

NATIONAL ASSEMBLY

OFFICIAL REPORT

Thursday, 27th August 2015

The House met at 9.30 a.m.

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

PRAYERS

QUORUM

Hon. Deputy Speaker: Let the Quorum Bell be rung.

(The Quorum Bell was rung)

All right; Members settle down. We are now properly constituted.

PETITIONS

ONE-THIRD GENDER REPRESENTATION STALEMATE

Hon. Deputy Speaker: Hon. Members, I have a petition to present regarding the one-third gender representation stalemate.

Standing Order No.225(2)(b) requires that the Speaker reports to the House any petition other than those presented through a Member. I, therefore, wish to convey to the House that my office is in receipt of a petition signed by one Major (Rtd.) Joel Kiprono Rop, a resident of Bomet County.

The Petitioner is proposing a formula for addressing the question of one-third gender representation. In the petition, the Petitioner prays that the National Assembly, through the Departmental Committee on Justice and Legal Affairs, initiates the process of amending the Constitution and all other relevant laws to resolve what he describes as the current one-third gender rule stalemate.

He, therefore, recommends:

First, amend Articles 97(1)(b) and Article 98 of the Constitution to transfer the 47 women Members of the National Assembly to the Senate.

Secondly, reconstitution of the National Assembly to include 94 women nominated by the county assemblies whereby each county will nominate two women Members of the county assemblies (MCAs) to be Members of the National Assembly.

Thirdly, restriction of the rest of nominations in the National Assembly to a few representatives of the special interest groups, namely persons with disabilities and other minorities.

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Hon. Members, the content of the prayer sought by the Petitioner, though not entirely unique, is a manifestation of the continued frantic yet genuine attempts by the citizenry to assist the country to fulfill the requirements of Article 81(b) of the Constitution, which provides that no more than two-thirds of the members of the elective public bodies should be of the same gender.

You will note that part of the prayers sought by the Petitioner is included in the pieces of legislation proposed by the Chairperson of the Departmental Committee on Justice and Legal Affairs and the Leader of the Majority Party, who are proposing to amend the Constitution and other relevant statutes. In this regard, the Departmental Committee to which the petition should be committed should attempt to address the prayer sought by the Petitioner during his considerations of the various pieces of legislation proposed by the Committee and the Leader of the Majority Party.

Hon. Members, therefore, pursuant to the provisions of Standing Order No.227, this petition will now stand committed to the Departmental Committee on Justice and Legal Affairs for consideration.

I thank you.

I believe Hon. Zuleikha Juma also has a petition.

WORKING CONDITIONS AT KWALE SUGARCANE COMPANY

Hon. (Ms.) Juma: Hon. Deputy Speaker, thank you for this opportunity.

I, the undersigned, on behalf of the employees and former employees of Kwale Sugarcane Company Limited, Kwale County, draw the attention of the House to the following:

THAT, Kwale Sugar Company Limited was established in the year 2006;

THAT, the Government of Kenya and Kwale Sugar Company Limited had indicated that employment opportunities would be availed to the local community in Msambweni Constituency;

THAT, the Company's direct hiring strategy for its employees led to the expectation that locals would be considered first, with a focus on gender equality;

THAT, employment opportunities were to be given to the local community members, especially to individuals personally and directly affected by land evictions, but to the contrary workers have not obtained fair opportunities given that some are subjected to casual and contractual terms for a long period, while others are employed on permanent basis.

THAT, employment in the company is undesirable since it exposes the employees to long hours of hard labour with meagre pay of as little as Kshs170 a day, which offers evicted farmers no hope of overcoming the financial and social burdens they face despite the fact that the company came to Msambweni Constituency to use land for sugar production;

THAT, the issues in respect of which this petition is made are not pending before any court of law, constitutional or legal body.

Therefore, your humble Petitioners pray that the National Assembly, through the Departmental Committee on Labour and Social Welfare:-

1. Investigates the circumstances behind the poor working conditions of the workers at the company.
2. Intervenes to have the terms of workers reviewed favourably and three, makes any other recommendations that may be deemed fit in addressing the plight of the said workers.

Your Petitioners will ever pray.

Hon. Deputy Speaker: Okay. I believe that will stand committed to the Departmental Committee on Agriculture, Livestock and Fisheries.

STATEMENT

IMPUTATION OF IMPROPER MOTIVE WITHOUT A SUBSTANTIVE MOTION

Hon. Wandayi: On a point of order, Hon. Deputy Speaker.

Hon. Deputy Speaker: Yes, Hon. Wandayi.

Hon. Wandayi: Hon. Deputy Speaker, thank you very much. I rise under Standing Order No. 87(4). I do not have the Standing Orders with me but I think it broadly talks about a Member not being allowed to impute improper motives on any other Member without, of course, filing a substantive Motion.

Hon. Deputy Speaker: Sorry, I did not get the Standing Order that you are standing on.

Hon. Wandayi: Standing Order No. 87(4); that is the Standing Order under which I am rising. In a nutshell, it bars any Member from imputing improper motive on any other Member without filing a substantive Motion. That is the gist of that Standing Order, I believe. You will also, of course, recall that Standing Order No. 84 gives any Member room to rise and make a personal statement. That also gives a Member that latitude. That particular Standing Order No. 84 does not, in any way, give a Member who rises under it, latitude to impute improper motive on any other Member as this is clearly barred by Standing Order No. 87(4). It is important to understand that under Standing Order No. 84, a statement made by a Member may not be debated. That is very clear. The operating word here is “may”. I believe that, that Standing Order still gives the Speaker the power to determine whether he may allow Members to debate that statement or not. It does not expressly bar the House from debating such a statement.

For a Member to be able to rise under Standing Order No. 84, I believe the Speaker should have seen in advance the context of the statement that the Member wishes to raise. It, therefore, surprises me that a Member could rise under Standing Order No. 84 and proceed to mention another Member adversely, without the Speaker taking notice. Yesterday, the Member for Magarini Constituency, my very good friend, Hon. Kombe, with whom I have been in very deep discussions on matters political, rose under Standing Order No. 84 and imputed improper motive on my person. Hon. Kombe alluded to the fact that I attended some meeting with him where some matters were discussed which are, in my view, matters that could imply that I was applying undue pressure on him to do something which was not right.

Hon. Deputy Speaker, I approached you and you indicated to me that I could rise later in the day to make a clarification. I went ahead and filed a statement with the Office

of the Speaker. Unfortunately, it was declined by the substantive Speaker. So, I am in a dilemma. If we can give Members room under Standing Order No. 84 to rise and make disparaging remarks against fellow Members, what remedy would that Member have? What remedy would I have if we cannot debate the statement and I cannot sue him? I am left with no remedy at all.

Therefore, I need guidance and a considered ruling on what I could do as a matter of remedy in the sense that my person has been disparaged and my character assassinated in a manner that is not justifiable. If you allow me, therefore, to plead with you, that decision--- I believe the Speaker made that decision without full knowledge of what had transpired. I strongly believe so. I cannot in any way dispute and contest the ruling of the Speaker, or his decision to bar me from making that statement here.

In the interest of natural justice, it is important that I be given a chance to make a clarification as to what really transpired. Even today in the newspapers, it is featuring that I attended a meeting with Hon. Kombe where we discussed matters which are foreign to me. So, it is very critical that you give me room to make a clarification by way of making a statement on this Floor, or by any other way that you may deem necessary.

Thank you.

Hon. Deputy Speaker: Thank you, Hon. Wandayi. Your point has been made. I have no intention of overruling what the Speaker had already ruled on, which was that he declined to allow the making of your statement. We will continue to abide by our Standing Orders. We may need to go back and look at what is in the HANSARD in relation to what you have just commented on, and in respect to the other Standing Order that you noted, which is to do with fellow Members.

I do not know whether the contents of what the Member spoke to was regarding a Member, a Senator or regarding any other person that may not have the privilege of being able to answer. I do not know whether it was a substantive Motion on the Floor of the House. Allow us to look back at the contents of the HANSARD without overruling what has already been ruled on. Let us have that time and you will get proper communication on the same.

Let us move on.

Just to clarify, Hon. Zuleikha, the matter that the petition raised was to go to the Departmental Committee on Labour and Social Welfare rather than Departmental Committee on Agriculture, Livestock and Cooperatives. That should be put on record.

MOTION

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

Hon. Deputy Speaker: Hon. Members, having ascertained that, indeed, we are properly constituted, this Sessional Paper had been sufficiently debated and what was left is to put the Question.

(Question put and agreed to)

BILLS*Second Reading*

THE PARLIAMENTARY POWERS AND PRIVILEGES BILL

Hon. Deputy Speaker: Again, hon. Members, this Bill had been completed. What was left is putting the Question.

(Question put and agreed to)

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

Third Reading

THE PROHIBITION OF ANTI-PERSONNEL MINES BILL

Hon. Deputy Speaker: Hon. Zuleikha, the Chair is upstanding. Hon. Members, again, this is a Bill that has been concluded. What was left is to put the Question.

(Question put and agreed to)

(The Bill was accordingly read a Third time and passed)

Hon. Deputy Speaker: Hon. Members, as we proceed to Committee of the whole House, I want to make a clarification. We will be starting with the second Bill, the Companies and Insolvency Legislation (Consequential Amendments) Bill (National Assembly Bill No.25 of 2015).

COMMITTEE OF THE WHOLE HOUSE

(Order for Committee read)

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

IN THE COMMITTEE

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

THE COMPANIES AND INSOLVENCY LEGISLATION
(CONSEQUENTIAL AMENDMENTS) BILL

The Temporary Deputy Chairman (Hon. Cheboi): Order, Members! We are now on Order No.11, the Committee of the whole House on the Companies and Insolvency Legislation (Consequential Amendments) Bill (National Assembly Bill No.25 of 2015). Let us proceed.

Order Members, we will start afresh. I see Hon. Chepkong'a has proposed amendments, you can have the Floor.

Clause 2

Hon. Chepkong'a: Hon. Temporary Deputy Chairman, I beg to move:-

THAT, the Bill be amended in clause 2 by deleting the words "section 845" appearing immediately after the words "Companies Act, 2015—" and substituting therefor the words "section 844".

This is just cleaning as a consequence of passing the Companies Bill; we made some amendments and the sections changed.

Thank you, Hon. Temporary Deputy Chairman.

(Question of the amendment proposed)

The Temporary Deputy Chairman (Hon. Cheboi): I see Hon. Pukose wants to speak to it, he is absent. Hon. Rege, you want to speak to that particular one?

(Question, that the words to be left out be left out, put and agreed to)

(Question, that the words to be inserted in place thereof be inserted, put and agreed to)

(Clause 2 as amended agreed to)

(Clauses 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20 and 21 agreed to)

Clause 22

Hon. Chepkong'a: Hon. Temporary Deputy Chairman, I beg to move:-

THAT, the Bill be amended in clause 22 in the proposed section 55(a) of the Societies Act by deleting the words "Part 16 of the First Schedule to" appearing immediately after the words "commencement of".

This is to remove unnecessary words that are contained in this Bill. The Bill itself does not contain parts of schedules; so the words as contained in that Bill are unnecessary; we are just cleaning it up.

Thank you, Hon. Temporary Deputy Chairman.

(Question of the amendment proposed)

The Temporary Deputy Chairman (Hon. Cheboi): I see no major interest.

(Question, that the words to be left out be left out, put and agreed to)

(Clause 22 as amended agreed to)

(Clauses 23, 24, 25, 26, 27, 28 and 29 agreed to)

Clause 30

Hon. Chepkong'a: Hon. Temporary Deputy Chairman, I beg to move:-

THAT, Clause 30 of the Bill be amended in the proposed section 15(3) (b) of the Insurance (Motor Vehicle Third Party Risks) Act by inserting the words "the debt is owing" immediately after the words "to whom".

What we are seeking to do is to insert words that were left out and were missing at the end of the proposed section 15 by introducing the words "the debt is owing". As it is right now, it does not make sense. So those about four words were left out.

Thank you, Hon. Temporary Deputy Chairman.

(Question of the amendment proposed)

The Temporary Deputy Chairman (Hon. Cheboi): I see the Member for Narok South; you want to speak to this particular one.

Hon. ole Lemein: Thank you, Temporary Deputy Chairman. I rise to support the proposal by Hon. Chepkong'a; it makes sense to, indeed, make the statement correct.

Thank you, Hon. Temporary Deputy Chairman.

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

(Clause 30 as amended agreed to)

Clause 31

Hon. Chepkong'a: Hon. Temporary Deputy Chairman, I beg to move:-

THAT, the Bill be amended by deleting clause 31.

Clause 31 makes reference to section 24 of the Insurance (Motor Vehicle Third Party Risks) Act. Even the content of the amendment itself does not relate to the Insurance (Motor Vehicle Third Party Risks) Act, which is made reference to and has only 18 sections. So, when you make reference to Section 24 yet in the parent Act there are only 18 sections it becomes redundant. So, we are proposing that this be deleted because it makes reference to a law that does not exist.

(Question of the amendment proposed)

Hon. Mulu: Thank you, Hon. Temporary Deputy Chairman. I think from the explanation of the Chairman of the Committee, it is important that we get this clause deleted. But, I am also getting worried because if you remember, initially this Bill had to be taken back to the Committee for re-editing. So, I am surprised even after that serious work by the Committee we still find this kind of thing in the Bill. I think it is important for people to be careful.

(Question, that the words to be left out be left out, put and agreed to)

(Clause 31 deleted)

Clause 32

Hon. Chepkong'a: Hon. Temporary Deputy Chairman, I beg to move:-

THAT, the Bill be amended in Clause 32 in—

(a) paragraph (a) by deleting the words “means a statutory auditor as defined by” and substituting therefor the words “has the meaning assigned to it under”;

(b) paragraph (b) by deleting the words “having responsibility for public finance” and substituting therefor the words “responsible for the National Treasury”.

The import of the proposed amendment is to align the amendment to the amendments that were made to the Companies Bill, 2015, where the definition of the term “statutory auditor” was deleted, and to clarify the relevant role of the Cabinet Secretary under the amendment.

(Question of the amendment proposed)

(Question, that the words to be left out be left out, put and agreed to)

(Question, that the words to be inserted in place thereof be inserted, put and agreed to)

(Clause 32 as amended agreed to)

(Clauses 33, 34, 35, 36 and 37 agreed to)

Clause 38

Hon. Chepkong'a: Hon. Temporary Deputy Chairman, I beg to move:-

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THAT, Clause 38 of the Bill be amended in the proposed section 22 of the Insurance Act by deleting paragraph (b) and substituting therefor the following paragraph—

“(b) at least one third of the controlling interest in the body (whether in terms of shares, paid up share capital or voting rights) is wholly under the control of—

(a) citizens of a partner State of the East African Community;

(b) a partnership whose partners are all citizens of a partner State of the East African Community; or

(c) a body corporate whose shares are wholly owned by citizens of a partner State of the East African Community or the Government, or a combination of them.”

We are seeking to align the proposed amendment to the Insurance Act. We are seeking that Clause 38 of the Bill be amended in the proposed Section 22 of the Insurance Act by deleting paragraph (b) and substituting therefor the new paragraph as stated in Clause 38.

As you know, Kenya has signed the East African Protocol in terms of free movement of labour. That in itself was restricting that Protocol, yet the Insurance Act has provided a very comprehensive definition of what a controlling interest in a body is. So, we have just lifted what is already contained in the Insurance Act, so that this provision can be in line with that particular Act.

(Question of the amendment proposed)

The Temporary Deputy Chairman (Hon. Cheboi): Hon. Ali Rasso of Saku.

Hon. Dido: Hon. Temporary Deputy Chairman, Clause 38 is very important considering the Common Market and the Customs Union of the East African Community. In the previous clause, we were attempting to say that the National Treasury has recourse to public funds. This enables insurance companies to trade within the East African Community without any hindrance. Also, in case there are problems, the national governments of the partner States can plough funds into those companies, so that they do not go under, mainly because their citizens have a stake in them.

I beg to support.

(Question, that the words to be left out be left out, put and agreed to)

(Question, that the words to be inserted in place thereof be inserted, put and agreed to)

(Clause 38 as amended agreed to)

(Clauses 39, 40, 41, 42, 43, 44, 45, 46 and 47 agreed to)

Clause 48

Hon. Chepkong'a: Hon. Temporary Deputy Chairman, I beg to move:-

THAT, Clause 48 of the Bill be amended in the proposed section 41(5) of the Insurance Act by deleting the words “section 383” appearing immediately after the words “meaning of” and substituting therefor the words “section 384”.

We are seeking to align the cross-referencing as a result of the changes that were made in the Companies Bill. We are changing from Section 383 to 384 because of the changes that we made there.

(Question of the amendment proposed)

The Temporary Deputy Chairman (Hon. Cheboi): Do I see Hon. Pukose, or the card is permanently there? We should remove the cards.

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

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

(Clause 48 as amended agreed to)

(Clauses 49, 50, 51 and 52 agreed to)

Clause 53

Hon. Chepkong'a: Hon. Temporary Deputy Chairman, I beg to move:-

THAT, Clause 53 of the Bill be amended in the proposed section 53 (1)(g) of the Insurance Act by deleting the words “section 383” appearing immediately after the words “meaning of” and substituting therefor the words “section 384”.

Again, we are seeking to align the cross-referencing of the changes that were made in the Companies Bill.

(Question of the amendment proposed)

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

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

(Clause 53 as amended agreed to)

Clause 54

Hon. Chepkong'a: Hon. Temporary Deputy Chairman, I beg to move:-

THAT, Clause 54 of the Bill be amended in the proposed section 71(3) of the Insurance Act by deleting the words “sections 166, 167, 169 and 170” appearing immediately after the words “sections” and substituting therefore the words “165, 166, 168 and 169”.

Again, these are cross-referencing errors that were changed in the Companies Bill. So, we are seeking to align this with the Companies Bill and the consequential amendments Bill.

(Question of the amendment proposed)

(Question, that the words to be left out be left out, put and agreed to)

(Question, that the words to be inserted in place thereof be inserted, put and agreed to)

(Clause 54 as amended agreed to)

(Clauses 55, 56, 57 and 58 agreed to)

Clause 59

Hon. Chepkong'a: Hon. Temporary Deputy Chairman, I beg to move:-

THAT, Clause 59 of the Bill be amended in the proposed Section 122 of the Insurance Act by deleting the words “Section 383” appearing immediately after the words “purpose of” and substituting therefor the words “Section 384”.

We are seeking to align the cross-references that were changed in the Companies Bill, 2015 with this Bill.

(Question of the amendment proposed)

(Question, that the words to be left out be left out, put and agreed to)

(Question, that the words to be inserted in place thereof be inserted, put and agreed to)

(Clause 59 as amended agreed to)

Clause 60

Hon. Chepkong'a: Hon. Temporary Deputy Chairman, I beg to move:-

THAT, Clause 60 of the Bill be amended in the proposed Section 123 of the Insurance Act—

(a) in subsection (1)(b) by deleting the words “Section 383” appearing immediately after the words “meaning of” and substituting therefor the words “Section 384”;

(b) in subsection (1)(c) by inserting the words “expectations of policy holders or potential policy holders;” immediately after the word “reasonable”.

The import of the first amendment, which is (a) of Clause 60, is to realign it with the Companies Bill as a result of the changes that we made during the Committee of the whole House. The import of the second amendment is to insert the proper words which are missing at the end of the proposed Clause 123 (1)(c), which should be amended by inserting the words “expectations of policy holders or potential policy holders;”, which are missing immediately after the word “reasonable”.

(Question of the amendment proposed)

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

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

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

(Clause 60 as amended agreed to)

(Clauses 61 and 62 agreed to)

Clause 63

The Temporary Deputy Chairman (Hon. Cheboi): Hon. Temporary Deputy Chairman, I beg to move:-

THAT, Clause 63 of the Bill be amended in the proposed Section 126(2) of the Insurance Act by deleting the words “Section 701” appearing immediately after the words “made under” and substituting therefor the words “Section 697”.

This is an amendment to the cross-referencing as a result of the changes that we made to the Companies Bill.

(Question of the amendment proposed)

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

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

(Clause 63 as amended agreed to)

(Clause 64 agreed to)

Clause 65

Hon. Chepkong'a: Hon. Temporary Deputy Chairman, I beg to move:-

THAT, Clause 65 of the Bill be amended in the proposed section 153 (2) of the Insurance Act by deleting the word “can” appearing immediately after the word “broker” and substituting therefor the words “shall be”.

We are seeking to remove the word “can” and substitute therefor the words “shall be” for purposes of consistency and clarity within the clause itself.

(Question of the amendment proposed)

*(Question, that the word to be left out
be left out, put and agreed to)*

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

(Clause 65 as amended agreed to)

(Clauses 66, 67, 68, 69, 70, 71 and 72 agreed to)

Clause 73

The Temporary Deputy Chairman (Hon. Cheboi): Hon. Chair, occasionally when I realise that the House is fairly quiet, even your voice will be sufficient. If everybody else, including yourself is quiet, it becomes very difficult for the Chair to make a decision.

Hon. Chepkong'a: I realise that, Hon. Temporary Deputy Chairman. I was concentrating on the next amendment. The previous clause did not have any amendment. I realised that my good friend, Hon. Waweru, should have assisted the Committee, although he is waiting for the Finance Bill.

Hon. Temporary Deputy Chairman, I beg to move:-

THAT, Clause 73 of the Bill be amended in paragraph (a) by deleting the words “except in sub-section (5)”.

We are seeking to remove the words “except in sub-section (5)”. That in itself is superfluous. It does not make sense at all in the amendment that is being proposed. We are removing the words for purposes of consistency and clarity in this particular clause.

(Question of the amendment proposed)

The Temporary Deputy Chairman (Hon. Cheboi): I commend the Committee because there is no major interest by Members because the Committee did a reasonably good job, and that is why we are moving very quickly. The Members seem to agree with practically every other amendment. I just wanted Members to know that, so that they do not have an issue as to why we are not giving them a chance to contribute. There are no requests here.

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

(Clause 73 as amended agreed to)

Clause 74

Hon. Chepkong’a: Hon. Temporary Deputy Chairman, I beg to move:-

THAT, Clause 74 of the Bill be amended in the proposed Section 205(a) of the Insurance Act by deleting the words “Part 7 of the First Schedule to” appearing immediately after the words “commencement of”.

The import of this amendment is to delete the words “Part 7 of the First Schedule to”. Those are unnecessary words. They do not improve the text of the clause at all. They are unnecessary and confusing.

(Question of the amendment proposed)

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

(Clause 74 as amended agreed to)

(Clauses 75, 76, 77 and 78 agreed to)

Clause 79

Hon. Chepkong’a: Hon. Temporary Deputy Chairman, I beg to move:-

THAT, Clause 79 of the Bill be amended in the proposed Section 24 of the Insurance Act by—

(a) deleting the word “statutory” appearing immediately after the words “annually a” in subsection (1);

(b) deleting the word “statutory” appearing immediately after the word “A” in subsection (1A).

We are seeking to align the amendments that have been proposed here with the Companies Bill. We made amendments to remove the word “statutory”. In Kenya, we do not have someone called “a statutory auditor”. We made that amendment in the Companies Bill and it also appears in this Bill; so, we are seeking to clean out that terminology since it does not exist anywhere, whether in our statutes or as a matter of usage.

(Question of the amendment proposed)

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

(Clause 79 as amended agreed to)

The Temporary Deputy Chairman (Hon. Cheboi): I was curious because I saw Hon. Sakaja voting “Aye” very loudly, yet he has just walked in.

(Clauses 80, 81, 82, 83, and 84 agreed to)

Hon. Chepkong’a: Hon. Temporary Deputy Chairman, the Chair of The National Alliance (TNA) party is always very keen and observant. In his own party, he takes people for disciplinary action.

The Temporary Deputy Chairman (Hon. Cheboi): Hon. Chepkong’a, I am also informed that he is techno-savvy. So, even as he walks in, he is already following proceedings online.

Clause 85

Hon. Chepkong’a: Hon. Temporary Deputy Chairman, I beg to move:-

THAT, Clause 85 of the Bill be amended in the proposed Section 35B (9) of the Banking Act by deleting the words “Part 2 of the First Schedule to” appearing immediately after the words “commencement of”

This is to remove unnecessary words contained in this Bill, so that we can align it with the other parts that delete and make amendments to the other parts of the Banking Act.

(Question of the amendment proposed)

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

(Clause 85 as amended agreed to)

(Clauses 86, 87, 88, 89, 90, 91, 92,

93, 94 and 95 agreed to)

Clause 96

Hon. Chepkong'a: Hon. Temporary Deputy Chairman, I beg to move:-

THAT, Clause 96 of the Bill be amended in the proposed section 56 (3) (a) of the Banking Act, by deleting the words "Part 2 of the First Schedule to" appearing immediately after the words "commencement of"

We are seeking to remove unnecessary words from the Bill. In particular, we are deleting the words "Part 2 of the First Schedule to" appearing immediately after the words "commencement of". Those are unnecessary words; they do not bring any meaning to the particular clause.

(Question of the amendment proposed)

The Temporary Deputy Chairman (Hon. Cheboi): Member for Sigowet/Soin!

Hon. Kemei: Hon. Temporary Deputy Chairman, I support the amendment because there was unnecessary repetition. With the proposed amendment, the text now makes more sense.

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

(Clause 96 as amended agreed to)

*(Clauses 97, 98, 99, 100, 101, 102,
103, 104 and 105 agreed to)*

Clause 106

Hon. Chepkong'a: Hon. Temporary Deputy Chairman, I beg to move:-

THAT, Clause 106 of the Bill be amended in the prefatory statement by inserting the words "subsection (2)" immediately after the word "deleting".

Hon. Temporary Deputy Chairman, we are seeking to insert a missing reference for purposes of clarity within the clause.

(Question of the amendment proposed)

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

(Clause 106 as amended agreed to)

(Clauses 107, 108 and 109 agreed to)

Clause 110

Hon. Chepkong'a: Hon. Temporary Deputy Chairman, I beg to move:-

THAT, Clause 110 of the Bill be amended in the proposed section 65(1) of the Co-operative Societies Act by deleting the words “registration of” appearing immediately after the words “If the”.

This Consequential Amendments Bill is amending many Acts of Parliament as a consequence of passing the new Companies and Insolvency Bill. So, you may see that we are amending many other Acts, including the Banking Act.

(Hon. (Ms.) Kajuju consulted Hon. M'uthari loudly)

The Temporary Deputy Chairman (Hon. Cheboi): Order, Hon. Kajuju! You are interfering with the concentration of the Chairman.

Hon. Chepkong'a: Thank you, Hon. Temporary Deputy Chairman. She deserves a big order. Since she is a Member of this Committee, she should be paying more attention than greeting Hon. M'uthari. We know that they come from the same region but that is not a reason for them to greet one another in the House in the manner they did.

We are amending the Co-operative Societies Act by deleting the words “registration of” as they are unnecessary. They are repeated in that particular clause.

(Question of the amendment proposed)

The Temporary Deputy Chairman (Hon. Cheboi): I can see a few hon. Members who want to speak to this amendment.

Hon. Murungi, the Floor is yours.

Hon. Murungi: Thank you, Hon. Temporary Deputy Chairman. I would like to support the proposed amendment by the Chairperson of the Departmental Committee on Justice and Legal Affairs. Deleting those words makes the Co-operative Societies Act clearer.

Hon. ole Lemein: Thank you, Hon. Temporary Deputy Chairman. I agree with Hon. Chepkong'a that this Bill is amending quite a number of laws. The deletion of the words “registration of” is appropriate.

Hon. Waweru: Thank you, Hon. Temporary Deputy Chairman. Not underestimating the importance of the co-operative society is important. I totally agree with the Departmental Committee Chair on the said amendment.

Hon. Makenga: Thank you, Hon. Temporary Deputy Chairman. I support the proposed amendment by the Departmental Committee Chair. The repeated words should be deleted to make the law meaningful.

The Temporary Deputy Chairman (Hon. Cheboi): Hon. Members, there are only two ways; ayes or nay. Any other sound will not be detected by the Chair, even if it is a squirm.

Actually, the Chairperson of the Committee says that it was a hissing sound. We must make sure that we make the right sounds.

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

(Clause 110 as amended agreed to)

(Clauses 111, 112, 113, 114, 115 and 116 agreed to)

Clause 117

Hon. Chepkong'a: Hon. Temporary Deputy Chairman, I beg to move:-

THAT, Clause 117 of the Bill be amended in paragraph (a) by deleting the word "amended".

We are seeking to remove one of the two words that are contained in that particular clause. This is the word "amended". There are two of them. So, one is redundant and needs to be removed or deleted.

(Question of the amendment proposed)

The Temporary Deputy Chairman (Hon. Cheboi): I can see the gracious lady from Baringo South.

Hon. (Ms.) Kipchoim: Thank you, Hon. Temporary Deputy Chairman. I want to support Hon. Chepkong's amendment.

*(Question, that the word to be left out be
left out, put and agreed to)*

(Clause 117 as amended agreed to)

(Clauses 118 and 119 agreed to)

Clause 120

Hon. Chepkong'a: Hon. Temporary Deputy Chairman, I beg to move:-

THAT, Cause 120 of the Bill be amended—

(a) in the prefatory statement by deleting the word "paragraph" appearing immediately after the words "following new" and substituting therefor the word "subsection";

(b) in the proposed section 96(3) (a) of the Co-operative Societies Act by deleting the words "Minister under this Act before the commencement of Part 4 of the First Schedule to" appearing immediately after the words "by or to the" and substituting therefor the words "Cabinet Secretary under this Act before the commencement of".

We are seeking to remove words that are not consistent with the current constitutional structure. There are references to "Minister" yet we know that Ministers

were replaced with Cabinet Secretaries. We are seeking to replace “Minister under this Act” with “Cabinet Secretary under this Act before the commencement of”.

(Question of the amendment proposed)

The Temporary Deputy Chairman (Hon. Cheboi): I give to Hon. Njuki the first shot.

Hon. Njuki: Hon. Temporary Deputy Chairman, I support that amendment to remove the word “Minister”, and replace it with “Cabinet Secretary”. I am just wondering what is wrong with the word “paragraph”. It is in order. Why the word “paragraph”?

The Temporary Deputy Chairman (Hon. Cheboi): Okay. As you probably consult on that one, let us have the Member for Turkana.

Hon. (Ms.) Emanikor: Hon. Temporary Deputy Chairman, I want to support Hon. Chepkonga’s amendment. This legislation is trying to align itself to our new Constitution. As for my neighbour, Hon. Njuki, because he came late, he does not really know how much we have done in terms of the amendments. Most of them are consequential. He has to learn a lesson in terms of coming early and catching up.

The Temporary Deputy Chairman (Hon. Cheboi): Well, I did not realise that Turkana and Chuka/Igambang’ombe were within the same neighbourhood. I thought they were far apart. Let us have Hon. Oyoo.

Hon. Oyoo: Hon. Temporary Deputy Chairman, I also wish to support this amendment by my good friend, the learned Hon. Chepkong’a. It is in tandem with the new constitutional disposition which now requires Ministers to be referred to as Cabinet Secretaries.

(Question, that the words to be left out be left out, put and agreed to)

(Question, that the words to be inserted in place thereof be inserted, put and agreed to)

(Clause 120 as amended agreed to)

(Clauses 121, 122, 123, 124 and 125 agreed to)

Clause 126

Hon. Chepkong’a: Hon. Temporary Deputy Chairman, I beg to move:-

THAT, Cause 126 of the Bill be amended in the prefatory statement by deleting the word “depositions” appearing immediately after the word “central” and substituting therefor the word “depositories”.

We are seeking to remove a word that has been put in this particular clause that gives a different meaning to what was intended. The words “depositions” and

“depositories” are different. So, we are removing “depositions” and replacing it with the word “depositories”, which is the correct word in terms of banking.

(Question of the amendment proposed)

The Temporary Deputy Chairman (Hon. Cheboi): I will give chances to two Members to speak on this starting with Hon. Sakaja.

Hon. Sakaja: Hon. Temporary Deputy Chairman, I would like to agree with Hon. Chepkong’a on this amendment as the two words are totally different. Deposition is to depose or to remove somebody from office and depository is a central place like a repository where things are placed. They have totally different meanings. Even then, there is no Act that exists called “The Central Depositions Act”. I think we will not have any such Act in future for obvious reasons. For that reason, I agree with Hon. Chepkong’a.

Again, I thank you for acknowledging how techno-savvy I am. I appreciate that.

The Temporary Deputy Chairman (Hon. Cheboi): Well, Hon. Chepkong’a indicated that it is because of your youthful age. Let us have Hon. M’eruaki.

Hon. M’uthari: Hon. Temporary Deputy Chairman, I also rise to support this amendment. It brings a completely different meaning from what was intended. This amendment brings clarity in the purpose of the Bill.

*(Question, that the word to be left out
be left out, put and agreed to)*

*(Question, that the word to be inserted in place
thereof be inserted, put and agreed to)*

(Clause 126 as amended agreed to)

(Clause 127 agreed to)

Clause 128

Hon. Chepkong’a: Hon. Temporary Deputy Chairman, I beg to move:-

THAT, Clause 128 of the Bill be amended by deleting the words “control depositions” appearing immediately after the words “Section 21 of the” and substituting in place therefor the words “central depositories”.

The reason for the amendment is to remove the words “control depositions”. In terms of the clause, it changes the meaning and the intention of that clause. I therefore, wish to replace it with the words “central depositories”. I suspect that this was a typographical error. This Bill has over 174 clauses and making cross references to clauses in the Companies Bill which had 1,076--- I guess the person must have got very tired.

(Question of the amendment proposed)

The Temporary Deputy Chairman (Hon. Cheboi): I give the Floor to Hon. Justice Kemei.

Hon. Kemei: Thank you, Hon. Temporary Deputy Chairman. I initially wanted to comment on Clauses 120 and 126 but they have been overtaken by events. I especially wanted to say that there is a difference between “word”, “sentence”, “paragraph”, “subsection” and “section” in English. All the same, I support the clarity and the legal meanings of the words used by the Chair so that, at the end of the day, we do not say something we do not mean.

The Temporary Deputy Chairman (Hon. Cheboi): Very well. We could have Hon. Kipchoim.

Hon. (Ms.) Kipchoim: Thank you, Hon. Temporary Deputy Chairman. I also want to support the amendment by the Hon. Chair to remove the word “deposition” in Clause 120. It is also to be removed in the subsequent Clause 128. I support.

Thank you, Hon. Temporary Deputy Chairman.

The Temporary Deputy Chairman (Hon. Cheboi): Very well. Let us have Member for Chuka/Igambang’ombe.

*(Hon. Ichung’wah crossed the Floor
without bowing to the Chair)*

Hon. Njuki: Hon. Temporary Deputy Chairman, I was just worried whether we are not in session because Hon. Kimani Ichung’wah just crossed the Floor while talking on the phone. Hon. Temporary Deputy Chairman, you are not watching.

The Temporary Deputy Chairman (Hon. Cheboi): That is an extremely--- If that really happened, I did not notice it, you know we are in our third year now. Surely, I would not expect that to happen. Let us hear from Hon. Ichung’wah. What happened? Is that the case?

Hon. Ichung’wah: Hon. Temporary Deputy Chairman, Hon. Muthomi Njuki, my very good friend from Chuka/Igambang’ombe, must really be looking for attention from the Chair because if he has been here for three years he knows that when the Mace is down, I can cross the Floor.

The Temporary Deputy Chairman (Hon. Cheboi): No. That is a bad admission. I will order you to do what is supposed to be done. Go back to the other side. It does not mean that when the Mace is not here, we are allowed to walk as if we are walking across Kikuyu Constituency on road.

Proceed and do that without any further---

Hon. Ichung’wah: The other misinformation is that I was on phone, I was not.

The Temporary Deputy Chairman (Hon. Cheboi): I am willing to ignore the other one but I will not ignore this one. So, proceed and do what is necessary.

(Hon. Ichung’wah went to the Bar and bowed to the Chair)

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

(Question, that the words to be inserted in place thereof be inserted, put and agreed to)

(Clause 128 as amended agreed to)

(Clauses 129 and 130 agreed to)

Clause 131

Hon. Chepkong'a: Hon. Temporary Deputy Chairman, I beg to move:-

THAT, Clause 131 of the Bill be amended by deleting the word “depositions” appearing immediately after the word “central” and substituting therefor the word “depositories”.

What we are seeking to do is to replace the word “depositions” with the word “depositories” again. If we retain the word “depositions” the meaning of the clause will be totally different.

Thank you.

(Question of the amendment proposed)

The Temporary Deputy Chairman (Hon. Cheboi): Let us have Hon. Lemein speaking to this.

Hon. ole Lemein: Thank you, Hon. Temporary Deputy Chairman. I rise to support the same. I thank Hon. Chepkong'a for being keen. I agree with him that these two terms are extremely different in meaning.

Thank you.

Hon. Sakaja: Hon. Temporary Deputy Chairman, we agree with this amendment as, we have done earlier, because the word “deposition” is different and dangerous here as opposed to “depository”, it is different to what you have termed “my digital disposition.” We want to know who drafted this Bill because we have spent a lot of time doing amendments that are really not worth the time of this House; we are just editing grammar. We have spent a lot of time of this House. Ultimately, we would like the Chair to tell us who actually drafted this Bill. I know we have very competent drafters in this country.

Thank you.

The Temporary Deputy Chairman (Hon. Cheboi): That is something for the Chair to note and to respond to at the appropriate time.

(Question, that the word to be left out be left out, put and agreed to)

(Question, that the word to be inserted in place thereof be inserted, put and agreed to)

(Clause 131 as amended agreed to)

*(Clauses 132, 133, 134, 135, 136, 137, 138,
139, 140, 141 and 142 agreed to)*

Clause 143

Hon. Chepkong'a: Hon. Temporary Deputy Chairman, I beg to move:-

THAT, Clause 143 of the Bill be amended in the proposed section 52 (3) (a) of the Copyright Act by deleting the words "Part 5 of the Tenth Schedule to" appearing immediately after the words "commencement of".

Again, we are seeking to remove words that we imported into this particular clause which do not make sense at all. We are removing "Part 5 of the Tenth Schedule to" appearing thereof. That Part 5 of the Tenth Schedule does not exist in the Companies Act.

Thank you.

(Question of the amendment proposed)

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

(Clause 143 as amended agreed to)

*(Clauses 144, 145, 146, 147, 148, 149, 150, 151,
152, 153, 154, 155, 156, 157, 158, 159,
160, 161, 162 and 163 agreed to)*

Clause 164

Hon. Chepkong'a: Hon. Temporary Deputy Chairman, I beg to move:-

THAT, Clause 164 of the Bill be amended in the proposed section 92 (4) (a) of the Employment Act by deleting the words "Part 6 of the First Schedule to" appearing immediately after the words "commencement of".

We are seeking to amend Clause 164 by removing the unnecessary words because it makes reference of Part 6 of the First Schedule, which is not contained in the Companies Bill. It does not contain parts, it contains divisions.

(Question of the amendment proposed)

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

(Clause 164 as amended agreed to)

*(Clauses 165, 166, 167, 168, 169,
170, 171, and 172 agreed to)*

Clause 173

Hon. Chepkong'a: I thank you, Hon. Temporary Deputy Chairman. I beg to move:-

THAT, Clause 173 of the Bill be amended in the proposed Section 33(2)(a) of the National Payment System Act by deleting the words "Part 12 of the First Schedule to" appearing immediately after the words "commencement of".

This is to remove unnecessary words because the Companies Bill does not contain that reference. I thank you.

(Question of the amendment proposed)

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

(Clause 173 as amended agreed to)

*(Clauses 174, 175, 176, 177, 178,
179 and 180 agreed to)*

(Title agreed to)

(Clause 1 agreed to)

The Temporary Deputy Speaker (Hon. Cheboi): Let us have the Mover. You are not the Mover of this Bill.

Hon. A.B. Duale: *(Inaudible)*.

The Temporary Deputy Speaker (Hon. Cheboi): Okay.

Hon. Chepkong'a: I thank you, Hon. Temporary Deputy Chairman. Hon. Duale, the Leader of the Majority Party, is a very generous person. He generally donates many things, including moving Bills on his behalf.

Hon. Temporary Deputy Chairman, I beg to move that the Committee doth report to the House its consideration of the Companies and Insolvency Legislation (Consequential Amendments) Bill (National Assembly Bill No. 25 of 2015) and its approval thereof with amendments.

I thank you.

(Question proposed)

(Question put and agreed to)

THE FINANCE BILL

The Temporary Deputy Speaker (Hon. Cheboi): Hon. Members, we will proceed to the next Bill, which is the Finance Bill (National Assembly Bill No. 27 of 2015). I do not know if the Chairperson of the Committee is here. Is Hon. Langat in the House? Yes, I can see him. So, we will proceed.

(Clause 3 agreed to)

Clause 4

Hon. Langat: Hon. Temporary Deputy Chairman, I beg to move:-

THAT, Clause 4 of the Bill be deleted and replaced with the following—

Amendment
of Section
25A of No.
35 of 2013

4. Section 25A of the Value Added Tax Act, 2013 is amended by deleting subsection (1) and substituting therefor the following new subsection —

(1) Government Ministries, Departments and Agencies or any other person appointed by the Commissioner shall on purchasing taxable supplies withhold six percent of the taxable value at the time of paying for the supplies and remit the same directly to the Commissioner. Provided that the Commissioner may, at any time, revoke the appointment of a withholding VAT agent, if he deems it appropriate to do so.”

The main thrust of this amendment is to clarify the Withholding Tax of 6 per cent. There was confusion whether it is 6 per cent of the tax payable or the taxable value. This amendment clarifies that it is 6 per cent of the taxable value.

(Question of the amendment proposed)

Hon. A.B. Duale: On a point of order, Hon. Temporary Deputy Chairman.

The Temporary Deputy Speaker (Hon. Cheboi): What is your point of order, Hon. Duale?

Hon. A.B. Duale: Hon. Temporary Deputy Chairman, because the Finance Bill is very important, we want the Chairperson of the Departmental Committee on Finance, Planning and Trade to explain in detail each and every amendment he is moving, so that the House can appreciate the rationale. This is not like any other Bill. It touches on the economy of this country, because it is about taxation measures.

The Chairperson of the Committee should not handle this the way he handled the Special Economic Zones Bill and other Bills. He must tell us the effects of the amendments and, if possible, the person who brought the amendments. The Committee represents us when they meet stakeholders. So, he should tell us whether the amendment was the view of the National Treasury or another stakeholder.

The Temporary Deputy Speaker (Hon. Cheboi): That makes absolute sense. Before you respond to it, Hon. Langat, let me hear what Hon. Midiwo has to say.

Hon. Midiwo: Hon. Temporary Deputy Chairman, I thank you. The Finance Bill, as the Leader of the Majority Party has said, is an extremely important Bill. I want to raise two issues.

First, I agree with the Leader of the Majority Party that we do not want to rush. You know my interest over the years in matters finance. I have read through the document and there are many things I do not understand. So, the Chairperson of the Committee must explain the amendments. I can see they are trying to amend some of the proposals from the Executive.

However, the bigger thing is that there are amendments to this Bill which are approved by the Speaker, but they are not on the Order Paper. I have followed and I am told they are with the Budget and Appropriations Committee. However, I know even from the Speaker that our amendments should have been on the Order Paper. So, we need to consult and agree on the way forward.

The Temporary Deputy Speaker (Hon. Cheboi): Hon. Midiwo, I agree with you. I have noticed over the years that you have a lot of interest in matters of finance and finances. That is not in doubt. I totally agree with the Leader of the Majority Party. You have also reiterated that these are critical issues. Unfortunately, I have a raft of amendments, including some which you suggested yourself. Some were rejected, Hon. Midiwo. The ones which were rejected will not find their way to the Floor.

I would rather as we go along you raise those specific areas in which you had amendments which have not been listed on the Order Paper. We will be able to respond to those instances at that time.

Hon. Midiwo: Hon. Temporary Deputy Chairman, the reason we had Hon. Chepkong's Bill prosecuted before this is because we wanted to sort out these issues. It would be nice to know which ones are rejected and which ones are accepted.

The Temporary Deputy Chairman (Hon. Cheboi): Hon. Midiwo, it would be important for you to approach the Chair and see which ones were rejected. In the meantime, we will proceed unless there is an issue.

Maybe in the next amendments you will give better explanations for Members to understand, Member for Ainamoi.

Hon. Langat: Hon. Temporary Deputy Chairman, unless we want to change the rules of the Committee Stage today--- Somebody is telling us to say where the amendment came from; that is changing the rules. Once the Committee has deliberated on them, they are Committee amendments.

The Temporary Deputy Chairman (Hon. Cheboi): I did not really want to go that direction. What is critical, in my opinion, is that you give explanation. It is totally in order that you explain further.

Hon. Langat: The Leader of the Majority Party told me to explain where the amendments came from. He should tell us where he is coming from. These are Committee amendments. I am moving Committee amendments. Can he tell us whether he wants to change the rules of the House today?

The Temporary Deputy Chairman (Hon. Cheboi): Order, hon. Members! When you say you want to know where the Leader of the Majority Party comes from, you know he will answer very easily.

Hon. Langat: That is imputing improper motive on me. The Leader of the Majority Party should not assume that he is the only one who is supposed to---

The Temporary Deputy Chairman (Hon. Cheboi): I think we are losing out, hon. Members. Let us put it this way. In my opinion, the concerns by the Leader of the Majority Party and the even the Deputy Leader of the Minority Party were very genuine. I think it is perfectly in order to explain further than you did. We can leave those other sideshows for another day. Hon. Duale, I think your concerns have been taken on board. Okay, let us hear you.

Hon. A.B. Duale: Procedurally, individual Members' amendments go to the Speaker for approval. Committee amendments do not go to the Speaker for approval. The Committees are an extension of this House. We do not want just to sit here. We asked the Chair to explain to us each and every amendment, so that by the time we are voting, we are conscious. I sit for the Government. I am the Leader of Government Business in this House. These are serious taxation issues. Tomorrow, I will be asked about the amendments. So, I want to understand. I am doing it in good faith. He is one of the best Committee Chairs of this House. Hon. Benjamin, please forgive me. I am doing it in very good faith. According to Article 35, I have freedom to access information.

The Temporary Deputy Chairman (Hon. Cheboi): Let us not exchange words over this particular one for just a very simple reason. What initially the Leader of the Majority Party had indicated was, in my opinion, very fair. He requested more explanations. That is fine. On the second one of having to declare the sources of your amendments, I think what would happen is if the Leader of the Majority Party has a specific issue at that point in time, he will specifically ask for the source of this particular amendment, which, in my opinion, is the Committee. It is as simple as that. So, Hon. Langat, please we really do not have to debate too much on this one. Let us proceed. We are moving very well.

Hon. Langat: Hon. Temporary Deputy Chairman, under our Standing Orders, when a Bill is read the first time, we take it for public and stakeholder participation. We invite stakeholders to give submissions. It is advertised in the newspapers that those who have issues should forward them. As to whether we have discussed with the National Treasury, yes we have. They are actually seated in this Chamber, and all the amendments have been agreed to. So, I do not know why a person in the position of the Leader of the Majority Party should really raise that.

Anyway, since he has apologised, I will move on.

The Temporary Deputy Chairman (Hon. Cheboi): Let us have Hon. Ichungw'ah. We are moving on. I hope it is not on that one. We have already agreed on that.

Hon. Ichungw'ah: Thank you, hon. Temporary Deputy Chairman. I rise to oppose that particular amendment on one basis. The issue of withholding Value Added Tax (VAT) in this country is one of the processes that in the past have grossly been abused both by Government departments and agencies, and also by other corporations and individuals who had powers to withhold VAT. It is only right that even Government

agencies do not withhold VAT. The entire 16 per cent that is levied on any supplies should be paid directly to the Kenya Revenue Authority (KRA) by the people who supply.

This is because you will find that those who withhold will never again remit the same. Again, it will also be very cumbersome in the accounting procedures for VAT to have a portion of that VAT withheld and another portion paid by the person who is supplying services. I, therefore, oppose that particular amendment.

*[The Temporary Deputy Chairman
(Hon. Cheboi) left the Chair]*

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

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Hon. David Gikaria.

Hon. Gikaria: Thank you, hon. Temporary Deputy Chairlady. I agree with Hon. Ichungw'ah. At one time, the policy was that agencies were withholding 16 per cent. Where I worked, they never used to remit that. It caused a lot of problems thereafter. The Government was unable to---

Secondly, when it came to the Government to make some refund to the people who had exceeded the amount when they were making their VAT returns, again it was a problem. So, I agree with Hon. Ichungw'ah that we oppose this amendment. We should not allow agencies to withhold VAT; let the person who is in charge make their returns and they can settle that with the Government instead of withholding it. Most of the agencies, especially the counties, will never send that money to KRA. I oppose.

Hon. Langat: On a point of information, Hon. Temporary Deputy Chairlady.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Yes. Hon. Langat. Who are you informing?

Hon. Langat: First of all, the issue of withholding 6 per cent VAT was passed in the last financial year. What we are simply doing here is to clarify whether it will be 6 per cent of the taxable value or 6 per cent of the amount payable. So, even if we reject this one, we will still go back to what we passed in the last financial year. We are just trying to create clarity.

Again, these are Government Ministries, departments and agencies. We are giving the Commissioner power to vet those who are supposed to withhold. If you look at that amendment, we are even saying that the Commissioner may actually revoke the appointment to withhold VAT. If you misbehave, the Commissioner may revoke your withholding VAT position. So, we are actually clarifying. Even if we are to say we do not withhold, it means we pay contractors 100 per cent plus the VAT. If you give it to private hands, there is no way to follow. It is even more difficult to follow.

It is good that we support the amendment because it clarifies what we already passed. It is only 6 per cent. Again, I told this House earlier on that research was done on the output and input and on average, what is viable to Government is 6 per cent. We are saying that it should directly be remitted to the Commissioner at the time of paying for the supplies.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Member for Muhoroni, do you want to speak on this?

Hon. Oyoo: Yes. Hon. Temporary Deputy Chairlady. I concur with my good friend, Hon. Kimani Ichungw'ah. Experience is the best teacher. My good friend, Hon. Benjamin, talks of what we passed last year. Out of experience since last year, we have seen several impediments. That is the essence of our efforts to make sure that this thing is fast-tracked, so that we do not have any borders between the businessmen and the Government in collection of the necessary levies. So, I oppose. This should not be the case.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): I will put the Question.

(Loud consultations)

You know shouting louder does not give you the numbers. I am going to repeat it once more.

(Question, that the words to be left out be left out, put and agreed to)

(Question, that the words to be inserted in place thereof be inserted, put and agreed to)

(Clause 4 as amended agreed to)

Clause 5

Hon. Langat: Hon. Temporary Deputy Chairlady, I need your guidance in Clause 5. I think there was a typo on the Order Paper. What was supposed to be part of Clause 5 has been typed in Clause 16. I do not know how to deal with that.

Hon. Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): You are saying there is a typo?

Hon. Langat: Yes, Hon. Temporary Deputy Chairlady. Some of the items that were to be part of Clause 5 have been typed under Clause 16(c).

Hon. Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Can you approach the Table.

Hon. Langat: Hon. Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 5 of the Bill be amended—

(a) in paragraph (a) by deleting subparagraph (i) and replacing therefor the following subparagraph—

(i) by deleting item 46 and tariff numbers “3002.20.00, 3002.30.00, 3003.39.00, 3003.40.00, 3003.90.10, 3003.90.90, 3004.10.00, 3004.20.00, 3004.32.00, 3004.39.00, 3004.40.00, 3004.50.00, 3004.90.00, 3004.90.10 and 3004.90.90”

(b) in paragraph (b)

(i) by inserting the following new items immediately after item 52—

52A. Biogas.

52B. Leasing of biogas producing equipment.

(ii) by inserting the following new items immediately after item 55—

56. Inputs or raw materials locally purchased or imported by manufacturers of agricultural machinery and implements upon approval by the Cabinet Secretary responsible for industrialization.

57. The supply of taxable goods to Special Economic Zone enterprises, developers and operators licensed under the Special Economic Zone Act.

(c) by renumbering the second paragraph (b) as (d) and inserting the following new paragraphs immediately after paragraph 22—

23. Supply of sewerage services by a National Government, County Government, any political sub-division thereof or a person approved by the Cabinet Secretary for the time being responsible for water development.

24. The supply of taxable services to Special Economic Zone enterprises, developers and operators licensed under the Special Economic Zone Act.

Clause 5 deals with Value Added Tax (VAT) exemptions. We are deleting part of initial exemptions which were in the list but we are transferring them to the zero-rating section. The issue of vaccines and medicines is a very serious matter and having been exempted initially, it was still found that the exemption still leaves some cost to be borne by the final manufacturer which will again be transferred to local citizens.

When we deliberated in the Committee, we agreed that we should zero-rate for the manufacturers of vaccines, veterinary medicine as we have listed there. What we are doing in Clause 5 is we are deleting them from exemptions so that we zero-rate them. That is critical for our nation. During our discussions, we also made proposals on biogas and leasing of biogas producing equipment. My Committee proposed that we are going to green energy and, therefore, we should make it accessible to Kenyans so that we help Kenya move to green energy.

We are also proposing that we exempt inputs or raw materials, whether purchased locally or imported, for the manufacturers of agricultural productions. This country is going for mechanization. We also want to encourage people to manufacture locally. So, we agreed to exempt raw materials for those who want to manufacture and assemble agricultural implements.

We passed the Special Economic Zones Bill the other day. We need to encourage investors to come and invest in these Special Economic Zones to improve our exports. As part of the benefits to these Special Economic Zones, we need to exempt supply of

goods to special economic enterprises and operators. This is a serious Government policy to ensure that we encourage as many investors as possible to come to this country.

We are also saying that supply of sewerage services by the national Government, or county governments is a government to government arrangement. It also applies to the supply to Special Economic Zone.

(Question of the amendment proposed)

Hon. Midiwo: Thank you, Hon. Temporary Deputy Chairlady. I rise to support and thank the Committee for thinking that way. Our economy the way it is, something must happen to spur economic growth. All of us should support zero-rating of the materials that need to encourage our manufacturing sector. It makes sense and it is timely.

I thank you, Hon. Temporary Deputy Chairlady.

Hon. Njuki: Thank you, Hon. Temporary Deputy Chairlady. I stand to support this amendment especially on the issue of vaccines. Vaccines are normally used as prevention of diseases. If we are able to tackle the situation before it gets out of hand in terms of dealing with the disease itself, it will be much better for our people.

However, on the issue of manufacturing, one of the reasons why the growth of industries in this country has not picked up is because of the cost of energy and the cost of raw materials that are used to manufacture those goods. By zero-rating the raw materials, it encourages investors from within and without to invest more in our country and we are a better nation. So, I support the amendment.

Hon. A.B. Duale: Hon. Temporary Deputy Chairlady. I would like to move a further amendment.

(Hon. Midiwo consulted Hon. Langat)

If Hon. Jakoyo gives time to the Chairman, I am moving a further amendment so you should listen to me.

Hon. Temporary Deputy Chairlady, if you allow me, I want to move a further amendment to Clause 5.

THAT, Clause 5 be amended in Paragraph (b) by deleting item 54 and in the second Paragraph (d) by again deleting item 21. This is basically to avoid duplication in the proposed amendment on the Order Paper.

(Question of the further amendment proposed)

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Anyone who wants to speak to the further amendment? Hon. Sakaja

Hon. Sakaja: Hon. Temporary Deputy Chairlady, I would just ask the Leader of the Majority Party to clarify because what he is intending to delete is very important. There is exemption of goods imported or purchased locally for use by the film commission. We are trying to spur our film industry and so, we should be careful that

deleting it here, assuming that it is elsewhere, that we do not lose it all together. We would like him to clarify where else it is provided for in the Finance Bill.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Hon. Leader of the Majority Party, do we give you time to clarify that issue?

Hon. A.B. Duale: Yes, Hon. Temporary Deputy Chairlady. Just give us one minute.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Hon. Members, in the meantime, let me recognise the schools in the Galleries:-

Christ the King from Bungoma, Kanduyi Constituency in the Speaker's Gallery; DEB Karue Primary School of Tharaka Nithi, Tharaka Constituency in the Public Gallery; St. Peter's Chepkonyi, Nandi, Aldai Constituency in the Public Gallery; and Ekega primary School, Tharaka Nithi, Tharaka Constituency in the Public Gallery.

Hon. A.B. Duale: Hon. Temporary Deputy Chairlady, after consultation, I withdraw my further amendment to Clause 5 but I will do it in Clause 16 when we reach there. So, I have withdrawn.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): You have withdrawn your further amendment?

Hon. A.B. Duale: Yes.

*(Proposed further amendment by
Hon. A.B. Duale withdrawn)*

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

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

(Clause 5 as amended agreed to)

Clause 6

Hon. Langat: Hon. Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 6 of the Bill be amended —

(a) in paragraph (a) by inserting the following new paragraph immediately after the proposed new paragraph 10—

11. Inputs or raw materials (either produced locally or imported) supplied to pharmaceutical manufacturers in Kenya for manufacturing medicaments, as approved from time to time by the Cabinet Secretary in consultation with the Cabinet Secretary responsible for matters relating to health.”

(b) by inserting the following new paragraph immediately after paragraph (b) —

(c) inserting a new Part C immediately after Paragraph 9 Part B Medicaments of the following HS Codes shall be zero rated-

3002.20.00	Vaccines for human medicine
3002.30.00	Vaccines for veterinary medicine
3003.10.00	
3303.20.00	
3003.39.00	Other medicaments, containing hormones or other products of heading No. 29.37 but not containing antibiotics, not put up in measured doses or in forms or packings for retail sale.
3003.40.00	Medicaments containing alkaloids or derivatives thereof but not containing hormones or other products of heading No. 29.37 or antibiotics, not put up in measured doses or in forms or packings for retail sale.
3003.90.00	
3003.90.10	Infusion solutions for ingestion other than by mouth put up in measured doses or in forms or packings for retail sale.
3003.90.90	Other medicaments (excluding goods of heading No. 30.02, 30.05 or 30.06) consisting of two or more constituents which have been mixed together for therapeutic or prophylactic uses, not put up in measured doses or in forms or packings for retail sale.
3004.10.00	Medicaments containing penicillin or derivatives thereof, with a penicillanic acid structure, or streptomycin or their derivatives, put up in measured doses or in forms or packings for retail sale.
3004.20.00	Medicaments containing other antibiotics, put up in measured doses or in forms or packings for retail sale.
3004.32.00	Medicaments containing adrenal cortical hormones, put up in measured doses or in forms or packings for retail sale.
3004.39.00	Other medicaments containing hormones or other products of heading No.29.37, but not containing antibiotics, put up in measured doses or in forms or packings for retail sale.
3004.40.00	Medicaments containing alkaloids or derivatives thereof but not containing hormones, or other products of heading No. 29.37 or antibiotics, put up in measured doses or in forms or packings for retail sale.

- 3004.50.00 Other medicaments containing vitamins or other products of heading No.29.36, put up in measured doses or in forms or packings for retail sale.
- 3004.90.00 Other medicaments (excluding goods of heading No. 30.02,30.05 or 30.06) consisting of mixed or unmixed products ,for therapeutic or prophylactic uses, put up in measured doses or in forms or packings for sale.
- 3004.90.90 Other medicaments (excluding goods of heading No. 30.02, 30.05 or 30.06) consisting of mixed or unmixed products, for therapeutic or prophylactic uses, put up in measured doses or in forms or packings for retail sale.

Clause 6 deals with zero-rating of items for purposes for VAT. As earlier explained, when we deliberated, we realised that the manufacturers of human medicine and veterinary medicine are almost closing because of the issue of VAT. We decided to give them a zero-rating status so that we make these drugs cheaper for Kenyans and to sustain the companies to continue employing Kenyans. So, majority of the amendments there are about human medicine and veterinary medicine.

This, again, was after consultation with the national Treasury. Basically, that is what we have there. It is about zero-rating human medicine.

(Question of the amendment proposed)

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Are there Members who want to speak to this? Hon. Shakeel Shabbir.

Hon. S.S. Ahmed: Thank you, Hon. Temporary Deputy Chairlady. As much as I appreciate and agree with the amendment, I wish to seek clarification. This amendment restricts itself to vaccinations, either human or veterinary medicine, whereas the problem that we face in Kenya is that of poultry feed, dairy feed and other feeds which are cheaper in Uganda.

As such, poultry eggs and chicken coming from Uganda into Kenya are cheaper. In Kenya, we charge VAT as well as certain duties on the additives to the feeds. I wanted a clarification that when are talking about 3002.30.00, it covers not only vaccines, but other infusions into poultry and animal feeds. It is not clear and I was hoping that, perhaps, somebody would be able to tell us which particular part of that classification this comes under. With respect to that, I only need a clarification. If it is not there, may I indulge you to allow us to put an amendment.

Hon. Ichung'wah: Point of information!

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Yes. Hon. Ichung'wah, do you want to inform Hon. Shabbir?

Hon. Ichung'wah: Yes. Hon. Shabbir is a Member of the Departmental Committee on Finance, Planning and Trade. The best place would have been to raise this issue at the Committee level. Clearly, the English meaning of vaccine is not an additive. You vaccinate but you do not vaccinate as a raw material to the animal feeds. I wanted to

ask Hon. Shabbir to bring a further amendment that will bring in the question of additives. What the Hon. Shakeel is saying is quite true, that it has become now cheaper to bring in eggs and even chicken as much as the Chairman was objecting to that notion. People are, indeed, bringing in slaughtered chicken. I am sure from Kisumu maybe, he is well aware that people are bringing in slaughtered chicken from Uganda to sell in Kisumu outlets. It is, indeed, true because of the VAT on additives to animal feeds, those animal feeds are much more expensive in this country than in Uganda and Tanzania.

For the benefit of the Departmental Committee on Finance, Planning and Trade and the Departmental Committee on Agriculture, Livestock and Cooperatives, it also has a bearing on the raw materials that we are using and the cost production of our raw materials. I would beseech Hon. Shakeel to bring a further amendment on the issue of additives as raw materials to animal feeds.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Thank you, Hon. Ichung'wah. Hon. Chairman, could you clarify whether Hon. Shabbir can do a further amendment?

Hon. Langat: Hon. Temporary Deputy Chairlady, First of all, he seems to say that we are only concerned with the vaccines. I want to refer him to the Order Paper under the same Clause 6, we have a sweeping statement which says:-

“Inputs or raw materials (either produced locally or imported) supplied to pharmaceutical manufacturers in Kenya for manufacturing medicaments, as approved from time to time by the Cabinet Secretary in consultation with the Cabinet Secretary responsible for matters relating to health.”

That covers all the types of medical items. This issue is different from what I am addressing because we are addressing the issue of medicine; it is not about the feeds. If he wants an amendment on the feeds, then Hon. Temporary Deputy Chairperson, if you allow, that is a different story altogether. In this one, we are only concerned with the human medicine. Of course, we also have the vaccines for veterinary medicine. We have listed all of them.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Hon. Member behind Hon. Shakeel Shabbir, I want to give you the Floor but I cannot find your microphone. Can you press the intervention?

Hon. Makenga: Thank you, Hon. Temporary Deputy Chairlady. I support this amendment particularly on the zero-rating of vaccines for human and veterinary medicine. Making medicaments accessible to human is very important because accessing medical facilities in this country is very expensive and it can be made more expensive if medicaments are taxable. Therefore, by zero-rating them, it will make it cheaper and accessible.

Hon. Temporary Deputy Chairlady, zero-rating of infusion solutions will also make the particular product cheap and accessible. It can be administered to human beings.

With those remarks, I support the amendment.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Yes, Hon. Shakir!

Hon. S.S. Ahmed: Hon. Temporary Deputy Chairlady, the Departmental Committee Chair and I had urged you to allow a further amendment to his amendment. Therefore, I am asking if you could be kind enough to indulge us to present a further

amendment to the amendment of the Departmental Committee Chair in order to capture the concerns that we have.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): You have to bring us the text of the further amendment. Please, do it quickly. Meanwhile, let us hear Hon. Sakaja.

Hon. Sakaja: Hon. Temporary Deputy Chairlady, I just want to note, with regard to the further amendment by Hon. Shakir; that, if you indulge him, it will be very important for farmers in the country. I also want to note that the amendments in Clause 6 are actually bringing to fruition a promise made by the President of this country, Hon. Uhuru Kenyatta, to Kenyans in the Diaspora. It is about importation of Left Hand Drive vehicles. It is very clear that the promise is now being provided for in law, so that a returning resident who has previously owned a Left Hand Drive vehicle for at least 12 months may sell it and import a Right Hand Drive vehicle for the equivalent value, so long they can prove ownership of that vehicle for a period of time; at least one year. They can dispose of it and bring in a Right Hand Drive vehicle. So, it is a very good amendment for Kenyans in the Diaspora.

Thank you, Hon. Temporary Deputy Chairlady.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Hon. Sakaja, I am sorry, when you were speaking, there was a bit of interruption. Are you supporting the amendment?

Hon. Sakaja: Yes, I was just noting what else Clause 6 does. It is fulfilling a promise made by the President. It is true; *kusema na kutenda*.

Thank you, Hon. Temporary Deputy Chairlady.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Yes, Hon. Chair of Committee.

Hon. Langat: Hon. Temporary Deputy Chairlady, I am just concerned. I hope Hon. Shakir is not working out an amendment because when it comes to money Bills, amendments are not done on the Floor of the House. It will be very dangerous.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Approach the Table, Chair of Departmental Committee.

*(Hon. Langat consulted the Temporary
Deputy Chairlady)*

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

(Clause 6 as amended agreed to)

Hon. A.B. Duale: Hon. Temporary Deputy Chairlady, I just want to bring to your attention to the fact that even when we want to introduce a further amendment to a money Bill; in the absence of Article 114, the Chair must concur.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): True and he has not concurred in this case.

Hon. A.B. Duale: Even the animal feed is already exempted. Where is my friend, the Member for Kisumu West? He should do his homework.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): We have already disposed of that clause. So, let us move to the next one.

Clause 7

Hon. Langat: Hon. Temporary Deputy Chairlady, I beg to move:-

THAT, the Bill be amended in Clause 7 as follows:-

Amendment
to section 2
of Cap.470

7. Section 2 of the Income Tax Act is amended by adding the following provisos immediately after the following definitions –

(a) “training fees”

Provided that training fee shall not include fees paid for education services provided by–

(a) a pre-primary, primary or secondary school;

(b) a technical college or university;

(c) an institution established for the promotion of Adult education, vocational training or technical education.

(b) “winnings”

Provided that this definition shall only apply in the case of winnings payable to punters (players) by bookmakers

Hon. Temporary Deputy Chairlady, this is basically to introduce the definition of the word “winnings” which has been used in the Bill. The other bit of the amendment on training fees is already in the Bill itself. The only amendment which the Committee is bringing is to just define the word “winnings” as per the Order Paper.

(Question of the amendment proposed)

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

(Clause 7 as amended agreed to)

Clause 8

Hon. Ichung’wah: Hon. Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 8 of the Bill be amended in the proposed new section 6A(2) of the Income Tax Act by deleting the word “rules” and substituting therefor the word “regulations”.

Hon. Temporary Deputy Chairlady, this is a very small amendment which basically seeks to delete the word “rules” and substitute therefor the word “regulation”. I

found it to be a mischievous way of avoiding these regulations coming to this House by using the word “rules”. I want to make sure that we use the word “regulations”. For such regulations to get the force of law, they will have to come to this House.

(Question of the amendment proposed)

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Departmental Committee Chair, are you in concurrence?

Hon. Langat: Hon. Temporary Deputy Chairlady, I support the amendment by Hon. Ichungw’ah because a regulation is a better word and it will ensure that this House is frequently updated on any rules which are made. I think he fears that when you use rules, the Cabinet Secretary (CS) may not bring those rules to this House as per the Statutory Instruments Act. To allay the fears of the CS, the Statutory Instruments Act says that if Parliament does not act on regulations which have been submitted within 14 days, they are deemed to have been approved. So, the fears of the CS should not arise. Therefore, we support what the Member has proposed.

(Question, that the word to be left out be left out, put and agreed to)

(Question, that the word to be inserted in place thereof be inserted, put and agreed to)

(Clause 8 as amended agreed to)

Clause 9

Hon. Langat: Hon. Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 9 of the Bill be deleted and replaced with the following clause.

Amendment to section 10 of Cap 470 9. Section 10 of the Income Tax Act is amended in subsection (10) by letting paragraph (g) and substituting therefor the following-

(g) winnings payable by bookmakers to punters (players).

Hon. Temporary Deputy Chairlady, this is basically to include in the Income Tax bracket what we call “winnings” in the betting and gambling world. Such income is supposed to be taxed. So, we are just making it part of those items to be taxed.

(Question of the amendment proposed)

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Yes, Hon. Chepkong’a.

Hon. Chepkong’a: Hon. Temporary Deputy Chairlady, this is indeed a very important amendment proposed by the Departmental Committee Chair. Taxing the

winnings payable by bookmakers to punters or players has always presented problems. So, it is a very important amendment and we totally support it.

Thank you.

(Question, that the words to be left out be left out, put and agreed to)

(Question, that the words to be inserted in place thereof be inserted, put and agreed to)

(Clause 9 as amended agreed to)

Clause 10

Hon. Langat: Hon. Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 10 of the Bill be amended by:-

- (a) inserting the following paragraph immediately before paragraph (a)—
 - (a) in subsection (4) by deleting the word “four” and substituting therefor the word “nine”.
- (b) renumbering paragraph (a) as (b)
- (c) inserting the following paragraph immediately after the renumbered paragraph (b)
 - (c) in subsection (5A) by—
 - (i) deleting paragraph (a); and,
 - (ii) deleting the expression “(b) for any other case”.
- (d) renumbering paragraph (b) and (d)

Hon. Temporary Deputy Chairlady, Clause 10 mainly deals with carry forward losses. When you analyze the Bill plus the stakeholders, you will realize that the Bill as provided for, you can carry over losses for 10 years for the purpose of tax deduction. But when you look at the Bill, it was talking about “four”. We are just correcting this so that it makes sense with what the Bill is proposing.

When you look at the Bill, it was talking about four. We are just correcting, so that it makes sense with what the Bill is proposing.

(Question of the amendment proposed)

(Question, that the words to be left out be left out, put and agreed to)

(Question, that the words to be inserted in place thereof be inserted, put and agreed to)

(Clause 10 as amended agreed to)

Clause 11

Hon. Langat: Hon. Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 11 of the Bill be amended—

(a) in paragraph (a) by deleting subparagraph (ii) and substituting therefore the following new subparagraph—

“(ii) by inserting the following new paragraphs immediately after paragraph (j)

(k) tax upon gross rental receipts of a person chargeable to tax under section 6A shall be charged at the resident rate specified under the Third Schedule for that year of income.”;

(l) the transfer of interest in a person shall be charged as per provisions of the Ninth Schedule.

(m) tax upon the gross winnings payable by bookmakers to punters (players) shall be charged at the resident rate for that year of income. (b) in paragraph

(b), by deleting subparagraph (ii) and inserting the following new paragraph—

(i) by deleting paragraph (i) and substituting therefor the following paragraph—

(m) winnings payable by bookmakers to punters (players).

The last time, we introduced Capital Gains and later on, it was found out that it was difficult to implement that proposal on shares. The Cabinet Secretary has proposed 0.3 per cent as a transaction fee and not the Capital Gain. After deliberations, we were shown a comparative analysis showing what they do in South Africa, Nigeria and Egypt. It was shown that our Stock Exchange is very expensive. We agreed to leave our Stock Exchange to grow first and as it builds up, then we can introduce this. So, we agreed to remove the 0.3 per cent to allow our Stock Exchange to grow and then we can move forward slowly and as we work out the modalities of how to collect this.

(Question of the amendment proposed)

Hon. (Eng.) Gumbo: Hon. Temporary Deputy Chairperson, I want to support this amendment. The introduction of the Capital Gains Tax especially on securities for me was more sentimental than an economic undertaking. The effect as has been seen at the Nairobi Securities Exchange has badly affected particularly foreign investors. Some people fear that that is what could have led to the quick concept of the bear run up the bourse. This is a good amendment. Let our Stock Exchange grow. Let us encourage Kenyans to have wealth. If we have to do taxation, let us do it elsewhere instead of the Capital Gains Tax.

I support.

Hon. Waweru: Hon. Temporary Deputy Chairperson, I strongly support the amendment. As you are aware, a capital market is a channel by which foreign inflows come into our economy. In the last few months, we have seen hemorrhage of our capital markets in excess of Kshs174 billion; an erosion of capital in this economy. I do not

want to take too long. We have been having inflows of Kshs600 million every single trading day from the financial markets of the world. In effect, in the last six months, we have been having an outflow of approximately Kshs500 million out of this country. That has affected our currency. We have seen the weakening of the Kenya Shilling and the reduction in the liquidity in the market. As you are aware, the inflow of forex flows into the channels of our banking institutions and that provides liquidity to us all. That has adversely affected our economy. We have seen inter-bank rates in excess of 23 per cent and we have to start asking ourselves if this law serves our economy.

I strongly feel that we need to remove Capital Gains tax as our market is in its infancy. It is a very small market. This foreign capital has options. These foreign Fund Managers are spoilt of choices. So, I do not support this law because it is discouraging foreign inflows into our economy and thus affecting our forex. That is why we are paying Khs105 for a US\$. That is why we are also paying 20 per cent for the cost of money in our banks. They are all related. So, I strongly support and I feel it is high time that we realised that we made a mistake. Let us take the right decision to repeal this law, so that we can start getting direct foreign investment and also inflows to the capital markets.

Hon. Chepkong'a: Hon. Temporary Deputy Chairlady, I totally support the deletion of this particular section. You know, we recently passed the Companies Bill and the Insolvency Bill to create an enabling environment for investors. Then, you introduce another Bill which is negating what we have sought to do. This particular taxation was making the environment that we are seeking to create unconducive for foreign direct investment. So, I support that this be done away with.

Hon. Midiwo: Hon. Temporary Deputy Chairperson, I support. However, it is important that Members understand what deleting this particular section will mean. Over the years that I have been here, I have been making noise about interest rates including today, I am going to make very loud noise about interest rates because our country cannot function with the numbing and nerve breaking interest rates.

The only solution which is meaningful is to open an avenue and a channel through the bourse, so that foreign investments can flow in. They will bring in foreign money so that we can have money that cannot be controlled by the traditional banking system. We need to have interplay between the banks regulated at some points. That process takes a long time because the banks have a very selfish interest. They are the only people making money in this country and nobody else is doing it. The rest of our people are poor.

If you went to the Great Britain, the Barclays Bank reports losses. Kenya is their best market in the whole world. We have to deal with the appetite for money by the banks; so that the money goes to the people it truly belongs to. Who are the people?

I support very strongly.

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

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

(Clause 11 as amended agreed to)

Clause 12

Hon. Langat: Thank you, Hon. Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 12 of the Bill be amended —

(a) by deleting paragraph (a) and substituting therefor the following new paragraph; (a) in subsection (1) by—

(i) deleting paragraph (j) and substituting therefor a new paragraph

(j) as follows—

(j) winnings payable by bookmakers to punters (players)

(b) in paragraph (b), by inserting the words “filming agents and filming” immediately after the words “made by” appearing in the proposed new subsection (1A);

This is a subsequent amendment from what we had passed on winnings by book makers. We are further clarifying in paragraph (b) that subsection (1) shall not apply to payments made by film agencies and filming producers. So, it is just to clarify that payments made by filming agents and filming producers.

(Question of the amendment proposed)

(Question, that the words to be left out be left out, put and agreed to)

(Question, that the words to be inserted in place thereof be inserted, put and agreed to)

(Clause 12 as amended agreed to)

(Clauses 13 and 14 agreed to)

Clause 15

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Mover. If he is unable, the Vice-Chairperson of the Committee can move.

Hon. Gaichuhie: Hon. Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 15 of the Bill be amended by—

(a) deleting item (i) and substituting therefor a new item (i) as follows—

(i) the income is in respect of gains or profits for use or occupation of immovable property earned by a person, and,

(b) deleting the expression “the expenditure” appearing in subsection (3) and substituting therefor with the expression “the gross rent, premium or similar consideration for the use or occupation of immovable property”.

(Question of the amendment proposed)

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Yes, Hon. Nicholas Gumbo.

Hon. (Eng.) Gumbo: Could they please explain to us the implication of this amendment?

Hon. Langat: Let me explain. The amendment seeks to specify the category of property that qualifies for amnesty. If you do not have documents, you are given a reduction of up to 40 per cent. If you do not keep your records of expenses, then you will only be allowed to deduct a maximum of 40 per cent. If you have documents, then you can be given a higher percentage.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Hon. Member for Muhoroni.

Hon. Oyoo: Hon. Temporary Deputy Chairlady, I want the Chairperson of the Departmental Committee on Finance, Planning and Trade to explain to us what these immovable things are. It could be that my car has stalled completely and I am still expected to pay taxes on it. Explain what you mean by immovable property.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Hon. Chair, can you clarify that so that we can put the Question?

Hon. Langat: I do not think there is any other explanation for the word “immovable”. It means property that is fixed and is not moving, such as a building.

Hon. Oyoo: Including my car which has stalled and is no longer useful to me?

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Hon. Member, you cannot exchange with the Chair.

Hon. Langat: If the Hon. Member wants to immobilise his car so that he does not pay taxes on it, then that is illegal. Immovable property mainly means buildings.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): I think your point has been made. Hon. Sakaja.

Hon. Sakaja: Hon. Temporary Deputy Chairlady, I agree with the Chair on this amendment. It is quite necessary. As we go on, I would just like to note that these amendments are extremely progressive. There is one that we have just passed in Clause 13, which is a huge win for young people in this country. It says that any employer who engages at least ten university graduates as apprentices for a period of six to twelve months during any year of income shall be eligible for a tax rebate in the year subsequent to the year of such engagement. You remember that, that was a promise made by President Kenyatta and it will go a long way in helping issues of youth unemployment.

I support the amendment.

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

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

(Clause 15 as amended agreed to)

Clause 16

Hon. Langat: Hon. Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 16 be deleted and replaced therefor with the following Clause—

Amendment of
Section the First
Schedule to
Cap 470

16. The First Schedule to the Income Tax Act is amended

(a) in paragraph 36 by—

(i) deleting the expression “thirty thousand shillings appearing in paragraph d(i) and substituting therefor the words “three million shillings”;

(ii) by deleting the expression “one hundred acres” appearing in sub-paragraph d(ii) and substituting therefor the expression “fifty acres”;

(iii) by inserting the following proviso immediately after paragraph (f)—

Provided that where there is a court case regarding such estate, the period of transfer or sale under this paragraph shall be two years from the date of the finalization of such court case.

(b) In paragraph 46 by inserting the following words “Special Economic Zone Enterprises, developers and operators licensed under the Special Economic Zone Act” after the words “venture capital company”.

(c) by inserting the following new paragraphs immediately after paragraph 53—

54. Goods imported or purchased by local film producers or local filming agents subject to approval by the Cabinet Secretary.

55. Services imported or procured locally for use by the film producers or filming agents certified by the Kenya Film Commission subject to approval by the Cabinet Secretary.

Clause 16 seeks to amend the First Schedule of the Income Tax Act in paragraph 36. Paragraph 36 of the First Schedule deals with income that is exempt. Initially as shown on the Order Paper, when you would sell land up to Kshs30,000, that would be the amount that was exempt from stamp duty. However, over time, our properties have gone up in value and you are less likely to find land worth Kshs30,000. We are proposing to increase the value for exemption purposes from Kshs30,000 to Kshs3 million, so that for any value of land you sell, from Kshs0 to Kshs3 million, you are exempted from stamp duty.

All other things are on the Order Paper except the last one which is (b) which states: In paragraph 46 by inserting the following words, “Special Economic Zones Enterprise Developers”. We also seek to extend the exemption to Special Economic Zones Enterprises from payment of dividends. If you are an investor there and you are paid dividends, you are exempted from tax to encourage more investors.

The Hon. Leader of the Majority Party may now come in because we have two items which are misplaced there.

(Question of the amendment proposed)

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Hon. Nicholas Gumbo.

Hon. (Eng.) Gumbo: Hon. Temporary Deputy Chairlady, to the extent that the proposed amendment moves the value that is exempt from stamp duty from Kshs30,000 to Kshs3 million is very progressive. Those of us who have been keen must have noticed that in Nairobi today, there are some plots that are selling for over Kshs1 billion. To stick it at Kshs30,000 is a bit too low. To that extent, that amendment is progressive.

I wish to support it.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Hon. Sakaja.

Hon. Sakaja: Hon. Temporary Deputy Chairlady, I support this amendment. Times have changed and we hope that such amendments would be coming regularly. The last time that this was looked at was probably 20 or so years ago. Looking at the rate of inflation and how the economy is doing, such amendments should be coming every five or so years, or even less.

I wish the provision on 100 acres was not being amended and we left it at that. In certain areas of this country where we are doing large scale agriculture, for example in Kitale and Uasin Gishu, 100 acres is still sizeable enough for a lot of transactions. Bringing it down to 50 acres will make people in those areas suffer. Nonetheless, I agree with the Chairman.

I support this amendment.

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

*Question, that the words to be inserted in place
thereof be inserted, put and agreed to)*

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

Hon. A.B. Duale: Hon. Temporary Deputy Chairlady, I can only forgive the Chairperson of the Departmental Committee on Finance, Planning and Trade because the Finance Bill is very complicated.

Hon. Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 16 (b) be further amended by deleting the words “Kenya Film Commission” in Item 54 and substituting therefor the words “local film producers and local film agents”.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Leader of the Majority Party, quote again what you are deleting. Clause 16 (b)?

Hon. A.B. Duale: Pastoralists are the only ones who do not get lost. They wander through the villages. It is only the fishermen who get lost in the sea - the fishermen in the ocean not in the lakes.

Hon. Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 16 be further amended by deleting Clause 16 (c)

We will do a recommittal of Clause 5 later. Right now, I want to delete the whole of Clause 16 (c).

(Question of the further amendment proposed)

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Hon. Sakaja.

Hon. Sakaja: Hon. Temporary Deputy Chairlady, I am just asking for caution because I have not heard him say we are recommitting it elsewhere. When we amended Clause 5---

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Hon. Duale, please listen to Hon. Sakaja's concerns.

Hon. Sakaja: When we amended Clause 5, we had noticed Item 54, which talks about goods imported or purchased locally for use by the Kenya Foreign Commission, subject to approval. That is what is in 16 (c) 54. But when you remove Item 55, which talks about services imported or produced locally for use by the film producers or agents, we need to have the commitment that we are recommitting it elsewhere, so that it is under the Value Added Tax Act. As for now, we are going to lose Item 55 in its entirety, unless we recommit it back to the provisions of the VAT Act.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Hon. Duale and Hon. Langat, make it clear that you are going to recommit it.

Hon. A.B. Duale: We are recommitting it.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): He has already mentioned that he will be recommitting.

Hon. Toboso, you have the Floor.

Hon. A.T. Anyanga: Thank you, Hon. Temporary Deputy Chairlady. I would like to add my voice on this particular amendment proposed by Hon. Duale.

Hon. A.B. Duale: Hon. Temporary Deputy Chairlady, Hon. Toboso is not in the House

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Hon. Duale, the hon. Member is in the House.

Hon. A.T. Anyanga: Hon. Temporary Deputy Chairlady, there is a pillar between me and you. That is why hon. Members cannot see me.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): But you can be seen on the screens.

Hon. A.T. Anyanga: Yes, I am sure that Hon. Duale will not get lost here as he is not a fisherman.

The issue of giving special exemptions to film producers, and particularly agents, is a matter we need to look at very carefully. It is all about the promotion of Kenya as a destination for filming and film production. It is important to know that in the last few years, Kenya has been losing out to destinations like South Africa and Zimbabwe,

because of the kind of the taxation regime we have in terms of taxing equipment and agents who would ensure that Kenya becomes a top destination for filming. As we consider the proposed amendments by Hon. Duale, we need to take into consideration that this is a proposal that is going to add value to our economic growth.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Hon. Nassir.

Hon. Nassir: Thank you, Hon. Temporary Deputy Chairlady. It was more of a point of information when Hon. Duale was committing to Hon. Sakaja. It was not on HANSARD because his microphone was off.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): He had done it before. It was Hon. Sakaja who did not get it but I got it.

Hon. Langat.

Hon. Nassir: I think I was in the same boat with Hon. Sakaja.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Hon. Langat.

Hon. Langat: Hon. Temporary Deputy Chairlady, we are only cleaning up. Clause 16 put it in the wrong place. The intention was to exempt it from the VAT aspect, but it is now put in the wrong place. Hon. Duale is trying to remove it from the wrong place. I will be requesting for a re-committal file so that we can have it in the right wordings.

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

(Clause 16 as amended agreed to)

Clause 17

Hon. Langat: Hon. Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 17 of the Bill be amended by-

a) deleting paragraph (b);

b) inserting the following new sub-clauses immediately after Sub-clause (c)-

(d) in paragraph 7(3) by-

(i) deleting the expression “subparagraph (cc) or (d)” and substituting therefor the expression “Sub-Paragraph (a)”.

(ii) deleting the expression “subparagraph (d)” and substituting therefor with the expression “subparagraph (cc) or (d)”

Hon. Temporary Deputy Chairlady, this is just an editorial issue.

(Question of the amendment proposed)

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

(Question, that the words to be inserted in place)

thereof be inserted, put and agreed to)

(Clause 17 as amended agreed to)

Clause 18

Hon. Langat: Hon. Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 18 of the Bill be amended—

(a) by deleting paragraph (a) and substituting with the following new paragraph—

(a) in paragraph 2, by adding the following subparagraphs immediately after Sub-Paragraph 2(f) –

(g) (i) In the case of a company listing its shares via introduction on a securities exchange licensed by the Capital Markets Authority, twenty five per cent for the period of five years commencing immediately after the year of income following the date of such listing.

(ii) A gain on transfer of securities traded on any securities exchange licensed by the Capital Markets Authority is not chargeable to tax under Section 3(2)(f).

(h) in the case a special economic zone enterprise, developer and operator, ten percent for the first ten years from date of first operation and thereafter fifteen percent for another ten years.

(a) in the second paragraph (a) by—

(i) renumbering the second paragraph (a) as (b);

(ii) deleting the renumbered paragraph (b) and replacing it with the following new paragraph 3—

(i) by deleting subparagraph (m) and substituting therefor the following new Sub-Paragraph (m)-

(m) in the case of winnings of bookmakers, the withholding tax rate shall be seven and a half percent of the gross profit;

(ii) deleting subparagraph (n);

(iii) insert the following new subparagraph after subparagraph (m)

(q) in the case of a special economic zones enterprise, developer and operator in respect of payments other than dividends made to non-residents at the rate of ten percent;

(b) in paragraph (b) by—

(i) renumbering paragraph (b) as (c);

(ii) deleting the word “revenue” and substituting therefor the word “profit”

(iii) inserting the following new paragraph after paragraph (j)—

p) in respect of a rent, premium or similar consideration for the use or occupation of immovable property, twelve percent of the gross amount payable.

(c) by renumbering paragraph (c) as (d);

(d) by inserting the following new paragraph immediately after the renumbered new paragraph (d)—

(e) by inserting the following new paragraph immediately after Paragraph 9—

“10 The rate of tyax in respect of residential rental income shall be ten percent of the gross rental receipts of a taxable resident person under section 6A”

Hon. Temporary Deputy Chairlady, this section deals with the rates for the companies listed in the Stock Exchange, which are the preferential rates. The rates for normal companies are not listed at 30 per cent but there has been a continuous proposal to encourage companies to list. So, we have a rate of 25 per cent. The reason why we are bringing it in the amendment is the special economic zones, which we passed the other day. We want to give it a special rate to encourage investors, as an incentive for investors to invest in these special economic zones, so that we can create employment and increase our exports. We are proposing a rate of 10 per cent for those who invest in the special economic zones.

The other amendment is just a clarification on how to compute taxes for winnings and bookmakers. Those are just small amendments.

(Question of the amendment proposed)

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Hon. Jakoyo Midiwo.

Hon. Midiwo: Thank you, Hon. Temporary Deputy Chairlady. I want to ask the Committee Members to offer more explanation. I stand to be corrected if I am wrong, but when you say five per cent, is it not too low as to allow quacks? I remember the case of Sher Karuturi Global Limited, which was listed, after which they collected people's money and immediately, they were faced with taxation issues. They folded and people lost all their monies. I just need an explanation on Clause 18.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Let us have Hon. Waweru, and then get back to the Chair of the Departmental Committee.

Hon. Waweru: Thank you, Hon. Temporary Deputy Chairlady. I support the Departmental Committee Chair on this amendment. As you know, we have had a talk show on how we need to create employment, move investment, come up with special economic zones in the international waters of this country – Lake Victoria included – and how we are going to make Dogo Kundu area in Mombasa a trading hub for the region. We are privileged to have our country as a logistical hub for anybody who is accessing East and Central Africa. We are blessed with a coast line which we have not adequately utilised.

I urge this House to support this amendment because we need to move from talking to action. We want to make our coastline to be like Dubai. Dubai is not manufacturing anything but anybody who is manufacturing in the Far East is marketing

their products in the African market and the Middle East, through Dubai. Let us support the amendment because we need to move from talking about creating special economic zones to making it a reality for this country. Secondly, I would like to support the 25 per cent rebate on listed company's stock exchange. For the last 50 years, we have been having less than 65 per cent of listed companies in this country.

If you look at jurisdictions like Cairo and Casablanca's Stock Exchange, they are talking about 600 to 1,000 listed companies. It is about time we introduced incentives to make sure that every Kenyan company that is successful like Safaricom has a wide ownership of Kenyans. This will go down very well to even distribute ownership in this country and thus reduce poverty and inequalities.

I want to support.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Hon. Jimmy Angwenyi.

Hon. Angwenyi: Hon. Temporary Deputy Chairlady, I want to support this amendment. I ask the House to approve the amendment. We have borrowed this from successful cases such as Singapore, Dubai, Seoul and South Africa. This has made these economies to grow from being Third World countries to the First World. We want to move fast enough so that in the next five years, we will be in the First World. Let us pass these amendments, so that we can implement our strategies for growth.

Hon. (Ms.) Wahome: Hon. Temporary Deputy Chairlady, as I rise to support this amendment, but my concern is how this will benefit us. Economic zones have been created elsewhere, but my concern is how we can ensure that the Kenyan investors, especially the youth and the women, will draw from this even as we look at bringing in more investors. In markets like these, competition in terms of financial muscle or matters is a big issue. I would have wanted the Chair, and I hope he is listening, to give special rates and incentives to the youth and women, so that then, in terms of that distribution in the economic zone, even as we give this particular tax incentive, then we can draw the youth and the women. The country, as you can see, has a special interest in terms of dealing with special groups. I am looking at the future. The youth is for today and the future. I know Hon. Jimmy may not be very near the youth, but I believe that he represents a large part of the youth. Therefore, his grandchildren need to benefit from the economic zone on a very serious note. If you look at the Dubai and Singapore markets, you may not see very many youth benefiting from this. I think we need to look at that.

I support.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Hon. Nicholas Gumbo.

Hon. (Eng.) Gumbo: Hon. Temporary Deputy Chairlady, I wish to support especially the proposal in sub-clause 2(h) where there is a developer and operator. In fact, I wish it could be lowered to five per cent. Even more importantly, we should demystify these things. If you look at the map of Kenya and where the special economic zones and even export promotion zones are located, they are within a small part of our country. For instance, we now have 300 megawatts of power coming from Turkana in Loyangalan. Why can we not create a special economic zone there to tap that power instead of using too much money to transport it? Even where I come from, along the lake, part of the requirements for creating special economic zones is the water. We have a huge

water mass there which is badly under-utilised. Really, even as we go on, let us be progressive and look at Kenya as a whole, so that we ease the pressure that we have in Nairobi where everybody seems to think that all the good things must happen here for them to make it.

Otherwise, I support.

The Temporary Deputy Chairlady (Hon. Ms. Shebesh): Hon. Nyokabi.

Hon. (Ms.) Gathecha: Hon. Temporary Deputy Temporary Deputy Chairlady, while I rise to support this amendment to Clause 18, I recommend that we do the tax rate probably at five per cent. If we look at countries like Dubai, where investment and taxation is at zero per cent, in order for us to create a competitive advantage for this country to allow investors to come in, it is important that we stay competitive at the same rates with the rest of the world. If anything, the taxation should come in for companies as a punishment when it comes to areas of pollution and disposal of waste. Those kinds of taxes can be raised or increased to ensure that we maintain our environment. However, corporate tax rate at 25 per cent for a company that is introducing shares, when it comes to creating Kenya as a hub in East African Kenya, we are also in competition with West Africa to create the stock exchange market within Africa. A lower tax rate would definitely be more beneficial and would make Kenya more competitive.

The Temporary Deputy Chairlady (Hon. Ms. Shebesh): Hon. Gaichuhie.

Hon. Gaichuhie: Hon. Temporary Deputy Chairlady, the import on this 25 per cent which Hon. Jakoyo was asking was just to increase the number of listed companies in the Stock Exchange. Hon. Dennis well explained it that we need to have more listed companies. With this tax incentive, we are going to have more listed companies in the Stock Exchange. The special economic zones have been well explained. When you come to paragraph 3(m), the Finance Bill of 2013 was 20 per cent. We have now reduced it to 7.5 per cent, which will make the collections better and easier to collect from the book makers other than the players.

*(Questions, that the words to be left out be
left out, put and agreed to)*

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

(Clause 18 as amended agreed to)

*(Clauses 19, 20, 21, 22, 23, 24,
25 and 26 agreed to)*

Clause 27

Hon. Ichung'wa: Hon. Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 27 of the Bill be amended by deleting the word "Authority" and substituting therefor the words "Cabinet Secretary".

The “Authority” referred to the Insurance Regulatory Authority and we want that to read the “Cabinet Secretary”.

(Question of the amendment proposed)

(Question, that the word to be left out be left out, put and agreed to)

(Question, that the words to be inserted in place thereof be inserted, put and agreed to)

(Clause 27 as amended agreed to)

(Clauses 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53 and 54 agreed to)

New Clause 20A

Hon. Langat: Hon. Temporary Deputy Temporary Deputy Chairlady, I beg to move:-

THAT, the following New Clause be inserted immediately after Clause 20-

Amendment to the First Schedule of Cap.469	20A. The First Schedule to the Kenya Revenue Authority is amended in Part II by inserting a new item 13 immediately after items 12 as follows- 13. The National Social Security Fund Act, 2013.
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The amendment seeks to give the KRA power to assist in the collection of the National Social Security Fund collections. Again, the KRA has a wider experience in the collection of the NSSF funds. This partnership will work very well for the NSSF.

(Question of the new clause proposed)

(New clause read the First Time)

(Question, that the new clause be read a Second Time, proposed)

(Question, that the new clause be read a Second Time, put and agreed to)

(The new clause was read a Second Time)

(Question, that the new clause be added to the Bill, put and agreed to)

New Clause 43A

Hon. Langat: Hon. Temporary Deputy Chairlady, I beg to move:-

THAT, the Bill be amended by inserting the following new clause immediately after clause 43—

Amendment of
section 11 of Cap.
491

43A. Section 11 of the Central Bank Act is amended in subsection (1) (a) by inserting the words “appointed by the President” immediately after the word “Chairperson”;
Amendment of Section 13 of Cap.

Hon. Temporary Deputy Chairlady, when you look at the Central Bank Act, there is an anomaly in the appointment of the Chairperson of the Central Bank. I do not know whether it was a typographical error. It is not clear how the Chair should be appointed. So, we wish to make it clear just as all the chairs of parastatals and State commissions. We should make it clear that it is the President to appoint so that we remove that anomaly. That is what the new clause is seeking to address.

(Question of the new clause proposed)

(New clause read the First Time)

*(Question, that the new clause be read a
Second Time, proposed)*

Hon. A.B. Duale: Hon. Temporary Deputy Chairlady, this is a very clear matter. I participated in the CBK Act in the last Parliament. It was very clear in that Act that the CBK being a national function, vetting was to be done by the National Assembly. Those are parts of the *lacuna* we are trying to clear because in the Act, it says Parliament. That is why you saw after the Departmental Committee on Finance, Planning and Trade led by this very able Chair and his Members vetted the current CBK Governor, there was a lot of noise out there to the effect that we have not been consulted. We now want to correct that and say that the CBK Governor and the Board members are appointed through competitive process but---

(Hon. (Eng.) Gumbo consulted loudly)

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Hon. Member, you have to let the Member complete what he is saying.

Hon. A.B. Duale: I am talking for both A and B. No, I am talking of both A and B. There is only one Chair here. Member for Rarieda, I cannot talk to you my friend.

Hon. (Ms.) Wahome: On a point of order, Hon. Temporary Deputy Chairlady.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Hon. Member, there is a point of order from Hon. Alice Wahome.

Hon. (Ms.) Wahome: Hon. Temporary Deputy Chairlady, the point of order is that Hon. Duale is discussing new Clause 43B while the Mover has moved 43A. While I agree with what he is saying, he is ahead. Therefore, we are not able to follow.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Hon. Duale, please, complete your statement on New Clause 43A.

Hon. A.B. Duale: Hon. Temporary Deputy Chairlady, you know Hon. Alice Wahome comes from where there is stability and decency. Now, you see the Chair of the PAC wants to correct me through chaos.

I accept her point of order and contribute to 43B, but you can tell that this guy comes from a very chaotic background.

*(Question, that the new clause be a read
a Second Time, put and agreed to)*

(The new clause was read a Second Time)

*(Question, that new clause be added
to the Bill, put and agreed to)*

New Clause 43B

Hon. Langat: Hon. Temporary Deputy Chairlady, I beg to move:-

Amendment of section 11 of Cap.491.	THAT, the following new clause be inserted after clause 43A— 43B. Section 13 of the Central Bank Act is amended in subsection (1) by deleting the word “Parliament” and substituting therefor the words “the National Assembly”
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This is where the Leader of the Majority should come in. When you look at the Central Bank Act on the vetting of the governor, the chairperson and directors, the wording in the Central Bank Act is Parliament. That brings confusion. So, we want to make it specifically the function of the National Assembly which is the mandate of this House. So, that is what basically we are proposing to do there.

(Question of the new clause proposed)

(New clause read the First Time)

*(Question, that the new clause be read a
Second Time, proposed)*

Hon. (Eng.) Gumbo: Hon. Temporary Deputy Chairlady, this is a very neat amendment. When the Central Bank of Kenya Act was made, Parliament and the National Assembly were synonymous. We used Parliament to mean the National Assembly. Clearly, the appointment of the CBK Governor is a national Government function. Honestly, the Senate has no role in it. When we approved the appointment of

the Central Bank Governor, I heard the Senate complaining that it was a function of Parliament and they should have been involved. This is a way to make this law neat so that we clearly define it as a role of the National Assembly, a national Government function, which resides in this House and not in the other House.

I support.

Hon. (Ms.) Wahome: Hon. Temporary Deputy Chairlady, I rise to support this amendment. It is timely because as other Members have indicated, as a national Government function, we are cleaning this particular provision in the Act and the functions of the Central Bank, such as reporting, is a job by the National Assembly. Of course, it is saddening that there was a complaint from the Senate noting clearly very well that it is not a function they can exercise, but just to be heard to say something against the work of the National Assembly.

I support.

Hon. A.B. Duale: Hon. Temporary Deputy Chairlady, I want the Chairman of PAC to listen to me. We were with him in the last Parliament. We are having a lot of issues where both the Constitution and several Acts are talking about Parliament. I want to tell my colleagues that when you see Parliament, it should be read with the schedules and look at where that function lies. Is it in the national Government or the county government? So, you heard people talking about the CBK Governor and that they had not been consulted and that there was no concurrence. I want to thank the Departmental Committee on Finance, Planning and Trade for bringing the amendment and I agree with it.

I ask the Departmental Committee on National Security where Hon. Alice sits to bring an amendment on the Inspector-General of Police. The Inspector-General is to be vetted by the two Houses. We have nothing. This is the right amendment. I am sure it will settle the issues that are being raised over the current CBK Governor, the board chair and his two deputies.

Hon. Gaichuhie: Thank you, Hon. Temporary Deputy Chairlady. We just want to make it clear that we do not need to have the Central Bank Governor being vetted by both Houses. Once it is done in the National Assembly and the Central Bank being a national function, the matter should rest in the National Assembly and not in both Houses.

Thank you.

Hon. (Ms.) Mbalu: Thank you, Hon. Temporary Deputy Chairlady. This is just to support the amendment and to define the role of the appointment to the National Assembly and to separate the two Houses in their mandates. This is really going to give the National Assembly easy work in such a role.

I support.

*(Question, that the new clause be read
a Second Time, put and agreed to)*

(The new clause was read a Second Time)

*(Question, that the new clause be added
to the Bill, put and agreed to)*

New Clause 49A

Hon. Langat: Hon. Temporary Deputy Chairlady, I beg to move:-

THAT, the following new clauses be inserted immediately after clause 49—

Amendment to
Section 2
of No.8 of 2012

49A. Section 2 of the Public Service Superannuation Scheme Act is amended by deleting—

- (a) the definition of the term “bond”.
- (b) in the definition of the term “child” by deleting the words “twenty one” and substituting therefor the word “eighteen”.

This relates to the contribution scheme – the public service evaluation scheme which the Government is moving slowly by slowly.

One of the methods which have been approved to finance development is that one can choose to be given a bond when the payments are due. However, going forward because a public servant and the Government both contribute, one needs to be given the money to decide whether they want to buy the bond separately or to invest elsewhere. So, we want to make the bond not to be a means of financing members. That is very good for the public servants so that they make a choice as opposed to somebody choosing for them.

The other thing we are doing is to align the age of a child. In the Public Service Superannuation Scheme Act, a child was defined to be a person of up to 21 years, but anybody above 18 years old is not a child. That person has an identification document and can secure employment. So, we are aligning the ages as per the definition of a “child.”

(Question of the new clause proposed)

(New clause read the First Time)

(Question, that the new clause be read a Second Time, proposed)

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Hon. Gumbo.

Hon. (Eng.) Gumbo: Hon. Temporary Deputy Chairlady, I support. The Public Service Superannuation Scheme is an important scheme and clearly the move by the Committee to define a child clearly shows that they have put attention to detail so that we do not have conflicting laws that unnecessarily conflict with our Constitution.

I support.

Question, that the new clause be read a Second Time, put and agreed to)

(The new clause was read a Second Time)

*(Question, that the new clause be added
to the Bill, put and agreed to)*

New Clause 49B

Hon. Langat: Hon. Temporary Deputy Chairlady, I beg to move:-

THAT, the following new clause be inserted immediately after

Clause 49A—

Amendment to
Section 6 of No.8 of
2012

49B. Section 6 of the Public Superannuation Scheme Act is amended by inserting a new sub-section (6) immediately after sub-section (5) as follows—

(3A) The contribution specified in subsection

(1) and (2) shall commence from such date as the Cabinet Secretary may, by notice in the Gazette, appoint.

This is also a consequential amendment to what we have just passed, Hon. Temporary Deputy Chairman.

(Question of the new clause proposed)

(New clause read the First Time)

*(Question, that the new clause be read a
Second Time, proposed)*

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Hon. Gumbo.

Hon. (Eng.) Gumbo: Hon. Temporary Deputy Chairlady, I do not have a problem per se with this amendment. However, we should make laws we pass in this House to be as much as possible self-executing. When we leave it to Cabinet Secretaries (CSs) to decide, then it becomes whimsical. Honestly, we are giving CSs too much power.

I wish we could have a situation where we include in the laws that after a number of days upon gazettment, the law comes into effect without leaving it to the CS. We are making the CSs micromanage almost every piece of legislation that we pass. I find a problem with that trend.

I wish Hon. Duale could listen to me. As to the intention of the proposed new Clause 49B, it is good and I support it. However, please let us limit the influence of CSs.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Hon. Duale.

Hon. A.B. Duale: Hon. Temporary Deputy Chairlady, I support that amendment. To make one clarification, I want my colleague, the Chairperson of Public Accounts Committee (PAC), to read the Constitution. CSs play a very big role in the Constitution after the President and the Deputy President. Ninety per cent of the oversight role of this

House is on CSs. So, you cannot have your cake and eat it. You must give the CSs powers for you to oversee them. I support.

Hon. Dido: Thank you very much, Hon. Temporary Deputy Chairlady. I agree with this amendment. What has happened previously is that there is open-ended provision in terms of when an Act comes into force. Without belabouring the point, gazettment means an Act has come into effect. I support this amendment. Thank you.

*Question, that the new clause be read a
Second Time, put and agreed to)*

(The new clause was read a Second Time)

*(Question, that the new clause be added
to the Bill, put and agreed to)*

New Clause 49C

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Mover.

Hon. Langat: Hon. Temporary Deputy Chairlady, I beg to move:-

THAT, the following new clause be inserted immediately after

Clause 49B—

Amendment to
Section 50 of No.8
of 2012

49C. Section 50 of the Public Service Superannuation Scheme Act is amended—

(a) in subsection (1)(b) by deleting the words “a bond to be known as the Government of Kenya Public Service Superannuation Bond in favour of the member” appearing at the end and substituting thereof the words with “a letter recognising accrued benefits at the date of joining the scheme under this Act”.

(b) by deleting subsection (2)(3) and (4).

(c) in subsection (5) by deleting the words “from the bond” appearing immediately after the word “benefit” and substituting thereof the words “under this Act”

This is also a consequential amendment to the one we have passed – the new Clause 49A.

(Question of the new clause proposed)

(New clause read the First Time)

*(Question, that the new clause be read a
Second Time, proposed)*

*Question, that the new clause be read a
Second Time, put and agreed to)*

(The new clause was read a Second Time)

*(Question, that the new clause be added
to the Bill, put and agreed to)*

New Clause 49D

Hon. Langat: Hon. Temporary Deputy Chairlady, I beg to move:-

THAT, the following new clause be inserted immediately after
Clause 49C—

Amendment to
Section
60 of No.8 of 2012

49D. The Public Service Superannuation Scheme Act is
amended by deleting section 60 and replacing therefor the
following—

Amendment
to the
First
Schedule of
Act No.45
of 2013

60. The First Schedule of the National Social
Security Fund Act by inserting a new paragraph
(3) immediately after paragraph (2) as follows—

(3) A person who is a beneficiary of a
pension scheme funded out of the
Consolidated Fund shall be exempt from
Tier II contributions under this Act.

The proposal seeks to exempt those public servants who contribute to the
superannuation scheme from the Tier II contributions to the National Social Security
Fund (NSSF). This is because they are already contributing to the Government scheme
and they still contribute to the Tier I. It is only fair that we exempt them.

(Question of the new clause proposed)

(New clause read the First Time)

*(Question, that the new clause be read a
Second Time, proposed)*

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Hon. Gumbo.

Hon. (Eng.) Gumbo: Hon. Temporary Deputy Chairman, this is a very good
amendment. Without this provision, it would mean that a beneficiary of a pension scheme
would be making three contributions: Tiers I, II and to the superannuation scheme.
Therefore, I support.

*Question, that the new clause be read a
Second Time, put and agreed to)*

(The new clause was read a Second Time)

*(Question, that the new clause be added
to the Bill, put and agreed to)*

New Clause 52A

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Mover.

Hon. Langat: Hon. Temporary Deputy Chairlady, I beg to move:-

THAT, the following new clause be inserted immediately after clause 52—

Amendment to
section 4 of Act
No. 15 of 2013

52A. Section 4 of the Public Private Partnership Act is amended in subsection (1) by—

(a) deleting item (b)

(b) inserting the following items immediately after item

(h) as follows—

(i) the Principal Secretary in the State department
for the time being responsible for transport;

(j) the Principal Secretary in the State department
for the time being responsible for infrastructure;

(k) the Principal Secretary in the State department
for the time being responsible for energy.

This amendment affects the Public Private Partnership Act. It seeks to expand the membership of the Board to include the principal secretaries referred to above. Most of the PPP arrangements fall within those sectors. It is only fair that the PSs are part of the Board membership.

Question of the new clause proposed)

(New clause read the First Time)

*(Question, that the new clause be read a
Second Time, proposed)*

Hon. (Eng.) Gumbo: On a point of order, Hon. Temporary Deputy Chairlady.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): What is your point of order, Hon. Gumbo?

Hon. (Eng.) Gumbo: The Chairperson of the Committee has left out something. In the new Clause 52A, there is a proposal to delete item (b). He should pronounce himself on HANSARD on the import of that deletion so that Members can contribute accordingly. He has not mentioned why he is proposing to delete item (b) of Section 4 of the Public Private Partnership Act.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Hon. David Ochieng', are you on a point of order? Your intervention button is on.

Hon. Ochieng’: Hon. Temporary Deputy Chairlady, I wanted to say something on the new Clause 52A. That is why my button is on.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Yes, that is where we are.

Hon. Ochieng’: I request the Chairperson of the Committee to understand that even as we include the PSs of transport, infrastructure and energy, one of the major areas which should be included, and I want to convince him to do so, is water. Water is very important. I know water services are devolved, but functions of water services at policy level are very important. Funding would be very important, going forward. If it is there, I stand guided, but he should include the PS in charge of water services.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Chairperson of the Committee.

Hon. Langat: Let me respond to the Chair of Public Accounts Committee (PAC) that the deletion of item (b) has the effect of deleting from the membership, the Ministry responsible for National Government Coordination and actually add those ones. The Ministry of Interior and Coordination of National Government is not very relevant to the issues of Public Private Sector Partnerships (PPP). That is the reason. Just because of its role, it is not very prominent in the PPPs.

*(Question, that the new clause be read a
Second Time, put and agreed to)*

(The new clause was read a Second Time)

*(Question, that the new clause be added to
the Bill, put and agreed to)*

New Clause 52B

Hon. Langat: Hon. Temporary Deputy Chairlady, I beg to move:-

THAT, the following new Clause be inserted immediately after
Clause 52—

Amendment to
section 43 of Act
No. 15 of 2013

52B. Section 43 of the Public Private Partnership Act is amended in subsection (2) by inserting a new item (gg) immediately after item (g) as follows—

“(gg) conditions under which bidders may submit request for clarifications; and”

This is just to give it more clarification on the conditions under which bidders may submit requests for clarification sought. If you are bidder, then there must be conditions in which you can actually request for clarifications.

(Question of the new clause proposed)

(New clause read the First Time)

*(Question, that the new clause be read a
Second Time, proposed)*

Hon. (Eng.) Gumbo: Hon. Temporary Deputy Chairlady, is this inclusion not limiting? Why are you giving conditions? You are trying to suggest that there could be conditions under which--- Should it not be open that anybody who wants to seek a clarification should do so because we know the import of PPPs. People put in their money. Why then should we introduce conditions under which they should be able to--- I find this to be superfluous and I really plead with the Committee Chair to drop this amendment. I think you are limiting the space into which PPPs can foster. Honestly, people are putting their money. Why are you putting conditions for them? You should allow them to seek clarifications.

Hon. Angwenyi: Hon. Temporary Deputy Chairlady, the purpose of this amendment is to have a clear process as to how you make requests. You cannot leave it open. It will be flooded with requests, some of which may be dangerous. So, we want to make it a systematic process. That is all.

Hon. Midiwo: Thank you, hon. Temporary Deputy Chairlady. I oppose that amendment. It seems to suggest or open a window for intimidation to investors. I plead with my friend, Hon. Jimmy. When you create a law in a way to intimidate the would-be investors, you know the worst that can happen. If you go to South Sudan, they tell you that you must get a local partner. Many Kenyans - and I am sure you know many - have lost their investments in South Sudan. Now they are busy with their anti-Kenya stand because they have robbed our people. I plead with you. Let us not go that direction. I please plead with you. Thank you.

Hon. A.B. Duale: Hon. Temporary Deputy Chairlady, because we are the end tail, I ask the Chair to withdraw this amendment. Member for Kikuyu, you know we are dealing with the Finance Bill. We have passed the Companies Bill and the Special Economic Zones Bill. We want to bring investors from as far as Singapore. When you bring them here and give them conditions for bidding, then you are setting a stage for corruption. We beg you. We do not want to disagree. You have done very well. Just withdraw. The Bible and the Quran say that you should appreciate those who have done good to you and reciprocate. Can you please withdraw?

Hon. Ochieng: Hon. Temporary Deputy Chairlady, I support this amendment. The PPP is a new thing in this country. You know the way these things work is that when you start something new, you go through processes, you note the things that happen then you change them as you go on. As we speak now, we have just been doing this annuity thing under the Private Public Partnership (PPP). What has come out is, if you do not have these kinds of conditions, the investors could run this country down by taking--- The Government puts money on the PPP. This is a very important amendment that I want to support and I think it should remain in the books.

Hon. Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Your point is made.

*(Question, that the new clause be read a
Second Time, put and agreed to)*

(The new Clause was read a Second Time)

*(Question, that the new Clause be added to
the Bill, put and agreed to)*

Clause 2

Hon. Langat: Hon. Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 2 of the Bill be amended by inserting the following new paragraph after paragraph (a)—

(aa) in the definition of the word “money” by inserting the words “or electronic payment system” immediately after the words “credit card” appearing in paragraph (c).

This is a very small amendment to take care of other means of payment. In addition to money, we have new methods of payment. We have considered credit cards and we are talking about electronic payment systems, the e-payment system. That is just a small amendment on the definition of money.

(Question of the amendment proposed)

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

(Clause 2 as amended agreed to)

(Clause 1 agreed to)

(Title agreed to)

Hon. Langat: Hon. Chairlady, I beg to move that the Committee doth report to the House its considerations of the Finance Bill, National Assembly Bill, No.27 of 2015 and its approval thereof with amendments.

(Question proposed)

(Question put and agreed to)

(The House resumed)

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

REPORTS AND THIRD READINGS

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): The Chairperson to report to the House.

Hon. (Ms.) Shebesh: Hon. Temporary Deputy Speaker, a Committee of the whole House has considered the Finance Bill, National Assembly Bill No.27 of 2015 and has approved the same with amendments.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Can we have the Mover to move the agreement to the Report?

Hon. Langat: Hon. Speaker, I beg to move that the House doth agree with the Committee in the said Report.

I request my Vice-Chair to second the Motion in agreement to the Report.

Hon. Gaichuhie: Thank you, Hon. Temporary Deputy Speaker, I second.

(Question proposed)

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Order, Members! There is a re-committal. I, therefore, call upon the Mover to move the re-committal of the clause.

(Hon. Mirenga stood in his place)

Hon. A.B. Duale: Hon. Ken Obura, you have many years to become Leader of the Majority Party or even the Leader of the Minority Party, but you are trying.

Hon. Temporary Deputy Speaker, I beg to move that the Motion for agreement with the report of the Committee of the whole House be amended by inserting the words “subject to re-committal of Clause 5”.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Following the resolution of the House for re-committal and because there was no procedural Motion passed to extend the time---

(Several hon. Members approached)

Hon. Temporary Deputy Speaker)

Hon. Members, can you go to the Clerks-at-the-Table, please? I have only one re-committal. Just consult with the Clerks-at-the-Table. Let the Leader of the Majority Party combine the list. This House has procedures. You cannot just come to the Speaker’s desk and---

Hon. A.B. Duale: Hon. Temporary Deputy Speaker, I beg to move that the Motion for agreement with the report of the Committee of the whole House be amended by inserting the words “subject to re-committal of Clauses 5, 43, 46 and new Sub-clause 35(a)”.

(Question proposed)

(Question put and agreed to)

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Before you raise your point order, your concerns have been addressed, Hon. Midiwo.

Hon. A.B. Duale: On a point of order, Hon. Temporary Deputy Speaker. I want to go on HANSARD record that the input of the re-committal by the Deputy Leader of the Minority Party concerns interest rates. I am sure that after consulting with the Speaker, he will give a direction on this matter because it touches on a number of issues. So, we expect the substantive Speaker this afternoon, before we go into the Committee of the whole House, to deal with the issue of the re-committal. We expect him to give his opinion on the effect of the re-committal of the clauses by the Deputy Leader of Minority because other re-committals by the Chair and I are just a matter of clean-up. But the re-committal by Hon. Jakoyo Midiwo is something to do with the curbing of interest rates by banks – a matter which has been his baby since the 9th and 10th Parliaments. He has been very consistent but the Speaker must speak to it.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Thank you for the information that you have given to the House. Of course, having followed the process, the same communication will be done, if applicable.

Hon. Members, we may not be able to get back to the Committee of the whole House after the decision of the re-committal because we had not moved a procedural Motion for extension of time. Therefore, we will go to the other Bill that was done in the Committee of the whole House and report on it. I, therefore, I call upon the Chairperson of the Committee of the whole House to report progress to the House.

THE COMPANIES AND INSOLVENCY LEGISLATION
(CONSEQUENTIAL AMENDMENTS) BILL

Hon. (Ms.) Shebesh: Hon. Temporary Deputy Speaker, I beg to report that a Committee of the whole House has considered the Companies and Insolvency Legislation (Consequential Amendments) Bill (National Assembly Bill No.25 of 2015) and approved the same with amendments.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): The Mover to move the agreement with the Report. Before that, I want to use the powers conferred to me by Standing Order No.1 to extend the time of this sitting until we conclude the reporting on the Bill before the House.

Hon. A.B. Duale: Hon. Temporary Deputy Speaker, I beg to move that the House doth agree with the Committee in the said Report. I request the Chairman of the Departmental Committee on Finance, Planning and Trade, Hon. Benjamin Langat, to second the Motion for agreement on the Report of the Committee of the whole House.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Chairperson of the Committee on Finance, Planning and Trade, please, proceed.

Hon. Langat: Hon. Temporary Deputy Speaker, I second.

(Question proposed)

(Question put and agreed to)

Hon. A.B. Duale: Hon. Temporary Deputy Speaker, I beg to move that the Companies and Insolvency Legislation (Consequential Amendments) Bill (National Assembly Bill No.25 of 2015) be now read the Third Time. I also ask the Chairperson of the Committee on Finance, Planning and Trade to second.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Chairperson of Committee on Finance, Planning and Trade, please, proceed and second.

Hon. Langat: Hon. Temporary Deputy Speaker, I second. I want to tell Hon. David Ochieng that when the Leader of the Majority Party is on his feet, he should freeze.

(Laughter)

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Hon. Members, you cannot intervene in the midst of a procedure. I will give you time if you think you want to speak, but not at this point. Please, allow us do the work procedurally and in the right way. I know today we are going on recess and it is great day for this House.

(Question proposed)

I want to give a comment. At this point, you can express yourselves loudly and clearly because we have gone through the procedure. Let me start with Hon. Ken Obura. You know that in Third Reading, you just make a comment. Now you can put your comment across.

Hon. Mirenga: Hon. Temporary Deputy Speaker, I wish I could be allowed to freely express myself without thinking that you are trying to gag me. We are dealing with a very important Bill. Of course, you know that we do not have the numbers. We were raising a procedural question because we were not agreeing with the way everything was going. At the point when the Leader of the Majority Party was talking about the re-committal by the Deputy Leader of the Minority Party, I had also wanted to express my reservations. I hope that the substantive Speaker will do the needful in the afternoon. That has a lot of consequences in this country especially on our financial sector. We would wish that a lot of stakeholders are brought on board, so that it is discussed and we do not get into something that can easily bring the economy of this country down. Otherwise, we feel gagged and we know we will address it at a different forum.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Very well spoken, Hon. Ken. At the right time, you have just put your point on the same. I must agree that this is a House of voting in terms of Ayes and Noes. The Deputy Leader of the Minority Party's re-committal was taken together by the Leader of the Majority after their consultation. It went through and he was satisfied. The same ruling, if any, will be issued in this House. Let me give one more chance to Hon. Gumbo.

The Leader of the Majority Party, you are not Hon. Gumbo. You are the Member for Garissa Town and the Leader of the Majority Party.

Hon. (Eng.) Gumbo: Hon. Temporary Deputy Speaker, Please, remind him. Sometimes, he thinks he is Member of Parliament General. Thank you very much for giving me the opportunity. I thank the House for passing the Companies and Insolvency

Legislation (Consequential Amendments) Bill. In my contribution, I did not have a chance to bring that amendment, but if you look at the Companies Bill, the provisions governing the ambit of the Capital Markets Authority is wider in the Companies Bill than it is in the Capital Markets Authority's Act. If it is not included in this amendment, I will hope that even at a Miscellaneous (Amendments) stage, we can expand the ambit of the Capital Markets Authority to include both listed and non-listed companies.

Otherwise, I support.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): The Member for Mvita. Just a minute, the Member for Ugenya, Hon. Ochieng', you cannot just be very special. Even as you want to be given a chance to speak, be orderly. Let us have the Member for Mvita.

Hon. Nassir: Hon. Temporary Deputy Speaker, whatever I had wanted to talk about had already been passed.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Okay, if it is spoken about, we should not repeat ourselves.

Hon. Nassir: Hon. Temporary Deputy Speaker, just 20 more seconds, I wish to remind Members that it is only yesterday that the Member was feeling very deprived when other Members were shouting. If this House continues in this manner, where it is just a shouting contest, then we will not move very far. We should come up with substantive issues.

I think we should come up with substantial issues and remind him of the ruling that the Speaker made yesterday, that if something has already passed, it cannot be re-done.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Just comment on the Third Reading.

Hon. Nassir: Just a reminder.

Hon. Ochieng': On a point of order, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): There is nothing out of order. Let me hear what the Member for Ugenya has to say. I know he has a very important Bill in this House. Let me give him an opportunity. Just one minute.

Hon. Ochieng': Hon. Temporary Deputy Speaker, if the Hon. Member wants to discuss me, he can just move a Motion to discuss me.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Exactly. On that one, I support.

Hon. Ochieng': The point I wanted to make is that the Finance Bill is a very important Bill for this country. If we have ten Members in the House and we are trying to rise on a point of order saying that we want this to be done properly and we are gagged, it does not look good. Hon. Temporary Deputy Speaker, I am happy with the way you have handled the situation and we hope that when the Bill comes for discussion at the right time, we will be able to add our voices.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Thank you, Member for Ugenya. I also support that if you want to discuss him, bring a Substantive Motion. That is the process and procedure of this House. During the next Sitting, we will come back with the re-committal clauses in the Finance Bill. We are not able to put the Question for

the Third Reading. I order that the Question be put in the next Sitting at the most appropriate time.

ADJOURNMENT

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Hon. Members, the time being 1.16 p.m., this House stands adjourned until Thursday, 27th August 2015 at 2.30 p.m.

The House rose at 1.16 p.m.