

NATIONAL ASSEMBLY

OFFICIAL REPORT

Tuesday, 18th August 2015

The House met at 2.30 p.m.

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

PRAYERS

MESSAGE

MESSAGE FROM THE SENATE (NO. 25 OF 2015)

Hon. Speaker: Order, Members! I have this message from the Senate, being Message No.25 of 2015.

Hon. Members, I wish to convey that I have received a Message from the Senate dated Wednesday, August 12, 2015, regarding the Senate's approval of the mediated version of the Fertilizers and Animal Foodstuffs (Amendment) Bill (National Assembly Bill No. 36 of 2013). You will recall that the Bill was referred to a mediation committee following the rejection of part of the Senate's amendments to the original Bill on 29th April 2015.

Hon. Members, the Message from the Senate now states, and I quote:-

“The Senate, on Thursday, July 30, 2015, considered the Report and version of the Fertilizers and Animal Foodstuffs (Amendment) Bill (National Assembly Bill No. 36 of 2013) as developed by the mediation committee appointed pursuant to Article 113(1) of the Constitution, and approved the said version of the Bill.”

Hon. Members, I am aware that the National Assembly was represented in the mediation committee by Hon. Benjamin Washiali, MP (Chairperson), Hon. Adan Nooru, MP and Hon. Chris Wamalwa, MP. I, therefore, direct Hon. Washiali to fast-track the tabling of their report together with the mediated version of the Fertilizers and Animal Foodstuffs (Amendment) Bill, 2013, so that it is prioritized for consideration.

I thank you.

PAPERS LAID

Hon. A.B. Duale: Thank you, Hon. Speaker. I beg to lay the following Papers on the Table of the House today, Tuesday, 18th August 2015:-

Report of the Auditor-General on the Financial Statements of Constituencies Development Fund (Loima Constituency) for the year ended 30th June, 2014 and the Certificate of the Auditor-General therein.

Report of the Auditor-General on the Financial Statements of Constituencies Development Fund (Marakwet East Constituency) for the year ended 30th June, 2014 and the Certificate of the Auditor-General therein.

Report of the Auditor-General on the Financial Statements of Kenya Post Office Savings Bank for the year ended 31st December, 2013, and the Certificate of the Auditor-General therein.

Report of the Auditor-General on the Financial Statements of Revenue – Head 000000 – 156 - Fishing Rights in the Ministry of Agriculture, Livestock and Fisheries for the year ended 30th June, 2014, and the Certificate of the Auditor-General therein.

Report of the Auditor-General on the Financial Statements of Kenya National Assurance Company (2001) Limited for the year ended 31st December, 2014, and the Certificate of the Auditor-General therein.

The Constituencies Development Fund Board Report on Project Proposals Approvals, Disbursement Status and Restrictions imposed on Constituency Account – July 2015.

Hon. Speaker, this is a very important Report for Members to look at.

The Ministry of Health Cabinet Secretary's Report to Parliament (pursuant to Article 153(4)(b) of the Constitution).

Annual Report of the Ministry of Transport and Infrastructure for the Financial Year 2014/2015 (submitted pursuant to Article 153(4)(b) of the Constitution).

Thank you, Hon. Speaker.

Hon. Speaker: Next!

NOTICE OF MOTION

EXTENSION OF PERIOD FOR CONSTITUTIONAL BILLS

Hon. Speaker: Hon. Njoroge Baiya.

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

THAT, pursuant to the provisions of Article 261(2) of the Constitution, this House resolves to extend the period prescribed for enactment of legislation necessary to give effect to:-

(a) Article 11(3)(a) (compensation or royalties for the use of cultures and cultural heritage).

(b) Article 11(3)(b) (recognition and protection of indigenous seeds and plant varieties, their genetic and diverse characteristics and use by the communities of Kenya).

(c) Article 63 (community land).

(d) Article 66 (regulation of land use and property).

(e) Article 67(2)(e) (investigation and adjudication of claims arising out of historical land injustices).

(f) Article 68(c)(i) (minimum and maximum land holding acreage).

(g) Article 71 (agreements relating to sharing of natural resources).

(h) Article 81(b) (two-thirds gender principle).

(i) Article 100 (representation of marginalized groups).

(j) Article 164(1)(b) (organization and administration of the Court of Appeal).

- (k) Article 165(1)(b) (organization and administration of the High Court).
- (l) Article 169(1) (subordinate courts).
- (m) Article 173 (5) (regulation of the Judiciary Fund).
- (n) Section 17 of the Sixth Schedule of the Constitution (restructuring of the provincial administration); and,
- (o) any other legislation required under the Constitution to be enacted by Parliament within five years, by a period of twelve (12) months from August 27, 2015.

Hon. Speaker: Hon. Members, given the very special nature of that Motion, the House Business Committee (HBC) is required, when the House rises, to consider and prioritize the Motion this evening. It is up to the HBC to decide when that Motion will appear in the Order Paper, I cannot give directions on it because it is a decision of the HBC. Hon. Junet Nuh, do you have intervention or is it by mistake? Hon. Chepkong'a, do you have an intervention?

Hon. Chepkong'a: Thank you, Hon. Speaker. I rise pursuant to Standing Order No.83. There are certain matters that have acquired notoriety of late---

Hon. Speaker: You are using Standing Order Number?

Hon. Chepkong'a: No.83. There are certain matters that have acquired national notoriety lately and I am speaking about the issue of Kenya Airways. Hon. Speaker, Kenya Airways has been going through a lot of difficulties or turbulences as it is in the language of airlines. This is a matter that has been of concern to the National Assembly. In fact, the National Assembly itself appropriated Ksh.4.2 billion in an attempt to try and bail out Kenya Airways - famously referred to as KQ. This matter has somehow found its way into the Senate in very unclear circumstances. I am not rising here to discuss the Senate. I am rising here to discuss the duplication of functions where Kenya Airways is being discussed by a Committee of the Senate.

Hon. Nassir: On a point of order, Hon. Speaker.

Hon. Chepkong'a: I am on a point of order, Hon. Speaker. My very good friend Hon. Nassir---

Hon. Speaker: You do not have to involve the Member. You can even notice that I am ignoring him because he cannot claim to be on a point of order when you are also on a point of order.

Hon. Chepkong'a: Hon. Speaker, I know that this is a matter that is of national concern. I have been trying to look at the Constitution and the Standing Orders. I know that we are all good law-makers. However, I am at a loss to understand how a matter of national importance can find its way in the Senate, so that it becomes a matter that concerns counties, in which Cabinet Secretaries are then invited to appear to give information purportedly invoking Article 125(1) of the Constitution. For avoidance of doubt, I would like to read Article 125(1). It states thus:-

“Either House of Parliament, and any of its committees, has powers to summon any person to appear before it for the purpose of giving evidence or providing information”.

Article 125(2) states thus:-

“For the purposes of Clause (1), a House of Parliament, and any of its Committees has the same powers as the High Court –”

If we have the same powers as that of the High Court, it means that any evidence that we must take must be in accordance with Chapter 80 of the Evidence Act – Relevance. This is even contained in our own Standing Orders. How is this matter then relevant to the Senate?

I have completely failed to understand this because, one, if you look at Article 95 of the Constitution, it clearly sets out the functions of the National Assembly. It gives the National Assembly power to oversee State officers. I want to read it for the avoidance of doubt.

Article 95(5) states:-

“The National Assembly-

(a) reviews the conduct in Office of the President, the Deputy President and other State officers and initiates the process of removing them from office; and---”

With regard to the Senate, it is very clear. Article 96(4) reads as follows:-

“The Senate participates in the oversight of State officers by considering and determining any resolution to remove the President or the Deputy President”

So, it is only restricted to two State officers - the President and the Deputy President.

I know that the Departmental Committee on Transport, Public Works and Housing will be calling Kenya Airways to inquire into the same. I have spoken to the Chairman of that Departmental Committee, Hon. Kamanda, who has told me that he has already put Kenya Airways on notice. They have been invited to appear before that Committee. However good the recommendations of the Senate may be, whatever decision they will arrive at, do they intend to make recommendations to this House for implementation or what do they intend to do with the recommendations? If their recommendations are intended to be acted upon, it is in vain. It is very clear that a High Court must not act in vain. A High Court cannot just listen to disputes to just enjoy itself. They are not there to enjoy themselves. They are there to make decisions.

We are wasting our taxpayers' money entertaining people from whom there will be no decision. We have been reading what the Senate has been doing. But for goodness sake and order, Kenya Airways does not concern the counties. Although it lands in counties, it does not concern counties. It is very important---

(Laughter)

Hon. Speaker, there is a joke that is going on behind me that, in fact, Kenya Airways overflies counties and that includes constituencies and wards. We need a serious ruling on this matter. Otherwise, we will be duplicating the roles of the National Assembly. It is not that we lack capacity; it is just that we are very serious people in the manner we do things. We do not rush. That is why the Departmental Committee on Transport, Public Works and Housing has taken its time to examine matters first before they call Kenya Airways. We do not act in vain. When we make a decision to send a State officer home, he or she will not go to the Senate. It all ends here. So, even if, for instance, the Cabinet Secretary for Transport and Infrastructure is required to appear together with the Cabinet Secretary for National Treasury before the Senate, what are they going to do with them if they refuse to appear? This is because it is not a matter that touches on counties! The Constitution is very clear. We need your directions, Hon. Speaker. There are certain Committees that are lodged in the Senate, for instance, the Foreign Relations Committee and the Defence and Security Committee. We all know that those are not matters that belong to the counties. Security issues and matters of foreign relations are of national importance and belong to the national Government.

Even when some of those committees make decisions--- I have contemplated on this and you may need to give me authority. I intend to sue the Senate with its committees in order for it to be declared unconstitutional. They are not constitutional. They cannot be acting on matters

that are properly located in the National Assembly. They have gone to the Supreme Court. We need to be very clear. We are not saying that the Senate has no role on any issues. Their issues are well defined in the Constitution. On the other hand, we are not saying that we are jealous of what they are trying to do. What we are saying is that we should not use taxpayers' money to do work that is supposed to be in the purview of the National Assembly. I am calling upon you, Hon. Speaker, to make a ruling on this matter.

The reason I am very frustrated is that the Ethics and Anti-Corruption Commission (EACC) was invited to come and report on the state of corruption in the counties. You know there is nothing like the state of corruption in the counties. This is a matter that is dealt with by the national Government so that even if there is any corruption-related matter, it will be reported to the Director of Public Prosecutions (DPP). They have no oversight over DPP. The oversight is with this House. So when you invite people just to enjoy yourselves on matters that you have no authority under law---

Hon. Speaker, the Constitution is very clear that every Kenyan must act in accordance with the law. It does not exempt the Senate from acting in accordance with the law. It is a constitutional principle and philosophy and they cannot change it unless they apply to amend the Constitution. But, be that as it is, I am requesting you to make a ruling with regard to this matter. It is very serious. We are wasting too much time of the Cabinet Secretaries going to the Senate and coming to the National Assembly to report on the same matter, in which they have no power at all. I am appealing to you today that you make a ruling regarding this matter, including asking the Cabinet Secretaries not to appear on matters that are irrelevant to any of the Houses. We have not requested governors to appear before us and yet, we have the same Article 125. My Committee has never summoned them although we know that there are some of them who are corrupt and we would have loved to summon them. But we discovered that the governors fall under the purview of the Senate. So, Hon. Speaker, I am requesting that you make a ruling on this matter.

I thank you.

Hon. Speaker: Hon. Members, I thought that after the one week break, we were coming for--- I can see quite a number of interventions.

Leader of the Majority Party, you want to---

Hon. A.B. Duale: I want to go to the Kenya Airways (KQ) issue. Thank you, Hon. Speaker. It is on the same issue. We have a problem with the Senate, but not KQ. That is because Hon. Chepkong'a has dealt with that. If you remember the number of the messages that you have read from the Senate on the Bills that they have sent to us, most of them end up in mediation as provided for in the Constitution. The genesis of the referral to mediation, in my opinion, is based on the Senate not adhering to the principles and functions of each House as provided for in the Constitution.

I want you to rule on Article 109 of the Constitution. If you allow me, I will read some sections of that Article:-

“Any Bill may originate in the National Assembly.” That is Article 109 (2). Article 109 (3) says:-

“A Bill not concerning county government is considered only in the National Assembly, and passed in accordance with Article 122 and the Standing Orders of the National Assembly.” If you go further - and that is where we have a problem and you need to rule on it – ultimately, we might end up seeking the advisory opinion of the Supreme Court. This matter that we are raising

might take the National Assembly or some of us to seek the opinion of the Supreme Court, which is the only body that has that mandate. Article 109 (4) says this, and I want my colleagues to hear:-

“A Bill concerning county government may originate in the National Assembly or the Senate, and is passed in accordance with Articles 110 to 113, Articles 122 and 123 and the Standing Orders of the Houses.”

This is where I have a problem.

Article 109 (5) says:-

“A Bill may be introduced by any member or committee of the relevant House of Parliament, but a money Bill may be introduced only in the National Assembly in accordance with Article 114.”

This is where we have a problem. The question that we need to raise is: Can those Bills that come from the Senate which are of money nature be termed as unconstitutional? The Speaker is under obligation to read any message from the Senate but, when that message is referred to a committee--- When the Senate introduces a Bill which is of money nature, that goes against Article 109(5). Then both Houses can be termed as those which are against the letter and the spirit of the Constitution. So, I want you to rule on how this House and its committees can deal with a Bill that is of money nature and that comes from the Senate, which is against Article 109(5). That is where I have a problem.

Hon. Speaker: Hon. John Mbadi.

Hon. Ng'ongo: Hon. Speaker, it is interesting that, again, this House is discussing something that I would call a relationship between the National Assembly and the Senate. I have said this before and I want to repeat it. It is high time that the people of Kenya engaged on whether we want to make the Senate the Upper House as it should be or what to do with it. The problem that we have is that we have given the Senate, the title “Senate” and yet, we did not make it the Upper House in the Constitution. That is an engagement that if I was Mr. Nyachae, who is responsible for the Commission for the Implementation of the Constitution (CIC), would be holding fora across the country asking Kenyans: “What powers do we need to have in the Senate? Are you happy with the Senate in as far as the powers that it has is concerned?”

Regarding what Hon. Chepkong'a has raised, Article 135 is correct because it gives any House of Parliament the powers to summon any person to appear before it. Any House is neither defined nor limited. Therefore, if you read that Article alone, then Senate is perfectly in order to summon any person. However, the question is when you are overseeing or summoning any officer, there must be a reason. That person is exercising accountability to the summoning authority. That is what then takes you to the responsibility of both Houses because the National Assembly has the responsibility to oversee national revenue. By the way, there is no limit. It does not say that it is only national revenue allocated to national Government and its organ. It is national revenue. Therefore, if you read it that way, then the National Assembly can even oversee money that is allocated to the counties and how it is used. For decency and also to avoid duplication of responsibilities, the National Assembly has elected - which I think is the right way - to restrict itself only to overseeing national Government and its entities.

I was looking at the responsibility of the National Assembly under Article 95(5)(b). It says:-

“The National Assembly -

(b) exercises oversight of State organs.”

Any State organ therefore would be subjected to National Assembly oversight. I take it that KQ therefore being a State organ by virtue that the Government of Kenya is the single largest shareholder, then the National Assembly should oversee it. However, the role of oversight of the Senate that I see in terms of State organs is that it participates in the oversight of State officers by considering and determining any resolution to remove the President or the Deputy President from office in accordance with Article 145. So, the only time that I see the Constitution expressly providing oversight function to the Senate on a national organ or any State officer is that of the office of the President and the Deputy President and it is explicit.

So, I want to conclude by saying that I have no doubt in my mind that any State entity should be overseen by the National Assembly. That should happen for decency. If the two Houses get engaged in the same exercise and they arrive at two different conclusions, it will cause confusion and unnecessary fights between them. I want to conclude from where I begun; that the people of Kenya need to decide to make the Senate the Upper House. I say this with a heavy heart because I see the Senate engaged in a very useful exercise. However, I ask myself whether that exercise should be done by the Senate. I see the Senate going to counties and asking even about furniture bought in offices. I ask myself if the Senate has to leave Nairobi to go to Homa Bay to find out if furniture was bought there. Then why do we pay the 60 something plus Members of the County Assembly (MCAs) that we have in Homa Bay? I ask that question. I see that the Senate is doing a good job. I agree with them. They are confirming that some of the monies have been misused. However, I ask myself: "Why is this country paying almost 2,000 MCAs?" They are supposed to ensure that counties buy the furniture and the roads that are claimed to have been done are done. Therefore, the Senate should exercise a very general oversight responsibility and come up with recommendations in a broad perspective covering more than one county. Specific Public Accounts Committees (PACs) of those counties need to do that. I wonder when the National Assembly will go to the Ministry of Justice, National Cohesion and Constitutional Affairs, for example, to see if a desk was bought there. That would not be tidy for the National Assembly. We rely on what the auditors bring to the National Assembly. We only go to the field to see if it is something that is so serious like the purchase of the Chief Justice's house and it is running into millions and we feel that the price is not right.

As I conclude, the Senate should get some work. I have no doubt that the people of Kenya did not give the Senate enough work. We need to give the Senate enough work and make it the Upper House. By the way, I would not object anyone from making the Senate the Upper House, so that it is clearly distinct as the Upper House and vets whatever we do in the National Assembly. If you leave it the way it is, and I can see some of my colleagues are not happy, at the risk of being misunderstood, as it stands, we have given the Senate a very big name. Elsewhere in the world, the Senate is the Upper House. The people of Kenya made the National Assembly the Upper House and made the Senate the Lower House, which is not found anywhere in the world.

Hon. Langat: Thank you very much, Hon. Speaker. The more we make progress, the more we come back to the same issues. We have a problem with the Senate. Articles 95 and 96 are extremely clear. The main problem which has been causing us to fight is where one House tries to take the mandate of the other House by force.

We fought over the Division of Revenue Bill and sadly, we gave up on it. But that Bill should not even go to the Senate. I am still convinced that we did the wrong thing. That is why we have compromised many times. It is time the Constitution is implemented in the letter and the

spirit in which it is written. Suppose today we formed a Committee called the Devolution Committee and we started inviting governors and county executives, we would cause confusion.

Hon. Speaker, it is fair that you stand your ground because you have our support to ensure that the mandate of the National Assembly is performed by this House and the mandate of the Senate is performed by the Senate. It makes Parliament look bad when the Senate is inviting Kenya Airways (KQ) and the following day, the Committee on Transport, Public Works and Housing of this House is inviting the same Kenya Airways again. The Senate invites the Cabinet Secretary for the National Treasury and the National Assembly is doing the same thing. We look very bad. The moment we do not respect our Constitution on our respective roles, we will continue wasting Kenyan taxpayers' money.

My friend, Hon. Mbadi, is trying to tell us that he wants to make the Senate the upper house. Let us be very honest. This country is over-represented. We need to reduce the level of representation. That is why we are fighting for work. Maybe the work we have is less or some House has less work. We need to convince ourselves that we should have one Parliament in this country. The issue of devolution can be dealt with by a Committee of the House. All the roles of the Senate can be taken up by a Committee of the House, which can be done very perfectly. Devolution is very good, but we are spending so much money in representation instead of sending money to *wananchi*.

Kenyans are tired of being over-represented. Hon. Mbadi should stop telling us that we need to make the Senate the upper house. We are trying to copy the United States of America (USA), which is 50 times bigger than Kenya. When we replicate everything, it is too costly for this country. It is high time we remained truthful to Kenyans and made sure that Senate does its responsibility. If they do not have enough work, they should only request us for more work. But they should not purport to be doing what we are supposed to be doing.

If Hon. Chepkong'a makes his threat real of taking the committees of the Senate to court, I will second him on that.

Hon. Nassir: Thank you very much, Hon. Speaker. I wish to remind my colleagues that Shakespeare once wrote: "A rose by any other name still smells the same". Whether the Senate would wish to be called the Upper House or more Upper House, they are still who they are as per the constitutional guidelines. Even if they wish to be called the house next to heaven, let that be their name. But, ultimately, the role of the Senate is clearly described in the Constitution. Let everyone do their job.

I would have had it in a different manner that through trial and experience, let them come up with a report that will simply be declared null and void. That should be a lesson that they should not interfere in jobs that are not theirs. They should concentrate more on issues to do with the counties. Earlier on when I raised a point of order in terms of Hon. Chepkong'a's remarks, it was more of a point of information or probably for me to be informed. Hon. Chepkong'a used these words:-

"The Treasury, through this House, approved Kshs4.2 billion to be paid to Kenya Airways".

I sit in the Departmental Committee on Finance, Planning and Trade and today, we were deliberating these issues. I do not recall sitting down with the Treasury and approving Kshs4.2 billion to be paid to Kenya Airways.

It is not just the Senate that is trespassing in others people's responsibilities, but the Executive as well. It is trespassing in other institutions' responsibilities. It is our responsibility to

pass budgets. The Government is a 29.8 per cent shareholder of KQ. A total of 26.73 per cent shares belong to KLM in Kenya Airways. The balance is held by private shareholders. When that Kshs4.2 billion was given out, what deal was signed? What was the input? Are we getting extra shares as the Government? Are more shares being liquidated? Has KLM dissolved its shares?

Hon. Speaker, one of the things that we want to seek deliberation with you as well is that the Executive should not hide behind the Standing Orders of Parliament by continuously saying that they cannot appear before committees, and then seek an extension of another term and another. They are hiding behind the shadows of Parliamentary Standing Orders. So, we seek your guidance as well in terms of limiting the timeframe by which Cabinet Secretaries can answer questions. In 2004, Kenya Airways was doing a turnover of Kshs30 billion, made a profit of Kshs2.75 billion and had 1.7 million passengers. In 2015, it is making Kshs110 billion and we are looking at Kshs25 billion in losses despite having 4.2 million passengers. By 2013, Kenya Airways was ranked number four in Sub-Saharan Africa by the seat capacity and yet, we have the audacity to back up. If we continue in this manner and the National Assembly does not take its proper role and responsibility to ensure that action is taken against the individuals who siphon taxpayers' money, then future generations will imagine that for one to be a governor, a member of the national assembly or a senator, he or she has to steal money from Kenyans.

Hon. Speaker: Hon. Kamanda.

Hon. Kamanda: Thank you, Hon. Speaker. First, I want to thank the Chairperson of the Departmental Committee on Justice and Legal Affairs, Hon. Chepkong'a. We were debating with him this afternoon on who will raise this matter, and I allowed him to do so. This is an issue that has happened many times. The Senate has duplicated the work of this House, not just the Departmental Committee on Transport, Public Works and Housing. They have duplicated the work of 23 committees that we have in this House and they do not even have enough members to sit on those committees.

The most frustrated people are the Cabinet Secretaries (CSs). You will find that the issues that are being raised by the committees of this House are also raised by the Senate. On this matter, we started handling it as the Departmental Committee on Transport, Public Works and Housing of this House, and then the Senate also picked it up. It is only that we did not want Kenyans out there to see the two Houses of Parliament fighting. However, Hon. Speaker, this is an issue that we want you to use your wisdom and the law so that you can interpret the law to the Senate.

On this matter, I have talked to the Cabinet Secretaries of the National Treasury and Transport and Infrastructure. Each time that they are supposed to appear before my committee, they are invited by the Senate. You find that they are in a very awkward position. I also want to support what Hon. Chepkong'a has said here. If they give that report, how will it be implemented? We want to be guided on this matter so that one committee of the House can be left alone to deliberate and come up with a concrete recommendation to this House.

Hon. Speaker: Hon. Members, all that I want to be addressed on are the issues raised about mandates. As you know, some time back in 2013, I made a ruling on the matter of jurisdiction. Now that it is coming up again, perhaps, we may need to revisit it and see what it is we can do, if only to help Kenyans understand that we are not keen on the business of unnecessary expenditure, doing the job which can be done by one arm or committee. Hon. Kaluma.

Hon. Kaluma: Thank you, Hon. Speaker. On this matter, I have a different opinion from my colleagues. I beg to differ.

My reading of Article 93 of the Constitution is that there is one Parliament established by the people of Kenya. The Senate and the National Assembly, with greatest respect to my colleagues, are Houses of Parliament. In fact, in law, we do not have an Act of the Senate or an Act of the National Assembly; we have Acts of Parliament. I was going to request that where we have a situation, in fact in good order going by that fact, it would have been necessary that all the laws that we pass through this Parliament should not be referred to as Acts of the National Assembly but properly as Acts of Parliament, even if for salutation purposes, that they pass through the Upper House in the Senate.

That said, it is not difficult for us to decide what to do and what not to. An impression is being given that the National Assembly and the Senate are fighting for work. This House already has too much to do. I would request Members of the National Assembly, my colleagues in this House, to consider how much we have to do in terms of Article 95 and check whether we can exhaust doing what is given to us as our functions under Article 95.

Admittedly, the limits of the Senate's powers under Article 96 are very narrow. When they jump into a domain we consider ours, like dealing with this matter of Kenya Airways (KQ) and others--- Whether or not we may be insisting on strict division of roles and functions, it cannot happen in some spheres of life. Whether we like it or not, Kenya Airways will leave Nairobi and perch somewhere in Kisumu County. It will fly over counties wherever it is going before it leaves this country and within. If we were to dove-tail functions in that strict and rigid manner that my colleagues are proposing, we will have a situation in which this Senate, that is already crying, will not have any functions. It is going to be a totally useless House. Let us allow them. We are over-burdened by work even before clarity is brought to bear on the Constitution.

If they jump to transport, the decent position we can take as the leadership of the nation, as the Parliament of Kenya together with the Senate, is to let them do that which they are doing. That does not limit our interventions if we want to intervene. We need to insist that when they deal with a national issue like the matter that they are now treating, let them submit their report to us also as the National Assembly to look at it. That is not to say that if they encroach on the leadership of the nation, we should not stop them.

As I conclude, we need to defer a lot. We already have so much power. The Constitution is clear. It is not in the mind of any Kenyan that in terms of functions, roles and status, we are up there. When we have a joint sitting, our Speaker, yourself, presides over that sitting. That says something about the hierarchy of these two Houses of Parliament. In our communications as Parliament, you speak on behalf of the entire Parliament and not just the Senate or the National Assembly only. This is so clear. If there is a power vacuum in the country and we are praying it does not happen--- I would be personally glad as a Member of this House, if there were to be a power vacuum up there, so that you take over the reins of the leadership of the country for the moment as the Constitution stipulates.

We already have so much. Let us allow Senators to do that which can engage them even if it means counting seats in the county assemblies, as Hon. Mbadi was saying. Remember the issues the Senate is dealing with are not the issues the Members of the County Assemblies (MCAs) want to deal with. In most cases, they are even complicit like those ones Hon. Khalwale was talking about. If we do not have a House of Parliament intervening down there at times, then we will not be able to do the oversight role that we are talking about. I would request that we

respect the Senate, in as much as it has limited functions or roles, and see how to amend the law to make the Senate the Upper House, as is the case with other proper democracies.

(Laughter)

Hon. Speaker: Hon. Members, the matters are very clear. It is not complicated. I am very clear in my mind. The roles are very clear. Why do we not go into business? I will do a communication. I am sure it is possible. I will hear from one person on this end and another one from the other end. I now have to defer to gender. Hon. Amina Abdalla.

Hon. (Ms.) Abdalla: Thank you, Hon. Speaker. As you said, the matters that have been canvassed so far, with the exception of Hon. Kaluma---

Hon. Speaker: Hon. Amina Abdalla, just one second. Let me recognise the presence of the following institutions:-

Pupils from Sony Sugar Complex Primary School from Migori County, Awendo Constituency.

Hon. Speaker: Pupils from Qubba Muslim Primary School from Mvita Constituency, Mombasa County.

(Applause)

We also have pupils from A.I.C Cheribis from Emgen Constituency, Nandi County, Lamb Lighter School from Kiminini Constituency, Trans Nzoia County, and Cheptuku from Hamisi Constituency, Vihiga County.

You are all welcomed to the National Assembly.

Proceed Hon. (Ms.) Abdalla.

Hon. (Ms.) Abdalla: Thank you, Hon. Speaker. As I was saying, the matters have been canvassed as you have clearly stated, and I should not take as much time as they have. I concur with what has been stated by my colleagues, except for the views held by Hon. Kaluma. As you know, Hon. Kaluma is used to not agreeing with the rest of mankind.

(Laughter)

Having said that, there is a matter that is really disturbing me - the request by Hon. Chepkong'a asking you to rule on whether the Senate should be allowed to deal with these things. He stated that the Senate is involving itself in matters they have no jurisdiction on. You have ruled many times on the clarity of Article 95 and 96 of the Constitution, but it seems not to be getting through to our colleagues on the other side. Therefore, ruling again would be doing exactly what the Senate is doing with Kenya Airways (KQ). To take up the suggestion by Hon. Chepkong'a - although he had it as a by the way - that it is probably time we take these matters to court to be interpreted for rather than burden you with rulings that will not be binding to the Senate and yet they have no plans of doing that. We must be sympathetic to the fact that those guys are suffering as they do not have work. They need to create work. Unless they are stopped by looking for a way out - and I do not mean a ruling from you which they will not respect. As a House, I suggest we do not go looking for opinions that are not binding. We should look for a clear cut ruling of the Senate role and ours. We do not have to do these rulings just as what they

are doing with KQ. They will recommend everything and anything but nothing will happen unless a Committee of this House decides they want to share the same recommendations. I would like to urge Hon. Chepkong'a not to ask you to do exactly what the Senate is doing, by issuing a ruling that will not make an impact.

With those remarks, I want to thank you for giving me this opportunity.

Hon. Speaker: Hon. Chris Wamalwa.

(Hon. Aden raised his hand)

Member for Balambala, if you do not speak, it is not that the House has not spoken. Do not gestulate as though you are so upset. You will contribute on something else.

Hon. Wakhungu: Thank you, Hon. Speaker. What my colleagues have said is true. My issue is this: This is a bicameral system and we must have tolerance. What Hon. Chepkong'a has raised is a critical issue. We cannot waste time calling witnesses and yet, we have no solution, notwithstanding Article 125 of the Constitution where the Senate can call anybody. Article 96 of the Constitution is clear in terms of the roles of the Senate. It is time we examined and see the value of the Senate. Some time back, the Chair of the Budget and Appropriations Committee had an audit on the Constitution. With such critical issues where there is overlapping, it is time this report should come to the floor of the House. Then it can bring progress in terms of the amendment of the Constitution.

Hon. Speaker, before I move on, Lamb Lighter is from my constituency and I would like to take this opportunity to welcome them to the National Assembly. I am their Member of Parliament. I did not know they are here but I am happy.

Some time back, I was watching the National TV and I do not know whether my fellow colleagues saw this. A respected Member of the Senate was on national TV and he was abusing this House as a House of fools. I do not know whether it is within your jurisdiction because we need to respect each other. It reminds me that some time back, there was an hon. Member of the National Assembly who was on TV and the matter was brought on the Floor of the House. We discussed about this. I listened with my small children as that hon. Member was referring to this House as a House of fools. In your ruling - and I do not know whether you have any jurisdiction or what should we do? We must respect each other. As far as I am concerned, if you look at the roles of the Senate, if they do not have work and if we do a cost benefit analysis, then we do not need to have it. We should move and abolish it so that we can have one Parliament. When we implement the Constitution, there are teething problems that will emerge and you will not know. If you note, the majority of the people in the Senate were at the critical level as far as making this Constitution was concerned. They should have known and anticipated this. Now that we have implemented the Constitution, we are seeing emerging problems. It is high time we brought a constitutional amendment to know whether the Senate should be there or abolished. It has happened in other areas. We should not burry our heads in the sand. This thing is recurring. What happened to the Division of Revenue Bill? Many issues were there. As we go to the Supreme Court, if that is the way forward, we must look for a solution. When it comes to legislation, the issue of mediation is taking forever. For instance, I brought a Bill on Fertilizer which was to contribute towards food security. It went through mediation but it has taken two years. So, do we need the Senate? We need to know. It came last year and up to now, we are still going through the mediation since the very first time because of having a bicameral system. In the Presidential

system, we need to note that this is a budget-making House and for the KQ to go to the Senate does not make any sense. Their issues have financial implications and, if they need a grant, it has to be approved in this House. It will not be approved in the Senate. There is no point of wasting time going to a House that cannot provide a solution. It is important for the Government agencies and companies to be given notices to know that if it is something of irrelevance, they should not honour their summons. Whatever is important for this Parliament must be carried out in the National Assembly.

Thank you, Hon. Speaker.

Hon. Speaker: Hon. Members, I think that is sufficient. As you contribute, it is important to bear in mind that matters to do with the interpretation of the Constitution are clearly provided for in Article 165 of the Constitution. That is if you want an interpretation but not an opinion. I think Hon. Kaluma has proposed something about Article 165. We do not need to go the route of seeking opinions. If you want a proper interpretation, you know where to go. You know who is vested with the power to interpret. That power is in Article 165 and is vested in the High Court. For that reason, the High Court has considered the famous opinion of 2012 on the implementation of Article 100. It is fair that we take the correct route. Let us stop this one at that point. Perhaps, one of the other ways of looking at it is not necessarily appearing to superintend or please any other House. Perhaps, the best thing would be consultations. There is need for consultations between the leadership of this House and the other House so that some of the issues that you have raised can be addressed with a view to also saving Kenyans unnecessary expenses. It looks like unless that happens, we will find ourselves duplicating and you do not know where some of those reports will be taken.

When you look at Article 96(2) of the Constitution, it also tells you that the other House participates in law making. The choice of the word “participates”--- Hon. John Mbadi was an active Member in the last Parliament. All of you decided to use that word “participates”. The Senate participates in the law making function of Parliament. It participates in considering Bills that concern counties but, they participate. Anyhow, I am not saying anything for now but, it is very telling. It is very telling but, of course, Kenyans are at liberty to take whatever decisions they want to take. For us, I would want to take the route of doing consultations so that we see whether we can try to resolve some of these emerging difficulties or differences.

Can we go to the next Order?

BILLS

Third Reading

THE COMPANIES BILL

Hon. Speaker: Hon. Members, from the records, consideration of this Bill was completed. What remains is for the Question to be put.

(Question put and agreed to)

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

Hon. Speaker: Next Order.

First Readings

THE KENYA REGIMENT (TERRITORIAL FORCE) (REPEAL) BILL
THE MAGISTRATES' COURTS BILL
THE KENYA DEFENCE FORCES (AMENDMENT) BILL

Hon. Nuh: On a point of order.

Hon. Speaker: Hon. Junet, what is your point of order?

Hon. Nuh: Thank you, Hon. Speaker. I wanted to indulge you on this Bill that has just been tabled. I want to draw your attention and also seek your ruling on certain aspects of the Bill before it is brought for the Second Reading, so that you can look at it and enlighten us.

Hon. Speaker: I want to invite Hon. Junet to look at our Standing Orders again. When you say that you are inviting me and drawing my attention, to what?

A Bill being read for the First Time without Question put is referred to the relevant Committee of the House. So, until that Committee brings in a report, you cannot properly invite me to look at it. If it is, indeed, necessary, remember Article 122 says I have no vote. So, I do not even see why I need to look at it save only if it raises issues of constitutionality or otherwise.

Hon. Nuh: Hon. Speaker, it is issues of---

Hon. Speaker: Not at this stage. You will be at liberty then. You are talking about which one? Under Order No.9?

Hon. Nuh: Order No.10.

Hon. Speaker: The Magistrates' Courts Bill?

Hon. Nuh: No. It is Order No.11.

Hon. Speaker: The Kenya Defence Forces (Amendment) Bill?

Hon. Nuh: Yes, Hon. Speaker. There are some constitutional issues I want to raise.

Hon. Speaker: No. You cannot raise it at the stage of First Reading. You will be perfectly in order to raise whatever constitutional issues during the Second Reading. If you require my intervention at that point, I will be amenable to whatever proposals you have. But now, it goes straight to the Committee. It may actually be that the Committee may be in agreement with you so that, perhaps, there may be no need to take the unusual step of violating our own Standing Orders at this time.

*(Orders for First Readings read - Read the First Time and
ordered to be referred to the relevant Departmental Committees)*

Hon. Speaker: Hon. Members, the business appearing as Order No.12 which was supposed to be Committee of the Whole House is taken out because amendments have not been processed. That is why you there are none attached to the Order Paper. Therefore, in order to give all Members and the Committee time to put the amendments forward, that business is taken out.

At the request of the Departmental Committee on Finance, Planning and Trade and in agreement - they have agreed with the Leader of the Majority Party who is the Mover of the Bill appearing as Order No.13 - the business to be transacted next should be the Finance Bill. This is

so that if the House concludes the consideration of the Finance Bill, then it can go to the Business Registration Bill.

That will be the order. It is just to rearrange for purposes of convenience of the House. Remember there are certain constitutional requirements about the Finance Bill. It is just done for that purpose so that the House can begin consideration of the Finance Bill.

Next Order.

Second Reading

THE FINANCE BILL

Hon. Speaker: Hon. Langat.

Hon. Langat: Hon. Speaker, I beg to move that the Finance Bill be now read a Second Time.

First of all, I want to thank my colleagues in the Departmental Committee on Finance, Planning and Trade for the Sittings we have had to discuss the Finance Bill. As the House may recall, this Bill was submitted to Parliament on 11th June 2015 during the occasion of the presentation of the Fiscal Year 2015/2016 highlights of the Annual Estimates. The Bill has a timeline of three months from the date of approval of the Appropriations Bill in which Parliament must approve it. You can easily look at it and see that time is almost expiring.

The Finance Bill is enacted every year to update or bring the current tax and financial sector laws up to speed considering the challenges which have been experienced by the implementers of the financial sector laws. This is one of the annual Bills that we normally pass in this House.

The present Bill has made proposals to amend three major laws. One is the Value Added Tax (VAT) Act, 2013, the Income Tax Act, and Miscellaneous Amendments, that is, amendments touching on various financial sector laws. This Bill mainly touches on the Insurance Act and the Banking Act with respect to capital requirements.

I want to inform the House that Part I of the Bill deals with VAT. Under the VAT proposals, the Bill seeks to bring - under exemptions and zero rating - some of the items. It also seeks to address some of the implementation issues. Before I even go to exemptions, the Bill has brought in the concept of duty free shops, where it seeks to zero-rate all the sales under the duty free shops in our airports. The definition of duty free shop has been given under Clause 2 in order to bring the zero-rating of the sales at the duty free shops.

Specifically, Clause 4 of the Bill intends to amend Section 25(a) of the VAT Act to allow the Kenya Revenue Authority (KRA) to appoint other agents other than Ministries, Departments and agencies (MDAs), to withhold 6 per cent of VAT payable at the time of paying for the supplies and remit to the Authority. In the Finance Bill of last year this House approved a proposal that when the Government agencies are paying suppliers, they do not pay all the VAT to the supplier. They withhold 6 per cent of that VAT. That time we restricted that withholding to Government agencies, but this Bill seeks to include other agencies that can also withhold the 6 per cent. Initially they used to withhold 16 per cent, but this Bill says that KRA can, for example, appoint Kenya Breweries to be part of the agencies to withhold 6 per cent of VAT and remit it to KRA. In addition to resolving the issue of refunds, it also assists in knowing which payers have received payments with VAT and it is possible to tell those who are supposed to file returns to KRA because they have already been submitted by the person who withheld the VAT. It will

also reduce the refunds. We were informed that research has been done and mainly when you do the output and input VAT, what usually remains is around 6 per cent. So, this will be about the net amount that the Government needs to get from VAT payers.

The other proposal is previously those who were supposed to get VAT refunds from KRA on zero-rated items could lodge claims at any time after the VAT is paid. But this Bill seeks to restrict that by providing that anyone seeking a refund from KRA must do so within 12 months. This is also very good for the Government to be certain about which claims are coming. If you leave it open-ended, the Government will be waiting and after five years, someone will come to claim that some money is due to them. So, the issue of VAT refunds claims is now restricted so that one must claim within 12 months. Otherwise, the Government will have a timeless wait for people to come and claim.

On the exemptions, Clause 5 proposes to amend the First Schedule which deals with exemptions of the VAT Act exempt supplies. Some of the items that are now included in the exemptions list are aircraft parts, aid-funded supplies so that if we have a project which is funded by a foreign country or a donor, we do not ask them to pay VAT. What has been happening is that when you ask them to pay VAT, they say they have to get exemption or a waiver. We are now saying that by law, if it is a foreign-funded project, then you give it an exemption. It will ease the way the implementation of those projects will happen. The other exemptions which are proposed are goods imported for the Kenya Film Commission (KFC). Nigerian movies have been dominating our TV stations. It is a step in the right direction to bring Kenya local content. Local content must be encouraged and the way to do that is to ensure that those items used by our actors are exempted from VAT. We do not want to see Nigerian movies from morning to evening. We also want to give our youth a benefit so that they are able to come in and improve local content in our television programming. That is why we are saying that goods and services imported for KFC be exempted.

We had promised our children laptops. The Bill is proposing to exempt parts which are imported or manufactured locally for the purposes of manufacturing laptops to supply school laptops. This is to ensure that most of our schools get cheaper laptops and computers. It is proposed that we exempt parts which are used to manufacture those laptops. We even need to say even the computers that go to school should be exempted so that we increase accessibility of computers in our schools.

On zero-rating, there are a few items which have been brought on board. One is purchases from duty-free shops. That is like an export for those who are departing. Two, supply of taxable services in respect of goods on transit. We have zero-rated export goods, but when you look at the services which help to export those goods, they are not zero-rated. For example, the services like the trucks that transport fuel from Kenya to Uganda---

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

Hon. Speaker: Just one minute. There is a point of order from Hon. Nyamweya.

Hon. Nyamweya: Thank you, Hon. Speaker. I do not intend to interrupt my good friend as he is moving the Bill. However, my concern is that this is a very important Bill that we are discussing and it involves money. But the Committee has not tabled its report. I do not know whether there is a section of the Standing Orders that allow them to do so. This is a very crucial Bill in the National Assembly for us to understand what they have discussed and what they have come up with so that we debate from an informed position. I ask you, Hon. Speaker, to look at it

and give a direction on that. It is very critical for us. This is a big thing for us to discuss. I have taken my time and gone to Room 8 and checked with the Table Office but the report is not there.

Thank you, Hon. Speaker.

Hon. Speaker: Maybe Hon. Langat can respond to that, but the absence of the Report is no bar to debate. I hope we are clear about that; I agree with you that the Finance Bill is an important piece of legislation.

Hon. Langat: Hon. Speaker, he is actually correct. We have finalised the Report. It is only pending for approval. When you read the Standing Order, it does not affect the moving of the Second Reading. The Standing Order has a provision that the Second Reading can proceed before the report is tabled. So, he is correct but I am also saying that it does not affect the moving of the Second Reading. It can proceed pending the tabling of the report, which I will do tomorrow because it is ready. We have just come from stakeholders consultations in Mombasa. My clerk tells me that it is ready. What remains is the approval process by your office, which, I think, will be done today.

Can I proceed, Hon. Speaker.

Hon. Speaker: Yes proceed. The Bill was not published yesterday. It was published in June. So, I expect that even if there is a report or not, it does not mean that somebody with the background of Hon. Manson Nyamweya cannot contribute to this Bill and several others. Proceed.

Hon. Langat: Thank you, Hon. Speaker.

I was on zero-rated supplies which have been brought. I was talking of goods on transit and importation of right-hand vehicles by returning residents who have disposed of the left-hand ones. You remember that when the Cabinet Secretary was in the House, he said that there were so many of our people who live in the USA and other countries who have left-hand drive vehicles. They have a problem when they come to Kenya because we do not accept left-hand driven vehicles. It is now proposed in this provision that you are now allowed to sell whatever vehicle you have and then buy a right-hand vehicle in Kenya and you are exempted from paying VAT on that account, because it is not your wish. It is just the change of country that has affected you otherwise you would have continued wherever you were. This proposal is to help Kenyans from abroad to dispose of left-hand vehicles and buy vehicles that are accepted in Kenya, and be exempted from paying VAT. That is what the proposal says.

I am now going to move to proposals on Income Tax. I have mainly mentioned the VAT. Under the proposals for Income Tax, there is a proposal to introduce Residential Rental Income Tax for those with a rental income below Kshs10 million. There is also a provision to give amnesty to those who have not been paying for the last two years. Unfortunately, there is an omission in the Bill. They did not indicate the rate. When the Cabinet Secretary was in the House, he said the rate is 12 per cent. We are going to correct that anomaly in the omission of the rate; there is a proposal for introducing a Rental Income Tax Act for those who get a rental income of Kshs10 million and below at the rate that was mentioned, although it is not in the Bill.

It is proposed that that tax will be the final, so that you pay 12 per cent of the rental income to the Kenya Revenue Authority (KRA). You are not expected to continue getting invoices for expenditure. From an administrative point of view, it is an easier way. Even from the perspective of those who are paying taxes, it is very easy because you only need to know your income, then you use the rate to pay.

I also want to inform Members that the rate I am talking about is just a proposal. We may come up with proposals to reduce or increase the rate. For now, it is proposed that there is a tax of 12 per cent for those earning Kshs10 million and below. If you are earning more, the other provision, which is in the Income Tax Act now, will come into play. This means you get your total income, get your expenses and then you are taxed at 30 per cent of the profit. For the small taxpayers, it will be an easier way of administering their taxes. From an administrative point of view, I support this.

Clause 10 proposes to amend section 15 of the Income Tax Act in order to extend carrying forward of losses from five years to 10 years. There are companies whose businesses naturally start making profits long after their investment. They report losses for the first year, second year and third year. This proposal says that you can carry forward your losses until you make a profit, say after 10 years, and then claim the losses after the 10 years. It is an improvement to the taxpayer, because you have a longer period to claim your losses from the income that you will get after say 10 or 20 years from now. That is a good incentive to the taxpayers.

Clause 11 proposes to remove tax with respect to securities from Capital Gains Tax and subject to withholding tax. Last year, we passed a law in which we introduced the Capital Gains Tax. Subsequently, I believe some of us have been reading the papers, and know that those in the Capital Markets Authority (CMA) and dealing with shares had a problem in implementing the law. In order to address those implementation challenges, there is a proposal to remove the Capital Gains Tax and introduce a withholding tax at a rate of 0.3 per cent of the gross amount payable. Again, it is easier to administer, instead of computing gains as sales minus cost, which has been an issue.

There is a big debate even in the real estate on how to compute the gains. These are things we have to be looking at. For example, we have somebody who bought property 20 or 30 years ago. Some of the gains we are talking about are because of inflation and so on. You bought a property at Kshs20 million 20 years ago, and now you are selling it at Kshs300 million. If you are to use the Capital Gains Tax formula, you are supposed to subtract Kshs20 million from Kshs300 million. You will pay dearly. There are proposals to see how we can adjust for inflation, or come up with a better way to ensure you are taxed on the real gain and not for inflation. On shares, the proposal seeks to do away with the Capital Gains Tax and introduce a 0.3 per cent rate on the price.

Clause 12 of the Bill intends to exempt film actors and crew members from withholding tax in respect of appearance or performance. We watch Nigerian movies everyday and South American movies almost 60 per cent of the time. There is an attempt to ensure that we improve our local acting and movies in order to improve the local content. This is an effort from the tax perspective. Of course, I know that the Government is doing other things to encourage local actors.

There is a proposal for Section 39 of the Income Tax Act to be amended to give tax rebates to all companies which engage 10 or more fresh graduates as apprentices. This is again to encourage companies to recruit our local graduates. They will be given a tax rebate for engaging 10 youths for a period of, at least, six to 12 months. It is proposed that if you engage 10 or more, you will be given a tax rebate. This will encourage local companies to recruit our youths and give them a base to start their careers. This is a very good proposal for our graduates.

Hon. Speaker, Clause 16 amends the First Schedule of the Income Tax Act in order to grant tax exemption on transfer of land below Kshs3 million. The Income Tax Act used to give tax exemption on transfer of land up to the value of Kshs30,000. I do not think there is land worth Kshs30, 000 in Kenya today. The law provided for a value of Kshs30,000 for exemption. We all live in Kenya and know that the value of land has gone up very much and we need to adjust to the times. This proposal seeks to increase that value from Kshs30,000 to Kshs3 million, so that if you are transferring land worth between Kshs0 and Kshs3 million, then you are exempted from the transfer taxes. Again, this is Kenyan friendly, especially to those of us who come from the rural areas.

I want to warn the House that there is a proposal for the KRA to tax compensation when the Government takes over land from a person for infrastructure. For example, when they are doing roads, one is compensated and then Government wants to tax the compensation. I come to this House with an open mind, ears and eyes, and I will listen to what the Members have to say. You are telling somebody to leave his land to the Government to construct a road and then you have to tax the money that you pay the individual as compensation. This is something that we will reconsider at the Committee Stage. Last time, it came but we rejected it at the Committee Stage. This time round, we may have changed our views, but it is still there. That is just to inform hon. Members.

I want to go to the miscellaneous sections, which amend the various financial sector laws. I have done the VAT and the Income Tax. You will not see Excise Duty in this Bill this time round because we have before this House a new Excise Duty Bill. It has been tabled and is due for the Second Reading. You will not find any proposals regarding Excise Duty in this Finance Bill because we have an Excise Duty Bill on its own.

Under the miscellaneous amendments to the various laws, Clause 21 intends to amend the Stamp Duty Act. One of the provisions under the Miscellaneous Stamp Duty Act is proposed for amendment for us to exempt transfers under real estate investment and Trusts from paying Stamp Duty. This is a new investment vehicle, where people can come together. Stamp Duty is exempted, so that we can encourage people to come together to invest in real estate, make money and provide housing to Kenyans.

Two, Sections 22 to 33 intend to amend the Insurance Act, so as to transfer some functions by amending the Schedule to the Insurance Regulatory Authority Act, which have to be performed by the Cabinet Secretary, the National Treasury. It is also to streamline the registration of insurance agents and the provision on minimal capital requirement. Registration of insurance agents has been done by insurance companies. The proposal here is to remove that proposal and make it the business of the Insurance Regulatory Authority to register insurance agents, so that we do not have insurance companies refusing to register some people. Let us give it to the regulator. It is the business of the agents now to go and look for business from these operators.

Under the capital requirements - I want the Members to listen to these proposals - there is a proposal to increase as follows:-

1. In the case of general insurance business, there is a proposal to increase to Kshs600 million from the current Kshs300 million or risk base capital determination or 20 per cent of net premium of the preceding financial year. So, it is a proposal to double the capital.
2. For the general insurance, in case of long-term insurance business, increase to Kshs400 million or risk base capital determination or five years of the liability of life business for

the financial year. Again, this is almost doubling up. In case of the general reinsurance business, it is proposed to be moved to Kshs1 billion from the current Kshs500 million or risk base capital determination or 20 per cent of the net earned premium of the preceding financial year.

3. In case of long-term reinsurance business, it is the high of Kshs500 million or base capital determination or five per cent of liability of business for the financial year.

Hon. Speaker, those are for the insurance sector. Again, there are good reasons for that. We need to have our insurance companies stronger. They need to be able to meet their liabilities. They can only do that when they are very strong.

Clauses 32 to 43 propose amendments to the Banking Act in order to streamline licensing of banking institutions and to transition from the Deposit Protection Fund Board to the newly established Kenya Deposit Insurance Corporation. Again, this is a provision on minimum core capital requirements for banks. So, there is a proposal that the core capitals of banks should be increased as follows:-

(Loud consultation)

An Hon. Member: Summarise!

Hon. Langat: I am finalising now and I am within my time. You should relax.

This is proposed to be increased from Kshs1 billion to Kshs2 billion by 31st December, 2016, move to Kshs3.5 billion by 31st December 2017 and to Kshs5 billion by 31st December 2018.

The Road Maintenance Levy Fund is also proposed to be amended, so that some money from it can go to the Road Annuity Fund that is established under the Public Finance Management Act, Section 44. Part of the Road Maintenance Levy, in particular Kshs3 per litre, will go to the Road Annuity Fund.

There is a proposal to amend the Retirement Benefits Act to reduce the period for submitting audited accounts from six months to three months. Those concerned must audit their accounts within a shorter time. They must submit audited accounts within three months as opposed to six months, which was previously the case. Those are the main proposals. We have engaged with the stakeholders as I said earlier on, and my Committee will be bringing some amendments when we agree with the stakeholders at the relevant stage. I will be listening to what the House has to say; we want to make it a smooth process.

With those few remarks, I beg to move. I want to request my Vice-Chairman to second. I request the Members to support the Finance Bill and even if there is one or two issues, we will sort them out at the relevant stage.

Hon. Speaker: Hon. Gaichuhie.

Hon. Gaichuhie: Thank you, hon. Speaker. I stand to second this Finance Bill that has been ably moved by my Committee Chairman. Hon. Speaker, the purpose of this Bill is just to legalise the proposals that were announced in the Budget for the 2015/2016 Financial Year. There are a few things in it that I want to appreciate. There is this removal of duty for people who import vehicles that have been in countries that allow left-hand drive cars. We want to propose an amendment; the Bill says that the vehicle you buy to replace the one that was a left-hand drive should be of the same year of manufacture. Somebody in this country could be driving a car that is more than eight years old. When you are told to exchange that with a right-

hand drive car and you are required to purchase a vehicle that is of the same year of manufacture, it is something that we need to amend, so that somebody can buy the latest model.

I also support the proposal that once you have land and you partner with a developer, you do not have to pay Stamp Duty because you will become a partner. Those are the few good things that are in the Bill.

The requirement for increase of the capital base of the banks is something we have left open for anybody to come with amendments, because we do not think the economy is developing in double digits. If there are amendments which can be supported, the Departmental Committee on Finance is ready to take them up.

I also support the proposal that the insurance companies should keep total assets that are not less than the admitted liabilities. This is because we have seen very many insurance companies going under when they had a small capital asset base and their liabilities were more. I also support the proposal that any investment that the insurance companies make should be according to the investment guidelines. This is because some insurance companies invest in areas where the investment is liquid and they are not able to meet their liabilities. These liabilities make them go under and make people suffer losses.

The Road Maintenance Levy, which has been increased by Kshs3 to expand our roads, is also a good proposal because infrastructure in this country is something that should be taken care of. Since I have seen very many Members interested in contributing, I second.

Thank you, hon. Speaker.

(Hon. Musimba stood on a gangway)

Hon. Speaker: Member for Kibwezi West.

Hon. Musimba: Where the sun sets.

Hon. Speaker: I have no idea where the sun sets in Kibwezi. The sun does not set in Kibwezi. It sets somewhere else in the west.

(Laughter)

(Question proposed)

Hon. Speaker: Hon. Ichung'wah.

Hon. Ichung'wah: Thank you, hon. Speaker. I wish to take this opportunity to thank the Chairman of the Departmental Committee on Finance, Planning and Trade. We were rushing him to finish because we have gone through the Bill. When we go to the Committee Stage, I will be among those Members who will propose amendments to this Bill. I will begin with the issue of gas cylinders. Over the years, we have had people using kerosene and firewood in this country. To a great extent, that is detrimental not just to our environment but also to the health of our own people, who use firewood and kerosene as fuel for cooking. Therefore, as a House, we must act decisively to ensure that the question of cooking gas being affordable to many of our residents becomes a reality.

This is because we have taken tax measures and other measures in this country to try and reduce the cost of cooking gas. However, so long as gas cylinders remain unaffordable, I believe that cooking gas will continue to be unaffordable to the majority of our people. Many of our

people, including those from hon. John Mbadi's constituency in Suba, are still to a large extent depending on kerosene stoves. A huge number of our rural population depend on firewood, including our own schools. As Members of Parliament, we know the challenges we encounter in our schools when trying to get firewood. We must encourage our people to change to cooking gas, which is green energy that is not detrimental to the environment and the health of our people. I will, therefore, propose amendments that will touch on Value Added Tax (VAT) on gas cylinders.

It is also very important to look at the question of who refills gas cylinders. This is because in the past, the big multinationals operating in this country have monopolised this industry and they operate in a cartel-like arrangement. Because of the cost of gas cylinders, people are not able to refill. There are very many independent refillers of gas cylinders who can refill even those gas cylinders of the multinationals. If they were allowed to refill all gas cylinders, I believe this would again create better competition in the industry and bring the price of cooking gas down.

If you go to the part on the Insurance Act, there are proposals to bring regulations that will make the Commissioner of Insurance take the function of doing regulations away from the Cabinet Secretary (CS). As with all other departments in this country, it is the CS who should be gazetting regulations. Again, I will move an amendment to that effect so that we remove the proposal to give the Commissioner of Insurance powers to do regulations in the insurance industry and give them to the CS.

On page 1927 of the Bill there is a proposal which says: "The Minister may, by notice in the Gazette, prescribe rules for the better carrying out of the provisions of this section." Again, I want to point out to this House that this is, indeed, very mischievous. Chair of the Departmental Committee on Finance, Planning and Trade, this may be something that you can look at as a Committee at the Committee Stage. It is mischievous to the extent that the use of the word "rules" instead of "regulations" is probably designed to ensure that you circumvent the issue of the regulations having to come to this House to have the force of law. Therefore, I may want to bring an amendment to change that from the word "rules" to "regulations," so that we ensure that we are not only consistent in how we gazette regulations but also make sure that any regulations that have the effect of law come to this House for ratification.

I have heard the new Central Bank of Kenya (CBK) Governor speak on the issue of doubling, or increasing the minimum, capital for commercial banks. Again, as important as this may be, probably the banking sector in this country is one of the best regulated. I heard the CBK Governor speak against increment of this minimum capital for banks. In the interest of ensuring that our unbanked population is banked, we must encourage the growth of small banks. If we were to double the minimum capital for all commercial banks, we would be driving further away the unbanked population from banking services. I will beg to look at the insurance industry again because it is one of the most sensitive in the financial sector. Insurance companies are the ones that require a heavy capital investment because of their inability at times to settle claims.

I will again look for an opportunity to move an amendment to maintain the capital base of commercial banks where it is, and increase the capital base of insurance companies. If you are in the insurance industry, you must be clear whether you want to operate as an underwriter, an agent or a broker. We should not have a situation where agents and brokers in this country are midwived as brokers and agents in preparation to getting into the industry as underwriters. This is the situation; having worked in the insurance industry, I know that brokers and agents in this

country withhold a lot of premium money that should be paid to underwriters, because they want to raise capital and benefit from holding peoples' money. That is why many underwriters cannot settle claims. They do this and invest this money to make money, raise capital and turn insurance agencies and brokerages into underwriters. You must decide from the word go, if you want to be an underwriter, pool capital together even as brokers and agents and be able to get into the underwriting business. I have never been in support of the question of doubling the capital requirements for underwriters in this country.

With that, I beg to support and wait for the appropriate time to move amendments.

Thank you.

Hon. Ng'ongo: (*Off record*)

Hon. Speaker: Hon. John Mbadi, this is the Floor of the National Assembly, not a party caucus. It is different. Hon. John Mbadi is doing his second term; I know he knows the rules.

Hon. Aden: Thank you, Hon. Speaker. I wish to take this opportunity to support this very important Bill, which will help us implement some of the issues that were raised during the budgeting process.

From the outset, I want to say that there are quite a number of progressive clauses in this particular Bill. The first one is that on Kenya Revenue Authority (KRA) for appointing agents to collect Value Added Tax (VAT). It is something that we have not seen in Kenya before. It will be unique and good. It will widen the ability for KRA to widen its tax net and bring in taxes at source as opposed to waiting for the people to remit taxes. That is very important. But I want to say as a word of caution, we have to be very careful with which companies, or entities, are given the authority to collect taxes on behalf of KRA. They have to be very credible institutions, otherwise we might end up with certain companies which we depended on very much in collecting taxes on behalf KRA, going under midway, or three-quarter way, during the year, and all the taxes, which otherwise would have been revenue to the Government, is lost.

In developed economies we have seen cases of unscrupulous individuals who are not credible, forming organizations to collect taxes on behalf of Governments. What happens is that these individuals sometimes disappear in thin air and the country ends up losing tax money. Even as these opportunities come into play, the importance of the credibility of the institutions which are going to be given that permission needs to be of paramount importance.

The issue of laptops and parts for the laptops is good. The whole information Communication technology (ICT) sector is still a very small, sector and is one of the areas that is helping Kenyans gain, and realize good innovations. For that reason still, it is not only limited to the free laptops to be provided to the children in primary schools--- There are all the other important issues in ICT such as basic equipment like laptops and servers, which businesses need very much; it should also be considered. The Committee needs to look at that as well and identify other critical areas in the ICT sector, probably by talking to stakeholders who can understand better and get other exemptions, which will not hurt us very much.

The issue of exempting taxation on land valued at less than Kshs3 million is good for Kenyans. Most of the average Kenyans and middle income earners, buy land at about Kshs1 million. These are the Kenyans who are now coming up and want to own properties in towns and other places. They ordinarily pay for these plots outside of the city center. The values they pay range from Kshs1.5million to Kshs2million. Now that we have put it at Kshs3 million means they will be exempted from taxes and that will be very good. It will also go a long way in reducing the problem of housing. People will have the appetite to buy more land since most of

them would otherwise feel constraint by the taxes. They will then build properties which will reduce the deficit in housing.

With regard to banking, I think I like this proposal as opposed to the proposal which initially was meant to bring on board a one-off increase to Kshs 5billion. This is progressive. At the end of 2016 it will go to Kshs2 billion; end of 2017 it will go to Kshs3.5 billion and then at the end of 2018 to Kshs 5billion. We need to make sure that we bring in the discipline of serious institutions of banking doing business in this country.

Last week, one bank went under. I just hope and pray that--- Today it was in the media that we have disillusioned depositors who are walking around, and people who are doing business with that bank. They do not know the fate of their savings and wealth. I hope and pray that it is not going to be a systemic effect to the failure of that particular bank. Systemic effect is where failure of one bank causes the failure of another bank because banks borrow from one another. If there is any bank that had borrowed very much from the Dubai Bank, which was put under receivership last week, then that other bank is at a risk. The failure of that bank can cause failures of several other banks. That is the systemic effect. To reduce that risk, enhancing this capital base will actually mean that those who will remain in the banking industry in Kenya will only be the serious people to do banking. We have taken very lightly the issue of accepting deposit from the public without much protection.

I know the Committees' Report is not ready. I will personally be looking at it very keenly to see other areas that will require further amendments, and I will propose further amendments.

As I end, with regard to the issue of road levy, we need to be a bit careful with it, Chairman of the Finance, Planning and Trade Committee. The moment you touch on the Road Levy there will be increase of the fuel prices and such like things. We have to see how that affects the real Kenyan. We do not want to make life more difficult for the ordinary Kenyan by increasing these taxes.

I want to end there to allow my colleagues to contribute. I am looking forward to this report. Hopefully we will be bringing further suggestions at the Committee Stage of this particular Bill.

I thank you, Hon. Speaker.

Hon. Musimba: Thank you, Hon. Speaker. I want to contribute to this Finance Bill. It has by and large good measures.

My concerns are on the following. I will start with what my colleagues ably talked about, particularly capital increase for banks. We must realize that the overall performance of this economy over the last 15 years or so--- The Budgets that we read, for instance, last year was for close to Kshs2 trillion. The country's Gross Domestic Product (GDP) was roughly Kshs1.4trillion - that is a double effect.

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

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

When you now talk of increasing the capital threshold of banks, from Kshs1billion to Kshs5 billion in a space of about four years, without thinking of how we are going to grow it, it is like saying everybody should become a hypermarket overnight. There is something which I was discussing with my colleague, that is going to the bank for many people is intimidating.

Even in the large banks you do not get to see the core decision-makers when you are interacting with screens, which are tell you that this is what your capital ratio is and this is what we are charging. The advantage of having smaller banks within is that you will relate with the CEOs, discuss the immediate needs, get advisory services, and learn about licenses that are within the Capital Markets Authority (CMA). We have seen an active sector which has compelled the bigger banks to get a multiplicity of CMA licenses in the areas like insurance, banking and revenue assurance, which have greatly aided their pool of advisory services available to individual investors. This propels the growth of businesses, especially small and medium enterprises (SMEs), which are instrumental. They contribute to over 80 per cent of the revenue that this country rides on. The listed companies in Kenya contribute less than 10 per cent of what we collect in taxes annually.

The other measures which I have seen in the Finance Bill are about the waiver of penalties and interest over financial years preceding the last one. If we are already acknowledging this - indeed the National Treasury is seeing that this has been prohibitive to business - then we should adopt a policy which simply says that there shall not be penalties and interest. The people who do not pay whatever has been adjudged as their tax due, will be deregistered according to the Companies Bill. We are about to pass a pretty robust Companies Act and Insolvency Bill, which look at this. This can now be combined to grow the level of confidence that our businesses are going through. You can determine that I have made a profit of Kshs200,000 a year, but it is not available readily in cash because creditors still have it. This is a phenomenon even within Government. So, we should be looking at how we can scrap these penalties?" Indeed, this will be an amendment which I will be pushing to scrap penalties and interest on taxes due.

The other area is the Pay As You Earn (PAYE). Now we are talking about relief to the greater economy, especially in the light of the increase that we have had in the National Hospital Insurance Fund (NHIF) rates. People earning below Kshs35,000 should be exempted from paying PAYE Tax. Instead we can choose to have a consumption tax regime or direct taxes. I believe that they will be shouldered within the economy by adding 2 percentage points on Value Added Tax (VAT). If it goes a consumption tax, people will be greatly shielded from this sort of hiccup because a lot of Kenyans are suffering due to those other increases which occur, and which are levied on their salaries. This will be a major relief.

It is not a lot of money, when you think about it, to the economy. In relation to this, we see that in this Finance Bill, prior to conventions and the traditions of the House, Budgets which have been read in previous years have always been such that every single tax measure that was mentioned--- We are always informed of exactly what the Executive is hoping to raise from that tax measure. When the Budget was read in this financial year, we were not told in nuts and bolts how much revenue they are trying to raise. This needs to be clarified when we see the Committee Report prior to the Committee Stage, so that we know how we are balancing. How indebted are we? How much are we going to go into the market to borrow, which will significantly increase the cost of borrowing for this nation and hinder the smooth running of companies?

My other point is about the Deposit Protection Fund (DPF). We reviewed the threshold last time. It is at Kshs100,000 for depositors. In fact, the Member for Balambala has spoken about the collapsed institution. It is time for the National Treasury to look at increasing this ratio from Kshs100,000 to a minimum of Kshs1million. Now that we are embracing more and more of mobile money phenomena, we can transmit money in real time because we have things like

“Know Your Customers (KYC)” arrangements in place. There is absolutely no reason why we should not be enabling commerce and not limiting it, for example M-pesa transactions at Kshs140,000, and move the Equitel direction, which is tells you that you can transfer as much as possible because they already know you as a customer. So, the deposit protection levels need to be increased, so that we stir up greater confidence within the market, and provide an enabling base for growing Kenya as a destination for investments.

There is also a point about the establishment and waiver of duties and things on application to the Cabinet Secretary (CS) of the National Treasury on industrial parks and leisure parks. Limiting it to 50 acres is going micro in thinking. We should simply say that we want to create a leisure park, especially now that we have the new disposition of counties. You can see what the Governor for Machakos has ably done with the people’s park. It is a leisure facility. It might not be as big as 50 acres, but, at least, it will encourage more counties and individual investors to take advantage of it.

This also brings in the other side in creating what has always made Kenya great, which is the family. So, we must encourage investments going in there and increase a size of not just 50 acres. It can even be five acres because there are places I am sure, like Kiambu, where land is precious. For somebody to earmark 50 acres for a project, is to talk of the value in the billions of shillings; with this you are able to say that you are creating a leisure park for investments, you need to encourage more profitable ways and push this kind of investment forward.

So, by and large, the Finance Bill in principle is okay. I just call upon the Committee, whose report we are awaiting to have in it tangible proposals.

I thank you.

Hon. Deputy Speaker: Hon. Chris Wamalwa.

Hon. Wakhungu: Thank you, Hon. Deputy Speaker. I rise to support this Finance Bill. I am a very disappointed person in the sense that such an important Bill is here, yet the Committee has not tabled its report. It is critical that next time when putting order of the business, we should not allow Bills to take off unless the Committee’s report is in place.

I am also very disappointed because of the amendment of the Banking Act. Increasing the minimum capital requirement for the banks from Kshs1billion to Kshs5billion within that timeframe is completely out of order. I am disappointed because we have been involved in many occasions--- I have met elders from our western region led by nominated Member *Mzee* Wangamati. They have been trying as much as possible to come up with their own bank. They have tried in the last five years. They have Kshs100,000 and the intention of raising Kshs1 billion. If you are going to increase the capital requirement from Kshs1billion to Kshs5 billion, that will mean that we are going to demoralise the entrepreneurs who want to come in and own a bank. We know very well that when it comes to bank facilities, they are not accessible everywhere. We know that money has been devolved.

Hon. Deputy Speaker: Order, Hon. Wamalwa. I will just interrupt you for a minute. Give me a minute to recognise the presence of Kamas Primary School from Belgut Constituency, Kericho County. You are welcome to the National Assembly.

You may continue.

Hon. Wakhungu: Thank you, Hon. Deputy Speaker. I am hoping that Hon. Langat is listening to the issue of the increment of minimum capital for the banks. He is the Chairman of the Committee. We will resist this. I will bring an amendment, so that we can retain that amount. When you have many players in the industry, obviously the forces of competition are going to

force--- We are going to have lower interest rates. We know banks in this country are exploiting the business community. They are killing the spirit of entrepreneurship, because their interest is very high. If we are going to increase that threshold and maybe block others from entering this sector, we are going to minimise competition. Interest rate is not going to be minimised. It will kill entrepreneurship, especially of the youths, because as they leave universities and colleges, they must have money to start businesses. For them to have money, they must borrow from the financial institutions.

We have passed the law on procurement and we talked about the 30 per cent of tenders to go to the youth, women and people living with disabilities. His Excellency the President mentioned clearly that we want the 30 per cent of business to go to the youth, women and people living with disabilities. Where are the youths going to get the money to do business? They must borrow from banks. If banks are going to be few, obviously interest rates will be higher. So, as we move on; I will talk to the Chairman, so that we can have an agreeable capital requirement, and encourage more banks to come in, and we have easier accessibility to business finance.

I was happy about tax rebates, especially to university graduates. We know very well that it is very difficult for many university students to get jobs after they complete their studies, because they do not have experience. Many organisations and employers do not want to employ them because of lack of experience. In the learning curve, experience is critical. If you are a fresh graduate from the university, it is very difficult to get a job. So, coming up with tax rebates is going to encourage employers to employ university graduates and the youth. Research has shown that 70 per cent of the unemployment people in this country are the youth. If we encourage this, it will help young graduates from universities to get jobs. It will be good incentives for the employers to follow this. The law here is talking about a minimum of 10. I wish we could reduce it to five, so that many of them can be absorbed and benefit from this tax rebate.

The issue of the KRA recruiting agents to collect taxes on their behalf is good, because it will cover many regions which, maybe, the KRA cannot reach for one reason or another. The selection criterion is critical. I hope that regulations will be put in place. They should come to this House, so that we can debate them. It is risky to give an agent the mandate to collect money from the tax payers. They will collect the money and in the long-run a company may go under. This is going to be a big liability. In the Chairman's report, we want to know the measures that will be put in place, so that the companies that are going to be selected for purposes of tax collection are credible and meet the minimum threshold, so that they do not go down with the taxpayers' money.

Another issue is on the laptops. Exempting tax on the importation of electronic parts is good, especially in this digital era. We should encourage that, especially for our youth who use the internet a lot. As we talk about laptops, it is an issue for the Jubilee Government. They promised Kenyans that they were going to give laptops. Up to now, we have not seen the laptops. We are reminding His Excellency the President that children are waiting. Those who were in Standard One are now in Standard Three. I do not know whether they are going to roll out the project from Standard One up to Standard Four. Time is going. When it comes to 2017, people will challenge the Jubilee Government to tell them where the laptops are. I hope we are bringing this law in anticipation that in the next year, our children will get the laptops.

The issue of real estate is very good, and I want to thank the Chairman. Stamp Duty, especially on transfers of real estate, has been a stumbling block. Many people come together to enjoy the economies of large scale, raise money and invest in land, but when it comes to

distribution, it is a stumbling block. People quarrel and they do not have money to pay. This exemption will encourage young people who invest in groups, because they cannot afford to invest individually, to invest in real estate and become good entrepreneurs; they can get value for their money.

I thank the Chairman for all that has been put here, but we need to examine it further when it comes to the Committee of the whole House. We want to propose some critical amendments, and it will be good for the Committee to invite us to the Committee, so that we can raise our concerns. This will enable us to have proper and consolidated amendments. As we know, The Finance Bill is critical. Once we have the Estimates, we must have a Finance Bill to help us know how we are going to raise funds. No wonder the KRA has this slogan saying that “*kulipa ushuru ni kujitegemea*”. Unless tax money is paid, the Estimates are not going to be useful.

I thank the Committee for work well done, but, please, they should pull up their socks and be as quick as possible; let that report be tabled even if it is tomorrow, so that Members can look at it and debate this Bill from an informed perspective.

Otherwise, I thank you for this chance and I support.

Hon. Deputy Speaker: Hon. Silvanse Osele. He is not around. Let us have Hon. Manson Nyamweya.

Hon. Nyamweya: Thank you, Hon. Deputy Speaker for giving me a chance to support this Bill. When I went through this Bill, it had very serious flaws. The first one is about the laptops when they want to give VAT exemption. Either you give 100 per cent exemption or you do not give. If you exempt tax on laptops for children, who will stop somebody from getting the exemption, or get a letter from the Treasury to claim refund and then dump laptops in the market? If the Government is serious on these issues, it should have one policy. You are creating red tape. You are creating agents who will be moving from one office to another to earn economic rent.

The idea about industrial parks is a good. The best you can do if somebody is developing a leisure, or a recreational, area or an industrial park is for the person to pay and receive a tax rebate later. How sure are you that the items the person has brought in do not end up in Eastleigh building somebody's house? What measures will take to ensure that a person who has brought in goods will use them for the intended purpose? This is creating a very serious loophole for ripping off the tax payer. More importantly, you are going to make the work of the KRA very difficult. Let the person do the job; let him enjoy the tax rebate, but let him complete the facilities. You cannot pretend that you are helping somebody. Of course 16 per cent of tax is a lot of money and somebody has to pay; but you cannot pretend that that is what you want to do, and then start doing a foundation, get steel, cement and everything and then start looking for letters of exemption. You are not sure that these items will end up in the intended project.

The Committee should look into these issues. We are in Kenya and know what happens. We will be creating two markets, namely one market which does not pay VAT and another market which pays VAT. We have to come up with a clear programme on how that is going to be handled. I suggest that we give an individual the tax rebate for even ten years, but he must complete the project. That way, we will eliminate joy riders.

People will come up with very good proposals. They will show you plots. They will import items with that letter, but the items will never get to the site. Even if they go on site, they

will not complete the project. They will be coming every day. You will create another market where people will be going to make money when you think you are helping others.

Whoever came up with this, it does not help to do that in all fairness. Somebody may come in with a left-hand vehicle with 3000 cc and get an exemption letter. How sure are you that when he gets that 3000 cc vehicle he will not change the documents? We have seen this happen. We are on the internet. As far as I am concerned, this has to be very clear. Otherwise, we will create another Nyayo Era. This is what is coming out.

The other issue is rental income. You will see a beautiful building here in town, but somebody has borrowed money to do that building. He is paying a loan. In most cases, repayment is not equal to the rent collected. How do you then say that this person should pay 10 per cent of that revenue? It is not tenable. It is not practical. So, whoever drafted this had idealistic ideas, that whoever has a building in this town has not borrowed money. That is the only person who can afford to pay that. If you check, all the buildings in town, even if they are old and have been bought from somebody, they are on loans. How do you reason that somebody can pay 10 per cent of their income? It does not make sense. The basic thing here is that from liability you create asset. That is how it is. There is no way you are going to find somebody--- There are very few people in Kenya who have not borrowed money to build houses. Even we here in Parliament have borrowed to build. If you look at the amount that you are paying on the loan for your house, then you rent out your house and somebody tells you that they want to tax you 10 per cent of your rental income, that is what the Bill is saying here. Does it make sense? The issue here is that we are not being practical. We are being very idealistic. I do not know where whoever came up with this rule lives. You must ask people what is happening in real life. People struggle to build. People work hard to get money to build. They strain. After straining they start getting rent and have a loan to pay. That has to be looked into, otherwise, it is not serious.

The only thing that I agree with in the Bill is that it has reduced rate on securities to 0.3 per cent. That is fine.

It is a good practice to encourage employers to take in young graduates. Under the current situation, it is becoming very difficult for young people to get jobs. The education system does not equip them well. If employers take them in and they get a rebate, this will be one way of creating employment for our young people.

The other point is about the minimum wage for banks. What exactly is somebody trying to do here? Do we now have problems in the banking industry? If a decision is made that we want to increase the capital base, it must be informed by what is currently happening in the country. I do not see the financial institutions struggling. Banks are not struggling. Why should somebody sit and say that they want to increase this amount? Whose benefit is it for? That is the problem we are having with Kenya Airways (KQ); it is too big to fall. We must now fund KQ because it is too big for us to let it go. If you increase the money, the banks come together and become too big. If there is a problem, you tell the taxman to come in to help them to remain afloat. For us as a country, the best way to do it is that we should increase the number of small banks, so that if there is one which has a problem, we do not bring in public funds to help it. At the moment, as we look at what is happening, all the banks we have look stable from the records they are giving. They give their reports and financial analyses. They are moving forward. The best thing is to let the amount remain the way it is.

I have a problem with the Insurance Act increasing the amount. The problem is not the capital, but is the management of what is happening in the insurance industry; what people call ambulance chasers, namely people who make false claims. This is where the problem is. The problem is not the capital. The problem is fraud, which needs to be addressed, so that people are able to start businesses and grow them. If the issues of corruption and fraud are addressed--- You do not solve the issues of fraud and corruption by increasing the amount of insurance capital when we know where the problem is. The problem is not there, it is elsewhere. We need to address the problem and come up with a better legislative framework, which can address issues where people make claims for people who have not died in vehicular accidents. Those are the problems that the insurance industry is facing. It is an issue. Let us be more practical as we approach this.

The Bill is very scanty. The Excise Duty is missing here. It does not give us an overview of whether we are going to get the money which is required.

With those few remarks, I support. We anticipate that as we move on to the Committee Stage, we will ask for proper amendments, so that we pass an Act which serves everybody and not just individuals like this issue of---

Hon. Deputy Speaker: There is a point of order by the Chairman, Hon. Lang'at.

Hon. Lang'at: On a point of order, Hon. Deputy Speaker. The Hon. Member reserves his right to oppose. Is he in order to miss the point on things that I had expressly mentioned when I was moving? Unless the Member was temporarily asleep, I said clearly that you will not see anything about Excise Duty because there is a new Bill which is before the House, and which deals with Excise Duty separately. For the Member to come and say that the Bill is scanty when these are things I have explained is not right. He should be alert when Bills are being moved.

Hon. Deputy Speaker: I think that was a point of information, Hon. Nyamweya. The point of information is good for you. Can we have Isaac Mwaura? He is the next one.

Hon. Mwaura: Thank you, Hon. Deputy Speaker. I rise to support this Finance Bill.

Going through the Bill, there are some few issues that one is able to recognise. The first issue is concerning the 3 per cent that is provided in Clause 6 (a). While there have been reservations with regard to the capital to invest in real estate, Kenya Revenue Authority (KRA) has been having a serious challenge when it comes to collection of tax. The two options that are given here, and particularly the per cent option, in my opinion, are very good. Many people will want to register their gross income in terms of rent. I do not know whether this is a tactical move by KRA to net people with income and then raise this percentage in subsequent financial Acts. If that were to be the case then it would be very tactical, because people are going to declare how much they earn. The earlier practice of having to show the amount of expenses that you have had which may not exceed 50 per cent was a bit debatable, because it was left at the discretion of those who were supposed to go through your returns. The challenge is that this cost will be passed over to Kenyans in terms of the rent going up. This is something that the Mover of the Bill needs to consider going forward. It does not just apply here.

I am actually concerned that if you look at the provision on the Kshs3 for the Road Annuity Fund, with the passing of this Finance Bill, we are going to see an increase in the price of petrol, petroleum based products and the cost of transportation. Be that as it may, we need to ask for value for money. There is already a fuel levy and now there is this road annuity. The last time I checked the fuel levy it was Kshs9; so this will increase it to Kshs12 per litre. If that were to be the case, it would then mean that we need to look at ways and means of ensuring that we

have cost-effective ways of building roads. There are many models of building roads. The one that has been cited most is the Malaysian model. This needs to be encouraged. The fact is that right now the official rate for one kilometre of road is Kshs80 million; this is quite high. Even if we are raising more money from Kenyans, we must increase the road network and not just have this money increased and the road network is not expanded as should be the case.

Hon. Deputy Speaker, there is also the issue of tax rebate for those who engage graduates for a period of six to 12 months. This is very important for the youth. It has become very difficult for the young people to get internship and apprenticeship in their careers. The concern is because most of our universities are producing graduates who are looking for clerical and managerial positions. It has become difficult for them to practise their professions. This is a very good move, but if you look at the provision, the Bill seeks to confer the Cabinet Secretary (CS) in charge with power to regulate this aspect. This is not the first provision in law in this country that is of such an intent, if you look at the Persons with Disabilities Act, No.14 of 2003, Section 16 provides that if you employ a person with disability, you can get a tax rebate of up to 25 per cent of the salary of that individual. It is yet to come into force 12 years down the line. This needs to be regulated.

Why am I saying that? This is because majority of the people who are looking for jobs are graduates, and now we have 31 public universities. The other day I was at Kenyatta University, my former school, and over 4000 people were graduating. All of these are looking for jobs. It needs to be highly regulated, so that we do not have it as a loophole for people to make false returns in anticipation of rebates.

There is also the provision that seeks to make an amendment with regard to the Retirement Benefits Act. There is a small typographical error here. If you look at the Memorandum at the end of the page, there is a variance in the provision. Here, it talks of moving it from six to three but the actual intent is from six to five. That is a small observation that needs to be looked into.

Hon. Deputy Speaker, another issue is on the increment for the capital base for banks. The Central Bank of Kenya Governor has pronounced himself on this issue. I want to echo the same sentiments. Of late, it is true we have had banks put under receivership like the Dubai Bank. You may want to say that quite a number of them, especially those emerging from micro finance banks and small banks on shaky ground--- If you look at the story of Equity Bank and Family Bank, and particularly Equity Bank--- I call it the economic revolution. Sometimes, we look for social revolution but that is a clear story of economic revolution, bringing on board people who were otherwise unbanked in the past. They can only do so through such avenues.

Big banks want to make profit. And, they do not seem to target new and emerging markets. A lot of segments of our economy are informal. If you are to tap this kind of money into the mainstream economy, then you need to ensure there are options in terms of banking and starting banks. Many people are going into SACCOs and entities that seek to create more opportunities for them to have avenues to bank. At some point, I was involved in the creation of a bank called "Mega," but I do not think it went far. It had aspirations of trying to bring on board people who could not access credit. If you look at the case of M-pesa, last year we transacted over Kshs1.3 trillion on that platform. It is a clear indication of the fact that a lot of people, if brought to the formal economy, will contribute towards raising of revenue and taxes for this country. The best way is not just to ensure that you raise the capital base for banks.

Hon. Deputy Speaker, in terms of employment, if you are going to regulate that area, some of the banks have to merge and close. That in itself does not speak very well in relation to the issue of creating jobs.

It is important to regulate the insurance industry. It is well documented in terms of the minimum capital requirement, especially for insurance and long-term insurance. More Kenyans are getting these products and we do not want to have a situation where they invest their money then entities go under.

Hon. Deputy Speaker, My time is up. I support.

Hon. Deputy Speaker: Hon. John Mbadi.

Hon. Ng'ongo: Thank you, Hon. Deputy Speaker, for giving this opportunity to contribute to the Finance Bill of 2015. It should be appreciated that after we have prepared our Estimates of income and expenditure, and we know how much we intend to spend, the need arises for us to explain how that expenditure will be financed. One of the sources of finance is our internally generated revenue, which comprises of ordinary revenue and other revenues that are generated locally through taxation. If you cannot get enough from that, you can go to borrow internally or externally.

Hon. Deputy Speaker, looking at the Finance Bill of 2015 and comparing it to our ambitious revenue projections, one sees that this Bill is not that innovative. It is not progressive enough to tell us whether we are capable of raising the revenue we are projecting to raise. That is my first concern. I am happy that the Chair of the Departmental Committee on Finance, Planning and Trade has spoken to the issue of the Excise Duty Bill being brought to the House. I hope it will be brought soon, so that we can revitalise this particular tax regime to bring more revenue to finance our expenditure. If the Government is not going to raise enough revenue, then---

Hon. Langat: On a point of information, Hon. Deputy Speaker.

Hon. Ng'ongo: Hon. Deputy Speaker, I think he wants to tell me that the Bill is already on the Floor of the House.

Hon. Deputy Speaker: Is that what you want to tell him?

Hon. Langat: Yes, Hon. Deputy Speaker.

Hon. Ng'ongo: Hon. Deputy Speaker, I can easily guess because he was my junior in school. I almost know his thinking.

If we are going to borrow heavily in the external market, borrowing is going to be high. There is a concern as it has been raised by Central Bank of Kenya about our level of indebtedness. Many experts have raised concerns with our borrowing. The World Bank and the International Monetary Fund (IMF), which have been telling us that we have not exhausted our borrowing capacity, have started showing concern. For us to realise economic growth, we need to slow down on borrowing. That is a challenge.

I want to go to the specifics of the Bill. With regard to the Banking Act, this proposed amendment for increasing the capital base is something this House needs to reject. I am not persuaded by the argument that the problems we face in the financial sector are attributable to low capital. A lot of them are attributable to clear cases of fraud and mismanagement of some banking institutions. I do not see why we should ask someone for Kshs5 billion in 2018 to start a bank. Up to recently, it was just Kshs0.5 billion and we increased it to Kshs1 billion. How I wish that this House will agree with me that it be retained at this level.

On the issue of Value Added Tax (VAT), it is important to amend the VAT Act, and allow exemption and-zero rating of more products that are useful necessities. My concern is that

the reason we had to repeal the entire Value Added Tax (VAT) Act in 2013, if I am not wrong, was because we had had very many piecemeal amendments to this VAT law which made the law inefficient, ineffective and nonoperational. Therefore, I think the Government and the Treasury should avoid amending the VAT Act through the Finance Bill. If there is need for amendments to the VAT Act, we need to bring comprehensive amendments which are well thought out and not done by impulse.

I am for the idea of charging 6 per cent as withholding VAT. I support that because it is going to help this country track some of the business people, companies and those business enterprises that have been evading tax. At least, we will have a system where their information is captured by the Government. If we can make all or most of the entities that are viable to be tax collection agents then the better for us. I am sure we are going to net some of these people who have been evading tax.

We need to broaden the tax base. We need to bring as many people as possible to taxation so that a few Kenyans who are loyal and faithful to this country and want to pay tax do not suffer at the expense of those who have the capacity and are not ready to pay tax. The problem with this country is that a few Kenyans are overtaxed while very many avoid paying tax and become very rich to the extent that they start using their riches even to show off to those who have been paying their taxes faithfully.

Hon. Deputy Speaker, with regard to Capital Gains Tax, I think I am one of its proponents. Actually, I am the one who first brought an amendment to this House in 2013 to have the Capital Gains Tax reintroduced. It became a little bit political and we took party line at that time but, I am happy that the Government lost my idea last year and reintroduced the Capital Gains Tax. It does not matter the source of this idea as long as the right thing is done. I have no issues with that. Now that we have the Capital Gains Tax with us, there are challenges that we cannot run away from. One of the challenges is: how are you going to calculate the gain? That has been a thorn in the flesh and it is subject to abuse. One of the principles of taxation is to make tax systems easy to understand so that it is not exploited by even the same people who are given the responsibility to collect tax.

So, calculating the cost and determining the gain has been a challenge. Therefore, I would not object to the introduction of 0.3 per cent of final tax on the price of an asset that is exchanging hands but, I have a problem with the percentage. I was trying to calculate what is 0.3 per cent of Kshs1 million and it is just Kshs3,000. A 0.3 per cent of Kshs100 million comes to only Kshs300, 000. If I sell a house for Kshs100 million, I will make a profit of something close to Kshs20 million or Kshs30 million. If I am only going to pay Kshs240,000 to the Government and yet some people who do business and make a profit of Kshs20,000 are required to pay tax at 30 per cent, it is not fair. We need to review these tax rates. When I talk about some of these things, people say that I am not a capitalist. Capitalism that hurts other people just because you have the ability is not good. In my view, I would remain a socialist than be a capitalist in that sense of capitalism.

It is wrong to tax land or any proceeds that one gets as a result of a forceful acquisition of land by the Government.

I want to conclude, because I can see my time is up, by talking about the Kshs3 increase on the Fuel Levy Fund. Much as I know we need roads, until the Government properly accounts for the money that they are already raising in terms of fuel levy, there is no need to burden Kenyans more by taxing them more. Actually, the Ministry of Transport and Infrastructure has

not reached its efficient limit in terms of usage of our resources. Therefore, we should not allocate more money to this Ministry until we are sure that they are putting the money that they generate from fuel levy to good use.

Thank you, Hon. Deputy Speaker.

Hon. Deputy Speaker: Hon. Shidiye;

Hon. Shidiye: Thank you for giving me this opportunity, Hon. Deputy Speaker. From the outset, I want to support the Finance Bill. It is one of the key pillars in our governance. If the Government of Kenya wants to improve the livelihoods of the people, it is very important we look at the macro and micro economies of this country. It is important to have a lean Government so that you do not overburden the taxpayer. We have a huge wage bill that the Kenya Government pays.

Currently, we have almost three or four structures. We have the national Government, the county governments and the remnants of the former county and municipal councils. We end up paying a lot of money to all these workers.

Ultimately, the work of the Government is to make sure that we reduce poverty and Kenyans lead a better life. If you look at debt payment in this country, you will find that we have a debt of about 47 per cent. That percentage is very high and it is ever increasing with the maturity of the new railway we are building, other legacy projects and annuity programme. All that means we are going to be more indebted locally and internationally. It means that the future generation of this country will be affected. It is more expensive when the Government borrows locally. It is equally expensive when we borrow from outside. For this country to be stable, it is important we borrow what we can pay. When you over borrow, you overburden the taxpayer, particularly the future generation.

Borrowing is not bad but, when you over borrow and there are a lot of interests and strings attached, you end up overburdening the taxpayer. So, it is very important that we manage our debt by borrowing less and being creative and innovative in terms of helping the people of Kenya.

The other issue concerns corruption in this country. The President has been on the forefront in fighting corruption. We already have the Ethics and Anti-Corruption Commission (EACC) in place. This culture of corruption must be fought by all and sundry. We should not take it for granted that things are going to be easy in this country when we have this culture. Countries which have moved have been fighting corruption. At Independence, Kenya was at par with Malaysia, Singapore and many other countries but, today, look at how our country is far behind because of corruption. Look at what is happening at the Kenya Airways Limited (KQ). If the Chief Executive Officer (CEO) of the KQ was in China, he would have been shot dead. The legacy of any person who heads a corporation is when he leaves. We saw the case of Mumias Sugar Company, the KQ and other cases. These organisations were vibrant but when the CEOs left, they left behind trails of disasters, debts, unpaid bills and corruption.

We from the pastoral areas have not been benefitting from bailouts. For instance, we have the Kenya Meat Commission (KMC) which is the only institution to which pastoralists sell their animals. Today, it is at an all-time low with no money in its accounts. It is bankrupt. However, when Mumias Sugar Company has problems, the entire Government machinery goes to Mumias. The Company has been paid Kshs1 billion and people are still making noise.

You need large-scale farming to grow sugar. Uganda produces about 350 million metric tonnes of sugar in a year while Kenya produces 500,000 metric tonnes. We have a deficit of

200,000 metric tonnes. Naturally, we have to import. We can import from Uganda or Brazil. What Kenyan consumers need is sugar; that sweet product in their breakfast is very important. So, it is very important that we do not politicise issues that affect people of this country.

When the President was presenting the bailout cheque everybody was happy. When the President enters into a trade agreement with Uganda, which is our neighbour, people start complaining. By the way, we export more to Uganda than we import from them. It is good to have inter-Africa trade. The sugar industry is not viable unless we commercialise and mechanise agriculture and provide subsidies and fertilisers to farmers. That is the reality. About six million Kenyans depend on sugar either directly or indirectly. So, we should never at any given time politicise the sugar industry because it affects every cane farmer and many farmers.

On the youth, the President was also very clear. In the Finance Bill, the Committee did very well and even Obama talked about it. He said when you have half of your players, meaning the youth, the disabled and women, not in the field, the economy must suffer. These people must be brought into the mainstream to fight poverty.

Small and Micro Enterprises (SMEs) are the in-thing. Eighty per cent of the Kenyan economy is run by SMEs. That is why when we see the proposal that banks have to increase their capitalisation from Kshs1 billion to Kshs5 billion, we realise that many banks will be closed. We have already seen Dubai Bank is in a problem. Many banks will be forced to fold. If one needs Kshs5 billion to run a bank, many people in the finance sector who are supporting SMEs will be rendered out of business and irrelevant. So, it is very important that we look at the SMEs, the *jua kali* sector and the informal sector as the sectors that support our children in school and that give us food. That is the only way to go.

The annuity programme has been having a problem since we started. So far, no annuity programme has been rolled out and the Kshs3 per litre fuel levy will be helpful except that we need to amend it to Kshs1 or Kshs2 per litre because fuel prices in this country is on the higher side. Already, we are paying over Kshs100 for a litre of petrol and diesel, meaning that the multiplier effect on the economy and the cost of production will be very high in this country.

Recently, when I went to Saudi for Umrah I realised how cheap life is there; the cost of living and fuel is very low. We can say that is because Saudi produces fuel, but Nigeria produces fuel too but they face constant shortages and fuel is more expensive in Nigeria than in Kenya. So, time has come for us to look at ways of improving the lives of our people.

With those few remarks, I support, Hon. Deputy Speaker.

Hon. Deputy Speaker: Yes, Hon. Makali Mulu.

Hon. Mulu: Thank you, Hon. Deputy Speaker, for giving me the chance to support the Finance Bill, 2015. We are all aware that this House passed the Appropriations Act. In that Act, the 2015-2016 Budget is estimated at Kshs2 trillion. Out of the Kshs2 trillion, about Kshs1.3 trillion is expected to be domestically generated through revenue collection.

As I look at this Bill, a question which keeps lingering in my mind is whether this Bill is going to enable us finance the Budget that we passed. I am not sure if that question has been answered. However, we must accept one thing: Taxation is a good evil. We get taxed to have goods and services provided by the public sector, but individuals and companies take a lot of time thinking on how to either evade or avoid tax because it is an evil. It reduces our consumption and affects our financial planning. So, when I look at this Bill, which proposes some taxation measures, I see some good things. At the same time I see some areas of concern.

In terms of the good things, I am impressed with the proposal to exempt from taxation goods which are going to be used in film production. This is an area which is going to help Kenyans in terms of developing our local talent and at the same time assist this country to create employment for such individuals who are talented in this area and who have not fully been engaged in terms of employment. So, this is a good proposal and we need to support it as a House so that the requirement to have 60 per cent local content on our televisions is realised.

The other thing which is good is tax rebate for companies which are going to employ our graduates. Unemployment is a major problem in this country. All of us Members of Parliament represent our local and urban constituencies. It is a known fact that unemployment is a major problem to us as leaders. I do not think any one of us in this august House can claim to have sorted the challenge of unemployment adequately. We are all struggling to address this matter. So, when an opportunity like this is presented to our employers, so that when they employ our graduates they get a tax rebate, it is a good move. This is a move in the right direction and I urge honourable Members to support this proposal.

The other thing which is good is in the development of real estate. The Bill says that where people come together as a co-operative society and they want to engage in real estate development, then they should be considered for tax exemption. This is good. If you look at Kenya as a country, you will realise that we have serious housing challenges more so when you consider the slums where our people in urban settings live.

Hon. Deputy Speaker, the idea that those who are going to engage in real estate development are supposed to get some tax exemption is good and it needs to be supported. This is an area we are going to support but then there are other areas - I wish that the Chair would just listen - that we might need to amend.

The first one is that the Bill is proposing that we increase the lowest value of land you can be allowed from Kshs30, 000 to Kshs3 million. I accept that Kshs30, 000 is quite low but, at the same time Kshs3 million is quite high. Very few Kenyans can afford to buy land that is worth Kshs3 million. So, while I agree that Kshs30, 000 is low, we need to get to a middle level so that we do not leave many people out of the tax bracket. In that case, you do not generate the revenue that you really need for this country.

The other area which requires an amendment is the minimum capital for the banks. Many Members have talked about this. I would like to join them in saying that this is a proposal we need to reconsider. As a country, we should be moving to a situation where we get the majority of our people getting banking services. In a situation where we are going to raise this minimum capital, we will continue locking them out. I see a situation where we want most of the small microfinance enterprises to move from that level and become banks. We want to see most of our saving societies moving from saving societies to becoming banks. So, if we make this minimum capital quite high, then we will lock out all these potential banks coming up in this country. What will happen is that we will lock our people out of banking. That will not be helping them. This is a proposal I plead with the Committee Chair and Hon. Members to either retain it where it is now or if possible, to even reduce it so that we get most of our people getting into the banking sector.

The other area where we need to make an amendment is in the fuel levy. The proviso is to have additional Kshs3. This proposal is like a double edged sword. It is very important because it targets the rich and the middle level income earners. In collection of tax, this is superb. We are going to target the right people who should be taxed because they have the money but,

we must bear in mind that the more you tax fuel in this country the more you are likely to increase the cost of living because most of our industries and factories use fuel. So, the production process is so dependent on fuel consumption that by increasing this amount you are likely to affect the production cost in this country. That will lead to increase in prices of products and services. That will increase the cost of living which in the long run will hurt Kenyans living below the poverty line. As we think about the additional Kshs3, let us not forget the negative part of this proposal because it can easily hurt this economy and majority of Kenyan will suffer as a result. So, this is an area, as a House, we need to tread on carefully before we agree on the final part.

The other area is the one on laptops. While we need these laptops, we also need to be very careful on how we handle taxation on inputs. We can easily open the flood gates for corruption which people will use and claim that they are importing inputs for the laptops while in reality they are importing inputs for other purposes and then avoid tax. In that case, the much required revenue will not be generated.

With those comments, I support this Bill but, this discourse would have benefited a lot if the Committee Report was before the House. As we move into the future, it is important that the Committee Report gets to this House before we settle on the debate.

Thank you for giving me the chance.

Hon. Deputy Speaker: Yes, Hon. Nicholas Gumbo.

Hon. (Eng.) Gumbo: Thank you, Hon. Deputy Speaker, for giving me the opportunity to contribute to the Finance Bill, 2015. If you look at the history of parliaments, they exist primarily to justify the fact that no country can exist without tax. In fact, the history of parliament came from the fact that people rose and said that they cannot be taxed without representation. To that extent, it is a bit of a disappointment that we are discussing this important Bill and the House is almost empty. But I guess many of our colleagues, in one way or the other, will find time to contribute to this Bill at the Third Reading.

I know that proposals were made here last year and even this last year on issues to do with the Capital Gains Tax. I am neither a capitalist nor a socialist but this whole thing of the Capital Gains Tax, in the final analysis, if one looks at what the measures that were taken last have done particularly to the stock exchange, I would want to believe that it is one area where we must seriously consider the *status quo*. It has been claimed that a lot of the capital flight especially from foreign investors at our Securities Exchange happened on account of the Capital Gains Tax. This happened particularly with regards to the lacuna on the implementation of the Capital Gains Tax. But be as it may, I had argued before and I am arguing again that this country must find more innovative ways to tax its people without getting into issues like Capital Gains Tax. I would like to believe that the incentives from a Capital Gains Tax free investment regime are much more than the imposition of the Capital Gains Tax.

I know many of my colleagues want to contribute, so, I will just go quickly. I notice that Clause 13 of this Bill has included new sub-clause 39(b) where any employer who engages at least 10 university graduates as apprentices for a period of six to 12 months during any year of income shall be eligible for tax rebate in a year subsequent to the year. I want to believe that the purpose of this is to try and address the question of the youth bulge. Good as it may be, we are limiting ourselves to thinking that the problem of the youth bulge is only with university graduates.

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

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

Hon. Temporary Deputy Speaker, we must move to boldly look at apprentices from middle level technical colleges, institutions and even diploma colleges. We are putting too much focus on university education. I appreciate that university education plays a key role in our society, but we have many youth who drop out of school at Class Eight and at Form Four; those who do not make it to university. We must also give the incentive even to those who come out of colleges and technical training institutions so that they may also be considered.

I have noticed that the proposed amendments to the Banking Act to increase capitalisation is not good, in my view. We need as many parts of this country to be banked. We have had experiences with Equity Bank and Family Bank. We should encourage as many of our small banks as possible because what we are going to see, if this amendment goes through, is that many of the small banks will definitely collapse. We are now going to start having a situation where only a select few will be taking part in providing this vital public service and with it you are going to start getting problems of arbitrary charges. The fact that the charges have been going down comes from the fact that Kenyans now have many more choices.

I would per say have no problem with the Road Maintenance Levy being increased by Ksh3. However, the problem we have had in our country is the opaqueness with which we tend to spend tax revenue. It is inconceivable that almost 60 years into Independence some parts of this country virtually see no signs of improvement in their livelihoods by use of taxes that they generate. I would be at the forefront in championing this as long as every Kenyan is assured that the taxes he or she pays can be seen in the goods and services that the Government gives them.

On the distribution of our tax revenues to every part of this country, even those who have tractors in the farmlands pay taxes and levies with regard to fuel. But we have to see this being applied to improve their lives.

As I rush to conclude, I want to comment a little bit on what the passage of this Bill would mean. Basically, appropriation is a covenant with the people of Kenya. What we do at appropriation is basically to say; “give me your taxes and in return the Government will guarantee the following services.”

Most of the appropriations that we make with the Appropriations Bill actually come from our taxes. I do not see where the problem is when at the end of that appropriation, we have a constitutional office in the name of the Auditor-General who is there to tell us:

“Yes, this much money is given to offices of Government to use on behalf of the people of Kenya; but this is the level of prudence, effectiveness and efficiency with which those funds are applied.”

What the Auditor-General does, basically, is to verify attainment of that covenant. You made a covenant with the people that, “I will take your money and in return I will give you these many services.” All over the world, the Auditor-General’s Report cannot make comfortable reading.

Indeed, the moment the Auditor-General’s Report starts to look like a bedtime story book, then, definitely there is a problem with that office. I can tell you for a fact that even when we, in CORD, take over Government – which I hope will happen soon - we will find certain aspects of the Auditor-General’s Report uncomfortable. But the way to go about commenting on

that Report is not to start dragging the office in the mud as we have been doing, least of all, the institution of Parliament where the Auditor-General reports to. This report will be interrogated both by the Public Accounts Committee and Parliament as a whole. Therefore, any attempt to throw mud at this important office can only make our country look very bad in the eyes of the international community. It becomes even worse when negative comments demeaning the Office of the Auditor-General by people who at the forefront are parliamentarians who are the ones who are supposed to interrogate that report and confirm to the people of Kenya. This is because in so far as accountability and oversight is concerned and looking at how our money is being spent both Parliament and the Auditor-General's Report play on the same side of the league. That is to confirm to the people of Kenya that their money has been used well.

As I conclude, I want to comment on the importation of sugar from Uganda to this country. This is a matter that has taken the attention of the country. I am an engineer by training and I like to look at numbers in everything that I see. We are being told that our sugar requirement is about 800,000 tonnes per capita. That means every Kenyan uses about 20 kilograms of sugar per year and yet Uganda with a population of 35 million uses 320,000 metric tonnes of sugar per year. Someone has to tell us why Ugandans somehow use just half the amount of sugar that the people of Kenya supposedly use. This is because without us being told that then the devil definitely will be in the detail. Ugandans cannot be using nine Kilograms of sugar per person per year when Kenyans supposedly are using 20 kilograms of sugar per person per year unless we have become sugar lickers. That mathematics simply does not add up.

With those remarks, I beg to support.

The Temporary Deputy Speaker (Hon. Kajwang'): Yes, the Member for Kabondo-Kasipul.

Hon. Onyango: Thank you, Hon. Temporary Deputy Speaker for giving me this opportunity to contribute to the Finance Bill. While going through the Bill, I realized that it gives and also takes away. It has advantages and disadvantages.

One aspect that has come out clearly and which has impressed me is the aspect of allowing the low income earners to own property and buy land without being taxed. This is a process of encouraging people to buy land, build simple houses through their means and own property. Maybe at a later date, when their properties rise in value, then a percentage of tax that is beyond three million shillings can now be introduced. That is very important because we are in a country where over 70 per cent are low income earners. Most of the big businesses or deals done in the country normally touch on rich people leaving behind poor people. So, if you do not give incentives to encourage them to live positively within their means, the urge for being corrupt in order to cross over the other side would arise.

Another aspect is when we levy further taxes to the already overburdened Kenyans. We are not supposed to allow any further taxation before whatever we have is properly utilized. We know that a lot of money, almost over 40 per cent of the budget goes to waste during the implementation stage. So, we would like to see a scenario where we first maximise the use of whatever is available before thinking about levying *wananchi* further taxes.

I am saying this because the Bill touches on the matter of sugar. We are in a county where we do not value what we have but we value more what we do not have. If you compare the importation of cheap sugar that you are being promised which is already in the Kenyan Market, you will realise it goes for Kshs190 per two kilogrammes. Given an option of between Kshs190 and Kshs245 which we sell Sony or Mumias sugar, any common *mwananchi* will go

for the cheaper sugar. The end result is that we will end up with no sugar company in the Republic of Kenya. So, we will kill our own industries. It would be important for the Government of the Republic of Kenya to see what we are not doing for our millers in terms of cost of production to lower the prices to the level where we become competitive with these products or cheap sugar that is being imported into this country.

One fact is clear that we still have old machines. Therefore, we need to look at efficiency during production so that we can have competitive prices. The window of sugar imported to this country should be extended only to industrial sugar that we lack and not table sugar. What is in deficit is industrial sugar, the one that was produced by Miwani Sugar Company that collapsed. This is what Uganda is capable of producing than us.

This is what Uganda is also capable of producing. However, in Kenya, we want to import a product that Uganda itself is not capable of producing. So, where are they going to get this sugar they want to give this country? It means Uganda is going to serve as a conduit of transfer of sugar from other Commonwealth zones where it has already been subsidised and farmers are already assisted hence the cost is low.

The Temporary Deputy Speaker (Hon. Kajwang'): Order, the Member of Kabondo Kasipul.

Hon. Onyango: Hon. Temporary Deputy Speaker, I am guided by the timer.

The Temporary Deputy Speaker (Hon. Kajwang'): I see the Member for Ainamoi on a point of order. I can predict what he is trying to bring which could be out of order; that when you consider the Finance Bill, the Bill discusses other Acts, none of which concerns sugar.

Hon. Onyango: I was bringing in sugar---

The Temporary Deputy Speaker (Hon. Kajwang'): You are allowed to do so except you have to find a way of relating it directly to this.

Hon. Onyango: Hon. Temporary Deputy Speaker, I thank you for being patient with me for that long. I wanted to link the VAT and bringing incentives to allow our country manage what we have so that we also become competitive in the national market.

Thank you, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. Kajwang'): Thank you very much. Let us have the Member for Kisumu East.

Hon. S. S. Ahmed: Thank you, Hon. Temporary Deputy Speaker. I rise to contribute on the Bill. I am also a Member of the Departmental Committee on Finance, Planning and Trade. I support my Committee Chairman in what he has presented. Of course, there will be a few things that will be refined.

The VAT hits the poor much harder than it hits the rich. This is a pro-rich type of taxation that we should use sparingly. When it comes to the issue of laptops, I do not see any reason why laptops should not be exempt from VAT. Withholding 6 per cent tax and sending it to the Kenya Revenue Authority (KRA) is a practice that is all over the world. It is actually more than 6 per cent. There was a time when we were withholding the whole amount of VAT. We were writing two cheques. Even in the Constituencies Development Fund (CDF), we were writing one cheque for the amount and another for the VAT, which was sent directly to the VAT official and the credit was given to the supplier. Unfortunately, that was changed and as a result, there has been rampant corruption and the VAT is never given. So, the 6 per cent is a good idea and it must go on.

The other issue is proposing VAT on industrial and recreation parks. I agree with one of my colleagues who contributed and said that there is no way we can tie it to Section 5. A tax holiday will be better so that they finish the project and continue.

Another matter I want to contribute to relates to Rental Income Tax. Some of us have residential properties which we have rented out. Those of us who want to pay tax diligently do our reports, write all our receipts and try and get expenses against the rental income. What happens is that the taxman starts becoming difficult hence give opportunities for rent seeking. The option that has been given is very good. Those of us who wish to pay tax should pay a certain percentage. It is not yet detailed but it should be between 3 and 10 per cent. I would be very keen to pay 10 per cent of the gross rent that I have. This is because at any time you declare your rental property, your expenses will not exceed the rental income that you have except more than 60 per cent of the expenses. So you will be paying 30 or 40 per cent and that roughly works out at about 10 per cent or less. It is an option the KRA is giving. It is a very good option which will bring in more people who want to pay tax without trying to get involved in the bureaucracy.

One thing I do not agree with and which I am not sure of is under Section 11, which talks about Capital Gains Tax for shares. Although my Committee Chairman confirms and says it is 0.3 per cent, I am not sure and I beg that we check it out. That does not make sense. It makes no sense whatsoever. Even if it is 0.3 per cent of the turnover, it does not make sense. We want to simplify Capital Gains Tax on shares. It is also a way to get the tax. I think 0.3 per cent is a mistake. If it is not then we better give it exemption rather than the 0.3 per cent. This is because 0.3 per cent of Kshs10 million is Kshs30,000. Nobody who has a common sense will ever want to do that.

The issue of the employers and the graduates is a very good idea and we are very pleased that that will work. The issue of transfer and the increase from Kshs30,000 to Kshs3 million is a good idea. The Kshs3 million is the cost of maybe 10 acres of land. In any part of Kenya, the price of agricultural land is not less than that. It is a good idea that there should be no transfer tax paid on that because much of that is being transferred between families.

One thing I am very concerned about is that of the vehicle of a returning resident. It has been said even by the Committee Vice-Chairman that it is not going to be the vehicle with a similar year of manufacture. This can be misused. If you are using a 15-year old vehicle in the United States of America (USA) and you want to go and buy a new vehicle or one which is one year old, it will be possible for you to bring it here. This can be misused a lot. I heard someone somewhere say that there are more Nigerians with Kenyans passports in the USA than Kenyans. This is because some of these passports have been misused. So, some people might take advantage and our country is going to be flooded with these goods.

The issue of not levying the transfer tax on real estate can also be misused. However, if it remains within those people who were the initial investors in those particular capital investment trusts, that is absolutely okay.

I am very much for the Insurance Act and I agree that these things must be regulated by the regulator. In a city like Kisumu, we nearly have 40 banks and some of them are very small. The Banking Act has allowed micro-finance institutions to operate. So, you can do your micro-financing, all banking procedures and be a small bank. There must be some sort of regulations in the mainstream banks. This is happening all over the world.

We would rather have a higher capital requirement so that we do not have the Dubai Banks in future. We must get away from this thing. I am a banker and there was a time when

every Tom, Dick and Harry had a bank. We have already arranged for micro financing which will do that.

The Kshs3 that will go to the Road Maintenance Levy Fund is a good idea. The only issue is that it will raise the cost of petrol. What we have not mentioned are the proceeds of crime and anti-money laundering that this Bill has touched on. This is very good.

The deposit insurance is rationalizing the tax appeals tribunal. This is something that has been misused by taxpayers. People who do not want to pay tax try to draw all these tax appeals for years. This Bill seeks to amend the Tax Appeal Tribunal Act to allow the tribunal to determine its own timetable which is a good thing.

With those few remarks, I beg to support.

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

Hon. (Prof.) Nyikal: Thank you, Hon. Speaker for giving me the opportunity to contribute to this Bill. It is obvious to us that this Bill merely seeks to legalise the financial measures and the amendments we intend to move to raise funds to use in the Budget that we passed. Obviously, it is a Bill that we need to pass.

There are a few things that are good in this Bill and others that we will need to look at again. The issue on Stamp Duty and transfer of one trustee to the other is good. Real estate is an area of great concern to us. Every Kenyan wishes to own a house but this has become very expensive. Mortgage has ceased to have meaning because the rent which you will get from any house in the market is far below the mortgage that you are paying. You will have to get some money from your pocket to repay the mortgage. So any measure taken in that direction is extremely important and useful.

I agree with the regulation of the insurance industry that puts more strict measure. More Kenyans are involved in the insurance industry; some Kenyans are involved the industry without their will like people who are traveling in public service vehicles. They find themselves in the insurance industry and most of the time they lose out when they should get good compensation. Therefore, to put regulation in place towards this end is extremely important because it will help many people

The requirement that most of the assets must be more than the liability is common sense. If you have insurance company that does not have enough capital adequacy ratio obviously that is a risk to the members of the public. That is important.

The amendments that remove the mandate from the Cabinet Secretary to an authority is the way we are going so that we remove such mandate from a single office to an authority which will give it more consideration. That is an important element.

Everybody has talked about the Banking Act but I have to say something. The Kshs5billion is a lot of money. Other Members feel that it is important to have few large banks. My experience though I am not a financial expert is that large banks are faceless, heartless and deal with people off-the-cuff. What is important to them is their rate. Before Equity Bank came into being, the big banks had started saying that they do not take deposits of less than Kshs20,000. In fact they were locking out people from the banking industry. We have reached a point where if you keep cash in a bank, it will charge you. If you are giving organisations money that they are going to lend out, they should give you interest. The high requirement will take us back to the era where we had a few big banks. That is not very nice.

Hon. Temporary Deputy Speaker, I have never understood why the interest rates in this country are very high compared with those in other countries. I am not a financial expert but

sometimes I am worried about people who are in big businesses. How do they borrow money, invest it, pay bank interest and get something? We need more banks that are competing and with proper regulations. Therefore, we will have to look at that area. To rise from Kshs2 billion to Kshs5 billion within three years is a bit strange. We also know that when you start having these big banks, there is a tendency that if they get into problems, they get quick help from public funds. The Government says: "This bank is too big to fail." Therefore, because of their size, they get help from public resources. This is not necessary.

The same applies to mortgage companies. As earlier said, if we have that high requirement for mortgage, it will definitely translate into higher mortgage rates. I have just said that I do not understand what mortgage means as an investment anymore. The money you put in, you cannot get it back. You have to get more from your pocket.

There is also the issue of fuel levy. My simple experience in life is that nothing fuels inflation as much as the cost of fuel because there is nothing that goes into any household that is not attached to fuel. Transport, manufacturing and distribution are fuel dependent. As much as I know that we want roads, this is an area we have to look at and see if we want to increase up to Kshs3 per litre. That is on the higher side.

One area that we need to look at is corruption in the petroleum industry. You may not know but the level of corruption in that industry is high. There is adulteration of fuel. Most of us do not know that the fuel we are putting in our expensive cars may not be super as we think. It is but a mixture of super and kerosene. This is something that is known. If you go to Energy Regulatory Commission (ERC), the senior officials will tell you: "There is nothing we can do. The police know." They tell you sometimes: "We know the depots. They are fenced and watchmen are there." Even the ERC officials call the police when they want to go and inspect these depots but the police are reluctant to go. We need to do something about corruption in the petroleum industry.

There is also the sugar issue. The basic thing is the cost of production in Kenya. I do not think that it is the cost of the inputs. Why should Kenya be spending US \$80,000 per tonne in production while other countries on the average are spending US \$30,000 per tonne? It is just corruption. In the sugar industry, when they are crushing, you may not know, they crush air. Sometimes when they say that so-and-so has brought 100 tonnes, what has been brought is about 50 tonnes. Obviously if you crush 50 tonnes and you say that you have crushed 100 tonnes, your cost of production has gone up twice. If we did not have this, countries that are hankering to bring sugar into Kenya would not be interested. So, there is mismanagement. Again, the issue of corruption should be looked at in the petroleum industry.

We are happy with the annuity programme of roads but we are taking too long. I can see the Leader of the Majority Party is here. Some of us are beginning to wonder whether it is really going to work as planned or it will hit a snag. The country should be able to know. We are all waiting for these roads. We know where they are and we are looking forward to when they will start. If the fuel levy can sort out the problem and we go back to direct financing of roads so be it.

There is also the issue of retirement benefits. As a country with such big income disparity, we must start looking at the income of retirees.

Therefore, to have laws that seek proper auditing, like the Retirement Benefits Authority (RBA) and exempting goods that are used in film production is good. I have also noticed that the

Bill is saying that the space in our television should be local. But I think we should be driven more by competence and good expertise.

Finally, the tax rebates for employers of youths on apprentice is a good thing. However, we should be careful so that people do not employ people on permanent terms and keep shifting young people left, right and centre.

The Temporary Deputy Speaker (Hon. Kajwang’): Let us have the County Women Representative for Homa Bay.

Hon. (Ms.) Nyasuna: Thank you, Hon. Temporary Deputy Speaker. The Chairman of the Departmental Committee on Finance, Planning and Trade is asking me to be very brief. Probably he wants to reply before we finish. I think it is a reasonable request and I will try to be as brief as possible.

I support the Finance Bill, and particularly the exemption of tax for aircraft parts. We have seen what is happening to our national carrier. The most efficient and quickest transport system that we have in this country is quite expensive. I hope that with the exemption of aircraft parts we will see a reduction in the cost of air transport so that more Kenyans can afford it.

I had the privilege of visiting Boeing, the company that makes several aeroplanes that are used by different airlines including our national carrier. Aircraft parts are very expensive even before you add tax to them.

I was surprised to hear that one first class seat for an aeroplane costs US \$50,000 which is about Kshs50 million. I hope to see a reduction in the cost of air transport with this exemption. I am a bit concerned from what I saw in the report of the Finance Committee, that we are now excluding Penicillin and its products from exemption. I would like to hear from the Chairman when replying, why this would be the case.

I have tried to look through the harmonised systems and commodities classification code to see whether medication relating to cancer treatment is included in the exemptions. The prominent items are medical supplies which are defined as equipment and accessories. Pharmaceuticals stand on their own. But we want to see medication for cancer treatment included in the harmonised systems commodities code. This should also apply to upgraded medication.

Lately, we have seen many young people die. We saw a young man called “Ezra” die from lymphoma cancer. We have also seen many people in this country who cannot afford treatment of cancer dying. I would like to hear from the Chairman, when he replies, why medication such as penicillin is being removed from the exemption list.

We are happy that the local film industry has now been boosted by tax exemption. I will not go too much into that because it has already been spoken to by many of our colleagues.

Removal of taxation on installation of machines outside Nairobi is a welcome move. We will now see many of our industries moving outside Nairobi and other major cities such as Mombasa and Kisumu. Coming from Homa Bay, I would like to see more industries moving away from these congested cities and coming towards Homa Bay and other places. This will ensure that a number of people will move away from the cities and be employed in these counties. This will also encourage investment.

Removal of taxation on compensation is a welcome move. People are giving away their land for purposes of public development. Therefore, receiving compensation and taxing it does not make sense. The whole issue should be discussed and debated by this House. Right now, you

find projects where compensation is more than the actual cost of the project. We want our people to be compensated but when cartels set in, they make compensation go up.

On wayleaves, people want power and high compensation. This compensation should be at fair rates and should not be taxed to avoid extortion from our public resources.

Finally, because I would like to save a bit of time, I cannot sit down without commenting on the issue of increasing core capital for banks. It has been said but it cannot be said enough. We have seen our banks, even the large banks, grow today. Equity Bank, for example, grew from a very small institution into the great institution that it is currently. Some people would even look at it as crossing the bridge and then removing the bridge so that other people do not cross that same bridge. If we get to Kshs5 billion by 2018, we will definitely be collapsing many of our banks and many of our people will not access banking services. Many people in Homa Bay where I come from, cannot access some of the so-called big banks.

I conclude.

The Temporary Deputy Speaker (Hon. Kajwang'): There being no Member willing to debate I, therefore, call upon the Mover to reply.

Hon. Lang'at: Thank you very much, Hon. Temporary Deputy Speaker. May I request that I give the Member for Igembe North two minutes and three minutes to the Leader of the Majority Party?

The Temporary Deputy Speaker (Hon. Kajwang'): The Hon. Member for Igembe North, if you would just be patient, the wheels of justice will come to you.

(Laughter)

Hon. M'uthari: Thank you, Hon. Temporary Deputy Speaker. I rise to support the Finance Bill, 2015.

It is important to know that this Bill has been proposed to accelerate economic growth and reduce the cost of doing business. This Bill is important because it is proposing reduction in taxation for some of our very creative industries like the film industry. The film industry is one which we have not developed. Here in Kenya, we are reduced to watching soap operas and these other movies from other countries such as *Afro-Cinema*. If we make this environment conducive, even our people here in Kenya can go ahead and do the same by being creative.

The other area where I find creativity is in the fact that we are reducing taxation in biogas digesters. That would be very good for our environment because it would reduce over-reliance on fossil fuels.

Hon. Temporary Deputy Speaker, I would like to ask the Chairman to move amendments to this Bill to allow more financial institutions to grow with banks.

With those remarks, I support.

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

Hon. A. B. Duale: Thank you, Hon. Temporary Deputy Speaker. I will take the three minutes to contribute. From the outset, I am not a happy man today. All my life as a Member of Parliament, the Finance Bill is one of the most important Bills that come to the National Assembly and yet we are hardly five Hon. Members. I am a very sad man. The Finance Bill is a Bill that deals with taxation measures that affect the lives of our people. I hope my colleagues---

The Temporary Deputy Speaker (Hon. Kajwang'): The Member for Garissa Township, you know the Temporary Deputy Speaker has not seen that.

Hon. A. B. Duale: Yes, Hon. Temporary Deputy Speaker. I have counted and seen that we are only five. But I hope next time we will do better. When the Jubilee Government had the right and appropriate policies and structural reforms in place our economy expanded by 5.3 per cent in 2014. The projection for this year is between 6.5 and 7.0 per cent. It is important to know that the Kenyan economy is one of the fastest growing economies in the region and in Africa. This is because the Central Bank of Kenya, the National Treasury, the private sector and the Government are all geared towards sustaining a macroeconomic stability. Late last year and this year, our economy encountered serious challenges. There were terrorist attacks, few tourist visits due to negative travel advisory and unfavorable tea prices. Above all, we had a very weak global economy. What is happening in Greece, Europe and America, and the falling prices of oil affect our economy. Currently, I am sure the Government is coming up with strategies to address those challenges.

This Bill deals with taxation measures proposed in the Finance Bill of 2015. If the House agrees, the proposals are aimed to accelerate the growth of economy and reduce the cost of doing business. I want to thank the House and the Departmental Committee on Finance, Planning and Trade in which you are a Member for ensuring that both the Insolvency Bill and the Companies Act are under final completion. The Finance Bill also aims at creating employment for our youth and lower the cost of living for Kenyans. The proposed measures will go through the final stage.

There are many key issues ranging from the film industry to biodigester. I am sure the Chairman will touch on the issue that touches on banks. The amount that banks should have has been increased from Kshs1 billion to Kshs5 billion by 2018. I want to agree with Hon. (Ms.) Wanga. Equity Bank started with Kshs2000 according to what Mr. Munga who is the Chairman told me. So, if we want to start a bank with (Ms.) Wanga tomorrow, we should be given the opportunity that was given to Mr. Munga. I am sure an amendment will be moved to reduce that amount. I am sure Kenyans want to join the banking sector. These proposals want to create monopoly of big multinational banks namely Barclays Bank, the Standard Chartered Bank and Equity Bank---

An Hon. Member: Even Equity Bank?

Hon. A. B. Duale: Yes. It is a local company but now, it has shareholding across the region. I am sure that amendment on insurance and the proposed banking taxation will be brought here.

With those remarks, I beg to support.

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

Hon. Langat: Thank you, Hon. Temporary Deputy Speaker. I would like to thank the Hon. Members who have contributed to the Finance Bill. I have noted all the issues they have raised. Although some Hon. Members have doubts on the fact that the Finance Bill looks very small compared to the Budget that was passed, I want to clarify that we have been making new finance laws since we joined this Parliament. Therefore, continuity does not need amendments. For example, we did a new VAT law in 2013. We have also done the Tax Stability Tribunal and moved amendments on micro-finance banks. Most of the issues have been updated. What we have gone through are small areas where we have challenges. For example on VAT, we are actually doing small panel beatings where we have found challenges since the passing of the VAT Bill of 2013.

So, Hon. Temporary Deputy Speaker, the size should not scare Members. We have passed enough laws. I have also said that the Excise Duty Bill is new and it is already on the Floor of the House. We have what we call the Tax Procedures Bill which provides separate finance sector laws. We also have the Miscellaneous Fees Bill.

With those few remarks, I beg to reply and thank you very much.

The Temporary Deputy Speaker (Hon. Kajwang’): No. You beg to move. Can you beg to move on the microphone?

Hon. Langat: With those few remarks, Hon. Temporary Deputy Speaker, I beg to move.

ADJOURNMENT

The Temporary Deputy Speaker (Hon. Kajwang’): Thank you. Order, Hon. Members. The time being 6.30 p.m., this House stands adjourned until Wednesday, 19th August, 2015, at 9.30 a.m. It is so ordered.

The House rose at 6.30 p.m.