

# NATIONAL ASSEMBLY

## OFFICIAL REPORT

Wednesday, 5<sup>th</sup> August 2015

The House met at 2.30 p.m.

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

### PRAYERS

### MESSAGE

#### REFERRAL OF ETHICS AND ANTI-CORRUPTION COMMISSION (AMENDMENT) BILL

**Hon. Deputy Speaker:** Hon. Members, we have a Message from His Excellency the President, Message No.23 of 2015, which is titled: “Referral by His Excellency the President of the Ethics and Anti-Corruption Commission (Amendment) Bill, 2015.”

Hon. Members, you may recall that on 9<sup>th</sup> July 2015, the National Assembly passed the Ethics and Anti-Corruption Commission (Amendment) Bill, 2015. Thereafter, the Bill was presented for assent to His Excellency the President in accordance with the provisions of the Constitution and our Standing Orders. However, His Excellency the President, by way of a Memorandum, has since referred the Bill back to the National Assembly for reconsideration, pursuant to the provisions of Article 115(1)(b) of the Constitution.

Hon. Members, His Excellency the President has expressed reservations on Clauses 4 and 6 of the Bill. Consequently, the President recommends amendments to the two clauses. Hon. Members, Standing Order No.154 requires the National Assembly to consider the President’s reservations within 21 days, and the Memorandum stands committed to the Departmental Committee on Justice and Legal Affairs for consideration. The Committee should table its report on or before 19<sup>th</sup> August 2015. In considering the Memorandum, regard will be given to the guidance given by the Speaker in a communication delivered on 28<sup>th</sup> July 2015 concerning consideration of Presidential Memoranda and amendments thereto.

I wish to remind the House and the Committee that only clauses of the Bill that have reservations will be considered. I also direct the Clerk to circulate the Memorandum from His Excellency the President to all Members so that you can familiarize yourselves with its contents.

Thank you.

### PAPERS LAID

**Hon. A.B. Duale:** Hon. Deputy Speaker, I beg to lay the following Papers on the Table of the House today, Wednesday 5<sup>th</sup> August 2015:-

The Report of the Auditor-General on the Financial Statements of Pest Control Products Board for the year ended 30<sup>th</sup> June 2014 and the Certificate of the Auditor-General therein.

The Report of the Auditor-General on the Financial Statements of Kenya Education Management Institute for the year ended 30<sup>th</sup> June 2014 and the Certificate of the Auditor-General therein.

The Report of the Auditor-General on the Financial Statements of Kenya National Examinations Council for the year ended 30<sup>th</sup> June 2014 and the Certificate of the Auditor-General therein.

The Report of the Auditor-General on the Financial Statements of Kenya Investment Authority for the year ended 30<sup>th</sup> June 2014 and the Certificate of the Auditor-General therein.

The Report of the Auditor-General on the Financial Statements of Privatization Commission for the year ended 30<sup>th</sup> June 2014 and the Certificate of the Auditor-General therein.

The Report of the Auditor-General on the Financial Statements of Kenya Utalii College for the year ended 30<sup>th</sup> June 2014 and the Certificate of the Auditor-General therein.

The Report of the Auditor-General on the Financial Statements of the Constituencies Development Fund, Mathare Constituency, for the year ended 30<sup>th</sup> June 2014 and the Certificate of the Auditor-General therein.

The Report of the Auditor-General on the Financial Statements of the Constituencies Development Fund, Dagoretti North Constituency, for the year ended 30<sup>th</sup> June 2014 and the Certificate of the Auditor-General therein.

The Report of the Auditor-General on the Financial Statements of the Constituencies Development Fund, Lang'ata Constituency, for the year ended 30<sup>th</sup> June 2014 and the Certificate of the Auditor-General therein.

The Report of the Auditor-General on the Financial Statements of the Constituencies Development Fund, Embakasi South Constituency, for the year ended 30<sup>th</sup> June 2014 and the Certificate of the Auditor-General therein.

**Hon. Deputy Speaker:** Hon. Joyce Emanikor, the member of Environment and Natural Resources Committee. Do you have a report to table? She is not in. Then, the Chair of National Cohesion and Equal Opportunity Committee.

**Hon. Sakaja:** Thank you, Hon. Deputy Speaker, I beg to lay the following Paper on the Table of the House today:-

The Report of the Joint Committee on National Cohesion and Equal Opportunity on the consideration of Session Paper No.9 of 2013 on National Cohesion and Integration.

Thank you.

**Hon. Deputy Speaker:** Next Order! Order! Hon. Joseph Limo, what is your point of order?

**Hon. Limo:** On a point of order, Hon. Deputy Speaker. I rise to raise a concern touching on the Parliamentary Service Commission (PSC), which is actually a matter of grave concern. It is touching on the welfare of our staff and, therefore, effectively touching on the Members.

I wish to bring to the attention of the House that there is a memo dated 22<sup>nd</sup> July 2015, which seeks to address the county/constituency allocation adjustments, but which is not in line with the proposals by PSC, when it was presenting its budget. I wish to bring to your attention that the memo is actually saying that the PSC, during its consideration of 2015/2016 budget

estimates, approved a 30 per cent increase to the county/constituency offices allocation effective 1<sup>st</sup> July. Then it says: “This approval of 30 per cent has been worked out as per the attached table.” The issue I have here is with the table. The figures are not computed in line with the actual increase. It is actually theoretical and it purports to increase the allocation by 30 per cent. But when you look at it keenly, the effective increase is 14 per cent. Therefore, I want to seek your indulgence to make a ruling that this memo should not be implemented until it is addressed to show the increase of 30 per cent or it is addressed in a *Kamukunji*. This is real thuggery by PSC, which has been performing below par on many issues, including even the welfare of Members and their offices.

(Applause)

If you want to know the gravity of the matter, in Continental House alone, just look for time and visit Floor no.4 and 6. There is a serious stench and no one is addressing it. Therefore, I want to actually call you, Hon. Deputy Speaker, to rule that this memo should not be effectively complied with until those issues are addressed. That is because if we allow it to go on, our staff will never be paid. We have a big problem. Even when their salaries are increased, it takes almost three to six months to be paid. So, Hon. Deputy Speaker, I actually beg you to make a ruling.

**Hon. Deputy Speaker:** Thank you, Hon. Limo for raising those concerns. Those, indeed, are pertinent issues. I request that we defer the matter because you are referring to a memo which, maybe, some of us are privy to and others are not. We need some more information on the same. I believe those are matters which we can canvass in the upcoming *Kamukunji* that we mentioned.

**Hon. Members:** When?

**Hon. Deputy Speaker:** That is being worked on between the Leaders of the Majority and Minority parties and the speakership. You will be given that date when we are ready with everything, including the taskforce that you had formed on the welfare of Members. All those issues will be raised.

Order, Hon. Members! Let us not get excited! The point of order started with Hon. David Kangogo. Order, Hon. Richard Onyonka! Hon. David Kangogo was there before you.

**Hon. Bowen:** Hon. Deputy Speaker, my point of order is different from the one by Hon. Limo. I want to affirm my support to what Hon. Limo has just read. My point of order is that I did a legislative proposal almost a year ago and it went through the process of legislation but, when it reached the Budget and Appropriations Committee, it “sat” on it. It is now almost a year. I have talked to the Chair of the Budget and Appropriations Committee and the Chair of the Departmental Committee on Energy, Communication and Information because I have another legislative proposal. I do not know how long it takes a Committee to deliberate on a legislative proposal before it is published. It has taken too long.

**Hon. Deputy Speaker:** Okay. Is the Chair, the Vice-Chair or any of the 51 Members of the Budget and Appropriations Committee in the House to tell us why it has taken almost a year for Hon. Kangogo’s Bill to be worked on or for him to be told whether it is a money Bill or not? Are you a member of the Budget and Appropriations Committee, Hon. Jamleck? I am looking for a member who can speak on behalf of the Budget and Appropriations Committee. Hon. Makali, can you speak?

**Hon. Mulu:** Thank you, Hon. Deputy Speaker. I am not sure whether Hon. Bowen is not misleading the House. I am a Member of that Committee and as late as yesterday--- Actually, as we speak, it is only one Bill which is pending before the Committee. We have not made a decision on it. We were there yesterday with Hon. Jamleck Kamau and he can confirm that. So, when he talks of a year, I am not sure whether you really--- Maybe, he needs to tell us which Bill he is referring to because we have taken care of all the Bills.

**Hon. Deputy Speaker:** Which is your Bill before their Committee, Hon. Kangogo? You have not requested the microphone.

**Hon. Bowen:** Hon. Deputy Speaker, it is a legislative proposal on Uwezo Fund. If you ask the Chair of the Departmental Committee on Finance, Planning and Trade, they sat and deliberated on the issue almost eight months ago. It went to the Chair of the Finance, Planning and Trade Committee and they dispensed with that proposal. It went to the Budget and Appropriations Committee.

**Hon. Deputy Speaker:** We do not want to have an altercation between the two Members. Can you, please go and see the Chair of the Committee to find out the status of the Bill? Was it a Bill or a Motion? What was it exactly?

**Hon. Bowen:** It was a Bill.

**Hon. Deputy Speaker:** Okay. Get in touch with the Chair so that he can sort it out. Hon. Sakaja, what is your intervention?

**Hon. Sakaja:** Hon. Deputy Speaker, as much as it is deeply regrettable and I really commiserate with the Member for having stayed for that long, this is not an issue that is unique to him. We have heard many Members with similar complaints. Our Standing Orders are very silent on the period that a Committee can take during the pre-publication period of a Bill. The mandate of a Member of Parliament is to do legislation. We are proposing and I have proposed this before that the Procedure and House Rules Committee of this House sets administrative timelines for which a Bill can stay within a Committee for pre-publication. If those timelines are not met because of maybe the Committee's schedule, any Member should be allowed to have their Bill published.

Many Members have very good Bills that can change a lot in this country, but they are not able to get them even through the pre-publication stage. I have gone through it myself and I hope we can take it seriously as a proposal that we actually set pre-publication administrative deadlines. It should not only be the time a Bill takes before it is published but, even once it has been published, between the Second Reading and Third Reading at the Committee when it has been forwarded to the relevant Committee, it should take a certain period of time. If it takes beyond that, it should be listed on the Order Paper so that we can move forward.

**Hon. Deputy Speaker:** Your advice should be taken by all others who have similar issues so that we do not spend time saying: "Even mine has not gone through." It is a very important suggestion. Of course, you know that the Chair of Procedure and House Rules Committee is the Speaker. Therefore, that Committee and other Members, including myself, will look into it. Please, put it in writing to the Procedure and House Rules Committee. It is a suggestion that can be concretized.

The Hon. Richard Onyonka, I saw you getting a bit excited. Can you say what is not in order?

**Hon. Onyonka:** Ahsante sana Mhe. Naibu Spika. Jambo la kwanza, ningependa kumuunga mkono ndugu yangu Mhe. Limo kuhusu---

*(Loud consultations)*

**Hon. Deputy Speaker:** Members, the consultations are too high. Too many people are standing on the isles. Please, find a place to sit. The Hon. Member talking to Barre Shill, I cannot see you properly. Is it Hon. Mwanyoha? Hon. Members, please, let us get in appropriate places. In the Chamber, you are either seated or walking out, but not standing.

*(Hon. Wamalwa consulted loudly)*

Order, Hon. Wamalwa!

**Hon. Onyonka:** Ahsante Mhe. Naibu Spika. Unajua lugha ya taifa kwa ndugu yangu Mhe. Wamalwa ni dhaifu sana. Haelewi lakini tutakuwa tukimsaidia kila wakati ili ajaribu kuelewa na awe akikizungumza katika Bunge hili.

Ningependa kumuunga mkono ndugu yangu Mhe. Limo. Maswala nyeti ambayo tungependa yazungumziwe katika kikao maalum cha kamukunji ni maswala yanayowahusu wafanyikazi wetu. Wengi wao hawajapata mshahara zaidi ya miezi minane. Kuna maswala tungependa tukae na Parliamentary Service Commission tuwaulize maswali kwa sababu kuna mambo ambayo tungependa watupe majibu.

Tuliambiwa wiki iliyopita kwamba tutakutana nao wiki hii. Lakini wiki hii imepita. Ningependa, ikiwa inawezekana, utoe uamuzi wako kama Naibu Spika, tukutane wiki ijayo ama siku fulani – hata kama ni kesho - ili tujaribu kujadili mambo yanayohusu maswala ya matakwa ya wafanyakazi wetu na wale ambao wanatushughulikia, ili tuje kufanya mambo hapa.

Jambo lingine ni hili. Sisi kama Wabunge tuna jambo ambalo tungependa Kamati ya Bajeti ituambie ilifanya nini.

*(Applause)*

Tuliitisha na kusema tungependa tuwe na kikao maluum cha kamukunji ili watueleze vile walivyofanya mambo yao.

Ahsante, Naibu Spika.

**Hon. Deputy Speaker:** Thank you. Hon Members, Hon. Richard Onyonka has explained everything clearly, just like Hon. Limo did. I am sure many of you are aware that most of our Parliamentary Service Commission (PSC) members are not here at the moment. So, with all due respect, you do not want to have a *Kamukunji* for one issue in one day and the following day, you have another *Kamukunji* on another issue. Let us be practical. When our PSC Members are back in the country - which I believe should be next week - then we can organize. I am sure you are aware that we may, without anticipating debate, know about what is going to happen. We will be hosting an international conference the whole of next week. So, Members, be patient so that all these issues are not discussed on the Floor. Allow for a time when we can handle all the different issues you have raised, including what you have said about our staff – that is those who are working for us - and what you have mentioned about the welfare. Remember from the last *Kamukunji* we said all those issues concerning PSC can be discussed at that time.

So that we now leave room for us to discuss the matters that we are all paid to discuss - which is legislating - we now move to the next Order. Hon. (Dr.) Pukose what is your point of order?

**Hon. (Dr.) Pukose:** On a point of order, Hon. Deputy Speaker. I am sorry to bring this up, but we have had many issues. Last week, there was a Motion by Hon. Keter for us to discuss in the Budget and Appropriations Committee. Before that, there was an issue about the Members' welfare which is under the Catering Committee based on a Motion that came from the Senate. It seems that we are in the habit of postponing the *Kamukunji*. Once we postpone it like that, then it is going to bring problems. It is high time a decision is made on when we can have the *Kamukunji*, so that all these issues are sorted out once and for all. When you look at the Parliamentary Service Commission, most of the Commissioners are not here. I do not know whether the increment that was made was meant for them to travel outside the country. I ask for your indulgence.

**Hon. Deputy Speaker:** I have pronounced myself on it. I clearly understand the Members' concerns. I am not trying to push anything under any blanket or any floor. It is just that the people that you need to answer the questions that you are all concerned about are not here now. So, we will be talking to ourselves without really getting answers from the right people, namely the Parliamentary Service Commission. If you just indulge us, we can organise something when they are back in the country. I know it seems like we have been postponing, but Members just indulge us and I believe we will sort out the problems.

Hon. Members, the next Order No.8 was inadvertently put on the Order Paper. It was not supposed to be there. We had finished with Sessional Paper No.2 of 2014. We will then move to the next Order.

## BILLS

### *Second Reading*

#### THE INSOLVENCY BILL

*(Hon. A.B. Duale on 4.8.2015)*

*(Resumption of Debate interrupted on 4.8.2015)*

**Hon. Deputy Speaker:** Hon. John Mbadi had a balance of four minutes. Is he in the House? If he is not in, then any other Member who is in my list can contribute. That is Hon. Johana Kipyegon. It is not a point of order. It is on contributing on the main Bill.

**Hon. Kipyegon:** Hon. Deputy Speaker, I have contributed to the Bill.

**Hon. Deputy Speaker:** You have contributed to the Insolvency Bill?

**Hon. Kipyegon:** Yes.

**Hon. Deputy Speaker:** Then remove your card. The Bill was not adjourned at the point of putting the Question. There were still some Members. Kimani Ichung'wa, had you contributed?

**Hon. Ichung'wa:** Hon. Deputy Speaker, I do not intend to contribute to this one.

**Hon. Deputy Speaker:** No interest on that one. Hon. (Dr.) Pukose? It is on the Insolvency Bill. The only Bill that we have before us now is the Insolvency Bill. So, if there is no Member wishing to contribute, then I will presume that you are done with it. I now call upon the Mover to reply.

**Hon. (Eng.) Gumbo:** Hon. Deputy Speaker---

**Hon. Deputy Speaker:** Hon. Gumbo, you do not just walk into the Chamber and expect us to be waiting for you so that you can contribute. The Deputy Leader of the Majority is going to respond to this one.

**Hon. (Dr.) Shaban:** Hon. Deputy Speaker, I do not know whether I am allowed to donate some minutes. I am generous enough to donate five minutes to Eng. Gumbo.

**Hon. (Eng.) Gumbo:** Hon. Deputy Speaker, I want to thank my good friend Hon. (Dr.) Naomi Shaban, for donating five minutes to me. The Insolvency Bill is important but, even as we discuss it, I notice that in its preliminary provisions under Clause 1(3), it says that the commencement of this Bill - as per Part II of Clause 2 - shall be as by notice in the gazette by the Minister. Then it says that notwithstanding Sub-section (ii), any provision that has not been brought to force within nine months--- Considering the importance of this Bill, when we reach the Committee Stage, we should amend that so that it becomes effective, at least, within six months.

Most importantly, in the objects and application of this Bill as provided for under Clause 3, we must specify what action should be taken on crooks that make companies go under through unethical conduct and manipulations. Many companies have gone under through the practices of the managers who are put in charge of those companies. Those kinds of unethical acts constitute criminal acts. This Bill should clearly make a provision for actions that will be taken against those people.

Lastly, even as we talk about insolvency, recently we concluded discussions on the Companies Bill. In our contributions, we said that the Companies Bill should aim to empower as many Kenyans as possible to go into productive business. However, even as we encourage many Kenyans to go into productive business, we have to highlight the actions of the Government against companies that have taken a lot of effort from Kenyans to put up. I have in mind, for example, what Keroche Industries is going through right now. I want to declare that I do not take alcohol. I do not even have shares in companies that make alcohol. But that gracious lady has put a lot of effort in bringing up that company. Honestly, if we go the way we are going, some of the actions by the Government like the Excise Duty business and the taxation regime that does not recognise the efforts that have gone in, will not be productive. Would the Government not inadvertently be contributing to viable companies that have taken a lot of Kenyans to build to be insolvent?

The Government should approach some of these issues with a humane heart, so that we can encourage as many Kenyans as possible to do business. Insolvency is not the ultimate aim of forming a company. It is the unfortunate event of a company that was meant to serve people and be productive being unable to increase its production. This should be the last resort. The last things we want to see are reckless Government actions that lead to enterprises that have taken Kenyans years to build become insolvent merely because the Government does not wish to give those Kenyans a chance.

With those remarks, I support. I will be proposing quite a number of amendments as we get to the Committee Stage. I thank my good friend, Hon. (Dr.) Shaban, for giving me this opportunity.

**Hon. Deputy Speaker:** Deputy Leader of the Majority Party give me a minute to recognise our visitors in the galleries. In the Speaker's Gallery we have:-

1. Saint Peters Academy from Bonchari Constituency, Kisii County.
2. Marell Academy from Kanduyi Constituency, Bungoma County.
3. Janeiro Primary School from Rangwe Constituency, Homa Bay County.

In the Public Gallery we have:-

1. Kapsoit Primary School from Eldama Ravine Constituency, Baringo County.
2. Iten Primary School from Keiyo North Constituency, Elgeyo Marakwet County.
3. Farasi Lane Primary School from Westlands Constituency in Nairobi County.
4. Kiserian Adventist Primary School from Kajiado North Constituency, Kajiado County.
5. Cheibei Primary School from Konoin Constituency, Bomet County.

You are all welcome to the National Assembly.

Deputy Leader of the Majority Party, you may now proceed.

**Hon. (Dr.) Shaban:** Thank you, hon. Deputy Speaker. I beg to reply. This Insolvency Bill is going to solve a lot of problems in this country. I take this opportunity to thank all the Members for their contributions and more so, for recognizing that this Bill is long overdue. No wonder it has so many sections that are going to straighten out the issues which have been bothering people, especially those who have been doing business.

The United Nations Commission on International Trade Law has been in place and in Kenya we have not domesticated it. We have not used it for the benefit of our people. This Bill seeks to deal with cross-border insolvency and businesses which have had big problems over the years.

If this Bill is passed, it is going to repeal the Bankruptcy Act Cap. 53, which has been trying to deal with matters relating to insolvency and yet, really not dealing with them. It has been a source of many problems and many cries in this country. This Bill has outlined ways of dealing with trustees and administrators who have always taken over to deal with the issues of people who are deceased, those who were declared insolvent and people who have had many issues at the time of their demise. It will ensure that people who are left behind are actually helped by the law to deal with the businesses that have been left behind and, more so, when those companies have been left with a lot of problems.

Over the years, we have seen partners of people who have died taking off with everything upon the death of their partners without worrying about the people who have been left behind and how the issues of the deceased are going to be settled. When this Bill becomes law, it will set out the way things are going to be dealt with systematically. Issues of insolvency are going to be dealt with within the law.

Hon. Deputy Speaker, I beg to reply.

**Hon. Deputy Speaker:** I want to put the Question now that we have confirmed we have the numbers.

*(Question put and agreed to)*



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

**Hon. Deputy Speaker:** Next Order.

*Second Reading*

THE COMPANIES AND INSOLVENCY LEGISLATION  
(CONSEQUENTIAL AMENDMENTS) BILL

**Hon. Deputy Speaker:** Let us have the Leader of the Majority Party.

**Hon. A.B. Duale:** Thank you, hon. Deputy Speaker. I beg to move that the Companies and Insolvency Legislation (Consequential Amendments) Bill (National Assembly Bill No. 25 of 2015) be now read a Second Time.

Hon. Deputy Speaker, the enactment of the Companies Act 2015 and the Insolvency Act 2015 will consequently amend other related legislations. So, this Bill makes those consequential amendments to the other related Acts. That is why you see this Bill has no memoranda. It is keeping with the practice of making minor amendments which do not merit the publication of a separate Bill. It consolidates them into one Bill.

Clause 1 of the Bill sets out the Short Title and the commencement of the proposed Act. Clause 2 proposes to amend the Records Disposal Act. So, this Bill amends a number of Acts. It is trying to harmonise them with the Insolvency Bill, 2015 and the Companies Bill that we passed yesterday. The first one is that it amends the Records Disposal Act to harmonise it with the provisions which are in the new Companies Act, 2015, by deleting the words “Companies Act Cap. 4486 Section 382” which are appearing in the Schedule in relation to the Registrar of Companies.

Clause 3 of this Bill proposes to amend the Advocates Act. This is to harmonise them with the provisions found in the Insolvency Act that has gone through the Second Reading this afternoon. It aims to delete the invalid agreements listed under Section 46 of this Insolvency Act, 2015, which invalidates such agreements. Clause by clause, this Bill deals with a certain piece of law or an Act that must be harmonised with the Insolvency Act, 2015 or the Companies Act 2015.

Clause 4 of the Bill again proposes to amend what is referred to as the Chattels Transfer Act. This provides for unregistered instruments to be void in certain cases. Such instruments have to be registered now by the Official Receiver.

Clause 5 of the Bill proposes to amend the Arbitration Act that gives effect to bankruptcy on any agreement and to settle the differences that occur as a result of a process of arbitration. This process has well been taken care of in the Companies Act, 2015 that the House is awaiting to deal with in the Committee of the whole House.

Clauses 6 and 7 propose to amend the Prevention of Fraud (Investments) Act which deals with bankruptcy. It also talks about how trustees would recover from a guarantor a total sum that ultimately will become payable. This, again, has been covered in the Insolvency Act, 2015. Clauses 8 to 22 of this consequential Bill that deals with Insolvency Act and Companies Act propose to amend the Societies Act.

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

**Hon. Deputy Speaker:** Leader of the Majority Party, just hold on for a minute! We have a point of order from Hon. Dalmas Otieno.

**Hon. Anyango:** Thank you, Hon. Deputy Speaker. From what the Leader of the Majority Party is saying, he is proposing an amendment to a Bill, and not an Act that has just gone through the Second Reading. Are we in order to start debate on the Bill amending another Bill before it becomes an Act in this particular circumstance? The Companies Act has not been assented to.

**Hon. Deputy Speaker:** Hon. Dalmas Otieno, you are right to ask that question. We are allowing the debate on Second Reading. We will not go into the Third Reading until the other two Bills that we are talking about have gone through the Third Reading. We will only do the debate on it, but not move to the Third Reading.

**Hon. A.B. Duale:** Well said Hon. Deputy Speaker. It is also the other way round. If we pass the Insolvency Bill and the Companies Bill without dealing with this Bill, there will be a lacuna within the same Bill. I agree with you though. That is why we are moving the Second Reading after those two Bills have been dealt with at the Second Reading. Once we bring them for the Third Reading, just before they go for assent, then this particular Bill will come to the Third Reading. That is the process. Even if you look at the publication period, you will realize that this Bill came after those two Bills had been read for the First Reading. These are Acts that have been dealt with in the Companies Bill and the Insolvency Bill.

Clause 23 of the Bill proposes to amend the Methylated Spirits Act. This will align it to Section 4 which is found in the provisions of the new Insolvency Bill. Clause 24 of the Bill proposes to amend the Law of Succession Act. This is done by deleting Section 89 of that Act. This also relates to insolvency of estates which is being dealt with extensively in this Insolvency Bill 2015, which has gone through the Second Reading this afternoon.

Clause 25 of the Bill proposes to amend the Industrial Training Act. This provides the effect of bankruptcy on a contract of apprenticeship or in any form of learning within that Act. This is also provided for within the Companies Bill.

I want to hurry up so that I can highlight a number of different sections and Acts that will become redundant or will be harmonized with the two laws that are before the House.

Clause 26 is dealing with Section 31 of Narcotic Drugs and Substance Control Act. This is about the fees the Official Receiver is entitled to receive in the case of taking custody or control of a person's property, who is dealing with drugs and other substances, and who has a restraining court order.

Clause 27 of the Bill proposes to amend the Land Control Act. This is aligning it in terms of the definition of "private company" provided under the Companies Bill, 2015.

Clause 28 of the Bill proposes to amend Section 42 of the Wildlife Conservation and Management Act. This Clause relates to certificates of ownership for anyone possessing trophies. This amendment also deals with an administrator of a company which is under liquidation or administration and where a bankruptcy trustee or a personal representative of a deceased person's estate can be in possession of trophies without having the certificate of ownership. That, again, is a matter of aligning Section 42 of that Act to the Insolvency Act.

Clause 29 is amending Section 3 of the Uplands Bacon Factory Act. This is also deleting that section and making it in reference to the current Companies Act, Cap.486, which is aligning it to the law that is before Parliament.

Clauses 30 and 31 of the Bill deal with insurance. It is about the Motor Vehicle Third Party Risk Act. It provides for contracts in the Insurance Act, liabilities to third parties and also harmonizes it with what is provided in the Insolvency Bill, 2015.

Clauses 72 to 74 deal with the Insurance Act. It harmonizes it with the Companies Bill and the Insolvency Bill.

Clauses 75 to Clause 79 propose to amend the Banking Act. This provides leeway for the process of liquidation of any institution. It specifies the powers given to the Central Bank to place any financial institution under a receiver manager and an administrator. It gives that institution the right of appeal which is placed within that administrative process. This is also provided in the Insolvency Bill, 2015.

Clause 124 of the Bill seeks to amend the Business Act in order to provide for the Act not to apply to the transfer of certain businesses.

Clause 125 proposes to amend the Hire Purchase Act, to align it with the provisions which are in the Insolvency Bill, 2015 and further to provide other agreements binding on the trustee or the liquidator of any company.

I am sure the Seconder will go through all the other clauses, including 126, 134, 144, 164, 165 and 167 – and all the way to Clause 180, and take the House through the different existing Acts which must, in one way or the other, be aligned and harmonized with the Companies Act, 2015 and the Insolvency Act, 2015. Basically, this is a simple Bill that is following the mother Bills; the Companies Act and Insolvency Act. With the enactment of those two laws, there are a number of other remote pieces of legislation that must either be deleted, aligned or harmonized with the two laws that we are anticipating the House will deal with.

With those many remarks, I will ask my colleague, a member of the Departmental Committee on Justice and Legal Affairs, Member of Emurua Dikirr, Hon. Ng'eno, to second. It is not *dik dik* as one Member has said. He is a Member from the lake. I will ask my colleague to deal with this important Bill.

Thank you, Hon. Deputy Speaker.

**Hon. Deputy Speaker:** Hon. Ng'eno Kipyegon.

**Hon. Kipyegon:** Thank you, Hon. Deputy Speaker. I wish to second my friend, Hon. A.B. Duale who, on a light note, has got an accent. I was asking him why he is speaking like those *yoyo* people from the other side nowadays. He told me that he got a golden handshake from the great man of the United States of America (USA). So, that is why he has an accent now.

As a member of the Committee that deals with most of these laws, I want to say that I second the Bill. I wish to also congratulate the Leader of the Majority Party for this Bill. Remember that we have dealt with two major Bills, although we know that they have not gone through the normal procedures. However, we thought we could do it consecutively so that, at the end of each and every Bill's termination, each one will come to place. The Companies and Insolvency Legislation (Consequential Amendments Bill) is meant to give us a highlight, especially on the Bills that we have been discussing. The most important part of this Bill deals with the amendments which were found on the other Bills and which were on the Companies Bill. When you look at it critically, it is amending either the Companies Bill or some other Acts.

When you look at Section 2, it is amending the Records Disposal Act. If you look at Section 3, it is amending the Advocates Act. The most critical question is: "What is the major reason of doing these amendments and also repealing some of the sections and deleting some of the sections in these Acts?" The major reason is that we can align them with the current

Companies and Insolvency Bills. The Mover had dealt with several clauses. I will only dwell on a few clauses. However, the most important part of it is that we should allow Members of Parliament, especially lawyers who would be dealing with these particular Acts, to read through this consequential Act. The two other Bills which we are about to expedite may not function properly without this last consequential Bill. The reason is that there are so many clauses which can be repealed - like Clauses 75 to 97 of the Bill. They propose to amend the Banking Act so that we can provide for the liquidation of an institution to specify the powers of the Central Bank of Kenya (CBK) to replace an institution or the administration.

Remember, we have also been dealing with the Fair Administrative Action Bill. The CBK was not given a major role in dealing with administration in the previous Bills or Acts. In this Bill, we are proposing to replace the administrator with the CBK so that we can, at least, provide for a right of appeal after an institution has been placed under administration.

Clauses 98 to 123 propose to amend the Co-operative Societies Act to harmonise it also with the Companies and Insolvency Act so that it can specify that members' shares are not subject to attachment and it is the co-operative to provide for liquidation. Clause 124 of the Bill proposes to amend the Transfer of a Business Act to provide for the Act not to apply transfer of certain businesses. This is to specify the kind of transfers that can be done.

Clause 125 of this Bill also proposes to amend the Hire Purchase Act as it was previously. It can be amended so that it can be aligned to the provisions of the Insolvency Act which we are almost finishing. When we align this Hire Purchase Act with the Insolvency Act, it will provide for agreements binding on a trustee or liquidator or an owner of a company. Clauses 126 to 133 of the Bill propose to amend the Central Depository Act to harmonise it with Companies Act 2015 so that the consequential amendments of the Act which were previously in place can be aligned with the Companies Act. Clauses 134 to 143 of the Bill propose also to amend the Copyright Act so that when you look at most of the provisions that this consequential Bill is talking about, it is giving breath to the Acts that are already in place and also amending the ones which are no longer in alignment with the Bills which we are dealing with in this House. So, Clauses 134 and 143 are meant to amend the Copyright Act to align it with the Companies Act so that it can provide for the obligations of the collecting entity.

Hon. Deputy Speaker, I do not want to dwell so much on these clauses, but I just want to note some few other clauses which I thought would be very important for Members to know so that when they start debating them, they can be aware of the clauses that are in this Bill. Clauses 144 to 164 of the Bill propose to amend the Employment Act to remove reference to the Minister. Obviously, it provides for a Cabinet Secretary (CS). Remember that we no longer use the term "Minister" in our current constitutional dispensation. Therefore, it is also important so that we can align it with the Constitution to mean the CS.

Clause 156 also amends Section 70 of the Employment Act to provide for the relevant offices. Remember that it is not only the office of the minister which was changed but also the offices of permanent secretaries (PS) to mean principal secretary (PS). So, Clauses 144, 164 and 156 are supposed to align the Bill with the current naming of the offices which are concerned with this Bill. Clause 165 of the Bill proposes to amend the Merchant Shipping Act to harmonise the provisions of Section 106 with the law relating to insolvency. Remember we said that after passing these Insolvency and Companies Bills, most of the laws that we have in that Bill must be aligned with the previous Acts.

Clauses 166 and 167 of the Bill also propose to amend the Proceeds of Crime and Anti-Money Laundering Act to provide for the effect of bankruptcy on realisable properties. This one is more than obvious because, if you look at the proceeds which are properties acquired when fraud is detected, or when those companies go under, this clause will provide for ways on how to realise those particular properties. I end by asking the Members of this House to support this Bill, so that we can have a law in that area.

I beg to second.

*(Question proposed)*

**Hon. (Ms.) Nyamunga:** Thank you, Hon. Deputy Speaker for giving me this opportunity to make a few comments on the Insolvency Bill. After going through it, it comes out very clearly that it is very important for the amendment to be made. In Clause 155, the Bill now allows a bankrupt individual to inspect the documents. He can also be allowed to make copies of such documents, go through them and be assured of some issues that may have been raised in the insolvency.

From Division II, Clause 636 onwards, the Bill provides for the company directors who are willing to opt to settle matters out of court to go ahead. Their cases can be settled outside court. This is good because it is going to decongest the courts on issues of insolvency. Normally, such cases go on for a very long time. This Bill allows directors who want to settle cases outside the court to do so. I give a lot of credit to the Bill.

Another important thing is that the Bill sets up insolvency practitioners who would be given the mandate and the duty to oversee the insolvent companies. This means that the standards are also set. Good standards give a lot of credibility to the process. The Bill allows such a process to be taken by the practitioners. In Kenya right now, there is a lot of insecurity on issues of businesses. The insecurity that has come about with issues of terrorism has made Kenya a high-risk destination for doing business. This Bill will help in providing assurance and creditors will be well taken care of. In insolvencies, you need a lot of assurance that even after going through the process, after sorting out the creditors, the debtors will be allowed to continue with their business as usual. So, the practitioners will take care of the debtors and this will give a lot of credibility to anybody else who may want to come and do business in Kenya, while taking into account the issues of insecurity and terrorism that we are struggling with right now.

Another thing that is very good in this Bill is the fact that it adheres to the Kenya's broader legal and commercial system. All that is put in place and it is making a very strong system for insolvency and for people who may want to continue or have interest in carrying on with businesses in Kenya in the future.

With that, I support the Insolvency Bill because it will strengthen what we have now. It is a very long Bill that may take a lot of time for most of us to understand, but it is important for us to give it a lot of time, go through it and support it. In my view, it will strengthen our businesses and the companies that we have in Kenya. Issues of insolvency will also be put to rest. People will not fear dealing with issues of insolvency because the law that will be in place will be very strong and supports both sides.

**Hon. Kangara:** Thank you, Hon. Deputy Speaker. I rise to support this Bill. It is trying to harmonise the Companies Bill, the Insolvency Bill and to some extent, the Registration of Companies Bill. This is a link on how business should be done, especially between Government,

public/private entities and even private entities. For a long time, the Government used to check on companies that were doing well in the area of paying taxes. But it is also now a Government initiative and business to know the challenges that the business community is facing. Sometimes, they have challenges which are not of their own making. They face difficulties. This Bill is trying to harmonize all those issues to see that everybody is comfortable. The area of ease of doing business is put to the very basic.

There is the issue of professional bodies which have been incorporated in this. Previously, no professional bodies were involved. The insolvency practitioners' sole mandate will be to see that companies that have gone under are up and running. Initially, liquidators would go to a company and pay themselves with the first money that they make. That will be a thing of the past and the professionals will be paid a percentage based on what they have done. The people who will have lost and gone through a lot of suffering will also be catered for.

There have been issues of unforeseen challenges here in Kenya, where we have been hit by acts of nature and terrorism. These are situations that are not insured. Many people have suffered from such acts. For instance, at the Westgate attack, even the building was destroyed and people suffered huge losses. The common *mwanaanchi*, especially those who ran shops at the mall were not compensated. If they were to be compensated, there is no law to govern that kind of transition. In a nutshell, the Government should feel the agony and the pain that people go through. For example, when a *matatu* is hit by a grenade or a bomb, the Government just tows the wreckage to the police station. The owner of the *matatu* might have taken a loan, for instance, and his source of livelihood is destroyed. The bank will pursue him to repay the loan. He will not get his vehicle back because the police tell him that they are doing forensic investigation which takes forever. The onus is on the Government to support that person because he could not have prevented the loss.

The Government should support people to do business. They should not fear. They should know that the Government is there to facilitate them to do business and restore them to where they were before the loss.

There are other areas where people have really suffered, especially people who had invested in South Sudan. The Government was at the forefront in encouraging Kenyans to go and invest in that country. People are really suffering. They were millionaires in South Sudan, but paupers here in Kenya. I take the case of Jetlink, which went under not because of mismanagement but because they had accumulated a lot of South Sudanese Pounds which are non-convertible anywhere. When it comes to such issues, who should the people go to? That currency is non-convertible elsewhere and yet, back home you are repaying loans and you are being pursued by other entities. The South Sudan Pounds are non-transferable. You cannot convert South Sudan Pounds to US dollars. The Government has to come in and bridge that gap because the common *mwanaanchi* will not have the muscle to talk when it comes to inter-governmental relationships.

There are other entities which have been bailed out by the Government namely, Uchumi, National Bank of Kenya (NBK), Mumias Sugar Company and even Kenya Airways (KQ). However, the Government has bailed out those institutions not based on any law, but as a matter of concern. The Companies and Insolvency Legislation (Consequential Amendments) Bill and those other laws that we are going to come up with will help to bring sanity. Even the Government has a moral authority to come in and assist companies and ensure that people can do business.

We told our people to go and do business elsewhere - not necessarily here in Kenya - but they need backing. The world has become so fragile. There are other issues like those who had invested in Greece and then its economy just collapsed. Others may have invested in Asia where there is territory invasion. Those are issues that are not an individual's doing but factors beyond one's control. It is only the Government that can facilitate and see that people go out and invest elsewhere, but they are supported back home when such eventualities come into play.

The good aspect of this Bill is that there is a provision for those current and former directors as well as shareholders who have plundered and looted factories and companies, to be taken to court and their property sold so as to recover any losses incurred. There are other people who also face consequences especially the unsecured creditors. A company may go under but since you are providing services and other supplies, when it comes to liquidation, you are not considered anywhere. These are factors that the Bill has captured. More so, issues of dependants have been well-looked after; especially those dependants who are fully dependent on a deceased person's estate. They are also catered for so that they are facilitated and can earn a living.

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

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

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

**The Temporary Deputy Speaker** (Hon. (Ms.) Shebesh): I give the Floor to Hon. (Dr.) Pukose.

**Hon. (Dr.) Pukose:** Thank you, Hon. Temporary Deputy Speaker for allowing me to contribute to this Companies and Insolvency Legislation which is a consequential amendment to the two Acts.

This Bill, as a consequential amendment, harmonizes the Insolvency and Companies Acts of 2015. Clauses 8 to 22 of the Bill propose to amend the Societies Act to, among other things, provide for the concept of liquidation of societies, the procedure to be followed when a society is solvent and to set out supplementary provisions relating to liquidation of societies. As you are aware, we have several societies and this Bill aligns the Societies Act with the Insolvency and Companies Acts of 2015.

Clause 28 of the Bill proposes to amend Section 42 of the Wildlife Conservation and Management Act which relates to certificates of ownership and possession of trophies. The amendment allows the liquidator or administrator of a company that is in liquidation or under administration, a bankruptcy trustee or the personal representative of a deceased person's estate to be in possession of trophies without having the certificate of ownership. At that time, it may be a problem for that person to get the certificate of ownership. While in transition, those trophies may get lost. Therefore, this consequential amendment gives room for those trophies to be kept under custody and the person who is holding them not to be fined for possession.

Clauses 32 to 74 of the Bill also propose to amend the Insurance Act to require the Cabinet Secretary to lay a report on the operation of the Act before the National Assembly within one month after receiving the report. This Bill also introduces the concept of liquidation of an institution and insolvency of an insurer. The Bill specifies that only authorized persons can carry

out insurance business and places restrictions on insurers providing financial accommodation on security of their own shares. This protects the members because you will find that there are insurers operating in that area where they are not restricted. This consequential amendment restricts that so that we do not have quacks within the insurance sector.

Clauses 98 to 123 of the Bill propose to amend the Co-operatives Societies Act to harmonize it with the Companies Act to specify that members' shares are not subject to attachment. This provides for liquidation of co-operative societies, for the court to set aside transactions that are undervalued to avoid preference, to set aside extortionate credit transactions and to amend the Act in relation to changes to be registered with the commissioner. This protects the members' shares.

With those few remarks, I support the Companies and Insolvency Legislation (Consequential Amendments) Bill.

**The Temporary Deputy Speaker** (Hon. (Ms.) Shebesh): I now give the Floor to the Member for Rarieda.

**Hon. (Eng.) Gumbo:** Thank you Hon. Temporary Deputy Speaker for giving me this opportunity.

The object of this Bill is important in the sense that it is a scrutiny of the various Acts of Parliament that would be affected by the passage of both the Insolvency and the Companies Acts. It is a good attempt.

I have noticed that there are certain omissions that we may have to re-introduce into this Bill, so that it can become encompassing. For example, I have noticed that if you look at the Companies Bill that we recently passed, it has provisions that give the Capital Markets Authority (CMA) powers even over private companies. I would think that the provisions of the current CMA Act, as it is now, only deal with listed companies. If we are to give effect to this Companies and Insolvency Legislation (Consequential Amendments) Bill, then I would think that we should also amend that particular Act because it is important. If we do not make that amendment, then we would have two sets of laws which are making different provisions. It would be very difficult and it will bring challenges as to what to apply and when. That is because when you have a provision of the CMA Act which clearly restricts its scope and then the Companies Bill that we are yet to consider in the Third Reading which has expanded the scope of the CMA Act without a clear provision to repeal that provision in the CMA Act, then that may pose a problem.

On the whole, the scope that has been provided is generally good because there are very many bits of legislations that have been affected by the Companies and Insolvency Acts, namely, the Records Disposal Act, the Advocates Act, the Arbitration Act, the Prevention of Fraud (Investments) Act, the Societies Act and all those other arrays of laws.

Hon. Temporary Deputy Speaker, as we move to the Committee Stage, I would propose that we go through the Companies and Insolvency Bill with a tooth comb, so that all the laws affected are taken into account. It would be very difficult to operationalise those two pieces of legislation if the scope tends to bring in new definitions which in one way or another tend to bring a clash with some of the laws that are already in existence.

As I conclude, I notice that the whole idea of this piece of legislation, which is a consequential amendment Bill, is to make those two pieces of legislation operational as far as the parts of legislation they seek to amend are concerned. I said, I want to say it again, that much as we go about bringing the companies and insolvency laws in this county in tandem with the



realities in our country, as a people, the idea behind the Companies Bill should be to enable as many Kenyans as possible to own enterprises. It does not look like a logical process when we are trying to provide an enabling environment for as many Kenyans as possible to own enterprises, yet we seem to be doing very little to protect the existing businesses. Each one of us in this House has their own sets of beliefs and everyone in this House is coming from a background. We must be concerned with some of the things we are seeing. I have said before on the Floor of this House that I do not partake of alcohol and cigarette, but I respect the fact that cigarette makers and alcohol manufacturers are people who have been given the latitude in this country to operate.

For instance, I speak of a lady I truly respect for her enterprising spirit, Tabitha Karanja; she has blazed a trail, dared the multinational giants with her company, Keroche Breweries. As a country, is it right to see what is happening at Keroche Industries? We are here legislating to create a broader environment for businesses to operate, yet the same Government which is trying to give a broader environment to Kenyans to open businesses is killing the same businesses. At the end of the day, if Kenyans who own enterprises cannot thrive and are not given an enabling environment to thrive, then all these exercises we are engaging in seem to be exercises in futility. I want to believe that, in addition to expanding and giving latitude to many more people to own enterprises, we have a duty, as a country, not only to recognize but to protect those enterprises which have taken a lot of sweat and blood to build, particularly when we pick on the current theme where we want to empower as many women businesses as possible.

In spite of the fact that I do not take alcohol, I personally think what is happening to Keroche Industries is not right. What is happening in Keroche Industries at the moment negates the spirit of the legislations we are creating. The Government must relook at the entire regime. Even if it is a question of taxation, what is this kind of taxation regime that basically kills enterprises that are employing thousands of Kenyans and lifting Kenyans out of poverty? It is not the right way to go.

Hon. Temporary Deputy Speaker, we have just concluded the debate on Insolvency Bill. The actions being taken against Keroche Industries--- This is just one example and we also saw the fight on second generation alcohol. Some of the industries were licensed by this Government. The Government may be doing the right thing, but when you are doing the right thing in a worrying way, how are you helping? We cannot attack an illegal process by supposedly throwing laws out of the window. This is because even that aspect of addressing a problem outside the confines of the law becomes an illegality. I want to believe that the passage of the Companies Bill, the Insolvency Bill and the Companies and Insolvency Bill legislation is a good step in the right direction; it will give the latitude that Kenyans need to own enterprises. The wealth of country should as much as possible be in the hands of the people of Kenya. As we do that, we cannot at the same time be seen to be taking actions that are reversing the processes that we intend to protect. It is contradictory and unacceptable.

I support.

**The Temporary Deputy Speaker** (Hon. (Ms.) Shebesh): I will now give the Floor to the Hon. Member for Seme, Hon. Nyikal.

**Hon. (Prof.) Nyikal:** Thank you, Hon. Temporary Deputy Speaker, for giving me the opportunity to contribute to this Bill. This is an important piece of legislation that seeks to make appropriate amendments to other Acts that have been affected by the two important Bills we have just discussed: the Companies Bill and the Insolvency Bill.

Hon. Temporary Deputy Speaker, it is true that the mainstay of the economy of any country is companies. It is the driving force in all the businesses and development we have in the country. Therefore, it was extremely important that the Bill that protects companies and ensures that companies are not used in corrupt ways, was passed. We are aware that many times before people started companies, they did what they wanted to do and immediately dissolved those companies, but the Bill we passed yesterday has made provisions for that. It is also a reality that insolvency occurs and companies fail. It is important that the Bill we discussed provides for insolvency. This is an area that has had a lot of suffering. Insolvency does not necessarily mean that a company must die and, therefore, it is important that the Bill we discussed a few days ago provided for the protection of businesses that would otherwise collapse because they are having problems. It actually provided support for them. We know that creditors suffer when businesses fail but the Insolvency Bill provides for their protection. It also provides for the protection of the deceased persons and their dependants. Those were extremely important Bills. The two Bills, because of their broad nature, their importance in the society and the world of business we live in, touched on very many important Bills. I have just looked through the Insolvency (Amendment) Bill; probably more than 23 Acts have been touched. It is not important to go through them but some are important like the Narcotics, Drugs and Psychotropic Substances.

When you have insolvency in those areas, a lot of things can go wrong in the handling of the drugs. Insurance Act, the Banking Act, the Cooperatives Societies Act and the Societies Act are also important areas touched by this Bill. Therefore, this Bill has come in to scrutinise those areas. In a way, it is a miscellaneous amendments Bill. It has looked at those areas and, therefore, seeks to close the lacuna that would otherwise exist and cause problems. That is why Hon. Dalmas wondered why we have Bills to amend Acts that are still in process; we appreciate what the Leader of the Majority Party said, that if that is not done, the moment those Bills go into operation, we will obviously have a problem.

Hon. Temporary Deputy Speaker, we have a case in point now. The Universities Act, 2012 created a body, that is the Kenya Universities and Colleges Central Placement Service (KUCCPS). It repealed some Acts for some colleges and institutions but it did not touch the Kenya Medical Training College Act. What has happened now is that the Kenya Medical Training College has their Act intact. I agree with them because I am a member of the Committee on Health that their Act is intact. That Act did not repeal it. The KUCCPS seeks to now admit students into the Kenya Medical Training Colleges (KMTC). What has happened is that 2,400 students have been given admission by this KUCCPS and the KMTC rightly says they cannot accept those students because their Act was not repealed, and have also admitted students. So we have 2,400 young Kenyans who are definitely going to suffer because we did not do what this Bill seeks to do. I do not know what is going to happen. This very clear example shows that we have a problem with us, I support this amendment Bill.

Thank you.

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

**Hon. A.B. Duale:** Thank you, Hon. Temporary Deputy Speaker. From the outset, I want to thank all Members and most sincerely Hon. Nyikal, a very diligent and serious Member when it comes to Bills of this nature. This is a very important and small Bill; it takes the route of the new Companies Bill and Insolvency Bill. In the event that we pass the Companies Act, 2015 and the Insolvency Act, 2015, then all the Acts provided for in this Bill will either subsequently be

replaced by the new provisions, or harmonised into the new Insolvency Bill and the Companies Bill. I want to thank Members and again the Departmental Committee on Justice and Legal Affairs for working very hard on the previous two Bills and this one.

The Hon. Chairman of the Public Accounts Committee (PAC) has an issue which looks like an oversight on the Capital Markets Authority (CMA), and we have agreed that this one and many other Acts that we feel we can harmonise will be brought in at the Committee of the whole House Stage.

With those few remarks, I beg to move.

**The Temporary Deputy Speaker** (Hon. (Ms.) Shebesh): Hon. Members, we are deferring putting of the Question for obvious reasons.

Next Order.

## MOTIONS

### ADOPTION OF SESSIONAL PAPER ON GOVERNANCE, JUSTICE, LAW AND ORDER SECTOR POLICY

**The Temporary Deputy Speaker** (Hon. (Ms.) Shebesh): Hon. Chairman of Departmental Committee on Justice and Legal Affairs.

Where is Hon. Chepkong'a? Hon. Leader of the Majority Party.

**Hon. A.B. Duale:** Hon. Temporary Deputy Speaker, I raised this matter last night in the House Business Committee (HBC); it cannot be business as usual. We have agreed that we are going to be busier. We are going to bring reports of committees even tomorrow morning. Last night we said that chairpersons must be notified and be ready. Now the Chairman of the Departmental Committee on Justice and Legal Affairs is not around. Even for the next Order, I am sure the Chairman of the Departmental Committee on Administration and National Security will not be around. I want to protest and go on record saying that next time--- Even me, as the Leader of the Majority Party, should have looked for the Chairman. So, myself, the Office of the Clerk and the Office of the Director of Committees will work together to notify chairpersons of business on the Order Paper in advance.

**The Temporary Deputy Speaker** (Hon. (Ms.) Shebesh): Okay. We will have to defer this as well.

*(Debate on Sessional Paper No. 4 of 2014 deferred)*

Next Order.

### ADOPTION OF SESSIONAL PAPER ON NATIONAL POLICY FOR PEACE BUILDING AND CONFLICT MANAGEMENT

**The Temporary Deputy Speaker** (Hon. (Ms.) Shebesh): Hon. Chairman of the Departmental Committee on Administration and National Security. Hon. Leader of the Majority Party.

**Hon. A.B. Duale:** It is the same story, Hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. (Ms.) Shebesh): Again, we will have to defer this Motion.

**Hon. A.B. Duale:** Hon. Temporary Deputy Speaker, in the House is the newly elected PAC Chairperson and the Vice-Chairperson of the Committee on Transport, Public Works and Housing and, of course, senior Members like Hon. Oburu Oginga. I am not seeing any other chairperson in the House.

**The Temporary Deputy Speaker** (Hon. (Ms.) Shebesh): Okay. Let us defer that one as well.

*(Debate on Sessional Paper No. 5 of 2014 deferred)*

Next Order.

## BILL

### *Second Reading*

#### THE SPECIAL ECONOMIC ZONES BILL

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

**Hon. A.B. Duale:** Hon. Temporary Deputy Speaker, this is good for me. I have huge Government Bills. Since chairpersons are not around, I will move Bills.

Hon. Temporary Deputy Speaker, I beg to move that the Special Economic Zones Bill be read a Second Time.

The purpose of this Bill is the establishment of special economic zones. It is a very important Bill for the economy and for the country. The purpose of this Bill is to create, promote and facilitate both global and local investors to develop and manage investments in an enabling environment. This Bill will create infrastructure called “special economic zones,” which is very unique and it is for first time in the history of Kenya.

Clauses 1 and 2 of the Bill have just the normal short title and interpretation provisions of any Bill.

Clause 3 gives the purpose of this Act. It includes creating an enabling environment for the development of all aspects of specially designated economic zones, with their own regulations and administration of activities within a certain location in our country that will be called “special economic zones,” and which will have the principles of openness and transparency and will be guided by the principle of competitiveness.

This happens in many countries; in Europe, the United States of America (USA) and in China where investors, industrialists and manufacturers are given a specific area to operate in. The intention of the Jubilee Government is that as we produce more power, for example in the Olkaria or Menengai region, we create a special economic zone within the region where power will be very cheap, because there will not be huge cost in transportation of power. The further you are from power plants, the more costly the power is. As a country, we want to establish particular industries in a special economic zone where they will benefit from low cost of power, labour and infrastructure. They can have an agreement with the Kenya Revenue Authority (KRA) to tap on the low taxation that will be charged, hence will produce quality goods in an

efficient and more organised manner, both for the local and export market. That is the essence of this Bill.

Clause 4 provides for the declaration of Special Economic Zones by the Cabinet Secretary (CS) taking into account the need to protect public interest. This Bill says it is only the CS for Industrialisation who is empowered by law to say where we are going to create Special Economic Zones. So, an investor cannot walk into our country and say he wants to establish an industry in Garissa, Mandera, Mombasa or Kisumu and call that area a Special Economic Zone.

Clause 5 deals with the criteria for designating and determining the areas in which these Special Economic Zones are to be established. That is why I said earlier that there must be opportunity cost. For example, if you want to have an economic zone you must look at the infrastructure, cost of doing business, cost of power, cost of labour and cost of financial transactions; in that zone we should have financial institutions, cheap power and both skilled and unskilled labour. The body that will be formed will have powers under Clause 5 to share with investors the parameters and criteria for establishing a Special Economic Zones.

Clause 6 provides instances where goods processed or imported into a Special Economic Zone are deemed to have been exported or imported. The clause makes it clear how to deal with both export and import taxation measures.

Clauses 10 and 11 establish the Special Economic Zones Authority as a corporate body with its own board and management. The Board will be in charge of formulating regulations while the management will be responsible for the day-to-day operations of the Authority.

Clause 17 provides for how the staff of the Board of the Authority will be managed, their terms of service, recruitment procedures and administrative structure.

Clause 21 provides for the establishment of a general fund of the Authority. Clause 26 provides that persons must be licensed to engage in the business of processing, exporting, importing and other activities within the Special Economic Zones. These will be zones reserved for investors. The clause specifies which investor will qualify to go to the zone to conduct export or import business or engage in any other activity.

Clause 28 of the Bill provides the requirements that must be fulfilled when you want to apply for a licence to do business as an investor in the Special Economic Zone. Clause 29 gives the requirements needed for one to pay and the dues to be paid to get a licence to operate in a zone as an exporter, importer, processor, or to carry out any other activity.

Clause 36 provides the powers of the CS to issue directions to the Authority in respect of its work and activities. So, the CS will bring regulations to this House on how this law will operate. Clause 38 exempts the Authority from payment of stamp duty for land transactions. Clause 39 empowers the CS, upon recommendation from the Authority, to make regulations for the better carrying out of the provisions of the Act and the business involved.

The enactment of this Bill shall occasion additional expenditure of public funds, which will be catered for through the Budget Estimates.

This is part of the pieces of legislation that seek to make Kenya a business hub. I want to confirm that President Obama, in a number of his engagements, confirmed Kenya is a serious economic hub in the region. So, the enactment of this Bill will give Kenya an added advantage, a competitive advantage and it will make Kenya a country with ease of doing business. Cheap power, cheap labour, affordable financial services through which investors can access any of their financial requirements, cheap water and good infrastructure are what is making the

Government to create these Special Economic Zones for the first time in the history of our country.

With those very many remarks on what the Bill entails, I beg to move. I ask Hon. Johana Ng'eno, the Member for Emurua Dikirr, not 'dik dik', to second.

**Hon. Kipyegon:** Thank you, Hon. Temporary Deputy Speaker. I think the slur which was used by the Member for Muhoroni, Hon. K'Oyoo, needs to be made illegal, so that no one else will make the mistake of calling my constituency by that name. My constituency is called "Emurua Dikirr". I hope the Leader of the Majority Party will be fair enough to pronounce it, although, as I said before, nowadays he speaks with an American accent.

Hon. Temporary Deputy Speaker, I wish to second this Bill. The exciting part of this Bill is the fact that Kenya, like any other developing and developed country, is moving from the previous normal ways of doing business and industrialising. This Bill is setting Kenya ready for the serious development leap that is needed. We must also understand that our country has been facing challenges in foreign investment. The major reasons have been either infrastructural, or the fact that our development partners are not willing to invest here. Other issues relate to the question of insecurity. The visit of the great man of the United States, despite the travel advisories, was a great show of confidence in our country, that although we face security challenges like other countries, this country is making serious strides in matters of security.

The creation of these Special Economic Zones is geared towards taking this country to the next level. It is geared towards putting the country on the international map, and allowing both local and international investors to make serious investments in the country. If we were to look at this Bill, it cites special economic zones, industrial parks and ICT parks which have been in place and which have been making serious contribution, although this country has not seriously fulfilled the plans it had.

Hon. Temporary Deputy Speaker, when you look at the stages they are right now, we realise that this country is making serious strides. Remember we have also been talking about ICT parks, other parks and we have been trying to create some cities which, of course, will attract very serious investors. We are glad that the Government is trying to put in some money to enable towns to grow, and we also have them working.

This Bill looks at two tools the Government has been using to spur faster development and substantial economic growth. They are static and dynamic benefits. The static one has short term benefits in nature, which include employment creation, attraction of foreign direct investments, generation of foreign exchange through exports and promotion of export diversification. The dynamic economic benefits are long-term in nature. The long-term benefits are obtained through structural transformation, which is done by industrialisation and technological upgrading.

On the purpose of developing special economic zones, the rationale for establishing these particular Special Economic Zones is to spur Kenya's economic growth, and enhance global competitiveness. We remember our country is still growing; therefore we need to be in a position that we can compete with other countries, both those neighbouring us and also other countries. The creation of Special Economic Zones will help this country to enhance global competitiveness. The benefits of this include the integrated economic development, which by extension helps to integrate the sectors' value chains and spatial concentration of infrastructure.

When we have these Special Economic Zones road networks, railway lines and air transport are also enhanced; when people get good environment for investments, these

infrastructural issues will be a thing of the past. It will also lead to the creation of both direct and indirect jobs. As we speak today, a substantial percentage of our youth are idle. The creation of these Special Economic Zones will help by creating job opportunities that we normally seek, directly or indirectly.

Another issue which is also quite important in this establishment is the increment of foreign exchange and foreign earnings. If you were to look at the imports and exports of this country, we are only good in importing; we must also ensure that we dwell on exporting, so that our country can have foreign exchange earnings. Today, we only earn through two or three major areas, the tourism sector and the tea sector. We need to expand, so that we can have a wider diversified sources of foreign exchange earnings. This will also help in development of new enterprises through increased investments in productive assets.

The other thing is the export market expansion and diversification, which will also be achieved among other benefits. We will get many benefits with the adoption of this Bill. We know that although it comes with several challenges, when you look at the benefits *vis-a-vis* the challenges that come with it, the benefits will be much higher.

We are also focusing on the achievements of this Government based on Vision 2030, which we hope will take this country a higher level that will be comparable to economic levels of other countries.

The overall objective of setting up the Special Economic Zones is to contribute towards the transformation of the country's economic base in order to realise higher sustained growth, employment creation and poverty reduction. You must understand that even though we are working on the question of employment, we are also looking at other sustainable growth options, as the most important thing is the reduction of poverty. How do we eradicate or reduce poverty levels of our citizens? If you look at our citizens currently, the level of poverty is quite alarming. The areas where our people do business are limited to the extent that we need to deal with matters like what we are talking about right now.

The establishment of Special Economic Zones is also a flagship project which is under the national development blueprint of Vision 2030, and which seeks to transform Kenya into a middle income nation and achieve double digit growth. The establishment of Special Economic Zones will help us to achieve that.

I wish to end by saying that I support this Bill and wish to second it.

*(Question proposed)*

**The Temporary Deputy Speaker** (Hon. (Ms.) Shebesh): Member for Rarieda, Hon. Nicholas Gumbo.

**Hon. (Eng.) Gumbo:** Hon. Temporary Deputy Speaker, thank you for giving me the opportunity to contribute to this Bill. As I contribute, I notice that the object and purpose of this Bill is to provide for an enabling environment for the development of all aspects of Special Economic Zones, including the development of integrated infrastructure facilities, creation of incentives for economic and business activities in areas designated as Special Economic Zones, removal of impediments to economic or business activities that can generate profit for enterprises in areas designated as Special Economic Zones and, of course, the regulation and administration of activities within the Special Economic Zones.

This aspect of regulation is particularly important, because there are a number of companies which come to Kenya, especially foreign-owned companies purportedly to establish Special Economic Zones but engage in activities other than those covered in their licence. This aspect of regulation and administration of activities within Special Economic Zones with due regard to principles of openness, competitiveness and transparency is good.

Conditions that appertain to some of these companies have to worry us a lot, as much as we want to attract foreign direct investment into our country; one of the ways to deal with it is through measures we will implement at the Special Economic Zones.

First of all, it appears like the licensing regime that is in force at the moment tends to give a carte blanche to the economic zones operators with regard to staff welfare and remuneration. As we talk about regulations, if the benefit is to accrue to our country, let that benefit start from the source; this is with the employees. I have seen cases of companies that operate within the special economic zones; if you look at the lot of our employees even in terms of what they are paid, it makes you wonder. It portrays a yawning expression of lack of Government, or absence of the Government as it were.

Clause 7 of this Bill talks of goods and activities within a special economic zone, which shall qualify for customs control. Enforcement of this is necessary to prevent unscrupulous business people from diverting such goods into the domestic market. This practice tends to be prevalent. A lot of people manufacture purportedly for export only to avoid certain conditionalities that accompany trading within the country. As we enact this Bill to give the special economic zones investors an environment to work in, let us be strict with enforcement, so that if somebody manufactures for export, it be for export.

I noticed that part of the requirements for the licensing of a company to operate in a special economic zone is, first, to be mindful of the environment, and two is to respect the local communities. We had this very sad case of the lead factory in Mombasa which has been in the news for quite a long time. If we are going to allow companies to come to this country only to expose our people to preventable peril of the sort that we are seeing in Mombasa, then the aspect of regulation is brought into serious question.

I have looked at the provisions of Clause 29(2) of this Bill, which says that the Authority shall grant a licence if the application meets the objectives of this Act, if the proposed business enterprises were incorporated in Kenya and whether it is 100 per cent foreign-owned. I want to believe that as we move to empower Kenyans - this is something that as Kenyans we cannot be ashamed of - we should move away from this idea that only people from outside the country can establish special economic zones. I have said it before, I will say it again, and I am not embarrassed to say it, that the more we empower our people to own enterprises, whether or not within special economic zones, the better it is for this country. Yes, we can incorporate companies that are 100 per cent foreign-owned, but this should be only in special circumstances. As much as possible, when we are establishing operations within the special economic zones, we should, as much as possible, make it a requirement that Kenyans must be major players, either through being incorporated into those enterprises, or by being given the enabling environment by provision of capital to be owners of entities.

The provision in Clause 29(2)(c) requires that the activity should not have an economic or negative impact on the environment, or engage in activities that endanger the national security, or present a health hazard. This is exactly the sort of situation that has been pertaining in Mombasa. It is very sad that Kenyans appear to be so helpless merely because somebody is



intent on pursuing a commercial activity to the point that the lives of the people of Kenya become a secondary consideration.

I have seen the plight of little children who cannot go to school, and whose growth is stunted merely because somebody has established a factory that deals in lead. He is polluting the water, air and the food that these people grow around the area. Somehow, it becomes very sad when it starts to look like this is happening because our own people, Kenyans, have chosen to look the other way as fellow Kenyans suffer bitterly in the hands of people whose sole concern appears to be only looking at the bottom line. Any enterprise that does not care about the welfare of our people is not the sort of enterprise that we need.

As we enact this Bill, let us also put in stringent measures, so that people who engage in activities that only care about bulk bank balances, the bottom line and the profitability of their enterprises fail. It is true that we need to improve on our balance of trading in so far as imports and exports are concerned. This cannot be pursued in a way that completely throws the welfare and the interests of the people of Kenya out of the window.

I have also seen the provision of Clause 31 which states that the Special Economic Zones Authority shall give notice to the Kenya Revenue Authority of every special economic zone developer. Herein again the devil is in the detail. Our own people, both from the Authority and even from the Kenya Revenue Authority, usually hold back information. This in the end means that the amount of taxes or revenue that we expect is not forthcoming. As we go on, I will be proposing certain amendments to improve this Bill. Otherwise, it is a step in the right direction.

I wish to support.

**The Temporary Deputy Speaker** (Hon. Shebesh): I now give the Floor to the Member for Njoro, Hon. Joseph Kiuna.

**Hon. J. K. Ng'ang'a:** Thank you, Hon. Temporary Deputy Speaker. I rise to support this Bill. Any investor, local or foreign, looks into some considerations before they decide to invest in any kind of business in any area. In Kenya, we have an enabling environment to do business. Among other factors, investors consider security at the top. The second consideration is business expansion or opportunity and the third one is the market. The fourth consideration is the workforce or the labour.

In Kenya, we have all the enabling and conducive factors to do business. President Obama's visit to our country was an eye opener to many local and foreign investors to come and do business in Kenya. If we support this Bill and clear all the handicaps and the challenges, which hinder many businesses, we shall be creating employment for our youth. In this country, we have very many youths. For us to employ them, we must create an environment where the business community will invest well and get returns. I hope this House will agree with me that for us to have that enabling environment, there are some other factors and challenges we have to look into, which if we do not look into, might make it very difficult for local and foreign investors to do business here in Kenya. One of them is security. We have to make sure that we have enough security in our country, especially in the tourism industry. Any tourist who visits Kenya comes here to enjoy and relax. He cannot come to a country where there is any kind of insecurity. So, as the Government, we need to make sure that there is enough security, so that when tourists come here, they feel safe to enjoy their holiday.

When we come to the side of infrastructure, we have to make sure that as investors do their business, there is good road network and air transport. Our airline, that is Kenya Airways, is regarded as the pride of Africa. However, with the recent reports, it has now become a shame of

Africa. We need to look into it and find out the problem it is experiencing, so that we can try to rectify it.

From there, we have to go down to the Coast region and the Kenya Ports Authority (KPA). There are many importers and exporters who are doing business here. We have a lot of problems and challenges at the port of Mombasa. I do remember very well in the last Parliament we visited various international ports, and we realised that many seaports have been liberalised. Governments have liberalised them to private investors, so that they can compete. However, here in Kenya, I do not know what is going on. We need to look at the problem at the KPA so that those people who import goods will have their goods cleared in time and they do not incur any losses. For those who are also exporting, you will find that it might take an exporter, or a clearing agent over one week to clear one container for export. Some of those who import take two weeks to clear a consignment at the port of Mombasa. However, if the port was liberalised, it would be very much competitive because investors would know that they are doing it at their own risk. However, at the moment, there is a lot of laxity and corruption at the port of Mombasa. We need to look into it.

When we come here to our capital city, coming from the Jomo Kenyatta International Airport (JKIA) to City centre takes a lot of time. You find that an investor has taken maybe five or seven hours to come all the way from Europe. However, from the airport to a certain hotel where he or she will reside or hold some meeting, it takes him or her more than two hours. We also need to look at how we can reduce the traffic jam, especially along Mombasa Road and Uhuru Highway. It is very painful for an investor who has tight schedules to waste more than three hours in a traffic jam, and he or she was only coming here very briefly to hold a meeting and then take the next flight to the next destination. So, we need to look at it because I do not see any reason for it. Those are the major challenges which the Government needs to look into, so that it can create a good and friendly business environment.

As I wind up, I propose that in this Bill we also look at taxes. Kenya is among the countries which are highly taxed. If we want to attract foreign investors, we need to look at our taxation. There are some businesses which are operated here in Kenya, especially in the manufacturing industry. The duty they normally pay to the Government is exorbitant; it reaches a point where instead of operating their businesses here in our country, they transfer them to the neighbouring countries like Uganda, Rwanda and even Tanzania. If we need to be regarded as a business hub, we have to understand that our neighbouring countries are also very anxious and ready to attract local and foreign investors.

I wind up by supporting this Bill. As we support it, we need to clear those hiccups, so that investors can come and do business in Kenya.

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

**The Temporary Deputy Speaker** (Hon. (Ms.) Shebesh): I now give the Floor to the Member for Luanda, Christopher Omulele.

**Hon. Omulele:** Thank you very much, hon. Temporary Deputy Speaker for giving me this opportunity to speak to this very important proposed piece of legislation. As the Member for Luanda, I have been telling my people that the way to go for this country, and specifically for the people of Luanda, is to industrialise and go the way of manufacturing. I have been telling them that with special regard to the fact that Luanda is one of the most densely populated areas in this country. We neither have much land nor a lot of industries today. I have been advising them that we are lucky because we have the railway line coming all the way from Mombasa and passing

through Luanda. One of the things that we have been really anxious to do is to have a declaration by the Government, so that the railway reservation at the Luanda Railway Station can be allocated to the people of Luanda. If that is done, they can develop it into a special economic zone, so that this area, which has been lying fallow from 1901, can be utilised for the benefit of the people. What we have done is that we have secured this piece of land. This proposed law today is on all fronts going to actualise our dreams as the people of Luanda.

Therefore, I wholeheartedly support this proposed piece of legislation in that it is really going to transform our nation along with the law we made on devolution, which moved resources to the counties. This is now going to enable the people in the counties and in different areas to come up and say “We have these special resources and needs in our area and we would like to use them in this special way.” For example, the people in Turkana today will be able to sit down and say that they would like to develop a special economic area in Turkana, which is going to, probably, deal with manufacture of cement. They will be able to do it because this law enables them to do so. It enables them to do that by provisions which are very clear.

When you look at this law at Clause 35, it exempts the activities that will be undertaken at these special economic zones from taxation. I would like to quickly look at that. It says that all licensed special economic zone enterprises developers and operators shall be granted exemption from all existing taxes and duties payable under the Customs and Excise Act, Income Tax Act, East African Community Customs Management Act, Value Added Tax Act and all special economic zone transactions. This is a beautiful one. It is will actually enable all Kenyans from wherever they come to develop their areas, use resources and special circumstances found in those areas to enable them do something which will benefit them.

Apart from exempting these enterprises from these kinds of taxes that I have just read out, this law also proposes that all the things that are going to be taken into these areas will be considered to be export. When they will be going to these areas, they will not be subjected to the activities that the Kenya Revenue Authority all the time engages in and uses them to harass people. As much as there will be a proper officer seconded to these special areas by the Kenya Revenue Authority, he will be under the control of the Authority that we are developing under this Act.

I am happy because as much as we have been saying that we should not develop so many statutory bodies and authorities which are more or less a drain on the national purse, this is a case where we are on the right track. I think we have an obligation to our people to develop and allow this authority to see the light of day, so that our people in the different enclaves can do things that are going to be beneficial to them.

The products that we will develop from these special economic areas will be considered to be exports in the rest of the country. The law in Clause 6 says that goods which are taken out from any part of the customs territory and brought into the special economic zone or services shall be deemed to have been exported from Kenya. Clause 6(b) says that goods which are brought out of a special economic zone and taken into any part of the customs territory for use therein or services provided from a special economic zone to any part of the customs territory shall be deemed to be imported into Kenya. This will earn the owners of this special economic zone income. This is what this country is all about. In my view, this is a law that all the Members of Parliament should support wholeheartedly, and as fast as possible ensure that it becomes law, so that our people can enjoy the real fruits of true devolution. I consider it the second most important step in devolution. I am pleased with this law and I wholeheartedly support it.

Thank you for giving me an opportunity to speak to it.

**The Temporary Deputy Speaker** (Hon. (Ms.) Shebesh): I now give the Floor to Member for Kandara, Hon. Alice Wahome,

**Hon. (Ms.) Wahome:** Thank you, Hon. Temporary Deputy Speaker for the opportunity to add my voice in support of this Bill. I would want to say that the Special Economic Zones Bill 2015 is timely, particularly given the fact that the country is in the mood of encouraging an investment and entrepreneurship spirit. We have just concluded the Global Economic Summit where great ideas from Kenyans and other investors, led by the US President Barrack Obama and our President, His Excellency Uhuru Kenyatta, encouraged investment in this country and creation of new businesses. We particularly have to look at the youth and women who, indeed, have previously been neglected or ignored notwithstanding the fact that most of them are now coming up with very good ideas.

Looking at the objects in this Bill in Clause 3, an enabling environment is possibly one of the critical things that we need for encouraging both local and foreign investors. Previously, the country was not focusing on how our people, including those who come to invest here, can establish businesses without trade barriers and impediments such as corruption and small kickbacks. This is an area that we can zone and bring have in it fast development.

I am looking at the fact that the objects clearly show there will be incentives for new businesses. I have gone through the Bill and I would want to see a special provision that says how the youth, women and persons with disabilities will be identified in relation to these geographical areas where the businesses will be. We cannot assume that the youth, women and persons with disabilities will be able to play in the same league with large business entrepreneurs and investors. It is, therefore, important that the youth, women and persons with disabilities are catered for specifically by provisions. I will be bringing an amendment at the Committee of the whole House Stage that will specifically go into that area, so that we do not leave anything to chance. This is considering that the youth and women are going to be assisted by the new funds that were created during the Global Economic Summit.

We have various funds for the youth, but the environment and training skills need to improve. We need to move very quickly as a country, particularly in the area of technical training, so that as we come up with these zones we shall have the relevant skills to be able to input into these zones.

Under Clause 35 a waiver is proposed. I just want to quickly refer to it. There will be a waiver of various taxes like Excise Tax, Income Tax, East African Community taxes, and Value Added Tax. I am not happy with Sub-clause (2) where we say that stamp duty on the execution of instrument related to the businesses--- This creates room for abuse. I say this because I know this country earns a lot of money from stamp duty, particularly from purchase of immovable properties. If we go further and waive stamp duty--- Unless it is stamp duty in the specific area where the zone is, one can always say that the property one is purchasing is in connection with the business in that zone. That has room for abuse and I would not want to encourage waiver of some duty even as we want to create an environment that is facilitative. We must still know that we must have revenue for purposes of development and also capital for the country.

Hon. Temporary Deputy Speaker, there are several rights and protections in this Bill, particularly provisions in areas of conducting business. Therefore, I see that in this Bill we will have the right to intellectual property. Counterfeiting has been a problem. The Kenya Revenue Authority (KRA) and Kenya Bureau of Standards (KEBS) have not been able to deal with the

problem of illicit brews, because we have seen KRA stamps being copied, sold or stolen. Some stamps that we found at the grassroots look clearly like they are from KEBS and KRA. It is clear that the Bill is looking at ways of protecting intellectual property, which is something that has been lacking. I am happy to support this Bill.

It is very clear that there is also a fund that will support the management of these economic zones and the Authority. However, one would want to see people thinking outside the box, moving from Nairobi, Mombasa and Kisumu cities and going to towns like Thika, Murang'a, Nyeri and Meru to establish these zones, especially where we have the new highways. Lamu and Isiolo are the places to go as we think of these economic zones. I hope that we will address this.

Thika Town, which is near my county is developed by a lot by people from Kandara, who own textile industries. We do not seem to be reviving those industries even as we revive Mumias Sugar Company and the others. I do not see Premier Bag and Cordage Company in Juja being targeted. These are industries that used to employ people from the region that I come from. I would want to see people thinking beyond what we have known. Let us not just go to industrial areas here in Nairobi and Mombasa.

We must also address the loss of revenue and taxes in this country through loopholes and unscrupulous people who pretend to be doing business when they are not. I will participate vigorously at the Committee Stage. The criterion for designation of the economic zones has also been set. That is a good thing. I have seen that the Authority will have a Board. We expect that there is a provision that will cater for gender. If the chairperson is male, the Vice-Chairperson should be a woman. These are in the regulations. We must also think about the youth within that arrangement.

As we move forward, we need to have in mind that every Kenyan needs to participate in building a united and new nation. I am saddened to hear that there are people who are still thinking that the new management in the National Youth Service (NYS) needs to be taken to court. There are people who think that when you want to rebrand and bring new thinking to our youth, then that is militarisation. I would like to discourage the thinking of the Coalition for Reforms and Democracy (CORD) leadership. They are still thinking fairly analogue. I say that with a lot of respect to the CORD leadership because they need to bring ideas that will build and support the youth, including those at the NYS.

**The Temporary Deputy Speaker** (Hon. (Ms.) Shebesh): I now give the Floor to Hon. James Nyikal of Seme.

**Hon. (Prof.) Nyikal:** Thank you, Hon. Temporary Deputy Speaker for giving me this opportunity to contribute. Let me start by saying that I support this Bill. The greatest irony in the world today is that the poorest people in the world live in potentially the richest part of the world. Africa, Kenya being part of it, has a great potential to generate wealth to industrialise. What has been lacking is focus in thought and strategies that can bring that into reality. This proposal about special economic zones is a step in the right direction. Certain areas of our country have special potential. Indeed, many times this potential has shown itself without focussed strategies.

We all know and accept that tourism is big at the Coast, Mara region and in our parks. We know that the sugar industry has the greatest potential in the western part of this country. We know that fish and fish products that can form great potential for export are at the Coast and Lake Victoria region. Never before have we come and said: "Look at special areas and see what

can be done.” When we were exploring, or giving out blocks in the Turkana area for oil--- We have been surprised by the potential that we are about to realise.

Now we have a specific strategy in a Bill to develop an Authority whose focus will be to look at the different areas of Kenya and see what potential is there and then map these ones out into special economic zones; this is something that has such big potential that we must support. We will then create an enabling environment for the exploitation of the potentials in these areas.

The most important thing is that this will definitely increase productivity and create employment, particularly amongst the youth, where we have our greatest failure now. There is a large number of youth that we have in this country that cannot get a means of livelihood or, realise their potential in life. I appreciate and, therefore, support this Bill; perhaps, the most important aspect of it is the creation of this Authority that will work out the criteria for identifying and declaring zones as special. That Authority is in Part III, Clause 10. It will determine investment criteria, including investment threshold. It will also make recommendations to the Cabinet Secretary on all aspects of designation, approval, establishment, operation and regulation of these zones, promote and market special economic zones to the potential economic zone developers, operators; each will be administered as a one stop centre. These will be noble objectives and functions of this Authority. If we do that, we will improve the economic competitiveness of this country. We will also enhance efficiency.

In Part V, we have put in regulations. It is important that we exploit our potential, create areas and invite investors, but often, this can be abused. So, regulations are important.

On the other hand, we know that one of the greatest hindrances to our economic growth is the cost of doing business, the ease or the difficulty of doing business, the ease with which we get licences, the ease or the difficulty in which we can get businesses taking off quickly. If we are in these zones with these regulations in Part V, we will go a long way in helping our country by making these economic zones the engines of development and growth.

It is important that we have created an Authority and a fund. Clause 21 creates the Fund. However, I have looked at what the Fund is to be utilized for and this is an area we will need to look at. In Clause 23, the only part that I am happy with is (f) on the funding or the promotion and marketing of special zones. The rest is the usual use of funds to run an Authority. If we can look at areas of funding and supporting local investors to also operate in these areas, that can go a long way in making this a reality.

Hon. Temporary Deputy Speaker, in Part VI, we have put the rights and obligations. Again, it is extremely important that when we are in these zones, there are those rights that the investors will enjoy, but they must have responsibilities as well. So, we will look at this in detail. This is a good Bill. Again, under the regulations, it provides some tax relief. As much as we would like to have revenue, sometimes it is important to make people comfortable and have considerate taxation for people to invest more. We should have an environment that people will run to from all over the world. Our own people should be supported to start investments and businesses in an easy way.

With that, I support the Bill. We will look at it in detail at the Third Reading stage.

**The Temporary Deputy Speaker** (Hon. Shebesh): I now give the Floor to the Member for Wajir North, Ibrahim Saney.

**Hon. Saney:** Thank you, Hon. Temporary Deputy Speaker. The creation of special economic zones is good. This Bill is rather belated. The Government had intended to establish three economic zones in Malindi, Mombasa and Kisumu five years ago. The biggest impediment

has been lack of legislation. This Bill is timely and the establishment of these zones will no doubt spur economic growth.

I know that about 3,400 kilometres square of land has been set aside for the establishment of these zones. Once this Bill is passed, it will hasten the process of establishing the zones, so that we can benefit as a country. This Bill is good and is well intended. It stipulates that all the enterprises, developers and operators in the economic zones will be exempted from all kinds of taxes and levies; be they at the national or the county level. The State will also be issuing passports to, at least, entice investors to do their work in establishing the zones.

Further, these economic zones are expected to be the drivers of the country's industrialization. It is also good to appreciate that this is a flagship project for Vision 2030. It is my hope that once the three are started, there will be attempts to replicate the same idea all over the country especially in northern Kenya, which has always been regarded as a marginalised area. I am sure this time it will not still be seen as lacking potential for investment. After all, it is about bringing investors to establish the zones. Northern Kenya has free and big land. It has all that it takes for investment in terms of power. With the development of exploration of fuel in other parts, I am sure northern Kenya comes in handy.

Further, the zones are to have special centres for industrial science, agricultural and technological pacts. I am sure that will enrich the kind of activities that will be going on in the zones. Once these zones are established, they will ease unemployment. It will be the first attempt to reverse brain drain. I am sure most of our skilled labour, which always opts to go out of the country will come back and work in Kenya. That will be a very good thing to watch into the future.

With the development of the economic zones, other amenities will come up. I foresee the establishment of big schools, hospitals, shopping malls and other auxiliary sectors that are related to all that will be established in those neighbourhoods. This will help in the creation of more urban centres that will see Kenyans derive more benefits.

I support the Bill and I would wish to see it fast-tracked. My hope is to see that this transformative thinking is replicated across the county, so that all the regions can, at least, benefit from these zones.

I support.

**The Temporary Deputy Speaker** (Hon. (Ms.) Shebesh): I now give the Floor to the Nominated Member, Hon. Patrick Wangamati.

**Hon. Wangamati:** Thank you, Hon. Temporary Deputy Speaker for giving me this opportunity. I want to thank the Committee for this wonderful Bill which is before the House. The Bill is very important and it means a lot to Kenyans.

Many Members have spoken and I have appreciated the fact that many of us see the need to raise the economy of this country. This Bill will do much. This country has a big population which is growing year after year. We have many young people who need employment. These young Kenyans should work in their country and develop it. Kenya is known for producing hard working people, but what has been lacking is facilitation for our young people and Kenyans in general to initiate projects. They can initiate a lot if they are facilitated through this Bill in terms of special economic zones. I am grateful to the Leader of the Minority Party for having thought of this Bill and also the Committee which was looking at it. Kenya has manpower and it needs to facilitate our boys and girls to enable and encourage them to initiate projects that can earn them

some money for their living. This country is known. It can manufacture a lot to sell to our neighbours and other African states.

This idea is important and has come at the right time. This country wastes a lot of money through misappropriation and mismanagement. We can be assured that if this House becomes strict on the mismanagement of money in this country, we shall have enough money to facilitate our youth, women and also men. We also want to encourage men. We only talk about women and youth. What about men? I still have a lot of knowledge to start an industry. Even men need this facilitation. We want to encourage everybody in the Ministry of Devolution and Planning that our people are ready to manufacture; they are ready to initiate projects that can benefit other African states.

I liked the fact that every speaker has been encouraging and has talked about these economic zones. I hope that this Bill will take off. Let us make sure that the Bill is passed and we get money from other sources to start these zones for our own benefit.

I beg to support this Bill.

**The Temporary Deputy Speaker** (Hon. (Ms.) Shebesh): I now give the Floor to Hon. Naomi Shaban.

**Hon. (Dr.) Shaban:** Thank you, Hon. Temporary Deputy Speaker. I also rise to add my voice in congratulating the framers of this Bill more so, the Government, for bringing this Bill at this time when we really need to streamline certain issues which affect our economic zones.

In the first mid-term plan of Vision 2030, the special economic zones were given a major portion of realising that our country is well-developed by the time we get to the year 2030. Unfortunately, the special economic zones have not been able to move along in the first mid-term plan and in the second one, and as we are moving on, this goal has not been realised.

We know that we have an Export Processing Zone (EPZ) in Athi River and a private EPZ in Nairobi at Sameer Industrial Park. Those have been the two examples that have been going on for many years and yet, we have not been able to move on towards the direction of making sure that the special economic zones are developed and become a reality all over the country.

Several areas have been earmarked and land sought so that these special economic zones can be developed for us to realise the full meaning of Vision 2030 and spur development in our country. For example, look at what is happening in Taita Taveta and Voi where one of the areas earmarked for special economic zones is in Voi. It has been next to impossible for that land to be put aside for this to be realised simply because the Authority of the special economic zones has not been in place and hence the functions of the Authority cannot be implemented. This Bill now seeks to put in place that Authority which is going to make sure that these special economic zones become a reality.

One of the issues that the Authority is going to handle is to make sure that people who do business within the special economic zones follow all the laid down rules including where they are exempted and where they are not, they meet the requirements of the Kenya Revenue Authority (KRA). The only body which will be able to make sure that all this is done within the specified laws is the Authority which is going to be put in place once this Bill has been assented to, to become law in our country.

This Bill also refers to the United Nations Commission on International Trade Law (UNCITRAL) which formulates and regulates international trade. Because we are a signatory to the UN and are a member state who are a signatory to the United Nations (UN) protocols, this Bill will make sure that we realise the full meaning of what is set out in the UNCITRAL.



Special economic zones would not only give employment to our youth and women but even to the elderly men as my colleague, Hon. Wangamati, was saying. It will give opportunities for people to invest. It will also give opportunities for Kenyans to be employed and earn a decent living from these special economic zones. I have seen how Athi River and Kitengela have grown simply because of having an EPZ in those areas. I know, once this Bill becomes a reality and the Authority is fully functional, they will be able to secure land to make sure that the special economic zones are realised and developed all over the country.

I beg to support the Bill.

**The Temporary Deputy Speaker** (Hon. (Ms.) Shebesh): I now give the Floor to the Nominated Member, Hon. Isaac Mwaura.

**Hon. Mwaura:** Thank you, Hon. Temporary Deputy Speaker. I rise to speak on this Bill. If you look at the Memorandum of Objects of this Bill, you will find that it is a very good Bill. The overall objective is to give incentives for various enterprises to have a special treatment of sorts with regard to access to basic amenities that would require the manufacturing of goods and services in this country. But some issues arise when you go through this Bill. If there are other existing legislations with regard to this issue, this Bill does not seem to address the manner of transfer of a public land to a special economic zone. If that were to happen, how will it be regulated? Does it mean a special economic zone developer will be the owner of the title of the land upon which the special economic zone will be developed? Will it be on a leasehold? This is very critical because we know of situations where when you give tax incentives, waivers or concessions to economic processing zones like the current ones we have - the Export Processing Zones - you will find that people only operate for that amount of time and when the time lapses, they move on to other countries.

On the permanency of investment in this regard, it is my opinion that this Bill needs to be strengthened to ensure that people will not be coming to establish special economic zones for a certain period of time, and when they have recovered their investment and made supernormal profits, they close shop and go away.

Hon. Temporary Deputy Speaker, in my opinion, I would like to imagine that the many powers vested upon the Cabinet Secretary to establish the special economic zones would have been domiciled within an Authority. This is so that there could be a procedural issue with regard to the approval of such economic zones thereof. Why am I saying this? There must be some form of guideline, regulation and objective way in which this can be done. I am sure that if these powers were part of the Special Economic Zone Authority, then everybody would be seeking the approval of that Authority and the Board that is established with the aim of benefiting from the firm that has been established. That is something that needs to be looked at. If you have a cursory reading of this Bill, you will have the feeling that the real discretion and the absolute powers to establish a special economic zone lies with the CS, and in this case, I would want to imagine the CS responsible for Trade or Industrialization.

Hon. Temporary Deputy Speaker, I see these special economic zones helping us in terms of specialisation of production of goods and services. This is because each and every special economic zone can have an expertise of a particular issue and if this was to be the case, then this is a very good Bill. It seeks to incentivise the creation of jobs in this country. Recent statistics indicate that there are about one million job seekers who are churned out of our systems every year, and 800,000 find their way to Nairobi. Kenyan economy is highly concentrated in the capital.

In his writings, Julius Nyerere observed that sometimes when you concentrate the economy at the centre and you leave the periphery, it is disastrous in terms of economic growth. This is because you actually strive for the growth of other sections of the country and if anything was to go wrong at the centre, then it would affect the whole economy. It has been witnessed that when there is a lockdown in the country, there is no business in Nairobi, then it means there is no business in other parts of the country.

In fact, the official statistics put it that 67 per cent of our Gross Domestic Product (GDP) is within the greater Nairobi area. Therefore, these special economic zones would serve to diversify populations in terms of going to look for work elsewhere. It will also help in terms of reducing land prices and this is because people can go elsewhere and still get as much land in a more lucrative manner that would have quick return of investment at a higher percentage.

The other issue that comes out of this Bill is the manner in which goods and services are supposed to be manufactured. The Mover of the Bill has been very keen to provide for rights of the special economic zone and the special economic enterprises. This is very commendable. But we need to be careful so that they are not abused to oppress workers because of the availability of cheap labour in this country.

In fact, as a country, we are continuously churning out young people with managerial and clerical skills rather than what the economy is demanding. In terms of middle level technical jobs that would push our country to a middle income economy through the upper middle income economy according to the Kenya Vision 2030. With the requirement in this Bill, any good exported from those special economic zones shall be construed as having been exported from Kenya. That any good or service that would be supplied from any of the member custom union would be seen as goods that have been imported to Kenya. This encourages regional integration, cooperation and it will leverage on the markets that are available within the East African Community.

Hon. Temporary Deputy Speaker, the other issue that also comes out very clearly in this Bill is the fact that any good that is manufactured out of the country is going to be labeled as having come from that different country and it will help us in terms of tracking the manufacturing potential and percentile in our country. There are very many youth innovations in this country, but there is a very big challenge in terms of the commercialisation and prototyping of those goods and services. I would want to imagine that this Bill would accrue benefits to the young innovators under the age of 35. They will be assisted to come up with products and processes that would not only improve our national total factor productivity, but also solve the various problems that affect communities at the grass root levels.

I would also want to imagine that with these special economic zones, we are going to witness a greater growth in the tax base and revenue collection. Our Budget is increasing at a very high rate and we must seek new areas where we can tap taxes, so that we can finance the fiscal characteristics within---

**The Temporary Deputy Speaker** (Hon. (Ms.) Shebesh): Your time is up! I will now give the Floor to Hon. Member for Subukia, Hon. Gaichuhie.

**Hon. Gaichuhie:** Thank you, Hon. Temporary Deputy Speaker, for giving me the opportunity to contribute. First, I want to say that I support the Special Economic Zones Bill No. 6 of 2015. The balance of trade in Kenya is that we import a lot more than we export. I believe we will be able to produce enough to export and maybe have a good balance of trade immediately we have these Special Economic Zones.

Hon. Temporary Deputy Speaker, countries like Singapore and Malaysia have developed because of having such Special Economic Zones. This Bill seeks to establish Special Economic Zones which will be designated at geographical areas which will have enabling policies for one to do business.

Why many people do not do business in Kenya is because the environment is not enabling. Our way of licensing investors take quite a long time and with these Special Economic Zones, the way of licensing has been well specified. The good thing about the Bill is that it declares that any land that has been alienated for Special Economic Zones shall not be used for private purposes. That will actually help people not to grab that land.

It also identifies and maps where these Special Economic Zones shall be. On licensing, it is very fast because they say they shall administer a one-stop centre in which people can get all licences that are not provided for. It also grants licences to developers without any delay.

It also forms an Intergovernmental collaboration agency (ICA) which will look into all activities that are related. In the Authority of the Special Economic Zones, we have a member who is the chairperson of the National Lands Commission (NLC). You know land has been very emotive. Matters pertaining to land will be well taken care of with the inclusion of the Chairperson of NLC. The board has also been given powers to act and I hope they will use the powers very well. The Chief Executive Officer (CEO) is appointed in a competitive manner. He is qualified in matters of finance, law, economics, management, entrepreneurship or engineering which really suit such Special Economic Zones.

In the financial provisions, they create a general fund which shall have monies which shall come from any other source like donations, rent, fees or even monies that are given by Parliament. One of the great uses of these monies I can see is in Section 23(f) where they talk about funding of promotion and marketing of Special Economic Zones and the funding for training, research and development activities of the Authority.

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

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

Hon. Temporary Deputy Speaker, I think research is very important when we have such Special Economic Zones because we need to continue researching so as to improve our Special Economic Zones.

The period for licensing should also be specified because I think we have very many problems when it comes to licensing. I hope we shall have a short period for licensing these people who want to operate in the Special Economic Zones.

The other good thing about the Bill is that it gives protection of the intellectual rights of any person who operates there. It gives full protection of property rights to all people who are there at the risk of nationalisation.

People operating under Special Economic Zones shall be granted exemptions from all existing taxes and duties payable under Customs, Excise, Income Tax and East African Community Customs Management Act. This is a good incentive which will make people want to operate within the Special Economic Zones.

The Bill also provides dispute resolution mechanisms. There are mechanisms to deal with disputes that may arise. On transfer of land to the Special Economic Zones, it gives an exemption on the stamp duty. That will make the land really cheap and affordable.

It is a good Bill which is in our Committee. We shall have many amendments when we come to the Third Reading stage.

With those few remarks, I wish to support. Thank you.

**The Temporary Deputy Speaker** (Hon. Kajwang<sup>3</sup>): Hon. Member for Wajir East.

**Hon. Mohamed Abass:** Thank you, Hon. Temporary Deputy Speaker. I rise to support the Bill. The Special Economic Zones Bill is very crucial now. This country's development has always been within 50-kilometre radius along the railway lines. Today, this Bill gives us the opportunity to have, at least, three economic zones where we will be able to diversify our economy. If it was not for corruption in this country, Kenya would have been an economic tiger like Malaysia and Singapore. Unfortunately, corruption is rampant in this country. The economy is not growing, there is a lot of mishandling of resources and there are many theft cases. Unfortunately, it is now that this country is realising that. After realising that Kenya is now becoming the economic tiger in Eastern Africa, we are now waking up on a serious note.

One other thing is that we made a mistake in Sessional Paper No.10 which rendered some parts of this country economically unviable. This is the mistake we made from the beginning in 1965. The Sessional Paper No.10 has unfortunately made large parts of this country a non-priority for development. To date, the same problem is hindering our development. One thing I want to say is that there is no way 30 per cent of this country can be able to develop this nation. The people are the nation and the population is growing, their requirements are growing and the country is going to be industrialised. By 2030, this country is geared to become a middle level income industrialised country.

As it is, we need to invest in research. This country is not doing much in research. We also need to enhance research funding. We also need to give incentives. With the support of these Special Economic Zones, today we, at least, have some incentives for tax holidays so that investors can be able to come.

One more thing is that we need to diversify our production systems. As you are aware, this country has a huge potential for irrigation and food production. This is the case and yet it does not have enough food. It is not even able to feed its own population. A country that cannot feed its people is not going to develop. I think we need to go back to the drawing board. We have a huge water resource like Lake Victoria and Tana River that flows 24/7. That water is not utilised anywhere.

In terms of the untapped resources within the northern part, the forgotten land of Kenya, today, we have a lot of hydrocarbons. We have a huge reserve of gases, a lot of oil and green energy. We have wind and sun energy. We need to tap all these for this country to grow. By putting aside 3,400 kilometres square for development and for the Special Economic Zones is a move in the right direction. The same Bill will be able to support some incentives for the people.

One other thing is that the Bill bars briefcase entrepreneurs, those who call themselves entrepreneurs but depend on brokerage and all those things. Because of the heavy penalties, they cannot benefit from these Special Economic Zones.

Hon. Temporary Deputy Speaker, almost 70 per cent of this country is comprised of the youth. The Special Economic Zones should support the youth and women and have a lot of incentives for cottage industries. That will give incentive to rural entrepreneurs. When we hosted

the Global Entrepreneurship Summit (GES), we saw many young men and women who have shown great energy and many ideas for producing and becoming entrepreneurs at a very young age. This is actually what we need to tap as a country.

With those few remarks, I beg to support.

**The Temporary Deputy Speaker** (Hon. Kajwang’): Yes, the Member for Nyandarua County.

**Hon. (Ms.) Muhia:** Thank you very much, Hon. Temporary Deputy Speaker, for giving me this opportunity. Indeed, this is a very good Bill which I would like to support because it is a flagship of Vision 2030. If it is implemented, it can be Vision 2020 or earlier.

This is one way of creating jobs which will bring financial freedom to this country. I foresee a country whose political arena will dramatically change. People with financial freedom are independent in their thinking. With regard to job creation, people will be engaged. They will no longer be idle or wait for politicians to speak with them and give them *kitu kidogo* for them to elect politicians. This means the political establishment will be accountable to the people. This will be possible because people will be in a position to critically examine the performance of their leaders given that they do not rely on the leaders for financial freedom.

An enabling environment for entrepreneurship is very important for a country which is looking forward to a double-digit economic growth. This will in turn improve the lives and livelihoods of our people and their lifespans will increase. We are also aware that healthcare is sometimes an issue of poor economic status. As a result of an enabling entrepreneurial environment, people will have good living standards which will improve their lifespan.

As a Member of the Departmental Committee on Administration and National Security, I am very keen to always note that security challenges can be properly tackled if we engage our youth productively. We all know that an idle mind is the devil’s workshop.

Today I watched the proceedings of a meeting which has been going on this week and the people who are strategising on how to curb radicalisation are talking about one website called ‘ISIS’. It is already known that most youth, particularly university students, are visiting this site almost 75 per cent of their time. I would like to see a scenario in which more entrepreneurial activities are available to the youth so that they can be visiting entrepreneurial sites more than 75 per cent of their time as they expose their minds to business opportunities and knowledge acquisition. This will help us properly deal with the security challenges, especially the radicalisation of our youth.

Today, we have very many funds. We have the Women Enterprise Fund, Uwezo Fund and cash transfers. Most banks are also funding women and youth. These funds do not contribute to their equivalents in terms of impact. Once a bank reports the amount of credit it has lent to the people, we cannot see the economic impact of the same. With these economic zones, these funds will contribute to economic development because people will be trained on entrepreneurship. Those who will be engaged in export business will create more employment opportunities.

I also foresee an income avenue for the Government because of the revenue from these zones. Even those who have been doing business and evading paying tax will be exposed hence the Government will have more funds for infrastructural development. Once this Bill is passed, I expect it to give hope to the youth of this nation. Though one of my colleagues asked why women and youth and not men are always considered for affirmative action, it is because cultural ideologies and beliefs have marginalised these groups. So, this is one way through which they will improve their standards of living.

In 10 to 20 years, we shall do away with affirmative action because everyone will be operating from the same economic platform. Economic and financial freedom is key to the development of this country, which I foresee if this Bill is passed.

Hon. Temporary Deputy Speaker, I thank you very much. I hope to see this Bill passed very soon so that it can contribute to the development of our country.

Thank you.

**The Temporary Deputy Speaker** (Hon. Kajwang'): Yes, the Member for Machakos Town.

**Hon. Munyaka:** Thank you, Hon. Temporary Deputy Speaker. I rise to support this Bill. Kenya is now thinking outside the box. We are following the examples of countries which have grown their economies by embracing this model of special economic zones.

At Independence, Kenya was almost at the same level with Singapore, Malaysia and Korea in terms of economic development. However, because the other countries embraced such models they have been able to grow very fast. Time is now ripe for Kenya to be proactive and do the right thing so that the economy can grow.

When the President of America visited Kenya recently, he acknowledged that Kenya is a fast-growing country and the gap between the economic growth in Kenya and South Korea is getting narrower. We should use the occasion to attract as many investors as possible and give them conducive business environment and terms so that they can invest in Kenya. That will create employment opportunities and earn Kenya foreign exchange. Kenya has been a net importer, but the best situation would be to turn the country into a net exporter.

Kenya is made up of 47 counties with diverse regions and different types of resources. If we could target to create Special Economic Zones in each region in Kenya, we can tap and harvest into the resources which have otherwise not been tapped into. This will create employment opportunities and reduce poverty levels. Most of the raw materials in various regions of Kenya have not been exploited because we have only had industries congested here in Nairobi. If we establish the Special Economic Zones in those regions, we will cut the cost of transportation and production.

The Special Economic Zones are part of the Vision 2030 just like the Konza Techno City. I was worried that Konza Techno City would be part of the Special Economic Zones, but I have been informed that Konza will be a free city with free enterprises like Nairobi. It will be a more modern city with modern infrastructure and proper designs to attract many investors across the world to invest, create jobs and also minimize the crisis and the chaotic situation of the City of Nairobi.

Hon. Temporary Deputy Speaker, Konza City will also have the opportunity within itself to create a Special Economic Zones because the terms of a Special Economic Zones are different. The production within the Special Economic Zones is going to be tax free. Whatever will come out of it will be deemed to have been exported even if it goes to other parts of Kenya.

Kenya is going in the right direction. I see the motivation of the Kenya Government to invest in energy so that we can support these Special Economic Zones and the current growth of cities in Kenya. It is also doing infrastructure development like the Standard Gauge Railway (SGR). This is the correct time to tap into the labour force which I know is a lot in Kenya. The most important thing is to acknowledge that Kenya, being a business hub in the region, is assured of the market. President Obama recently said that Kenya is the leading economy in East Africa. If we move fast, we will export our products. The market is not going to be an issue.

I thank the initiator of this Bill and say that this is the way forward for Kenya. Thank you very much.

I beg to support.

**The Temporary Deputy Speaker** (Hon. Kajwang'): The Member for Taveta, you are not planning to respond, are you? Are you here, therefore, as the Deputy Leader of the Majority Party or as a Member of Taveta? I know both but one means more.

**Hon. (Dr.) Shaban:** Hon. Temporary Deputy Speaker, I am here. I can also respond once you give me that opportunity.

**The Temporary Deputy Speaker** (Hon. Kajwang'): I wanted to allow your colleagues to discuss more of it before you are called upon to respond.

**Hon. (Dr.) Shaban:** That is okay.

**The Temporary Deputy Speaker** (Hon. Kajwang'): Thank you very much. That will be done. Yes, the Member for Gilgil.

**Hon. Ndiritu:** Thank you, Hon. Temporary Deputy Speaker, for giving me this opportunity to also support this very important Bill. This is an addition or a better version of the Export Processing Zones (EPZs) where we only manufactured for export but, here we have a business where we can import and export. This is what has made the economic tigers; the countries we were at par with at Independence that are now far away ahead of us. It is a Bill if properly implemented we are going to have Vision 2030 become Vision 2020.

There is one important factor that we have to look at as much as we talk about developing our industries and businesses especially manufacturing where we need a lot of technical expertise. Labour, as a major factor of production, has to be factored when we think of manufacturing and development in terms of moving away from importing goods that are already manufactured. We have been exporting all our labour to China and other places. When we buy everything from China or wherever, it means that we have exported all our labour. I am talking about the middle level labour, namely, technicians and technologists.

Some few weeks ago, it was reported in the newspapers that the institutes of technology and colleges that offer technical courses were under-subscribed. This means that nobody is now interested in joining those colleges. We have technicians who are trained at Diploma and Higher Diploma and are being referred to as quacks. The engineers' body and such bodies do not recognise them. The system in Kenya now recognises just the degrees and many people are opting to go the easy way.

Those who attain Mean Grade of C+ (plus) and B- (minus) who do not get admission to university prefer to go the long way. They take the Business Administration course and many such courses, so that they can advance and get degrees. They look for jobs or become entrepreneurs, but you become a briefcase entrepreneur because you can never produce.

We are supposed to provide some money and establish some technical colleges. The question is: If the existing ones that are well established are undersubscribed, who is going to be in these colleges? This is where we need to start.

Once we create these zones, they are going to be a major attraction to investors. Are we in a position to provide the necessary technical support in terms of labour? It is high time that we put more emphasis towards that end. Otherwise, we will end up becoming just entrepreneurs. I heard that entrepreneurs are only about 8 per cent of the population. It is not all of us. The greatest numbers of us are those who are going to effect the ideas that the entrepreneurs come up with.

On ownership, I have looked at what one needs to run a business. You should have a company incorporated in Kenya and the necessary capital. You need to own or lease land in specific areas, but we are not talking about shareholding of anybody who wants to invest. In places like Dubai, I do not think there is anybody who establishes a business without a local ownership. We do not want the people who are coming in to exploit our people and then walk away with all our resources.

In terms of infrastructure, in Clause 32 of the Bill, there is a provision for the development of infrastructure or even the enclosure which is like the security walls. This is an area that we need to work on before we can invite people once a place has been declared a special economic zone.

If you look at Upper Hill, which is an upcoming business hub in Nairobi, you will find that infrastructure is following development. Right now, driving in Upper Hill is a headache. If you look at what they are doing, they are not factoring in services such that they will complete a road today and tomorrow, you will find some people digging trenches to lay their cables. It is high time the planners did proper planning in such places such that there are ducts where if you want to lay your cables, you just get a licence and do your cabling. We really have to look at the infrastructure and plan it well because it will be a major attraction to those who want to do business in the Special Economic Zones. We also have local people who have been doing businesses.

In particular, there are manufacturers in Kenya who have really been struggling. I have always talked about a company in my constituency which for a long time has been manufacturing agricultural equipment like posho mills. There are some tax rebates for imported agricultural machinery. However, when you manufacture them here, you have to pay all the Value Added Tax (VAT) and all the taxes. It has become very difficult for them to manufacture. They have to take their designs to China so that those goods come from there. They used to employ between 80 and 150 welders and technicians but these days they cannot because it is cheaper to buy an imported item.

So, this is a very major step forward in terms of making people produce here rather than export their ideas and designs for them to be done in China or such other places and then import them here. This is a very important Bill if it is going to be implemented in the way the vision has been set.

With those few remarks, I would like to say that this is a very progressive Bill. We know that maybe there are cartels that might have already owned land that is going to be declared. We hope it will be spread all over the country so that we can spread job opportunities and the value of land may not be so high. I know in some places like Isiolo people owned deserts before everybody knew what was happening. Let us hope that proper methods and distribution of these economic zones are going to be wide and cover a bigger part of our country.

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

**The Temporary Deputy Speaker** (Hon. Kajwang'): Yes, Member for Taveta.

**Hon. (Dr.) Shaban:** Thank you, Hon. Temporary Deputy Speaker. Before I respond, I would wish to donate two minutes.

**The Temporary Deputy Speaker** (Hon. Kajwang'): Are you replying?

**Hon. (Dr.) Shaban:** Yes, I will reply but I wish to donate--- I had already spoken to this issue.

**The Temporary Deputy Speaker** (Hon. Kajwang'): Have you contributed?



**Hon. (Dr.) Shaban:** I have.

**The Temporary Deputy Speaker** (Hon. Kajwang'): I beg your pardon. Just keep your cool. Yes, the Member for Kwanza.

**Hon. F. K. Wanyonyi:** Hon. Temporary Deputy Speaker, I would have been disappointed if the honourable Member replied before I give my contribution.

I take this opportunity to say that this is one of the best things I have ever heard from the current Jubilee Government. This is actually reorganising our economy. When I look at it, it is just a reorganisation of the economy and the activities to move faster and promote industrial development of this country. I will be very specific because the aim of this Bill is actually to establish economic zones, promote and facilitate them.

One, we have areas we know have very high potential for development. For example, when it comes to fish farming at the Coast Province, Nyanza Province and Turkana, we could have fish industries established there. These industries will pack and export fish. I was in Israel and I saw that some areas are excluded specifically for fish farming. So, everybody else is doing that. If you go to areas like Ukambani where they grow fruits - I worked there - you will realise there are a lot of fruits that can be used to make wine. You could have these zones in Ukambani.

I come from Trans-Nzoia County, in the North Rift. We produce a lot of maize that is held in stocks for very many years. It is very interesting that most of this maize is transported to Mombasa and then it is brought back as flour in packs that go for about Kshs100. If we had this zone, we would be doing milling in Kitale, Trans-Nzoia. Everybody knows that maize comes from Kitale and yet people transport maize in trucks from Kitale all the way to Mombasa and Nairobi for milling.

In Taita, where the Deputy Leader of the Minority Party comes from, there is a lot of sisal. We could set up a factory dealing with sisal products there. In 2006, I was in Kuala Lumpur in Malaysia. I toured the City by road from Kuala Lumpur to Penon Island and I saw zones. You and I know, from our study of Geography, that Malaysia was known for its production of rubber. Now it is the leading producer of palm. In some specific areas you will find palm trees and so those areas are known for generating palm oil, soap and other products. I went to a free zone park where they do nothing but assemble telephones. They are very specific because those areas are ideal for those particular activities.

When I was working for TARDA about 10 years ago, we had earmarked some place in Embu. However, because of lack of policy nothing has happened. We had earmarked some places in Embu where we were supposed to have what we called "Great Grand Falls" where we would have set up an industrial park dealing with honey. It is a dry area and in the neighborhood there is a lot of livestock. We would then have the by-products of the livestock like hides and skins being used to make shoes and other products. This would discourage brain drain. Most of our people who are learned are now going outside the country to do what they are supposed to be doing here. Somebody is telling me that I am time barred. However, I want to say that this will help us generate revenue for our country. The more the industries we have, the more income we get for our country and improve our infrastructure.

Hon. Temporary Deputy Speaker, I want to take this opportunity to say thank you very much. I hope this will translate into reality as we move forward as a country.

**The Temporary Deputy Speaker** (Hon. Kajwang): Hon. Members, I am seeing a request list which is growing longer every minute because every time a Member walks in, he or she requests to contribute. Those of you who are just coming in, there is a very good reason why

we would like to have the proposer to reply. So, what do I do with you because I only have five minutes to go? Can I have the Deputy Leader of the Majority Party to see if within those five minutes, she can work out miracles? We have to close this debate this evening. So, Deputy Leader of the Majority Party, I know that it is a difficult task but find out how you want to go about it.

**Hon. (Dr.) Shaban:** Hon. Temporary Deputy Speaker, I suggest that you increase a bit of time beyond 6.30 p.m because it is a prerogative here.

**The Temporary Deputy Speaker** (Hon.Kajwang'): I am minded to put in some two or three minutes on top.

**Hon. (Dr.) Shaban:** If you did that, then that gives me 10 minutes.

**The Temporary Deputy Speaker** (Hon.Kajwang'): That does not give you 10 minutes. It only gives you eight minutes working with the one which is not digital. Working with the digital one, it is fast spent.

**Hon. (Dr.) Shaban:** I was thinking that it is 10 minutes so that we can get three Members to speak and then I speak for the last two minutes.

**The Temporary Deputy Speaker** (Hon.Kajwang'): Let us do this, from the digital clock, you only have four minutes to go. I will give you another four minutes after the hour. So you have eight minutes in total.

**Hon. (Dr.) Shaban:** I will donate one minute to Hon. Kimaru, another one minute to Tong'i, one minute to Hon. Shaaban, one minute to Hon. Beatrice and one minute to---

**The Temporary Deputy Speaker** (Hon.Kajwang'): Are you sure you have many minutes to give out?

**Hon. (Dr.) Shaban:** Yes, because I want to remain with only two minutes. So, I donate to the two Members, one minute each.

**The Temporary Deputy Speaker** (Hon. Kajwang'): All right. Those of you whose names have been mentioned, would you please show me by way of pressing the intervention button? The Member for Mbooni, are you in that list at all? Did I hear your name? Are you the first one? You are the first one.

**Hon. Kisoi:** (*Inaudible*)

**The Temporary Deputy Speaker** (Hon. Kajwang'): Okay. The Member for Laikipia East, how many minutes were you given?

**Hon. Kimaru:** Two minutes.

**The Temporary Deputy Speaker** (Hon.Kajwang'): It is one minute. I am counting.

**Hon. Kimaru:** Hon. Temporary Deputy Speaker, given the short period of time that I have, I would like to state that I support the Bill. However, we must all be minded of the fact that Kenya has not been manufacturing enough. We must look for ways of ensuring that manufacturing is enhanced.

Secondly, when we come to the horticultural industry where we have a lot of exports, it is dominated by foreign countries. So, we are not getting a lot of benefits to our country. Thirdly, and as I finish, the rule of law must be observed. Anytime we have a zone that is becoming lucrative, we find that more often than not people break the law. You have forced evictions and--

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**The Temporary Deputy Speaker** (Hon. Kajwang'): The next one is the Member for Mbooni who will contribute for one minute.

**Hon. Kisoi:** Hon. Temporary Deputy Speaker, I support the Special Economic Zones Bill. I want to draw the attention of the House to a few things that we need to take cognisance of. We need to ensure that inefficiencies and bureaucracies within our systems are properly handled because we need to create an enabling business environment. We need to ensure that we enhance the systems on how we are working within ourselves so that we can also create opportunities. We know that corruption is a serious issue that we have to deal with in this country. If we are going to make the Special Economic Zones Bill a success, we have to confront corruption and deal with it squarely.

**The Temporary Deputy Speaker** (Hon. Kajwang'): Yes, the Member for Kaiti.

**Hon. Makenga:** Thank you, Hon. Temporary Deputy Speaker. I also join my colleagues in supporting this Bill. It is very timely. I want to say that it is coming at the right time when we want to see the economy of this country moving forward. The creation of economic zones will create jobs for our citizens. It will also boost the economic power of our people. The creation of economic zones, and particularly, in areas from Nairobi all the way to Mombasa will give even the counties which fall under those economic zones economic boost.

**The Temporary Deputy Speaker** (Hon. Kajwang'): Acting upon Standing Order No.1, I hereby extend the proceedings of the House by a further four minutes.

**Hon. Moindi:** Thank you, Hon. Temporary Deputy Speaker. I rise to support the Bill because it makes all the difference in terms of Vision 2030. As we do this, we need to diversify to other parts of the country so that we can have these activities not just in one region. We should inspire people in every part of the country that we are able to grow together as a country.

Youth unemployment is a menace in the country. We all have to work hard to ensure that that concern is addressed. This will help. I take this opportunity to thank the Mover of the Bill for thinking ahead of time and coming up with such a wonderful idea which will make all the difference. The Government will get increased taxes which will mean more income to it.

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

**The Temporary Deputy Speaker** (Hon. Kajwang'): That is not how to reach me on a point of order, please, just press your intervention button. If you just reach me through your intervention button, I will recognise you. You know you are a ranking Member of the House. So, how would I not recognise you in the House?

Member for Taveta, are you done? Who amongst them have we not done with? Let us have the Member for Lafey. The Member for Lafey, do you know how to press that button?

**Hon. Isaack:** Thank you, Hon. Temporary Deputy Speaker. From the outset, I would like to support this Bill. The establishment of the economic zones will diversify our economy and we will achieve the double-digit growth that this country has always yearned for. The establishment of these zones will add value to our goods and they will be competitive in the international market. This will also create employment. I hope the establishment of these zones will be replicated in other parts of the country particularly in northern Kenya where we have a lot of land. The growth of any industry will depend on the availability of land.

**Hon. (Ms.) B.N. Nyaga:** Thank you, Hon. Temporary Deputy Speaker for giving me the opportunity to support this Bill, which is very important. It is going to give Kenya an opportunity to create employment for our youth who live in poverty not knowing the direction to follow.

In these economic zones, we are going to produce products which are going to be exported. It is unfortunate that when you go out there, you do not find any item that is produced

in Kenya. With these zones, we are going to produce more and earn more revenue for this country.

You will realise that we have been moving round destroying illicit liquor that has been destroying our youth. These youths will produce more if they are busy working. They will also be more responsible citizens.

**The Temporary Deputy Speaker** (Hon. Kajwang'): All right. Member for Taveta, you are there.

**Hon. (Dr.) Shaban:** Hon. Temporary Deputy Speaker, I now beg to respond. It is obvious that this is a Bill that has been long overdue. I beg to take this opportunity to thank all the Members for their very useful contributions which are going to add value to this Bill. Once it becomes law, the Special Economic Zones Bill will be a game-changer. This is what Kenya requires for us to move to the next level.

I beg to move.

### ADJOURNMENT

**The Temporary Deputy Speaker** (Hon. Kajwang'): Hon. Members, the time being 6.35 p.m., this House stands adjourned until tomorrow, Thursday 6<sup>th</sup> August, 2015, at 9.30 a.m.

The House rose at 6.35 p.m.