

PARLIAMENT OF KENYA**THE NATIONAL ASSEMBLY****THE HANSARD****Tuesday, 23rd March 2021**

The House met at 7.00 p.m.

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

PRAYERS**QUORUM**

The Temporary Deputy Speaker (Hon. Christopher Omulele): Hon. Members, we do not have the requisite quorum. I direct that the Quorum Bell be rung for 10 minutes.

(Quorum Bell was rung)

Order! Order, Members! We now have the requisite quorum to transact business. I direct that we commence business.

Hon. Members, I direct that we move to the next business. For the convenience of the House, I direct that we move on, but there will be Communication from the Chair after we deal with Order No. 7.

Hon. Shadrack Mose, Member for Kitutu Masaba.

STATEMENTS**DEMISE OF HON. SAMUEL MOTARI MANG'ARE**

Hon. Shadrack Mose (Kitutu Masaba, JP): Thank you, Hon. Temporary Deputy Speaker. I wish to make a statement of condolences on the demise of the late Samuel Motari Mang'are, the former Member of Parliament for Kitutu Masaba Constituency. The late Hon. Samuel Motari Mang'are passed on last week on 18th March 2021, while undergoing treatment in Nairobi.

The late Hon. Samuel Motari Mang'are was born in 1942 at Gekano, formerly Bonyamondo (I), Gekano Sub-location, Manga Sub-County in Nyamira County. In 1974, the late Hon. Samuel Motari Mang'are tried his hand at elective politics when he contested for the Kitutu East parliamentary seat. He came in second to the late Hon. George Anyona. In 1977, he contested for the parliamentary seat during a by-election when the seat fell vacant following the arrest and detention of the late Hon. George Moseki Anyona.

Hon. Temporary Deputy Speaker, Hon. Samuel Motari Mang'are emerged victorious and served as the honourable Member for Kitutu East from 1977 to 1979. The late Hon. Samuel Motari Mang'are was a man of the people and a champion of the rights of his constituents. He was directly involved in many community development projects most of which he initiated. He chaired the committees and served with zeal and purpose.

I wish, on behalf of the National Assembly, the people of Kitutu Masaba Constituency and, indeed, on my own behalf and that of my family, to convey our sincere condolences to his family, friends and the people of the larger Nyamira County for this great loss.

May his soul rest in eternal peace. Thank you, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. Christopher Omulele): The Hon. Wamalwa, do you wish to make a comment on that?

Proceed.

Hon. (Dr.) Chris Wamalwa (Kimini, FORD-K): Thank you, Hon. Temporary Deputy Speaker. On behalf of my family and the great people of Kimini Constituency and Trans Nzoia County at large, I want to send a message of condolence to the family of the late Hon. Samuel Motari. Hon. Samuel Motari will be buried on Friday in Trans Nzoia County.

Hon. Motari has been the Chairman of the Catholic Parish Church in Chebarus. He had donated five acres of land to the church. I was there during the opening of the church by His Lordship Bishop Maurice Anthony Crowley. As a Catholic family and as the people of the great Trans Nzoia County, we have lost a dear person. His sons are my very good friends. I taught with one of them at Strathmore University. We pray to the Almighty God to give his family strength and comfort at this difficult time.

Thank you, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Hon. Mogaka Kemosi, Member for West Mugirango.

Hon. Vincent Kemosi (West Mugirango, FORD-K): Thank you, Hon. Temporary Deputy Speaker. I also wish to send my condolences to the family of Hon. Samuel Motari Mang'are who passed on last week. On behalf of my family and the people of West Mugirango, we send our condolences to the family.

Hon. Motari served as a Member of Parliament in this House from 1977 to 1979. After that, he served in various capacities. At one time, he was a director of Industrial and Commercial Development Corporation (ICDC). He was also an accomplished teacher besides being a long serving Chairman of Cherangany Constituency National Government Constituencies Development Fund (NG-CDF) as well as the chairman of several Catholic churches within Cherangany Constituency in Trans Nzoia.

During his time as a Member of Parliament, it is recognised by his constituents that it is the time that the then Kitutu East Constituency rose in terms of development. It is during his time that we saw the establishment of Nyambaria High School, a national school. He also participated in various development activities during his time. Owing to the fact that by then there were no NG-CDF funds, he went out of his way to solicit funds to develop the then Kitutu East Constituency.

I, therefore, take this opportunity to send my sincere condolences to his family. May God rest his soul in eternal peace.

Thank you, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. Christopher Omulele): The Hon. Ndindi Nyoro, do you want to comment on this?

Hon. Ndindi Nyoro (Kiharu, JP): Thank you, Hon. Temporary Deputy Speaker. I also rise to convey my sincere condolences to the family of the late Member of Parliament for Kitutu East, Hon. Samuel Motari. Having perused his history and got it from the current Member, it is very evident that when you give yourself to serve the people and even when you give yourself to serve God, it is never in vain. I say so because we have heard from the previous speakers that he donated his private land for use by the church, which is basically public and sacred. My grandfather was a canon of a church. I know there are many Members in this House who are part of the blessing of the second, third and fourth generations of our parents. Therefore, it is a challenge to us as Members and politicians that whatever we do in terms of our core business of development, it is also good to be soft and engage in other social activities, especially helping the church because it shapes the way communities behave.

I again condole with the family and condole with the great people of Kitutu Masaba. May his soul rest in peace.

The Temporary Deputy Speaker (Hon. Christopher Omulele): The Hon. Momanyi Mong'ina, Member for Nyamira.

Hon. (Ms.) Jerusha Momanyi (Nyamira CWR, JP): Thank you Hon. Temporary Deputy Speaker for granting me this opportunity so that I can also eulogise the death of a statesman, Hon. Samuel Motari Mang'are, who was a Member of Parliament for Kitutu East Constituency. At that time, I was in primary school but we heard the great things that Hon. Mang'are was doing. He is a neighbour at home, in Nyamira County. I know the people of Nyamira are hurting because of the death of Hon. Mang'are.

I take this opportunity to send my heartfelt condolences to the family and the neighbours from home and wish them well as they mourn their loved one. This is a man who loved God and he is among the people who inspired many to take up Christianity in our local community. We urge everybody to emulate the way Hon. Mang'are lived. May his soul rest in eternal peace.

The Temporary Deputy Speaker (Hon. Christopher Omulele): The Hon. Onyiego Osoro, Member for South Mugirango.

Hon. Silvanus Onyiego (South Mugirango, KNC): Thank you, Hon. Temporary Deputy Speaker. I equally rise to pass my heartfelt condolences to the family of Hon. Sam Motari who served at that time. Of course, I had not been born then. I have read his story and engaged the people of Nyamira. From the history of the Omogusii people, many may not be aware that the Kitutu people are the cornerstone of Omogusii. We call that clan, the "elephant's stomach" because it is the largest one. All the clans in Gusii are believed to have emanated from the "elephant's stomach" which carries the Kitutu people. From the history, we have read about Hon. Sam. It is clear that he served his people diligently in the late 1970s. He later on served in various capacities because of his experience. We want to thank God because he has passed on in old age having served his people diligently.

On behalf of the people of South Mugirango Constituency and the larger Kisii County, we wish to pass our heartfelt condolences to the people of Kitutu, which was then called Kitutu East. It was a large area. Sadly, Kitutu East was renamed Kitutu Masaba. In terms of land and largeness, it still remains the same. It has not got an opportunity to be divided to have two or three Members of Parliament. It is the only constituency with over 200,000 registered voters and still remains so to date. It becomes very difficult even for Members of Parliament to serve more than two terms because they are not able to reach different areas. It is actually one of the reasons that some of us were very keen and are pushing hard on the proposals that have been brought to this House via the Building Bridges Initiative (BBI) stuff. If it is not divided, we are not in it.

Having said that, we pass our condolences to the people of Kitutu Masaba.

Thank you.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Hon. (Prof.) Ogutu Abel, Member for Bomachoge Borabu.

Hon. (Prof.) Zadoc Ogutu (Bomachoge Borabu, Independent): Thank you, Hon. Temporary Deputy Speaker, for giving me this opportunity to condole with the family of a man who might be little known to many of us because of the time he served in this Parliament, but also because of the way he decided to run his life after politics. The late Hon. Motari happened to be my neighbour in Trans Nzoia, and I have known him as a selfless man. Other than the donations of land for the Catholic Church, Hon. Motari also offered to give us land where we built the second buying centre in Cherangany Tea Factory.

When I look back at the life of this man, it reminds me that it is not riches that one possesses which matters, but it is the heart to give and serve the people which is also very important. After his ambition in politics, Hon. Motari retired to the village in Sitatunga Location where he tirelessly served the community as a Church leader and as a member of many development committees in Cherangany. His way of life reminds me of how best you can leave a legacy behind without necessarily doing big things, but doing the small things which remain with the people that come after you.

With those few remarks, on behalf of the people of Bomachoge Borabu and Sitatunga Location where the late Hon. Motari and I live, I pass my condolences to the family and pray for them. I wish to urge leaders that we have the opportunity to serve and so, let us serve the people tirelessly. It is not how much we possess, but how much we are committed to share with others.

May his soul rest in eternal peace.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Hon. Members, I see a lot of interest in this, but you know the kind of business that is facing us. I will allow maybe two more Members on this particular aspect. The first one will be Hon. Waweru Kiarie, Member for Dagoretti South.

Hon. John Kiarie (Dagoretti South, JP): Thank you, Hon. Temporary Deputy Speaker. I rise to send my message of condolence to the family of the late Hon. Member, and with your permission, I will go ahead and do that.

I am glad for getting this opportunity to send my message of condolence to the family of the late Hon. Samuel Motari. It is interesting that our records are not as clear as they should be. It does not matter that the late Hon. Samuel only served for two years from 1977 to 1979. The passing of that Hon. Member reminds us, as Shakespeare said, that this world is a stage and each one of us will get onto that stage, do their performance and when it is time to go, they will go. So, what we can do as a House, is to put up a hall of fame. If we will not be able to put up a hall of fame, it will be in order for us to, at least, have a wall of fame to honour all those Members of Parliament who have served in this House.

As you would understand, out of the 12 terms that people have served in this House, I am sure we are not more than 3,000 Kenyans who have had the opportunity to serve in this House. I believe that the names of those Hon. Kenyans who have had the opportunity to serve their people in this House can be immortalised somewhere. If it does not find a place in the precincts of Parliament, I believe that the new heroes centre that we are building in Nairobi along Lang'ata Road can be an amazing place where we can immortalise the names of all living Members and the Members who have passed on from this House who had the opportunity to serve in their time.

I will take just one minute to also condole with the family of an amazing thespian in this country who only passed on yesterday. She was an amazing intelligent lady who dedicated her life to serve Kenyans through the creative industry – the late Ms. Lorna Irungu Macharia. We pass our message of condolence from my family, the people of Dagoretti South to the late Member, Hon. Samuel Motari, and also to the family of the amazing lady, Ms. Lorna Irungu Macharia. To her husband, I say to him, as the Bible says, mourning may endure through the night, however, joy will come in the morning.

May the late Member of Parliament rest in peace. May Ms. Lorna Irungu shine on her way.
Thank you, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Hon. Kiarie, you should take it upon yourself to bring such a Motion. It will be important to immortalise the names of the Members of this House who have served.

Hon. Chepkut.

(Hon. (Ms.) Alice Wahome spoke off record)

Hon. Alice, there is nothing out of order. Proceed, Hon. Chepkut.

Hon. William Chepkut (Ainabkoi, Independent): Hon. Temporary Deputy Speaker, I have learnt that the cruel hand of death has robbed the life and the soul of Hon. Samuel Motari, the former Member for Kitutu. I remember very well that I met him with the late second and amazing President of the Republic of Kenya, President Daniel Toroitich arap Moi, and my former boss, the late Hon. Minister Nicholas Biwott.

Hon. Samuel was a great man. He served the entire Kisii and, more particularly, Nyamira County and Kitutu, with highest degree of commitment and dedication in serving his people. Again, it happened that he resided in Cherangany in Trans Nzoia where my relatives are. This was a noble great man. He was a born-again Catholic like me. He was preaching the gospel like John the Baptist and won many souls unto the Kingdom. So, we have lost a born-again person.

Without much ado, I am in agreement now that we are in the 12th Parliament, that the MPs who have served this nation deserve recognition of their services in this Republic. I want their memories to be honoured. I want us to create a very well-built... Even as the great President Magufuli died, he never took anything to heaven. Even the late Hon. Samuel never took anything as well, so was the late President Moi.

The Bible says:

“What does it profit a man to gain the whole world and lose his own soul?”

(Applause)

Leadership is, indeed, a calling from God to serve humanity with honour and integrity as opposed to personal greed and sycophancy. Let us serve this country with the highest degree of commitment.

With those few remarks, may the Almighty God rest Hon. Samuel Motari’s soul in eternal peace.

Thank you.

(Applause)

The Temporary Deputy Speaker (Hon. Christopher Omulele): Very well spoken, Hon. Chepkut. Finally, Hon. Wahome Muthoni, Member for Kandara.

Hon. (Ms.) Alice Wahome (Kandara, JP): Thank you, Hon. Temporary Deputy Speaker.

(A Member spoke off-record)

Yes, I am donning black attire because I have come from a burial of Hon. Wamaua's father-in-law, which was in my constituency. I wanted to attend this Session, and there was no time to change. Thank you, Hon. Temporary Deputy Speaker, for giving me this opportunity.

(Laughter)

I hope Hon. Members are not making a pass on me. I have big daughters. So, let us talk when we get outside.

I give my condolences on behalf of myself, my family and Kandara constituency. I join my colleagues, especially the Hon. Member for Kitutu Masaba, Hon. Mose, as he mourns the former Member of Parliament, the late Samuel Motari Mong'are.

I have goggled very quickly to find out who he was. I cannot see much. Therefore, those who are saying we need some archive, record or data are proper. I do not agree that we need monuments. What we need is to take care of the Members who served before 1997. Many of them are suffering. They earned very little money. You know public service is public service. You do the job and the earnings are little. We have seen those Members. I have looked at what they are asking for. I think most of the packages they are getting are not enough. Some are getting less than Kshs2,000. Others are getting Kshs1,000. They come to the Lobby here to see whether an honourable Member can be honourable enough to buy them tea. Those are the things we need to look at - their welfare, even as they become elderly. It is inevitable. They are sickly and they cannot have any useful healthcare. I want to speak to that. I am sure he is one of those who suffered because he served from 1977 to 1979. We need to look and see the kind of pension they are getting, especially these Members. Next time we are mourning, we need to really think how we can address that issue. That is why I was very keen to give my condolences. That is why I was putting an intervention button. Many times we care when people have left. I can see he has several children. It is also important to look at the family. They are mourning today. We will go there and mourn but, going forward, what do we normally do, especially when you are not a sitting Member of Parliament? Even that is something that we need to talk about.

Thank you, Hon. Temporary Deputy Speaker. I am grateful your eye always catches the Member for Kandara. *Ahsante sana.*

(Laughter)

The Temporary Deputy Speaker (Hon. Christopher Omulele): The honourable Member of Parliament for Kandara, I wanted to say that you are appropriately dressed for the address that you have just made. You should not be afraid when these Members admire you. You are appropriately dressed. You are properly dressed for the business that we have here and your contribution is appreciated.

Hon. Members, allow me to make a Communication before we proceed.

COMMUNICATION FROM THE CHAIR

GUIDANCE ON PROPOSED AMENDMENTS TO THE SUPPLEMENTARY APPROPRIATION BILL

This is a Communication from the Chair on the proposed amendments to the Supplementary Appropriation Bill (National Assembly Bill No.9 of 2021).

Hon. Members, before we proceed to the next Order, being the Committee of the whole House to consider the Supplementary Appropriation Bill (National Assembly Bill No.9 of 2021) together with the Division of Revenue Bill of 2021, I wish to make the following guidance relating to consideration of the proposed amendments to the said Bill:

As you are aware, Article 114 of the Constitution obligates the Speaker to determine admissibility of any proposed amendment to a Bill before its consideration at the Committee of the whole House stage. As you may have observed, the notices annexed to the Supplementary Order Paper of the Evening Sitting of today, Tuesday, 23rd March 2021, contain several amendments that have been proposed to the Supplementary Appropriation Bill (National Assembly Bill No.9 of 2021). The amendments have been proposed by the respective Chairpersons of the Budget and Appropriations Committee and the Departmental Committee on Labour and Social Welfare.

I have approved the amendments proposed by the Budget and Appropriations Committee as they are in order with respect to the requirements of Article 114 of the Constitution and the applicable Standing Orders. Those proposed amendments may, therefore, be considered in the Committee of the whole House.

With respect to amendments proposed by the Chairperson of the Departmental Committee on Labour and Social Welfare, I regret that I will not permit their consideration in the Committee of the whole House. This is because the amendments so proposed by the Committee do not comply with the provisions of Article 114 of the Constitution.

The guidance I have just given is not new to the House. In fact, as you may be aware, it is now an established practice that whenever the House is scheduled to consider any matter that may have financial implications on public funds within the meaning of Article 114 of the Constitution, the House is bound to proceed only in accordance with the recommendations of the relevant Committee, having taken the views of the Cabinet Secretary for Finance.

The House is accordingly guided.

So, Hon. Members, the House will proceed to the next stage, taking into account the guidance that I have just set out. So, the Committee of the whole House will consider the amendments with that Communication in mind.

Next Order.

COMMITTEE OF THE WHOLE HOUSE

(Order for Committee read)

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

IN THE COMMITTEE

[The Temporary Deputy Chairman (Hon. Patrick Mariru) took the Chair]

THE DIVISION OF REVENUE BILL

The Temporary Deputy Chairman (Hon. Patrick Mariru): Order, Members. We are now in the Committee of the whole House. We shall start with the first Bill, which is the Division of Revenue Bill (National Assembly Bill No.7 of 2021).

(Clauses 3, 4 and 5 agreed to)

(Schedule agreed to)

(Clause 2 agreed to)

(Title agreed to)

(Clause 1 agreed to)

The Temporary Deputy Chairman (Hon. Patrick Mariru): Hon. Members, we are done with that Bill and we must report progress. Who is the Mover? Is it the Leader of the Majority Party or Hon. Kanini Kega?

Hon. Chairman, you will get a microphone in a minute because the system seems to be slow.

Hon. Kanini Kega (Kieni, JP): Hon. Temporary Deputy Chairman, I beg to move that the Committee does report to the House its consideration of the Division of Revenue Bill (National Assembly Bill No.7 of 2021) and its approval thereof without amendments.

(Question proposed)

(Question put and agreed to)

THE SUPPLEMENTARY APPROPRIATION BILL

The Temporary Deputy Chairman (Hon. Patrick Mariru): Hon. Members, we are done with the Division of Revenue Bill, and we shall now proceed to the Supplementary Appropriation Bill (National Assembly Bill No.9 of 2021).

(Clauses 2, 3, 4, and 5 agreed to)

(First Schedule agreed to)

Second Schedule

The Temporary Deputy Chairman (Hon. Patrick Mariru): We have an amendment by the Chairman, Budget and Appropriations Committee. It looks like we have a challenge with your microphone. Please, move to the Dispatch Box.

Hon. Kanini Kega (Kieni, JP): Hon. Temporary Deputy Chairman, I beg to move that: The Second Schedule be amended:

- (a) in Vote R1175 (State Department for Industrialisation), by inserting the figure “30,000,000” in the third column on Supply against the Programme 03033000 (Standards and Business Incubation).
- (b) THAT, consequential adjustments be made to the sub-totals and totals in the respective schedules to effect the amendments.

Hon. Temporary Deputy Chairman, this was a typo error through an omission and this money is meant to go to personnel emoluments for the Kenya Industrial Estates (KIE).

(Loud consultations)

The Temporary Deputy Chairman (Hon. Patrick Mariru): We have a challenge with the microphone system and I am sure the people concerned are working on it.

(Question of the amendment proposed)

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

(Second Schedule as amended agreed to)

(Title agreed to)

(Loud consultations)

Order, Hon. Members! Even the Chairman of the Budget and Appropriations Committee is not voting.

(Clause 1 agreed to)

The Temporary Deputy Chairman (Hon. Patrick Mariru): Hon. Members, we are done with that Bill. Let us have the Mover.

Hon. Kanini Kega (Kieni, JP): Hon. Temporary Deputy Chairman, I beg to move that the Committee does report to the House its consideration of the Supplementary Appropriation Bill (National Assembly Bill No.9 of 2021) and its approval thereof with amendments.

(Question proposed)

(Question put and agreed to)

Hon. Mbadi, please, maintain social distance.

(Loud consultations)

(The House resumed)

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

REPORTS AND THIRD READINGS

DIVISION OF REVENUE BILL

Hon. Patrick Mariru (Laikipia West, JP): Hon. Temporary Deputy Speaker, I beg to report that a Committee of the whole House has considered the Division of Revenue Bill (National Assembly Bill No.7 of 2021) Bill and approved the same without amendments.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Mover!

Hon. Kanini Kega (Kieni, JP): Hon. Speaker, I beg to move that the House do agree with the Committee in the said Report.

I request Hon. John Mbadi to second the Motion for agreement with the Report of the Committee of the whole House.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Hon. Mbadi, kindly have the Floor.

Hon. John Mbadi (Suba South, ODM): Hon. Temporary Deputy Speaker, I second.

(Loud consultations)

(Question proposed)

(Question put and agreed to)

The Temporary Deputy Speaker (Hon. Christopher Omulele): Mover, kindly move the Third Reading.

Hon. Kanini Kega (Kieni, JP): Hon. Speaker, I beg to move that the Division of Revenue Bill (National Assembly No.7 of 2021) be now read a Third Time.

I also request Hon. John Mbadi to second.

Hon. John Mbadi (Suba South, ODM): Thank you, Hon. Temporary Deputy Speaker, I second.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Hon. Members, I have confirmed that we have the requisite quorum in the House for purposes of making a decision.

(Question proposed)

(Question put and agreed to)

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

Hon. Mbadi, you can see why the House is excited. It must be because of the place you are seated. It is at a vantage point. Let us move on to the next business.

THE SUPPLEMENTARY APPROPRIATIONS BILL

Hon. Patrick Mariru (Laikipia West, JP): Hon. Speaker, I beg to report that the Committee of the whole House has considered The Supplementary Appropriation Bill (National Assembly Bill No.9 of 2021) and approved the same with amendments.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Mover, kindly have the Floor.

Hon. Kanini Kega (Kieni, JP): Hon. Temporary Deputy Speaker, I beg to move that the House do agree with the Committee of the whole House in its consideration of the Supplementary Appropriation Bill (National Assembly Bill No. 9 of 2021).

I request Hon. David ole Sankok, Nominee 001, to second.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Hon. Sankok, kindly have the Floor.

Hon. David ole Sankok (Nominated, JP): Thank you, very much Hon. Temporary Deputy Speaker. Moving away from the family business of Hon. Mbadi, I second.

(Loud consultations)

(Question proposed)

(Question put and agreed to)

The Temporary Deputy Speaker (Hon. Christopher Omulele): Mover, kindly move the Third Reading.

Hon. Kanini Kega (Kieni, JP): Hon. Temporary Deputy Speaker, I beg to move that the Supplementary Appropriation Bill (National Assembly Bill No.9 of 2021) be now read a Third Time.

I request Hon. Jonathan Ngeno, Member for Emurua Dikirr, to second.

Hon. Kipyegon Ngeno (Emurua Dikirr, KANU): Thank you, Hon. Temporary Deputy Speaker. My name is Johana Kipyegon Ngeno. I second.

(Question proposed)

The Temporary Deputy Speaker (Hon. Christopher Omulele): Is it the mood that we put the Question?

Hon. Members: Yes!

(Question put and agreed to)

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

Second Reading

THE BUSINESS LAWS (AMENDMENT) (NO.2) BILL

*(Hon. Amos Kimunya on 23.3.2021)**(Resumption of Debate interrupted on 23.3.2021- Afternoon Sitting)*

The Temporary Deputy Speaker (Hon. Christopher Omulele): Hon. Members, from your Order Paper, you will see that this business was disrupted on Tuesday, 23rd March 2021. We shall then be picking it up from where we left.

Hon. Members, as you retreat, please, note that this Bill still has two hours for debate. Hon. Okelo Odeyo, Member for Nyando, had a balance of three minutes which he may enjoy right away. Kindly, proceed.

(Several Hon. Members left the Chamber)

Hon. Jared Okelo (Nyando, ODM): Thank you, Hon. Temporary Speaker. However, before I delve into this matter, may I seek your protection as Members leave the chamber? They can leave without necessarily uttering any word. I had moved my points, but I now want to qualify a few of them before I give a chance to my colleagues to also put across their submissions.

COVID-19 has, indeed, battered all nations. A country such as Kenya must be in a position to reposition itself in such a way that when COVID-19 goes, just like the Spanish Flu and Ebola, our country will not suffer heavy consequences as a result of it.

Countries cannot effectively trade either bilaterally or multilaterally and, therefore, many nations have ground to a halt. Kenya, given the Motion that is before us, will position itself in such a way that once normalcy resumes, then we can bounce back.

I alluded to the fact that several reports have established that our country loses Kshs100 billion in Nairobi as a result of heavy traffic. This research was carried out by the Kenya National Bureau of Statistics (KNBS). All of us can bear witness to the fact that inordinate delays occasioned by heavy traffic in this City run for up to four to five hours in a day. This has contributed immensely to the moneylessness that we have as a country. An amount of Kshs100 billion is lost either in terms of fuel burning without movement, or in terms of time. We, therefore, put ourselves into a quandary and something needs to be done even as we expand our business horizon so that as a nation, we can also quickly move to the places where we transact. We needed to have a balance of trade without partner nations whereby we need to export more and import less and that consequently stabilises our shilling that has received a beating as well.

I, therefore, support the Business Laws (Amendment) No.21 Bill. Thank you.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Hon. Nyoro Ndindi, Member for Kiharu.

Hon. Ndindi Nyoro (Kiharu, JP): Thank you very much, Hon. Temporary Deputy Speaker. I rise to support the Bill and the entire amendments. When we talk about business, we are talking about economies of nations. Countries that are not mineral rich, and not endowed in natural resources, governments, kings and rulers will only have to depend on taxes. Therefore, all the countries that are not mineral rich have to rely on taxes and taxes basically come from transactions. For governments to operate and for economies to grow, there has to be a singular move of growing

the enterprise and the businesses of those nations. Fortunately or unfortunately, Kenya lies on that category of economies and countries that must rely on enterprise. In addition, if you compare a country like Kenya, we can be bundled together with countries that are much more developed in terms of their genesis of the economy like the US and the UK, especially in comparison to other economies like Saudi Arabia, the UAE and Russia. These are economies that are more robust and have developed on the basis of the minerals and natural resources endowed unto them.

Even as I support this Bill, we have to ask ourselves some few issues. One, we talk about business, but if we talk about the evolution of businesses in the current modern economy, every business starts with an idea. After that, the idea is financed and afterwards it is commercialised. There seems to be a disconnect in this country especially in the modern way of doing business. We see many young people endowed with great ideas and ingenuity and imagination, but there is a gap in turning the same into a business and commercialising it. I have said before and I want to repeat that we know the US as a giant economy. When we talk about the economy of the US, you cannot do so without talking about the Silicon Valley. You cannot also talk about the US economy without referencing the Wall Street. There is a connection in that the bright ideas of the Silicon Valley must need the Wall Street for them to be funded, so that they can transform from the mind. They transform from imagination into enterprises that make money for the founders and for those countries. I am at pains because when we talk about funding of businesses, we talk about banks. That is the elementary level.

There are other fundings that we can bring forth and even legislate to promote which will go a long way in acting as financiers for the ideas. Something like venture capital which is so nascent in Kenya and almost non-existent and something like private equity that comes to boost businesses that are already on-going.

Hon. Temporary Deputy Speaker, there is also something that is almost forgotten and especially in the ten years of the Jubilee administration, namely, raising money using the secondary markets and especially the Nairobi Securities Exchange. I rise here not a very happy man, and not a very happy Kenyan, because the NSE has become very moribund. We have seen many companies delisting from the NSE than we should see many listing. When we see many companies listing, it means many companies are raising money and, therefore, many companies are growing, employing more and growing the economy. Currently, we have a monopoly where 56 per cent of the entire capitalisation of the NSE is made of Safaricom. It is a good thing to one company, but I do not think it is a good thing for the economy of this nation. We have seen de-listings of companies like Rea Vipingo. We saw one that is happening of KQ and many others and I do not think these are signs of a growing economy.

When we talk about ease of doing business, sometimes, we only talk about it in jest, but it is good for us to understand that even before the red tape, beyond the bureaucracy that we must continue to cut so that we can open up space for ease of investors, there is also another hard part of the ease of doing business. We can make the soft part very meticulous, we can make it very well, but no matter how we make the ease of doing business in terms of registration and paper work, investors do not rely on paper work. They rely on good infrastructure like roads. They rely on power. We have a big problem when it comes to power in this country especially for new connections. We have given the Kenya Power a lot of Government jobs that are not paid for to a point where this company is carrying a huge burden that should be carried by the Government of Kenya. In terms of penetration, we are okay especially regionally, but in terms of efficiency and connecting new businesses and homes to electricity, there is a problem.

This country has done very well in fiber connection and Information Technology, but we have a long way to go when it comes to the last mile connectivity programme because just like water, you may have trunks of pipes yet if you do not have the last mile connectivity, it is of no utility. The same goes for the internet. You may have a lot of trunk fiber around the country, but if you do not have the last mile connectivity, it is of no use to the investors and also to the population of Kenya.

Hon. Temporary Deputy Speaker, Kenya is endowed with a very robust human resource. Kenyans are very highly trained. I think it will go a long way in creating more investors to come into our country so that we can open up opportunities for the many enterprising Kenyans. I have read something about what we are amending. Our grandfathers relied on agrarian economies, goats, cows and farming. They relied on enterprise and especially industrialisation. At our age, whereas we also have to rely to some degree on those two, our economy is more open. Our generation lives online, eats online, works online and therefore, gets paid online. For us to have come up with laws that admit that we are living in different times, it is good for us to keep legislating on the basis of the times we are living in. Even doing away with the physical seal is one way of telling the many business people doing business online that you do not have to be tied to the physical things like the physical seal that we know many companies rely on.

As I close, we have to come to an agreement as a nation and even as a House that the work of the Government when we talk about business is that it must be left to enabling and to regulation.

Hon. Temporary Deputy Speaker, we have seen our Government engaging in too many businesses, many of which make losses, such as we saw today at the Kenya Airways. The role of business should be left to business people and not the Government. I have to reference something I really like reading about, namely, that in 1960, President Gen. Park took the helm in South Korea for only 19 years, but because he led an export-led economy, South Korea's exports grew 364 times. Companies that we see today such as Samsung were textile companies before. I am just emphasising this to show the difference between nations that go ahead of others primarily on the basis of good leadership. We have a good opportunity to transform our country.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Hon. Ndindi, you have an extra minute to tell me about South Korea.

Hon. Ndindi Nyoro (Kiharu, JP): Thank you, Hon. Temporary Deputy Speaker. I was just trying to say that from 1960 to 1979, South Korea, during the rule of President Gen. Park, saw her exports grow by 364 times. It was growing on 40 per cent per annum compounded, meaning that when you grow these companies, you open up opportunities for many other people out there. We can also talk about China, especially when Young Pin took the reign in the early 1978. These are just examples to show that the difference between countries that excel is on the basis of the leadership and policies. Therefore, even in Kenya we have an opportunity to make it great again.

Thank you.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Very well represented, Hon. Ndindi. Let us have Hon. Muli Fabian.

Hon. Fabian Muli (Kangundo, Muungano): Thank you, Hon. Temporary Deputy Speaker for giving me this opportunity to affirm the legislative process of this piece of law. I also thank the Leader of the Majority Party for coming up with the business at this time when our economy has been constrained by the COVID-9 Pandemic. It is true that where we are going, we need to register some progress in what we are doing in this country. This country is still lagging behind because we are doing things the way we used to do them in the 1960's. The Law of Contract is a very big matter in doing business. That is why you get invitations to treat the time factor and the value of

the business you are doing. Considering the huge traffic jams we have, this is the best time we need to come up with measures on how we can deal with things of the Law of Contract. Providing for signing of the Law of Contract digitally is a way of making doing business easy.

So, I appreciate the fact that in the Law of Contract, we will have a provision for digital signing of documents. Previously, signing documents digitally was not considered legal. Looking at the Registration of Documents Act, this is where Kenyans cry a lot when they seek to acquire birth certificates and national identity cards, certificates of good conduct and passports. Nowadays, these documents can be acquired through the e-citizen platform. We congratulate our former Minister, Hon. Matiang'i, for ensuring that Kenyans can apply for the documents online. Despite this development, we still have a lot of challenges with regard to booking time. If you book an appointment for processing a passport, you will be invited to go to the Immigration Offices after two months. Why is it taking too long? When it comes to the certificate of good conduct for our youths, it takes too long for one's fingerprints to be taken. So, despite these registrations, there are still some challenges the Cabinet Secretary (CS) for Interior needs to address to ensure that the processes are faster. Also, on the issue of Birth Certificates, there is hue and cry across the whole country. Every constituency has similar challenges. The Registration of Documents Act has brought online registration. It is also high time the Ministry of Interior and Co-ordination of National Government ensured that birth certificates can be digitised so that people can get this vital document without constraints.

The Company Law Act had a long procedure which made registration of a company a big deal. You can register companies online, but still there are challenges. We want people to do business and we want them to pay taxes. I do not know why you keep asking people for documents when they have ID cards. People need to be given opportunity to register companies. A company is another way of encouraging our youth to do business. I do not know why we keep asking for too many documents to register a company.

I recognise the fact that the Company Act has brought online registration. You can now officially do online registration of your company, but we need to remove some of the documents we keep asking our youth to attach when they seek to register companies. Another issue about the business law is that we have the Surveyors Act. It is very funny if you see the law they use. They do not recognise the Google Cloud Platform (GCP) maps. Every map that we use even for roads, we use GCP maps. Even now when we are going to satellite mapping, the one used by surveyors is for GCP. So, I will appreciate the fact that the majority have seen that in the Surveyors Act, some activities can be digitised. That is why I support and say that we need to encourage satellite mapping because boundaries with people's land demarcation is a challenge. The other issue is about insolvency. He has given five days. Earlier on, one could not know when they are going to declare the document public. The business law has given five days to declare full information about insolvency.

As I conclude, I would like to say that the land registry may have been removed. This country is crying about the Ministry of Lands. Our people are facing challenges because of land registration. In my Constituency of Kangundo, the Judiciary has money, but they cannot build their office block because the Registrar has not given them a title deed. I urge the Leader of the Majority Party to also think about bringing laws that will digitise land registration processes. The Judiciary has been given money, but they cannot build offices because of a title deed and yet the land is there. It was allocated in the 1990s, but it is not registered to date.

With those few remarks, I support.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Let us have Hon. Kimani Kuria, the Member for Molo.

Hon. Kuria Kimani (Molo, JP): Thank you, Hon. Temporary Deputy Speaker for giving me a chance to add my voice to the debate on the Business Laws (Amendment) Bill of 2021.

This Bill seeks to address the issues of ease of doing business. The report on the ease of doing business raised last year shows Kenya to be number 120 out of 190. That is dismal performance considering that we have prided ourselves in being one of the best countries in Africa in terms of ease of doing business. Research has shown that entrepreneurs in low income countries spend 50 per cent of their per capita income to just launch a company and get it running compared to 4.2 per cent in developed countries. What does that mean? This means that a company opening in Kenya will spend 50 per cent of its per capital income, compared to 4.2 per cent for a company offering similar services in the United Kingdom. No wonder despite Kenya signing very many trade agreements with various countries in the world, we still have a deficit balance of trade. So, with that disadvantage when a company is kicking off, it means no matter how much we try to take advantage of these trade agreements, we do not get anywhere. We are at 50 per cent expenses while they are at 4.2 per cent.

So, does this Bill treat this disease of expensiveness, difficulty and easiness of doing business? I asked myself what the parameters that measure the ease of doing business are and they include and are not limited to, when doing business registration, the procedures you follow, how much you spend and how much it costs you. When you need to do a construction, how easy is it to get the construction permits and what is the ease of accessing electricity?

I dare say that Kenya is one of the few countries with too many companies dealing with only electricity. We have companies like Geothermal Development Company and the Kenya Electricity Generating Company (KenGen) doing power generation. Another Government parastatal, namely, the Kenya Electricity Transmission Company (KETRACO) does transmission and another company, namely, the Kenya Power does billing and utilisation of power. Therefore, this has made power one of the most expensive in our region.

How easy is it to register property when you decide to buy or lease in this particular country? How easy is it to get credit? Are Small and Medium-sized Enterprises (SMEs) protected? How easy is it to pay taxes? How easy is it to trade across borders? How do we ensure that you enforce contracts and how do you solve insolvency and use ICT in your operations? I looked at these parameters and asked myself if the amendments proposed by the Leader of the Majority Party will address them, and I will say yes.

On the issue of paying taxes, there are statutory deductions like the NHIF, the NSSF and PAYE. As an accountant, I will tell you that it is quite a pain at the end of the month because there are those that lapse on the 5th day and others are supposed to be paid on the 9th and 11th day. Therefore, the regularisation of one date for the payment of these levies is a great way to ensure easiness in terms of paying our taxes.

Let us talk about Stamp Duty on contracts. I think the only time Kenyans think about stamps is when sending success cards to our Kenya Certificate of Primary Education (KCPE) and Kenya Certificate of Secondary Education (KCSE) candidates, only to imagine in 2021 that we still have Stamp Duties imposed on contracts. The removal of Stamp Duty on enforcing our contracts is a step in the right direction. What about company seal? Imagine in 2021 you still have to carry that metallic thing to sign on documents. How do you even carry it in a country where we are talking about digital signatures? So, the removal of the requirement to use the company seal is a step in the right direction in terms of ease of doing business.

COVID-19 has shown us that you do not need to physically meet to pass a resolution. Therefore, our amending the Companies Act to allow hybrid of virtual meetings to be part of statutory meetings will be a step in the right direction. It has been said here that if someone owes you money in a business transaction, the easy thing to do is to go to court and it will take you five years to get that payment. The amendment of the law to allow a maximum of 60 days injunction of small cases is a step in the right direction.

Having done this as the national Government, does it solve the problems one will experience if they go to Nakuru, Molo or anywhere in this country and want to register a business? Unfortunately, the answer is no. County governments still have levies and bureaucracies. An example is the issue of fire. You find that for you to register a business, you are supposed to have a fire certificate. In that licence, there is a fee you pay for fire services. For example, in Molo Constituency in Nakuru County, we have had perennial fires. Last week, we lost a very old lady to a fire. We have lost very many businesses and houses to fire yet these registered businesses pay in their license's money supposed to caution them against fires.

In as much as the national Government may do their part, county governments will still let us down. Another example is the health certificate. If you just open a small business of washing cars, then your county government will require you to get a health certificate. For what? Do you need a health certificate to clean a car? These are some of the weird, absurd levies and conditions that our county governments are imposing on our business people.

So, in as much as we are saying that by passing these amendments, they will ensure ease of doing business, our county assemblies and the Senate should rise up to the occasion and do the same, so that we do not make it easy for a company to do business in Kenya only for them to be frustrated by a county government.

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

The Temporary Deputy Speaker (Hon. Christopher Omulele): Very good contribution. We shall now have Hon. Oundo, the Member for Funyula.

Hon. (Dr.) Wilberforce Oundo (Funyula, ODM): Thank you, Hon. Temporary Deputy Speaker. I rise to support the Business Laws (Amendment) (No.2) Bill (National Assembly Bill No.50 of 2020). At any given time as a country, we must always address the challenges faced by very many people who partake businesses of whichever nature. I believe this amendment Bill has been brought before this House for purposes of addressing the bottlenecks many people have faced as a result of COVID-19 and is a continuous process of improving the business environment.

I sit in the Departmental Committee of Trade, Industry and Cooperative, one of the main issues that we keep looking at is how to improve the business environment to enable both Kenyans and non-Kenyans do business seamlessly, at less cost and most efficiently. The World Bank over the years has undertaken a survey to access the ease of doing business all over the world. In 2018, Kenya was ranked No.61 out of 190 economies surveyed and in 2019, it was ranked No.56 out of 190 economies surveyed. Therefore, we are making progress.

I believe and trust that these amendments once they become law will make our business environment more hospitable and improve our rating so that we can attract foreign investment. The proposed amendments cover a number of areas like statutory remittances for the NHIF, the NSSF, NITA, insolvency and contract management issues. Again, in the same scope, Kenya has been ranked No.50 in terms of resolving insolvency. We believe the amendments proposed under this Bill will allow Kenya to have an improved rating.

Looking at the specific amendments, it is important to harmonise the dates when to remit the so-called statutory deductions and these are in the Industrial Training Act as well as NHIF and

NSSF Acts. As it stands, remitting at the first day of the month was obviously cumbersome. That is why you find that both the NSSF and the NHIF had set a date that was different from 1st. This was done by administrative fiat and that is why it is important that we put it in law.

Again, many employers and businesses would want one harmonised date to make remittances for statutory deductions such as PAYE, VAT, NITA fee or levies like the NSSF and the NHIF. As we stand here, these amendments only address these three and leaves the others to be paid on different dates. It is our desire that as we go to the Committee of the whole House, we need to find a way on how to harmonise so that on one single day, you are paying for VAT, PAYE, NSSF, NHIF, NITA and the tourism development levies. It will be much neater, more comfortable and convenient to many people. As you are aware, one of the principles of taxation is that there must be convenience in collecting and remitting. When you have different days it becomes inconvenient.

Hon. Temporary Deputy Speaker, the second matter that has been addressed in this particular amendment Bill is on the issue of general meeting under the Companies Act. We must accept that COVID-19 has changed the landscape once and for all. It will never be the same again. We are going to remain with COVID-19 for many years to come until we vaccinate every single Kenyan, which is estimated to be 2023. We must find a convenient way to hold annual general meetings as required under the Companies Act. We do laud the proposal by the Government to allow for hybrid meetings, virtual meetings or any form of meeting that can be done at the same time.

However, with our unstable internet connectivity, this is still going to be a problem, more so to the minority shareholders who cannot probably have access to these kinds of things. It is still going to be a problem. Therefore, it is a call that it should not just appear in the letter of the law but we must do all that we can to ensure there is stable internet all over the country so that those who wish to attend the annual general meetings through virtual ways are facilitated with stable internet. Otherwise, it will become just a waste of time. We will never achieve the intention of the law.

I will move to the Insolvency Act. Again, as I mentioned, Kenya has been ranked favourably in resolving insolvency issues. I believe the purpose of the amendments is to put clarity on the procedure, timings and everything.

As I conclude, allow me to make a comment on the amendments to the Small Claims Courts Act that is proposing to ensure that disputes are settled within 60 days. The world outside there is inundated with so many disputes between businesses and between one party and another. As we have always said, the court process is lengthy, cumbersome and expensive. It was the intention of the Small Claims Court that this matter is going to be resolved expeditiously to the benefit of everybody. Therefore, we do laud the 60 days. However, due to inflation and changed business environment, again the limit of Ksh1 million seems to be a bit too low. It might be necessary in the fullness of time to change the same to ensure that we have a higher limit so that we reduce the lengthy and endless court process and backlog in the formal courts.

As I conclude, allow me to make two comments generally about the business environment. Kenya is reputed to be one of the robust growing economies. We have signed various trade agreements. Unless we improve on the way we do business and address the enablers, all these agreements we are signing will still remain to the advantage of the partners we are signing with. So, it is a call for us as a country and the various stakeholders to ensure that the enablers are addressed. The issue of high electricity costs is a matter that needs to be addressed. The issue of inadequate water supply needs to be addressed. The issue of corruption and call for bribes for even

getting a small favour or service from the Government needs to be addressed. Our corruption index is still worrying and unless we address it, we are going to discourage investors from coming to invest in this country.

With those few remarks, I support the Bill.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Hon. Gichimu Githinji.

Hon. Gichimu Githinji (Gichugu, JP): Thank you, Hon. Temporary Deputy Speaker, for the opportunity to contribute to this Business Laws (Amendment) Bill. Let me start by thanking the Government, through the Leader of the Majority Party, for bringing what I would call an ideal omnibus Bill. This is because it touches on the very minor things that do not go to the content and substance of the Acts that are sought to be amended.

As I support the Bill, first the Industrial Training Act, the National Hospital Insurance Fund Act and the National Social Security Fund Act, basically seek to harmonise the dates for the statutory deductions therein. As has been submitted by some of the Members who have already contributed, I think the other statutory deductions also need to be brought on board so that they can also be harmonised to avoid confusion by the payers. However, I believe that is business for another day because we do not have the other Acts where the other deductions fall under the current business laws. I believe with the remarks and the contributions that have come from this House, whoever needs to do what needs to be done can bring them on board and we can harmonise them.

Making business registration easy by elimination of the use of the company seal is a move towards the right direction. However, we need to ask ourselves what follows after making it easy for someone to register a business. I think the registration is not enough because, as a Government and as institutions that are mandated to empower especially our youth, we should go ahead and provide environments where these youths can easily be able to do business. One of the areas that we should be looking at is not only the local businesses within Kenya.

Having signed a direct agreement with the United Kingdom, the Kenya-UK trading agreement, I think it is high time we empowered the department of trade to be able to sensitise the communities and Kenyans on the areas and openings that are available for us to utilise for the benefit of exports. I hold the school of thought that this country will only grow and progress economically if we look at ways of expanding our exports but not relying on just the local trade whereby we will be doing like exchange of goods which for lack of a better term, I would call barter trade within ourselves. The ease of doing business is so wide and I believe it is high time the Government also came with an Act of ease of doing business, which will touch on each and every aspect of the economy whereby we can make it easy for businesses in this country to prosper.

On the amendment on the Insolvency Act, I agree it is important to introduce a pre-insolvency moratorium in the Act so that for businesses that are likely to collapse, there is a safety measure to help them so that they are not invaded by creditors and everyone who usually rushes to get whatever they have instead of trying to resuscitate them. Beyond that we should also be asking ourselves why some institutions and companies collapse. We actually should be addressing the preventive measures rather than the healing measure as is being addressed by this provision. Of great excitement is the Small Claims Court. Backlog in courts have always been there for ages now. I believe the amendment to fix the time for expeditious adjudication of these cases to 60 days...

The Temporary Deputy Speaker (Hon. Christopher Omulele): Hon. Kizito, what is out of order, you have pressed your intervention button.

Hon. Gichimu Githinji (Gichugu, JP): Hon. Temporary Speaker, I think he was leaving, I do not think...

The Temporary Deputy Speaker (Hon. Christopher Omulele): He gave up on his point of order. Proceed.

Hon. Gichimu Githinji (Gichugu, JP): Hon. Temporary Deputy Speaker, I do not think it was a deliberate intention to interrupt me. I believe Hon. Kizito cannot go to that extent. I was talking about the Small Claims Courts Act which is being amended to bring down the period for adjudication of these cases to 60 days. This will really help in clearing backlogs in courts. Most of the cases that we find in these courts are usually matters that cost below Kshs 1 million. Going forward, after amending and fixing this period, it will be important to have a separate Magistrates Courts to deal with these matters so that we do not mix the two and get all the other matters adjourned to give preference and precedence to the matters of the Small Claims Courts. As I wind up to give way to my colleagues to also contribute, these are claims that only touch on Small and Medium Enterprises (SMEs), and their business will thrive if their cases are dispensed off in good time. I rest my submission and I support.

Thank you, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Hon. Njiru Muchangi, Member for Runyenjes.

Hon. Eric Njiru (Runyenjes, JP): Thank you, Hon. Temporary Deputy Speaker for the opportunity to support this Bill. I want to start by thanking the Leader of the Majority Party for this very good Bill. This Bill seeks to bring an enabling environment for businesspersons, that is, local and international businesspeople. This country has a very huge population of young people many of whom are very creative and full of energy. However, it is important to note that majority of these young people are jobless. So, a better environment for business gives them an opportunity to indulge in business activities, grow themselves and create opportunities for others. I do not want to dwell so much on it, I support.

Thank you, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Very well spoken, Hon. Thuku Kwenya, Member for Kinangop.

Hon. Zachary Thuku (Kinangop, JP): Thank you, Hon. Temporary Deputy Speaker. I will be a bit fast because of time, so that I can donate some time to Hon. K.J. As I support this Bill on Business Laws (Amendment) Bill which is a raft of statutes, I wish to state from the outset that as much as I support, I think whatever it is that we are trying to address is so simplistic. The laws that we should address are the laws that touch directly on the business community that we have in the Republic of Kenya. Indeed, the kind of requirements that businesspeople go through for them to engage in any form of business in this country are so many and the cost is up there.

I want to thank the Leader of the Majority Party for dropping the two statutes relating to construction industry. One of them is the National Construction Authority (NCA). I had gone through their recommendation and dropping them was in good faith because it would have made doing business in Kenya very difficult. If for instance you are interested in doing construction, the kinds of licences that you have to get result into such big losses to any business entity. That is why comparatively, Kenya is not the best destination for people who want to invest because of the kind of frustrations they go through to get all the approvals that are required.

If you are in power industry you have to go through the regulatory body called Energy and Petroleum Regulatory Authority (EPRA). You have to get trading licence and tax compliance certificates which are also a big issue and deterrent to people who are serious in doing business. One thing I would recommend going forward is, we should look at Value Added Tax Act so that businesspeople are not required to file their returns monthly; this can be done quarterly. The issue

that you have to be tax compliant and maybe you are a youth becomes so difficult because you are expected to file returns every month failure to which you are expected to pay a fine of Kshs 10,000. Many of our young people are not able to do business today because they cannot comply with that one simple rule.

I wish to conclude by saying that the Leader of the Majority Party should take note of this as he plans to bring other laws that relate to doing business. He should look wholesomely at the deterrents that cause our people to find it so difficult to do business in this Republic.

I support this but I think more should be done.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Hon. Waweru Kiarie, Member for Dagoretti South.

Hon. John Kiarie (Dagoretti South, JP): Thank you, Hon. Temporary Deputy Speaker. The opportunity to stand up and support this Business Laws (Amendment) Bill is not taken for granted. I first want to congratulate the Leader of the Majority for preparing an amazing Bill that we will support even without any need for amendment and secondly for his patience, knowing that he sits here the whole day unlike some of us who are able to take health breaks. For that, I congratulate him.

As we talk about ease of doing business, we also need to understand our history of business. To my mind, I believe that global business over the years and throughout history has been informed by historical epochs. These epochs could be revolutions that changed the world. I believe that at the outset, business was spurred by the first revolution that a man was able to mechanize and have a steam engine; they were able to get power out of water. That was the first revolution that informed business. There was a second revolution where mass production became the order of the day. It is this time that electricity was introduced. This informed business. The third revolution which I believe informed business is what we used to call dot.com. Around the turn of the millennium, electronics, Information Technology systems and automation took over. As we speak we are in what we call the cyber physical systems; the internet of things. This is what is informing global business as we speak today.

So, as we make laws that speak to business, we have to understand that our laws are playing catch-up. We have to work a bit harder as the people who legislate for business in this country so that we are not left too far behind because as you realise of all these four revolutions, Africa cannot lay claim to any of them. That begs the question then, are we modelling our businesses on the right foundations so much so that even as this Business Laws (Amendment) Bill is as perfect as it looks, we will need to look further afield to find the solutions that we need? One of the solutions that I would propose is the fact that we can start out by looking at how to grow organic businesses from what has been naturally provided to us by God.

If we took up the feeding of our people as our core business, we would revolutionise agriculture. I know that agriculture, on its own, would be able, to not only feed our entire population, but also employ all these young people we keep saying are jobless; so much so that even our Big Four Agenda can end up being one big agenda. If we got our agriculture right, industrialisation will take place beginning with cottage industries. Our people will be healthier for eating more organic foods. Our people will even have disposable income which they can save in health insurance. With disposable income out of agriculture, our people will be able to build their own good homes and dignify how they live so much so that we might not need to bite bigger chunks than we can chew.

Hon. Temporary Deputy Speaker, we also need to think about why we are trying to make it easier to do business. What is the mischief that exists today? To my mind, I believe that the

people who should be facilitators of business in this country are actually the biggest frustrators of the same. Everyone is talking about young people being innovative and creative. However, those who are ahead of these young people are actually intellectual property bandits. A young Kenyan will invent something, will discover something, but before they know it, someone who has more economic power might grab that idea, run away with it and not even pay for it.

Other hoops that we are making our people jump are actually corruption in a way that you can never imagine. A recent study is telling us that Kenya Power and Lighting Company (KPLC), which is actually going broke today, has been buying electricity at Ksh23 per kilowatt hour from Independent Power Producers (IPPs) while they can buy the same kilowatt hour for 50 cents. It means that there is an individual making away with close to Ksh22.5 by just exploiting KPLC, which in turn exploits its people and frustrates businesses in this country. So, even as we talk about ease of doing business, it is good to deal with matters of a company sale.

Hon. Temporary Deputy Speaker, it is going to be important for us to look at the stamp duty issuance. It is very important to relook the Companies Act. It is very important for us to look at the Small Claims Court Act. We will need to look further afield for the solutions that we need. Let us start thinking about how we educate the next generation of entrepreneurs in this country. How can our young people take advantage of what appears to us organically and for free? How can we utilize the land, the natural resources, the wind, and the sun that we have? If we do not educate the next generation to think like this, they will find themselves in the same rat race that we find ourselves in — young people over laden with degrees after degrees looking for work while we could have taught them to be critical thinkers and creators of wealth.

Today, every young person is looking to getting employed after school. So, we need to go back to the basics and ask ourselves questions. If the world today is providing for us in the cyber and the physical space, how can we take advantage of the internet to do things today that can make our country prosper from what is organically ours? We need to change our mindset from thinking about an international investor who will come to Kenya to invest. As it is, that international investor, we are already frustrating him! Any individual will tell you that if they land in Kenya today, and they started to register a company, someone who has gone to Uganda or Rwanda will have done that, maybe, three or four weeks before the Kenyan one is able to do anything. However, I believe that our solutions will not be about us looking to the West or looking to the East; it is about looking internally. Our solutions can be found out of the natural resources that are availed to us. The biggest of them all is our population. If we prepared them for today and the future, Kenya can leapfrog to the front of the pile, so that we do not have to reinvent the wheel by going through the first, second and third revolutions to get to the fourth one. We can leapfrog to the front as a country and build the Kenya that we always wanted or dreamt about.

I support the Business Laws (Amendment) Bill. I congratulate the Leader of the Majority Party for introducing it to the House.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Hon. K.J that is the closest to a philosophy about the direction that this country should take that I can buy into. You have spoken so well. We need to go back to the basics. We need to use what is available. We need to, first of all, just feed ourselves. If we can do so, we can then take our food out there. You have spoken well. May God bless you.

Leader of the Majority Party, which was the last person who requested to speak to this? You may now reply.

Hon. Amos Kimunya (Kipipiri, JP): Thank you, Hon. Temporary Deputy Speaker. Perhaps, this has been one of the most interesting sessions. Having listened to every contributor

and the passion with which people have prosecuted the matters, I was touched, especially when listening to the last group of young contributors such as Hon. Ndindi Nyoro, K.J, Kwenya, not forgetting Muchangi and the others. The passion with which they have talked about what we need to do on the business laws reforms shows that they have an interest in business. Some of them are established business people. They are speaking from experience. As they say, it is the wearer of the shoe who knows where it hurts.

I thank Members for their contributions on this. It is also an issue that I am passionate about. In 2007 when I was at the Treasury, I brought in a review of about 1,000 laws that were supposed to be revised. There were 1,370 laws, to be exact, that were sitting in the books as a barrier to doing business. That is when we started winning accolades within the international community for doing something on the ease of doing business. The journey continues. I assure Members that the few laws that are still a problem are being looked into. Hopefully, this is not the last time that we are amending some business laws. We will also look at which others still need to come up.

The private sector is also very active. There is continuous engagement between the Kenya Private Sector Alliance (KEPSA) and the Committee Chairs, so that we identify a number of those issues and bring them on board. It is work in progress. I am very touched that Members are so passionate about this matter. We will be able to give Kenyans a law which was first published in December. Hopefully by Thursday next week, we will have it out of the way and start creating the appetite for more reviews on business laws.

I thank the committees for what they did, especially the Departmental Committee on Justice and Legal Affairs for coordinating this. Even when they were still being harassed on the Building Bridges Initiative (BBI), they still had time to look at this. I thank Members and committees.

With those few remarks, I beg to reply.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Congratulations, Leader of the Majority Party. That is a job well done. I thank all the Members who have been patient enough to contribute to this. I have heard very good contributions. I hope you will take those contributions further and develop them into something that will be useful to our country.

I will not take the next step on this. I direct that the next step for the question to be put to be undertaken when the matter will next be set down for consideration on the Order Paper.

(Putting of the Question deferred)

ADJOURNMENT

The Temporary Deputy Speaker (Hon. Christopher Omulele): Hon. Members, the time being 9.00 p.m., this House stands adjourned until Thursday, 25th March 2021, at 10.00 a.m.

The House rose at 9.00 p.m.