

# NATIONAL ASSEMBLY

## OFFICIAL REPORT

Tuesday, 29<sup>th</sup> November, 2016

The House met at 2.30 p.m.

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

### PRAYERS

### COMMUNICATION FROM THE CHAIR

#### DELEGATION OF WOMEN PARLIAMENTARIANS FROM TANZANIA

**Hon. Speaker:** Hon. Members, I wish to introduce to you a delegation of Women Parliamentarians from the Parliament of the United Republic of Tanzania seated at the Speaker's Gallery. The delegation comprises of the following Members of Parliament and a staff:-

- (i) Hon. Leah Jeremiah Komanya, MP;
- (ii) Hon. Esther Mmasi, MP;
- (iii) Hon. Lucy Mugereli, MP;
- (iv) Hon. Annatropia Theopist, MP; and,
- (v) Ms. Salome Anyoti, member of staff.

Hon. Members, the delegation is in the country on an exchange programme with their KEWOPA counterparts. They have been here since Monday, 28<sup>th</sup> November, 2016, and will depart on Friday 2<sup>nd</sup> December, 2016.

I welcome them to the National Assembly and wish them fruitful engagements in the course of their stay in the country.

### MESSAGE

#### APPROVAL OF NOMINEES FOR APPOINTMENT AS MEMBERS OF NATIONAL CLIMATE CHANGE COUNCIL

**Hon. Speaker:** Hon. Members, pursuant to the provisions of Standing Order No. 42(1) of the National Assembly Standing Orders, I wish to convey to the House a message from His Excellency the President, asking Parliament to approve the following persons for appointment as members of the National Climate Change Council:

- (i) Mr. Suresh Patel;
- (ii) Mr. John Kioli;
- (iii) Ms. Cynthia Wechabe; and,
- (iv) Dr. Jane Mutheu Mutune.

In the Message, His Excellency the President conveys that, in exercise of powers vested in him under Section 7 of the Climate Change Act, 2016, he has nominated the said persons from

the entities listed in sub-section (2), paragraphs (f), (g), (h) and (i) of the Act, respectively. Further, Section 7(4) of the same Act provides that the names of persons nominated for appointment under subsection (2), paragraphs (f), (g), (h) and (i) shall be submitted to Parliament for approval before appointment. A plain reading of Section 7(4) of the said Act implies that the approval process is to be considered by both Houses of Parliament.

Hon. Members, as you may be aware, it is a matter of public notoriety that the approval of appointment of persons to public office generally falls within the province of the National Assembly. Nonetheless, there are exceptional instances where the Constitution or the applicable laws require a bi-cameral approval of public appointments. A precedent was established last year during the appointment of the Inspector-General of Police, whose vetting was undertaken by both Houses of Parliament. In this regard, the vetting process for appointment of members of the National Climate Change Council will proceed in a manner similar to that of the Inspector-General of Police.

Hon. Members, for clarity, allow me to guide the House as follows:-

- (i) The vetting of the nominees for appointment as members of the National Climate Change Council shall be conducted by the Departmental Committee on Environment and Natural Resources, jointly sitting with the relevant Committee of the Senate;
- (ii) The quorum of the joint sittings will be the respective quorums of each of the Committees as stipulated in the respective Standing Orders;
- (iii) As contemplated under Rule 9(6) of the Joint Rules, unless a decision is reached by consensus, any vote to be taken in the joint sittings of the Committees shall be by the separate Houses' Committee to ensure that the numerical difference of the individual Members representing the two Houses in the joint sittings has no effect on the decisions of the joint sittings of the Committees;
- (iv) The joint Committees shall, having conducted the vetting hearings, submit a Joint Report to the respective Houses in the manner contemplated by paragraph 7 of Joint Rule No. 9; and,
- (v) The approval process shall be conducted in accordance with the provisions of the Public Appointments (Parliamentary Approval) Act of 2011.

Hon. Members, Section 8 of the Public Appointments (Parliamentary Approval) Act, 2011 provides that the relevant Committee should table its report for consideration within 14 days from the date when the notification of nomination is conveyed to the House. The Act also requires that the public be given seven days' notification for submission of views regarding the suitability, or otherwise, of nominees proposed for appointment to an office requiring approval of Parliament. In this regard, and in accordance with the provision of Article 259(5) (a) of the Constitution as read together with Section 5 of the said Act, the counting of the seven days' notification to the public shall start running on the day following the day when the notice is published in the dailies.

Further, Section 9 of the said law provides thus:

“If after the expiry of the period for consideration specified in Section 8, Parliament has neither approved nor rejected a nomination of a candidate, the candidate shall be deemed to have been approved.”

Hon. Members, it is, therefore, advisable that the concerned committees expeditiously proceed to jointly notify the nominees and the public. Thereafter, the two committees should commence the joint approval hearings and table a joint report in good time to enable the Houses of Parliament to consider the report. This message, together with the resumes of the nominees,

stand committed to the Departmental Committee on Environment and Natural Resources, sitting jointly with their Senate counterparts, as earlier explained.

Thank you.

## PETITION

### IRREGULAR ACQUISITION OF LAND IN NDALANI WARD

**Hon. Speaker:** Member for Yatta, Hon. Kilonzo Mwangangi.

**Hon. Kilonzo:** Hon. Speaker, I present a Public Petition regarding irregular acquisition of land in Ndalani Ward of Yatta Constituency, Machakos County.

I, the undersigned, on behalf of area residents of Kivingoni Sub-location, Ndalani Ward, Yatta Constituency, Machakos County, draw the attention of the House to the following:

THAT, the Ndalani Ward residents have lived on land plot numbers, 12, 81, 88, 89, 90, 95, 102, 121, 122, 125, 126, 154, 166, 167, 210, 249, 272, 279, 282, 292 and 472 for over 30 years;

THAT, those area residents do not at present hold any title deeds to the land in question;

THAT, in the recent past, unknown persons from a different community have been raiding Kivingoni Sub-location in Ndalani Ward at night and forcefully taking over the aforementioned pieces of land;

THAT, those people have not only been chasing away residents of the area from their land, but have also been destroying existing homes and properties in the process;

THAT, this has caused tension between the two communities which might consequently lead to ethnic violence if not addressed with immediately effect; and,

THAT, the matter in respect of which this Petition is made is not pending before any court of law.

Therefore, your humble Petitioners pray that the National Assembly, through the Departmental Committee on Lands:

- (i) Visits the affected area with the relevant Ministry and the National Land Commission, inquires into that matter and ensures that the rightful owners of the land receive their titles.
- (ii) Recommends that area residents who have had their homes and properties destroyed be compensated and also provided with humanitarian aid.
- (iii) Recommends that actions be taken against all those found culpable or complicit in causing displacement of area residents from their homes, and,
- (iv) Makes such other further order and direction that it deems fit in the circumstances of the case.

And your Petitioners will ever pray.

Thank you, Hon. Speaker.

**Hon. Speaker:** Member for Makueni, do you want to comment on the Petition?

**Hon. Maanzo:** Yes. Thank you, Hon. Speaker. I would like to support this Petition by saying that Yatta Constituency borders Murang'a County. It is true that there has been an issue with land allocation. There is always presumption of ownership if somebody has settled on a piece of land for over 12 years. In this case, it is 30 years. There must be a way that person is associated with that land and, most importantly, ownership conferred to that person. Due to the fact that the area is inhabited by a mixture of different ethnic groups, it is good that the

Committee takes care of it. Land is a very emotive issue in this country. We do not want to end up with local land clashes of some sort. When people become impatient or when someone is evicted from a piece of land, there are problems. Those people have been staying on that piece of land with their families and have developed it for over 30 years.

I support. Thank you, Hon. Speaker.

**Hon. Speaker:** Member for Igembe Central.

**Hon. Kubai Iringo:** Thank you, Hon. Speaker for giving me this opportunity. I stand to support the Petition. Land issues are very emotive. There are a lot of problems with land issues. There are people who are bent on taking land from communities.

The Departmental Committee on Lands should look into this matter critically because that is what brings chaos and even clashes among our people. Even in my constituency, we have huge chunks of land whose title deeds have not been issued because some people claim that the land is theirs. But the original people have lived there for 30 to 40 years. Other people come and use officers in the Land's Office to interfere with its demarcation and, at the end of the day; they claim that land belongs to somebody because they have an intention of selling the land to themselves or giving it to their friends. That should be looked into seriously.

Thank you, Hon. Speaker.

**Hon. Speaker:** Member for Kwanza.

**Hon. F.K. Wanyonyi:** I stand to support the Petitioner. We are getting into an election mood. This kind of thing should be avoided at all costs because we know that when something like that starts, and as I am told by the Petitioner, the two communities adjacent to each other--- My advice is that the relevant authorities, Cabinet Secretary for Lands and the Departmental Committee on Lands should take it very seriously because we are getting into an election mood. Something like that can happen and we have clashes in a place like Yatta which I have been to and is a very peaceful place.

I support the Petition. Let us move fast to avert that kind of thing. Thank you.

**Hon. Speaker:** Member for North Imenti.

**Hon. Dawood:** Thank you, Hon. Speaker. While I join my colleagues in supporting this Petition, I just want to bring to your attention that I have got a Petition that has lasted for more than six months. The CS for Interior and Coordination of National Government was supposed to come, about a month and half ago, and address it. I have even requested the Chairman that if the CS cannot be available, I can be given a written reply from the CS? If he is not available, we can be given a written reply, instead of a Petition staying in the Committee for more than nine months.

Hon. Speaker, I would like your ruling on that because there is no point of waiting for the CS because he is busy all the time.

Thank you, Hon. Speaker.

**Hon. Speaker:** Do a formal communication so that we can make an appropriate direction because the Chairman of the Committee is not present. The Vice-Chairman is here. Hon. Lentoimaga, what is your response to the complaint by the Member for Imenti North?

**Hon. Lentoimaga:** Hon. Speaker, I need to take this issue, check with the Committee and then give a feedback. I do not have an answer right away.

**Hon. Speaker:** What do you mean? Do you not have a record of Petitions submitted to the Committee?

**Hon. Lentoimaga:** I do not have it here now. I need to check with the Committee.

**Hon. Speaker:** Can you liaise with the Member and report back tomorrow afternoon?

**Hon. Lentoimaga:** Yes. Thank you so much.

**Hon. Speaker** Hon. Dawood, liaise with the Vice-Chair of the Committee. I want a Report tomorrow on the status of that Petition.

There being no other interest to comment on that Petition, it is referred to the Departmental Committee on Lands. Next Order.

**Hon. Njuki:** On a point of order, Hon. Speaker.

**Hon. Speaker:** Member for Chuka/Igambang'ombe, what is your point of order? Is it about Petitions?

**Hon. Njuki:** Hon. Speaker, it is about Petitions. This is a very pertinent and serious issue, in my opinion. This House and its Committees, according to Article 125 (2) of the Constitution, enjoy the same powers as those of the High Court.

Hon. Speaker, I want to bring to your attention the fact that I brought a Petition in this House on 9<sup>th</sup> August 2014 on the removal of the appointed liquidator of Chuka Farmers Co-operative Society Limited. The Petition was taken very seriously by the members of the Departmental Committee on Agriculture, Livestock and Co-operatives. They did a very thorough job, which included visiting the constituents and listening to their plea. They called the Cabinet Secretary (CS), the Principal Secretary (PS) and the Commissioner of Co-operatives on this issue. It was dealt with for a total of more than six months. They had, in fact, allowed an extension.

It is important to note that they came up with a very comprehensive report which recommended the following:

- (i) That the Government puts on hold the liquidation process of Chuka Farmers' Co-operative Society; and,
- (ii) That the Ethics and Anti-Corruption Commission (EACC) investigates any malpractice in the liquidation process.

That happened one year down the line. On Tuesday 22<sup>nd</sup> November, 2016 the new Commissioner gazetted the same liquidator to continue with the process of finalising the liquidation. Really, even if we had a shortage of workforce in this country--- The Gazette Notice on Folio No. CXV 146 appoints Mr. Obedi Mbae, who is the County Director of Audit in Isiolo County, to be a liquidator of the Chuka Farmers Co-operative Society. That is the same fellow who the Petition was against and the recommendation of the Departmental Committee of the National Assembly was that he should be investigated by EACC. It is important to note that this Report was brought to the attention of the CS for Industrialisation, Mr. Adan Mohamed. It was also brought to the attention of Mr. Joseph Kinyua CBS, Chief of Staff and also to the CEO of EACC.

Hon. Speaker, the Committees cannot sit in futility. The Committee did its job. It actually came up with recommendations. So, for the same liquidator to be brought back to finish the liquidation, it means that there is a personal interest either by the present Commissioner or the liquidator himself. For them to overlook the Report by the Committee and its recommendations and go back to install the same liquidator, tells a lot. I seek your guidance, Hon. Speaker. The Departmental Committee of Agriculture, Livestock and Co-operatives should be asked to re-look into this issue and give a way forward. That is because we cannot be legislating in futility as far as these matters are concerned.

With those few remarks, I would like to thank you.

**Hon. Speaker:** The Committee recommended that the process be stopped and be investigated by EACC. Is that correct?

**Hon. Njuki:** Yes, Hon. Speaker.

**Hon. Speaker:** And now the new Commissioner of Co-operatives is gazetting the same liquidator. It seems like there is lack of knowledge. Where is the Chairman of the Departmental Committee on Agriculture, Livestock and Co-operatives? If the Chairperson of that Committee is not present, then that is a matter of the Committee on Implementation. Who is the Chairperson of the Committee on Implementation? Is it Hon. Soipan? She is absent not desiring to be present. Where is the Vice-Chairperson of that Committee? He is absent having forgotten when the Assembly sits, or is he paying attention to 8<sup>th</sup> August, 2017?

**Hon. Mirenga:** Kaluma!

**Hon. Speaker:** Why would anybody be saying that Hon. Kaluma is a Vice-Chairman? Whose Vice-Chairman is he? Are you sure?

**Hon. Mirenga:** Yes!

**Hon. Speaker:** Hon. Ken Obura, you like joking a lot.

**Hon. Mirenga:** (*Inaudible*)

**Hon. Speaker:** Not of a political party branch. He is of a Committee of Parliament. Anyway, who can take up this matter on implementation? This is a serious matter? A decision of this Committee--- Leader of the Majority Party, please, take up this matter. Maybe, that Committee should call those people by Thursday this week to come and explain to the Committee why they are going against the recommendations of the House.

**Hon. A.B. Duale:** Thank you, Hon. Speaker. I am told that Hon. Kaluma is not the Vice-Chairman of that Committee. He was clobbered at the instigation of Hon. Wanga, but we will help him. He was clobbered in front of *Baba*. We will help him. We will fund-raise for his medical bill. It is not fair.

Hon. Speaker, I will consult with the Departmental Committee on Agriculture, Livestock and Co-operatives and that one of implementation. I will then ask both Chairpersons to report to the House tomorrow afternoon just the way you have directed the Vice-Chairperson of Departmental Committee on Administration and National Security. I think now the Chairpersons must report to the House. So, I will ask both Chairpersons to report to the House on the progress.

Please, let us all send our good wishes of recovery to Hon. Kaluma. He is one of us. This is the beginning of clobbering.

**Hon. Speaker:** Very well. I hope the clobbering is not part of that report so that officials are not clobbered.

Hon. Muthomi.

**Hon. Njuki:** Hon. Speaker, what I read in the whole move by a liquidator lobbying to come back is that there may be a possibility that he left unfinished business, which he might implement in this new widow of gazettelement. Probably, it is selling the property belonging to the co-operative society to him. If this matter takes longer, it may be a little bit late by the time the Committee acts. Therefore, I ask you to treat it as urgent and recommend that the Commissioner of Co-operatives be called and asked to revoke the gazette notice.

**Hon. Speaker:** There is need to do that. Let the Leader of the Majority Party communicate to the Chairpersons of the Committees. Indeed, the Chairperson of the Implementation Committee should be the one to take up the matter so that they can stop any further action in defiance of the recommendations of this House. They should report, as we have agreed, tomorrow afternoon.

Next Order.

## PAPERS LAID

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

Annexure to the Budget Policy Statement on Programme, Sub-Programmes, Expected Outcomes, Outputs and Key Performance Indicators;

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

- (a) Kilgoris Constituency;
- (b) Emurua Dikirr Constituency;
- (c) Baringo South Constituency;
- (d) Kuresoi North Constituency;
- (e) Kangema Constituency;
- (f) Runyenjes Constituency;
- (g) Buuri Constituency;
- (h) Sirisia Constituency; and
- (i) North Horr Constituency.

**Hon. Speaker:** The Annexure to the Budget Policy Statement on Programmes, Sub-Programmes, Expected Outcomes, Outputs and Key Performance Indicators is referred to the Budget and Appropriations Committee to consider alongside the Budget Policy Statement (BPS).

The Vice-Chairperson, Departmental Committee on Lands - Hon. ole Sakuda.

**Hon. ole Sakuda:** Hon. Speaker, I beg to lay the following Papers on the Table of the House:-

Reports of the Departmental Committee on Lands on:

Its consideration of the Land Value Index Laws (Amendment) Bill, 2016; and,

The Land Dispute in Solai between the shareholders and directors of Nyandarua Progressive Agencies Limited in Nakuru County.

Thank you.

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

## NOTICE OF MOTION

### ADOPTION OF REPORT ON LAND DISPUTES IN SOLAI

**Hon. ole Sakuda:** 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 disputes in Solai between the shareholders and directors of Nyandarua Progressive Agencies Limited in Nakuru County, laid on the Table of the House on Tuesday, 29<sup>th</sup> November 2016.

Allow me to point out a Report that we received today, with regard to the reports that we have tabled in the House. This morning, the Departmental Committee on Lands received a Report from the Director of Litigation and Compliance regarding a Report that the Committee did and tabled on 24<sup>th</sup> November 2015 with regard to Mombasa Cement. The directors of that company moved to the High Court and they are trying to find ways of stopping that Report and its recommendations to move forward. It is our humble request as a Committee that, as the

House Business Committee sits today you, at least, give priority to that Report because we tabled it a year ago for it to be debated in this House, either to be adopted or rejected so that it is not overtaken by events outside this House.

With that, I thank you Hon. Speaker.

**Hon. Speaker:** Very well. I think the Clerk's Department should take note of that and bring it up at the House Business Committee.

## MOTIONS

### REPORT OF THE COMMITTEE OF THE WHOLE HOUSE ON THE INSURANCE (AMENDMENT) BILL

THAT, this House doth agree with the Report of Committee of the whole House on its consideration of the Insurance (Amendment) Bill (National Assembly Bill No. 28 of 2016).

**Hon. Speaker:** Order, order Members! From records, debate on this Motion was concluded last week. What remained was for the Question to be put, which I hereby do.

*(Question put and agreed to)*

The Leader of the Majority Party!

**Hon. A.B. Duale:** Hon. Speaker, I beg to move that the Insurance (Amendment) Bill (National Assembly Bill No. 28 of 2016) be now read the Third Time.

I also ask Hon. Washiali, Deputy Whip of the Majority Party, who had a scuffle with the governor of Kakamega, to second.

**Hon. Speaker:** Hon. Washiali?

**Hon. Washiali:** Thank you, Hon. Speaker. I second and also correct that I did not clobber anybody. Thank you.

**Hon. Speaker:** Order, Members!

*(Question proposed)*

After confirming that we have the requisite numbers, I put the Question.

*(Question put and agreed to)*

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

### REPORT OF THE COMMITTEE OF THE WHOLE HOUSE ON THE THE UNIVERSITIES (AMENDMENT) BILL

THAT, this House doth agree with the Report of Committee of the whole House on its consideration of the Universities (Amendment) Bill (National Assembly Bill No. 66 of 2015).

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



*(Question put and agreed to)*

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

**Hon. A.B. Duale:** Hon. Speaker, I beg to move that the Universities (Amendment) Bill (National Assembly Bill No. 66 of 2015) be now read the Third Time.

I request Hon. Washiali to second.

**Hon. Speaker:** Hon. Washiali.

**Hon. Washiali:** Hon. Speaker, I second.

*(Hon. Angwenyi walked in)*

**Hon. Speaker:** The elderly Member of Kitutu Chache North Constituency, settle down.

*(Hon. Angwenyi sat in his place)*

*(Question proposed)*

*(Question put and agreed to)*

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

## COMMITTEE OF THE WHOLE HOUSE

*(Order for Committee read)*

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

### IN THE COMMITTEE

*(The Temporary Deputy Chairman  
(Hon. Cheboi) took the Chair)*

### THE COMPETITION (AMENDMENT) BILL

**The Temporary Deputy Chairman** (Hon. Cheboi): Order, Members! We are now at the Committee of the whole House on the Competition (Amendment) Bill (National Assembly Bill No. 24 of 2016).

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

So, we are now doing the Committee of the whole House on the Competition (Amendment) Bill (National Assembly Bill No. 24 of 2016).

*(Clause 3 agreed to)*

*(Clauses 4, 5, 6, 7, 8 and 9 agreed to)*

*Clause 10*

**The Temporary Deputy Chairman** (Hon. Cheboi): Let us have the representation of the Departmental Committee on Finance, Planning and Trade.

*(Loud consultations)*

**Hon. Gaichuhie:** Thank you, Hon. Temporary Deputy Chairman.

**The Temporary Deputy Chairman** (Hon. Cheboi): Order Members, the consultations are a bit too high.

Okay, proceed.

**Hon. Gaichuhie:** Hon. Temporary Deputy Chairman, I beg to move:

THAT, clause 2 of the Bill be amended by deleting paragraph (b) and substituting therefor the following paragraph—

(b) by deleting the definition of the term “undertaking” and substituting therefor the following new definition—

“undertaking” means any business intended to be carried on, or carried on for gain or reward by a person, a partnership or a trust---

**The Temporary Deputy Chairman** (Hon. Cheboi): Order, Hon. Vice-Chair. Are you doing Clause 2 or Clause 10? We are in Clause 10.

**Hon. Gaichuhie:** Sorry, Hon. Temporary Deputy Chairman. I beg to move:

THAT, clause 10 of the Bill be amended by deleting paragraph (a) and substituting therefor the following paragraph—

(a) by deleting subsection (1) and substituting therefor the following subsection-

(1) The Authority may, in consultation with the Cabinet Secretary and by notice in the *Gazette*, set the threshold for any merger excluded from the provisions of this Part.

The proposal in the Bill seeks to vest the powers to set the threshold or a merger with the Competition authority and not the Cabinet Secretary (CS).

**The Temporary Deputy Chairman** (Hon. Cheboi): Okay.

*(Question of the amendment proposed)*

We will have the Hon. Leader of the Majority Party.

**Hon. A.B. Duale:** Hon. Temporary Deputy Chairman, I support. There are mergers that take place within the economy. Big companies, multi-national corporations (MNCs), small companies and medium companies merge. The power to set the threshold for any type of merger must be decided by none other than the Competition Authority of Kenya. That is the import of the amendment. This was not in the original Bill. I want to thank the Departmental Committee on Finance, Planning and Trade for incorporating it.

Of late, we have seen several mergers take place in the financial sector. We have seen banks, insurance companies and other reputable firms merging. The threshold is to the extent that

the small and medium sized companies that merge do not necessarily need to go through the big bureaucratic procedure of the merging process. So, it is about who sets the threshold. It is the Competition Authority of Kenya that says, “Your merger is at this level.”

I beg to support.

**The Temporary Deputy Chairman** (Hon. Cheboi): Okay. Let us have Hon. Jones Mlolwa, Member for Voi. Do you want to speak to this one?

**Hon. Mlolwa:** No, but I support.

**The Temporary Deputy Chairman** (Hon. Cheboi): You support, anyway.

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

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

*(Clause 10 as amended agreed to)*

*(Clauses 11 and 12 agreed to)*

*New Clause*

**The Temporary Deputy Chairman** (Hon. Cheboi): Let us have the Mover to move the reading of the New Clause a Second Time. That should be the Hon. Leader of the Majority Party.

**Hon. A.B Duale:** It is not mine. Why should I move it? It is for the Committee.

**The Temporary Deputy Chairman** (Hon. Cheboi): Really? I thought you are the Mover. Hon. Gaichuhie, are you the one to move it?

**Hon. A.B Duale:** It is the Committee bringing the New Clause.

**The Temporary Deputy Chairman** (Hon. Cheboi): Hon. Gaichuhie, are you prepared?

**Hon. Gaichuhie:** Yes. We have a New Clause. Hon. Temporary Deputy Chairman, I beg to move:-

THAT, the Bill be amended by inserting the following new clause immediately after Clause 11—

Amendment of section  
48 of No. 12 of 2010

11A. Section 48 of the principal Act is amended by inserting the following subsection immediately after subsection (1)—  
(1A) Upon receipt of a written decision as contemplated under section 46(6) from the Authority, a party may file an appeal to that decision to the Tribunal.

The justification of this is that the party should be allowed to file an appeal rather than wait for the Gazette Notice. This is because there is often a significant time lapse between the authority issuing its written decision and the time it is gazetted. The import is to allow for an appeal to continue before gazettment.

*(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 Chairman** (Hon. Cheboi): Okay. I will give the opportunity to Hon. Duale who, in my opinion, is supposed to have been the Mover of the New Clause. However, it is much easier when it is you, Hon. Gaichuhie, moving it.

**Hon. A.B. Duale:** Hon. Temporary Deputy Chairman, you are right. The Committee is being clear on the time lapse. There is a lapse between the time when the Competition Authority of Kenya issues its written decision for approval or for rejecting and the time for publication of the same in the Gazette Notice. That time lapse is what the amendment is dealing with.

I support.

**The Temporary Deputy Chairman** (Hon. Cheboi): Okay. Let us have Hon. Abdul Dawood Rahim, Member for Imenti North.

**Hon. Dawood:** Thank you, Hon. Temporary Deputy Chairman. I join my wise Chairman in agreeing to this. I believe everybody should be given ample time to file an appeal. That should be the best way to go because anybody aggrieved should be afforded the time and be heard as well.

**The Temporary Deputy Chairman** (Hon. Cheboi): Let me give Hon. Waititu, Member for Juja. Do you want to speak to this one?

**Hon. Francis Waititu:** No.

**The Temporary Deputy Chairman** (Hon. Cheboi): Okay, let us have Hon. Kathuri Murungi, Member for Imenti South.

**Hon. Murungi:** I hope you are talking about New Clause 11A.

**The Temporary Deputy Chairman** (Hon. Cheboi): Yes, we are there, but the difference is that we are having it to be part of the Bill.

**Hon. Murungi:** This is a very good clause. However, my concern is that we could put a time frame as to when that decision can be challenged.

**The Temporary Deputy Chairman** (Hon. Cheboi): That is fairly late. You should have spoken in the first bit, but it is okay. We can proceed.

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

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

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

## *Clause 2*

**Hon. Gaichuhie:** Hon Temporary Deputy Chair, I beg to move:-

THAT, Clause 2 of the Bill be amended by deleting paragraph (b) and substituting therefor the following paragraph—

(b) by deleting the definition of the term “undertaking” and substituting therefor the following new definition—

“undertaking” means any business intended to be carried on, or carried on for gain or reward by a person, a partnership or a trust in the production,

supply or distribution of goods or provision of any service and includes a trade association.

We propose this amendment because it captures the future intention of undertaking rather than what it currently is in the Bill. So, the proposed amendment has far reaching implications and will result in transactions which do not require any merger assessments because once a business is registered and is dormant, it cannot be quantified as competing.

*(Question of the amendment proposed)*

**The Temporary Deputy Chairman** (Hon. Cheboi): Let us have Hon. William Kipkemboi, the Member for Marakwet West.

**Hon. Kisang:** Thank you, Hon. Temporary Deputy Chairman. I support the proposal to amend. This is to clarify what “undertaking” means in this clause.

**The Temporary Deputy Chairman** (Hon. Cheboi): Very well. Seeing no interest, I will put the Question.

*(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)*

*(Title agreed to)*

*(Clause 1 agreed to)*

**The Temporary Deputy Chairman** (Hon. Cheboi): We have come to the end of this particular Bill. I now call upon the Mover to move reporting.

**Hon. A.B. Duale:** Hon. Temporary Deputy Chairman, I beg to move that the Committee doth report to the House its consideration of the Competition (Amendment) (National Assembly Bill No. 24 of 2016) and its approval thereof with amendments.

*(Question proposed)*

*(Question put and agreed to)*

**The Temporary Deputy Chairman** (Hon. Cheboi): Hon. Members, let us proceed to the Contempt of Court Bill (National Assembly Bill No. 32 of 2016).

#### THE CONTEMPT OF COURT BILL

*(Clauses 3 and 4 agreed to)*

*Clause 5*

**Hon. Chepkong’a:** Hon. Temporary Deputy Chairman, I beg to move:

THAT, Clause 5 of the Bill be amended—

(a) in paragraph (a) by deleting the word “and”; and,

(b) by deleting sub clause (2).

**Hon. A.B. Duale:** --- (*Off record*)

**Hon. Chepkong’a:** Hon. Temporary Deputy Chairman, the Leader of the Majority Party is telling me to move amendments with reasons. He is already intimidating me.

**The Temporary Deputy Chairman** (Hon. Cheboi): Hon. Chepkong’a, you are protected.

**Hon. Chepkong’a:** Hon. Temporary Deputy Chairman, we are seeking to clean up some of the things that were put in the Bill. For instance, in Clause 5(a), we are deleting the word “and”. We are also deleting Sub-clause 2 because Clause 6 speaks to the same matter addressed by Clause 5(2).

*(Question of the amendment proposed)*

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

*(Clause 5 as amended agreed to)*

#### *Clause 6*

**Hon. Chepkong’a:** Hon. Temporary Deputy Chairman, I beg to move:

THAT, Clause 6 of the Bill be amended by deleting the words “in the course of the hearing of a proceeding” appearing in paragraph (c).

Hon. Temporary Deputy Chairman, we are just tidying up the Bill. If you disobey an order of the court, it may not necessarily be in the course of the hearing. It could be that you are seated and you merely disobeyed the court when no hearing is going on.

*(Question of the amendment proposed)*

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

*(Clause 6 as amended agreed to)*

*(Clause 7 agreed to)*

#### *Clause 8*

**Hon. Chepkong’a:** Hon. Temporary Deputy Chairman, I beg to move:

THAT, Clause 8 of the Bill be amended by inserting the words “with the leave of the court” immediately after the words “the Director of Public Prosecutions”.

Hon. Temporary Deputy Chairman, we are saying that the Director of Public Prosecutions (DPP) must only prosecute a person with the leave of the court.

*(Question of the amendment proposed)*

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

*(Clause 8 as amended agreed to)*

*(Clauses 9, 10, 11 and 12 agreed to)*

*Clause 13*

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

THAT, Clause 13 of the Bill be amended—

(a) in Sub-clause (1) by deleting the words “reasonable grounds” and substituting therefor the word “reason”; and

(b) in Sub-clause (3) by deleting the words “reasonable grounds” and substituting therefor the word “reason.”

We are seeking to replace the words “reasonable grounds” with the word “reason”. The word “reason” is the legal terminology that ought to have been used.

*(Question of the amendment proposed)*

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

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

*(Clause 13 as amended agreed to)*

*(Clauses 14, 15, 16, 17 and 18 agreed to)*

*Clause 19*

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

THAT, Clause 19 of the Bill be amended in sub clause (2) by—

(a) deleting the words “at the discretion of”; and

(b) inserting the word “reasonable” immediately after the words “it may be subject to”.

**The Temporary Deputy Chairman** (Hon. Cheboi): What is it, Hon. Neto?

**Hon. Oyugi:** I want to contribute to the amendment on Clause 19.

**The Temporary Deputy Chairman** (Hon. Cheboi): Let us first hear Hon. Chepkong'a's justification.

**Hon. Chepkong'a:** Hon. Temporary Deputy Chairman, I want to confirm to the House that Hon. Neto contributed quite effectively on these amendments. It is in order for him to support the Chairman of the Departmental Committee in the process of moving his amendments.

We are seeking to remove the term “at the discretion of”. As we pass this law, we do not want to leave the discretion to the magistrate or the judge. They should act in accordance with the law passed by Parliament.

*(Question of the amendment proposed)*

**The Temporary Deputy Chairman** (Hon. Cheboi): I will give the first opportunity to the Leader of the Majority Party, who will be followed by Hon. Neto. Hon. Neto, are you from Homa Bay County?

**Hon. Oyugi:** Yes, Hon. Temporary Deputy Chairman.

**Hon. A.B. Duale:** He is a living example of how Hon. Kaluma was clobbered and he was there. So, in case he wants to go to the police, he has a living witness, *Baba* included, as *Baba* was sitting there.

Hon. Temporary Deputy Chairman, I support the deletion of the words “at the discretion of” and the insertion of the word “reasonable”.

Hon. Temporary Deputy Chairman, you are a lawyer. You know that when you go to court, there are many things that happen to the human being, even how you look at the judge or the magistrate, whether she is lady judge or a lady magistrate. On the basis of that, you might be offending. Therefore, I think it should not be at the discretion of the judge. She can sentence you to 20 years imprisonment just because of looking at her. I agree with the Chairman on his amendment of inserting the word “reasonable”. It must be in law and that is why we have the Contempt of Court Bill. Before this Bill is passed, if you are found drinking in a court room, you can be jailed for six years. That is the spirit and the objective of this piece of legislation before the House.

**The Temporary Deputy Chairman** (Hon. Cheboi): Hon. Neto.

**Hon. Oyugi:** Thank you, Hon. Temporary Deputy Chairman. First, I confirm that I come from Homa Bay County which is the county of wrestlers and we also wrestle with many other things.

I would like to support this particular amendment by the Committee Chair. Indeed, what Hon. Duale said is true and it is what informed the Committee. We were trying to tame the discretion of the judge. So, we were removing discretion but giving the judge yet another thing of saying whatever they think is reasonable but, at least, deleting the discretion.

Therefore, I support this particular amendment.

**The Temporary Deputy Chairman** (Hon. Cheboi): Okay. Having confirmed that you are from Homa Bay County, you are obviously severely disadvantaged. Looking at your physic, it is, indeed, a county of---

*(Laughter)*

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

*(Question, that the word to be inserted be inserted,*



*put and agreed to)*

*(Clause 19 as amended agreed to)*

*(Several Hon. Members walked into the Chamber)*

**The Temporary Deputy Chairman** (Hon. Cheboi): What is it, Hon. Members? I find some excitement along the alleys coming to the Chamber. I realise it is Hon. Kaluma, who comes from the county of wrestlers. That is what we have just been informed. Hon. Kaluma, feel welcome into the Chamber and you definitely are a safe man inside here.

**Hon. Kaluma:** On a point of order, Hon. Temporary Deputy Chairman.

**The Temporary Deputy Chairman** (Hon. Cheboi): What is your point of order, Hon. Kaluma? I hope it is not going to be a personal statement.

**Hon. Kaluma:** It is not a personal statement. Before I contribute, I want to remind my colleagues here to take their time here very seriously. Some people out there can kill for this seat we are sitting on.

*(Laughter)*

Hon. Temporary Deputy Chairman, I barely survived death when I thought I was just arranging a venue waiting for my party leader. However, the media got it wrong. My party leader had not arrived.

Hon. Duale, I have heard you from outside. If you have contributions, make them, but be careful. May I use this occasion to request our security as Members of Parliament to be very alert? I nearly died.

**The Temporary Deputy Chairman** (Hon. Cheboi): Hon. Kaluma, you have some very valid observations and, probably, fears, but let us have it at the right time. We are dealing with Contempt of Court Bill. I am sure the wrestling could have been contemptuous. It is really not relevant to this one

**Hon. Kaluma:** I nearly died. It is very contemptuous of leadership. It is a very serious issue. I nearly died.

**Hon. A.B. Duale:** On a point of order, Hon. Temporary Deputy Chairman.

**The Temporary Deputy Chairman** (Hon. Cheboi): What is your point of order, the Leader of the Majority Party? Let us not digress too much.

**Hon. A.B. Duale:** Hon. Temporary Deputy Chairman, I want Hon. Kaluma to listen to me. I formed the Orange Democratic Movement (ODM). I am a good friend of *Baba*. You are a victim of circumstances and *Baba* is aware why you have been beaten.

*(Laughter)*

Therefore, you should go and find out what you did to *Baba* that annoyed him for you to be clobbered in front of him.

**The Temporary Deputy Chairman** (Hon. Cheboi): That is obviously not a point of order. Please, let us not bring in issues of working under anybody or things like those. Hon. Members, that will not be particularly relevant. I see the Member for Ugunja. What is it Member

for Ugunja? You must be very careful because if it is not a point of order, you know the consequences are dire.

**Hon. Wandayi:** Hon. Temporary Deputy Chairman, I have risen to put the record straight.

Firstly, Hon. Kaluma is a very valuable member of ODM. Having said that, the scuffle that happened between Hon. Kaluma and the other gentleman is something which is internal and we are addressing it thoroughly. Therefore, the comments by Hon. Duale are misplaced because ODM is a very organised and orderly party.

**The Temporary Deputy Chairman** (Hon. Cheboi): Member for Ugunja, you are completely out of order. Hon. Members, please, can we proceed now?

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

**The Temporary Deputy Chairman** (Hon. Cheboi): What is it, Member for Gem? I do not know why there is a lot of excitement about this.

**Hon. Midiwo:** Hon. Temporary Deputy Chairman, these people are making a joke out of a very big thing. One of us nearly lost his life. You saw him being tossed from the truck. I have had occasions to consult and I am told he was rolled down like how a snake would take its prey.

*(Laughter)*

I am also told that, that gentleman who went to attack him was armed.

Last week, I consulted the Leader of the Majority Party and I said that before we go for elections, we must make this issue of violent campaigns to stop, so that we must not be fist fighting when we look for seats. I hope the Chair of the Justice and Legal Affairs Committee is listening. Hon. Temporary Deputy Chairman, I thank you for allowing us. I have also been told that that crook has also gone to the police to try to have Hon. Kaluma arrested. It is not a good thing. You know the way you in Jubilee are misusing the police. Anything can happen to a member of the ODM. You know what has been happening lately to Governor Kingi and Hon. Lempurkel. You know what is happening. This could be one of those incidents.

**The Temporary Deputy Chairman** (Hon. Cheboi): Hon. Members, we are not going to proceed with that debate. A seasoned member like the Member for Gem would obviously know how to bring that before the House. Let us not debate it. I can see Hon. Jessica Mbalu. I am sure we will now be getting out of the wrestling zone. I hope you will not have something to do with this, but to do with Contempt of Court Bill.

**Hon. (Ms.) Mbalu:** Thank you, Hon. Temporary Deputy Chairman. As I try to bring the members back to what we were doing, which is of course law making; allow me, on behalf of the Members of the National Assembly, to say *pole* to Hon. Kaluma.

*(Laughter)*

**The Temporary Deputy Chairman** (Hon. Cheboi): Let me tell you, Hon. Members. I think you are taking this too far. I can see there is a lot of interest in this. I do not know what, for example, very senior members like Hon. Wafula Wamunyinyi, Hon. Munuve, Hon. Nyamunga or Sakwa Bunyasi, would want to say. Let me give half a minute to each of these Members. Let us start with Hon. Wafula Wamunyinyi.

**Hon. Wamunyinyi:** Thank you, Hon. Temporary Deputy Chairman. This is not a laughing matter. It is very serious. When I saw a man lying on another one, I did not know it was Hon. Kaluma.

*(Laughter)*

Then there was another lady who seemed like she was enjoying. She was clapping. This is very serious now. I want to say sorry to my colleague. I did not know it was him and I hope it will not affect his re-election.

**The Temporary Deputy Chairman** (Hon. Cheboi): Member for Kanduyi, you know not everybody has the physic that you have. So, sometimes, some of these things do happen. However, Members, I hope you are not going to delve too much into that. Can we now stop it there, unless Hon. Nyamunga has something different?

Hon. Simba Arati, I am not going to give you any chance. There should be no *pole* here because this is the Contempt of Court Bill. So, let us not go out of it. We must stick to the Standing Orders by being relevant.

**Hon. (Ms.) Nyamunga:** Hon. Temporary Deputy Chairman, let me take this opportunity to thank you for giving me this chance. What happened on Sunday was life threatening. It was a very serious thing, seeing a whole leader being held up high, on the ground, yet this same man was carrying a pistol. I saw it with my own eyes. I almost thought I was dying before I got to the people of Kisumu. It is a very serious thing. It should not be repeated. I cannot see a whole Member of Parliament for Homa Bay taunting---

**The Temporary Deputy Chairman** (Hon. Cheboi): I am sure even the Chair-General was there. She must also have seen it.

**Hon. (Ms.) Nyamunga:** The Chair of the Party for Homa Bay County.

*(Loud consultations)*

**The Temporary Deputy Chairman** (Hon. Cheboi): Order, Members! What is it Hon. Munuve? By the way, we are in the Committee of the whole House. We cannot go into that direction. Hon. Munuve what is it?

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

*(Laughter)*

**The Temporary Deputy Chairman** (Hon. Cheboi): Hon. Members, let me beseech you Members. A few minutes ago, not a single Member was interested in the proceedings of the House. I am sure Hon. Chepkong'a noticed that his Bill was moving very fast. Surprisingly, we now have 10 interested parties. Let me listen to what Hon. Munuve has to say and that should be the last one.

**Hon. Munuve:** Thank you, Hon. Temporary Deputy Chairman. As a very good friend of Hon. Kaluma, I would like to join the other fraternity in saying pole to Hon. Kaluma.

**The Temporary Deputy Chairman** (Hon. Cheboi): Out of order.

**Hon. Munuve:** I would also like to bring to the attention of this House something that is relevant to what we are discussing. I do not know whether you are aware that there is a message

doing rounds that the Inspector General (IG) has ordered that an honourable Permanent Secretary (PS) be arrested and taken to prison, not to court.

**The Temporary Deputy Chairman** (Hon. Cheboi): That is very irrelevant because it has nothing to do with contempt of court proceedings.

**Hon. Munuve:** That is relevant to this clause.

**The Temporary Deputy Chairman** (Hon. Cheboi): Let us proceed. I will give you an opportunity to contribute at the right time because it is extremely irrelevant to this point.

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

*(Loud consultations)*

**The Temporary Deputy Chairman** (Hon. Cheboi): Hon. Chepkongá.

*(Laughter)*

Order, Hon. Wanga! We cannot allow you to laugh in that manner in the Chamber.

**Hon. Chepkongá:** Thank you, Hon. Temporary Deputy Chairman. As you know, Hon. Wanga is in the middle of two women MPs. Wherever you see more than one woman sitting, they must be discussing table banking issues. They should be excused. They are exchanging money in their hands.

**The Temporary Deputy Chairman** (Hon. Cheboi): Proceed, Hon. Chepkong'a.

**Hon. Chepkongá:** I want to confirm something. You asked whether the question of Hon. Kaluma is relevant to these proceeding. It is relevant. As you know, Hon. Kaluma is a very distinguished Member of the Justice and Legal Affairs Committee and so, for him to have gone through what he went through over the weekend when we intend to discuss the Contempt of Court Bill, is just unfortunate. This should be dealt with as contempt of Members of Parliament at the face of it, and somebody should just be jailed.

**The Temporary Deputy Chairman** (Hon. Cheboi): Hon. Chepkongá, you know we are dealing with the Contempt of Court Bill. That has nothing to do with court, unless you are talking about court of public--- Let us stick to this. Proceed Hon. Chepkong'a. We were doing very well anyway. We can allow Hon. Kaluma to sort out his issues in other quarters.

**Hon. Chepkong'a:** It is just that I was trying to recall the discussions in the Committee last week when we were discussing Contempt of Court in the Committee. He was very vocal in that meeting. I did not know that he was going to suffer this.

**Hon. (Ms.) Nyasuna:** On a point of order, Hon. Temporary Deputy Speaker.

**The Temporary Deputy Chairman** (Hon. Cheboi): What is it Hon. Gladys Wanga? You know when you smile, many Members do not feel secure. What is it? It has to be relevant to this.

**Hon. Chepkong'a:** Can I move first?

**The Temporary Deputy Chairman** (Hon. Cheboi): Yes you can. Then we will hear what Hon. Wanga has to say.

*Clause 27*

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

THAT, clause 27 of the Bill be amended in paragraph (j) —

(a) by deleting the word “wrongfully” and substituting therefor with the word “forcibly”; and,

(b) by deleting the expression “a” and substituting therefor with the expression “and.”

You cannot wrongfully detect something. You forcibly detect something.

Hon. Temporary Deputy Speaker, I see you have already identified the next speaker as Hon. Wanga. I know she wants to clear her name because many things have been said about her.

**The Temporary Deputy Chairman** (Hon. Cheboi): When did she say that? I did not hear her say that.

*(Question of the amendment proposed)*

What is your point of order Hon. Wanga, the Chair- General?

**Hon. (Ms.) Nyasuna:** Hon. Temporary Deputy Chairman, when I walked in, I found many things going on with regard to my very able organizing secretary who is supposed to be working well under me. But I found him under somebody else. He was under serious duress. So I asked him, “My brother, you talk quite a lot, *kumbe hakuna nguvu?*” Then he said the person over him had a lot of meat and so, he was holding and finding meat everywhere.

*(Laughter)*

It was a real tragedy. I am really sympathetic and I am sorry for the pain. In fact, when he woke up from there, his mouth had a little swelling, but he had to dust himself up.

**The Temporary Deputy Chairman** (Hon. Cheboi): We will not allow Members to get us into what happened over the weekend. You will find other avenues---

**Hon. (Ms.) Nyasuna:** Hon. Temporary Deputy Chairman, I just wanted to clear my name.

**The Temporary Deputy Chairman** (Hon. Cheboi): You do not have to clear your name because it has not been mentioned.

**Hon. (Ms.) Nyasuna:** *(Off record)*

**The Temporary Deputy Chairman** (Hon. Cheboi): Just to bring you to speed, nobody felt that you were clapping. However, you have been accused of having smiled broadly at the pain of your own brother. Let us leave that for another day. Members, let us proceed.

**Hon. (Dr.) Nyikal:** I want to speak to this one.

**The Temporary Deputy Chairman** (Hon. Cheboi): You want to speak to that one, Hon. Daktari? Hon. Daktari, I know you will speak to this one, not anything to do with the weekend. Proceed.

**Hon. (Dr.) Nyikal:** Hon. Temporary Deputy Chairman, if you look at Part (b) it says that you delete the word “a” and replace with “and” if you look at that, it does not make sense. Probably they meant “an”. The word “and” does not make sense in that clause.

**The Temporary Deputy Chairman** (Hon. Cheboi): Which one are we doing?

**Hon. (Dr.) Nyikal:** Clause 27(j)

**The Temporary Deputy Chairman** (Hon. Cheboi): I thought we are past that Hon. Nyikal.

**Hon. (Dr.) Nyikal:** It is (a) and (b) and I am talking about (b). (b) Indicates by deleting the expression “a” and substituting therefor with the expression “and”. If you look at that (J), if you replace with “and”, it does not make sense.

**The Temporary Deputy Chairman** (Hon. Cheboi): Allow us to look at it briefly. Let us listen to what the Chair has to say. Proceed, Hon. Chair.

**Hon. Chepkong’a:** Thank you, Hon. Temporary Deputy Chairman. Hon. Nyikal is completely right. This must have been a typo. The drafter ought to have deleted the word “a” and put the word “an.” The drafter must have added “and” instead of “an”.

**The Temporary Deputy Chairman** (Hon. Cheboi): If it is a typo, we need not move a further amendment. It is just a typographical error. We will just have you go on record about it. Once you are on record, we will proceed in the normal manner and avoid the issue of having to go through a further amendment. If it is a typo and it has been acknowledged as such, let us leave it at that.

Hon. Chepkong’a, you have clearly stated that the correct word should be “an” and not “and.”

*(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 27 as amended agreed to)*

**The Temporary Deputy Chairman** (Hon. Cheboi): I must commend Hon. Dr. Nyikal for being very observant even amidst the entertainment of Homa Bay County.

*(Hon. Kipyegon consulted loudly)*

Order, the Member for Emurua Dikirr! I am going to order that you be removed from the Chamber if you are not careful. You better take your seat. You are treading on very dangerous grounds.

*Clause 28*

**Hon. Chepkong’a:** Hon. Temporary Deputy Chairman, I beg to move:

THAT Clause 28 of the Bill be amended in sub paragraph (1) by inserting the expression “to” immediately after the words “is liable”.

This is purely a typographical error. We are just adding the word “to”, which was missing.

*(Question of the amendment proposed)*

**The Temporary Deputy Chairman** (Hon. Cheboi): I now give this opportunity to Hon. Johana Kipyegon.

**Hon. Kipyegon:** What are we discussing?

**The Temporary Deputy Chairman** (Hon. Cheboi): You are not even sure of what we are discussing?

*(Laughter)*

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

*(Clause 28 as amended agreed to)*

*(Clause 29 agreed to)*

*Clause 30*

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

THAT, Clause 30 of the Bill be amended by deleting the word “ninety” wherever it appears and substituting therefor with the word “thirty.”

Hon. Temporary Deputy Chairman, what we are seeking to do through this amendment is quite significant. Whenever a notice of contempt of court proceedings is to be served on, say, a State officer, it is proposed that no proceedings shall be commenced before the expiry of 90 days.

We are seeking to reduce the period from 90 days to 30 days. If you want to purge contempt of court, you cannot wait for 90 days, particularly when talking about service delivery. One should be able to respond within 30 days. There is nothing that the State officer should be hiding in Government offices. One should avail whatever documents are required, and be willing to appear in court, so that they can purge any contempt they have been accused of.

I do not like what is happening to Principal Secretary Kibicho. He must have forgotten because he must have taken over 90 days to respond. We want such a matter dealt with when it is still fresh. That is why we propose that contempt of court proceedings should commence within 30 days of notification of the state officer concerned.

*(Question of the amendment proposed)*

**The Temporary Deputy Chairman** (Hon. Cheboi): I can see a few members who are interested. Let me start with the Member for Kaloleni, Hon. Mwinga Chea.

**Hon. Chea:** Thank you, Hon. Temporary Deputy Chairman. I rise to support the proposal. I find 90 days to be a long time. I support the 30 days.

Thank you.

**The Temporary Deputy Chairman** (Hon. Cheboi): Very well. Let us hear Hon. Nyikal.

**Hon. (Dr.) Nyikal:** Thank you, Hon. Temporary Deputy Chairman. I support the amendment because 90 days is too long for contempt of court. It should be quickly dealt with.

I support.

*(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 30 as amended agreed to)*

*(Clauses 31, 32, 33 and 34 agreed to)*

*Clause 35*

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

THAT, Clause 35 of the Bill be amended by deleting the words “be in addition to and not in derogation of the provision of” and substituting therefor the word “supersede.”

Hon. Temporary Deputy Chairman, if we pass this law, it will supersede any other law that deals with contempt of court. We want this to be the principal legislation so that we do not talk about “derogation” since that is not a legal terminology.

Thank you.

*(Question of the amendment proposed)*

**The Temporary Deputy Chairman** (Hon. Cheboi): I will give a chance to two Members. I will start with the Nyandarua County Women Representative.

**Hon. (Ms.) Muhia:** Thank you, Hon. Temporary Deputy Chairman. I support the amendment. It is always good to have it clear in law. Once we say “supersede”, the law we are making becomes the principal law. We know that lawyers always try to manipulate court proceedings by citing similar laws but his will be clear.

**The Temporary Deputy Chairman** (Hon. Cheboi): That is okay. Let us now have Hon. Neto.

**Hon. Oyugi:** Thank you, Hon. Temporary Deputy Chairman. I would like to support the amendment. In fact, once passed, the Contempt of Court Bill will become a premier law with regard to contempt of court. Using the word “derogation”, like the Departmental Committee Chair has said, does not make a lot of sense in this case. Therefore, I support this amendment so that once approved, this law can supersede any other law on contempt of court.

Thank you.

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

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

*(Clause 35 as amended agreed to)*



*(Clauses 36 and 37 agreed to)*

*Clause 38*

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

THAT, the Bill be amended by deleting Clause 38 and inserting the following new clauses—

Repeal of section 36 of No. 27 of 2015. 38A. The High Court (Organization and Administration) Act is amended by deleting section 36.

Repeal of section 35 of No. 28 of 2015. 38B. The Court of Appeal (Organization and Administration) Act is amended by deleting section 35.

Hon. Temporary Deputy Chairman, we are seeking to consolidate all the laws dealing with contempt of court in this particular legislation. As you know, the High Court (Organization and Administration) Act, and the Court of Appeal Act contain some provisions for contempt of court.

We are seeking to delete the contempt of court provisions contained in the High Court (Organization and Administration) Act and the Court of Appeal Act since those provisions are now contained in this principal legislation. Once passed, this will be the overriding Act when it comes to matters of contempt of court.

Thank you.

*(Question of the amendment proposed)*

**The Temporary Deputy Chairman** (Hon. Cheboi): Yes, Hon. Baiya.

**Hon. Baiya:** I support the proposed amendment. Actually, I wanted to contribute to the other clause. On this one, I support the proposed amendment by the Chair.

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

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

*(Clause 38 as amended agreed to)*

*New Clause 34A*

**The Temporary Deputy Chairman** (Hon. Cheboi): Hon. Chepkong'a, you have a new Clause. Move the Second Reading, please.

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

THAT, Clause 34 of the Bill be amended by inserting new Clause 34A;

A court shall not initiate proceedings for contempt of court in relation to decisions made or directions given by a Speaker of a House of Parliament in the performance of his/her official responsibilities.

What we are seeking to do here is to shield the Speakers of the two Houses. You know, they make very many decisions and at times people initiate proceedings in court and say that

these proceedings were ongoing in court and they want to cite the Speakers for contempt of court.

As you know, this House has the constitutional mandate to debate freely. So, we do not want Speakers of the Houses to be gagged in any way. There must be freedom of expression in this House. We are saying, on the face of it, that the Speakers must not be accused of contempt of court at any time. This should be an exclusion with regard to this legislation so that you cannot bring contempt of court using this legislation against our Speakers.

Thank you, Hon. Temporary Deputy Chairman.

*(Question of the new clause proposed)*

*(New clause read the First Time)*

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

**Hon. (Dr.) Nyikal:** On a point of order, Hon. Temporary Deputy Speaker.

**The Temporary Deputy Chairman** (Hon. Cheboi): What is your point of order, Hon. Nyikal?

**Hon. (Dr.) Nyikal:** Hon. Temporary Deputy Chairman, I cannot see that proposed amendment in the Order Paper.

**The Temporary Deputy Chairman** (Hon. Cheboi): It is not in the Order Paper, but you can have a copy of it here. It is a new clause and the Chair of the Departmental Committee on Justice and Legal Affairs has every right to move it. It has been read anyway. It is almost as clear as it is.

I will give a chance to Members who want to contribute. Hon. Johanna, do you want to speak to this one? Proceed.

**Hon. Kipyegon:** Thank you, Hon. Temporary Deputy Chairman. I support the Chair of the Committee on this one because in most of the cases, we have been having this problem of contempt of court, *sub judice* and all those matters. The new clause will make it clear so that whatever matter that is going on in this House can be handled properly without any problem and what goes on in court can also be handled without any interference.

**The Temporary Deputy Chairman** (Hon. Cheboi): Yes, the Member for Kibwezi East.

**Hon. (Ms.) Mbalu:** Thank you, Hon. Temporary Deputy Chairman. I rise to support the New Clause 34A. It protects the two Speakers of Parliament - the National Assembly and the Senate – as they are in charge of debate. It will give some independence to Parliament and also enable the two Speakers to preside over debates in the two Houses.

**The Temporary Deputy Chairman** (Hon. Cheboi): Hon. Kiptui, do you want to speak?

**Hon. (Ms.) Kiptui:** Thank you, Hon. Temporary Deputy Chairman for the opportunity. I would like to congratulate the Chairman of the Departmental Committee on Justice and Legal Affairs and its Members for such an insight.

For sure, when the Speakers are making rulings or pronouncing themselves on issues that are of great importance to the nation, they should be free. People should not gag them and slow us down. This House is here to make laws and if it is slowed down, the progress of the country will also be slowed down. This is a very pertinent clause and I support it.

**The Temporary Deputy Chairman** (Hon. Cheboi): Hon. (Dr.) Namsi Shaban, you have the Floor.

**Hon. (Dr.) Shaban:** Asante sana Naibu Mwenyekiti wa Muda. Ninataka kumpongeza Mwenyekiti Chepkong'a kwa kufikiri kuwa kuna umuhimu wa jambo hili. Tangu Katiba mpya iwepo hapa nchini mwaka wa 2010, Wakenya wengi wamejitokeza wakikimbilia kortini hata bila sababu. Hivyo basi kipengele hiki kitamwezesha Spika wetu kufanya kazi bila hali ya wasiwasi.

Asante sana.

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

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

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

*(Schedule agreed to)*

*(Title agreed to)*

*(Clause 1 agreed to)*

**The Temporary Deputy Chairman** (Hon. Cheboi): Let me have the Mover to do the reporting.

**Hon. Chepkong'a:** Hon. Temporary Deputy Chairman, I beg to move that the Committee doth report to the House it consideration of the Contempt of Court Bill, National Assembly Bill No.32 of 2016 and its approval thereof with amendments.

*(Question proposed)*

*(Question put and agreed to)*

*(The House resumed)*

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

## REPORTS AND CONSIDERATION OF REPORTS

### THE COMPETITION (AMENDMENT) BILL

**The Temporary Deputy Speaker** (Ms.) Mbalu): Let us have the Chairperson to move reporting.

**Hon. Cheboi:** Hon. Temporary Deputy Speaker, I beg to report that a Committee of the whole House has considered the Competition (Amendment) Bill, National Assembly Bill No.24 of 2016 and approved the same with amendments.

**The Temporary Deputy Speaker (Ms.) Mbalu:** Let us have the Mover of the Bill to move agreement with the Report.

**Hon. (Dr.) Shaban:** Hon. Temporary Deputy Speaker, I beg to move that the House doth agree with the Committee in the said Report.

I request Hon. Chepkong'a to second the Motion for agreement in the report of the Committee of the whole House.

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

*(Question proposed)*

**The Temporary Deputy Speaker (Hon. (Ms.) Mbalu):** We cannot put the Question, Hon. Members. So, we leave that until the House Business Committee (HBC) makes a decision on that.

*(Putting of the Question deferred)*

We will now move on to the reporting of the Contempt of Court Bill, National Assembly Bill No.32 of 2016.

#### THE CONTEMPT OF COURT BILL

**Hon. Cheboi:** Hon. Temporary Deputy Speaker, I beg to report that a Committee of the whole House has considered the Contempt of Court Bill, National Assembly Bill No.32 of 2016 and approved the same with amendments.

**The Temporary Deputy Speaker (Hon. (Ms.) Mbalu):** Let me have the Mover of the Bill to move agreement with the Report.

**Hon. Chepkong'a:** Hon. Temporary Deputy Speaker, I beg to move that the House doth agree with Committee on the said Report.

I request the Deputy Majority Leader to second.

**Hon. (Dr.) Shaban:** I second, Hon. Temporary Deputy Speaker.

*(Question proposed)*

**The Temporary Deputy Speaker (Hon. (Ms.) Mbalu):** I am not in a position to put the Question for obvious reasons. I direct that the Question be put in the next appropriate time.

*(Putting of the Question deferred)*

Let us move on to the next Order.

#### BILL

*Second Reading*

## THE NATIONAL HONOURS (AMENDMENT) BILL

*(Hon. Abongotum on 24.11.2016)**(Resumption of Debate interrupted on 24.11.2016)*

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): Hon. Robert Mbui had eight minutes remaining. So, I give him priority. Is Hon. Mbui present? He is not in and so his right has been forfeited. What about Hon. Wanga? She is in the consultation room. The Nyandarua County Women Representative, Hon. Wanjiku Muhia, are you ready for this? I can see she is ready for the other one. Hon. Kipyegon, you are third on my request list.

**Hon. Kipyegon:** Thank you, Hon. Temporary Deputy Speaker. I wish to thank the Member who introduced this Bill. One day, all of us will become heroes and heroines. It depends on what you will be a hero for. Some of us will be war heroes, others will be political heroes and others will be very unpopular depending on what they do to this country while they are still alive.

I would like to support, especially the question of honouring those who have done good to this nation, to humanity and the whole world. Honouring and remembering all those who did good things is a very fundamental issue. It is not something that we should overlook; it is something we need to re-look at and give everybody his or her due. Sometimes people use the phrase, "Give the devil his due." If the devil can be given his dues, knowing very well how the devil is, how about those who have done good to the nation?

Hon. Temporary Deputy Speaker, I remember the President of the Republic of Kenya, *Mhe. Uhuru Kenyatta* reading the list of heroes; that is, those who have played a major role in this country. He intentionally omitted some of the great heroes who also did good to this country. We should have a clause in this Bill that will also penalise the President and all those who come up with his speech to ensure that--- When we remember our heroes, for example, if I will be remembered very many years later for what I have been doing, it should be regardless of whether or not I supported the Government. It should be based basically on what I did for this nation. In our current positions, we should play a patriotic role as Kenyans. Whoever plays a major role in one way or the other should be remembered. This one should also trickle down to the ordinary *wananchi*.

I remember what happened to the great architect of the Constituencies Development Fund (CDF). Immediately upon implementation of the CDF, he was thrown out of Parliament. So, he could not even benefit from his great idea. This one is based on how we think. He is a hero. Although he is now a Senator, we know very well that the CDF does not work in the Senate. This is the best place that gentleman should have been for him to be remembered.

Honouring those who did good is an obligation and it is not something to play with. It is not about playing with figures or names of those who support the Government. That is why I took fault with the President of this nation and I would wish that he never repeats the same mistake. We need to remember those who have done good to this nation. You are not doing a favour to people. It is an ideal undertaking that can be remembered. Most painfully was the omission of the name of the late Jaramogi Oginga Odinga who was my icon. I went to the same school as him. We remember that he refused to become President and said that he would wait for the release from prison of Mzee Jomo Kenyatta who later became the first President of this

nation. I know that act set a precedent for the status of our current President. Otherwise, if Jomo Kenyatta had not become President, I do not think Uhuru Kenyatta would have been remembered for anything. Those are the heroes we need to remember.

I wish to support this Senate Bill because it will entrench in law the fact that during national occasions we have to honour our heroes. If there are medals to be given to people, then it should be based---

Two or three months ago, I watched some members being awarded. Sometimes you wonder how the assessment to arrive at the persons to be awarded was done. We need to have a proper selection committee to look into all aspects of life of those we think merit the awards. We should look at the performance of the person, their character and whatever good and great things that person has done for this nation. Sometimes you look at a list and you stumble upon names of persons who are known for perpetuating dictatorship and other bad things. Such people get awarded! I believe honouring of heroes is a very fundamental thing.

We need to remember our heroes the way other countries remember their heroes. Many countries, for instance, remember their war heroes. We also need to honour our soldiers. They work very hard during day and night within and outside our borders. We need to remember our soldiers who were in South Sudan. They were recalled the other day by the President. I really do not know whether that move by the President was constitutional. We must also remember our soldiers who are working very hard in Somalia. They are there dying for us so that we can live peacefully. We can only wish that when they come back they are honoured by this nation. They deserve to be honoured as opposed to those who keep on picketing and doing bad politics in this country. We need to honour those soldiers who work hard outside there in order to make our nation safe.

Hon. Temporary Deputy Speaker, I wish to also state that it does not need to be those playing major roles in either shaping the politics of this country or leadership in this country. We must also honour those who make serious and tremendous contributions in education and science in this country although we are killing the great scientists because we are not giving them the right environment to do their serious assessments.

This country would be one of those which are producing cars. Remember the first car which was introduced in the 1980s by the former President, Daniel Arap Moi. That is the Nyayo Pioneer. I do not know if it was intentional or accidental that some people “killed it”. But I wish we had made it a serious opportunity for us Kenyans by manufacturing it. We could be manufacturing cars for our country. I think people “killed it” and we do not see when we will even start manufacturing a bicycle, a toothpick or even a small pen. This nation needs to have some new directions, some new definitions and some new dispensations.

So, let me just support this Bill without dwelling on other matters much. I just wish that we, in this Bill, add penalties that can force those in power and those in offices to ensure that respect and honour to those who did well for this nation does not depend majorly on political affiliations, political participation or political achievements. It should majorly be on what good they did to this nation.

Thank you. I support.

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): Very well spoken. I hope the ones on the request list want to speak on this.

The Member of Rarieda who is the Chairman of the PAC, Hon. Gumbo, you have the Floor.

**Hon. (Eng.) Gumbo:** Thank you, Hon. Temporary Deputy Speaker for the opportunity to contribute to this Bill. I think this amendment is a brief one and it is mainly to increase the number of people who fall within the honours category. But even as we speak about honouring our people, I think our process of identifying and honouring our heroes is still, to me, too subjective. We tend to consider many things apart from what really are the contributions that lead to making our nation great.

I have spoken here before, both when I was in the 10<sup>th</sup> Parliament and when I was privileged to come back to this 11<sup>th</sup> Parliament. It has disheartened me the way Kenya tends to take its true achievers for granted.

There is no gainsaying that if there is one thing that brings Kenyans together, it is the exploits of our sportsmen and sportswomen, particularly our athletes. About two or so months ago, we saw what our young men and women did in Rio de Janeiro with a lot of difficulty. That is managing with a very corrupt and very selfish sports management and organisation in this country. Still, they went there and conquered the world. I have never understood why it cannot be automatic for a country like Kenya to grant one of the highest honours to anybody who can win an Olympic gold medal.

In simple terms, Eluid Kipchoge winning an Olympic gold medal in the marathon simply means that if you put all the seven billion people in this world to run the marathon race at that point in time, he would be the best of them all. One wonders how somebody who can demonstrate such an exalted degree of exploit does not qualify for an automatic honour to enter into the honours of this country. I think this is where the problem is.

I have passed through some countries which truly go out of their way to honour their heroes. If you go through some of the main airports of the United States (US), one of the faces that confront you - one of the faces you meet - is that of Jesse Owens. I do not think there is anybody sitting in this House today who was alive at the time Jesse Owens won four Olympic gold medals in Berlin in 1936, but they still honour him today.

This honour does not just go to what you would call ordinary people. Anybody who has been to Accra, Ghana, would see how much the founding father of that nation, the late Kwame Nkrumah is revered. Young people are made to understand the place of Kwame Nkrumah in that country and yet when you look at us here in Kenya, for a long time, we have this contradiction of having the resting place of the founding father of this nation. The remains of the late Jomo Kenyatta are being placed in a place which is largely out of bounds for all the people of Kenya.

Therefore, I want to laud my good friend, Hon. Muthomi Njuki of Chuka/Igambang'ombe because of what he has done especially to young Kenyans. This inability, reluctance and in fact, refusal by successive leaderships in this country to honour our heroes--- What we are inadvertently doing is to deliberately place a disconnect between the youth of this country and those who have made this country what it is today.

Granted, we have of course had our shortcomings but I believe that as much as those shortcomings have been there, there are people in this country who truly care about this country and would like to learn from those shortcomings to make Kenya a great nation. This is because I am one person who believes that the true potential of this country is yet to be realised.

Among those things that make us not realise the true potential of this country is these prejudices we have allowed; these unnecessary prejudices. No one has empirically proved how much these prejudices are helping us, in our little segmented positions, progress. To the contrary, I think these prejudices have been a drag on the progress of this nation.

As we honour and embark into the process of putting in place legislation to honour true heroes of this country, let that process be truly one that recognises people who have made contributions that have made a difference in the lives of the people of this country. You saw the uproar that came up when, during Mashujaa Day, the late Jaramogi Oginga Odinga was not mentioned among the heroes of this country. Raila Odinga was also not mentioned among the heroes of this country. We will have whatever we want to think about these people but no one can deny that the contributions they have made will last for a very long time.

Hon. Temporary Deputy Speaker, people may not know it. I remember an incident in the early 1990s, just after I had left university following the infamous Saba Saba Riots. When I was having a meal - I could afford then a glass of milk and chapatti on Luthuli Avenue at Kshs1.50 - there was a newspaper cutting showing the events of the Saba Saba. I just made an innocent comment: "I think what these people are fighting for is what a majority of the people of Kenya want." Somebody told me that the comment was seditious and that I should follow him to the Central Police Station. That space has now been opened and people sacrificed to open that space. There are people who sacrificed their lives. They gave out blood and sweat to open up that space. If they do not qualify to be heroes of this nation then who deserves to be a hero?

Today, people are free in this nation. I think we are one of the free nations in the world. This is because people can say whatever they want. Look at the social media. Listen to the debates on topical issues that affect the people of Kenya. Indeed, that latitude that has opened up took a lot of sacrifice. I want to believe that those who made it possible for us to get that space where people can freely express themselves are the heroes of this nation. This is because people can now express themselves on how they want to be governed.

Hon. Temporary Deputy Speaker, even as we make amendments, let us bear in mind that ultimately the decision on who qualifies to be a hero in this nation should be based on objectivity. We must look at the quantifiable contributions that move this country forward. It does not matter whether you like the person or not; history cannot be changed. You cannot change the contributions that people have made. Let us have a process that does not depend on the whims of an individual as a way of identifying our heroes. When Kenyans truly identify, honour and embrace its heroes, it means we truly acknowledge where we have come from as a nation. It also means we appreciate where we are and that actually becomes our platform for aspiring where we want to go.

With those remarks, I support.

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): Let us have Hon. Grace Kiptui.

**Hon. (Ms.) Kiptui:** Thank you, Hon. Temporary Deputy Speaker. I also support this issue. I have travelled to a few countries in the world and I marvel at how some countries have managed to preserve the work of their heroes and heroines. Sometimes it really inspires the generations that come after. When you travel, before you are engaged in the official duties, some countries will take you to their museums and show you a few things about their country. It helps a bit for history's sake and for one to understand where that country is coming from.

Recently, we started a database of our heroes and heroines. I wish we could remove the bias. Society is shaped by both positive and negative aspects, but we need to bring forth those we thought were negative and also those we thought were positive. This is because both are contributors of what a nation becomes. A nation is the sum total of the choices of its people. I want to urge ourselves that as a way forward we need to document the work of our heroes and heroines without bias. That way, future generations will conceptualise where Kenya has come from, who participated in what and they will also be inspired to contribute.



**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): Thank you. Let us have the Hon. Member for Kwanza. You can indicate if you are ready to speak to this or the other one.

**Hon. F.K. Wanyonyi:** Thank you for this opportunity. I remember when I was a very small boy this country was fighting for Independence. We got that Independence in 1963. I want to salute those who took part in the fight for liberation of this country from the colonial masters. How I wish they could be listening to me as I pay my tribute, particularly to Mzee Jomo Kenyatta, Paul Ngei, Achieng Oneko and others who were arrested and detained in Kapenguria. I had a chance to go to Kapenguria where the six were arrested and I saw the place where they were detained. I salute them. Indeed, it was a struggle.

There have been a number of commentaries and films about the fight for Independence. I am sure those who come up with those initiatives are grateful to those who were in the forefront in the fight for the Independence of this nation. Those people suffered a great deal. There was no medicine at that time. If you got hurt you could only use *mitishamba* to cure your wound. They brought honour to this country and in our own ways we should remember all of them.

In other countries like India, Russia, the United Kingdom (UK), the United States of America (USA), South Africa and Ghana, they have names of people who have brought honour to their respective countries. In this country, we are being selective in honouring our heroes. I am saying this without any apology.

The last time the President came up with a list of heroes and heroines of this county, I looked at it and wondered. Was it a misprint? You know that is an error that could happen at the Government Printers. Was it deliberate that some names were left out? How was the name of Mzee Oginga Odinga who fought for this country left out? How do you leave out the names of Paul Ngei, Masinde Muliro and Martin Shikuku? It can only mean that you are not serious about honouring those who brought honour to this country.

*(Hon. F. Waititu made a comment)*

Therefore, we should move amendments to the law so that next time we engage in this exercise we ensure that we remember all those who have brought honour to our country, particularly---

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

**Hon. F.K. Wanyonyi:** What is out of order? There is nothing out of order.

**The Temporary Deputy Speaker** (Hon. Mbalu): Order, Hon. Member! Nobody said you are out of order. Do you understand that we are supposed to observe rules even when a Member is on the Floor speaking? Hon. Waititu, you are out of order!

Hon. Wanyonyi, carry on.

**Hon. F.K. Wanyonyi:** Thank you. I think there was a technical fault because we bear the same name with Hon. Ferdinand Waititu. I am Ferdinand Wanyonyi and he is Hon. Ferdinand Waititu. He sits on the other side. So, I excuse him.

We also have people who have brought fame to this country. The best way to honour such people is by going to the counties. We have heroes like the late Seroney. We should have a mausoleum built in honour of him in Nandi. We have Masinde Muliro from Trans Nzoia County. We should build a mausoleum for him and stock it with his memorabilia like it is done in the USA. For example, there is the mausoleum for J.F. Kennedy which bears all the quotations attributed to him, and all that he did for the USA. If we take that direction, our future generation will have it easy knowing what happened in the past.

Hon. Temporary Deputy Speaker, we have the Mzee Jomo Kenyatta Mausoleum. We honour the old man because he fought for our freedom but we need to move further and honour other great men and women in the country. For instance, we should have a mausoleum for Paul Ngei in Eastern Province and another one for Mr. Stanley Oloitiptip. The mausoleums can also be tourist attraction centres and foreigners can also visit them. The mausoleums can also create employment for the people who will be taking care of them.

Joe Kadenge was great and we need to remember him. He used to play football. Even those who were not born then know about him. We have athletes who bring honour to our country. Eldoret is now the city of heroes but there is nothing to show for it. We should have mausoleums for our athletes in the North Rift. If you visit the Far East, you will find people telling you that Kenya is a country of heroes because our athletes have brought glory to our country. This is the case and yet we only hear about them on TVs and radios.

I support this Bill. I hope we will do better than we have done in the past. Last year, there was an error when His Excellency the President read out the names of people to be honoured. I hope that will not happen again. We should honour our brothers, sisters, fathers and grandfathers who have brought us honour.

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): Hon. Members, we will have Hon. Nyenze, Hon. Wangamati, Hon. (Ms.) Ghati, and Hon. (Ms.) Wanjiku Muhia before I call upon the Mover to reply.

**Hon. Nyenze:** Thank you, Hon. Temporary Deputy Speaker for giving me the opportunity to contribute to this important Bill. I sit in the Honours Committee. I have listened to what the Members have said that the process should be transparent, predictable and fair so that those who strive to be honoured know the criterion used.

Beyond the honours, we have heroes and heroines living in abject poverty and yet they sacrificed to make this country great. Families of some of the Kapenguria Six are living in poor conditions. The Government should identify and help them.

The Kapenguria Six were selfless freedom fighters who risked death and suffered to give us freedom. It is only fair that their families do not live in abject poverty. The Government should do something about that. Members of their families should not only be helped through employment but the Government can also give them cash, and name some roads and airports after the Kapenguria Six.

Hon. Temporary Deputy Speaker, we have heroines and heroes all over this country. We should have the face of Kenya when honouring these people. If you visit Turkana, Pokot, Kwale and Nyanza, you will find the most outstanding leaders who have brought honour and glory to this country. I want to appeal to my colleagues in the Honours Committee to ensure that heroes and heroines are not just concentrated in one part of the country. The honours should be fairly distributed so that everyone feels that they are represented.

I learnt that we were honouring the first lot which was presented but never got honours. I want to request my colleagues in the Honours Committee to ensure that Members in the Senate and the National Assembly who have performed exemplary well, like Hon. (Eng.) Gumbo, the Chairperson of PAC are considered. He is a humble man who deserves an award because of his ability to tackle corruption.

I am happy that Hon. Wanyonyi mentioned Joe Kadenge. We used to hear about his skills in football. He is alive but not comfortable. We should empower him economically. I used to see Mr. Paul Ngei in Parliament. It was a shame that the Government did nothing to help him yet he

sacrificed to give us freedom. It is now after death that we want to recognise him. We should look for his family and thank them by providing them with some financial assistance.

I was surprised to read in the newspapers that Ms. Conjestina Achieng could not afford to pay rent and her medical bills. I used to go to Nyayo Stadium to watch her during the boxing matches. She brought glory to Kenya during those days. We should also honour our athletes who have brought honour, glory and wealth to this country. We should also try to follow up on those who are not doing well. We should have a department in the Ministry of Sports that deals with our heroines' and heroes' lifestyles. If someone like Catherine Ndereba retires because of age, we should follow up if she is doing well. This is because she did so much to make Kenya be respected by the international community. All athletes who brought honour to this country should be rewarded and taken care of long after they have exited the scene.

Hon. Temporary Deputy Speaker, I want to clear something. Members have talked about the Machakos function, where the President allegedly skipped some names of heroes who fought for the first and second liberations. I was in that meeting by invitation by the Governor of Machakos and the President did not omit names. He just read some names and said; "and all the others who fought and brought glory to this country."

I do not want us to make it a big thing that a name was skipped because not all names can be read at the same time. I want people to understand and not to read from the newspapers or listen to politicians who compete for space and now start blaming the President. He read names of even his opponents. He recognised even Martha Karua and others who opposed him in the presidential race. As usual, some names were omitted because you cannot read all names. So, let us not read too much out of something that was not intended and was not big.

I could read the body language of the president. He meant well and it was not meant to hurt those who are in the opposition like me. It is good to put that record straight because I was in that meeting. He only said these people have brought glory to Kenya. Because he was in Eastern region, especially in Ukambani, he had to emphasise people like Paul Ngei, Mulu Mutisya and others. I am sure if he was in Nyanza, he would have recognised Raila, Jaramogi and others who really fought for this country. So, let us not make it a big political issue because I think the President meant well.

Last but not least, there are other people in all areas of Kenya who deserve to be honoured but we have a tendency of honouring Members of the National Assembly, the Cabinet and those who are serving in Government. I want us to be selfless and look at the small person in the village who has made outstanding contribution to this country---

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): The next one is the nominated Member, Hon. Patrick Wangamati.

**Hon. Wangamati:** Thank you, Hon. Temporary Deputy Speaker, for giving me this opportunity so that I can also contribute to the very important Bill in this House on national honours.

I support this Bill because it is very important to our education, country, the nationals of this country and how our country has been governed up to this time. While I support the Bill, I would like something to be added. A committee, commission or a task force should be formed so that it can look at how our country has been and how we have lived with our people. It should also look at the leaders who have been leading us even in harsh times like when the British Government entered this country.

When the white people came to this country in the late 1890s, we had leaders in Kenya who did not like them. These people did not sit with our leaders to tell the leaders why they had

come to this country and what they would do for our people. These leaders fought the white people who had weapons. They killed very many people in the late 1890s. We need to write a book on this so that our children and our people can know how these white people suppressed our leaders, entered this country and conquered everybody. They have their history that we cannot even compare with ours at this time.

After that, the white man used our people to go and fight in World War I and World War II. He arrested them. He did not even tell them that they were going to fight in those wars and what our country, community or people would gain. These things have been there. Our people want to know how people were amassed. They took cattle and food to go and feed people in World War I and World War II. This country needs to know this. Our youth should also know this but when they want to know this, they have to go and buy books from white people, which have been written in their own interest.

I have talked here about Dini ya Musambwa, Mau Mau and other community organisations, which I can name, if given time. These people protested and started demanding that *mzungu aende, mwafrika ajitawale mwenyewe*. Many people have not written about this and yet people who fought for this suffered greatly. They were killed, arrested and their body parts chopped off. Their children did not get a chance to go to school. They are also suffering. Those who are still alive are suffering because they have not even been compensated.

The British Government has always accepted that it is prepared to compensate the victims if our Government can submit their names. We have kept quiet until now as if we do not know anything about Dini ya Musambwa or Mau Mau. The Government has not talked about this and I am very disturbed because I am one of those people who fought in the Dini ya Musambwa and Mau Mau movements. We were really tortured in this country at that time. We have heard about another team which we call the Second Liberation, when we had the dictatorship regime ruling this country. Some of us volunteered and fought to bring the democracy that we are now enjoying. Some of these people have died while some are still there. Their children have been denied many things.

Hon. Temporary Deputy Speaker, this Bill should include the history of our country and those men and women who made history should be mentioned and honoured. It is important that a House as democratic as the 11<sup>th</sup> Parliament should discuss these things freely and create a taskforce or a commission or whatever name we can choose to use, to dig out all this information for our people and children. This will ensure that Kenya is respected, and if anybody came to this country, he or she can learn.

As I finish, sometime back I was sick and went for treatment in India. During that time I got a chance to attend their national day. Indians have really cared for their freedom fighters. They even have freedom fighters pension fund for them. The children of those who die and the freedom fighters who are still alive are cared for by the Government of India. Before that, the British Government did a lot. They compensated the country and those who were tortured and killed before the Government came in and set up a fund to look after those people.

Hon. Temporary Deputy Speaker, I thank you for giving me this opportunity. I would like the amendment Bill to be implemented by the Government.

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): Hon. Wangamati, very well spoken. You have spoken from experience. We feel you. As you said you are very disturbed. The 11<sup>th</sup> Parliament is proud to have a Member who fought for the freedom of this country. We congratulate you for having fought for this country.

On my request list is the Migori County Women Representative, Hon. Dennitah Ghati. The last one before the Mover replies will be Hon. Wanjiku Muhia.

**Hon. (Ms.) Ghati:** Thank you very much, Hon. Temporary Deputy Speaker for the opportunity to support the National Honours (Amendment) Bill.

The freedom we enjoy today is because some people sacrificed their time, comfort and families. They are Mzee Jomo Kenyatta, Jaramogi Oginga Odinga, Tom Mboya, Dedan Kimathi and Paul Ngei. The list is endless. These people belong to the second liberation of this country.

Hon. Temporary Deputy Speaker, even as I speak, I feel very bad when our President deliberately or not, refused to recognise people who fought alongside Jomo Kenyatta on Mashujaa Day in Machakos. There is no way you can mention the name of Jomo Kenyatta without mentioning Jaramogi Oginga Odinga. Those two go together.

Even a Class One child knows the people who fought for the second liberation of this country. There is nothing like the Leader of the Minority Party, my leader, has talked about as being classified as “others”. We need to have a list that shows the permanent people that are known in this country as second liberators. They include Raila Odinga and Masinde Muliro. We cannot mention and assume others. There is no shortcut. When we are talking about heroes and heroines of this country, we have people like Wangari Maathai. These are people who should be known from Class One. They should be in the curriculum of our children so that when they grow up, we will not be bringing the issue of ethnicity even when it is common sense.

Having said that, I look forward to a day in when we will be naming our roads in this country after our heroes and heroines. I long for that day when I go to Karatina and find a road named Raila Odinga Road or Raila Odinga Street. Kisumu is more liberal. We have Jomo Kenyatta Grounds right in the middle of Kisumu. We need to remove the whole issue of ethnicity so that when we are talking about honouring our people, we do not bring it in. The people who were there during that time did not understand where they came from. They knew they were Kenyans and they knew they were looking for the future of this generation and the peace that we are enjoying today. I want to say that what happened in Machakos is wrong and I hope it does not happen again.

Even as we talk about heroes and heroines in this country, we tend to forget very fast as a country. What we need to do as a Government and as a people is to ensure that we are looking after the welfare of our people even when they are still alive. We have the likes of Conjestina Achieng who has brought glory and honour to this country in the boxing world. The likes of Kipchoge Keino, Catherine Ndereba, Tegla Loroupe and Paul Tergat are people that we need to invest in right now when they are still alive.

We need to name our roads after them so that you find Tegla Loroupe Road in Migori, Raila Odinga Street in Karatina and Jomo Kenyatta Grounds in Bondo. That is the culture that we need to inculcate in this country so that our people grow up knowing that we are Kenyans first before we are this or that.

Hon. Temporary Deputy Speaker, even as we talk about the welfare of people who have brought fame and glory to this country, we need to set up a fund. It will be nice to have a fund that technically looks at the welfare of these people who have done Kenya proud when they are still alive.

I happened to live, study and work in the US. The US Government has put mechanisms in place that basically looks at the war veterans. These are people who have been fighting for the Americans; the peace that the land of the free is enjoying. The Government is very serious about welfare in terms of medic aid, medicare and food rations. These are people the US Government

is very proud to have. Those are the lines along which we should be talking about and not along ethnic lines.

Hon. Temporary Deputy Speaker, even as we are talking about heroes and heroines, this is an area we have done poorly as a country. As we talk about honouring our people, we need to ensure that these are the people we are honouring when they are still alive so that even as our children grow, they know that there are people who sacrificed their time, family, comfort and dignity for the freedom that the Kenyan people enjoy.

That way, as our children grow, they will know that there were people before us who sacrificed their time, family comfort and dignity for the good that the Kenyan people enjoy today. I call upon the Government to make sure that the people who did good things for this country, the living heroes, are recognised. The men and women in the Kenya Defence Forces spend their days and nights guarding our borders. They have gone to fight in Somalia to ensure that our country is secure for our children. These are people we need to recognise as heroes and promote them.

I sat here all this while because I wanted to support this good Bill. We want to compile a list of our heroes and heroines, so that their identities can be clearly known. We do not want a situation where pretenders are honoured as heroes or somebody says that so-and-so was a hero during my reign. We should clearly state that the people who fought for freedoms in this country like Hon. Raila Odinga, Mzee Jomo Kenyatta, Hon. Paul Ngei and many others, are heroes. It should be known for a fact. It should not be left to the discretion of a reigning president to decide who was a freedom fighter at what point in time and who was not.

With those remarks, I strongly support the Bill and call upon the Members to also support it.

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): Hon. Wanjiku Muhia.

**Hon. (Ms.) Muhia:** Thank you, Hon. Temporary Deputy Speaker. It is unfortunate that I am the last Member to speak on this Bill. I needed to give guidance to the Members, noting that this Bill was reviewed by the Committee I sit in.

Before I continue, let me remind the Members that this is the national Parliament and that is why it is called the National Assembly of Kenya. As we speak, everybody across the country is watching. We cannot turn a small thing like a drop of water into a big thing like an ocean, as some Members are attempting to do. To start with, this is not a substantive Bill. It is an amendment Bill. It is clearly correcting some grammatical errors that were made by the Committee during the Third Reading. Section 2 of the main law is about constitution of bodies at different levels. The main Act talks about persons on whom national honours shall be conferred. The main amendment we are dealing with in this amendment Bill is on the National and County Government Honours Advisory Committee. The drafters of this Bill did not insert the word “elected”. This word is today being replaced with the word “nominated”. This amendment is from the Council of Governors.

The other amendment is giving the order of seniority of leaders in the Senate and the National Assembly. That is why the amendment seeks to add the leaders of the majorities and the leaders of the minority parties in the Senate and the National Assembly. I am raising this matter because Members are discussing this amendment as if it is the main Bill. It is good to ventilate on the matter, but it is also good to observe the rule of relevance as contained in our Standing Orders.

When somebody says that President Uhuru Kenyatta recognised some people on ethnicity bases during the recent Mashujaa Day celebrations in Machakos, it leaves me worried. We need

to speak on the basis of knowledge. When the President visits an area, including the areas represented by me, Hon. Danita, Hon. Kajuju, Hon. Duale and the Temporary Deputy Speaker, he can only connect us with the heroes from those areas. During the Mashujaa Day celebrations in Machakos, the President was trying to connect with the people of Machakos. That is why he mentioned Paul Ngei. If the President was in Kisumu, he could have raised the issue of Raila Odinga.

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): Order, Hon. Muhia. There is an intervention by the Member for Migori County. Is it a point of intervention?

**Hon. (Ms.) Muhia:** I do not need information, Hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): Hon. Wanjiku Muhia, I did not say that you are being informed. I want to know what is out of order.

**Hon. (Ms.) Ghati:** What I simply implied, and I want to tell the Hon. Member, with your permission---

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): Hon. Danita, is anything out of order? Is it something you want to report?

**Hon. (Ms.) Ghati:** Hon. Temporary Deputy Speaker, the Member said that if the President was in Machakos and this is---

**Hon. (Ms.) Muhia:** Hon. Temporary Deputy Speaker, let me continue.

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): Hon. Members, let me give direction. You rise on a point of order only if something is out of order. For that matter, you will be stating which Standing Order has been breached. Secondly, if it is a point of information, indicate, so that we can follow the procedure.

**Hon. (Ms.) Muhia:** I do not need information on this case.

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): Order, Hon. Wanjiku Muhia! I am giving direction to the House. Hon. Danita, you are just trying to inform the Member on the corrections. This is a House of debate. Hon. Muhia.

**Hon. (Ms.) Muhia:** Hon. Temporary Deputy Speaker, in this case, I was saying that if the President was in Ol Kalou in Nyandarua County, he could have spoken of J.M. Kariuki, Kimathi and possibly about me noting that I have sponsored a Bill on persons living with disabilities. The point here is that we cannot bring a very big debate on such an important Bill.

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): Hon. Wanjiku, let us hear what the point of order is.

Yes, Hon. Chairman!

**Hon. (Eng.) Gumbo:** Hon. Temporary Deputy Speaker, Hon. Wanjiku Muhia is my good friend. I would not want to---

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

**Hon. (Eng.) Gumbo:** Is she in order to say that when the President was addressing the nation from Machakos, the whole thing became a county function? The President was addressing the nation. That is why he mentioned James Orendo, who comes from Siaya County, as a national hero. That is the point of contention.

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): Which Standing Order has she violated?

Order, Leader of the Majority Party! Hon. Members, let us not use points of orders as points of debates. In future, Hon. Members, especially when I am in the Chair---

**Hon. (Ms.) Muhia:** Hon. Temporary Deputy Speaker, let the Members not interrupt. This is a very important Bill. Is it another point of order?

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): Hon. Muhia, I now want to give you time.

**Hon. (Ms.) Muhia:** Thank you, Hon. Temporary Deputy Speaker. Heroism reveals our missing qualities. This is an important Bill because we can also emulate the heroes that have been there ahead of us including Hon. (Prof.) Wangari Maathai. A child can grow, become inspired and start emulating Hon. Wangare Mathai. Heroes also remind us of our history. I want to speak of the heroes in our villages. Hon. Ghati and Hon. Gumbo have to listen very carefully. We do not have to keep on saying that the Government did this or that. Who is the Government? The Government is me and you.

On the issue of cash transfers, we have very old women and men who are not yet benefiting. Some of them even fought in the Mau Mau wars. This is about integrity and management. Therefore, we can also create our own heroes in our own villages, so that even if we say that the Government has recognised so and so, we can also be giving these people the benefits and integrity of their lives.

As a Member mentioned, we should not forget the people who went to Somalia to fight to safeguard our territorial integrity. Those are people who are safeguarding the welfare of our country. As they fight, their children may not be going to school. So, it is always fair for us, as Kenyans, to honour them. I am categorically not speaking of the Government because I believe that the Government is me and others. As leaders and Members of Parliament, no one can stop us from legislating to name a road after Hon. Wanjiku Muhia in Migori County.

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): You have a minute.

**Hon. (Ms.) Muhia:** There is no one who is stopping us from making such laws or amending existing laws to provide for such an arrangement. I am sure the President and his team will be reading what is in the newspapers.

With those few remarks, I support.

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): You support. You even exceeded by a minute. As I indicated earlier, I will now call upon the Mover to reply. He is at liberty to donate part of his time to some Members.

**Hon. A. B. Duale:** Hon. Temporary Deputy Speaker, I only want to give two minutes to my senior, Hon. Wafula Wamunyinyi. His body looks like the person who hammered Hon. Kaluma, so be scared of people of his height.

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): Hon. Wamunyinyi, you are a beneficiary of the philanthropy of the Leader of the Majority Party.

**Hon. Wamunyinyi:** Thank you very much, Hon. Temporary Deputy Speaker. I wish to thank the Leader of the Majority Party for giving me two minutes to make my remarks.

This amendment seeks to cause recognition of these important offices and it is important to note that they were never captured, particularly those of the Senate. If you look at Article 108 of the Constitution, which provides for the positions of leaders in the Houses, this was never captured. As we seek to amend this Act for these offices to be recognised, which I do not oppose, I think it is important for us to also look at how best we can align this to the Constitution.

Those who drafted the Constitution clearly understood the structure and organisation of leadership in the House. They left out the Senate, which was not in order because the practice across the world recognises the Senate. It is important that as we pass this, some effort should be made to ensure that this is clearly captured. There are other Articles of this Constitution which need to be looked at.



*(Hon. Kajuju consulted loudly)*

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): Hon. Kajuju and your team, can you give your ears to Hon. Wamunyinyi?

**Hon. Wamunyinyi:** There are other Articles of the Constitution which also need to be looked at. It is important that while we cause this recognition, we also look at the provisions of the Constitution. I support this. It has also captured the Leader of the Minority Party in the Senate who is my party leader. The FORD-Kenya leader is the person who holds that office. We should look at this, not just for him, but for others and ensure that we align our laws to the Constitution.

I support this.

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): Thank you for using the two minutes from the Leader of the Majority Party well.

The Leader of the Majority Party.

**Hon. A.B. Duale:** Hon. Temporary Deputy Speaker, I want to thank all Members, on behalf of the Chair, who have contributed to this Bill. As Hon. Wanjiku Muhia said, it is mainly correcting the principal Act.

The debate was more on who mentioned who while we were in Machakos. You do not need to be mentioned. Every child in this country knows who our freedom fighters and heroes are. They know Jaramogi Odinga, Masinde Muliro, Jomo Kenyatta and Paul Ngei, Ochieng' Aneko. Why do you have to be mentioned? I am a Muslim and we say that you do not need to be mentioned. Your deeds should follow you hereafter.

As the Leader of the Majority Party, I want to assure those who complained about not being mentioned that come Jamhuri Day, they will be mentioned. I take that responsibility, so that you do not give us a chorus again. This time, I will tell the President to mention everybody and sundry. Even Hon. Wafula Wamunyinyi and Hon. Gumbo are heroes. They are heroes in their own way. Everybody is a hero in his or her own way. Of course, Hon. Kajuju is yet to be a heroine unless we want to rewrite history. Hon. Wafula Wamunyinyi is a hero because he participated in one of the most tedious peace processes in Somalia. I do not remember Hon. Kajuju participating. No, she participated. She was the first female Law Society of Kenya Vice-Chair.

I beg to reply.

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): Hon. Kajuju, you know the rules. If you are on a point of order, you press the intervention button. You do not just shout behind the Leader of the Majority Party.

Hon. Members, we are not in a position to put the Question to the Bill. I order that the Question be put at the most appropriate time as will be directed by the House Business Committee.

Next Order.

*(Putting of the Question deferred)*

## BILLS

### *Second Reading*

## PUBLIC PRIVATE PARTNERSHIPS (AMENDMENT) BILL

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

*(Resumption of Debate interrupted on 19.10.2016)*

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): Hon. Members, the Public Private Partnerships (Amendment) Bill (National Assembly Bill No.25 of 2016) was being moved by Hon. Naomi Shaban. She did not finish moving it neither was it seconded. I cannot see her in and so, I defer the Bill.

*(Bill deferred)*

Next Order.

## THE LAND VALUE INDEX LAWS (AMENDMENT) BILL

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

**Hon. A.B. Duale:** Hon. Temporary Deputy Speaker, I beg to move that the Land Value Index Laws (Amendment) Bill, 2016 be now read a Second Time.

The Kenya Vision 2030 is largely pegged on development of infrastructure, which is dependent on, among other things, the availability of land which in certain instances needs to be acquired by the Government for purposes of development projects, creation of easement over land, creation of public right of way or the acquisition of way leaves for infrastructure.

Basically, the intent and object of this Bill is that we need to build high voltage electricity transmission lines across the country. We need to build long kilometres of roads across the country, including bypasses like the Southern and the Northern bypasses. We need to build railways, hospitals, energy infrastructure, geothermal and many others. In all these, the common denominator is the availability of land.

Since Independence, just like it is only this afternoon that we have finished with the Contempt of Court Bill, we do not have any piece of legislation that guides how to deal with the matter of availability of land for capital development that is beneficial to the citizens.

When you land in Entebbe and you drive to Kampala, you will see a huge section of land set aside for industrial development in Uganda. Part of the progressive development that Rwanda has reached is because they have passed a very robust law that takes care of how capital projects are done in a country for the interests of its citizens.

The ease with which the required land or rights over land are accessed signals Kenya's quality in the ease of doing business. When an investor comes to set up a special economic zone, this House has enacted the Special Economic Zones (SEZ) Act, which guides the process where labour is cheap and access to power is affordable. It is one centre. As I speak, the Japanese Government wants to establish the first SEZ at the Dongo Kundu in Mombasa. Of course, many others want to establish similar economic zones in Naivasha, where power is close. Even transportation of power over a long distance will be a factor in the cost of that power. So, the more you build factories and industrial parks where power is sourced, the better. It makes Kenya a preferred choice of doing business. It signals Kenya's quality in the ease of doing business

because land determines the pace at which public infrastructure investments can be actualised in our country. That is the object of this Bill.

The importance of this Bill, with regard to the amendment of the Land Act, 2012, is to provide for the development of a land value index. So, the whole gist is that we must develop within the land index value law to standardise and harmonise the value of land across the country for the primary purpose of making a determination. Once you have the land value index system, you can standardise and harmonise the value of land across the country in as far as land rents, rates and Stamp Duty are concerned in the conveyance of land and compensation predictability. If a certain section is where the way leave for the transmission of electricity lines is going to pass, then, the Kenya Electricity Transmission Company (KETRACO) and the valuers will know the value index system. Basically, that is what this Bill is all about.

In conclusion, land rates, rents and Stamp Duty in a modern country like Kenya, must be predictable and rational. They must not be prone to subjective valuation where one valuer will say that one acre is worth Kshs2 million and another Government valuer says that one acre is worth Kshs100 million. That unpredictability must be resolved. That is what the Bill talks about.

In terms of acquisition, harmonising, standardising compensation and ease of acquisition of land and access to land and rights over land, there are places, like where I come from in Northern Kenya, where when you want to build a road, a community will say that that is their land when the whole land is trust land. In terms of what you should pay to the county government, individual citizen or land rates and Stamp Duty, this must be harmonised and standardised based on the land value index that Parliament will agree on through this Bill.

That is the gist of the matter. I will ask the Whip of the Majority Party, Hon. Katoo ole Metito, to go clause by clause on what the Bill intends to do.

I beg to move and ask Hon. Katoo to second.

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): The Member for Kajiado South, Hon. Katoo Metito, to second.

**Hon. Katoo:** Thank you, Hon. Temporary Deputy Speaker. I rise to second this very important Bill. The Mover, the Leader of the Majority Party, has explained the intent and object of the Bill. It is purely to set criteria on how to assess the value of land, especially land that is meant for compulsory acquisition by the State for purposes of doing public projects. That acquisition criterion is well explained for Members to see in Clause 6 of the Bill. The reason the criterion is necessary is to avoid unpredictability, irrationality and non-harmonisation and to introduce standardisation, so that you can predict, especially in geographical zones, the value of certain pieces of land. This is for purposes of stopping unscrupulous persons or processes that always tend to take money away from the Government coffers.

As the Mover has said, this is purposely land meant for capital projects. We are doing the standard Gauge Railway (SGR) and the Lamu Port South Sudan Ethiopia Transport (LAPSSET) projects. We have also seen KETRACO projects and areas where big water dams are to be constructed especially the flagship projects. For example, along Mombasa Road, we have the Konza City Project, among others.

These processes have always been prone to court cases, which have delayed a lot of Government projects. Every court case is to do with the value of land. As our Constitution categorically places it, we have public, private and community land. Every time the Government wants to compulsorily acquire land, and that is allowed by the Constitution, if it is community or private land, the entities move to court. These court cases take too long. The purpose of moving to court is just to determine the real value of the land that has not been paid or compensated.

Currently, there is a stalemate in the Judiciary because of the ruling of the High Court sitting in Malindi that no other judge will hear land cases until the Judicial Service Commission (JSC) identifies judges who will purposely hear these issues. This has caused a lot of backlog in terms of land cases.

I like Clause 2 of this Bill. The introduction of some terms like compensation is good. What is compensation? The criteria should be clear to ensure there is fair compensation. There is the issue of “prompt”. It is an insertion that has been brought in Clause 2 and is in relation to payment. There should be prompt payment. There should be no delay in payment. Some issues need to be addressed by the Departmental Committee on Land. We should include issues like inconveniences and extraneous cases in terms of moving. They are issues that should be included because if you look at that insertion of prompt payment, there is a caveat.

Paragraph (ii) says that it should be done in not more than three years, but my view is that the compensation should prompt, immediate and should not be in installments as indicated. It should be in full. The other definition is “in full” in relation to compensation. They are proposing that it should be done within a period of three years and can be done in installments. However, I think it should be done promptly and in full.

You can get the import of the entire Bill in Clause 6 especially in 107(a) where it proposes a new insertion to provide criteria for assessing the value of land to be compulsorily acquired. It distinguishes matters to be taken into account when assessing land and it also provides what is to be disregarded. One of the issues it says should be disregarded - and the Committee looked into that - is in Clause 6(5), which says that, in addition to the provision of the sub-section, the following circumstances shall not be taken into account in determining the value of land, the degree of urgency which has led to the acquisition, any inconvenience caused to the person interested in the land and damage which is likely to be caused to the land after the date of gazettelement.

They are so many. It also provides that compensation to be paid to the occupants is in good faith of land compulsorily acquired from a person who may not hold title to the land. Therefore, you can be compensated for your land even if you do not hold the title. The criterion is in Clause 6 of the Bill.

I have some observations because the Departmental Committee on Lands has tabled the Report on this today. Although you are trying to avoid speculation, sometimes when we realise that there is a big public project coming up, we try to speculate the prices of the land to be acquired. That needs to be avoided. That notwithstanding, we may need to look at Clause 6(c)(i) that provides that the increase in the apparent value of land is occasioned by any development or improvement of the land, if the improvement was made on the land within two years prior to the date of the publication in the Gazette Notice that this land will be acquired. Surely, if you had developed your land two years before you realised that it will be compulsorily acquired, that improvement needs to be taken into account. But Clause 6(c)(ii) says that if the improvement was done after the date of the publication in the Gazette Notice on the intention to acquire land, I agree that you do not need to take that into account. There is no need to continue developing the land when it is already shown in the Gazette Notice that it will be acquired.

I can see I am running short of time. The Land Acquisition Tribunal established in Part VIII(a), a five member tribunal formed by the JSC should be looked into by the Members. More importantly, what is its jurisdiction? I had a lot to say, but time is over.

I beg to second.

*(Hon. Kamanda walked on the aisle)*

**The Temporary Deputy Speaker** (Ms.) Mbalu: Hon. Member, let me allow you to take your seat because of your seniority.

*(Question proposed)*

**The Temporary Deputy Speaker** (Ms.) Mbalu: I give the first chance to the Member for Njoro.

**Hon. J.K. Ng'ang'a:** Thank you, Hon. Temporary Deputy Speaker. I rise to support this Bill. I hope you will agree with me that as we support this Bill, there are some issues that we need to look at as Kenyans. We need to sort them out first. In Kenya, when you mention land, everybody becomes keen and attentive because it is a very sensitive issue which every Kenyan is cautious of.

Let us all agree that somewhere along the way, we, Kenyans, messed up our land acquisition or ownership. I believe that it is not too late to rectify that mistake which our forefathers may have made deliberately or not.

The Leader of the Majority Party and the Chief Whip of the Majority Party have highlighted the issues which we are supposed to address in the Land Value Index Laws (Amendment) Bill, but there are some other pertinent issues, which we need to relook at and correct them before it is too late. Before we gained Independence, the colonial masters had planned for the capital city here in Nairobi. That plan is still there. But after Independence, some people came up with other plans and instead of developing and making sure that whatever had been pre-planned by the colonial masters was implemented, they shelved the plan and started constructing houses anywhere to make quick money.

As we go out of the capital city to our native lands, there are ancestral or communal lands. It is high time we did thorough research and identified the lands which are supposed to be developed, retained for forests and national parks and gazette them. If we do that, nobody should encroach on them.

As I speak, it pains me a lot to see that Nakuru County, where I was born and brought up and where I used to see very green hills like the Mau Escarpment, they are not there. I do not know what happened. It has been invaded and cleared for settlements. As I speak, people are crying of drought and shortage of water. In the old days, we used to swim in rivers, but we hardly have any river now. If you go to the other side of Menengai Crater, which was reserved for a forest, it has been invaded by land developers. Nothing is left even on top of the hill. The Kenya Forest Service has tried to fence it, but it is invaded now and then.

Surely, as we debate this noble and important issue, we need to ask ourselves how long we will keep debating here and making laws that are not implemented. It is high time that whatever is agreed here is implemented on the ground.

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

**Hon. Sakaja:** Thank you, Hon. Temporary Deputy Speaker. I wish to support this Bill. A philosophy student like Hon. Wamunyinyi or Dr. Esi Simiyu, will tell you about a man called Jeremy Bentham who founded the principle of utility. He describes it as the sum of all pleasures that result from an action minus the suffering of anyone who is involved in the action hence the philosophy of utilitarianism, which means the greater good for the most people that will benefit.

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): I can see them listening.

**Hon. Sakaja:** You can tell he is a philosopher by the beard he has. It means a lot in our culture.

*(Hon. Wamunyinyi and Hon. (Dr.) Simiyu nodded)*

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): I can see them nodding.

**Hon. Sakaja:** The gist of that philosophy of utilitarianism is that the best action is the action that derives the greater good for the greatest number of people. This is what this Bill seeks to streamline and to achieve. Indeed, there have been cases where for the greater good of the public, land belonging to one individual or a specific community might need to be acquired by an agency of the Government whether the national Government or the county government, so that more than just the people in that specific piece of land benefit. This happens the world over, but in Kenya, because of the lack of streamlined laws and procedures to be followed, individuals very easily stand in the way of this kind of land acquisition. This means that because of either the individualistic nature or the economically competitive nature of how things have been in this country, one feels that because of their own benefit, they want to hike the price that they give to the Government.

We have heard Hon. Katoo talking about speculations where people run to a particular area. A good example is the LAPPSET Project. Everyone has lined up and bought pieces of land across the corridor of LAPPSET from Isiolo onwards, so that they can benefit as individuals. The provisions of this Bill will help us to avoid such situations. I remember a case here in Nairobi along Ngong Road from Karen where the rest of the road was done apart from one small section. It remained undone because an individual refused his house to be moved. He said that his house could not be moved until full compensation was done. He argued about the rate at which it must be done. For him, it was not about the millions of road users, from Ngong, Ongata Rongai and Kiserian, who would benefit from that road and the millions of school children who would benefit from that road, but rather, it was about him as an individual. It is actually about an individual's personal economic fortunes.

As Kenyans, indeed, we have become competitive to afford as a country. I miss the days when people, especially in cities like Nairobi where I was born and raised, would borrow salt from each other as neighbours and children would play with others. For example, we would be in Mama Akinyi's house and then go to Mama Mwangi's house. There was a sense of community. Today, we are very selfish. We are always trying to get ahead. I tell people that no individual in a society can ever get ahead by trying to get even. That is the very reason I support this Bill. I am glad because of the kind of clauses it is bringing with it.

As spelt out in the Memorandum, the Vision 2030 is anchored on a lot of infrastructural projects that will help all of our lives. We have heard about the SGR and the frivolous and vexatious cases that have come up because of land compensation even in your county of Makueni. People do not want to move. They are saying the land is theirs. Somebody acquires a piece of land and they try to haggle about how much to get from that land and yet the benefit to the entire country, the East African region and even Africa as a continent, is immense.

You know, of course, God willing or *inshallah*, I seek to be the Governor of Nairobi. I hope I will be. There are certain things that we have to do in this city that will need acquisition of land. For instance, there is no city the size and scale of Nairobi that does not have a Mass Transit System. The plans have been done and I would like to refute what Hon. Kiuna has said. It is not the plan that was done before, but we have recent plans. Master plans have been done by, say,

the Japan International Cooperation Agency (JICA). We will need to have a Mass Transit System of light trains and even heavy trains in certain areas. There are certain roads around the city where we need to create train stations. That will require compulsory acquisition of that land, but then, there has to be a mechanism through which these people are compensated in a predictable and fair manner. In this city, you will need to have single bus lanes and special lanes for public transport as you streamline the sector. The only public thing about transport in Kenya is the passengers and not even the transport system! To do that, you will need to have a predictable system that can attract investors to put a premium and money to this kind of projects that we are talking about.

This should not just be done in Nairobi, but across the country. There would be need for that kind of forward thinking.

I am glad this law limits the application of the principle of equity for future where land is held under a licence. I am very glad that Clause 5, which amends Section 107, gives us a very clear procedure to be followed. Things do not work because of lack of clarity despite the fact that we have laws.

However, where a requirement is received and the Commission determines that the request to acquire land, whether by the County Government of Nairobi or by the Ministry of Transport, meets the certain threshold and prerequisite, then the Commission has the land marked out. It is valued by a Government valuer using a valuation criterion that is agreed upon. Then there is notification of the public and affected persons on the specific purpose for which the land is to be acquired, the location and the description including the size. Then the Registrar has to make an order that restricts dealings with that affected portion of land until the process is done. This will help us avoid the kind of speculation we have seen and there will be predictability in dealing with the process.

This speculation business makes everything commercial. It is not necessarily bad, but it is not for the greater good of the country, under the very principle of utilitarianism. In Clause 6, the criteria is set out, but Clause 7 says that the first alternative, once your land is compulsorily acquired, is the alternative allocation of land of equal value and comparable use to the land that is being taken. That is the primary source of compensation. The primary source of compensation is no longer money because that is what leads people to speculate. Somebody who has no interest at all in owning land in Lamu or Isiolo has gone there because the value of compensation is cash.

It says that if you buy land whose market price at the time of purchase was Kshs1 million or Kshs200,000, the primary form of compensation to you becomes land of equal value and equal usage and preferably in area of similar characteristics. If the alternative land is not available, then other forms of compensation can be monetary payment. Some people like Eng. Gumbo might prefer to get Government Bonds of equal value. Some people might prefer a grant or a transfer of development rights or shares in Government-owned entities. There are many ways through which you can get compensation. The beautiful thing is that this Bill does not even look like it has come from the Government. It says that the amount will come immediately or in installments of not more than three years. I have never heard this coming from the Government where you are limiting the amount of time you will take to give compensation. It is beautiful. It shows that, indeed, the Jubilee Government wants to match development with the rights.

Allow me to wind up. I have just seen the red light. This Bill balances the constitutional right of an individual to hold property and the greater good of this country.

I support it. Because of time, I will not move further, I think other amendments are just typographical errors. It is just to remind Kenyans that the achievement of our development goals,

in as much as it might temporarily set you back as an individual, in the case where it is land being acquired, it is for the greater good of this country. This country stands at the cusp of greatness and we must support development, not just look at our individual interests.

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): Your time is over, but very well spoken. Hon. Members, I have eight requests on this. I request you to take the shortest time if you are not repeating yourselves. Maybe we can dispense with this today.

Member for Seme.

**Hon. (Dr.) Nyikal:** Thank you, Hon. Temporary Deputy Speaker, for giving me opportunity to talk on the Land Value Index Laws (Amendment) Bill. This is an extremely important piece of legislation coming to us. We realise that it seeks to amend three Acts. The main issue which I support is standardising and harmonising the process of evaluating land particularly for compensation where public utility is required. There have been a lot of delays and a lot of speculation in processes because there has been no basis on which these decisions on the value of land are made. Many times, individuals have stopped public projects of great public interest and value because they can literally ask for any price they want or any form of compensation. Basically, this has just led to speculation.

As other speakers have indicated, once it is realised that a certain area may be earmarked for development, people rush there and purchase land and literally stop development from going on. So, this comes at the right time.

It is also important that it provides a basis for which issues like Land Rates and Stamp Duty will be based. As of now, every valuer will come and look at land in a place and say this is what this land costs and this is what you have to pay. At Cabanas on Mombasa Road, many people will realise that the exchange there has not been properly done. There was a great difficulty because the owner of one of the pieces of land around there got somebody to value the land at something like Kshs7 billion. The Government just decided it is not possible to pay for that piece of land at that rate. We know that people get compromised, including Government officers, when they valuing land because there is no criteria. In that case, it was a Government officer that gave that high value. It became impossible for the Government to turn round and reject the value that has been put in place by its officer. But if we had a criterion and standards of doing it, it would be very easy to overturn that decision and let the process go on.

We cannot retard national development because of private interests. Therefore, this Bill does a great job in that aspect. In Clause 6, it sets the criteria for assessing the value of land for purposes of acquisition for public interest. That will do a great deal.

Clause 7 sets the criteria for compensation and says that the best compensation is land of equivalent value. After that, it sets out other forms of compensation like monetary forms, bonds and whatever people like, like equity. That flexibility is important. But when we provide that flexibility, it is important that people are informed and educated. There are circumstances like in rural areas where people might not be conversant with this. So, it will be very important that people are educated and given the leeway to choose what form of compensation they wish to get. This Bill provides for that in Clause 9. So, I find that extremely useful.

Clauses 11 to 16 provide for the process of taking over of public land by the Commission, but it indicates that once the land has been taken over for public use, then it seeks to stop court from awarding any orders. That is an area we will have to look at carefully. However well intended a process is, there must provision to check that excesses do not get in. So, I do not think we should say that we will stop the courts from getting in once the acquisition



has been done. For as long as it cannot be shown that the process was proper, you cannot say that the court will not be involved.

The most important part for me is the establishment of Land Acquisition Tribunal. The Bill provides for its composition, jurisdiction and the terms. When you have an organ like that, it is easy to make references, follow up and guide people. That will go a long way. So, for those reasons, I support the Bill.

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): Thank you. Next is the Member for Kanduyi. Hon. Wafula Wamunyinyi. I can hear Hon. Kajuju remarking something about gender. We do not come here as women. You are the only one that side. I do not know if you are representing the Leader of the Majority Party.

**Hon. Wamunyinyi:** She is representing the entire side. Thank you, Hon. Temporary Deputy Speaker for giving me this opportunity to make my contribution on this important Bill.

Clearly, the objective and purpose of this Bill has been explained. This Bill seeks to amend three main laws related to land, namely, the Land Act, the Land Registration Act and the Prevention, Protection and Assistance to Internally Displaced Persons and Affected Communities Act. The great thing, which my colleague, *daktari*, emphasised is the fact that the Bill seeks to standardise valuations of land in all parts of the country. This is particularly in the area of land rates, Stamp Duty and compensation for compulsory acquisition.

With regard to land rates in Nairobi, other cities, municipalities and towns in our places, they have been charging whatever they wish. The leadership decides any amount of charge which they impose on land owners. It is a great thing that this is now being standardised. Therefore, for specific areas and parts of Kenya, a certain land rate is provided to be charged to land owners. This is one of the greatest benefits that this law is going to confer to the people. We have had people buying land for speculative purposes. We have had land in strategic places being owned for purely speculative reasons. With the enactment of this law, standardisation of rates and valuations will be clear. This will defeat those disgruntled and unscrupulous land speculators.

You will recall that recently, in the effort to construct the SGR, many Kenyans along the railway line were seeking compensation. Some people had even acquired the land illegally through land grabbing. When it came to the construction of the SGR, they sought compensation, which cost us a lot of money. People who had grabbed land gave it out for huge amounts of money to a tune of about Kshs8 billion. This law will help us to address these issues.

There should be infrastructural development for roads for us to achieve the Kenya Vision 2030. Traffic jam is not only common in Nairobi, but it is now the order of the day in Bungoma. Bypasses should be constructed. There is need for people to sacrifice their land so that roads are constructed to ease congestion. There will be deliberate efforts to acquire land for infrastructural development particularly for bypasses to open up roads and to expand existing roads to enable us to reduce the perennial traffic jams in most parts of the country. It will be beneficial to us if standard land rates are set out in our laws with clear guidelines and regulations on how to arrive at compensation. This will reduce litigation in courts because of land acquisition.

Nairobi City is the face of Kenya, but it is facing a lot of challenges, which if not addressed, we may not achieve the envisaged Vision 2030. The Jomo Kenyatta International Airport (JKIA) is facing a lot of challenges in terms of land that is meant for its expansion and the construction of a new runway. You will recall that the contract for the construction of a new runway was terminated by the Government because people had moved on the airport land. They will not be forced out because as things stand, they are the legal owners of the land. They have

title deeds yet this was JKIA land. This land will be acquired compulsorily. Therefore, when we have measures in place that will give effect to the process of acquisition of land ensuring that all parties are satisfied, this is going to be a very important piece of law.

I will talk about my Bungoma County. The Governor of Bungoma has twice organised activities at the airstrip in Bungoma Town in my constituency. Bungoma Airstrip is one of the facilities in Bungoma which, apart from Busia, are near to the towns of Mbale, Tororo and Lwakhakha on the border of Kenya and Uganda. The airstrip is near Mount Elgon and it is quite a distance from Bungoma Town. However, some people have encroached the airstrip land, which is about five acres and have acquired title deeds and ownership documents of the said land.

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

**Hon. Wamunyinyi:** I wish to ask the Government to ensure that this airstrip in Bungoma is built and protected. Those who acquired land meant for the airstrip should surrender it back even if it means being compensated. Therefore, I support this Bill and urge that in the event of further infrastructural projects, Bungoma Airstrip should be one of them.

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): Hon. Members, I can see more Members coming in and putting in their cards. It is good that we dispose of this matter at the end of this session today. Therefore, using my discretion, I order that Members use three minutes, so that every Member can speak to this Bill.

Next is the Member for Meru.

**Hon. (Ms.) Kajuku:** Thank you, Hon. Temporary Deputy Speaker, for this opportunity to contribute to this Bill, which I fully support. It is a very progressive Bill as far as land laws are concerned, taking into account that we are trying to harmonise three different sets of land laws, namely, the Land Act, the Land Registration Act and the very important Prevention, Protection and Assistance to Internally Displaced Persons and Affected Communities Act.

One of the important things I have noted in these amendments is that they introduce terms that are very important in law like “just compensation, prompt and full compensation”. In law, that is very important. It means that it sets the timelines within which compensation must be done and that, that compensation must be just, fair and reasonable.

I also support this Bill and always appreciates. There is no one time that you will find land depreciating. It will always appreciate. Harmonising these laws means that they will be predictable in as far as the market rates and the values of land are concerned. I believe that we are going to have a more harmonised market for land and in dealing with the Government.

I also support this Bill because I know that under Clause 10, the National Land Commission (NLC) can be allowed to hold a title deed in trust for a minor. Where land is supposed to go to a minor, then the NLC can be allowed to hold the land in trust until the minor attains the required age. Also, in situations where the beneficiary of the land has passed on and, maybe, one of the persons who are supposed to get the land has not obtained letters of administration of the estate, then, the NLC can hold that land in trust until the beneficiaries obtain the letters of administration.

This is a very important Bill because it has established a tribunal. The tribunal is very important and I would like Kenyans to know that they have an opportunity to go before it. In Clause 18, which establishes the tribunal, the tribunal has been given jurisdiction to entertain matters that the NLC has not responded to. We have criminalised the acts of corruption that can be committed by persons who are transacting business in the tribunal or any other place where land matters are concerned. I had very many issues to contribute to this Bill and I may not be

able to have the time to do that. I strongly feel that this is a Bill that we should support taking into account the issues that have been raised in it.

Lastly, with your indulgence, I would like to state that we have a problem in our Judiciary where the Land and Environment Courts are not enough. Judges who are sent to various courts to finalise matters on land are not enough and they have not done their work as they are supposed to.

The other day in Meru County, the Meru Bar Association threatened to go on strike because the Land and Environment Court has only one judge. They need more judges because there are so many cases. I, therefore, ask the Judiciary to appoint more judges in the Land and Environment Courts, so that they can entertain more cases.

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): Thank you. Appoint more judges. Your point is taken very well. Member for Rarieda, Hon. Gumbo.

**Hon. (Eng.) Gumbo:** Thank you, Hon. Temporary Deputy Speaker. This is a good Bill because my sense is that we will finally deal with the despicable land speculation and artificial land pricing in Kenya if it is implemented. My sense is that artificial pricing of land cannot lead to any economic growth. If we can standardise land rates, rent and Stamp Duty and make compensation predictable, it will lead to economic growth.

The Bill notes that huge variations in the amounts paid by way of compensation has led to huge inequities to those whose land was compulsorily acquired. The law seeks to equalise those payments. I am reminded of a case where a friend told me of someone whose building was sliced along Murang'a Road to pave way for the expanded Thika Road. The compensation given was so subjective or artificial, that not only did this land owner end up buying a much bigger building nearby, but after retaining the proceeds from that compensation, he was able to refurbish part of the house that remained at twice the price of the compensation. Does this not lead to obscene acquisition? This is what has made some development particularly key infrastructure projects in Kenya very expensive. You have seen the cases that are going on in this country.

I know a lot has been said about the setting up of the tribunal, but I want to speak to Clause 20. Clause 20 criminalises divulging any information on an intended acquisition to any person before application of the notice of the intention by a public officer to acquire land, with the intention to influence any form of transactions for purposes of conferring any benefits as a result of the acquisition. Criminalising that is good, but look at the penalty that has been put of Kshs500,000, which is too low. Look at the compensations that have been going on in the SGR project. Even in this House, a friend told me that that he collected hundreds of millions of shillings just because the SGR passed through their land. So, you are fining somebody who does this yet there is a bigger problem.

Right now, there is a group of people, especially those who design routes for railways and major roads, who collude with their friends, so that the route is diverted to pass through their friends' land and give it artificial value. This is not just done to the value of land, but also to the value of the fixed assets on that land. Even that should be criminalised. This is a good Bill and it is a good attempt to try to rationalise and bring sense and sanity to land pricing in Kenya.

In the area where I live, and I am glad you have had an occasion to visit me when I joined this House, the price of land was hardly a fifth of what it is today. Nothing has happened. No road has been built. For land which cost about Kshs4 million in 2008, hardly eight years ago, people are now boldly asking for Kshs35 to Kshs40 million. It is nearly 10 times. Having done what? How does this lead to economic growth, just sitting and speculating?

So, this despicable land speculation, this artificial pricing of land in Kenya is what is impeding growth of major infrastructural projects.

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): Thank you. I can hear you have a lot of amendments. You are the Chairman of the Public Accounts Committee (PAC). I know how detailed you can go. Your amendments will be welcome and even those of Hon. Kajuku.

The Member for Shinyalu, you have two minutes so that we can give others a chance. The next will be Hon. Chachu Ganya.

**Hon. Anami:** Thank you, Hon. Temporary Deputy Speaker, for giving me this opportunity. My concern is slow development and encroachment on land which has brought about marginalisation. We have many people who have encroached on public land which should be forest lands and other public utilities.

This Bill is going to regulate that, but above all, there is the issue of investment. We are losing potential investors in Kenya. They would rather go to other countries because acquisition of land here is terrible. All the corrupt dealings that you hear about are recipe to not only economic derailment, but also civil strife. So, it is very important that we nurture this Bill carefully.

I will have some amendments that we need to capture carefully, so that we can stop what is commonly known on the streets as land deals.

I support.

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): Your amendments are very welcome. I know you will bring them. The Member for North Horr Constituency, Hon. Chachu Ganya.

**Hon. Ganya:** Thank you, Hon. Temporary Deputy Speaker, for being very considerate. From the outset, I support this Bill. It is a very important Bill as it tries to address the challenges we face in our land laws in this country. In particular, it will enable us to realise our development targets as a nation by enabling the Government to acquire the land it needs to develop infrastructure for public good and for the common good of this country, whether it is railways, roads or schools.

In this city and our cities, we need to have mass transport. For us to realise that, we must acquire some of this land.

Finally, it will enable us to realise and use the provision in the Constitution where the Government has powers to compulsorily acquire private land for purposes of development. Right now, the process is very tedious, long and protracted. This law will simplify that and enable the Government to acquire land. Under the three laws and even under the Community Land Act, which is a new law in this country, communities can disagree and deny governments the right to acquire land for public good. This law will simplify that. Because of that, I fully support the Bill.

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): The last one is the Member for Turkana Central and we have two minutes remaining.

**Hon. Nakara:** Thank you, Hon. Temporary Deputy Speaker. I just want to add my voice to what my friends have said. One of the things we need to put into practise in this nation is standardisation of everything. If you go to the Ministry of Lands to look for your title deed, it may take you years before you get it. If this Bill is passed, it will be much easier to get your title number and even your file number. This law will help curb corruption. For you to get your file at the Ministry of Lands, you have to give a bribe. With this serialization, you will be able to locate your file digitally.

With those few remarks, I support.

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): Hon. Members, there being no other request, it is time for the Mover to reply. However, I order that the Mover will reply in the next Sitting.

### ADJOURNMENT

Order Members! The time being 6.30 p.m., this House stands adjourned until Wednesday, 30<sup>th</sup> November, 2016 at 9.30 a.m.

The House rose at 6.30 p.m.