

NATIONAL ASSEMBLY

OFFICIAL REPORT

Wednesday, 18th November 2015

The House met at 2.30 p.m.

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

PRAYERS

Hon. Speaker: There are some Members who have petitions but they are not present. So, they lose their chance. They will present their petitions tomorrow either in the morning or in the afternoon.

Let us move on to the next Order.

PAPERS LAID

Hon. Katoo: Thank you, Hon. Speaker. I beg to lay the following Papers on the Table of the House today Wednesday, 18th November 2015:-

The Report of the Auditor-General on the Financial Statements of the Constituencies Development Fund (CDF) for the year ended 30th June 2014 and the Certificates therein in respect of Narok East Constituency, Narok North Constituency, Rongai Constituency, Bonchari Constituency, Naivasha Constituency, Hamisi Constituency, Gatanga Constituency, Kabete Constituency, Bura Constituency and Bahati Constituency.

The Agreement on Trade Facilitation adopted at the 9th World Trade Organisation (WTO) Ministerial Conference held in Bali, Indonesia in December, 2013.

The Annual Reports and Financial Statements of the Rift Valley Water Services Board for the year ended 30th June 2013.

The Annual Reports and Financial Statements of the Witness Protection Agency for the year ended 30th June 2014.

The Annual Reports and Financial Statements of the Coast Development Authority for the year ended 30th June 2014.

The Annual Reports and Financial Statements of Kerio Valley Development Authority for the year ended 30th June 2014.

The Annual Reports and Financial Statements of the Small Enterprises Finance Company Limited for the year ended 31st December 2014.

The Annual Reports and Financial Statements of Ewaso Ng'iro South River Basin Development Authority for the year ended 30th June 2014.

The Annual Reports and Financial Statements of the Tea Research Foundation for the year ended 30th June 2014.

The Annual Reports and Financial Statements of the Kenya Wildlife Service for the year ended 30th June 2014.

The Annual Reports and Financial Statements of the Rift Valley Water Services Board for the year ended 30th June 2014.

The Annual Reports and Financial Statements of the Ethics and Anti-Corruption Commission for the year ended 30th June 2015.

The Annual Reports and Financial Statements of the Kenya Deposit Insurance Corporation for the year ended 30th June 2015.

The Annual Reports and Financial Statements of the Central Bank of Kenya for the year ended 30th June 2015.

Thank you.

Hon. Speaker: Let us have the Chairperson, Departmental Committee on Finance, Planning and Trade.

Hon. Langat: Thank you, Hon. Speaker. I beg to lay the following Papers on the Table of the House today Wednesday, 18th November, 2015:-

The Report of the Departmental Committee on Finance, Planning and Trade on its consideration of the Public Finance Management (Amendment) Bill, 2015; the Betting Lotteries and Gaming (Amendment) Bill, 2015 and the Miscellaneous Fees and Levies Bill, 2015.

Thank you.

Hon. Speaker: Let us now have the Chairperson of the Departmental Committee on Lands, Hon. Alex Mwiru.

Hon. Mwiru: Thank you, Hon. Speaker. I beg to lay the following Paper on the Table of the House today Wednesday, 18th November, 2015:-

The Report of the Petition by residents of Masongaleni Ward of Kibwezi East Constituency on the dispute over ownership of Tisya Primary School land, Plot No.280 Makueni/Masongaleni Settlement Scheme.

Thank you.

Hon. Speaker: Yes, the Vice-Chairperson, Departmental Committee on Energy, Communication and Information.

Hon. Kiptanui: Thank you, Hon. Speaker. I beg to lay the following Paper on the Table of the House today Wednesday, 18th November, 2015:-

The Report of the Departmental Committee on Energy, Communication and Information on its consideration of the Access to Information Bill, 2015.

Hon. Speaker: Hon. Members, I am assuming that the Committee has produced many copies of the report. I know it was not dealt with this morning but it is going to be prioritised for debate tomorrow morning. So, if the copies are enough, Hon Members can get them from the Table Office.

Let us now have the Chairperson, Constitutional Implementation Oversight Committee, Hon. Njoroge Baiya.

Hon. Baiya: Thank you, Hon. Speaker. I beg to lay the following Paper on the Table of the House today Wednesday, 18th November, 2015:-

Report of the Constitutional Implementation Oversight Committee on its consideration of extension of the life of the Commission for the Implementation of the Constitution beyond 29th December 2015 pursuant to Section 5(7) of the Sixth Schedule to the Constitution.

Hon. Speaker: Very well. Let us have the Vice-Chairperson, Mediation Committee on the County Governments (Amendment) Bill (Senate Bill No.1 of 2014), Hon. Wanjiku Muhia.

Hon. (Ms.) Muhia: Thank you, Hon. Speaker. I beg to lay the following Paper on the Table of the House today Wednesday, 18th November, 2015:-

The Report of the Mediation Committee on the County Governments (Amendment) Bill (Senate Bill No.1 of 2014).

Thank you.

Hon. Speaker: Let us move on to the next Order.

NOTICES OF MOTIONS

REPORT ON EXTENSION OF LIFE OF CIC

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

THAT, this House adopts the Report of the Constitutional Implementation Oversight Committee on its consideration of extension of the life of the Commission for Implementation of the Constitution beyond 29th December 2015 pursuant to Section 5(7) of the Sixth Schedule to the Constitution laid on the Table of the House today, Wednesday, 18th November, 2015.

Thank you.

Hon. Speaker: Yes, Hon. Wanjiku Muhia.

ADOPTION OF MEDIATION COMMITTEE REPORT

Hon. (Ms.) Muhia: Thank you, Hon. Speaker. I beg to give notice of the following Motion:-

THAT, this House adopts the Report of the Mediation Committee on the County Governments (Amendment) Bill (Senate Bill No.1 of 2014) laid on the Table of the House today, Wednesday 18th November, 2015.

Thank you.

COMMUNICATION FROM THE CHAIR

DELEGATION FROM NATIONAL ASSEMBLY OF GAMBIA IN SPEAKER'S ROW

Hon. Speaker: Hon. Members, I wish to introduce to you a delegation from the National Assembly of Gambia who are Members of the Public Accounts Committee seated in the Speaker's Gallery.

The delegation comprises the following Members:-

1. Hon. Lamin Kebba Jammeh, MP - Head of Delegation and Vice-Chairman of West African Parliamentary Public Accounts Committee (WAPPAC)
2. Hon. Alh Alaji Sillah, MP
3. Hon. Njai Darboe, MP
4. Hon. Seedy S.K.Njie, MP
5. Hon. Buba Ayi Sanneh, MP
6. Hon. Babou Gaye Sonko, MP
7. Mr. D.C.M. Kebbeh, Clerk of the National Assembly of Gambia

8. Mr. Rene Geoffrey Renner, Aide to the Committee
9. Mr. Loui Moses Mendy, Senior Policy Analyst unit at the Presidency
10. Mr. Ansumana Sonko, Principal Accountant at the Accountant General Department
11. Mrs. Mariama Jeng Mboge, Financial Analyst at the Ministry of Finance.

The Committee is in the country on a benchmarking visit to our Public Accounts Committee (PAC) and the Public Investments Committee (PIC) of the National Assembly. I wish to welcome them to the National Assembly and wish them fruitful engagements with our two Committees.

I thank you.

(Applause)

Hon. Members, in keeping with our practice, today is the opportunity of 10 minutes for the Departmental Committee on Environment and Natural Resources to update the House on the progress made with regard to business that has been referred to that Committee.

Let us have the Chairperson, Hon. Amina Abdalla.

Hon. Member: She is absent!

Hon. Speaker: What about the Vice-Chairperson? Can we then get the Departmental Committee on Labour and Social Welfare?

Yes, Hon. David Were.

STATEMENTS

STATUS REPORT ON BUSINESS BEFORE DEPARTMENTAL COMMITTEE ON LABOUR AND SOCIAL WELFARE

Hon. Were: Thank you, Hon. Speaker. The following is the Status Report of the Business pending before the Departmental Committee on Labour and Social Welfare.

We have four legislative proposals the first one being the proposed National Museums and Heritage (Amendment) Bill sponsored by Hon. Sheriff. We have met the sponsor of the Bill together with the National Museums of Kenya team. We are concluding the report.

Secondly, we have the proposed Presidential National Archives and Records Administration Bill, 2015 that is sponsored by Hon. Kabando wa Kabando, MP. We have received comments from the Attorney-General and other stakeholders. We have also held a meeting with Hon. Kabando wa Kabando. We had suggestions that we gave to him, he was to come back to us and we are still waiting for his appearance before us.

Thirdly, we have the Industrial Training (Amendment) Bill, 2015 that is sponsored by Hon. Jude Njomo, MP. We are yet to meet the sponsor of the Bill. We were expecting to meet him yesterday but he did not appear before us. So, we expect to meet him tomorrow so that we can come up with a report on this.

Fourthly, we have the proposed Kenyatta Mausoleum Bill, 2015 that is sponsored by Muthomi Njuki, MP. We have agreed with him that we deal with this matter next week since he was committed elsewhere.

We also have two Bills from the Senate; the Persons with Disabilities (Amendment) Bill (Senate Bill No.24 of 2014). The second one is the National Youth Service (Amendment) Bill (Senate Bill No.26 of 2014). The reports of these two Bills were tabled before this House yesterday. So, we are waiting for them to appear on the Order Paper.

On petitions, we have two. One is by Caston Kamaru Githinji on the delay of his retirement benefits. This one was concluded and it is just awaiting tabling.

The second petition is by Hon. Zuleikha Juma Hassan, MP regarding the deplorable working conditions of workers in Kwale International Sugarcane Company Limited. We visited the company in the presence of the Hon. Member of Parliament and we have prepared the report. This is awaiting the Committee's adoption.

On sessional papers, we have two. One is Sessional Paper No.6 of 2014 on the National Children Policy while the other one is Sessional Paper No.1 of 2015 on the National Policy on Elimination of Child Labour. We have met the Ministry concerned and we expect to conclude the report this weekend.

On foreign trips, we have done 10 of them. One was the High Level Symposium on Social Protection which was held in Victoria Falls, Zimbabwe between 16th and 20th February, 2015. Two was the study visit to Saudi Arabia on Administration of Foreign Employment and Management of Labour Migration held from 31st May to 4th June, 2015. The third one was the study visit to Philippines and United Arab Emirates on Administration of Foreign Employment and Management of Labour Migration from 2nd to 9th June, 2015. The fourth visit was the study visit to India on Administration of Foreign Employment and Management of Labour Migration held between 15th and 19th June, 2015.

The fifth visit was on the Special Olympics 2015 Summer Games in Los Angeles, USA held from 25th June to 2nd July. The sixth visit was made to the World Youth Championships in Cali Colombia from 15th to 23rd of July. These six reports have been concluded and adopted by the Committee and have been forwarded to the Directorate.

We also have the Developments of Inclusion and Equity Policies Conference that was held in Norway between 11th and 19th April. We also had the 14th Session of the Convention of Rights of Persons with Disabilities held in Geneva in August and the 15th World Athletics Championships held in Beijing, China in August. We also attended the All Africa Games held in Brazzaville, Congo between 2nd and 20th September, 2015. The four Reports have been concluded but have not yet been adopted by the Committee. Once they are adopted, we will pass them over.

Hon. Speaker, as I conclude, let me reiterate that the Committee remains committed to concluding all pending work in discharge of its mandate as conferred pursuant to Standing Order No.216.

Thank you, Hon. Speaker.

Hon. Speaker: I think those who may have put in competition are none other than the ones from Members who have not appeared before the Committee. I have heard the names of Hon. Zuleikha and Hon. Jude being mentioned. They are yet to appear before the Committee. Those who have sponsored Bills before the Committee are encouraged to appear before the Committee so that it can conclude its reports. The Committee is also encouraged to hold meetings to adopt reports. I am aware that it is problematic to get quorum to adopt reports and yet this is part of their duties and responsibilities.

Very well. Let us now have the Chairperson, Departmental Committee on Lands, Hon. Mwiru.

STATUS REPORT ON BUSINESS BEFORE
DEPARTMENTAL COMMITTEE ON LANDS

Hon. Mwiru: Thank you, Hon. Speaker. It is my pleasure to present the Status Report of the Departmental Committee on Lands on both cleared and un-cleared business before the Committee.

The Committee has been considering the following Bills referred to it. Two of them have constitutional deadlines. The first one is the Community Land Bill 2015 and the other one is the Physical Planning Bill, 2015. The other Bill which does not have constitutional deadline is the Land Laws (Amendment) Bill, 2015.

The Bills have gone through the First Reading and are awaiting the Second Reading. The Committee has already compiled its report on the three Bills which was also presented to this House on 14th October, 2015.

On petitions, we have petitions that have already been cleared and others that have been forwarded to this Committee. The petitions have been tabled by the Committee.

The first one is a Report on a Petition by the Nairobi United Internally Displaced Persons (IDPs) Community Based Organisations (CBOs) on the provision of funds for the resettlement of the IDPs conveyed by the Speaker of the National Assembly.

Secondly, we have a Report on the Petition by the Enosupukia Evicted Persons on resettlement conveyed by the Speaker of the National Assembly.

Thirdly, we have a Report on the Petition of Maanoni Dam displaced persons on delayed and crop compensation by Hon. Dan Maanzo, MP.

Fourthly, we have a Report on the Petition for the resettlement of the 1992 Molo clashes victims presented by Hon. Jacob Macharia, MP.

Fifthly, we have a Report on the Petition by Hon. Shimbwa Omar Mwinyi on behalf of Changamwe residents regarding grabbed land in Airport Ward and Port Reitz Ward in Changamwe Constituency.

Sixthly, we have a Report on the Petition by Hon. Aghostino Neto, MP on behalf of the citizens of the Republic of Kenya, regarding the recognition of the deeds and removal of caveats on title deeds in Tendwet Location in Narok.

The last one is the Report of the Petition by Twiga Farm Evictees regarding the alleged eviction of over six hundred families from their land which was referred to on 14th October, 2014.

There are also pending petitions, Hon. Speaker.

The Committee has finalised and is awaiting the adoption of the following Reports on Petitions and will today table a Report on the Petition by residents of Masongaleni, Kibwezi East Constituency regarding the dispute over the ownership of Tisya Primary School Plot No.280 Makueni/Masongaleni Settlement Scheme. I want to report that we tabled that report a few minutes ago. It is, therefore, no longer pending.

Secondly, the Report on the Petition by residents of Pongwe area in Lunga Lunga Constituency on imminent eviction from LR. No.1083 Shimoni Kwale will be tabled within one week.

Thirdly, the Report of the Petition by Hon. Muthomi Njuki regarding the alleged grabbing of public land belonging to Chuka Township Primary School is also expected to be tabled within one week.

The Committee is in the process of inquiring into the following petitions and is awaiting various Government injustices to make their submissions.

First, we have a Petition by the residents of Kajiado West Constituency, Kajiado County on the inquiry into the compulsory acquisition of land, Ref No.Ngong/Ngong/1959 referred to this Committee on 25th June, 2015. I wish to report frustrations of the Committee in terms of getting one of the key witness or persons who are supposed to help us dispense of with this Petition. They are Prof. Judy Wakhungu, the Cabinet Secretary (CS) for the Ministry of Environment and Natural Resources. We have tried to call the CS eight times to appear before the Committee and she has always been making excuses not to appear. Therefore, the delay is due to that particular Ministry.

It is the same for number two; that is the Petition by the residents of Mavoko Constituency regarding alleged compulsory acquisition of land in Mavoko Constituency, LR No.10029/2 referred to this Committee on 30th June, 2015. I apologise because the CS in charge of the Ministry of Environment and Natural Resources has not been able to make her submissions to the Committee to enable it finalise the report.

Thirdly, we have a Petition by Hon. William Kisang MP, on behalf of Chebororwa Community in Marakwet West Constituency regarding ceding of 1,800 acres of Chebororwa Agricultural Training Centre to Chebororwa Community referred to this Committee on 20th October, 2015. The Member of Parliament who presented the Petition has already appeared before the Committee and we are getting more information from the concerned parties.

Fourthly, we have the Petition by Mr. Joseph Mugambi and Ms. Ruth Nchurubi regarding the resettlement of Ntirimiti Subuiga Squatters in Meru County Land Parcel Nos 2806/3/Subuiga Bosnia and 2822/3/Ntirimiti Settlement Scheme referred to this Committee on 13th October, 2015. The Member of Parliament of the area, Hon. Gatobu has already appeared before the Committee and it is still dealing with the matter. We are going to conclude within the next two weeks.

Fifthly, we have the Petition conveyed by the Speaker of the National Assembly on behalf of Yala residents on 11th November, 2015 regarding the settlement of the Yala community. The area Member of Parliament has already appeared before the Committee. The Committee has continued to interrogate the concerned parties including visits to the ground.

Sixthly, we have the Petition conveyed by the Speaker of the National Assembly on behalf of land grabbing and illegal evictions in Isiolo County. This was referred to the Committee on Tuesday, yesterday. We have not started the matter but the Committee is trying to complete the issue.

On reports, we have some investigative reports before the Committee, but there are those reports that we have already concluded and tabled. They include:-

- (1) The Investigative report on the compensation of evictees of Galleria Mall and expansion of Langata Road. The Report was tabled and debated by this House.
- (2) The Report on the Land Disputes in Taita Taveta County. The Report was tabled and has been debated.
- (3) The Report on the disputed Karen land (LR.3586/3). It was debated in this House

- (4) The Report on the resettlement of squatters in Muri Farm, Mathengeta, Tumu Tumu/Riakanau Farm, Drake Farm and Kaseku Farm in Masinga Constituency of Machakos County.

The following Reports were tabled and are awaiting debate by the House:-

- (1) The Report on the land disputes in Tharaka Nithi and Meru counties.
- (2) The Report on land dispute in Awendo Township and land adjudication issues in Rangwe Constituency.
- (3) The Report on land conflicts between Kamae Resettlement Scheme residents and Kenyatta University.
- (4) The Report on land conflict in Kedong Ranch and the Report on Sirikwa Settlement in Nakuru County.
- (5) The Report on Degazettement of Government land owned by Chorlim Cooperative Society, Trans-Nzoia County.
- (6) The Report on Banita Settlement Scheme.

The following Reports are pending before the Committee:-

- (1) Inspection visit to Kilifi (Reports on Mombasa Cement and, Pwani University land, John Keen land, and Mtana Lewa land). The Reports have been finalised and are scheduled for adoption by the Committee. We wish to table them within one week.

- (2) Land and squatter issues in Nyali Constituency.

- (3) Report on State House Crescent land. The Report is finalised and is scheduled for adoption.

- (4) Report on Ngati Farmers' Cooperative in Naivaisha. The Report is finalized and scheduled for adoption by the Committee. It will be tabled before the Committee within two weeks.

- (5) Report on Naivasha land Issues. The Report is finalised and is scheduled for adoption by the Committee.

- (6) Land disputes in Nakuru County including Gachembe in Mau Summit, Nakuru County.

In conclusion, the following foreign visits were taken by the Committee and the Reports are ready. We are only waiting for their adoption.

- (1) The Annual World Bank Conference on Land and Poverty 2015 held in Washington DC.

- (2) Visit to Malawi Lilongwe held from 14th to 17th April, 2015 to attend the Conference on Sustainable Food Security Through Land Regeneration.

(Off record)

Hon. Speaker: I will give you an extra two minutes. I can see you have too many reports.

Hon. Mwiru: Thank you, Hon. Speaker. The work load is quite heavy and so are the reports.

We also had visit to Germany Berlin between 18th and 24th April, 2015 to attend the 3rd Global Soil Week. The other visit was to Dakar-Kaolack, Senegal from 11th to 17th May, 2015 to attend the Global Land Forum. We also attended the Rural Development and the Land Reform Forum in South Africa

Finally, we attended the Tribal Lands and Environment Forum held in Minnesota, Minneapolis in June this year.

Thank you very much for giving me two additional minutes.

Hon. Speaker: It is safe to say that when your Committee meets next time and the CS for Environment and National Resources fails to appear as you said on the authority of letters of invitation, you can resolve to have her summoned and indeed, if need be, let her give a testimony on oath. There is nobody who should feel busier than the rest. The Committee has too much work as is evident from these reports. It is not fair that a CS fails to appear because the people petitioning expect responses from Parliament. Therefore, when Cabinet Secretaries fail to appear, they make Parliament look bad. When you meet and if the CS fails to appear as you have said, just make a resolution that she be summoned.

The House Business Committee (HBC) is also directed to ensure that there are very many reports from that Committee. The Reports come up as a result of Petitions from residents in various parts of the country. We cannot keep them without debating them. The HBC, the Leader of the Majority Party and the Leader of the Minority Party, take note of the need to prioritize those Reports especially knowing the position of land matters in this country. It is only fair that those Reports are prioritized. The whips should ensure that that is done.

Before we move on to the next Committee, let me take this opportunity to recognize MCAs from Bungoma County Assembly who are seated in the Speaker's Gallery; students from AIC Sitoti Academy Primary School, Soy Constituency, Uasin Gishu County; students from Jerusalem Academy Primary School, West Pokot County and students from St. Marys Day Mixed Primary School, Chepalungu Constituency, Bomet County. They are all welcome to observe the proceedings of the National Assembly.

Finally, can we get a Report from the Committee on Delegated Legislation? The Chairperson is not present. I may have noticed unusually that the Vice Chairman is present. You can see Hon. Kabando is raising his hand and it extends above Hon. Gitari's head.

Yes, Hon. Gitari.

STATUS REPORT ON BUSINESS BEFORE COMMITTEE ON DELEGATED LEGISLATION

Hon. Gitari: Thank you, Hon. Speaker. I stand on behalf of our Chairman to give a Status Report on the Committee on Delegated Legislation. We have been considering regulations and we have about 25 of them that we have passed at the Committee level. These Regulations are:-

The Public Finance Management; the Uwezo Regulation 2013; the Constituencies Development Fund Regulation 2014; the National Construction Authority Regulation 2014; the National Payment System Regulation 2014; the National Honours Regulation 2014; the National Police Commission and Appointment Regulation 2015; the University Regulation 2014; the Transport and Safety Authority Operation of Motorcycles Regulation 2015; the National Police Service Commission Transfer and Deployment Regulation 2015; the National Police Service Commission Promotions Regulations 2015; the National Police Service Commissions Discipline Regulation 2015; the Public Finance Management, National Government Regulation 2015; the Public Finance Management, County Government Regulation 2015; the Public Finance Management, Declaration of National Entities Regulation 2015; the Public Finance Management

Affirmative Action and Social Development Fund Regulation 2014; the Science Technology, Information Registration and Accreditation of Research Institutions Regulation 2014; the Science Technology and Innovation, Relevance and Quality Assurance Regulation 2014; the Science Technology and innovation Research and Licensing Regulation 2014; the Public Finance Management Roads Annuity Fund Regulation 2015; the Public Finance Management State Officers House Mortgage Scheme Fund Regulation 2015; the Regulation of Wages Agricultural Industry Amendment Order 2015; the Regulation of Wages, General Amendment Order 2015; Legal Notice 146 of July 22nd, 2015; the Leadership Integrity Regulation 2015, and the Human Resource Management Profession, Election to the Council Regulation 2015.

Hon. Speaker, we have another cluster of regulations that we have received in our Committee. We have annulled some sections which we are tabling to this House. These are the Kisumu National Polytechnic Order 2014, the Eldoret National Polytechnic Order 2014, the Kenya Technical Trainers College Order 2014, the Kaimosi Friends University College Order 2015, the Arupe University College Order 2015 and the Basic Education Regulation 2015, which was published. The Committee held a meeting with the CS, the Teachers Service Commission (TSC) and the Kenya National Union of Teachers (KNUT).

We have already tabled some statutory instruments for adoption by this Parliament which include the Child Welfare Society of Kenya Order 2014, the National Transport and Safety Authority and Operation of Public Service Vehicles Regulation 2014. Before our Committee, we also have unpublished statutory instrument which we have acceded and informed the regulation making bodies to go ahead and publish. These include the Kenya Deposit Insurance Regulation 2014, the Kenya Agriculture and Livestock Research and Conservation Access for Food and Agriculture Regulation 2015.

We also have some other regulations that we have considered at the Committee level in consultation with the regulation making bodies. We are waiting for their comments after we raised some issues. This includes the Environmental Management and Coordination and Waste Tyre Regulation 2015, the County Land Management Board Regulation 2015, the National Land Commission (NLC) Review of Grants and Re-possession Regulation 2014 and the Public Private Partnership Regulation 2015.

Before the Committee, there are other regulations that we are still in consultation with the regulation making authorities and stakeholders. At this level, one of the regulations is the Tobacco Control Regulation 2015. On this, we have written severally and even sent reminders to the Principal Secretary (PS) and we are waiting for the CS to appear before the Committee. As of today, we have not got any response. We also have the Value Added Tax (VAT) Regulations 2014 and the Public Finance Management Equalisation Fund Regulation 2015, which are already published. We also have the Political Parties Funding Regulation which is unpublished. The Committee will hold a retreat with the Registrar of Political Parties on this issue.

We also have the Draft Political Parties Regulations which together with the Political Parties for Funding will hold a retreat with the Registrar of Political Parties. We also have the draft of the Political Parties Liaison Committee. There are other instruments that we have annulled in totality like the Human Resource Management Professionals Registration and Training Regulation 2015.

As a Committee, we have also received a number of instruments which include the draft rules and regulation under the Kenya Defence Forces (KDF) Act. We held a retreat with the

KDF on this and we raised some issues which they are working on. We also have the Legal Notice No.165 on Income Tax, the Public Finance Management, State Officers and Public Officers Motor Car Loan Scheme Funds Regulation 2015, the Veterinary Surgeon and Veterinary Professionals Code of Ethics Regulation 2015, the Teachers Service Commission (TSC) Code of Conduct and Ethics for Teachers Regulation 2015, the Kenya School of Law Training Programmes Regulation 2015, the Environment Management and Coordination e-waste Management Regulation 2015 and the Unclaimed Finance Asset Regulation 2015. The Committee held a breakfast meeting with the regulation making bodies and asked them to make some modifications and then publish the drafts.

I thank you, Hon. Speaker.

Hon. Speaker: I can see that you have a lot of regulations and I am sure you are likely to have many more. The point to note is that where you propose the House to annul some sections, it is only fair that you make available those reports to the House, so that the House can deliberate and make a decision one way or the other.

Bear in mind also that there are some which may have been issued out and in terms of the Statutory Instruments Act, they could be already in force, but your Committee is still entitled to annul any provisions, if you think so. Entities making regulations should know that if the Committee does not do what it is supposed to do within 21 days as required by our Standing Orders, then they can continue to implement, save that the Committee can still recommend annulment. However, for those which are pending, the best thing is to bring the reports, so that the House can express itself in the plenary. Otherwise, it is a job well done.

I am informed that the Report from the Departmental Committee on Environment and Natural Resources is going to be presented by Hon. Wilber Ottichilo. There is a Vice-Chair of that Committee. What is his name? He is Hon. Kosgei? Where does he sit when he is here? Anyhow, Hon. Ottichilo is up to the task.

STATUS REPORT ON BUSINESS BEFORE
DEPARTMENTAL COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES

Hon. (Dr.) Ottichilo: Thank you, Hon. Speaker. I wish to give a Report of the Departmental Committee on Environment and Natural Resources on behalf of the Chair, Hon. Amina Abdalla. As regards Petitions, we have one Petition pending and we shall complete the Petition once we visit the field. The Petition is by the residents of Ewaso Nyiro catchment area regarding the management of Ewaso Nyiro River by the Water Resources Management Authority.

As regards the pending Bills, I wish to report that the Forest Conservation and Management Bill, 2015, is under consideration. The Committee has already made a report on it and it is already on the Order Paper. The second one is the Natural Resources (Classes of Transactions Subject to Ratification) Bill, 2015, which is under consideration. It is also on the Order Paper. The Mining Bill, 2014, came from the Senate and it has been discussed in this House. It is now before the Mediation Committee. The National Drought Management Bill, 2014, also came from the Senate, has been discussed in this House and is before the Mediation Committee.

On legislative proposals, the Natural Resources Benefit Sharing Bill, 2015, and the Professional Foresters Bill are being concluded by the Committee.

Hon. Speaker, regarding pending Sessional Papers, the following Papers are under considerations:-

- (i) Sessional Paper No.10 of 2014 on National Environmental Policy;
- (ii) Sessional Paper No.2 of 2014 on National Education for Sustainable Development Policy, with which the Committee is almost through;
- (iii) Sessional Paper No.11 of 2014 on National Wetlands Conservation and Management Policy, which is yet to be considered by the Committee; and,
- (iv) Sessional Paper No.12 of 2014 on Integrated Coastal Zone Management Policy, which is under consideration by the Committee.

Hon. Speaker, regarding pending reports, the Report on the inquiry into the alleged lead poisoning at the Owino Uhuru Village in Mikindani by Metal Refinery EPZ and the Report on the inquiry into the alleged sand harvesting at the South Coast in Diani Beach are ready for tabling. We also have the Report on the study tour of China regarding the use of bamboo trees, which is being finalised for tabling in due course.

Thank you, Hon. Speaker.

Hon. Speaker: Well done. Before we proceed to the next business, I would like to recognise students from Kipkabus Town Primary School from Keiyo South Constituency, Elgeyo Marakwet County. You are welcome to the National Assembly.

MOTION

THE PRESIDENT'S RESERVATIONS ON THE HIGHER EDUCATION LOANS BOARD (AMENDMENT) BILL

(Report of the Committee of the whole)

THAT, the House do agree with the Report of the Committee of the whole House on its Consideration of the President's Reservations on the Higher Education Loans Board (Amendment) Bill (National Assembly Bill No.09 of 2015).

Hon. Speaker: Hon. Members, the business on Order No.8, which is on the President's Reservations on the Higher Education Loans Board (Amendment) Bill, was concluded. What remains is for the Question to be put.

(Question put and agreed to)

(Hon. (Ms.) Muhia stood up in her place)

Hon. Wanjiku Muhia, you have a problem concentrating. Kindly, look at the Order Paper so that you can be informed on how we are going to transact business this afternoon.

BILLS

Third Readings

THE MAGISTRATES' COURTS BILL

(Question put and agreed to)

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

THE SMALL CLAIMS COURT BILL

(Question put and agreed to)

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

THE COURT OF APPEAL (ORGANISATION AND ADMINISTRATION) BILL

(Question put and agreed to)

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

Second Reading

THE TAX PROCEDURES BILL

(Hon. A.B. Duale on 17.11.2015)

(Resumption of Debate interrupted on 17.11.2015)

Hon. Speaker: Hon. Members, from the records, the last person to contribute to that Bill had concluded. First on the list is Hon. Chrisantus Wamalwa.

Hon. Wakhungu: Thank you, Hon. Speaker. I rise to support this Bill. Tax procedures in this country have been very hectic. Kenyans are hustlers and most of the time, when the procedure is very complicated it is difficult for them to comply.

The key objective of this Bill is to harmonise and consolidate all the laws for purposes of keeping it simple so that people can pay taxes. I have gone through this Bill. Since we have devolution, during the Third Reading, we should have a provision on how the taxes can be collected in the counties. Counties have been collecting taxes on their own and yet majority of them do not have the capacity to collect taxes. Because of corruption, many counties have been declaring less amount of money. The public has been paying a lot of taxes and yet it is not declared. When we come to the Committee of the whole House, we should have a way of empowering the Kenya Revenue Authority (KRA) to devolve into the counties. Once they are in the counties, they can help in terms of capacity in tax collection. Once they collect, they can release the consolidated funds back to the respective counties.

Hon. Speaker, a number of counties do not disclose what they are supposed to collect. For instance, they can declare that they are going to collect Kshs3 billion but they only disclose Kshs500 million. We have had corruption in this section. It will be nice if we can go further during the Committee of the whole House and look into this issue.

This Bill empowers the Commissioner-General of the KRA. In the last financial year, the KRA did not achieve its targets and this affected Kenyans, who now borrow from the domestic market. We know domestic borrowing makes the cost of doing business high. Many commercial banks prefer when the Government turns into domestic borrowing. We saw the Treasury Bills go as high as 23 per cent and commercial banks interest rates went as high as 30 per cent because of the risk percentage. If these procedures are simplified the KRA will collect funds which will help the Government to meet its Recurrent Expenditure. Our salaries come from the taxpayers. Even funding of development projects, we know very well, come from our taxes. If the procedures are complicated, the KRA will not achieve this target. There was an indication of doing a lifestyle audit because a lot of funds are not being remitted. They are going into people's pockets. In the long run, we are going to have a shortage of funds. During the former President Kibaki's time I liked the saying: *Kulipa ushuru ni kujitegemea*. If we do not collect these funds, we will not achieve development. The net effect when we have a gap is that the Government has to borrow. It is important that through sensitisation and simplifying the process, we can achieve these targets. Once we have them, we are not going to borrow from outside because we know very well that donor funding comes with a lot of conditionalities.

Right now we are talking about infrastructure projects going on like the Standard Gauge Railway (SGR) and a lot of money is coming from Exim Bank in China. The Exim Bank has conditionalities which in the long run affect Kenyans. Indeed, it is important that once we simplify the procedures, we will not have the need to go outside to borrow funds because it comes with a lot of conditionalities.

On the Commissioner-General, the buck stops with him when it comes to collection of taxes. It is actually his responsibility. I am happy to learn that the Bill gives the Commissioner-General a lot of powers; powers to appoint. If at all one of the officers he has delegated work cannot achieve the target, he has the power to fire and maybe get those who will help Kenyans to collect tax. Tax is very important and we must pay attention to it.

If you go to other countries like Canada and the USA, you will find that their tax collection procedures are very simple. Once you are tax compliant, many people will collect this money. If you want to do business in this country, you will find that there is tax compliance. It is everywhere, whether you are a simple businessman or whoever you may be doing. Even when it comes to job opportunities, before you are paid you must produce a tax compliance certificate. So, for Kenyans to be tax compliant, it is high time KRA developed some simple procedures of getting the tax compliance certificate. It is actually very difficult to get it. They need to cascade it to the county level and if possible to the sub-county level so that Kenyans can know how much they owe or what they are supposed to do so that they can pay this money to help run the Government.

The corruption we have in this country is mostly to do with the governors. This includes the wheelbarrow scandals or the *maendeleo chap chap*. You can name them. They are at the county level. So, it is, indeed, important that when it comes to the country level, the issues of tax collection must be streamlined. The KRA must wake up and help the counties in tax collection. When you are told *maendeleo chap chap*, it actually means corruption *chap chap* which is its opposite.

(Loud consultations)

Hon. Speaker, defend me. You know Hon. Mbarire is my very good friend.

Hon. (Ms.) Mbarire: I am not your friend!

(Laughter)

Hon. Wakhungu: Anyway, the issue of tax compliance is very critical. While I was away, maybe to mention--- Hon. Nyenze should give--- This is very important to our Speaker. I know, Hon. Speaker you have been concerned with the welfare of Members as the Chairman of the Parliamentary Service Commission (PSC). I read something when I was in Cairo over the issues of Members of Parliament jumping from one Committee to another. But I doubt whether you said that.

(Laughter)

You might have been misinterpreted. When I read it, I could not believe it. I know Hon. Members are very busy but they cannot jump from one Committee to another for purposes of getting the small allowances. These Members are very busy and I am sure that the paper must have misquoted you. So, we need them to come and apologise because these Hon. Members are very busy. They cannot jump from one Committee to another. After reading it, one of the Members of Parliament in that country asked me: "Is it true your Speaker said that?" I told them that Article 34 of the Constitution talks about freedom of the media. But freedom of the media does not mean it misreports. I am sure, Hon. Speaker, you need to pronounce yourself on this because I highly doubt you said it. It has actually been burning. I know the PSC is there to take care of the welfare of Members and you have been on the frontline of improving the welfare of these parliamentarians in terms of research and offices. At the later stage, if you do not mind, it will be nice for you to clarify this allegation because I know you were misquoted.

Thank you, Hon. Speaker and I support.

(Applause)

Hon. Speaker: We are debating tax procedures law. Matters administrative cannot be discussed here. If the Speaker has not commented, it is like you have even done your own inference. I am sure Members of the HBC will tell you what the matter was. So that we do not mix what the tax procedures are--- Anybody reading our HANSARD records should not get confused as to what this is. So, is anybody ready to debate the tax procedures Bill?

Yes, Hon. Nyamweya.

Hon. Nyamweya: Thank you, Hon. Speaker for giving me a chance to support this Bill. It is timely. It has come at the right time. I have gone through it and it is very detailed. It explains who a taxpayer is and it also explains how we should keep our records and tax assessments. As we discuss this Bill, these tax procedures are going to apply to Kenyans because they are the ones who pay these taxes. The sole purpose of us paying taxes is to improve our welfare. Therefore, the officers at the KRA wake up every morning go to their offices, visit offices to ensure that businessmen are complying with paying of taxes and collect these taxes. But the problem we have is where the money goes after it has been collected. Unless it is used properly, those who pay may have a challenge in paying because if we go by what is reported in the Press

every day, you will find that there is corruption, theft and embezzlement of funds. People wake up to collect this money and it goes to the National Treasury but the message which comes out clearly shows that funds are being misused. We know we are passing this. We want to support the Government of the day so that it can fulfil its mandate to provide us with infrastructure.

I come from Kisii Highlands where we have a big challenge on roads. A time like now when it is raining people are not able to move from one point to another. The President came there and promised us that the Government will do roads and people were very happy. They went home with hopes that the roads will be constructed. As we speak today, people are wondering when the roads are going to be constructed. As we speak here now, I understand that the Government is overcommitted. As we make the Budget, we should realise what we have as our money so that we can scale down on giving people hope and ambitions and budget according to our resources.

Hon. Speaker, you may be aware, I am sure, what we pay annually as our national debt is close to Kshs280 billion and the interest may be close to Kshs180 billion. If you add that money, you will find that the annual payment for our loans is close to Kshs440 or Kshs450 billion. We are putting pressure on the KRA to collect the money and we are getting about Kshs1 trillion.

We are putting pressure on the KRA to collect money. We get around Kshs1 trillion. What is left to share amongst ourselves is about Kshs67 billion. It is important that those who are charged with the responsibility of using national resources, right from the county level to Members of Parliament and any other organisation funded by the Exchequer, account for such resources. It is unfortunate that there is no single day that passes without hearing a story on how money was lost at the county level, the National Assembly or the Ministry of Devolution and Planning. When questioned, somebody says that they do not know and that they are not in charge. If you are not in charge then you should not be in office. You should leave and give a chance to somebody else who can work. As we pass and support this Act, let it be clear that those people who have been given our scarce resources to use should use them for the benefit of the nation so as to reduce the poverty levels across the country.

Businessmen are living in a harsh environment. They are not able to pay their taxes because they have not been paid. The county governments have not paid the suppliers but the KRA is demanding that those suppliers pay their taxes. They are also expected to continue supplying goods and services to the Government despite the fact that the Government has not paid them. There is a lot of pressure on those people. I recently saw an advertisement by the KRA giving waiver to landlords, land owners and property owners. I find it discriminatory against those who have never been paid. If it is a waiver, it should apply to all taxpayers. It should not apply to one category of taxpayer because we want to bring them to the tax bracket so that they can pay. This should apply to every person who pays taxes. The advertisement runs on television every day and I find it offensive. What happens to those who have been paying but are in arrears? If you are making a law, it should not exclude others. It should apply across all the sectors.

Taxation is the only way through which we can build this country. There is no other way. Taxation can help this country move forward. It is critical that this message is passed across to all Kenyans. As we pass this Bill, let us pay our taxes. The Executive is charged with the responsibility of using tax revenues. Let them walk the talk. Let them show political goodwill and commitment in ensuring that public resources are used for development of roads, schools and hospitals, and for the provision of electricity.

In Kisii County, where I come from, the Rural Electrification Authority (REA) has done a very good job in terms of supplying power. They got funds from the Ex-chequer. It is one area where you can say that the Government has provided funds whose results are evident. The amount of money that is allocated to the REA through the national Budget is very minimal but the impact of those funds in most constituencies is evident. You can see the effect of REA in market places. When you compare the amount of money that the REA get with the amounts given to other Government Departments, you wonder what is happening in other Ministries.

Infrastructure is critical for this nation. You know my sentiments when we were discussing the construction of the SGR. I was against it. If that money had been used to improve the infrastructure in Nairobi alone, this city could have become a super place for development. If that money had been used to construct dual carriageways from Mombasa to Nairobi, Nairobi to Kisumu, and Eldoret to Malaba, it would have made sense. The issue of people claiming that the Jubilee is not implanting any projects would not be a factor if that money had been used for that purpose. This money has been dumped in a bush. We do not feel its effect. If you tell somebody in Kisii that there is a railway being constructed from Mombasa to Nairobi, he or she will not know what you are talking about. In terms of development, I wish the Jubilee Government would get their priorities right so as to give infrastructure, especially roads, the first priority.

This Bill can only encourage tax collectors to collect tax if the Government is going to fight corruption. If corruption is going to be the order of the day, how can a man wake up every morning to risk his life to go to hostile offices to collect tax? How can he go there to collect taxes?

With those few remarks, I support the Bill.

Hon. Speaker: Hon. Joyce Akai.

Hon. (Ms.) Emanikor: Thank you, Hon. Speaker for giving me this chance. I rise to support this Bill because it provides uniform procedures for tax collection. This helps in consistency and efficiency. It also facilitates tax compliance. We know very well that this country loses a lot of money through defaults in payment of tax as well as non-payment of tax by unscrupulous business people in the private sector. This Bill will go a long way in improving tax collection.

Taxes are the main source of income for the state, which is used for funding public expenditure, public programmes, goods and services. A good tax system and procedure has the potential of reducing poverty and income inequality among citizens, which is the case in Kenya now.

This Bill contributes to the repayment of the public debt because increased tax collection means less debt. Raising sufficient public finances will not only be useful in meeting the administrative costs of a country but will also protect a country from foreign aggression because a rich country is more independent and is feared even by the outside world. It helps maintain law and order and security.

This Bill mandates the Commissioner-General of the KRA or his designate to protect the confidentiality of documents and information of a taxpayer. However, despite the protection of confidentiality, the Bill also allows for disclosure of the same information to relevant Government entities for purposes of carrying out official duty or any duty arising under the tax law. Such bodies include the Auditor-General, the Ethics and Anti-Corruption Commission (EACC), the Director-General of the Kenya Bureau of Statistics (KBS) and other authorised

public officers. This also includes authorities of foreign countries with which Kenya has entered into agreements of sharing information.

As my colleague said earlier on, these procedures should also be devolved to govern and regulate tax collection across the counties. Levies in the counties are currently not disclosed. They have become a conduit of corruption. The systems and procedures should be devolved to cover levies collected by the county governments. I hope that this will also motivate county assemblies to legislate on systems and procedures for efficient tax collection and accountability by the county government.

Even as we strive to effect efficient tax collection procedures in order to increase the public income, we also need to curb wastage and corruption in the public sector, particularly at the county level. Those who believe that they are playing a watchdog role always talk about lost billions or hundreds of millions of shillings at the national Government level, forgetting that a lot of corruption takes place at the counties. We need to do a lifestyle audit of public officers as part of curbing corruption.

With those few remarks, I support the Bill.

Hon. Speaker: Hon. Makali Mulu!

Hon. Mulu: Thank you, Hon. Speaker for giving me the chance to also contribute to this important Bill.

The issue of tax payment is a very important issue in any country. This is the reason why people say tax is a good evil. It is a good evil because for any country to develop, it needs to collect taxes to get national revenue. Those who are familiar with our budgeting process realise that even as we budget for resources, most of those resources are expected to be generated from local sources, including the taxes we pay.

This Bill is very important because it is making sure that we have a simplified way of collecting taxes, which will make tax collection cost effective.

For Kenyans who may not have access to this Bill, Clause 2 is very clear in terms of why we need this law. It says that the object and purpose of this Act is to provide uniform procedures for consistency and efficiency in the administration of tax laws, facilitation of tax compliance by taxpayers and effective and efficient collection of tax.

So, if you look at these three items, you will realise that once Parliament passes this Bill, it will help this country in ensuring that we meet our targets in terms of tax collection. I have looked through the Bill and I just want to pick a few clauses which are very important, in addition to what my colleagues have said.

Clause 19 of the Bill makes provision for what we are calling tax agents so that for those Kenyans with income and are not able to prepare their tax returns, the agents will be licensed and they can assist them to prepare their returns. This is important because the topic on tax returns is not easy in this country. A number of Kenyans have challenges preparing their tax returns. So, a situation where the law provides for agents to take care of that kind of need helps this country to move in the right direction.

Clause 33 of the Bill has another interesting provision. This has to do with the extension of the time to pay taxes. What this clause does is that in case as an individual or a corporate entity you have challenges with paying your taxes in time then this clause provides that you can apply for extension of time as long as you provide reasons why you are not able to pay your taxes in time. The good thing with this clause is that the fact that you might not be able to pay your taxes in time this year will not change your timing for tax payment for next year. So, it is

just a temporary measure to make sure that Kenyans with challenges in meeting their tax obligations in time can apply for extension of time. This is quite good because it makes taxpayers feel like they are also being taken care of in terms of their needs being considered by the Government.

Under Clause 33 there is the issue of relief in a situation where an individual has challenges in paying taxes. At times, from tax assessment, you could be found to be an individual or a corporate body that is not able to pay taxes. So, in case that happens, the law makes provision for you to be excused from paying tax at that particular time because you are not capable of paying. This is quite important as we move forward because it is not always that we will be able to pay tax. There are times you will be low in terms of financial resources. When you are low, the law can be considerate to make sure that you pay your taxes when you are in the right state to pay.

Clause 60 talks about those who are not able to pay taxes. I like the idea of the power of search and seizure, meaning if you do not pay taxes then your company could be searched by the tax authorities and the goods for which you have not paid taxes could be taken custody by the Government so that they are able to get the tax component from the goods.

So, this Bill is going to help this country in ensuring that we are able to collect taxes in time and we meet our targets.

I urge Members to facilitate the passage of this Bill into law. But even as we do so, there are general issues Kenya should be aware of. The issue of corruption in this country sends the wrong signal. If you are a taxpayer and you see a situation where the money you have paid is being misdirected or misappropriated, it discourages the taxpayer. As Kenyans, we need to realise that the issue of corruption sends the wrong signal to the taxpayers. If we do not address this as a country, taxpayers will start engaging in tax evasion. As a taxpayer, I will look for means and ways of making sure that I do not pay tax or if I pay I underpay, because I am sure that once I pay I do not get value for my money. That is why during the regime of Hon. Mwai Kibaki as the President of this country, the domestic tax collection improved by almost three times. It is because Kenyans developed confidence that the money they were giving to the Government was giving them returns in terms of improved services and goods. So, I want to plead with any Kenyan who has the responsibility to collect tax and responsibility to use public resources to use public resources in the most prudent manner so that we give incentives and morale to those who pay taxes to pay them. It is the taxes that make us develop as a country. It is the taxes which give us the good roads that we have. Any time we get an opportunity that we do not collect tax it becomes an issue.

The other issue I want to bring on board is the issue of ensuring that even the informal sector also contributes to the development of this country. So, we need, even as we think about harmonising the current procedures, to think about bringing into the tax bracket more Kenyans who are in the informal sectors. Even Kenyans in the informal sectors would be more than willing to contribute to the development of this country. When this country develops, we are all happy as Kenyans and we are sure that future generations will find a better Kenya to live in.

The other issue relates to landlords. I am happy that the National Treasury has come up with the idea of 10 per cent payment if you do not collect more than Kshs10 million per year. In this country if you do a quick assessment, you will realise that a majority of the landlords do not meet their expected tax returns. This is an area we need to think about. How do we make sure that, because they get income from the rent they collect, they pay tax from the rent income?

Kenya is in a situation where it is only people who pay through PAYE who pay the actual tax expected by the Government because they have no choice since it has to be done by the employer. However, those who have businesses and property in terms of big houses for rent and leasing in most cases do not pay the expected amount. So, I would really plead as we move forward as a country that we think on a way of bringing landlords into the tax net so that we can improve our tax collection. By doing that, we will reduce Budget deficits meaning that we will almost fund our expenditure 100 per cent. If we can get to that level, as a country, I will be the happiest Kenyan and to some extent we could also start giving loans to other needy countries.

With those remarks, I support the Bill.

Hon. Speaker: The Chairman of the Departmental Committee on Finance, Planning and Trade, Hon. Benjamin Langat.

Hon. Langat: Thank you very much, Hon. Speaker, for giving me this opportunity to contribute to the Tax Procedures Bill.

I just want to inform the House of a few issues about the Bill. First of all, the Bill was published on 11th June 2015. It went through the First Reading on 25th June 2015, and thereafter it was referred to my Committee pursuant to the Standing Order No.127. We placed an advert on the local dailies on 26th June 2015 calling on the public to send their memoranda as required by the Constitution. Subsequently, we received memoranda from the following:-

- (a) a firm known as Anjarwalla;
- (b) Price Water House Coopers;
- (c) Kenya Association of Manufacturers;
- (d) Kenya Private Sector Alliance (KEPSA); and,
- (e) the Institute of Certified Public Accountants of Kenya (ICPAK).

We did a Report, which I tabled in this House a few weeks ago. We have proposed amendments which we are still agreeing on. In fact, my Committee will be travelling to Mombasa tomorrow to agree on some of the amendments to this Bill.

Having given that communication to this House, this Bill contains provisions which are; the preliminary information, which is definition of terms, administration of tax laws, issues on taxpayers, record keeping, tax returns, tax assessment, collection and recovery of tax, refunds, tax decisions, objection and appeals, reinforcement, rulings, communication, forms and notices, administrative penalties and offences and consequential amendments. As it has been said, this Bill seeks to harmonise all the procedural issues, be it on the Income Tax, Value Added Tax or Excise Duty. We need to harmonise and simplify those procedures.

If you go to the Times Tower around the time that we are supposed to file returns, you will see thousands and thousands of Kenyans queuing. Kenyans are used to late reaction. It is very important that we minimise the queues, which the public go through to file returns or even make payments.

This Bill is coming at the right time to address the challenges that Kenyans face in trying to pay taxes to the Exchequer. Kenyans deserve to use a simplified procedure and a way in which they can transact with the Kenya Revenue Authority (KRA) in the comfort of their offices or houses. This Bill is very timely. One of the clearest provisions of this Bill is the requirement that we go online. All our payments shall be done through an online system. That is a very important provision, so that we do not continue to see Kenyans queuing at the KRA offices. One should transact at their offices, file their returns and make any inquiry to the KRA online. The

requirement by this Bill to go online is clearly a step in the right direction. It is going to reduce pressure on KRA. It will eventually reduce the amount of money that we spend on employees.

The Bill squarely puts the administration of all taxes on the Commissioner-General (CG) of KRA. I like the provision under Clause 5 that the CG takes the overall responsibility. Clause 5 provides that the powers of the CG shall be delegated to the staff of KRA, so that staff in Mombasa can perform their duties. I heard somebody saying that we need KRA to be in every county. We have staff in Mombasa who have already been given powers to collect taxes at that level.

There are always concerns when KRA collects one's documents. There is concern about how documents will flow. Clause 6 of this Bill requires that the CG shall keep all the information that they come across in the course of their duty in confidentiality. I like it because we do not want the information that goes to the KRA to be shared with competitors of different businesses. I like the way it is put, that the CG will have to keep it confidential, but the Bill has also provided situations where the information may be shared. That is very good.

The Bill deals with so many items and I do not want to deal with all of them. On the record keeping, the Bill requires all the taxpayers to maintain records in official languages, which are given in the Constitution as English and Kiswahili. I do not want somebody to keep records in their language and say that those are the documents that they have. That provision is very clear.

It also provides that all those records must be kept in a manner that the CG will be able to determine the tax liability. It is not enough for you to keep any other records. You are required to keep the records in a manner that is possible for your tax liability to be determined. In other words, the CG will expect you to keep records on sales and expenses, so that the KRA will be able to determine your tax liability.

The other thing on record-keeping, which is now standardized, is that we have to maintain all these records for a period of five years. You should not keep the records this year and destroy them next year. You have to keep them for five years, so that in case of any issue, we can refer to the five-year records. That means that if the KRA has not followed up beyond five years, then there is a problem.

There is the issue of tax returns which we all make. Tax returns form a basis for determination of tax liability. This is a must. What I like in this Bill - which has not been there before - is the fact that in the event you realise you will not be able to make your returns at the prescribed time, you can request the CG to give you an extension of time. This is very important because all taxpayers are not the same. You may be in circumstances which may not allow you to file returns at the right time. So, this Bill gives some a chance to apply to the CG to extend the time within which you can file your returns.

This Bill is customer or taxpayer friendly in many aspects. One of them is that it gives you an opportunity to apply and extend the time to file your returns. In the event that you have a reason and you may not be able to pay the taxes that are due at that right time, you can request the CG to give you more time, or to pay in installments; this will depend on the liquidity position of your company. This is also a way of being customer or taxpayer friendly. We were used to KRA that has been very arrogant. They could close your business. This time round we are saying that, yes, you have the tax liability, you are supposed to have paid around this time, but we are giving you more time to pay your taxes within a given period.

In the collection and recovery of taxes, this Bill gives sweeping powers to the Commissioner. The authorised officer is given unprecedented powers to access land or business premises to assess the tax position of a company. The Commissioner does not have reasons why he should not meet the targets. This Bill is giving him a lot of powers to enter into your premises, check and confirm. The authorised officer can prosecute on behalf of the Director of Public Prosecutions (DPP). The CG has been given a lot of powers. We do not want to hear him saying he did not get certain things because he did not have certain powers. The powers have been given and it is up to the KRA to live up to their mandate.

On enforcement, I have already said that the CG has all the powers to enforce the tax laws. We expect that collections will go up. We have seen people who do business today, make a lot of money and do not pay taxes. Tomorrow, they change their company's name and call themselves by another name. This Bill is tightening the nuts. It provides that if, for example, you change your business premises, address or the structure of your shareholding, then you are supposed to notify the CG within the shortest time possible, so that it is known that you have moved to a certain place, you have changed the business or the shareholding.

The Bill even provides that if you change the name of your business in order to avoid taxation, the CG can go to individual directors. That means lifting the veil of the company to follow the individual directors and employees. For example, there is a case where directors have formed another company and are doing other business after incurring a tax debt of Kshs1 billion. Going forward, we expect that there will be no loopholes in terms of tax evasion.

I want to thank the Members who have contributed, starting with the Members of my Committee. We will be bringing the necessary amendments. The Bill provides for clear ICT mechanism for payment, but we have heard some Members saying that we cannot bring these all at once. There could be businessmen who are illiterate and we want to see how to bring them on board gradually, because we want to have everybody on board. Many penalties have been provided, but I am not going to mention them. At least, there are penalties for every offence that is created.

I have heard some Members talking about corruption. Corruption is bad, and it affects tax collection. However, it is everywhere. Some Members seem to be pointing at one direction. It is everywhere, be it in Opposition or in the Government. If we look at corrupt practices, they are everywhere. It is incumbent upon this House to ensure that we all live up to the expectations of Kenyans.

With those few remarks, I support the Bill. I urge the Members to support it, so that we can simplify our tax procedures.

Hon. Speaker: Member for Kibra

Hon. Okoth: Thank you, Hon. Speaker. I rise to support this Bill. A lot has been said on it and I want to emphasise a few points that may not have been touched on.

When we think about taxes and the point that the Chair has just raised about corruption, it is true that corruption is a big risk to this country's welfare. It is hurting this country worse than terrorism has in the last few years.

The number of mothers dying in hospitals because they lack healthcare or children denied the right to education because of corruption and wasted resources--- The number of farmers whose produce cannot reach markets because roads have not been constructed to the right standard and in the place they need them are all negative effects of corruption and we must do away with it.

Under the Kibaki administration, Kenya was in a very good place in terms of tax collection. We moved away from depending a lot on foreign loans for the management of our country's Budget. We were depending on ourselves. This Tax Procedures Bill gives us an opportunity to make a good law and push the authorities and civil servants to do a great job. The KRA cannot afford to be sleeping on the job. We need to be a self-dependent country, and this starts with a 100 per cent compliance, or as near as possible to 100 per cent, with the collection of taxes, so that the Government does not rely on high interest rates, short-term or long-term loans from local markets, or even from foreign borrowing; that is not necessary. We can plan and live within our means if we collect the right amount from taxes.

This year's Budget is about Kshs2.1 trillion. The KRA has collected just about Kshs1 trillion or less. We should get to a point where the KRA consistently collects Kshs1.5 trillion. A few months ago, the economy of Kenya was re-based and we were re-classified not as a low income country, but as a middle income country. We must make sure that we are meeting the parameters and measurements of collecting money, in reality the taxes that match with the size of this economy.

As we talk about raising taxes, we also have to think about some proactive tax policies and measures that can help this country, especially that are pro-poor; an example is taxation on things like kerosene. We are still subsidising kerosene in Kenya while Uganda and Tanzania, which are our partners in the East African Community, have moved away from that. We can use a taxation and subsidies policy in some of these things to make sure we are achieve other commitments, for instance, moving towards a green economy.

On the other hand, while we subsidise kerosene, we are also taxing a lot on the importation of things such as solar panels and batteries. We are not training enough people on how to install solar technology cheaply and affordably in our homes, schools, hospitals and community centres. Those are the type of things that with proper tax procedures and tax choices, we can create a new industry and become the hub of a green economy, where our young people can expect to use the solar industry in the production, installation and maintenance--- This is recycling to complete the green cycle. This was evident as Hon. Ottichilo read the report of the Committee on Environment and Natural Resources today. A few months ago, we saw the disaster at Uhuru Estate in Mombasa County.

When poor recycling procedures are used, there is an impact on the environment and people's lives. As we talk about taxes and tax collection procedures, we must also look at tax policies that are pro-poor, like not levying tax on items such as books and school related information technology (IT).

In its manifesto the Jubilee Government talked about laptops in schools. All our schools need proper IT equipment and laboratories besides the laptop device. That is a fact and we should also make sure that books are cheap. We are one in only four countries in the whole of the African continent that levies 16 per cent Value Added Tax (VAT) on books. Charging VAT on books sends wrong a message about our commitment, and the right, to education; that contributes to the poor reading culture in Kenya. Someone once joked that if you have a big secret to hide in Kenya, put it in a book. That is something to consider.

The issue of illicit financial flows is important. We have to look at our tax collection procedures, especially on corporate taxes, and make sure that any agreement and treaty that Kenya signs with other countries is brought to this House, which is the House that represents the interests of the Kenyan people. Treaties and agreements should be brought here for debate,

ratification and necessary adjustments. I am aware of a treaty that was signed between Kenya and Mauritius on double taxation arrangements. That treaty has not been brought to this House, yet it is awaiting implementation.

We have a Treaty Making and Ratification Act. The Cabinet Secretary (CS), and anyone in the Executive, who is in charge of pushing forward such treaties, should give Parliament its due space in the decision-making and the constitutional structure of our Government. Parliament should debate and see if Members support it or not before it comes into force. If that is not done, we will end up with a scenario where a majority of companies that do business in Kenya will declare zero profits and taxes in Kenya and pretend they are Mauritian companies, and thus deny us revenue. We cannot on one hand try to do good things to increase our tax collection to a level of self-dependence, yet on the other hand we are also coming up with treaties that will allow a lot of tax avoidance, and even as we look at global competitiveness.

Hon. Speaker, education is a right in our Constitution. Parents and Kenyan citizens of all cadres pay taxes through VAT, Pay as You Earn, rents and others. This money goes into the common pool as a resource to be used by our country, our leadership and our Government to guarantee, safeguard and deliver on promises to our people. There are many rights, including rights to water, housing and healthcare. However, let me talk about the right to education. A few months ago, this House debated a Report by a Committee that was chaired by Mr. Kilemi Mwiria. We had a Motion for Adjournment and discussed that Report on the right level of fees to be paid in Government schools. Parents have already paid, through their taxes, for those schools to be established and for the Teachers Service Commission (TSC) to hire teachers. Despite that, you find that there are still hidden fees which amount to illegal taxes that schools are still collecting.

I have girls in Kibra Constituency schooling at State House Girls Secondary School. I help in paying their fees. The school has now resorted to making sure that it charges the fees as mandated and gazetted by the CS for Education, Science and Technology. It is a very good thing. We need to send a message that you cannot collect extra illegal fees and in essence tax parents by adding uncompleted projects that in effect double the fees. Those are the things we need to take a stand on as the Legislative Assembly that represents the voice of the people.

Last but not least, I would like to talk about insulin and cancer medication. We have a lot of people suffering and dying from diabetes. People suffering from cancer are seeking treatment. The cost of a single cancer treatment is unaffordable to many. One session of radiotherapy or chemotherapy costs between Kshs40, 000 and Kshs60, 000. That is a lot of money. We should find a way of making sure that radiation technology, equipment, chemotherapy supply and everything involved in the treatment of cancer is not taxed. At that level, we will bring relief to Kenyan citizens who are suffering from cancer in all corners of this country.

I wrap up by saying that I wish the Commissioner-General and his team at Kenya Revenue Authority (KRA) success. Let him look back to the success we had in the years when President Kibaki was in power. When he took the presidency he turned our economy, and the direction of this country, around after spending many years in the Moi regime during which things ground to a halt.

In President Kibaki's regime, we started collecting our taxes fully, and all the corporations were made to understand that paying taxes was important. It has helped this country and it is the way we need to go to guarantee all the rights that are in the Constitution.

Thank you, Hon. Speaker. I support.

Hon. Speaker: Member for Kiharu.

Hon. Kang'ata: Thank you, Hon. Speaker. I rise to support this Bill, but allow me to raise some pertinent issues, which are not clear to me.

The first issue I am going to raise regards tax relief. I have noted that we do not have any chapter in this Bill that deals with tax reliefs. In normal tax law, you will find that there are some people who get some reliefs, for instance, a married couple. The idea is to avoid what we call double taxation. One may probably argue that it is provided for in another law. I am not so certain. Even if that is true, I would imagine that this being the tax procedures Bill, the procedure for applying for that relief ought to be provided. There are investors whom the State, in its wisdom, feels they can be given a tax relief. The procedure of applying for that tax relief ought to be provided here.

I have looked at the functions and powers of the Commissioner-General. I have seen that that Commissioner-General does not have the power to give a tax relief under this Bill. I would imagine that the Chair of the relevant Committee will consider bringing in some new clauses touching on tax relief at the Committee Stage.

With regard to Clause 20, on licensing of tax agents, it provides for regulations that will set out qualifications for people who will be tax agents. It is my humble opinion that we need to set that criteria in this law. The idea is you never know the kind of criteria that may be set by the Commissioner-General out there. Of course the Commissioner-General is obliged to bring regulations to this Parliament for validation.

However, taking into account your recent ruling on that issue, or regulations, we may not have a lot of leeway to probably set out various issues that we Members may feel we want to indicate as qualifications for being a tax agent. I say so because I have always felt that one way of creating employment among young people is to create professions. For instance, we should have said that for you to be a tax agent, you should have done Bachelor of Commerce in accounting or Bachelor of Arts in Economics. That would be one of the qualifications for one to become a tax agent as opposed to a situation where you leave that to the whims of the CG as provided by Clause 20 of this Bill.

Another aspect I want to bring to the attention of the Committee is Clauses 41 and 43. Clause 41 is on distress orders while Clause 43 is on the preservation of funds as provided in Part VII of this Bill. I have seen a situation where KRA has sweeping powers in recovery of funds. They will come on their own Motion and do a notice to the bank and freeze your account, yet you have not been given adequate time to make a representation as to whether you really owe KRA any dues or not. That is unfair; it offends the rule of fair administrative action, where you give the CG, or KRA, sweeping powers to recover one's assets without his representation.

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

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

Hon. Temporary Deputy Speaker, I, therefore, hold the view that it is unfair for us to give sweeping powers to the tax people, where they can freeze your accounts without any representation by the affected person. Of course, I am aware of the rationale of such sweeping

powers. You need to issue an order first, freezing that money pending any litigation, or arguments, concerning whether you are liable to pay that money or not.

However, there are also other negatives on the other side. If for instance, you freeze an account and there was a cheque that had been issued in favour of that account, it may bounce because of that order of the Kenya Revenue Authority (KRA). Therefore, the powers we are giving to the taxman under Clauses 41, 43 and 44--- Probably, we need to temper them taking into account the fundamental rights of people and property.

I would like to draw the attention of the Chair to Clause 47 of this Bill, which deals with the refund of overpaid tax. We all know how it is hard to get a refund of overpaid tax from KRA. One of the things that we need to consider is a situation where KRA owes you money; it can be credited towards your tax bill for the next year. I do not see a situation where it holds that money, but you still pay again in the next year, when they still have some money which is owing to you. Alternatively, it can be converted into an asset; therefore, you can pedal that asset around. It can be transferable. In other jurisdictions, overpaid tax can be used as an asset from the State.

I would like to draw your attention to Clause 85 of this Bill, which establishes a tax avoidance penalty. Though I seek guidance from experts in this field, to the best of my knowledge, tax avoidance ought not to be a crime. That which ought to be a crime is “tax evasion”. Tax avoidance is where you get a person who knows tax laws; he applies his mind to how you can avoid tax legally. I do not understand as to how that can be punishable in law. That which is punishable in law is tax evasion, where you know that you are supposed to pay tax and you deliberately fail to pay that tax. Avoidance is an issue of how you get an expert who is going to advise you on how to avoid tax, and there is nothing wrong with that. I think it is settled in tax matters that avoiding tax is not wrong. That which is wrong is to evade tax. Therefore, I would ask the Departmental Committee on Finance, Planning and Trade, to give me the rationale of Clause 85, which is making tax avoidance illegal.

I also draw the attention of the Chair to Clause 108 of this Bill, which talks about tax to be paid despite prosecution. It is providing that assuming you are prosecuted for non-payment of tax, notwithstanding that you are contesting that payment; the interest will still accrue irrespective how long that prosecution is going to take. What if you win the case? What if both parties, you and KRA, win so that it is like a middle kind of judgment? Strict reading of this clause means that you will still pay a penalty. I am of the view that this should be left to the judge or the Tax Tribunal to decide as opposed to making it illegal for one to negotiate with the tax authority.

From my jurisprudential point of view, I support payment of tax. I want to celebrate payment of tax, though I urge Members to take into account--- We have another school of thought which holds that at times taxes can stall growth. Jurisdictions which have fewer taxes tend to grow more. Dubai has been given as an example. Though we may be celebrating tax, it may be a hindrance for progress because investors within a capitalistic society tend to go where there are fewer hindrances, whether those hindrances take the form of tax or any other administrative form.

With those remarks, I beg to support, save for those few clarifications I sought from the relevant Committee.

Thank you.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Okay. Let us hear from Hon. Member for Muhoroni Constituency.

Hon. Oyoo: Thank you, Hon Temporary Deputy Speaker for giving me the opportunity to speak to this very important Bill.

From the outset, I want to say there is common knowledge of every right thinking Kenyan, that Kenya is not known to be a mineral producing county, save for the few discoveries that were made in the recent past. We have had our economic hope pegged on agriculture, which was messed up about a century ago and it is now a pale shadow of what we used to know. Then came in the “Boeing Tourist Destinations,” which we had and we chose political expediency to take center stage. Now Kenya solely relies on taxes that we collect, despite the fact that Kenyans and foreign businessmen who want to do business in Kenya are crying that Kenya is a highly taxed country.

The object of this Bill is to enable the Government tax agencies to spruce up the tax collection mechanisms, which I believe streamlined under President Kibaki’s regime. There was lot of discipline, although we cried that there was a lot of tribalism in KRA. Even if we were to go back to that perceived tribalism, it can help us meet our targets and make Kenya economically buoyant. What we are witnessing today is not very good. We tend not to meet our targets and a lot of blame is being put on the tax collection mechanisms.

Kenyans like a lot of blame game. We need to do research and find out why the tax collection spirit is going down. Why is KRA not able to meet targets? A lot of things have been done and my attention was drawn to the recent directive by His Excellency the President that a lifestyle audit exercise be carried out by tax collection agencies, mainly the KRA. This is a very good observation, but it should not be confined to the tax collection or the KRA alone. Those of us who are in this House, and who are handling dockets like the Constituencies Development Fund (CDF), Kenya Urban Roads Authority (KURA) and many other Government agencies where we get funds should do likewise. In effect we want to use those funds to diligently spread development that aims at changing the lives of people.

We encounter a lot of problems, more so where civil servants are called upon to help us pursue, or implement, programs. It is not KRA alone. We can spruce up the collection mechanism; we must also find out a better way of controlling our expenditure.

We must also find a better way of keeping what we already have. Anything that will make it necessary for you to bring a Government officer on board--- For example, in KURA we have monies that are meant for doing roads. It is mandatory that monies are channeled through Regional Managers in our various counties. Those Government officers are small lords wallowing in wealth.

People complain that Members of Parliament (MPs) earn a lot of money. I want to say without fear of contradiction that we are not earning small money by all standards. It is only unfortunate that a civil servant who earns Kshs300,000 for use by him and his family is better off than an MP, who earns about Kshs1 million for him and the constituency due to the spirit of dependency that we have in Kenya. A Member of Parliament must meet this threshold to sustain his job. Otherwise, we are not small income earners. You will live in an up market estate. The people who patronise high profile resorts are Government officers. Where do they get the money from? From the small money that the tax collector collects on behalf of the Government, the Government gives to the Member of Parliament in good heart to implement certain development projects in his constituency, but the Regional Manager in charge makes sure that 60 per cent goes to his pocket. He will take you round and round even if you report anywhere. He will take part of the money to his bosses to corrupt them, and you will be labelled a noise maker. If you

are not strong enough, you will have to go back, kneel down before him and ask him to let you work. You go and tell him: "Let us find a way of working together". There is rampant theft that can be seen. His bosses and the Ethics and Anti-Corruption Commission (EACC) can see it.

The new promulgated Constitution was a blessing to this country. We introduced devolution and county governments were created. So, we thought that this would spruce up the living standards of the people and the people at home can get their problems solved within reach. The governors, MCAs and the Senators are home grown. They know the problems of our people. I do not know whether we intended to devolve Government machinery or corruption. Corruption is so live in the county governments. You see it and you look around for somebody who can come to help, but you do not see them.

I do not know whether President Uhuru Kenyatta still believes that there is only one unitary Government. I have seen that EACC is just focusing on the Cabinet Secretaries and Parliament. The Criminal Investigations Directorate (CID) is doing the same. The real corruption is not here. It is very minimal. The real corruption is in the county government. Go there and see the life they live. They live large. Go and see the roads that they are doing and the properties they are purchasing without following Government procurement regulations. Some people have bought wheelbarrows at Kshs200,000 and they are still walking around with audacity. Life is just going on. Let us not spend too much time scrutinising where our problem has come from.

It is high time Kenyans became humble. When there is a problem in Kenya like hunger, it is not going to hurt the CORD or Jubilee. We must all agree that we can have our political differences on the Floor of the House and outside the House, but when there are serious problems in the country, for instance, the current serious economic challenges, Kenyans must unite and help our leadership find ways of fast-tracking the economy back to where it was. Jubilee leaders must learn to bite humble pie and pay homage to retired President Kibaki. If today a holocaust occurred and Kenya blew up, it may not be the same tomorrow; in my rating, President Kibaki will go down in history as the best President we ever had in this country. He talked very little and did so much. Being an educated man, he had his pet subject, namely education. It was his dream and he made sure there was free education. He said that there was going to be free education and it happened. He came, dreamt and said that he wanted to do infrastructure. He did it properly.

(Applause)

Our leaders must borrow a leaf from former President Kibaki and stop walking as if elections are going to be held tomorrow. If you have been given a responsibility, discharge it. You will be judged by your performance. The Jubilee Government promised to do 20,000 kilometres of tarmac road, but we are yet to see a kilometre. We are heading towards the next election. We had Government bursaries which were cowardly withdrawn without our involvement.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Member for Muhoroni, there is a point of order.

Hon. Wangwe: On a point of order, Hon. Temporary Deputy Speaker. Is the Member right to say that the Jubilee Government promised to do 20,000 kilometres yet he is very much aware that it was a Motion that was debated in this House and resolved on this issue?

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Hon. Member, just carry on. He has a right to intervene.

Hon. Oyoo: Hon. Temporary Deputy Speaker, it was a Bill that was presented before this House and the Government came up with an annuity programme. It was given assent by the President.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Hon. Members, let us also try to be relevant to what we are discussing. For the sake of the House, we are on the Tax Procedures Bill, National Assembly Bill No.29 of 2015.

Hon. Oyoo: Thank you, Hon. Temporary Deputy Speaker. I am crying because at the time of addressing this House, my constituency is ravaged by floods. This time, *El Nino* did not come as an emergency. It was predicted and the Government put mechanisms in place to mitigate it. We cannot do much to help the people on the ground because there is no money. So, when I talk about problems in our economy, I am disturbed. I am hit. My people are living outside their homes. These are problems that have been there for a very long time.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Well spoken. The Nominated Member, Hon. Sunjeev Birdi.

Hon. (Ms.) Sunjeev: Thank you, Hon. Temporary Deputy Speaker for giving me this opportunity to contribute to the Tax Procedures Bill, which is very important. From the outset, I would like to congratulate the relevant Committee, which has worked so hard to bring this Bill to the Floor of the House.

I would also like to paint a picture to the Members who are here today regarding the view that people have about tax, and what this Bill is going to do to them. What happens exactly when a KRA tax officer visits a company? Basically, hell breaks loose. A KRA official will be, sometimes, mishandled or vice versa, and the person who owns the company is mishandled or mistreated. There are stories and myths that when the KRA knocks on your door, basically, it is death that is knocking on your door.

It will be a very big relief to me that this House will pass this Bill, so that things can become easier for all of us, as a nation. I find it very mind boggling when you talk to citizens out there and they ask you: "As a Member of Parliament, what do you do in Parliament?" You explain to them that Members of Parliament are party to passing the taxes that are levied on them. I find it very strange that people are not interested in what Parliamentarians do, but are very interested in pointing fingers at other things that Parliamentarians do.

All said and done, I would like to put some things very clearly. This Bill is harmonising the Income Tax, the Excise Duty and the Value Added Tax (VAT) laws into one piece of legislation, which is going to work positively for the people.

Hon. Temporary Deputy Speaker, taxation has been simplified. Applying for a Personal Identification Number (PIN) is now easy for the common *mwana*. It is sometimes surprising to see long queues when people pay taxes because the Kenya Revenue Authority (KRA) website is not working, or it is slow. During deadlines, people have to go to the source. The KRA must focus on proper digitisation of their systems.

Hon. Temporary Deputy Speaker, I would like to draw the attention of this House to Clause 47 of the Bill, which was actually mentioned before, regarding payment of taxes. I would like to bring an amendment to that clause. If there is an overpayment, the company has to pay back at least within 30 days. If taxes have to be returned, they are returned within one year. There is a situation where you are owed money which is paid to you in a years' time. But if it is

an overpayment, you have to have it at least within 30 days. It does not add up. I feel that if you have overpaid, you should get back your money in good time.

I would like to introduce an amendment to this particular clause. I will convince the Committee that there should be some sort of harmonisation of overpayment. That money can also be used as credit for companies. Either way, it would work for businesses.

An hon. Member mentioned that tax avoidance is not illegal. I would like to bring to the attention of the House that tax avoidance costs our country Kshs639 billion. That is a huge amount of money. The people behind tax avoidance are actually in multinationals. If tax avoidance is not illegal, and tax evasion is illegal, then we should find a way of routing back the Kshs639 billion into the economy. It is natural to find ways and means to grow your economy. To say that tax avoidance is not illegal is short-sightedness. A business, a home or an individual will always look for ways of self-development by making more money.

This Bill seeks to tax people double the amount for evading tax. At this point, 20 per cent is charged to tax evaders. This means that the KRA is trying to be more stringent in punishing tax evaders.

I would like to urge all Members of Parliament to support this Bill. This Bill is not about who is, or has been, the best President of this country. It is about tax procedures. I would like to urge all Members of Parliament to join hands and get things moving in the right direction.

Thank you, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Member for Kwanza!

Hon. F.K. Wanyonyi: Thank you, Hon. Temporary Deputy Speaker, for this opportunity. I am one of the taxpayers. I pay a lot of money. I want to remind Kenyans that taxes must be friendly. You must pay your taxes in a friendly way. You should not be coerced or forced. Therefore, the procedure must be simple and friendly. It should also give people incentives to pay. Many Kenyans find paying taxes a problem. If you make paying taxes as friendly as it should be, and give people incentives, they will come forward to pay.

I want to remind Kenyans that under the Kibaki's Presidency, we forgot about the World Bank. I am saying this because I pay all my taxes. We did not depend on the International Monetary Fund (IMF). Lately, we have found ourselves going back to where we were when Daniel Moi was the President of our beloved country. We should call a spade a spade. President Kibaki did very well. Kenyans had forgotten about the IMF and the World Bank. In the last few days, I started hearing about the IMF. We should pay our taxes. Those who are supposed to pay should be told to pay.

Part II of the Bill talks about who the taxpayers are. People must be notified because some do not know that they are supposed to pay taxes. Part II of the Bill is clear on the taxes declared as liabilities. It states who is supposed to do that. Most Kenyans may have known about that or may not want to know. I do not want to talk about the entire Part II. I have picked a few aspects I would like to talk about. When we pay taxes, we remove so much strain from the national Government.

(Loud consultations)

Hon. Temporary Deputy Speaker, can we be protected from the loud consultations going on across the corridors?

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Hon. Members, let us consult in low tones.

You are now protected Hon. F.K. Wanyonyi.

Hon. F.K. Wanyonyi: Hon. Temporary Deputy Speaker, taxes collected at the county level cannot assist us get enough revenue. When we were devolving functions, we expected the counties to collect enough taxes. The counties do not even have a formula for collecting taxes. Counties rely on the national Government to send them money. That money goes into Recurrent Expenditure. They do not have a formula for collecting taxes. Of the 47 counties, 50 per cent have not collected a cent. Even where they collect tax, they collect a small figure compared to the actual amount that should be collected. I visited places where the guys who collect taxes talk in a friendly way to the *boda boda* guys. At the end of the day, where does that money go? They collect the taxes on Sunday and do not even have receipts. Our county governments should collect taxes in a friendly way. It is the best way of doing it.

The Bill also talks about agents. The CG licenses agents to collect taxes. There are agents who can prepare returns for you if you do not have time to do so. Two, if you find that it is a bit complex, an agent will do it for you. Three, if you find that, maybe, you are not able to compile your tax returns. The CG, unfortunately, says that when he is dismissing an agent because he has not complied with the procedures, the agent is given a notice of 30 days. Our country is under siege from the corrupt. Thirty days are too many. They can do a lot of damage. At the Third Reading, we should reduce the time for an agent, who is to be dismissed, or whose license is to be revoked to less than a fortnight, so that they do not have time to steal and do damage than may not be detected.

Thirdly, on Part IV, the record keeping, most people--- If you approach the small businesses around here, the kind of records they keep are not satisfactory. So, it is upon the KRA, and this should come out very clearly, to ensure that record keeping is up to date. They are just saying what should be said. They cannot see anything different. They are not thinking outside the box. Again, this is a Bill that should, in a friendly way, expect that record keeping in some of the small *dukawallas* is proper. When you visit them, a businessman asks you whether you want a receipt that shows tax or not. By the way, that happens. They talk in Kiswahili and ask: *Unataka kulipa ushuru au hapana?* If you say you want to, he will give you a different receipt. This is something to do with record keeping.

As I conclude, tax returns--- I know it is said and I like that because they are saying when you find you are not able to pay your taxes on time for some reason, maybe you have had family problems or business problems, or business has been very low and there is a standard way; maybe you declared Kshs20 million last year and this year you are declaring another Kshs20 million; you will find that you have time extension. The extension of time required to submit taxes should be very specific. The Bill does not say how much time is required. It says can take one month or whatever time. It has to be very specific, otherwise that is one way used by people avoiding tax.

Lastly and not least, self-assessment is another issue. If I have been so good and I have assessed my business--- This comes out very well. Self-assessment is accepted. But at the same time when I do self-assessment and find that I have under-declared or over-declared, the CG should assist me. It is not explicit here as well. I may be a very good tax person but I know I have been doing some businesses for some time, and when you submit and find that you have not done the right thing, again you should negotiate instead of being punitive. It looks like when it

comes to Part VII they will give extension, and you will want to pay. It looks like you are punished for not paying within that time. That again is not being friendly as I said. Taxes must be paid in a friendly way and we must be induced to pay taxes, so that our country can develop.

I am looking forward to making amendments when it comes to the Committee Stage, so that we improve on payment of taxes, and we encourage Kenyans to pay taxes.

I support.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Thank you. Your amendments are most welcome. Hon. Emanuel Wangwe the Member for Navakholo.

Hon. Wangwe: Thank you, Hon. Temporary Deputy Speaker for allowing me to contribute to this very important Bill, the Tax Procedures Bill. At the outset, I want to say that I support the Bill. This Bill is not about the forms of taxes. It is about the procedure that the tax commissioner wants to employ so as to recover or collect tax from Kenyans. The reasons why an economy must collect taxes go to the issue that people need to have budgets both recurrent and development.

When you look at our Budget for 2015/2016, it is a Kshs2.1 trillion Budget. That means we must collect tax. The taxman today is held at ransom by the taxpayers, and he may not realise the money or taxes he wants. Instead, a few issues arise which make it impossible or difficult for him to collect taxes. When you look at the reasons the Bill is trying to address, one is the concept that we must collect tax, so as to be self-sustaining and also sustain the economy. My colleagues have alluded to the Kibaki and other past regimes since Independence. We have really done well in tax collection. The only thing that has happened is generational change. When you look at perception of issues in 1963, and how business people used to trade then and the businessmen of today, there is that generational change where technology has taken effect. The businessmen of today are very scholarly and knowledgeable. So, the concept of tax avoidance comes about. It comes about because these business people now understand business, and want to make more profit for themselves; that makes them to go round and round and circumvent the taxman procedures. It is important to sharpen the taxman, so that he is on top of these business people and collect tax.

I want to thank the drafters of this Bill because they have put the KRA, or the tax person, in the concept of communication. Today if you look at KRA, it is only one way communication. Whenever you sent them a letter, it is you again to go back for a feedback; this Bill talks about the CG writing back to the taxpayer. This means it recognises the channels of communication, which are very difficult. At the same time, it is tying down the tax collector to make sure he pleads and discusses with the tax agent or taxpayer. Therefore, it is important to acknowledge what the drafters have done by making sure that communication is taken cognisance of.

What is so good also about this Bill is found in Clause 5 of Part III, which talks about the registration of the persons who are liable to tax payment. It says that the CG shall inform the person in writing within 14 days. This means they are going to have many people put into the tax net. Once you apply, you will not be at the mercy of the CG. It will be his responsibility also to make sure that you pay the tax and the tax person is registered immediately he makes the application. Therefore, the issue of registration, which is the first step to recognise a taxpayer, is well stated in the 14 days, failure to which the problem now will lie with him. Parliament as a watchdog shall have to bounce on the CG to let us know why the various taxpayers have not registered, yet we might be running short of finances collected from the taxpayers.

There is the concept of bookkeeping. This has two elements, the monetary reporting and the book-keeping itself. I am very happy the drafters have put it very clearly that the currency shall be in Kenyan shillings, notwithstanding the number of currencies we are going to trade in. We trade in UK Sterling Pounds and USA Dollars, the generally acceptable currency in the world; but the Bill recognises shilling as our sovereign currency. This Bill is now recognises our shilling. Our sovereignty as per the Constitution is now coming out in this Bill. It is important to let all people trade. We do not want to know where they come from; all we want is for them to report in our currency. The taxpayer is at liberty to trade with the Far East, Europe or whichever country, but the reporting should be done in Kenyan shilling as per this Bill.

This Bill also recognises that we must report in a language that is acceptable and official. Kenya has only two official languages. Although Kiswahili supersedes English, we recognise English as the official language when it comes to mass communication. This Bill allows very many languages to be used. Citizens of various countries can come in and trade but they should recognise the official language to be used in trade.

The issue of tax returns in Part V is good. The same principle I spoke of with regard to the CG writing back is also coming up. Part III, Clause 25(3) says that the CG may grant an applicant an extension under this section, if he is satisfied that there is reasonable cause, and shall notify the applicant in writing of the extension of time. This recognises the issue of extension. Returns are not actual transactions in terms of money. You might be a taxpayer but for one reason or another you may not be able to pay. You may have gone on safari or you may have been hospitalised and, therefore, you cannot file your returns. The current rule states the date when you are supposed to file your returns, and does not give leeway to the CG to allow you flexibility. As a word of caution, the issue that is likely to arise is that most of the time the CG himself is not there. He delegates this responsibility to another officer. This must be handled with utmost faith, so as not to be misused to allow corruption or to become a money making venture. When this responsibility is delegated to other officers, they should not allow their friends to go on holiday while Kenyans suffer. It is a good clause, but it is prone to abuse. Therefore, we need to question the penalty clauses. I will be making some proposals during the Committee Stage on how to curb this risk when it comes to the penalties.

I am also happy with the tax assessment aspect. There is Income Tax I and Income Tax II. These are procedures; they are not forms of tax. We have Income Tax I and Income Tax II, which are currently applicable. The tax assessment is a bit flexible because it allows the CG to engage the taxpayer; when an assessment is done and it turns out to be faulty, one can own up and state the true position. It gives a chance to the taxpayers to discuss and engage the tax agent, who is the Kenya Revenue Authority (KRA); they are able to proceed and effect their transactions.

Finally, I am happy with the collection and recovery of tax and tax refunds. Many times when foreign investors make profit, they connive with a few officers and expatriate the tax due in form of tax liabilities. This has been well covered in this Bill. I look forward to seeing it being implemented to the latter. At the same time I want to caution that in Clause 33 (1), the CG may grant an extension of time for payment of taxes. This is a very loose statement, which we need to cover with penalties when it comes to the Committee. I will be making the necessary recommendations and proposals, so that my colleagues can support me on this issue.

With those very many remarks, I support the Bill.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Let us hear the Member for Saku, Hon. Ali Rasso.

Hon. Dido: Thank you very much, Hon. Temporary Deputy Speaker, for giving me this opportunity. I want to join my colleagues in supporting this Bill.

When we talk about taxes in any country, it is about monies individuals will surrender to the government for public use – something which people may not do willingly. For that reason, individuals who pay that money will always ask for value for money. If we want to build Kenya, we must pay taxes. Such money must be prudently appropriated.

This Bill shows the progress that we are making as a country in constitution-making and crafting of our laws. This Bill is about the procedures to be followed by Kenyans and foreign investors as they comply with the tax laws. It seeks to streamline the way taxpayers will be engaging the bureaucrats who collect taxes.

From what we have observed, Kenyans really want to pay taxes. This is demonstrated by the long queues at Times Tower, where people wait for hours on end to pay taxes. For that reason, it is important for us to have a flexible system of collecting taxes. It is only in Kenya where people queue to pay tax. This consumes a lot of people's time, especially because somebody at KRA may not be willing to quickly receive the money from taxpayers.

The progressive nature of this Bill is demonstrated by it attempting to open a window between the taxpayer and the bureaucrat, or executive sitting at the other end. It creates dialogue in our society. If I am not able to file my tax returns this week, I can do it next week. That kind of dialogue has been lacking in terms of individuals filing their tax returns or paying their tax remittances. As Kenyans listen to this debate, or when they come across this Bill, they may think that it is about the Kenya Association of Manufacturers (KAM), the Kenya Private Sector Alliance (KEPSA) or some big corporations. It is about each and every individual Kenyan, who must put his shilling in the national kitty, so that we can have hospitals, roads and other institutions. Without everybody giving back their fair share, we cannot build Kenya.

Within this Bill there is the issue of PIN. When we put stringent rules on how to obtain PINs, then we are telling many to stay out of the tax bracket. The more individuals have PINs, the more people we put in the tax bracket, and the more effectively the country will be able to finance its Budget. In other countries, having a PIN is compulsory. It is part of how a nation identifies individuals. It is one of the areas the taxman should explain why it is putting stringent rules. They might have a good reason.

The other good thing about this Bill is licensing of tax agents. It is a progressive nature of our laws to allow many points for filing tax returns. However, we must also guard against errant agents. Some of those agents may try to file incorrect returns. There is also the element of tax evasion when you have crooked agents.

(Hon. (Ms.) Odhiambo-Mabona consulted loudly)

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Hon. Millie, I can hear you from where I am seated. Please, consult in low tones so that we allow Hon. Dido to make his point.

Thank you.

Hon. Dido: Thank you, Hon. Temporary Deputy Speaker. The other important area is tax returns. The laws in this country are clear that all individuals with an annual net income must file

tax returns. In the recent past, filing of tax returns has been left to a few people or only those the taxman can reach.

My colleagues who have spoken have talked about corruption. It is one of the major reasons that create disincentive to people paying taxes. The more the people see the Government is lenient on corrupt practices, we must be prepared that Kenyans will not throw away their money.

For Kenyans to understand the rules and procedures of filing tax returns there must be education. One of the civil liberties in America is paying tax. We may not consider that one of our liberties, but educating our people about the tax system is really important.

Finally, I am glad that this Bill has laid out the enforcement procedures so that individuals do not evade tax. However, there must be collaboration between the taxman and the Judiciary so that individuals who fail to pay tax on purpose cannot run to the courts for their property not to be seized.

With those remarks, I support the Bill. Hon. Temporary Deputy Speaker, I thank you for this opportunity.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Member for Othaya Constituency, Hon. Mary Wambui.

Hon. (Ms.) Munene: Thank you, Hon. Temporary Deputy Speaker, for giving me this opportunity to support this Bill.

First of all, I thank all the Members who supported me when I lost my sister. Thank you very much for your support. May God add you more?

I rise to support this Bill. However, there is one thing I want to look at because the Commissioner-General says that it is impossible to recover unpaid taxes. I do not think it is impossible in this country. If everybody working and any business have a PIN, if they do not pay tax, the Commissioner-General has a way to get the money. However, we also need to do something more in terms of educating our people. So many business people are not used to giving receipts when you buy from them. They will ask whether you want a receipt or not. However, I want our people to understand that the tax we are paying is the money used to repair our roads and to construct schools and hospitals. So, when you are told not to get a receipt, you must understand you are stealing money from the Government. People need to be told it is better to pay tax if they want this country to develop.

The Commissioner-General needs to employ competent people because he has the structures. I do not know what criteria he will use to send officers outside there to collect taxes. Sometimes, the officers collude with business people not to pay taxes. This country loses a lot of money because there are so many business people who do not pay tax. When they file returns, their books indicate they made losses. However, if you visit their shops and see how busy they are, you will know they are cheating. So, the Commissioner-General must use technology. We also need to make people understand this country gets money from the taxes we pay. We cannot say the Government is not working and yet, we do not pay taxes.

There is also a lot of corruption, from the small person to the big people. How are we going to eliminate corruption as we pay taxes? People just need to understand. There used to be KRA officers who would go round buying things and saying that they did not want receipts and after a few minutes, the seller would be arrested. These days, I do not see that happening. I want our people not to allow foreigners and other big people to refuse to pay taxes.

Sometimes, landlords say they have repaired their houses with a lot of money so they do not have money to pay tax, but they still make money. The Government is forced to apply for loans outside the country for development projects. The Commissioner-General should use technology and employ detectives who can go round buying things from those who do not give receipts. They will arrest so many people. As a result, tax will be paid throughout the year so that we can get money to build roads and hospitals and to educate our children.

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

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): The Member for Turkana Central.

Hon. Nakara: Thank you, Hon. Temporary Deputy Speaker, for giving me this opportunity to contribute to this Bill. This country is very rich. If we can curb wastage and corruption, we will have a lot of money and we will be self-reliant.

Taxes are good and all persons should pay taxes. Without taxes, our economy cannot grow and develop. We cannot repay our debts. As much as we encourage our people to pay taxes, we must counter-attack the counterfeit goods that are coming into this country in big numbers. There are two kinds of businesses that are operating in this country, namely, businesses that operate in darkness where counterfeit goods are sold and those who are selling genuine goods and are making a lot of losses.

For us to raise taxes to support our economy, we must support the agency that deal with counterfeits in this country. We should give them some reinforcement like police officers especially when they are going to arrest some of the people, some of who are very dangerous. People who are dealing with counterfeit goods in this country possess guns and have militias. For the counterfeit agency to deal with those people, it needs reinforcement. They need some police officers to accompany them.

Hon. Temporary Deputy Speaker, Kenya is one of the highly taxed countries in Africa. We are taxed very badly. Last week, some banks wanted to increase interest rates to 24 per cent and yet, the Central Bank of Kenya (CBK) lends them money at 9 per cent. That is corruption of the highest order. We are very happy that Equity Bank suspended that interest. It was very high.

Corruption is the big animal that swallows the taxes that we pay to the Government. People must declare their wealth before they join the Government or the county government, so that it is known how much they are worth. I am happy about what Governor Mutua has done. I do not know whether he did it with good intentions or it was just *ile sarakasi yake ya kawaida*. But we must declare our wealth when we join the Government or the county government. Today, somebody joins the Government and tomorrow, you have a big house, a big vehicle and chains of businesses running. You wonder where that money comes from. We need to emphasise the issue of personal wealthy declaration, so that we can curb corruption. We also need to look into the issue of officers at KRA. They are very corrupt. Maybe, we need to pay them good salaries, so that they do not take bribes and prevent some people from paying taxes.

We need to encourage county governments to collect taxes. We should not only leave the national Government to collect taxes. In the counties, we have big businessmen. So, we want to encourage our counties to collect taxes from the county level, so that they can complement the Budget that the national Government is presenting.

Finally, I want to join Hon. (Ms.) Wambui Munene in saying that our people need to be educated. We need to create awareness on paying taxes. There are people who buy some items and the businessmen tell them that they do not need receipts. They just take the goods like that.

We need to tell Kenyans that when they buy anything, they should demand for receipts. That money will come back to make roads, give bursaries and lower the interest rates in banks. If you do not get the receipt, that person will not pay tax and we shall not have money to do development projects and take to the counties.

Thank you for giving me the opportunity. I support.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): You support. Hon. Member of Parliament for Rangwe, Hon. George Ogalo.

Hon. Ogalo: Thank you, Hon. Temporary Deputy Speaker for giving me this opportunity to also contribute to this very good Bill. This Bill is going to provide a mechanism through which individual Kenyan citizens and corporates are going to relate with KRA. It is going to streamline channels of communications. It is going to provide for fair administrative action on the part of KRA, so that taxpayers have a fair way of handling the decisions that are made by KRA.

Citizenship is a membership of a country to get the benefits and acquire responsibilities and obligations. Taxation is one of the obligations that every citizen holds as a condition of citizenship. Each citizen should have a mechanism of ensuring he or she continues being a citizen of that country by paying taxes and obeying the laws. We are now passing a law to regulate how citizens are supposed to behave in paying taxes. On the converse, after paying taxes and becoming a citizen, there are benefits that one must get as a citizen of a country. Those benefits include security for yourself and your property, rule of law, fairness, accessibility to services and infrastructure. Those benefits should be equivalent to the taxes that you pay.

The process of paying taxes should be such that it is easier to pay than to evade. It is should be more convenient to pay than to work out ways of avoiding tax. Taxes should not be so high that avoiding them makes economic sense to the taxpayer. Taxes should be directly related to the services that citizens get. You cannot pay taxes and, at the end of the year, you hear that 60 per cent of the taxes you paid went to paying for loans. You also hear that those loans were borrowed to purchase things that the country did not need.

We have been getting reports before this Parliament about the Eurobond. That is money that Kenyans agreed to borrow under the Eurobond facility. When you hear what the Eurobond was used for, some of us shudder at the prospect of our future generations being saddled with this debt. There is no development that will make their lives easier. I will repeat that taxes must be commensurate with the services that you receive. You cannot pay taxes as an owner of a building or as a landlord and the road to your property cannot be maintained. Then, there is no relationship between the money you are paying as a landlord and the service you are getting from the taxing authority.

When a public officer allows smuggled goods to get into the country, there are two things that happen. One, the smuggled goods come into this country without paying taxes to the Government. So, the country loses. Two, the smuggled goods come in to compete with locally manufactured goods. I will give the example of sugar. We now have reports that there is smuggling of sugar from Somalia into Kenya. When that sugar comes into Kenya, it kills Mumias Sugar Company (MSC) and South Nyanza (SONY) Sugar Company. Mumias Sugar Company and the SONY cannot sell their sugar. It is more expensive than the smuggled sugar. The smuggled sugar has not been paid taxes for. So, the Government does not receive tax. For the Government to get taxes from Mumias and SONY, they must sell their sugar. So, the Government is losing double. Even the legitimate tax that they would have received is lost.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): A point of intervention by the Member for Kiambu, Hon. Jude Njomo. What is out of order?

Hon. Njomo: On a point of order, Hon. Temporary Deputy Speaker. Is it in order for the Member to bring rumours in here, which he cannot substantiate? He has insinuated that the money that was got from the Eurobond was misused while the CS for the National Treasury has been summoned to appear before a Committee of this House and explained how the Eurobond was used to the last penny. Is it in order for the Member to insinuate that sugar is being smuggled without substantiating and bringing evidence to this House? I would urge him to substantiate his statement.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Order! Member for Rangwe, as you debate, please, try to substantiate as you import information to your discussion.

Hon. Ogalo: Thank you, Hon. Temporary Deputy Speaker. I do not know why---

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Hon. Member, when the Chair is speaking, you listen. Member for Rangwe, as you continue with debate, please, try to substantiate. Members, as we import information to build our debate, it is important that we do it well.

Hon. Ogalo: Thank you, Hon. Temporary Deputy Speaker; I do not see the reason or the need requiring me to substantiate the obvious. Henry Rotich, the CS National Treasury, came to Bunge and gave a list of Ministries that received the money and up to now, there is no direct infrastructural project he has mentioned that has been funded by the EURO Bond. There is no need for me to substantiate. This is a Report.

Hon. (Dr.) Pukose: Point of order.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Order! There is a point of order. On what was required by Hon. Jude Njomo, he is trying to substantiate. Let me hear the point of order by the Hon. Member for Endebess.

Hon. (Dr.) Pukose: Hon. Temporary Deputy Speaker, with all due respect to our hon. colleague, the point of order raised by Hon. Jude Njomo was for him to substantiate. Could he, please, substantiate and if he cannot withdraw the statement he is making.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Hon. Member for Rangwe, can you substantiate your statement or give an explanation to the satisfaction of Hon. Jude Njomo and if not, please, just withdraw.

Hon. Ogalo: Hon. Temporary Deputy Speaker, I am substantiating. I have just said here that the CS for the National Treasury has been to the House---

Hon. F. K. Wanyonyi: Point of order.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): There is intervention again by Hon. Ferdinand Wanyonyi---

Hon. Ogalo: Hon. Temporary Deputy Speaker, will I be able to contribute?

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): I will add you minutes. Members have a right to intervene. Is it on information, Hon. Member? What is it hon. Member for Kwanza?

Hon. F.K. Wanyonyi: Hon. Temporary Deputy Speaker, I think it is very clear---

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Who are you talking to?

Hon. F.K. Wanyonyi: I want to clarify what the Member said and say that he does not need to---

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): You cannot do it on behalf of the Member.

(Loud consultations)

Order Member! Order Member! You are not even on microphone. You cannot talk on behalf of the Member. The issue has been raised and it is towards---

Hon. (Dr.) Pukose: *(off microphone)*

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Hon. Pukose, as much as you want to be heard, you also need to have some decorum for the House. Hon. George Ogalo, Member for Rangwe that was just an intervention by Hon. Jude Njomo and so, you are substantiating on the same. As you import information to your argument, it is so easy for you to argue your case.

Hon. Ogalo: Hon. Temporary Deputy Speaker, I was in the process of explaining that, indeed, it is an issue which has been raised in this Parliament and House. The CS National Treasury has come here to explain and, up to now, he has not specified which infrastructural projects were funded.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Okay, now can you carry on with your debate.

Hon. Ogalo: Thank you, Hon. Temporary Deputy Speaker, as I was saying---

Hon. Njomo: *(off microphone)*.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Yes, he did say that the Member came but you should not allege---

Hon. Ogalo: I have substantiated.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Hon. Member for Rangwe, just carry on with your debate.

Hon. Ogalo: Thank you, Hon. Temporary Deputy Speaker, as I was saying on the issue of sugar, I gave an example---

Hon. Njomo: *(off microphone)*.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Hon. Jude Njomo, please, let us not advance arguments that are not bringing substance to our debate. Of course, sometimes, you can quote if you want to put some meat in your argument that the CS National Treasury came to Parliament. What he should not do is give information that he can not substantiate. But if he can use it to build his debate, then he is good to go.

Hon. Member for Kiambu, what is out of order?

Hon. Njomo: Hon. Temporary Deputy Speaker, the hon. Member has insinuated that the cash that the Government got from Euro Bond was misused and that our children are going to suffer in future.

Hon. Ogalo: *(Inaudible)*.

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

Hon. Njomo: I am telling the Member that the CS National Treasury was invited by a Committee of this House and explained how that money has been used.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Thank you, Hon. Jude. Hon. Member, the substantiation that is required is a second one and not the first one. It is on how the

money was used. If you are not able to do it, just withdraw and carry on with your debate. Of course, they are eating on your time. Give him more minutes.

Hon. Ogalo: I will not withdraw this! The CS came here and said that Kshs.45.5 billion went to the Ministry of Devolution and Planning. There has been no development being done. You cannot borrow to buy *mandazis* and those things they claim they were buying.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): There is intervention by the Hon.---(*inaudible*)

Hon. Ogalo: Hon. Temporary Deputy Speaker, do I go on? This is a House of debate and rules as well. It is not in order for---

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Hon. Member, let me take this opportunity to remind you of our own Standing Orders. You are out of order.

Hon. Ogalo: Hon. Temporary Deputy Speaker, do I continue and finish? My time is going.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): You are out of order! Hon. Members, I want to refer you to our own standing Orders. Let us not behave like we are students in this Parliament. This is our third year! I know we are good in debating and, sometimes, you want to be heard and go into record. I do not want to make conclusions. Let us follow procedure. If you want to raise an intervention or a point of order, tell us what is out of order and the Standing Order that has been infringed. Order! How the Member is out of order, he will substantiate. It is a House of procedures and that is why we are in Parliament.

(Loud consultations)

Hon. Members, if you also want to speak, speak to the microphone and get the intervention button. But you should not be shouting. Actually, you will be out of order. We do not want to look like we do not know what we are doing in the House. For this matter, I will make a ruling. Hon. Member for Rangwe, carry on and, please, try to avoid issues that you are not able to substantiate.

Hon. Ogalo: Thank you, Hon. Temporary Deputy Speaker. As I was saying, if you make taxes very high, you discourage people from paying them. In those circumstances we, as parliamentarians, are the union of taxpayers. That is why there is a statement that there is no taxation without representation; we are part of representation. When we pass the Finance Bill every year, we raise revenue by taxation. When we pass the appropriations Bill and the Budget every year, we apply those funds. When we apply the funds that we have raised from the people, we rely on the Executive to apply those funds to help the taxpayer access services. If the taxpayers do not use money to access services, we fail the taxpayers.

I want to say that this Bill is important. It is going to help manage the way we relate with KRA as citizens. It should also go far to ensure that the tax net is wide enough so that the tax rates can go down. We will then meet the tax targets that we need to raise. This country is great and can go very far. During the Moi regime, the highest budget ever was Kshs.240 billion. Out of that amount, Kshs.48 billion was being used to pay debts. During Kibaki's time, when he left power---

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Your time is over. I have just added you two minutes. Hon. Member for Elgeyo Marakwet, Hon. (Ms.) Susan Chebet.

Hon. (Ms.) Chebet: Thank you, Hon. Temporary Deputy Speaker for giving me the opportunity to contribute to this amendment on the Tax Procedure Bill. At the outset, I want to say that Kenya is running on the tax collected and the revenue that is from the various sectors of the economy. That is why we put in place various measures to ensure that every person in Kenya who has registered as a taxpayer should pay taxes.

We need to demystify the tax collection procedures because, sometimes, they look very punitive thus members of the business community try to evade paying taxes. That should be demystified through awareness and education of the business community in order for them to know that they have a responsibility of paying tax to enable the government meet its threshold of development. We know the sectors which are capable of paying taxes. Those are the ones we should take care of so that we ensure they pay their taxes. In absence of paying taxes, we run into problems of getting a sluggish economy. Once we train our people to understand the importance of paying taxes, then things will be easy.

The Hon. Member has alluded that when we buy goods, especially from the businessmen that sell them in bulk, you can easily be lured to go without a receipt when they suspect that you do not know about tax payment. The supermarkets are the only people who pay their taxes and issue receipts without asking whether one needs it or not. In a supermarket, you get your receipt as you collect your goods. We need to sensitise our people to get the correct receipt so that those people can pay taxes.

The small business people have problems in filing their taxes because they do not keep records. They have not been trained on how to keep records and hence, they do not know the importance of record-keeping. They can use those records to file their taxes. So, we need to invest in awareness campaigns and training of our small businessmen so that they can pay taxes. We have people who are learning to evade taxes. There are people who file tax for other people. They can easily evade tax by releasing untrue information. Those are the loopholes we need to seal so that we do not lose money through dubious means. We should also take care so that the agents of collecting taxes like the Kenya Revenue Authority (KRA) personnel do not get involved in corruption so that taxes are filed and money is collected in full. If we do that, I know we will raise income and we will construct our roads, hospitals and schools. We will also have our salaries in time. We have a sluggish economy in Kenya because tax collection is not done correctly.

Lastly, once this Bill becomes law, procedures will be conducted smoothly and our taxpayers can pay their money without pain. Sometimes, when the taxman comes around, people really feel bad about it because they feel like they are being harassed. However, they need to be trained so that they can file their taxes with ease.

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

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): Hon. Member for Lurambi, Hon. Raphael Otaalo.

Hon. Otaalo: Thank you, Hon. Temporary Deputy Speaker. I also stand to support this Bill. There are some areas I feel we should tackle so that we have a better tax collection mechanism. As one Hon. Member said, we have a problem with queuing of taxpayers at Times Towers. I suggest that we decentralise taxation centres so that we have many areas where we will collect taxes. Some people get discouraged and end up going back without paying or filing returns.

Secondly, it is one thing to pay tax and another for the money to reach the Government. We have loopholes on how that money is collected. That is why we are looking at the lifestyles of the tax collectors. They collect money and it ends up in peoples' pockets.

Another area where we should work very seriously is to target the county governments. Today, I read in the papers that my Governor for Kakamega County was complaining that he is only getting Kshs1 billion. Kakamega is a very strong economy and I am sure it can collect more than that. If we digitise the collection of taxes in such a way that we can account for every tax collected, I am sure we can reduce the dependence of county governments on the national Government.

Every county should come up with areas of taxation. Not all counties have the same resources to tax. If we do that arrangement, I am sure we can also have as much tax as possible.

With that, I support this Bill. Thank you.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Member for Kathiani, Hon. Robert Mbui.

Hon. Mbui: Thank you, Hon. Temporary Deputy Speaker for giving me this opportunity. I stand to support the Tax Procedures Bill 2015. I am just interested in this Bill because the first thing I noted was the objects and purpose of the Bill, which states that we intend to create consistency and efficiency in the administration of tax laws in this country. It also intends to facilitate tax compliance by taxpayers and ensuring effective and efficient collection of taxes. Basically, when you look at the purpose, you see that this is a Bill we require as a nation.

Having gone through the Bill, I have noted some areas of interest. One of them is the responsibility given to the Commissioner, who is supposed to control the collection of taxes and account for the taxes collected.

With regard to Clause 4, there are people masquerading out there as tax collectors. In fact, this is one of the areas where conmen thrive. Because of the harsh economic times, there are a lot of Kenyan businesses that are unable to pay as much as they are expected. There are many conmen who masquerade as tax collectors. They collect a lot of money that should actually go to the Government. This Bill says that, as given by the Commissioner, one must give identification documentations to be presented when they are requested. I only imagine that when the Commissioner comes up with this kind of identification documents, he will ensure that it is something that cannot be easily forged. That way, we can be sure that the people who make calls on our businesses to collect taxes are the right people.

Clause 6 talks about confidentiality. I am very happy because it clearly indicates that the information that is given to tax collectors is kept in confidence, except when being shared by those relevant bodies like the Ethics and Anti-Corruption Commission (EACC), Kenya National Audit Office (KENAO), Kenya Bureau of Standards (KBS) and such organizations.

Basically, it means that information from business people will not fall in the wrong hands. That is because if there are no confidentiality, people who give documents for taxes can fall into the hands of their business competitors who need not know such information at that time. I am happy to note that the tax collection officers are being accorded powers and privileges of police officers. This means that they will have the powers to enforce tax collection rules effectively so that our country can collect all the revenue that it requires.

Under Clause 11, there is the issue of the Personal Identification Number (PIN) which has always been there.

However, in our first year in this House, we discussed the issue of identification and we passed a Motion that was moved by Hon. Charles Nyamai. It was talking about having a single identification for every citizen of this country. That is something that we need to go for so that, the number that you are given at birth is the same that you will use for your identity card for business purposes, National Social and Security Fund (NSSF), National Hospital Insurance Fund (NHIF) and even for voting. Therefore, that is an area that needs to be looked into because it was discussed in this House and Members felt that it was important to have an identification number that identifies you, not just for taxes, but for everything else.

Clause 18 talks about directors being liable for a tax that is due from their organizations. When we discussed the Company Law, we kind of lifted the fees, so that the directors do not hide behind the fact that they are part of a company that is doing wrong things. Basically, that means that if the organization is liable, then the directors are liable. That is my understanding of that Clause and that is why I support it.

On the issue of record keeping, it is important to have a limit to the period where organizations can keep the records for purposes of inspection by tax officials. This Bill proposes that those records be kept for a maximum of five years after which no officer should be asking for documents as old as 10 or 20 years. Therefore, that is a very important part of this Bill that needs to be supported.

Clause 25 talks about the extension of tax return period. We have authorized the Commissioner to extend tax returns period for certain people or for different reasons. This avoids corruption because, if you are unable to do your returns on time and there are many valid reasons why people can fail to do returns. Basically, it gives the Commissioner power to allow an extension of the period when tax returns can be made and that basically helps us to ensure that corruption is not there. This extension will only be given when the applicant will be able to satisfy the Commissioner.

Under Clause 38, I am happy that the late payment of interest has been pegged at 1 per cent of that amount per month or part of a month. This means that the maximum one can pay for delayed payments is only 1 per cent of what is due. I know it is high for companies that owe a lot. However, when you look some of our statutory obligations to make payments, for example in NHIF, it is 500 per cent per month. So, when somebody owes Kshs10,000 and they are unable to pay the penalty, it increases to Kshs50,000. It does not make any sense whatsoever. So, this is logical. It is something that will discourage late payments but, at the same time, it does not cripple businesses that are operating in this nation.

All countries develop using funds that are collected in form of taxation from the citizens. The biggest incentive for people to pay taxes is the efficient and effective utilization of those funds by their Government to provide them with the necessary services, infrastructure and to ensure that the economy is growing as expected. Contrary to that, people get discouraged and start avoiding paying tax.

What discourages people from paying taxes the most is corruption. This is something that has eaten this country. Corruption is not about people stealing millions or billions or even trillions. We have been insulted as a nation because those monies are stolen from this nation and stashed in foreign accounts. Our Government borrows money from those foreign countries that have our money in their banks, and then we pay back with interest. It is totally illogical. Time has come when Kenyans must stand up and say no to corruption. This is no longer a situation of

lip service. We want to see action taken against those people who steal funds of our mothers, daughters, grandparents and Kenyan citizens.

If we did not have corruption, I want to imagine that when we talk about free education for our primary and secondary schools, it would really be free. Right now, we have free primary education, but our children are still paying for exams in schools and activity fees which they constantly come to us as Members of Parliament (MPs) to assist them to pay. It is important that we ensure that this is done. If there was no corruption, our health sector would have medication and equipment in our hospitals. We would be able to pay the doctors to maintain high standards of health in this country. If there was no corruption, our infrastructure would be excellent. But because of corruption, Kenya has continued to be insulted and it remains behind.

Leaders need to take responsibility for corruption. Our President told us here that those who were named as corrupt need to step aside. Our governors who were in that list are still in office. Some of them are now running around saying they are doing a lifestyle audit. These people who say they are doing a lifestyle audit are the same ones who went to court and said that EACC should not investigate them. They went to court and said the Senate should not summon them. Now they are doing lip service saying they want a life style audit.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Your time is over. Let us have the Hon. Member for Bureti.

Hon. Sang: Thank you, Hon. Temporary Deputy Speaker for giving me this opportunity to contribute to this Bill. At the outset, I support the Bill and I also support my colleague, Hon. Robert Mbui, who has just read the objects and purpose of this Bill. I want to repeat the issues of consistency and efficiency in the administration of tax laws and facilitation of tax compliance by the taxpayers' and effective and efficient collection of tax.

I want to confirm that most Kenyans do not know how to pay taxes. So, it is important for KRA to get out of their offices and enlighten people in the community on when and how to pay taxes.

With education on when to pay taxes, you will not see huge lines especially at the end of June, when they are closing the year. People are lining up to pay the taxes. Those taxes will help us. Back at home, there are poor roads. Members of the public have been complaining every day about impassable roads.

Over the weekend, I was there and I can confirm that we have a challenge on infrastructure. I know those people who are evading tax. If they stopped that, most Kenyans will reap good fortunes on issues of infrastructure.

The issue of hospitals cannot be over-emphasized. When we have a good collection, we are going to improve the healthcare system in our country.

Hon. Temporary Deputy Speaker, there are maternal and neo-natal mortalities. With more tax collection, we are going to improve the infrastructure in our hospitals and human resource. Our hospitals have a number of challenges in terms of equipment and human resource. With the enactment of this Bill, our revenue is going to increase and we are going to improve the health facilities for our people. Water, fees and salaries cannot be over-emphasised. We will be able to pay high salaries to our health care workers for them to be in hospitals to help our people.

Corruption is a sad thing in our country. A few Kenyans are taking money on behalf of the general population. If we can curb or control corruption, we can raise the living standards of our people. We have been lenient. I do not know what the problem is with the agencies that are

supposed to deal with corruption. If we are not lenient on the corrupt practices, we will improve. With the improvement of tax collection, the quality of life of our people will improve.

I support the Bill. I hope that with the enactment of this Bill, the standard of living for Kenyans will improve.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): I will give one more Member a chance to contribute, before I call upon the Mover to reply. Member for Ol Kalou, Hon. David Kiaraho.

Hon. Kiaraho: Thank you, Hon. Temporary Deputy Speaker, for giving me this opportunity to contribute.

First and foremost, the payment of taxes is paramount to the survival of any Government worldwide. The revenue that is collected is used to steer various development projects. However, it is very important to streamline the structures and systems in this sector, so that the issues that are implemented are applied in a fair way, but not just arbitrary. Why do I say that? As far as the Income Tax is concerned, I have one concern which I would like to share. In the Income Tax, we have the Industrial Building Tax. This means that if, for instance, you put up some rental units, you are given a waiver once you start renting out the units. Up to date, the various auditors who come up with this, when they file their reports, the KRA put them off saying that the particular area that they are talking about has not been gazetted.

There is an Act which provides that the (CS) or the then Permanent Secretary for Lands, Housing and Urban Development, ought to have approved the plans. That has proved to be a very big challenge. It is depriving most developers of their money. If that provision is enshrined in the Income Tax Act, it is not the responsibility of the developer or the Commissioner of Income Tax to determine which areas fall under that. It is high time this issue is clarified. On the same note, our country collects a lot of tax from the real estate sector. However, as we try to collect as much tax from that sector as possible, we should not push those developers to the corner. Today, if you want to put up a building, you have to deal NEMA, the county government and the National Construction Authority (NCA).

There is a clause that was introduced recently by the Cabinet Secretary for National Treasury, introducing a blanket of 2 per cent payment from what you get from rental units. If you borrow 80 per cent of the construction costs from a bank, it will take some time before you can have any money getting into your pocket. This discourages developers from venturing into the real estate sector. As we move on, I hope we will have room to improve on some of these issues in order to make this sector more attractive to developers. This is an area where the Government can reap a lot of revenue.

With those few remarks, I support.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Hon. Members, I now call upon the Mover to reply.

Hon. Katoo: Thank you, Hon. Temporary Deputy Speaker. Although this Bill has attracted a very high number of contributors, allow me to donate a minute to each of the following Members:-

The Member for Endebess, Hon. Gichigi; Hon. (Ms.) Winnie Njuguna, Hon. (Ms.) Beatrice Nkatha, Hon. Diriye and the Member for Busia County. I will then be left with four minutes.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): For your information, you will have four minutes to reply. The philanthropic Mover has donated a minute to the Member for Endebess.

Hon. (Dr.) Pukose: Hon. Temporary Deputy Speaker, I want to thank Hon. ole Katoo for giving me this opportunity.

Article 12 of the Bill says that the Commissioner shall issue a PIN to an applicant if he is satisfied. In my view, we should not add “if the commissioner is satisfied”. That is an area we should amend. How do you judge satisfaction?

We should also make an amendment on Article 13(3) where the PIN of a person may be used by a tax agent when he has given a written permission.

With those few remarks, I support the Bill. I also hope we will make the various amendments.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Member for Kipipiri, Hon. Samuel Gichigi.

Hon. Gichigi: Thank you, Hon. Temporary Deputy Speaker. I rise to support this Bill. The greatest hurdle in tax payment has been the complicated procedures. We need to make the procedures simple. We should employ a lot of technology so that we can reduce the human contact, which has been breeding corruption in this country. Kenyans should be encouraged to pay taxes voluntarily. That way, the cost of collection becomes cheap. At the end of the day, we will collect more. Kenyans should be patriotic and pay their taxes so that we can develop our country. We should also ensure that the people who are given the responsibility of using taxpayers’ money use it properly for the benefit of this country. Taxes should not be wasted on---

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Hon. (Ms.) Beatrice Nyaga! Hon. (Ms.) Winnie Njuguna, you do not have a card and so, you should approach the Dispatch Box.

Hon. (Ms.) B.N. Nyaga: Thank you, Hon. Temporary Deputy Speaker, for giving me this opportunity. I also want to thank the Mover for giving me one minute. I support the Bill. This Bill seeks to harmonise the regulations and administration of taxes in this country. It is the responsibility of the Commissioner-General to educate Kenyans on how and when to pay their taxes. This is so that Kenyans can know that when we pay our taxes, we are able to build our economy, get quality services in the health sector, build our roads, educate our children and take care of ourselves by alleviating poverty in the country. Corruption is also another issue that is taking away our resources and the taxes paid by our people.

So, Hon. Temporary Deputy Speaker, I want to support the Bill by saying that we need to pay our taxes in order to build Kenya.

Thank you.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Hon. Diriye, one minute. Then Hon. Winnie, you do not have a card. You were given a minute and you should approach the Dispatch Box because it is a minute.

Hon. Mohammed Diriye: Thank you, Hon. Temporary Deputy Speaker. I would also wish to support this Bill because without paying taxes, we cannot function as a country. I am happy that everyone in Kenya is being taxed. Kenya is one of the highest taxed countries in the world. As MPs, we are taxed. Therefore, this is a timely Bill. We want our taxes to be used prudently. I also want to point out that there is something called illicit financial flows which include tax evasions by multinationals and big commercial entrepreneurs. In September this year,

I read a story whereby Kenya is losing more than Kshs160 billion annually on this illicit financial flows and pricing transfer. So, this is where we want the Commissioner of Kenya Revenue Authority (KRA) to deploy intelligence to net tax defaulters. Instead of over-taxing goods and Kenyans each year, we need to cast the net wider so that we do not lose money. Multinationals setting up business in Kenya---

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Your time is over. Hon. Winnie.

Hon. (Ms.) W.K. Njuguna: Thank you, Hon. Temporary Deputy Speaker for giving me this opportunity. I thank the Mover of this Bill. Paying taxes is a key issue in this country because it is now the cornerstone of our economy. I know if taxes are paid properly, today we could be having free education which is very useful to our children because they could be going to school as per the Education Act. We are saying that we need to streamline the systems of paying and collecting taxes to make sure that nobody misses paying taxes.

I support this Bill. It is a noble Bill. I am sure we would pay our doctors properly. We have seen it---

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Your time is over. Hon. Florence Mutua, Member for Busia, one minute.

Hon. (Ms.) F.M. Mutua: Thank you, Hon. Temporary Deputy Speaker and the Mover for giving me this chance. I just want to reiterate the importance of this Bill in ensuring that there is consistency and efficiency in the administration and tax laws and also ensuring effective and efficient collection of tax. With this in mind, I am thinking about the county governments that are currently collecting revenue. This revenue is a lot and it should be brought back to the national level so that it is channeled back to other projects that are important in the country. Most of this revenue that is collected by counties is never accounted for and it is never known what it does.

Of importance is also the awareness which needs to be created. Most women applying to register companies to get 30 per cent of Government tenders come to KRA to get their Personal Identification Numbers (PINs) and the tax compliance certificates and then they are told that they have arrears which they have not paid. We need a lot of awareness to be created so that people can understand the importance of the annual tax returns that are done so that they can avoid such issues. Some of them find they have huge bills that they did not know about.

Another issue is---

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Now, let us have Hon. Katoo ole Metito. You have four minutes to reply.

Hon. Katoo: Thank you, Hon. Temporary Deputy Speaker. Let me take this opportunity to first thank the 33 Members who have contributed to this very important Bill.

I was able to pick up four overall points that Members have raised. First is the need to decentralise taxation or tax collection. With regard to revenue collection, Members are of the view that the KRA should be empowered in law to collect revenue all over the country, at both the county and national levels. The KRA should then just remit what is meant for counties later on. There has been a feeling that counties do not record or report what they collect. By doing so, we will be able to say how much we have collected as a country and economy.

There was also need for KRA to meet its target and expand its tax brackets. Hon. Members have suggested that in this Bill, there should be a differentiation between tax evasion and tax avoidance, especially when generating penalties for both. There was a feeling that tax

avoidance can be legal. You can avoid tax legally and, therefore, you should not be penalised. The illegality is tax evasion. That was the third one.

Finally, there is need to use technology as a country to collect our revenue. Technology will ensure that tax that has been collected is used for the intended purpose. There was the Electronic Tax Register (ETR), which was a very effective and efficient tool, but some businesspeople did not like it. If we can use technology to ensure that all those who are supposed to pay tax do so electronically, there will be no cash collection. As a result, KRA officers who have a duty to collect tax will not have room to engage in corruption. We will be able to account for all our taxes. This is taxpayer's money and there is need to account for each and every coin that has been paid by Kenyans.

I would urge the Departmental Committee on Finance, Planning and Trade, led by Hon. Benjamin Lang'at, to look at the contribution of its 33 Members in the HANSARD to see what they have proposed in terms of amendments, prepare them for the Third Reading and bring them to the House for us to enrich this Bill and make it more effective and efficient for tax collection in this country.

With those few remarks, I beg to reply.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Hon. Members, I must appreciate the interest you have shown towards the Tax Procedures Bill (National Assembly Bill No.29 of 2015). I am not going to put the Question. I order that the Question be put at the most appropriate time, as it will be indicated in the Order Paper.

ADJOURNMENT

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Hon. Members, the time being 6.30 p.m., this House stands adjourned until tomorrow Thursday, 19th November 2015 at 9.30 a.m.

The House rose at 6.30 p.m.