

# NATIONAL ASSEMBLY

## OFFICIAL REPORT

Thursday, 11<sup>th</sup> May, 2017

The House met at 2.30 p.m.

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

PRAYERS

QUORUM

**Hon. Speaker:** Ring the Quorum Bell.

*(The Quorum Bell was rung)*

We may commence business.

### PAPERS LAID

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

The National Government Constituencies Development Fund Board Report on project proposals, approvals, disbursement status and restrictions imposed on constituencies accounts for the second quarter of 2016/2017 Financial Year.

The New Partnership for Africa's Development (NEPAD) Kenya Secretariat Financial Statement for the year ended 30<sup>th</sup> June 2016.

The Kenya Medical Supplies Authority (KEMSA) Financial Statements for the year ended 30<sup>th</sup> June 2016.

The First Commissioner's End Term Report: Popular Version from the Commission on Revenue Allocation;

Celebrating Devolution Achievements in Pictures by the Commission on Revenue Allocation for the period 2011-2016.

The Reports of the Auditor-General on the Financial Statements in respect of the following institutions for the year ended 30<sup>th</sup> June 2016 and the certificates therein:

- (i) The National Transport and Safety Authority (NTSA);
- (ii) The Technical University of Mombasa;
- (iii) Likoni Constituency;
- (iv) Forum for the Restoration of Democracy-Kenya (FORD-Kenya);
- (v) Revenue statements from the Ministry of Information, Communication and Technology; and,
- (vi) The Office of the Registrar of Political Parties.

Thank you, Hon. Speaker.

**Hon. Speaker:** Next Order!

## STATEMENT

### ELECTION OF EALA MEMBERS

**Hon. A.B. Duale:** Hon. Speaker, I want to indulge you. The leadership of this House is supposed to nominate members to the East African Legislative Assembly (EALA) as per Rule 6 of the EALA Act. Ultimately, according to the calendar, on 23<sup>rd</sup> of this month the House will vote for the members of the EALA. As stipulated by the rules, the constituency in this case is the membership of the National Assembly and the Senate. The polling stations are the Chambers of the Senate and the National Assembly. The presiding officers are the Clerks of the National Assembly and the Senate. The head of the two tallying centres will announce the results after communication with the Speaker of the National Assembly and the Speaker of the Senate.

Rule 6(1) of the EALA Act states that member States' political parties get slots based on their respective political strengths in the House. In this case, the Jubilee Coalition's slot is five and the Coalition for Reforms and Democracy (CORD) is four. Based on parliamentary strength, the Orange Democratic Movement (ODM) will have three slots and the Wiper Democratic Movement will have one slot. Rule 6(1) of the EALA Act does not talk about the maximum number of nominees, but it says if you are given four slots, you must bring more than the four. You can bring five, six, seven up to 12 nominees. Jubilee Coalition has submitted 15 names. Out of the 15 names, we have looked into the issue of gender parity and regional balance. Our members will have an opportunity to choose five nominees from the 15.

Our colleagues want to bring four nominees, which is against the rule. The information out there is meant to ring-fence certain candidates.

*(Applause)*

One nominee is the son of a party leader and the other one – I was told but I am not sure – is the chairman of an election board in one of the parties. Those parties want to circumvent the rule of law to ring-fence those two individuals. The voters in this election are the 349 Members of this House. It will be done by secret ballot. The party leaders out there are not voters. They can only influence and campaign. They can campaign for you but they cannot vote for you here. Therefore, if you are a Chief Executive Officer (CEO), an executive of a party or a party leader, you should know that. I want to thank Hon. Oburu Odinga. At least, he listened to my wise words.

*(Laughter)*

For the first time, I want to thank Hon. Oburu Odinga, if he is not here. I have nothing against him. If the son of President Hon. Uhuru Kenyatta was here, I could have rejected him. If the brother of the Deputy President, Hon. William Ruto, was here I could have rejected him. It is very sad when you are a leader of a political party and a presidential running mate, and you want to give a slot for the rank and file of the political party to your son. I have a son. My first born is 20 years old. I can as well put his name there, but it is not tidy. It is not morally correct. I want to ask Hon. Kalonzo, if he is watching me, not to humiliate his son because this House will not vote for him. We do not want political dynasties. In the Kenya African National Union (KANU), there was a time when if your father was a member of Parliament and he died, you would inherit

the seat. We do not have political dynasties in this country. We want sons and daughters of Kenyans who are members of political parties. If I look at the list of Wiper Democratic Movement, there is a professional with a PhD qualification called Dr. Mutie from Kitui. That is the guy who should be given the slot. There are forces that want to circumvent the process. We want you not to allow it to happen.

The law is very clear that political parties will choose the nominees, and Members of Parliament will vote. Independent candidates have been introduced through Article 99 of the Constitution. The same independent candidates must be subjected to the independent candidates who are in this House. They must bring 1000 signatures. An independent candidate will not just walk from his house and bring a curriculum vitae to Continental House. I have told the secretariat and the presiding officers this. He must be subjected to the rules that govern the election of an independent candidate in either the Senate or the National Assembly. He should go out and get 1000 signatures. He should abide by all that. Hon. Speaker, I want you, as the leader of this House, to protect this House. We are voters, and we will vote for whoever we want.

You cannot ring-fence your sons, your girl friends and those who commit crimes for you against leaders. We will not allow that. I am telling them from this Floor that if you want to bring people who are favoured then, unfortunately, the votes do not belong to you. The votes belong to these Members. I rest my case. You need to help us.

**Hon Speaker:** Hon. Midiwo?

**Hon. Midiwo:** Thank you, Hon. Speaker. It cannot escape my attention that I should contribute on these issues; on the subject that has been brought about by the Leader of the Majority Party. You know it is a sad and stupid moment, quite frankly, that the names we are seeing are the names we are having problems with in our political parties. So, how do you bring them here after the mess which I have been subjected to in the Orange Democratic Movement (ODM). The name of the messer is there and ring-fenced. I do not have an opportunity to vote against her. This is not the first time we are electing members to the East African Legislative Assembly (EALA). Remember, in the 10<sup>th</sup> Parliament, there was a court case. The court case said we cannot just choose. The court case said we elect. I was the Chief Whip in the last Parliament that crafted a voting formula – how we send Kenyans there.

The parties are mere conduits on how their names get here. They come here and canvass amongst Members of Parliament (MPs). Members may also have their interest. But, Hon. Speaker, if you allow somebody to sit somewhere outside, in a hotel or bar, and send a name here and ask the National Assembly of Kenya or the Senate to rubberstamp, you would have killed democracy. You would have killed democracy. It cannot work. Some of these people, some of their actions, it is an opportunity for us to ventilate. It is an opportunity when we talk about these people because if you are a person who can commit some of us to what we have gone through, you do not pick our calls or we do not know where to find you, you do not pass the integrity test to represent my country or continue representing it, whether it is in EALA or this National Assembly.

This is what some of us live for. It is what we live for. When you do that, we are paraded to look like losers because of corruption and because of things unbecoming. This rule is very clear on each position. If we have four in the Coalition for Reforms and Democracy (CORD), we expect, at least, twelve names. That is the law - a maximum. That is so that you give people a chance to elect. I have said here time and again that simple English does not have many meanings. An election is just an election. If they cannot treat us--- You pay them money and go to an election process when they already have people that they want to come here, people who

are not you. Then, they come here to want to play around with your vote. We have this vote until the 8<sup>th</sup> of August. We intend to use it and use it according to the law.

I ask you to send these things back to the parties. If we cannot deal with this matter now, it is better we let it be dealt with after the August general election.

I thank you.

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

**Hon Murungi:** Thank you, Hon. Speaker, for giving me this opportunity. The Leader of the Majority Party has mentioned the independent candidates who want to participate in these EALA elections. I was wondering whether, as MPs, we can give them the signatures. He talked about 1,000 signatures. They can go to the constituencies and get 1,000 signatures. Can we, as Members, because some of us already have independent blood, give them the signatures as Members of Parliament? Even 10? It is because they represent 100,000 signatures from my constituency. Is it possible that I can give that signature to the Members who want to be independent candidates?

Thank you.

**Hon Speaker:** On what you are raising, I do not have to look anywhere because it is a matter that I thought every Member is alive to; the qualifications and disqualifications. You just have to look at Article 99 of the Constitution; qualification to be a Member of Parliament. In fact, I am told and I have seen something that purports to be a letter of resignation by one of you. As a Member of Parliament, you do not require to vie. You are exempted. You just have to look at Article 99(1). In fact, 99(1)(d) is very clear that if you are a State officer or a public officer, except a Member of Parliament--- If you are a Member of Parliament, you do not have to resign. You qualify. But if, as the Member for Imenti South seems to have forgotten, you intend to run as an independent, you are required, as a Member of Parliament in the National Assembly, to submit a list of, at least, 1,000 people showing that they support you and they do not belong to political parties; they are like you. If you are running for the Senate, it is 2,000 signatures. Yeah. So, even those who want to apply to EALA as independents - which they are entitled to – if you look at the rules, all they need to do is comply similarly because the requirements are similar to those requirements for qualification to run for a Member of Parliament.

I see the Member for Cherangany is a bit agitated because he is a serving Member, as an independent. But I do not know whether the Member for Cherangany would want us to circumvent Article 99. Are you suggesting that it should be circumvented?

Hon. Members, so that we do not even spend time on this, my take on this issue which has been raised by the Leader of the Majority Party is that, looking at the rules, the rules for election to the EALA, particularly Rule Six through to Eight, it is very clear that the nominating bodies – in this case the political parties and there is reference in those rules to the Leader of the Majority Party and the Leader of the Minority Party in both Houses - depending on the slots available to that body, is required to submit not more than three times the number of slots available to it. Reason being, if you look at Rule Eight, on the polling day, each of you will be given a ballot paper to vote. If the intention was, on the other hand, like we normally do with approvals then, that Report will come to the House, you debate and adopt it. But on this one, the rules are clear. Indeed, Hon. Jakoyo has rightly reminded the House about the decision in the case that happened during the 9<sup>th</sup> Parliament, the fiasco that was committed by the political parties. In this case, every party is required to submit those names as stated. This is so that Members will have the freedom to exercise their freedom of choice. The intention there is not that you come and confirm. You can still confirm, but through an election.

What I take at this point is that the matter has not been brought to my attention because no report has been brought. On the day set aside for the voting, if the coalitions will not have complied with that requirement, I will make the appropriate ruling – either disqualifying or admitting. If you bring names, even if you are to present names to the Independent Electoral and Boundaries Commission (IEBC) of persons who are not qualified, they have a right to disqualify them. In this case, the opportunity for me to exercise that power has not arisen because the names have not been brought to me. But I have received names from the Jubilee Coalition. I am still waiting to see the list from the CORD Coalition. I am assuming it is still CORD; the coalition is still called CORD, is it? Has it metamorphosed into something new?

The Member for Kiminini, you still want to speak on this? But, since you represent one of the segments---

**Hon. Wakhungu:** Thank you, Hon. Speaker. I want to thank you for giving me this opportunity. I know you are here to provide guidance. Matters surrounding EALA are not easy. But I thought I should also raise my concern. It is true that Rule 6(1) of the East African Assembly Act talks of “not more than three”. It does not talk as per what the Leader of the Majority Party has said - more than one. It says “not more than three”. I wanted to correct that.

Secondly, when you look at Article 38 of the Constitution, it says every Kenyan has a right to political choice. My humble request to you is that we must look at the candidates objectively; irrespective of where they are coming from. Even if it is the son of the Vice-President, let him be looked upon like any other Kenyan. Let the people decide when it comes to voting. We do not want to bring political hatred. We are there to exercise the vote. So, I do not see what is wrong if Kalonzo’s son is appearing on the ballot, so long as we have a choice. People will make their decision. The President of this country, Hon. Uhuru Kenyatta, his father is the founding President of this country. But he is now the President. We cannot embarrass somebody because his father is a Vice-President. That is totally unfair; it is totally unacceptable! Let his name be there and let these people decide.

I thank you.

**Hon. Speaker:** Well. I do not think the matter has come. The matter has not come. What we are saying is that, that choice, that freedom to choose, cannot be taken away from Members, by some other outfit or functionary outside of Parliament. Nobody should take away the right of Members to choose whomever they want. Nobody is denied. You can actually nominate anybody, including wives, fathers and mothers. But as to whether they will be elected into EALA, that decision will be taken by you individually, exercising your right of choice. So, there is no harm. You can nominate whomever you feel like, but bear in mind that it is the membership here which will make the final decision. There is no harm in anybody being nominated, but the House must have the freedom to choose, to make the decision as to who is to represent the country at EALA.

Hon. Kangogo, I see you appear like agitated.

**Hon. Bowen:** Thank you, Hon. Speaker, for giving me this chance to also add my voice to what the Hon. Leader of the Majority Party has put across, especially the names of those who are supposed to be selected to go to EALA.

I do not think there is a problem with the names which were submitted here. My only problem is the number. If it is an election, an election cannot be done only by one person or by choosing only one person. There must be options 1, 2 or 3. But, in terms of the names or who are going to be submitted here, whether they are wives of other people or whoever, as long as they

qualify--- We cannot fill those positions with our children by the fact that they are related to us or they are related to these other persons.

If the other coalition can give us about two or three options to choose from, we do not have a problem as long as they meet the criteria and qualifications to be Members of Parliament. Remember, those we are electing to East African Legislative Assembly (EALA) are going to make legislation. They are going to be Members of Parliament. They are not going there to represent their families or their parties. They are going to make laws and to improve the economy of East Africa.

With those few remarks, I want to welcome our colleagues to give us more names. I support Hon. Chris Wamalwa who has said that we need to choose people who are qualified. It does not matter who they are.

**Hon. Speaker:** Hon. Members, the names have not been brought to me. That is why I am telling you this may be premature. If the names had landed before me from both sides, then I will be able to make a decision. I have not received the names of the proposed nominees. We could then advise the coalitions accordingly. Please comply with those rules. The rules were modified recently by a Joint Committee of the two Houses. It cannot just be that because there has been some political activity in the last one month, you have forgotten what you crafted. You crafted those rules and, please, abide by them. You knew very well what you were saying when you made those rules and said: "Three times the number of slots you are entitled to." It is just the other day when those rules were amended to accommodate our bicameral nature. That is why we had a Joint Committee. Just comply with the rules.

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

**Hon. Speaker:** Hon. Manson Nyamweya, what is your point of order?

**Hon. Nyamweya:** Thank you, Hon. Speaker. I wanted to raise an issue. One can be elected unopposed. We can go through an election process where you have one presidential candidate, we vote and he is elected as the President of the Republic of Kenya. In equal measure, the same can apply for Members of Parliament and what we are now discussing. It is not mandatory. When doing elections, we can have one candidate who will be elected unopposed. This happens everywhere. I am sure Hon. Duale is expecting that to happen to him, that he will be elected unopposed. We should not forget that at any one time. There is that rule where we can have somebody unopposed. There is nothing wrong for a party to bring one person. That is a mandate and that person will be elected unopposed.

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

**Hon. Speaker:** There is no business. We will move to the next Order. I will make the decision.

## STATEMENT

BUSINESS FOR THE WEEK COMMENCING 16<sup>TH</sup> TO 18<sup>TH</sup> MAY, 2017

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

**Hon. A.B. Duale:** Hon. Speaker, pursuant to the provisions of Standing Order No.44(2)(a), on behalf of the House Business Committee (HBC), I rise to give a Statement regarding the business appearing before the House for the week beginning Tuesday 16<sup>th</sup> May, 2017.

The HBC met on Tuesday this week to prioritise the business for consideration. On Tuesday next week, the House will look at modalities of introducing a Bill to deal with the two-thirds gender rule given the recent court ruling on the matter. In this regard, we will have a Procedural Motion to exempt the Bill from the provisions of Standing Order 144(2)(b). On the same day, the following Bills are scheduled for the Second Reading, if not concluded today.

1. The Nairobi International Financial Centre Bill.
2. The President's Award Bill, 2017.
3. The Legal Metrology Bill, 2017.
4. The Elections Laws (Amendment) Bill, 2017.

The Committee has also prioritised debate on the Public Accounts Committee (PAC) Report on the Special Audit of the National Youth Service (NYS) Accounts and will schedule a day for the elections of East African Legislative Assembly (EALA) Members once the ongoing process and vetting by the Committee is completed.

Finally, the HBC will reconvene on Tuesday, 16<sup>th</sup> May, 2017 at the rise of the House to consider business for the coming week.

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

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

## BILLS

### *Second Reading*

#### THE INSURANCE (AMENDMENT) BILL

*(Hon. A.B. Duale on 10.5.2017)*

*(Debate concluded on 10.5.2017)*

**Hon. Speaker:** I confirm that we have the quorum.

*(Question put and agreed to)*

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

Before we move on, let me recognize the presence of students from the following institutions in the Public Gallery: Kirobon Girls High School, Rongai Constituency, Nakuru County; Mama Ngina Kenyatta School, Rongai Constituency, Nakuru County; Mucibau Secondary School, Kinangop Constituency, Nyandarua County and Ngenia Day and Boarding Primary School, Laikipia North Constituency, Laikipia County.

You are welcome to observe the proceedings of the National Assembly.

### *Second Reading*

## THE NAIROBI INTERNATIONAL FINANCIAL CENTRE BILL

**Hon. Speaker:** I am informed that the Majority Whip is the one to move debate on business appearing as Order No.9. Hon. Katoo ole Metito.

**Hon. Katoo:** Thank you, Hon. Speaker.

Hon. Speaker, I beg to move that the Nairobi International Financial Center Bill, (National Assembly Bill No.5 of 2017), be read a Second Time.

As an introduction to this Bill, I would like to comment on a few areas because it is mostly about business and finances.

An international financial centre is a location which hosts a conglomeration of companies that offer a wide range of financial services and related activities. Those centers are always characterised by the presence of advanced settlements and payment systems, supporting large domestic economies with deep and liquid markets where both the sources and the usage of funds are diverse and where legal and regulatory frameworks are adequate to safeguard the integrity of the transactions.

Generally, that is what an international financial centre is. There are always certain common characteristics that determine a world class financial centre. The presence of an open and fair market in which domestic and foreign investors and financial services providers compete on an equal footing is very essential in terms of the dimension of a world class financial centre. Therefore, some of the characteristics that need to be fulfilled are an open financial market, free flow of capital and convertible currency. The openness to international direct and portfolio investment is very critical. There should also be policies that seek to attract foreign direct investment and there should be a fair and impartial judicial system which is critical to investors.

Therefore, every international financial centre must meet those criteria. It is also important to have a sound, reasonable and fair tax regime. Also, it must be able to attract capital and generate funds that support public service. We are talking of a global financial centre. Therefore, some of the characteristics must be met, especially when you are talking about a wide range of currencies from across the globe. Availability of high quality, reliable, modern and appropriate infrastructure and technology is crucial for attracting investment and increasing competitiveness. If you want to become an international financial centre, one thing is key: You must not only be competitive, but also strategic. Above all, you must have an edge above any other competitor within your line of business.

Considering the characteristics of financial centres, Kenya has got great potential and many advantages in its plan to develop a major financial centre. Since Independence, Kenya's economy has been, and continues to be, the largest and most dominant in East Africa, and the third largest in Africa after South Africa and Nigeria. That is very important when we are talking of an international financial centre. Kenya's businesses are the largest and most developed, and they attract interest from the East African region, the Pan-African region and global brands. As a country, we enjoy large positive balance of trade with East African States. Kenya has got arguably the strongest middle class in the region. Its currency is the most favoured in terms of exchange. According to business magazine *The Fortune*, published by the Time Inc., Kenya is ranked as one of the seven top investment destinations with growth prospects among emerging economies globally. We are among the top seven fastest growing economies globally. In fact, Kenya has even topped the regional and continental giants; that is South Africa and Nigeria, and has become the most attractive investment hub with friendly environment policies to help foreign and local investments flourish.

Finally, on overview and as a way of introduction to this Bill, Kenya is also well situated geographically. As I said, you have to be very strategic. Location is very important in terms of business competitiveness. Kenya is well situated geographically and strategically than its neighbours, some of which are landlocked countries. Kenya offers the best transport and connectivity network in East Africa, with four-hour flight time to most African countries. With such characteristics, it beats all the odds and it is important that Nairobi becomes an international financial centre in the region. This is supported by the national carrier, Kenya Airways (KQ) that flies to over 40 countries in Africa, out of the 54 States. Kenya has also enjoyed proximity to a vast hinterland of over 100 million people in the East African Community. We were just discussing EALA. That is in the EAC, with over 100 million people. We are so close to that population for doing business. Opening up of the northern access road to Ethiopia, South Sudan and Somalia, what we are calling the LAPPSET, will bring over 80 million people into the market.

Aware of the great potential and competitiveness that Nairobi has, the Government, through Vision 2030, has identified the development of Nairobi international financial centre as one of the flagship projects. The objective of setting up the Centre is to develop efficient and globally competitive financial services industry that will contribute to the overall economy and drive the high levels of savings and investments that Kenya needs to achieve through the economic growth targets as envisioned under Vision 2030. That is what I can say is an overview of the Nairobi International Financial Centre. In a nutshell, that is what it means.

Going into the Bill, it intends to bring a strong legal and institutional framework that facilitates and supports the development and promotion of Nairobi as an international financial centre. The Centre will be modelled along the London model, where it will operate within an existing framework. You remember the President signed the Nairobi International Financial Centre Authority Order in 2014. Therefore, the proposed legislation is going to operate within the existing framework. That is the framework we want to legalise and modify. This model will become the successor of what exists at the moment.

The success of a financial centre depends on political support at the highest level. In this regard, Clause 19 of the Bill proposes to establish a steering council to be chaired by none other than the President himself to offer the ultimate oversight to the development of the Centre. The clause establishes the steering council chaired by the President and deputised by the Deputy President, among other officers. Members can look at Clause 19. In sub-clause (3), you will see the functions of the council. One of them is that it shall review the progress of the Centre, provide direction and address any challenges in the development of the Centre, and the overall financial sector in the country. Surely, such a council chaired by the President, with a host of relevant CSs, will give the political impetus and support required for such a facility to succeed. In sub-clause (4), it is proposed that the council will meet three times in a year and shall regulate its own procedures.

Clause 1 shows the title of the Bill. Clause 2 provides the definitions of the technical terms. Clause 3 provides the supremacy of the Act. That is very critical.

Clause 3 says that where there is any conflict or inconsistencies between this Act and the provision of any other Act in matters relating to the purpose of this Act, this Act shall prevail. That is why Clause 3 explains the supremacy of the Act. Should there be any other written law that relates to the purpose of this Act and should there be conflict, this Act prevails if it becomes an Act.

Clauses 4 to 18 provide for the establishment of the Centre and the Authority especially when you look at Clause 5. Clause 5 establishes what is called Nairobi International Financial Centre Authority (NIFCA) which is a Legal Notice No.44 of 2014 that the President signed. It says in Clause 5(3) that the Authority shall be the successor to the NIFCA established under the Nairobi International Financial Centre Authority Order No.44 of 2014. Therefore, if this becomes an Act, it is just a transition from that Order No.44 of 2014 to this proposed Bill. Most importantly, Clause 6 talks about the objectives of the Authority where among others is to establish and maintain an efficient operating framework in order to attract and retain firms. Many financial firms, as provided in the Bill, will become more like subsidiaries to NIFCA and there will be regulations to regulate them in order to bring order and control in a coordinated way on how firms can join NIFCA.

Hon. Speaker, being an integrated model, the Authority will collaborate with relevant agencies to develop strategies. Most importantly, in doing business, you have to be very strategic. Strategy is very important. Therefore, it needs to be developed for you to be competitive. Incentive structures including legal and regulatory framework should also be place to attract firms.

Clause 7 gives the powers and functions of the Authority. They will have powers to certify firms and guide the conduct activities under the Centre. There should be order in doing business. Therefore, a criterion has to be developed on how firms will operate. In order to realise this objective among others, the formulation of these policies relate to the administration of the Centre, certification of their firms to conduct activities; power to impose even administrative penalties in case you violate some of the rules; and regulation or a directive and power to determine, impose and levy any key rates for purposes of running business, charges or fees and mostly in consultation with a CS in charge of financial matters.

Clause 8 has the Board of Authority which will be chaired by a non-executive chairperson appointed by the President among other officers. Clause 9 also gives the terms of office of the chairperson and other members on how they are appointed. However, I want to rush to Clause 14 which is about the appointment, term of office, qualification of the CEO among others. The CEO will serve for a term of four years renewable only once and the qualifications are there. As I said earlier, Clause 34(6) is the Financial Centre Tribunal. It proposes for an establishment of an appeal tribunal to be known as the Financial Centre Tribunal which shall consist of the persons given there.

In order to maintain the independence of this organ, the council and the board, some of the members will be appointed by the President. When you go to the tribunal, because we know there are so many litigation on financial matters and most of them will end up with going for appeals, it is good there is clear separation and independence of the several bodies. Tribunal is appointed by the Judicial Service Commission (JSC) and not by the President. Therefore, Clause 34 explains how that tribunal operates and how it is appointed. It will hear appeals against administrative decision of the Authority. It is JSC that appoints the secretariat and the staff of the Tribunal. Clause 38 empowers or provides for the CJ to lay down rules and procedures of the Tribunal. These provisions are in line with the new requirement on the management of the tribunals by the JSC.

Hon. Speaker, I have explained most of the clauses on the Bill. Therefore, I just want to repeat that it is prudent for members to note that His Excellency the President signed the NIFC Order in 2014. However, there is a critical need to anchor the framework in an Act of Parliament in order to achieve the objectives of the Centre. In arriving at this Bill, the National Treasury

involved several stakeholders including the CBK especially those who are critical in the running of the financial sector in this country, namely the Capital Markets Authority, the Insurance Regulatory Authority, the Office of the Attorney-General and the Department of Justice, the Judiciary, the Nairobi Centre for International Arbitration and the private sector, in workshops held in 2014, 2015 and 2016. There has been public participation all through as required by our laws. Therefore, they have made almost everyone to understand and appreciate the provisions of the Bill. Suggestions by the stakeholders are fully incorporated into the Bill. As I said, we are now talking of a global competitive business. Therefore, it is good for Members to think very strategically and provide insights that are going to help the NIFC to meet those standards. The Bill meets the broad global methods or standards and best practices and unique Kenyan context which the Centre is going to be created.

Hon. Speaker, in view of the immense benefit the Centre will bring to our economy, I have enumerated them and I believe the debate should not be whether or not Kenya should establish an international financial centre, but rather, how the country can leverage on its competitive advantage that it already has in the region and showcase its readiness to do business with the world. Therefore, I expect a lot of insightful debate and input from the Members. I also request them to support this Bill so that we can achieve our vision to transform the country to be a middle-income country providing high quality life to its citizen by the year 2030. In the meaning of Article 110 of the Constitution, the Bill does not concern county governments. Therefore, it is within the purview of this House to make the contribution.

With those few remarks, I kindly request Hon. Chris Wamalwa to second.

I beg to move.

**Hon. Wakhungu:** Thank you, Hon. Speaker. I second the Bill as ably moved by Hon. Metito. Mine will be brief because he has mentioned almost everything. The Bill will put Nairobi on the global perspective. We know that Nairobi contributes almost 60 per cent of the Gross Domestic Product (GDP) of this country.

The idea of making Nairobi the International Financial Centre is wonderful because it is centrally located in the East African region. So, it will attract many investors. The climate is very conducive and the labour market has the skilled, semi-skilled and non-skilled labour. So, this will add much value in job creation.

By making Nairobi an international financial centre, our counties will benefit because of ease of accessibility. To be a global centre, some critical issues must be put in place in terms of threshold such as infrastructure, security and aspects of technology. Once these are put in place, it will benefit Kenyans. Having an international financial market centre here will make it easy when it comes to foreign direct investors. More multinational corporations will be established here and they will provide employment to our youth who are tarmacking. Multinational corporations will bring global brands which have been tested into our economy. This will enhance technological transfer. Different expertise from various countries will be transferred to our local market. In a short period, we are likely to see skills of international standards in the Kenyan markets.

The issue of having the President as the chairman of the steering council is a critical issue. It will enhance quick decision-making. With global organisations, decision-making must be on time. We do not need issues of bureaucracy here and there. The fact that the President will be the chair, it will be given the attention it requires. Many international airlines land in Nairobi, for example, KLM, British Airways, Emirates and Delta is yet to come. With all these, Nairobi is ready to be an international financial centre.

Going back to the Vision 2030, we thank His Excellency the former President Mwai Kibaki. When he took over power, the economy of this country was poor. The GDP was growing negatively, but he transformed it up to about 70 per cent. Some strategies included the economic recovery strategy and the Vision 2030 which has three pillars, namely the economic, social and political pillars. Under the economic pillar, the financial sector plays a critical role. What we are implementing will actualize the Vision 2030 whose key objective is to make Kenya a middle-income economy and improve the welfare of Kenyans. I request the Members who are here today to support this Bill so that it can be passed and implemented as soon as possible.

The Public Private Partnership Bill has already been assented to. It is now law, but the Government has no resources to implement key projects under the PPP. In this case, the Government can partner with some international private organisations to offer services to Kenyans and improve the welfare of Kenyans. I have no doubt that if this Bill is assented to, it will improve the growth of our GDP.

I urge the Members to support the Bill. Thank you.

*(Question proposed)*

**Hon. Speaker:** Let us have the Member for Makeni. You are first on the slot.

**Hon. Maanzo:** Thank you, Hon. Speaker for giving me an opportunity to contribute to this important Bill. From the way it has been introduced and the information given, it is clear that in 2014, there was a legal notice which started this Authority. Definitely, there was going to be a board. There has been public participation where different organisations dealing with financial services have been put together including the Insurance Regulatory Authority (IRA) and other authorities which deal with finances or regulations of the financial sector. It is clear from what had happened that the regulatory Authority includes the Central Bank of Kenya (CBK), the Capital Markets Authority (CMA), the Insurance Regulatory Authority, the Retirement Benefits Authority (RBA) and the Sacco Societies Regulatory Authority (SASRA) or their successors thereof.

That is the regulatory Authority which will be set up under this law. During the stakeholders' participation and consultations, it had been clear that SASRA was going to remain and not included in this law because cooperatives have a peculiar manner of operations and are not part of this.

They have existing laws just like other authorities which have their own Acts of Parliament which regulate the way they work. It is a little surprising that despite the consultations and agreements that the SACCO societies were not going to be included, they are now part of this new law which will now regulate financial services in the country. I believe at the Third Reading we will make amendments to exclude SACCO societies because they already have a framework, a CEO, a Ministry and a system of operation. The moment you lump them together with other different authorities such as the CMA, it means we are likely to lose the principle of cooperatives and the small savers who build SACCOs for purposes of growing themselves.

We want to save the industries integrated by the Sacco Societies Regulatory Authority. This was meant to stand by itself and take care of certain aspects of financial services in the country, which now seems to have been lumped together with other financial service providers, which have totally different ideological and methodological operations. For that matter, the regulation should have been set aside for the SACCOs.

Now that they have been lumped up, it is clear that whatever agreements the sector made with the Ministry of Finance and the Ministry in charge of SACCOs to operate on their own seems not to have been taken on board while making this law. Though it has gone through the Cabinet and passed, it is now with us and I think this sector, which is controlled by about 14 million Kenyans, is still not very settled with the arrangement. They worked very hard in the year 2007/2008 to come up with their own laws having made sufficient consultations. I tend to believe the consultations did not add up.

By and large, this is a great idea. It puts together similar authorities. It will save the country money in terms of the way financial services will be regulated. It will collapse the different authorities into one. For example, the three major ones like the CMA, IRA and the RBA. I would like to insist that the SASRA or its successor is different from the three. Before we pass this law, because the work of Parliament is to pass laws, it is good to reconsider that position and make the necessary lobbying, so that SASRA is excluded. It will not cost the Government much and this Act will have achieved its purpose. It will serve Kenyans and their net savings because most of these organisations are involved with members' savings. The country's savings will be monitored. This is where people borrow and grow their businesses and the economy.

There is a tribunal set here already which will be dealing with financial matters, appeals or disagreements. This tribunal is like a court and is set up and regulated by the Chief Justice (CJ). In fact, if you look at the amounts it will deal with and the matters involved, you will see that it should be chaired by a High Court Judge. It will be at the High Court level. The jurisdiction or amounts of money involved should be dealt with minimally by a High Court Judge. At the moment, if the tribunal remains as proposed in the Act, it will be overburdened and overwhelmed and the matters it will be dealing with will be out of its jurisdiction.

Already, SASRA has its own tribunal which has been dealing with matters as established by the law. Proposals have been made to include it in the new constitutional amendments because it was accidentally left out. This is a point in future that when amending the Constitution, we should make sure that such a serious tribunal is chaired at the minimum by a Judge of the High Court of Kenya. This is a panel of experts and at least they should include an expert of law like a judge who will make sure that the jurisdiction is attained. Again, we see there are rules and regulations set out under this Act and the tribunals to be created by the CJ are subject to ratification by this House.

For that matter, the Attorney-General is an important component in this. The Chief Executive Officer is an ex-officio member in the management of the proposed Authority. This is a very serious law which seeks to save the cost of running different authorities or financial services. This is very good and the stakeholders in that regime have already accepted it, but those who deal with cooperatives and SACCOs and have an international structure on how they process their matters are still not very happy with this law. I think this is a matter that the Government, Cabinet or Parliament needs to relook into and further consultations done to make sure that Kenyans are served and their wishes honoured by the laws we make on this Floor. Already, they have a structure which is very effective and they finance themselves without going into the Government coffers although there was a recent request by the National Treasury to make sure that they stabilise. Moving them to a bigger Authority does not assure them that their interests will be taken care of. It will not cost the Government more than expected by lumping SACCOs with the other financial service providers. I believe with the likes of Senator Sakaja here, the Government will be convinced that SACCOs need to be on their own.

Thank you, Hon. Speaker.

**Hon. Speaker:** The Member for Nakuru Town East.

**Hon. Gikaria:** Thank you, Hon. Speaker for giving me an opportunity to support this very important Bill. It has come at the right time, but towards the tail end of our term. This Bill will go a long way towards improving the economic status of this country. About the benefits and objectives of the Bill as alluded by the Mover, I want to agree that it will attract domestic, regional and international competitiveness to our country. It is therefore, important for us to look into a few of the issues being raised in this very important Bill.

Looking at what has been alluded to by my fellow colleagues, I have a few issues on the composition of the board. It will have few members like the non-executive chairperson appointed by the President. The Chief Executive Officer will be an ex-officio member and the CS, Finance and four other persons with relevant international financial services experience. The composition is good and it will bring a lot of experience and good ideas to the Authority in relation to financial matters.

At the same time, a steering council will be established in the Bill under Clause 19, and the CS, Finance and the Attorney-General will audit the Authority. In the Third Reading, I will approach the concerned Committee and raise amendments because this might bring conflict of interest. The same people in the board will also be in the steering council which will be supposed to audit the board. The steering council is supposed to oversee the Authority. Therefore, it is important for us to ask questions as to whether the CS, Finance and the Attorney-General ought to be in that council. They should be members of the board or be in the steering council. The qualifications of the chairperson are good. We have had challenges in the past because the issue of 15 years' experience has raised many queries and has at times denied some young Kenyans a chance yet they are qualified in certain fields. It denies them an opportunity to chair some of these authorities. We have young Kenyans who are competent enough in terms of the stated qualifications other than the aspect of the 15 years' experience.

Looking at Clause 9, this is important. In the past, we came up with Uwezo Fund Board which only meets four times in a year. It has always brought a lot of issues because requests are made by qualified women and youth groups, but they cannot get funds within the three months. Sometimes it is important for us to look at the limit. The Bill has left it open-ended which is good because the Authority might meet severally so that they can make some urgent decisions.

This Authority will be drawing money from the Budget that is approved by Parliament. I am also hoping that the responsible Committee will oversee this Authority because if they will be drawing from public funds and getting budget allocations from Parliament and Parliament is not involved in terms of auditing and oversight, it is important that we look into having a provision that states that Parliament must also be given an opportunity to oversee the Nairobi International Financial Centre, its function and the way it uses public funds.

With regard to the Chief Executive Officer under Clause 14, the term of the Chairman is three years with the provision of an additional term of three years. But with regard to the CEO, it has been left to the Cabinet Secretary and the board to determine his or her term. We need to look into that so that we do not have one person serving as the CEO forever. It is important for us to look at having a specific limit of the term of the CEO to handle Authority matters.

I raised the issue of the Cabinet Secretary of the National Treasury and the Attorney-General both serving on the Steering Council and at the Authority and whether we should have them in one place only.

As indicated by the Mover, this is a very good Bill. Hopefully, by the time we come back for our second term, we will have the Authority in place and the centre will be operational so as to improve the status of our country.

With those few remarks, I support the Bill.

**Hon. Speaker:** Let us have the Member for Balambala.

**Hon. Aden:** Thank you, Hon. Speaker, for the opportunity to speak to this very important piece of legislation.

From the outset, Kenya is known to be amongst the best economies in Africa and one headed towards sustainable growth and an economy that attracts the attention and interest of many international investors. For that reason, the establishment of the Nairobi International Financial Centre is the right thing for an economy such as Kenya for the many reasons of the benefits and confidence that the creation of this international financial centre brings.

An efficiently operating financial centre is critical to our economy. Kenyans need a reliable financial centre which will ensure that laws are in place to protect their wealth. Confidence is one of the very important pillars in any economy. The lack of a proper financial investment regulatory authority causes many people - local and international - who would have otherwise have had the confidence to invest in this economy, to shy away or feel insecure to the extent of not putting their wealth into this economy. This piece of legislation goes a long way in creating this international financial centre which will put Kenya or Nairobi at par with many other financial centres in the world that are known.

A well regulated financial centre will attract international investments, Foreign Direct Investment (FDI). We know the benefits of FDI into our economy which will now attract the big names of businesses out there to come into our economy, which in turn will create employment for our people. This is what we need very much. This is what this country has not had or has not been able to do very well. Fortunately, Kenya is not short of experts in the financial sector to work and implement the suggestions in this law into an international best practice. Kenyans are known to be innovative in the financial sector. I want to pick the example of something that might look very simple but is one of its kind in the world. This is the *Mpesa* which Kenya was the pioneer of and is now being adopted or replicated in many other parts of the world.

Development of this international financial centre will show confidence to anybody out there that Kenyans are not only innovative when it comes to financial instruments or creation of financial institutions, but Kenya will have a very well-regulated sector of financial corporations. As I said earlier, this will boost the confidence of the people or international businesspeople out there so that they can come into our economy, which we need very much.

This piece of legislation is headed towards ensuring that Kenya achieves the Vision 2030 objectives by creating a vibrant and globally competitive financial sector that drives high level of savings and takes care of the financial investment needs of Kenyans. Nairobi is known to be a hub in Africa. With the creation of this international financial centre, Nairobi will now be amongst the well-known international financial centres or hubs like those of London, New York and Singapore, Hong Kong and the like. This is an idea whose time has come.

The governance around this particular entity is very good. The establishment of the Steering Council consists of the President as the chair and the Deputy President as the deputy. The Council needs to meet at least four times a year. Knowing the schedules of the Head of State and his deputy, I wonder whether we should reconsider letting the Cabinet Secretary of the National Treasury be the chair of this Council. We want to take duties away from the President because he is a very busy person and the entity must work within time frameworks. According to

this law, it must not fail to meet at least those four times. Knowing the schedule of the President, it is something we need to consider in the Committee of the whole House and probably reconsider not putting him as the chairman.

The other thing is that this entity has so many powers and will be passing many regulations and guidelines. Even though a tribunal has been set up, I am just wondering whether if an entity that is chaired by the President passes certain directives, a tribunal can appeal against the directive. We just need to think about this a bit carefully. It might even be better to have the President in that tribunal so that he can be an arbiter, in the very least, if we must involve him. My suggestion is that I do not think we involve the President. The CS and the Attorney-General can play a key role in the governance or leadership of this entity so that Kenyans or international investors who feel aggrieved will have recourse of a tribunal that they feel can challenge the decisions of the council. Having the President as the chair of the council might not give a lot of powers to a tribunal which will act thereof.

Then there is the issue of limiting the freedom of movement of a person convicted of an offence under it and sentenced to imprisonment. It is a good thing, but we need to be careful about it because we do not want a council out there that can sit and say so and so has committed a certain offence and, therefore, the Council decides he is not going to move out of the country or to do this or that. We just need to look at this carefully and not holistically by saying that we want to limit freedom of movement. Freedom of movement is guaranteed in the Constitution and this Bill must acknowledge that.

These are some of the small things that we need to fine tune during the Committee of the whole House to make sure it does not go to the extent of being unconstitutional. It is a good piece of legislation. We do not want it to be challenged out there after we have passed the law and spent so much time on it and then it ends up being considered unconstitutional. It is a good piece of legislation.

With those points, I have said the sooner we put this Bill in place before the final recess of this House, the better, so that it can be signed into law and Kenyans can now enjoy the comfort of knowing that Nairobi becomes one of the international financial centres. Nairobi will then be respected because of the existence of a legal framework that will protect the wealth of Kenyans and that of foreign investors so that we can build confidence in our economy.

With those many remarks, I support the Bill and thank you for this opportunity to contribute to it.

**Hon. Speaker:** Member for Laikipia East.

**Hon. Kimaru:** Thank you, Hon. Speaker. I stand to support this Bill on the establishment of the Nairobi International Financial Centre. I do this for a couple of reasons. One being that Kenya has come of age economically. We are looking at a country that is almost entering an economic take-off. Before you get to economic take-off, there are certain preconditions that must be met. Amongst these is a vibrant financial sector. As we all know, for an economy to grow, you must have a vibrant economic sector. Industry investment will depend on how effective the financial sector is. People will need money to set up industries. In agriculture, people will need money. In real estate, people will also need money. As it is today, we have a financial sector that is vibrant not just the mainstream financial sector in terms of banks, but also the SACCOs. The SACCOs are very active and play an important role in propelling the economy to the next level.

However, if we want to achieve economic take-off that we so desire, and that is within reach, we must provide a legal framework. When we look at countries that were at the same level with Kenya at Independence, the so-called Asian Tigers, they have now industrialised. We have

been left behind, but we are working hard to catch up with them. We have been told by the World Bank and other assessors that our economy is doing very well. We are one of the best destinations for investment. We have an environment that is good for investment internationally. In Africa, we are rated about the third best investment destination. In terms of the economy and in financial services, we are ranked third after South Africa and Nigeria.

The Nairobi International Financial Centre will provide direct foreign investments into the country. One of the objectives of this Bill or the establishment of the Nairobi International Financial Centre is to see that direct financial investments will be made here. The international financial centre will also provide employment to Kenyans. Once it is established, as much as we will have people coming from outside to support the venture, we will also have our own Kenyans working there.

We shall also benefit a lot from the expertise that will come from outside. We will have very many professionals with the relevant financial expertise to enrich our local bank of expertise. It will also connect the economy to the global financial market. When I was leading a cooperative society and we were looking for finance, it was hard to get any finances locally. The local interest rates were very high. Internationally, we got rates that were almost half what we were getting in Kenya. Accessing offshore finance was not an easy thing, but with the Nairobi International Financial Centre, SACCOs and other business ventures that may want to access international offshore credit will access it easily. We will find it quite easy to get hold of this capital from the capital pool that will be created. Credit will be easily available.

I have already said that capital will be much cheaper. We know that most of the capital that is available internationally might be much cheaper than what we have here in Kenya. We know that the cheaper the capital, the greater the impetus it gives to economic growth because people can invest little money and in turn get more returns.

In terms of infrastructure, because the Government itself is a consumer of credit and is a client for credit, I am sure we will also get credit for even our infrastructural development. The Jubilee Government has so far tarmacked a number of kilometres of roads. It has done this in the short time it has been in power. When Jubilee took over the Government, it promised to tarmack very many kilometres of roads. I have seen that happen in my constituency because already 10 kilometres of tarmac have been done. This is the first this has been done in my constituency. We are also waiting for tenders to be awarded for the construction of 100 kilometres of tarmac road.

As I speak now, tarmacking of a 40-kilometre road is going on in my constituency. This is going on hand-in-hand with the establishment of the International Financial Centre. There has been talk about economic take-off and it is important to note that it is not just about the financial sector but it also involves infrastructural development. Do we have a good road network? Do we have a good railway network? Does every corner of this country have access to electricity? We can see what the Government has been doing. Because of the leadership of President Uhuru and Deputy President Ruto, about 30 per cent of Kenyans have electricity now. We need, by 2030, 70 per cent of Kenya connected to the national grid. This will help industrialize our country.

We have a very innovative, affluent and hardworking middle class which has helped build our economy. It is not only hardworking but also innovative in the way it works. There was a time people were saying that the real estate industry was in a bubble and it was just a matter of time before it burst. The bubble is growing bigger and bigger. We have more people with money investing in real estate because of the need for housing and so on. There are many housing projects being undertaken currently.

Recently, I saw a company asking people to invest in houses somewhere in Kitengela – a unit in the apartments go for Kshs3 million. You will be amazed at the number of people who showed interest. So, I support this idea whose time has come. We will bring amendments during the Third Reading to whatever is missing in the Bill.

I support.

**Hon. Speaker:** Hon. Michael Onyura, you have the Floor.

**Hon. Onyura:** Thank you very much, Hon. Speaker for allowing me to air my views on this Bill. I support it from the outset. This is a very timely Bill because our country has for a long time been attracting investors. It has been quite hospitable and welcoming to business people and investors. So, anything that we are doing to make that environment more conducive is very much supported. That is why I strongly support this Bill.

I also know that Vision 2030 is set to make Nairobi a financial hub. I am sure that will create many opportunities. The Bill provides a legislative framework. It is important that we have a legal framework within which investors operate. This ensures that activities are predictable. It also gives investors confidence. We know that many investors are risk-takers but they are certainly not reckless risk-takers. They take calculated risks. Part of what gives them confidence to take risks is a proper legal framework in which they operate. This Bill offers just that.

I hope that there has been stakeholder involvement. When the Mover was moving the Bill, he confirmed that there has been participation by stakeholders. We should also look for a way of involving the wider public so that they can also give their input. It would be even better to come up with ways of making the ordinary *mwananchi* tap into whatever benefits this framework brings with it. An example is what I saw recently. *Wananchi* were encouraged to buy bonds through the ordinary *Mpesa* system. That should be encouraged as much as possible.

Again, let us also learn from centres that have been established in other parts of the world ahead of us so that we do not run into problems. So, it will be important for us to compare notes with other places where these centres operate.

As we do that, it would be good to be cautious so that we do not create loopholes that can be exploited by some of these anti-social criminals. I am talking about money laundering and other illegal activities. I hope that we will take sufficient measures not to fall into that problem. Having gone through certain parts of the Bill, I am encouraged that it is envisaged that through this centre, job opportunities will be created both directly and indirectly. We know that if such centres are established, there is a lot of spill-over effect. It will benefit the country in terms of supporting services.

I also believe that once this centre is up and fully operational, there will be more opportunities for capital for this country, particularly for investment in infrastructural projects like roads. Here, we are talking about genuine roads and not just those which are reflected on paper like the thousands of kilometres that we are being told about and yet there is nothing to show.

I was expecting the annuity programme to take effect. I had earlier on, as I began my tenure, promised the people of Butula construction of some road. I even pointed out the road that I had earmarked for this programme but nothing has come out of it so far. So, those are some of the failed promises that were given by the Jubilee Government. With availability of capital – because I know these things do require very intensive capital – we should be able to have roads and other infrastructural investments like electricity, water and even railways, not just from Mombasa to Nairobi but in other parts of this country. Also, through this Centre and its

activities, the culture of savings in this country will be promoted even further. I think Kenyans have normally responded well whenever they have been called upon, for example, when they are called upon to subscribe to shares being floated and the like. Many times, they are very much oversubscribed. I am sure that this Centre or establishment will improve the savings culture and that will be good for our country.

Going through the Bill, I also noticed that the tenure of the Authority members will be for three years and may be extended only once. Surely, I think six years is good enough for any Kenyan who is given an opportunity to make their contribution. The good thing is that the appointments will be staggered so that there is continuity and institutional memory other than, maybe, the term for all the directors expiring at the same time. Financial sectors are sensitive and, therefore, I was happy to see that the issue of confidentiality is very much emphasised and that any breach of confidentiality will attract a fairly stiff penalty of three years imprisonment.

Finally, I will comment on the Steering Council. I think the fact that the President and the Deputy President will be the chair and the deputy chair of this Council respectively shows that this is something that is being taken seriously by Government because that means that action can be taken very fast and at the highest levels possible.

I do support this Bill.

**Hon. Speaker:** Let us hear the Member for Bomet Central.

**Hon. Tonui:** Thank you, Hon. Speaker for this opportunity to support this Bill on the Nairobi International Financial Centre. I believe it is a very good Bill which will assist in mobilising resources for investment in this country. This is a very timely Bill and we need to support it. I am happy we are getting the best experiences world over on ways of mobilising financial resources. Having gone through it, I have seen in this Bill that the intention is to ensure that there is integrity in our firms and industries, especially those dealing with financial matters.

People outside this country can have all the confidence to channel their money to the businesses in Kenya knowing very well that they meet certain international standards. So, this is very timely. It can be trusted internationally and that you can generate your money outside there where chances of investment are lower and bring it to this country where we have investment opportunities which are better in terms of returns and have that confidence that you will not lose your money. So, this Bill is really worth supporting so that, internationally, the investors can invest in this country.

I believe ensuring that we mobilise these resources to come to this country will lead to creation of employment opportunities for our youth because that is one key issue which we need to address. How are we taking care of our youths in terms of employment? Without resources being mobilised internationally, certainly we will not be able to create employment opportunities for our youths. We will also not be able to address the issues of poverty in this country. The level of poverty will be increasing now that we even have a big problem which was brought about by the recent drought.

In some parts of this country, people are saying in Kiswahili that *ugali ni mteja*. I believe that we really do need to address issues of the financial sector so that we have more funds in this country to invest. I tend to think there is something which we need to address in this Bill. When we use the word "Nairobi" it looks like we only want to mobilise resources to be invested in this City. Surely, we want resources to be invested all over this country. We want to get resources internationally and invest even at the county level and the industries which are in the grassroots. We may need to revise the title of this Bill possibly to become the Kenya International Financial

Centre. This is because it sort of mobilises resources to be invested in any part of this country. That needs to be relooked.

Once we come up with this Nairobi International Financial Centre, I think it is good to understand what this Bill contains. This Centre will be in charge of giving certification and not regulation so that there is no competition between this financial centre and the Central Bank of Kenya (CBK). This is because the CBK is mandated by law to regulate the financial sector in this country but the Nairobi International Financial Centre is meant to do something else, that is, certification and building confidence in the financial sector of this country. I think that needs to come out very well so that people can understand. This is another added safeguard in the financial sector.

We have been having the CBK being in existence providing regulations and regulating the banks but, of course, we have seen very many banks collapsing with people's money and creating poverty in this country. People who had resources all of a sudden find themselves without resources because the CBK has been unable to regulate the banking sector, at least, to a certain level. That is why Imperial Bank and Chase Bank collapsed. I believe having the Nairobi International Financial Centre provide an extra certification will ensure that we do not have incidences of financial institutions collapsing and compromising investments which have been made by various people in the financial sector.

There is also a section in this Bill which creates a tribunal which will be dealing with financial issues to ensure that investors who will be investing in this country will be able to take their cases before this tribunal so that they are resolved faster. This is because if it goes through the usual court process of this country, the cases can drag on forever in the courts. If it is an issue to do with money, it leads to loses. I believe creating this tribunal will ensure that loses in terms of finance are minimised.

I am also happy because a section of this Bill creates the Steering Council of Nairobi International Financial Centre. This Council, which is going to be chaired by none other than the President will provide oversight over the financial centre. What this means is that the Government is taking seriously issues of finance and investment in this country. I believe the creation of the Steering Council is a good direction to ensure that the issue of confidence is boosted in the sector.

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

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

Hon. Temporary Deputy Speaker, I am a bit uneasy with the regulations. The Cabinet Secretary in charge of Finance and the Chief Justice are empowered by this Bill to make regulation without consulting anyone else, without public participation and without even this House being consulted.

We need to look at this section so that when it comes to regulations, he will need to come back to this House so that we can approve the regulations made by the Cabinet Secretary, and the ones made by the Chief Justice because we will be donating a lot of power to them. This is in terms of making law.

Otherwise, I support this Bill and thank you for this opportunity to make my contribution.

**The Temporary Deputy Speaker** (Hon. (Ms.) Shebesh): Thank you, Hon. Member. I now give the Floor to the Member for Makueni but I cannot see him. I will give this opportunity to Hon. Ferdinand Wanyonyi.

**Hon. F.K. Wanyonyi:** Thank you, Hon. Temporary Deputy Speaker for this opportunity. I want to take this opportunity to contribute to this Bill which the President signed sometime in 2014. I think there has been a delay. This Bill should have come earlier because there has been a delay. Nairobi is one of the best cities in the region and, therefore, establishing Nairobi International Financial Centre here is a bit late. We should have done this much earlier. I am saying this because I had the benefit of working for a multinational company about 10 years ago. I was the Export Sales and Marketing Manager for a company called “Kodak”. I covered East, Central and Southern Africa and Indian Ocean Islands. Everywhere I went, people in those countries admired this country. If you said you were coming from Kenya people accorded you the respect you could least expect. Nairobi has come of age, and we should have had this Centre established much earlier.

As we know, the establishment of Nairobi as a financial centre will be positioning our country. Therefore, it will have a number of benefits. Kenya being one of the biggest economies in the region as the Mover said, and having been the Export Sales and Marketing Manager of Kodak, countries like Rwanda, Burundi, Uganda, Tanzania, Zambia, Malawi, South Africa, Botswana and Lesotho have a lot of respect for Nairobi. From the time His Excellency signed this, we should have moved faster as a Parliament to actualise it. We should make it a financial economic centre so that other countries can benefit from the same.

Sometimes back, the late Mwalimu Julius Nyerere of Tanzania used to ask: “Why go to UK, when you can go to Nairobi? Nairobi is as good as the UK”. He used to talk about this about 15 or more years ago. Therefore, we are late and we should move very fast to actualise this. I suggest that the Leader of the Majority Party fast tracks this so that by the time this Session of the 11<sup>th</sup> Parliament ends, we should have passed this Bill.

Looking at the composition of the members of the Steering Council behind this Bill, because of the importance of the region and given the fact that there is no member who is political other than the President and the Deputy President, I suggest that we include the Governor of Nairobi, the Senator of Nairobi and the Women Representative for Nairobi County in the Third Reading. This is to ensure that the political side is brought on board. The rest are more of civil servants. This is very important because there will be some political issues that will have to be dealt with by the Governor, the Senator and the Women Representative in this Council.

The advantage of this Centre is that we have a lot of labour both professionals and middle class. Those opportunities will come with benefits. I can see congestion increasing in Nairobi. The traffic which is a nightmare to us will be sorted out. That means infrastructure and security will be improved.

Last but not least, I want to say that given the importance of this, I hope that we will fast track this so that we can pass this Bill as fast as possible. My worry is corruption. We hope this will not be our undoing in this noble idea of setting Nairobi as a financial centre. Corruption is one of the biggest problems in this country but I believe that you and I should be in the forefront to fight the vice so that we can get respect and confidence from the international community because of this setup in our city.

I know for sure that there will be a lot of foreign development investments in our country. There will also be foreign exchange that we badly need in this country. I am sure the

establishment of this will improve our Gross Domestic Product (GDP). My biggest problem, which I believe is also your problem as a Kenyan is corruption. I hope we will be able to tackle this vice.

As it is, Kenya is well placed geographically. Everybody else feels that this is where we are supposed to be. As somebody mentioned, we are the third biggest economy in Africa and with this, we shall surpass South Africa and Nigeria. This will make us top in the region. Our national carrier, Kenya Airways, will do more business hence create more employment for our people. This is particularly professionals because Kenya is known for professionals. We have exported so much labour to other countries and with this kind of set up we will train our brains and develop our country much faster than we are doing at the moment.

With those few remarks, I support the Bill. I want this Parliament to fast track it so that before the end of its term, the Bill is passed so that we can benefit as a country. I support the Bill.

**The Temporary Deputy Speaker** (Hon. (Ms.) Shebesh): I now give the Floor to Hon. Johnson Sakaja, the new Senator for Nairobi. You heard the gentleman acknowledging you. I also do the same as my Senator.

**Hon. Sakaja:** Thank you, Hon. Temporary Deputy Speaker, the undisputed sitting and incoming Woman Representative of Nairobi County. This Bill is of interest to us, the leadership of Nairobi, not just for what it provides for this City but for what it entails for the country and for the East African region and Africa as a whole.

It has been said by those who have contributed that, indeed, Kenya is a strategically located and positioned country. There is nothing better for man to actively and deliberately leverage on God-given head starts and opportunities as we have in Kenya. This is one of the countries in Africa where within less than five or so hours you can be in any other part of the continent.

We are blessed with wonderful weather. We are within the tropics. Anybody around the world would love to spend time in Nairobi. Even beyond business, Nairobi is a Capital City in the world where you can see animals in their natural habitat. We have been able to develop good networks in terms of communication. I was recently chatting with some business associates from South Africa and they were saying that when you are sitting in the heart of Upper Hill you might as well be in New York, because we have fast connectivity and the infrastructure is becoming something that we can talk about.

I would like to support this legislation to set up the Nairobi International Financial Centre. Of course, we are aware that there was a Legal Notice in 2014 that started the process. The benefits of having a clear financial centre established by statute, as we are doing now, are many. There are countries that have led in this path. One of the closest examples, because of obvious advantages that Nairobi has, is Singapore.

The Singapore Financial Centre has been able to serve the entire Asia-Pacific region, and not just Singapore. If you talk about banking, insurance banking and treasury services, you will find that they have been able to serve the entire Asia-Pacific region. It is through financial services that Singapore has become an international economic power.

We expect to see further development of our capital markets through the international financial centre. That requires a deep and liquid resource pool for us to be able to have that in Nairobi and in the region. We are talking about debt and equity services, foreign exchange, real estate investment trust and business trust frameworks. We can draw from a large pool of domestic as well as international pools of capital. That requires an improvement and

advancement of what we call payment and settlement systems that we have in Kenya and in Nairobi. Possibly, once we set this rolling, we might need to legislate on a specific payment system. In 2006 they did that in Singapore. In New York, they have that.

We should have the Payment and Systems Oversight Act that provides for a proper clearing house in Nairobi. It has to be multicurrency because of the kind of transactions that we will be talking about within Nairobi International Financial Centre. To diversify our methods of settlement and payment, currently the most popular in Kenya is what we call the “real-time gross system (RTGS)”. We need to move from that. I will again give the example of Singapore. On top of that, the equivalent of their RTGS is what they call the “electronic payment system”. They have a continuously linked system that they have been using. They have an automated clearing house that is multicurrency because of the kind of diverse transactions we are talking about. They also have a networked electronic funds transfer and point of sale system that they have been able to implement and use.

It comes with a number of things to have an international finance centre. One of the key aspects – and we know how the property market is in Nairobi and Kenya – is wealth management and insurance. You need to create an equal system that makes Kenya the leading insurance market place in Africa. You need to have an ecosystem. In the ecosystem of insurance, you have life and general insurance, reinsurance, captives, intermediaries, brokerage firms and ancillary service providers. That creates an entire ecosystem through which jobs are created, and it adds to the capital pool of the country because of the very nature of insurance business.

In addition to that, when we talk about wealth management that will be provided under the Nairobi International Finance Centre, we are talking about asset management where we create more opportunities for asset management not just for Nairobi but throughout the region. We are also talking about hedge fund management and private equity. We expect to see our capital markets developing. I remember about two years ago – Hon. Bunyasi would remind us – in the Departmental Committee on Finance, Planning and Trade, we were discussing the new commodities market and mercantile exchange and even privatising those in Nairobi for the entire region.

Countries that have excelled in having an international financial centre are countries that have had strategic geographical location, like we do in Nairobi. They have been able to provide business infrastructure. That is the only reason I agree with Hon. Wanyonyi that probably, in this Steering Council, you need to have the Governor of Nairobi as well as the Senator, yours truly, and the Woman Representative. You cannot have an international financial centre in a city that cannot even collect garbage. You also cannot have an international financial centre when there is political obstruction within the city. Therefore, within the Steering Council, not the board of directors, you need to have the leaders to give it the political goodwill of the people of Nairobi. Within the New York Financial Centre, there is the senator of New York, who sits there just to represent the people. Of course, it is beyond the City of Nairobi. We need to have a clear pro-business environment to be able to actualise this. It must be cost-competitive, with effective regulation within the environment. This is because regulation is very important for there to be stability within the financial system. Nairobi has also a large pool of highly skilled professionals who can participate in this.

Even as we say this, we must stay alive to the fact that in as much as we are providing incentives for all these international firms to be able to come and compete with domestic firms and provide all the services--- If you look at Clause 32(a) of the Bill, you will appreciate that the firms which have been registered as NIFC firms accredited cannot be subject to any

nationalisation or expropriation measures or any restrictions on private ownership. They have freedom to repatriate profits and realise investments, and recruit and employ staff of their choice on the terms as they wish to agree, subject to work permit provisions. They are also capable of being owned up to 100 per cent by persons who are nationals or resident in Kenya. We must be able to do this as we protect our local firms.

We must also give incentives and create a good environment for the millions of young people and women in Nairobi who are also able to compete and create firms and do business, so that it is not just that we are creating one business environment for NIFC firms yet the local firms have to suffer the squalor of mismanagement that we have seen in Nairobi over the past few years. Fortunately, in about 80 days we will have new leadership in this City that can provide those opportunities for the people of Nairobi.

Because I see my time has gone and I have a lot to say about this, I would like to urge that we fast-track this legislation. Having an international financial centre will, indeed, turn the tables of the economy of this country and not just for Nairobi. As we move forward in representing the people, we remember that Nairobi produces more than 55 per cent of the GDP of this country yet it receives less than 2 per cent of the allocations from the Senate. Those are some of the things that I am going to change when I become the Senator of Nairobi.

With those remarks, I support.

**The Temporary Deputy Speaker** (Hon. (Ms.) Shebesh): Thank you. I now give the Floor to the Member for Wajir, Hon. Fatuma.

**Hon. (Ms.) F.I. Ali:** Thank you, Hon. Temporary Deputy Speaker, for allowing me this opportunity. I support the Bill on the Nairobi International Financial Centre. It is a timely Bill which will help regulate our financial system at both the national and international levels, including the regional level.

It is good to have standardised accepted standards, guidelines and a law that will help a country which is located in a very strategic position in Africa to have regulations that will allow actors in the financial sector, and other actors. Kenya is among the top countries in African economies. Kenya is the fifth country in the African economy with a robust economic growth. It will attract many international and regional investors. Without an international financial centre to regulate transactions and taxation, and check money laundering, it might be harmful to our country. A regulated international financial centre will boost our economy.

This law is aimed at boosting Kenya's economic growth. It will secure this country's robust economic growth and ensure that we have efficient financial services for Kenyans and investors. Kenya will attract high level delegations of investors to come and invest in the country. The International Financial Centre will create a standardised approach to regulate most of these things.

Kenya is seen as a country which has a high potential, with a high growth and a good understanding of how the international markets work. Kenya is in a strategic location and thus it attracts investors from many countries. Africa is becoming one of the leading business hubs in the developing world. Kenya requires this kind of law in terms of regulating and providing safety for firms to operate in the country.

This Bill also provides for some complaints and management handling mechanism. Firms which have been barred from operating can channel their grievances to the tribunal and seek for redress. That is one of the right approaches to development in terms of providing a structured dispute settlement mechanism. Any institution that wants to be effective and efficient in handling its affairs needs such a mechanism.

Kenya is seen as a serious competitor and a development hub for the devolved world, particularly the United States of America (USA), the United Kingdom (UK), Europe and Asia. Kenya is one of the biggest economies in Africa, and it is growing. When Vision 2030 was being developed, Kenya was aimed at becoming a middle level income country. Kenya has many opportunities in terms of developing new infrastructure such as railways and transnational highways that connect Kenya with other countries in the region.

Kenya is also a connectivity hub in Africa, both by air and road. One of the missing links could be lack of an international financial centre that coordinates and regulates the financial sector.

This Bill is trying to establish an institution with high calibre member personnel to regulate the International Financial Centre so that it can provide strategic direction and information on matters of law and regulations that are acceptable to most of financial institutions at the global level so that Kenya can compete internationally.

Kenya is endowed with the power to develop such international financial services centre so that it can be regarded as one of the best competitors in terms of providing financial services to countries that lack basic financial centres.

This is a timely Bill which provides for the establishment of a reliable financial services centre to counter tax evasion and money laundering. Global movements sometimes facilitate for money to be easily wired or transferred in a coordinated manner, which undermines the growth of the financial sector in the country.

If this Bill is passed, it will be a very useful law. Some of the controls might undermine effective growth of open market financial services that would otherwise attract some small growing economies that would be boosted with a wider reach. I hope the Nairobi International Financial Services law will cushion some of the growing intermediary financial services firms so that they can grow to the required standards, achieve efficient and effective financial service delivery to consumers and clients that are not likely to grow to the international or the regional level.

With those remarks, I beg to support.

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

**Hon. Bunyasi:** Thank you, Hon. Speaker. I rise to contribute to this very important Bill. In principle, the establishment of the Nairobi International Financial Centre is an essential development. Kenya is seeking to be a middle income country, and indeed has a leadership role in the region. In fact, this is long overdue. There were days in the 1970s when this kind of thing was discussed – that Nairobi would be a major financial hub but I think the management of our economy has had ups and downs, and in the process that idea was forgotten. There is no doubt at all that the merits of the international financial centre are clear.

As some of my colleagues have already alluded, there is no issue there. The main things that I see in this Bill are on the management of the Nairobi International Financial Centre. First of all, it is Nairobi because it will be in the capital city. Therefore, nobody will be worrying about Nairobi because it is a national centre but because it is internationally awkward to call it Kenya International Centre. So, we call it Nairobi International Financial Centre. We need to get that clear. It is possible that we have our institutions in other places and not just in this City. We are glad for this City to take up that role that has been assigned to it.

Hon. Temporary Deputy Speaker, on the governing body, the requirement mentioned of a bachelor's degree is inadequate. We should have a post-graduate qualification with serious

international exposure. We should have an experienced Kenyan leading such a centre. A bachelor's degree is minimal and will not provide the kind of analytic rigour and exposure that is required for this position. We must have a person with a master's degree or PhD occupying that position.

I am most concerned with the idea of having a steering committee headed by the President and his deputy. I do not know why you would like the Head of State and his deputy to head a central institution. These are very busy people dealing with the affairs of the State as outlined in the Constitution. We should not burden the Head of State with the responsibility of heading a sectoral institution no matter how crucial the financial sector is.

Already the President is the Chairman of the Economic and Social Council which is a supranational body that handles the macro-economic issues of this country. They might never get time to serve well in that steering committee.

Secondly, they will not get an honest discussion. Who in this country will rise up before the President and tell him that he is leaning in a direction that is not supportive of the centre? Who would tell the President that he is not transparent or that he is supporting a firm that has problems?

Do not put the President in such situations. Let him stay out of it and do other things. He could only provide strategic interventions as required. The financial sector as a whole is entirely built on trust. Of course, there is always enabling legislation, but the trust element is important. Therefore, the reference made in passing with regard to qualifications required of the office holders is inadequate.

In my view, anybody serving in any capacity in any of these institutions must meet the tenets of Chapter Six of the Constitution. If we do not do that then we will be in deep trouble and we will be exposed to ridicule internationally.

Finally, this Centre will not operate unless the legal and institutional framework of our economy works. The Central Bank of Kenya (CBK) should completely be unfettered meaning that if it sees any signs of doubt on the integrity of any institution, it should be free to come down hard, within the law, on that institution.

The legal framework including the judicial side must be one that is expeditious and one that can bring to book errant institutions and firms. If firms have had problems in other countries we should be quick to react and say we do not want any knock-on effect. If you have done badly in a neighboring country or a country across the sea, you are likely to do the same here. We do not want to become a centre for financial mercenaries in the world. There have been such developments in Europe, but the perpetrators have been clamped down very hard.

In my view, a very critical component of this is that the governance framework ought to be transparent. There must be tight application of Chapter Six of the Constitution.

As I conclude, I hope that the proposed law will get an overhaul because it is not ready as it is. Certainly, the Steering Committee should change and we should have within it, eminent Kenyans who have had outstanding practice and experience in the financial sector of this country. We should leave out the Head of State and his deputy in this kind of arrangement. Do not bring them down to serve in areas that will kill the institutions because people will fear to speak out clearly and firmly on critical issues.

I do not believe that it is necessary that the political leadership of Nairobi should sit on the Board of this institution to give it weight. If that be the case it should be spelt out clearly. We cannot have a top-heavy institution after we have had a whole series--- The Board is more than 50 per cent publicly appointed and yet it is proposed here that we add a political establishment

which will tilt the scale towards the direction that I do not think will help develop this Centre. Anybody who sits on the governing body of this proposed Center must have something they are bringing to the table.

This is a well-intentioned Bill but it is not yet ready. I hope we will get significant amendments when we get to the Committee of the whole House and during the Third Reading.

With those caveats, I cautiously say that it is a good start. We need to make significant changes before we pass it in this House.

**The Temporary Deputy Speaker** (Hon. (Ms.) Shebesh): Thank you, Hon. Member. There is nobody else willing to participate. We have cleared the list and the Mover will reply in the next sitting.

Next Order!

#### THE PRESIDENT'S AWARD BILL

**The Temporary Deputy Speaker** (Hon. (Ms.) Shebesh): The Hon. Leader of the Majority Party is not in the House. So, we will defer that Order to the next sitting of the House.

#### THE LEGAL METROLOGY BILL

**The Temporary Deputy Speaker** (Hon. (Ms.) Shebesh): Again, the Leader of the Majority Party is not in the House. We will defer that Bill to the next sitting.

Next Order!

#### THE ELECTIONS LAWS (AMENDMENT) BILL

**The Temporary Deputy Speaker** (Hon. (Ms.) Shebesh): Let us have the Chairman of the Departmental Committee on Justice and Legal Affairs. He is also not in the House. We will defer the Bill to the next sitting.

*(Bills deferred)*

#### MOTION

#### REPORT OF PAC ON THE SPECIAL AUDIT OF NYS ACCOUNTS

**The Temporary Deputy Speaker** (Hon. (Ms.) Shebesh): Let us have the Chairman of the Public Accounts Committee. He is also not in the House. We will defer the Motion to the next sitting.

*(Motion deferred)*

#### ADJOURNMENT

**The Temporary Deputy Speaker** (Hon. (Ms.) Shebesh): Hon. Members, the time being 5.08 p.m. the House stands adjourned until Tuesday, 16<sup>th</sup> May, 2017, at 2.30 p.m.

The House rose at 5.08 p.m.