought together. The only thing I will say and I will keep repeating is that politics of devolution have actually overwhelmed the logistics that we need in the process of devolution. If we could throw away the politics and look at the very important logistics and programmes that we need to make devolution work, we will go a long way. I hope as we come back, we will be looking at it.

During the session, we also had issues of corruption. Corruption and ethnicity are probably the biggest challenges to our nationhood and statehood. I am not convinced that we, as a people, are devoted at heart to fighting corruption. I see lip service at all levels, including in institutions we have put in place to fight corruption.

During the session we passed many Bills and discussed constitutional Bills, some of which we may discuss again. Today, we have passed very important Bills, including the Finance Bill. I was particularly happy to note that many of us have noticed that banks, particularly the big ones, need to be checked. I always wonder how, with an interest rate of 15 per cent, you can take a loan from a bank, do business, get profit that covers your overheads, have some money to pay the loan and keep something for yourself to run the business. So, we need to keep the capital base low so that we encourage competition. Before Equity Bank was established, it reached a point where you could not open an account with the big banks, if you had less than Kshs10,000. This locked out a large number of Kenyans.

I was also happy with the Excise Duty Bill in which we targeted agro-products like juice for tax relief. The agro industry is going to be the basis of our growth, particularly for the youth. It is also good to remove tax on *boda bodas*. As Hon. Midiwo said, we should make those motorbikes here. We should transform the East African Community (EAC) into a political union. It is long overdue. We will have time to discuss that later.

Thank you, Hon. Deputy Speaker.

**Hon. Deputy Speaker:** Hon. Katoo ole Metito.

**Hon. Katoo:** Thank you so much, Hon. Deputy Speaker. I also want to add my voice to this Adjournment Motion.

First of all, I congratulate the National Assembly because within the one month we have been here, I have seen Members coming together to debate and vote on four constitutional Bills. That is amazing. It is a great achievement. It is always said that getting two-thirds majority is not easy. However, because of concerted efforts and the bipartisan way this House has been conducting its business, we were able to garner two-thirds majority on four constitutional Bills in a day. That tells us that the 20 per cent of the Constitution that Kenyans said needed to be refined, can be done. If we put our political differences and affiliations aside, we can garner the two-thirds majority to refine our Constitution for the benefit of our citizens.

We have also had a challenge in this short time of one month we have been here. That is the challenge of how to pay our teachers their long overdue salaries that have accumulated due to so many unfulfilled agreements, arising from the court ruling. This is a law-abiding country. Now that the budget-making process is in the purview of this House, we should rise to the occasion when we come back and try to look for ways to respect and abide by that court ruling. We need to look for ways of getting the money for our teachers to avert the year in, year out strikes that interrupt our education calendar. In that regard, I appeal to the teaching fraternity at large to be patient. Schools are opening on Monday and this House is going on recess today.

Therefore, they should be a little bit patient and wait for the one month break to end. Budget-making is now a responsibility of this House. When we come back, as a House, we should really look for ways of bringing a supplementary budget and see which project can be dropped and re-allocate our funding priorities. This is because the ruling came a little bit late when the budget-making had already been done by this House. That is a very big challenge.

I also plead with my colleagues that, as we go for this one month recess, we should really politic less. If we do the politics, let us do the politics of uniting this country. Cohesion and unity are very important for this country because any time we are on recess political temperatures tend to go up. I plead with my colleagues that let us talk on development issues and things that will not divide Kenyans and which will bring this country together. If we tone down our political anecdotes a bit and with the goodwill we have had from our development partners, especially with the just concluded visit of the President of the United States of America (USA), I am sure we are going to unite this country and the economic trajectories, especially the tourism industry, will pick up.

We are in the dry period, especially in the pastoral areas. It is really dry this time. So, I plead with the Government to look into re-organising the grazing zones and also provide relief food for those people.

With those few remarks, I support this Motion.

**Hon. Deputy Speaker:** Hon. Joseph Kiuna

**Hon. J.K. Ng'ang'a:** Thank you, hon. Deputy Speaker. I also support this Motion of adjournment of Parliament. First of all, I thank the Jubilee Government for initiating various



development projects in the entire nation, notably in the roads and security sectors. They have tried to face these challenges. I also thank the Coalition for Reforms and Democracy (CORD) political side because in one way or another, they have been supporting the Government. However, I challenge the leaders that, as we go for this recess, as Hon. Katoo has said, let us preach peace and harmony to our citizens. They are looking upon us and they want to hear what we have for them. Whatever we tell them, that is what they normally do. So, I appeal to all leaders that as they go for their recess, let them speak with one voice of uniting Kenyans, but not dividing them along party or ethnic lines.

Secondly, we are facing some challenges as the Government and as a nation. As leaders, let us not start blaming each other. A good leader is that person who leads by action and who normally looks for solutions to tackle the problems ahead of us. However, this idea of blaming each other does not help. I am saying this because we have heard people who are challenging this sugar issue. They are politicising it and even citizens are now somehow confused. I believe that those people who come from the Western region need to sit down as leaders and ask themselves what challenges they are facing. If it is corruption, how can they tackle the corruption within the industries? If it is improving the productivity, how can they sit down and agree how they can lower it, even if it means increasing the acreage so that the sugar deficit we are facing in the country can be reduced? However, the idea of politicising every issue will not help us as Kenyans.

Hon. Deputy Speaker, I support and would like to tell my fellow colleagues that it is we leaders who will build this nation. At the same time, it is we leaders who can destroy our beloved nation.

Thank you.

**Hon. Mohamed Diriye:** Thank you, Hon. Deputy Speaker. As we adjourn the National Assembly, I also wish to join in congratulating the Kenyan team which is participating in the 2015 IAAF World Championships in Beijing for winning gold medals. They have, indeed, put our country in a very proud position. How I wish Kenyans emulated them. Indeed, we are very proud of them. The Government and all of us should support them. We need to support sports in general.

Secondly, I wish to point out that, today, as we mark five years of the existence of the Constitution 2010 which has brought a lot of good things – a lot of gains have been made in this country – we need to realize that we are still too far from where we would have been. Without fear of contradiction, I can tell you that in many parts of this country, especially, the North Eastern Province, we still have children who do not go to school; the entire education system there has tumbled. Many teachers have run away from the region. Parents and students are struggling. This is a very sorry and embarrassing situation. This should not happen. Kenyans should be patriotic and serve any part of the country. Yes, we know that the main culprit is security. Insecurity is what has drawn us back. This is something that is real. We condole and are really sympathetic to the families of the teachers who lost their lives. We have lost so many teachers in North Eastern Province because of criminals. That is very bad. We condole with the families and friends of the teachers and students who lost their lives during the Garissa University attack. We also condole with the many soldiers who have put their lives in the line to protect this country. The Government must look for a permanent solution with regard to lack of teachers in North Eastern Province. Similarly, the Government must look for permanent security solutions.

I wish to state that there are many good things that have been happening in this country. Parliament has done good work despite the delay in passing some of the Bills. Indeed, this is a bit embarrassing. Sometimes, I think Parliament should focus on the very important things. Here in Parliament, sometimes we spend time on non-issues. We sometimes joke around without concentrating on the real issues affecting Kenyans. There are children in this country who are unable to go to school and there are people who have died because of insecurity and yet, respectable parliamentarians stand on the Floor to talk about personalities such as Raila and others. One feels very embarrassed because there are more serious issues that we should talk about.

**Hon. Deputy Speaker:** Hon. Diriye, are you willing to give your colleague a chance, say a minute, before we close so that we hear the other gender's voice?

**Hon. Mohamed Diriye:** I will give one minute to Hon. Junet. However, before that, I would like to finish. I would like to laud devolution---

*(Laughter)*

**Hon. Deputy Speaker:** No! It is Hon. (Ms.) Sunjeev that I am requesting you give one minute to.

**Hon. Mohamed Diriye:** Hon. Deputy Speaker, I will also plead with you that you give one minute to Hon. Junet because he is seated next to me.

**Hon. Deputy Speaker:** No! No!

**Hon. Mohamed Diriye:** In the interest of time, I want to laud devolution, which is a very wonderful thing. It has actually brought a revolution in this country. It has reformed lives. In Wajir---

**Hon. Deputy Speaker:** Your time is up! Hon. (Ms.) Sunjeev, the Floor is yours.

**Hon. (Ms.) Sunjeev:** Thank you, Hon. Deputy Speaker, for giving me one minute to contribute. I will use it very well.

As we go for recess, it is important that we remember that most Committees have done their work but some have not. We should form an oversight committee to look into those Committees which do not deliver their reports on time.

Finally, I would like to congratulate the Kenyan athletics team that is representing us in Beijing.

I hope everybody will have a great recess.

### ADJOURNMENT

**Hon. Deputy Speaker:** Hon. Members, the time being 6.30 p.m., the House stands adjourned until Tuesday, 29<sup>th</sup> September 2015 at 2.30 p.m.

Have a good recess!

The House rose at 6.30 p.m.