

# NATIONAL ASSEMBLY

## OFFICIAL REPORT

Wednesday, 29<sup>th</sup> August 2018

The House met at 2.30 p.m.

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

### PRAYERS

**Hon. Speaker:** Hon. Members, the Communication to be issued will come under Order No. 9.

### PAPERS LAID

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

**Hon. Aden Duale** (Garissa Township, JP): Hon. Speaker, I beg to lay the following Papers on the Table of the House today:

The Annual Report and Financial Statements of the Independent Policing Oversight Authority (IPOA) for the year that ended 30<sup>th</sup> June 2017.

The Annual Report and Financial Statements of the Kenya National Trading Company Corporation Limited for the year that ended 30<sup>th</sup> June 2016.

The Report of the Auditor-General and Financial Statements in respect of the following institutions for the year that ended 30<sup>th</sup> June 2017 and the certificate therein:

1. Kenya Ordinance Factories Corporation, and
2. Kerio Valley Development Authority.

The Report of the Auditor-General and Financial Statements in respect of the following constituencies for the year that ended 30<sup>th</sup> June 2017 and the certificate therein:

1. Ainabkoi Constituency.
2. Marakwet West Constituency.
3. Keiyo South Constituency.
4. Marakwet East Constituency.
5. Endebess Constituency.
6. Msambweni Constituency.

*(Several female Hon. Members wearing white headscarves walked into the Chamber)*

*(Loud consultations)*

**Hon. Speaker:** Order, Hon. Members! Order, Hon. Members! Order! Order! Order!

**Hon. Aden Duale** (Garissa Township, JP): On a point of order, Hon. Speaker.

**Hon. Speaker:** Leader of the Majority Party, what is your point of order?

**Hon. Aden Duale** (Garissa Township, JP): Hon. Speaker, I want you to give direction because I have been in this Parliament since 2008 and what I have seen this afternoon is something I have never seen. I want you to tell us whether it is within the Standing Orders in terms of the dress. This group of Members of Parliament who are wearing this particular head scarf are threatening. They are very intimidating. This afternoon we have a very serious business of the Finance Bill. I do not know whether this will affect how we deal with the Finance Bill. So, Hon. Speaker, I want you to guide us whether what we are seeing is in order or whether it is part of the new uniform that must be in the House.

Finally, I want you to assure us whether we are safe because this can be a cult. It can be a sect or a religion and some of us believe in God. We do not know whether this is another religion, another political party or other *akorinos* who have been convinced in big numbers.

Hon. Speaker, we want your direction.

*(Loud consultations)*

**Hon. Speaker:** Order, Hon. Members! The issue that has been raised by Leader of the Majority Party is relating to the headgear that several Members of the female gender of this House appear to have adopted today. I hope it is some way of dressing that will continue.

*(Applause)*

They look very smart.

*(Laughter)*

I am sure you have seen several sects, including one called the Presbyterian Church of East Africa (PCEA) Women's Guild, with similar headgear. For avoidance of doubt, the dress code for female Members of Parliament is decent and formal business-wear.

*(Applause)*

If the women choose to wear some headgear such as the one that many of them have chosen today, we should congratulate them.

*(Laughter)*

As long as I have been assured by the Serjeant-at-Arms that there is nothing hidden below the headgear, and if it will not impact on their participation in the business of the House for the days they choose to be dressed that way, we have no problem. Maybe, the male gender should be happy that...

**An Hon. Member:** We are scared. We do not feel safe.

**Hon. Speaker:** Hon. Pukose is between two women, just like Hon. Maoka Maore, and he appears quite calm. Hon. Maoka Maore says that he has no problem with the headgear. Hon. Janet Ong'era seems quite radiant in that headgear. Let us just allow them to continue participating in the business of the House. Let us allow them to continue dressing that way as long as it does not impede the business of the House.

What is out of order now, Hon. Mbarire?

**Hon. (Ms.) Cecily Mbarire** (Nominated, JP): Hon. Speaker, we come in peace as the female Members of Parliament of the National Assembly. We are the 44<sup>th</sup> tribe of this country.

We have come here to put across the message that we have had a new Constitution since 2010 that has specific timelines for certain legislative proposals to be passed by this House. One of the legislative proposals is supposed to enable implementation of the two-thirds gender rule. It is now eight years and it has not been passed. All the other proposals have been passed. We come in peace to let this House and the nation know that it has been eight years. We are requesting humbly that the particular legislative proposal be considered and passed by this House. We know that we have a lot of support from our male counterparts. We only request them to help us. We will be wearing these white headscarves until we pass this law. I thank the very many male supporters that we have in this House.

**Hon. Speaker:** Hon. Savula, Member for Lugari, I can see you are very excited about this headgear.

**Hon. Ayub Angatia** (Lugari, ANC): Thank you, Hon. Speaker. I seek your guidance as to whether Parliament legislates through intimidation or attire. Parliament has procedures and rules. If you want to raise a discussion, there are procedures and rules. You do not need to intimidate us through a new attire that you have not explained. Give us a further explanation on how you want us to implement the one-third gender rule, but not through attire. There are rules and regulations.

**Hon. Speaker:** Hon. Members, that is not business. We are not transacting business. The issue was just about this newly-acquired way of dressing.

Hon. Savula, I hope you are not intimidated. Why would you be intimidated by a headgear? There is no business. Listen, Hon. Savula. Already, a Bill to amend the Constitution has been published. It has gone through the full cycle of the 90-day publication period. All that remains is for this House to debate and discuss it. We are not debating anything. We will not debate how you will...

Hon. Janet Ong'era, it is unusual for you to raise your hand. Why would you be raising your hand?

*(Loud consultations)*

**Hon. (Ms.) Janet Ong'era** (Kisii CWR, ODM): Thank you, Hon. Speaker for indulging me. Is Hon. Savula right in saying that we are strangers in the House when you have just ruled that we look extremely radiant? Does Hon. Savula not have sisters and mothers who wear head scarves? This is the most dignified way of dressing. Coming to the House with a head scarf is dignified. The Bible says that women who cover their heads are the most holy. That is what the Bible says.

*(Loud consultations)*

**Hon. Speaker:** Order, Members! Let us transact business. Hon. Members, I am not dealing with holiness. I do not adjudicate in that area. I hope Hon. Peris Tobiko, who is not wearing one, is not being said to be unholy. If we use that analogy, they are saying that they have not been very holy but, starting today, they will be very holy.

*(Laughter)*

Let us accept that confession and proceed with business. Let us have the Chairperson of the Special Funds Accounts Committee. We will not entertain points of order on non-issues. About the headgear, you can see that the Leader of the Majority Party is okay, and it is accepted. Let us also allow the Members who have chosen to have some form of elegance on their heads as they choose to. It does not offend our rules. It does not matter. Let them wear what they want. Let us transact business.

Hon. Angwenyi, you are the father of the House. Say something. Say it on record.

**Hon. Jimmy Angwenyi** (Kitutu Chache North, JP): My point of clarification is that all men come here tomorrow with their *kofias*. Let the ladies come with their towels so that we can be uniform.

**Hon. Speaker:** Hon. Angwenyi, it is not unusual for women to cover their hair. There is nothing unusual about this. Let us not spend time discussing a non-issue. Let us have Hon. Kathuri Murungi.

You are out of order. If you raise any more discussions on this, you will be shown the door.

### PAPERS LAID

**Hon. Kathuri Murungi** (South Imenti, Independent): Thank you, Hon. Speaker. I beg to lay the following Paper on the Table of the House:

Report of the Special Funds Accounts Committee on audited...

*(Hon. Kimani Ichung'wah walked into the Chamber with a scarf on his head)*

*(Laughter)*

**Hon. Speaker:** Hon. Members, let us do business now. That was a brief period of mirth. Proceed.

**Hon. Kathuri Murungi** (South Imenti, Independent): Hon. Speaker, due to the interruption by the Members, I beg to repeat.

I beg to lay the following Paper on the Table of the House:

The first Report of the Special Funds Account Committee on audited financial statements for Political Parties Fund for the year ended 30<sup>th</sup> June 2017.

Thank you, Hon. Speaker.

**Hon. Speaker:** Chairperson, Select Committee on National Government Constituency Development Fund (NG-CDF).

**Hon. Maoka Maore** (Igembe North, JP): Hon. Speaker, I beg to lay the following Papers on the Table of the House:

Reports of the Select Committee on the National Government Constituency Development Fund (NG-CDF) on the status of disbursement of funds to the NG-CDF as at 28<sup>th</sup> August 2018. Members can peruse them and see whether they received all the funds for the previous Financial Year.

The Third Institute of Chartered Public Accountants, Kenya Chapter Seminar held in London, United Kingdom (UK), from 3<sup>rd</sup> to 6<sup>th</sup> July 2018.

Thank you, Hon. Speaker.

**Hon. Speaker:** Chairperson, Departmental Committee on Environment and Natural Resources.

**Hon. Kareke Mbiuki** (Maara, JP): Hon. Speaker, I beg to lay the following Paper on the Table of the House:

The Report of the Departmental Committee on Environment and Natural Resources on an inquiry into the complainant of environmental pollution by London Distillers Kenya Limited.

I thank you, Hon. Speaker.

**Hon. Speaker:** Hon. Members, before we proceed, allow me to recognise the presence of Pupils Reward Scheme, from Dagoretti, Nairobi who are attached to State House, Nairobi County, seated in the Speaker's Gallery. There are also students from Nyatambe Mixed Secondary School, Suba South Constituency, and Homa Bay County. They are welcome to observe the proceedings of the House, including seeing the latest headgear which was adopted by female Members.

*(Applause)*

Next Order.

## NOTICE OF MOTION

### ALTERATION OF HOUSE CALENDAR

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

**Hon. Aden Duale** (Garissa Township, JP): Hon. Speaker, I beg to give notice of the following Motion:

THAT, pursuant to the provisions of Standing Order No. 28(4), this House resolves to further alter its calendar for the Second Session (2018) as adopted on 14<sup>th</sup> February 2018 and amended on 1<sup>st</sup> March 2018 and 28<sup>th</sup> June 2018, respectively, by proceeding to a recess from Thursday, 30<sup>th</sup> August 2018 at the rise of the House and resuming its regular sittings on Tuesday, 2<sup>nd</sup> October 2018.

**Hon. Speaker:** Next Order.

## STATEMENTS

### ALLOCATION OF LAND IN MWEA SETTLEMENT SCHEME

**Hon. Speaker:** Chair of the Departmental Committee on Lands, Hon. Rachael Nyamai. I am not able to recognise the faces because of the headgear. Is she the one?

**Hon. Members:** Yes.

*(Laughter)*

**Hon. Speaker:** I will recognise the Members with time.

**Hon. (Ms.) Rachael Nyamai** (Kitui South, JP): Thank you, Hon. Speaker. This is a Statement on the allocation of land in Mwea Settlement Scheme in Mbeere South Constituency, Embu County.

The background of this matter is that Mwea Settlement Scheme is located in Makima Location, Mbeere South Constituency, Mbeere South Sub-County, Embu County. It was part of the larger Mwea Trust Land which comprised of Mwea Game Reserve and Karaba, Washoro, Makima and Riakanau adjudication sections. It was established on LR No. 26461, and FR No. 317/3. It measures approximately 17,830.6 hectares. The survey work was undertaken in 2016 by the County Government of Embu in conjunction with the National Land Commission (NLC). The scheme was surveyed into 7,232 plots. Out of the resultant 7,232 title deeds, 6,292 title deeds have been issued to the beneficiaries. The balances of 940 title deeds are at Siakago Land Registry.

The first question is: When will the Ministry of Lands and Physical Planning and the Ministry of Interior and Coordination of National Government resume the resettlement exercise and how soon will the legitimate beneficiaries be settled? The Ministry of Lands and Physical Planning undertakes to resume the resettlement exercise in the next three months. It commits to inform the House on the timelines of the resettlement.

The second question is: Are the Ministry of Lands and Physical Planning and the Ministry of Interior and Coordination of the National Government aware of illegitimate groups that have hijacked the settlement exercise with the hope of being included as beneficiaries? They have started occupying the parcels of land illegally by moving in and constructing makeshift structures at the expense of legitimate owners who will soon be displaced. That is the second matter that was raised.

The Ministry is aware and has identified the challenges which I have enumerated. Some people or groups which claim that they were not consulted during the allocation have arisen. They are the people or groups who claim that they were left out during the allocation and yet they had already been settled on the same land. There are claims that outsiders were allocated land. There are also allegations of people or relatives who own large parcels of land or more than one plot. Those are the challenges that are there which will be addressed by the two ministries that are working together.

The other question is: Are the two Ministries aware that the legitimate land owners are mobilising themselves to defend their land from infiltration and may forcefully enter the land to settle themselves to avoid impending displacement by infiltrators? The Ministry of Lands and Physical Planning is aware of the mobilisation and has referred the same to be handled by the Ministry of Interior and Coordination of National Government, together with the County Government of Embu.

The fourth question is: What measures are being put in place by the Government to forestall any potential violence among the various groups who are mobilising to either take over or defend the land? The response is that the Ministry has identified the issues which affect the successful conclusion of the settlement process and plans to undertake the following actions:

(1) Review all the title deeds issued and those held by undeserving persons which will be cancelled. That is the undertaking that has been given. This can be done by appointing Resettlement and Plot Showing Committees.

(2) Ensure all the plots are surveyed and beaconed before showing them to the people.

(3) Ensure that the families that were residing in the settlement scheme as at 30<sup>th</sup> June 2016 when the allocation to the various groups was negotiated retain the plots.

(4) Arbitrate on all disputes and consider allocations to only deserving persons on the basis of equality and fairness, one plot per family and the plots to be of equal sizes.

(5) Re-plan and subdivide any excessively large plots that may have been allocated.

(6) Specific people who are utilising more land than allocated be identified and given specific orders to stop the practice. In addition, stop any further transportation of people to the areas that are affected.

(7) In order to enhance security and improve accessibility, all major access roads in the settlement scheme should be opened possibly through use of national youth service. This will create distinct blocks making it easy to patrol and show the plots.

Hon. Speaker, this is a response from the Ministry of Lands and Physical Planning. I believe it is a response to a matter that has been raised in the House. Thank you.

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

**Hon. Geoffrey Muturi** (Mbeere South, JP): Thank you, Hon. Speaker. I start by thanking the Chairperson of the Departmental Committee on Lands for the Statement. Equally I thank the Chairperson for addressing the particular questions. I am appreciative of the fact that there is now a timeline of three months for the resumption of the exercise.

However, I was not even aware that the Statement would be issued today. I have not had time to look at it. For instance, I have not understood the answer to the last question. Much as I appreciate the Statement that has been given, I would like to have some time to understand the response so that I can equally be able to react to the matter.

This is a grave matter. It has been pending for more than 50 years. It is true that groups re mobilising and we do not know what is going to happen because emotions have been stirred and the Government officers have stated certain things. Politicians have also stated some things. The population does not know what is going to happen. It would have been better if as soon as possible this Statement is given to the public on the ground the Government comes to the ground and makes the Statement so that the community can interrogate the answers and know how to prepare what the Government is about to do.

It has taken me a lot of time and walking around to get this Statement. I believe that somebody is dragging their feet on an issue that involves lives of people. I would like to state here that the time line that has been given be followed and adhered to.

Security issues should be addressed with the urgency it deserves. Otherwise, we cannot have a Government that cannot provide security. Further to that ...

**Hon. Speaker:** There should be no debate on a Statement that has been made. You are debating the matter. You should ask for a copy of that response because you sought it and it was to come from the Ministry through the Chairperson of the Committee.

**Hon. Geoffrey Muturi** (Mbeere South, JP): I stand advised, Hon. Speaker. As I finish, there are no chiefs in the area. That is one of the biggest problems and I hope as I get a copy of the Statement, the Minister comes to the Committee to respond; he will have a chance to respond to all matters on the issue. Thank you.

**Hon. Speaker:** The issue of chiefs is not being handled by the Departmental Committee on Lands. That, obviously, will be addressed through a different forum.

*(Hon. Daniel Maanzo spoke off record)*

On the same matter? But there is nothing. That was only a Statement. No, there is no information. Sorry. It does not happen like that. I know you are doing your second term.

*(Laughter)*

You are doing your second term only, but you appear not to have known that you do not just give information to anybody; we are not addressing law here. Points of law on what? This is a Statement that has been read. It is not business. In fact, there is no need for anybody to debate. That is why I have told the Member who sought the Statement that there is nothing to debate. He could have been given that Statement to take it to the people he represents and tell them that this is what we have been given. You want to talk about points of law. Points of law are all over. Lawyers, desist from giving points of law to everybody. Of course, they can go to court and give those points of law. Let us proceed with business. Hon. Maanzo, you can approach the Chair of the Committee to get a copy of the Statement, if you are desirous of the same so that you can interrogate it with all the law you have.

Next Order.

### MOTION

#### ADOPTION OF REPORT ON THE EXCISE DUTY ACT (ADJUSTMENT OF RATES FOR INFLATION) SCHEDULE, 2018

**Hon. Speaker:** Hon. (Ms.) Shollei.

**Hon. (Ms.) Gladys Boss Shollei** (Uasin Gishu, CWR, JP): Hon. Speaker, I beg to move:

THAT, this House adopts the Report of the Committee on Delegated Legislation on the Excise Duty Act (Adjustment of Rates for Inflation) Schedule, 2018 laid on the Table of the House on Thursday, 23<sup>rd</sup> August 2018 and pursuant to the provisions of section 15(1) of the Statutory Instruments Act and Standing Order 210 (4) (b), annuls in entirety the Excise Duty Act (Adjustment of Rates for Inflation) 2018 Schedule, 2018, via Legal Notice No.164 of 2018.

Hon. Speaker, the Select Committee is established under Standing Order No.210 and it is required to scrutinise and certify that all regulations brought before this House are in line with the Constitution and/or Acts of Parliament and also to ensure it does not contravene any of the other laws of Kenya. I would like the Leader of the Majority Party to pay attention because he told me that my Committee has been annulling all Government regulations. I want him to pay attention so that he hears the reasons.

**Hon Aden Duale** (Garissa Township, JP): On a point of order, Hon. Speaker.

**Hon. Speaker:** What is your point of order?

**Hon Aden Duale** (Garissa Township, JP): Hon. Speaker. You have heard what Hon. Shollei has said. This is a House of facts. Unless she substantiates that I said what she has just alleged, she must be allowed to withdraw and apologise. I did not say that. Whatever we say outside the Chamber, say, in the corridors, is not privileged.

*(Several female Hon. Members walked out of the Chamber)*



**Hon. Speaker:** You see the people with the headgear are the ones with very little staying power.

*(Loud consultations)*

And they still say they want laws to be passed. Passed by who?

*(Laughter)*

This is the place where laws are going to be passed, but you go out there in the streets to say that laws are not being passed. Who is going to pass them, if you are not here? You can see that crowd walking out of the Chamber.

**Hon. Junet Nuh** (Suna South, ODM): On a point of order, Hon. Speaker.

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

**Hon. Junet Nuh** (Suna South, ODM): I want to bring it to your attention that this is the House that is supposed to pass the Gender Bill. When people with the headscarves start moving out *en masse* like this and they do not want to stay in the House, how will the Bill pass in this House? The other time the Bill was brought, they were not there. The headscarf is not going to vote. What is going to vote is numbers. They should remain seated.

**Hon. Speaker:** Maybe they are going to look for brighter colours and make their way later. It is fair for them to know that you require not less than 233 Members being present to pass what you think you may be agitating through the headgear. The headgear alone will not help. I have been looking for the name Hon. Sabina Chege. Now, I am seeing Chege Wanjiru.

*(Hon. (Ms.) Sabina Chege spoke off record)*

**Hon. Speaker:** No. There was nothing like that.

**Hon. (Ms.) Sabina Chege** (Murang'a CWR, JP): On a point of order.

**Hon. Speaker:** What is your point of order?

**Hon. (Ms.) Sabina Chege** (Murang'a CWR, JP): Thank you, Hon. Speaker. I just want to urge this House: We came with a message of peace.

**Hon. Speaker:** You said a message of what?

**Hon. (Ms.) Sabina Chege** (Murang'a CWR, JP): A message of peace. We urge this House, Hon. Junet and other Members of Parliament, including Hon. Savula, to support us because you have seen Hon. Ichung'wah is also in support. We will also have a white lapel to put on your coats. We urge this House to support the women of the day. So, when a few Members of the House move out, it is not all of them. We are here. We have not moved out. You can see several of us are still in the House.

Kindly, I beg you, do not judge us harshly. We are your sisters. We are the wives that you have in your houses. We are your mothers that you love. Do not judge us harshly.

**Hon. Jimmy Angwenyi** (Kitutu Chache North, JP): Are you our wives?

**Hon. (Ms.) Sabina Chege** (Murang'a CWR, JP): Hon. Jimmy Angwenyi, we are here on behalf of your wife.

**Hon. Speaker:** Hon. Sabina Chege, you rose claiming to be on a point of order. Now, you are making appeals. What was out of order? There is no judgment. A few of you are here,

yes. A majority have gone to address... Or, did they go to take photographs to show that they can also wear white? Hon. Pukose, what is it?

**Hon. (Dr.) Robert Pukose** (Endebess, JP): Just before they diverted us to the issue about what is happening, I was interested in the Committee on Delegated Legislation. The regulations they bring to the House are always to annul. I wonder why they always only bring for annulling. I do not know whether the lawyers of the Government went to school or not. They have challenges. When you give advice to the Government and you prepare regulations that appear in the Committee and they are brought here to be annulled, it questions the standards of the legal team that is advising the Government. This is of great concern. I think it will be good for the Chair of the Committee on Delegated Legislation to give us explanations as to why they are always annulling.

**Hon. Speaker:** Well, the Chair explained yesterday that there are several regulations which have not been annulled. There are a number which have.

**Hon. (Dr.) Robert Pukose** (Endebess, JP): The numbers that are being annulled are extremely alarming. It is a big number. That gives us worry.

**Hon. Speaker:** Let us allow the Chair to finish moving then you can ask that question during contribution.

**Hon. (Ms.) Gladys Boss Shollei** (Uasin Gishu CWR, JP): Thank you, Hon. Speaker. As I begin, I want to appreciate Hon. Kimani Ichung'wah. He had a white scarf also. Unfortunately, the Leader of the Majority Party removed it from his head which is a little unfair. I know he supports women because he has three girls. What I do not know is whether they are three daughters or three girlfriends. Let us continue.

*(Loud consultations)*

Hon. Speaker, can I continue? Please, help me.

**Hon. Speaker:** Points of orders must be on the basis of order in the House.

**Hon. (Ms.) Gladys Boss Shollei** (Uasin Gishu CWR, JP): The Excise Duty Act, Section 10, provides that the Commissioner General shall by notice in the Gazette specify the rate of excise duty every two years to take into consideration the account of inflation and in accordance with the formulae that is specified in Part I of the First Schedule. In this case, the Commissioner General in exercise of that power published the Excise Duty Act adjustment rates inflation schedule 2018. These regulations were published on the 13<sup>th</sup> July 2018. This was tabled before the House on 23<sup>rd</sup> July 2018. It was immediately committed to the Committee on Delegated Legislation.

Hon. Speaker, the excise duty that is also referred to commonly in Kenya as “the sin tax” is levied on products such as alcohol, tobacco and such other products deemed to be harmful to the users and the citizenry in general. The expected benefit of the adjustment of these rates for inflation is intended to deter consumption of such products. Also, in other countries and Kenya, it is meant to raise revenue which can be reinvested to address the effects or damage that could have been caused by these products.

We then go to Section 8 of though Excise Duty Act which also allows the CS, on his discretion as he may deem necessary, to amend the First Schedule of the Act. If he does so, he can only do it within certain conditions. One, the increase or decrease of the excise duty should not exceed 10 per cent of the rate that is specified in the Act.

Secondly, the increase or decrease must be published in *the Kenya Gazette*; it was done in this case. It was through regulations such as those we have before us today.

Thirdly, he cannot impose excise on goods or services that are not excisable.

Four, immediately the CS has published this; he must table it before the National Assembly within seven days of publication. I can confirm that he was within that period.

The section further provides that the National Assembly should pass the resolution of variation within 21 days from the date on which the House next sits after the variation has been put in *the Kenya Gazette*. Again, we are within that period today.

The problem with this regulation and the basis upon which it is being annulled is very simple. The adjustments to be done on excisable goods are specified in Part I of the Schedule yet the legal notice 164 excluded all excisable goods in the first table of Part I of the First Schedule that relate to spirits, oil and so on. If you look at the First Schedule, it relates to motor spirits, motor oil, jet fuel, light oils, kerosene and other residual oils. The CS did not place excise duty on it. Instead, he only, electively, picked Part II which deals with fruit juices, food supplements, cosmetics, beverages, beer, powdered beer, spirits, electronic cigarettes, cartridges for use of electronic cigarettes and cigarette filters.

*(Several Members walked in the aisle)*

**Hon. Speaker:** Hon. Members, those of you who may wish not to follow the proceedings can take the same route taken by the groups which went out.

*(Laughter)*

**Hon. (Ms.) Gladys Boss Shollei** (Uasin Gishu CWR, JP): Thank you, Hon. Speaker. This is the basis upon which we are annulling these regulations. The law does not allow the CS to pick and choose. If he has to vary the excise duty on the goods, he must do it for both schedules; not just one. He was completely in contravention of the law. Therefore, in considering the regulations, we as a Committee had a meeting with the National Treasury who were led by the Chief Administrative Secretary (CAS) of the National Treasury. These issues were raised before them and they understood very well after that meeting.

Therefore, they actually understood very well that it was not possible to rescue these Regulations and the only route was to annul them so that they can rectify and bring them back before the committee for approval, in order to be in line with the law.

The second reason why the Committee annulled these Regulations is because the law requires that the Regulations must be accompanied by an explanatory memorandum when it is tabled before the House. The explanatory memorandum is supposed to let us know whether there was public participation. In this case, there was none.

The third reason we are annulling this law is that, Section 13 of the Statutory Instruments Act clearly says that the Committee cannot approve legislation, if it appears to have had an unjustifiable delay in the publication or laying it before Parliament. I hope the Leader of the Majority Party is listening.

*(Hon. Aden Duale spoke off record)*

**Hon. (Ms.) Gladys Boss Shollei** (Uasin Gishu CWR, JP): I wanted you to hear the reasons.

The other challenge that the committee had with these Regulations is that Legal Notice No. 164, 2018 is supposed to actualise the adjustment of the specific rate of Excise Duty, using that formula. However, the formula that was used is in fact not published.

Finally, it was a recommendation for the committee that having considered the Constitution, the Excise Duty Act, the Statutory Instruments, the Interpretation and the General Provisions Act, the Committee finds that these Regulations can only be annulled in its entirety for those reasons and that the Ministry is at liberty to have them republished again and be brought before the House.

For the record, there is an issue that was raised by one of our Members. The Member for Endebess is worried that the committee always annuls legislations. I will confirm to him for the record, that the committee from inception has considered 60 pieces of legislation. It has approved 37 out of the 60; it has nullified 13 pieces of legislation. Therefore, the number of the ones that we have approved is higher than those that we have annulled. Two of the legislations did not come into operation of law because of time lapse and there were five of them for the Wildlife Regulations which were withdrawn by the Ministry because they realised it had errors. I think that is the way the Ministries should do. If your Regulations have an error, they should revoke them and republish them correctly. To confirm what the Hon. Member for Endebess is saying, my committee is also very shocked at the shoddy legislation that comes before the committee. I do not blame the Ministries; I blame the legal counsel of the ministries; the in-house lawyers they have or the people they have retained to help them prepare these legislations. It is also punishing the committee because it wastes our time to review legislation. In fact, I am beginning to feel like I am the draft person for the Government. It is unfair for us to correct their errors.

Section 16 of the Statutory Instruments Act allows the Ministries to consult with us in advance, even before they publish the legislation. We are encouraging them to do that so that we do not go back and forth. We also do not want to waste the Governments' time or let the Government projects stall because of these particular errors.

Therefore, Hon. Speaker, we are continuing to work very hard together with the Regulatory Making Authorities to ensure that they do not bring legislation before us that will, obviously, end up being annulled because of very simple errors and most of the time they contravene the law.

So, if I may answer the question, we cannot approve legislation that is contrary to the law. I always say, before I am a Member of Parliament, I am an officer of the court. I also swore to uphold the Constitution. We cannot approve legislation that contravenes the law. We do hope that going forward, this message has been heard loud and clear by the Ministries and we hope that in future we do not have the current problems.

With those few remarks, I wish to thank the Members of my committee because I know any matters relating to finance have a 15 day period and therefore it has taken a lot of work on their part for them to turn this around. I appreciate the Members of my committee and the members of the secretariat who support us.

I beg to move and request Hon. Shamalla a Member of the Committee to second the Report. Thank you.

**Hon. (Ms.) Shamalla Jennifer** (Nominated, JP): Thank you, Hon. Speaker. I rise to support and second the Report. I want to concur with the Chair of the Delegated Legislation on the issue of counsel. In one of the meetings that we had, a Principal Secretary appeared with a

Counsel. I asked the Counsel, an advocate of the High Court of Kenya, if she was aware of the Act that guides the Delegated Legislation Committee, which is the Statutory Instruments Act. The Counsel was not even aware of that Act and started searching for it on her phone in our presence. It is of deep concern at the quality of legal advice that ministries and Cabinet Secretaries are getting. We urge them that if they have any queries, they should come before the Committee and seek advice and consult with the Committee before we come to the stage of nullifying Regulations.

The second issue is the fact that a lot of Regulations have been nullified because they have not been subjected to public participation. We must understand that legislative authority is derived from the people of Kenya. Public participation is, indeed, anchored in Article 10 and it is also the role of Parliament to ensure and facilitate public participation. Public participation is so crucial because it has the element of civic education and it brings the Government and the three Arms of Government closer to the people. It makes the people understand what the real bread and butter issues are. We cannot just be politicised during times of campaigns, we need a people who are constantly aware of what is going on within the nation and especially with regards to the legislative process.

Indeed, I am aware currently there is no a public participation law. I desire and I am sure that in the 12<sup>th</sup> Parliament, that legislation shall be passed.

With those few remarks, I second the Report.

*(Hon. Khatib Mwashetani consulted while walking in the Gangways)*

**Hon. Speaker:** Member for Lungalunga, you are just doing something like *Lungalunga* up and down.

*(Laughter)*

Hon. Khatib Mwashetani, you need to appreciate the work done by our Committee on Delegated Legislation in the 12<sup>th</sup> Parliament. Indeed, their work has really profiled them as it should. Those who chair other committees you better pull up your socks. I know Hon. Mwashetani is a deputy chair of another committee which is also doing a great job. At least, we have not received certain communications like we have had in others. We should congratulate the leadership and the entire membership of that committee. I think they are doing a great job.

*(Question proposed)*

**Hon. Members:** Put the question.

**Hon. Speaker:** The Member for Gilgil wants to say something.

**Hon. (Ms.) Martha Wangari** (Gilgil, JP): Thank you, Hon. Speaker. I am a member of the Committee. I rise to support and say one thing. We have worked thoroughly hard as the Committee on Delegated Legislation. One challenge we have is that the Statutory Instruments Act does not give a window for amendment of regulations. The ones that we pass do not necessarily come here. So, you will not hear about them. They become self-enacting. That is why Members must be aware that the work we do is not just to sing to the Government's tune. It is to do our work. Where there is a flaw or a problem with the law, we raise it. I think we have done that effectively.

With those remarks, I support.

**Hon. Members:** Put the Question. Put the Question.

**Hon. Speaker:** Hon. Members, you will now have to stop with your headscarves wherever you are. Hon. T.J. Kajwang' was not here when they first, appeared. Members were feeling intimidated, but they have since relaxed.

*(Question put and agreed to)*

**Hon. Speaker:** Hon. Members, I hope the headgear is not heavy to make it impossible for you to transact business. There have been concerns raised by Hon. Maanzo and Hon. Charles Kilonzo on why the business appearing as Order No.9 is listed as Committee of the whole House. Their concerns were that the Second Reading had not been concluded. I have since obtained a copy of the Hansard for this morning, which clearly shows that the Deputy Speaker, after ascertaining that there was quorum in the House, proceeded to put the question for Second Reading of the Finance Bill. This is just to confirm to the two Members that, indeed, that particular stage of the Bill was concluded. They may have been in some other places, but it is their right to be informed as to whether every stage has been faithfully adhered to.

## COMMUNICATION FROM THE CHAIR

### GUIDANCE ON CONSIDERATION OF PROPOSED AMENDMENTS TO THE FINANCE BILL

**Hon. Speaker:** Hon. Members, before we go to Order No.9, I wish to give this communication as a way of guidance on consideration of the proposed amendments to the Finance Bill (National Assembly Bill No.20 of 2018).

As you are aware, Article 114(2) of the Constitution provides that if, in the view or opinion of the Speaker, a Motion makes provision for matters listed in the definition of a money Bill, the Assembly may proceed only in accordance with the recommendation of the relevant committee after considering the views of the Cabinet Secretary responsible for finance.

In this regard, my office has received several proposed amendments to the Finance Bill, 2018, both from the chairpersons of committees and individual Members, some of which make provision for matters listed in the definition of a money Bill, pursuant to the provisions of Article 114(2) of the Constitution. I, therefore, wish to give the following guidance to the House with regard to the various amendments proposed, for which a disclaimer has been made in the Order Paper. For ease of reference, the following are proposed amendments to which the disclaimers relate:

1. The one proposed by the Member for Kikuyu, Hon. Ichung'wah, to amend the Bill by inserting a new Clause 10A. I am informed that upon consideration of the amendment, the Departmental Committee on Finance and National Planning has recommended that the amendment may proceed but to be moved in an amended form, which recommendation Hon. Ichung'wah has acceded to. That amendment, therefore, may be considered in the Committee of the whole House.

2. The proposed amendment by the Member for Bomet Central, Hon. Ronald Tonui, to delete Clauses 56, 58 and 68. I have formed the opinion that the said proposed amendments to Clauses 56 and 68 are subject to the provisions of Article 114, the views of the CS in regard

thereto having been sought. Therefore, the Committee of the whole House should not and must not consider the proposed amendments to Clauses 56 and 68 as proposed by Hon. Tonui.

3. The proposed amendment by the Member for Mandera South, Hon. Adan Haji, to amend Clause 19 in part (a) and (c). It is my considered opinion that the amendment to Clause 19 in part (a) makes provisions to a matter listed in the definition of a money Bill and, therefore, the House should not proceed to consider that particular amendment for the reason that the committee has not sought the views of the CS responsible for finance.

4. The proposed amendments by the Member for Emuhaya, Hon. Omboko Milemba, to delete Clause 68. It is my opinion that the amendment makes provision to a matter listed in the definition of a money Bill and the views of the CS in regard thereto as well as those of the committee have not been sought as required by Article 114(2). The House should not proceed to consider the said amendments.

5. The proposed amendments by the Member for Suna East, Hon. Junet Mohamed, to amend Clause 18. I have considered the said proposal and I have decided to leave the matter to the Committee of the whole House to decide on how to prosecute the amendment, owing to the fact that it is proposing to postpone the coming into effect of a provision already enacted by this House and the high interest the proposal has attracted in the House during debate in Second Reading.

6. The last proposed amendments are by the Member for Dagoretti South, Hon. John Kiarie, to amend Clauses 31 and 58. It is my opinion that the amendment to Clause 31 also makes provisions to a matter listed in the definition of a money Bill, and the views of the committee, as well as those of the CS for the National Treasury, have not been sought.

Therefore, the House should not proceed to consider that particular amendment. Hon. Members, that is, therefore, the fate of the amendments that were received through my office and for which a disclaimer under Article 114 of the Constitution has been made in the today's Order Paper.

I thank you, Hon. Members,  
Next Order!

## COMMITTEE OF THE WHOLE HOUSE

*(Order for Committee read)*

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

## IN THE COMMITTEE

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

## THE FINANCE BILL

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Hon. Members, we are now in the Committee of the whole House and we are considering the Finance Bill (National Assembly Bill No. 20 of 2018).

*(Loud consultations)*

Order, Hon. Members! Yes, Hon. Kajwang', there are Members that may need Order Papers. I ask Members, including Hon. Kajwang' and others, who do not have Order Papers to secure them so that we follow the proceedings.

*(Loud consultations)*

Order, Hon. Members! We are going to start. The Serjeant-At-Arms, I order that the Members that do not have Order Papers to have them so that then we proceed. That is important so that all the Members follow what we are doing.

*(Loud consultations)*

Order, Hon. Members! I want us to move together as we consider this important Bill. I have proposed the Question on Clauses 2, 3, 4 and 5 which relates to the Income Tax. I want us to move together.

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

*Clause 6*

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): In the meantime, I need Members to have the Order Paper so that we move together. It is important. I need to be satisfied that the Members have Order Papers then we are able to move together.

In the meantime, we are dealing with Clause 6. Where is the Chair? Hon. Jude, give some latitude to the Chair. In the meantime, the plans are for Members to have Order Papers so that we move together.

**Hon. Joseph Limo** (Kipkelion East, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, Clause 6 of the Bill be amended in the proposed new section 12C by deleting the word "all" appearing in subsection (2).

Hon. Temporary Deputy Chairman, the import of this amendment is a clean-up of a drafting error because currently, sub-section 2 says that the presumptive tax shall apply to all persons. So, we are only removing the word "all" for it to read "shall apply to persons who are issued with." It is just a clean-up.

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Hon. Members, for those who are following, it is on page 1018 of the Supplementary Order Paper so that we follow.

*(Question of the amendment proposed)*

**Hon. Kubai Iringo** (Igembe Central, JP): On a point of order, Hon. Temporary Deputy Chairman.

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): What is your point of order, Hon. Kubai Iringo?

**Hon. Kubai Iringo** (Igembe Central, JP): Thank you, Hon. Temporary Deputy Speaker. I think it is prudent that we all get this Supplementary Order Paper before we continue because there



is none at the desk and as we talk, we do not know where we are. It is important that we follow each and every step. So, I propose they hurry up and bring them before we move further.

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Hon. Kubai, I completely agree. We shall get a few minutes so that Members have the Order Paper. Hon. Kubai, I totally agree. Serjeant-at-Arms, please let all Hon. Members that need a Supplementary Order Paper have a copy so that we move together.

*(Loud consultations)*

Order, Hon. Members! Order! Now I can see that Members have the Supplementary Order Paper. There are more here. Members can pick the Order Papers so that we proceed.

Hon. Members, I had earlier proposed the Question on Clause 6. I now put the Question.

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

*(Clause 6 as amended agreed to)*

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Leader of the Majority Party, what is it?

**Hon. Aden Duale** (Garissa Township, JP): Hon. Temporary Deputy Chairman, I would like to tell my colleagues that the Finance Bill is a serious Bill that needs their attention. Let us listen to the Chair and the Members who are moving amendments so that we know what each Clause means. If we make noise, we will not hear what is going on. We want to know each and everything. I ask Members to consult in low tones.

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Leader of the Majority Party that is a fair point. Hon. Members, please let us move together. We will move slowly, but together. Let us have everyone on board with what we are doing today.

*Clause 7*

**Hon. Aden Duale** (Garissa Township, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, Clause 7 of the Bill be amended by inserting the following new paragraph immediately after paragraph (ab) —

(ac) contributions to the National Housing Development Fund;

This is in line with making sure that Kenyans at the low-income level get access to housing. The amendment intends to allow for deduction of contributions to the National Housing Development Fund for the purpose of ascertaining income. Both the employer and the worker will contribute. That will raise about Kshs30 billion that will make sure that we spread the wealth in our country that and more Kenyans get housing priority as compared to now.

*(Question of the amendment proposed)*

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Let us have Hon. Kajwang’.

**Hon. T. J. Kajwang'** (Ruaraka, ODM): Hon. Temporary Deputy Chairman, Members should now be attentive because we have begun the problems that we were talking about in our Second Reading.

Those of us who are still consulting can do so but we are talking about issues that will haunt us. I have anxiously checked the amendments by the Leader of the Majority Party. We had discussed some of them during the Second Reading. The amendments proposed by the Leader of the Majority Party in terms of the National Housing Development Fund are very weighty. They are in Clauses 7, 65 and 68. I want us to understand this. We are creating a fund that will collect Kshs1 billion per month. This Fund is not attached to anything. There is nothing in the Act or in the Clauses which tells us that the money which will be collected will be used for upgrading houses in Mathare, Kibera and in Korogocho. There is a very good idea which is being used by people like my constituents who are unfortunate to be living in the slums. However, we are creating a behemoth like the Youth Enterprise Development Fund (YEDF). What you have here... No, Leader of the Majority Party. We have to be careful on this one.

These are our people. There have been a lot of photographs taken from my people. We are being told that we will be given houses. We do not want you to use the name of Mathare people to create a behemoth in haste unless we have a stand-alone legislation in which all these ideas can be brought together and then an authority called the National Development Authority is established where this money is put and we know exactly how the structures of this Authority will be.

For example, the first thing the Leader of the Majority Party needs to consider is that there is no legislation that established this Development Fund we are talking about. It is not in Clauses 7, 65 or 68. It has not been established by law. You are creating Kshs1 billion which will go to the National Treasury and there is no legislation that tells the National Treasury to use this Kshs1 billion on anything.

I oppose this amendment. I kindly appeal to Members that you are creating something here that will haunt this country more than the YEDF haunted this country. This amendment is coming, the Leader of the Majority Party. It is not coming from the Committee. In fact, I wonder why it was not subject to Article 114 of the Constitution. It is a Money Bill. Please, look at this thing. Some of us who come from those constituencies like Kibra and Mathare should have been consulted. We know the problems that we have there. You do not come from Garissa and then tell us how to handle Mathare or Kibra. We are here. We oppose!

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Very well, Hon. Kajwang'. Order Members! Some of you want to speak to these amendments. Please, use your card and press the intervention button so that I know who wants to speak on any particular issue on the Table and I am able to give guidance.

Let us have Hon. Kimunya then I will give an opportunity to the Leader of the Majority Party.

**Hon. Amos Kimunya** (Kipipiri, JP): Hon. Temporary Deputy Chairman, I am a bit puzzled by the very passionate contribution by my friend.

We are talking about a specific amendment. In all that passionate discussion, I did not hear reference to the amendment that has been proposed to Clause 7. It is a very general discussion. In a Committee, we must be guided by a certain procedure. The proposal by the Leader of the Majority Party is very noble to make sure that any contribution that is made to the National Housing Development Fund by anybody would be tax deductible. This Fund is being set up pursuant to Section 6 of the Housing Act. There is already the framework that enables the

setting up of this Fund. Let us not throw the baby out with the bath water before you even understand what this Fund is all about. Let us go step by step in the same logical framework and then Members will have an opportunity to raise those issues. They had the opportunity to bring that issue earlier.

We are not creating the Fund here. At this point, we are saying that any contribution to this Fund will be tax deductible. Let us first agree on that then when we come to the creation of the Fund, which can become another debate. Let us not start killing things before we have even created the Fund. By the time you create the Fund, you will find that the contributions you make to it will not be tax deductible. That means it will cost you more and you will not be able to get the tax benefit. We will be letting down Kenyan workers if we start killing the only vehicle that will give them decent housing, a pension in the future and even get their employers to contribute to their savings for the future.

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Before I give a chance to Hon. Oundo Ojiambo, let us have the Leader of the Majority Party.

**Hon. Aden Duale** (Garissa Township, JP): Hon. Temporary Deputy Chairman, I want to make it clear that the final decision lies with the House. Every speaker should speak on a matter with facts. I am only trying to create the contribution to the National Housing Development Fund. The purpose of that Fund is to ascertain income.

On Clauses 65 and 68, we will discuss how much the employer and employees will pay in order to create the housing boom that we are talking about. The current housing which we have is for the affluent people in the society. If you want the poor in Kenya to own a house, then this is the route.

Secondly, Hon. Temporary Deputy Chairman, the moment we make this law, the State Department of Housing and Urban Development will bring the relevant regulations to this House on how the resources will be managed.

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Hon. Oundo.

**Hon. (Dr.) Wilberforce Oundo** (Funyula, ODM): Thank you, Hon. Temporary Deputy Chairman. As much as the amendments by the Leader of the Majority Party are laudable, I have my own misgivings.

One, we have not even agreed that we are creating the National Housing Development Fund. Why would you make an amendment for something that does not exist? We should hold our horses. I believe that there is a mechanism which can allow us to come back and make the necessary amendments, once we agree with Clauses 65 and 68 that we are approving.

Secondly, honestly speaking, there is a technical procedure of creating a Fund. National Housing Development Fund needs to be preceded by an actuarial study to ascertain the demand and requirement and how you operate the Fund. I believe that the amendments by the Leader of the Majority Party are premature and unconceived. We can come back to them at the appropriate time.

Thank you, Hon. Temporary Deputy Chairman.

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Hon. Kubai.

**Hon. Kubai Iringo** (Igembe Central, JP): Thank you, Hon. Temporary Deputy Chairman, for giving me this opportunity. The Leader of the Majority Party's proposal is welcome, but we are trying to put the cart before the horse. We should know exactly whether we will get this money before we apportion it. Let us amend Clause 68. Once we are through with it, we will re-consider this proposed amendment. At this juncture, I oppose it.

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): We will give the opportunity to a few other Members because we must make progress. I will give the Chair of the relevant Committee the opportunity to be the last one to contribute. I will give the opportunity to a few other Members. Please Members, you have to balance because we also have to make progress. The House has to make a decision finally. Hon. Wamalwa.

**Hon. (Dr.) Chris Wamalwa** (Kiminini, FORD-K): Thank you, Hon. Temporary Deputy Chairman. The idea of establishing the National Housing Development Fund is wonderful. When we debated this Bill yesterday, we raised concern on where these funds will go because we do not have an established framework of this National Housing Development Fund. The idea that the Leader of the Majority Party is putting in place is purely correct because it has been done in other jurisdictions. I raised the concern which Hon. T. J. Kajwang' raised yesterday, when we were debating the Second Reading of the Bill. We need to see how we can have this delicate balance. The idea is good but it is not yet established in law. The concern is where this money is going to go. We do not want it to be like the case of the National Youth Service (NYS). These are the concerns that the Members are raising.

Thank you, Hon. Temporary Deputy Chairman.

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Hon. Jude Njomo.

**Hon. Jude Njomo** (Kiambu, JP): Thank you, Hon. Temporary Deputy Chairman. I empathise with Hon. T. J. Kajwang's fears. This is the first step that has been taken to provide housing in Kenya. This is something that we ought to take very seriously. I believe that this should go on. I know Hon. T. J. Kajwang's fears. He passes through the NYS gate every time he goes to his constituency. It reminds him of what happened there. This is a very good Fund which can help our people to get housing.

I visited low-cost housing in South Africa which is a country that has already established its own housing fund. It is doing very well. If there is anything we can learn from them is how to manage that fund, so that it will provide housing to our low earning *wananchi*. Let us set aside the fears. We can see that our Government is now working on the corrupt people. If we establish a good Fund, nobody will touch that money.

Thank you, Hon. Temporary Deputy Chairman.

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Hon. Sheikh.

**Hon. Mohamed Mohamud** (Wajir South, JP): Thank you, Hon. Temporary Deputy Chairman. We do not need to belabour this issue. Members have said that we do not have the National Housing Development Fund yet. This will affect the employers because they will contribute a certain percentage. Public participation was not done on the Fund. The employers and employees will contribute certain amounts of money. We will put it in a pool. Who will control it? Do we have a board? We do not have it. I invoke Standing Order No. 95 for you to put the Question, so that we negative this amendment.

Thank you, Hon. Temporary Deputy Chairman.

**Hon. Kimani Ichung'wah** (Kikuyu, JP): On a point of order, Hon. Temporary Deputy Chairman.

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): What is your point of order, Hon. Ichung'wah? What is out of order?

**Hon. Kimani Ichung'wah** (Kikuyu, JP): Hon. Temporary Deputy Chairman, it is the Member who has just contributed. I will put the cart before the horse because he is talking about things that we have not got to. First, we are dealing with the issue of the National Housing

Development Fund, but not the contributions. We cannot have contributions without the Fund. Therefore, let us dispense of the issue of the Fund.

Allow me to use this opportunity to contribute to this proposed amendment. The Fund is a noble idea. All developed countries anywhere in the world have it. Hon. Jude has referred to South Africa. For Singapore and Malaysia to get to where they are, they started the way we are starting by creating a Fund where we can collate funds.

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Order, Hon. Ichung'wah. You have put me in a very awkward situation because you rose on a point of order, but you went on a tangent to contribute. That is why Hon. Kajwang' has pressed the intervention button.

**Hon. Kimani Ichung'wah** (Kikuyu, JP): Hon. Temporary Deputy Chairman, I was seeking your indulgence.

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Let Hon. Ichung'wah finalise. What is your point of order, Hon. Kajwang'?

**Hon. T. J. Kajwang'** (Ruaraka, ODM): Hon. Temporary Deputy Chairman, I beg for your direction because the kind of amendments that the Leader of the Majority Party has proposed in Clauses 7, 65 and 68 appear to be squarely the amendments in Clause 114. I want to know whether this amendment was subjected to public participation because it is important. If it was, my people and the ones in Kibera would have been called. The Speaker ruled that several amendments which are not subject to Clause 114 cannot be prosecuted. Can we know if this amendment by the Leader of the Majority Party was subjected to public participation and, specifically, the amendment in Clause 114 because they are money Bills? That was my point of order.

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

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Order, Members. Even before the point of information, you must hear me first. Hon. Kajwang' has raised the issue of Clause 114 and public participation.

The second one on Clause 114 is direct because the Speaker pronounced himself on all the amendments that we are considering here today. So, we will not re-visit that. I will give the opportunity to the Chair of the Departmental Committee on Finance and National Planning to contribute on public participation. However, the Speaker pronounced himself on Clause 114 and we shall not re-visit it. I will then give direction because we must make progress on this particular amendment.

**Hon. Joseph Limo** (Kipkelion East, JP): Hon. Temporary Deputy Chairman, I wish to bring to the attention of the Members to the procedure of a Bill. This particular Bill has several clauses which touch on National Housing Development Fund. The one which the Leader of the Majority Party is moving an amendment to is only the beginning on how the Fund will be set. However, the subject matter will come later when you will contribute on whether the Fund is good or not.

I wish to confirm to this House that the National Housing Development Fund was subjected to a serious public participation. It was advertised in the daily newspapers. On 1<sup>st</sup>, 2<sup>nd</sup> and 3<sup>rd</sup> August, we held meetings at Kenyatta International Convention Centre (KICC), where members of the public and several organisations, including the Union representing workers and the Federation of Kenya Employers (FKE) attended. The employers were there. Public participation was done thoroughly. It is probably only hon. Members who were not aware, but it was done procedurally. So, let us not destroy a noble idea that is going to help Kenyans because

of issues of procedure. Let us be sober as we contribute. Every Member will be given a chance to contribute and let us be sober in our contribution to this particular Clause.

*(Loud consultations)*

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Order, Members! We cannot have everyone raising a point of order. We must make progress on this particular matter. Before I give a chance to any other Member, let us listen to the Chair of the relevant Committee.

**Hon. David Pkosing** (Pokot South, JP): Hon. Temporary Deputy Chairman, let me help Hon. T.J. by informing him that this Fund exists under the Housing Act, and it is managed by the National Housing Corporation. It has been in the country building houses for Kenyans.

*(Loud consultations)*

On public participation, amendment on Section 68, there was public participation which I also participated in. Even the Central Organisation of Trade (COTU) Secretary-General participated. Let us reason together to help Kenyans. This is affordable. It was well thought out. It went through the process. Let us reason together. The Fund exists. The National Housing Corporation exists. It has an office in Nairobi.

*(Loud consultations)*

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Order, Members. I will be putting the Question shortly so that the House can decide.

**Hon. (Ms.) Odhiambo-Mabona** (Suba North, ODM): On a point of order, Hon. Temporary Deputy Chairman.

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): What is completely out of order, Hon. Millie Odhiambo?

**Hon. (Ms.) Odhiambo-Mabona** (Suba North, ODM): Hon. Temporary Deputy Chairman, is the Chair of the Committee in order to mislead the House that the fund exists. It cannot exist in the air. It can only exist by statute. Can he tell us under what section of the Housing Act the Fund exists? The other thing he needs to tell us is this: If Hon. Duale is moving the amendment, he should convince us why there is need to put money for a fund that does not exist. Even Hon. Duale has spoken to it. The only thing he needs to do is persuade for it to make logical sense. As we speak, Hon. Duale has been categorical that there is no such fund. He said he will bring it through an amendment he will propose later on. So, is he in order to mislead us that such a fund exists?

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): I will give a chance to two more Members, then we proceed. Let us have Hon. Sabina Chege and then I will give a chance to another Member from the other side.

**Hon. (Ms.) Sabina Chege** (Murang'a CWR, JP): Thank you Hon. Temporary Deputy Chairman. It is good to debate with facts. I just want to inform Hon. Members that I am holding the Housing Act.

*(Loud consultations)*

Hon. Temporary Deputy Chairman, I need some protection.

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Order, Members! We are dealing with an extremely important Bill. It is important that when a Member is on the Floor, you are kind enough to listen to her. Hon. Sabina Chege is on the Floor. Be kind enough to listen so that we make progress.

**Hon. (Ms.) Sabina Chege** (Murang'a CWR, JP): Thank you, Hon. Temporary Deputy Chairman. I want to appeal to this House. I know the Members who are contributing, including Hon. Millie Odhiambo who is my friend, know that Section 7 establishes the Housing Fund. It says:

“There is here established a Housing Fund under the control of the corporation consisting such securities and money and applicable to such purposes as are provided for by this Act.”

It answers the question and what we are arguing about the fund. This comes as a benefit to the constituents of Hon. Kajwang’.

*(Loud consultations)*

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Order, Members. Hon. Milemba.

**Hon. Omboko Milemba** (Emuhaya, ANC): Hon. Temporary Deputy Chairman, first of all, I want to indicate to the House that the Chair is misleading the House by indicating that this issue was put to public participation where workers’ unions were involved. I approached the Chair of the Committee and he agreed with me in person that the teachers of Kenya were not consulted in so far as these deductions are concerned.

*(Applause)*

Those are workers who form the biggest chunk of the contributors of that fund. If anything, the fund so created has not been given money in a structured way. So, the workers of Kenya and, more so, the teachers, will not be willing to allow their money to be deducted and put in a fund where they are not represented, and they do not know what that money is going to be used for. The teachers of Kenya already have existing housing funds. This will be a duplication of the same process. The amendment has not been allowed by the teachers of Kenya.

*(Loud consultations)*

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Order, Members! We must make progress on this one. I will put the Question.

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

*(Several Members stood up in their places)*

**Hon. Members:** Division! Division!

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Order! Order, Hon. Members! The number of the Members seeking a Division is less than 30. Therefore, we shall proceed.

*(Loud consultations)*

*(Clause 7 agreed to)*

*(Clauses 8, 9 and 10 agreed to)*

*Clauses 11, 12, 13, 14, 15, 16 and 17 agreed to)*

*Clause 18*

**Hon. Joseph Limo** (Kipkelion East, JP): Hon. Temporary Deputy Chairman, I beg to move:-

THAT, clause 18 of the Bill be amended in paragraph (a)—

(a) By deleting sub-paragraph (xi) and substituting therefor the following new subparagraph-

(xi) by adding the following new paragraphs immediately after paragraph 100—

101. Alcoholic or non-alcoholic beverages supplied to the Kenya Defence Forces Canteen Organisation.

102. Goods imported or purchased locally for direct and exclusive use in the implementation of projects under a special operating framework arrangements with the government.

103. Hearing aids, excluding parts and accessories, of tariff No. 9021.40.00

(a) by inserting the following new sub-paragraph immediately after sub-paragraph (xi)—

(xii) by deleting paragraph 98.

**The Temporary Deputy Chairman** (Hon. Patrick Mariru) Order! Hon. Members. Order Hon. Murwithania! You cannot hear since you are so animated. Please, let us give the Chairperson of the Departmental Committee on Finance and National Planning time to move his amendment.

*(Loud consultations)*

**Hon. David Gikaria** (Nakuru Town East, JP): On a point of order, Hon. Temporary Deputy Chairman.

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): What is your point of order, Hon. Gikaria?

**Hon. David Gikaria** (Nakuru Town East, JP): Hon. Temporary Deputy Chairman, I beg you, as the Chairperson, to take control of this important Committee of the whole House. You have powers to order unruly Members to go out. If we continue like this, we will not hear what the Chairperson of the Departmental Committee on Finance and National Planning is saying and we will not make meaningful contributions. I plead with you to take control of the proceedings.



You have pleaded with Members to consult in low tones, but others are still continuing to make noise. So, I beg that you take control and whoever will not listen to you, kick them out of the Chamber so that we can proceed with the debate.

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Very well, Hon. Gikaria. The control is there. I appreciate that Members are consulting but, please, for the sake of whoever is on the Floor, consult in low tones. However, I am not saying that Members cannot consult. There are animated consultations and that is fine. But, please, do it in low tones, so that we can listen to whoever is on the Floor.

Chairperson, proceed.

**Hon. Joseph Limo** (Kipkelion East, JP): Thank you, Hon. Temporary Deputy Chairman. The amendment that I am moving is for the purpose of bringing hearing aids to help people with hearing problems. We are exempting hearing aids from tax so that they can access them. Also, we are exempting tax on maize and wheat flour because they will be zero-rated. This will make them cheaper. The current tax exemption on maize and wheat flour is expensive. Therefore, at a later stage, we will propose that they are zero-rated. So, we are proposing the deletion of paragraph 98 and bring in hearing aids and alcoholic drinks for the exclusive use of our defence forces.

*(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)*

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Hon. Members, still on the same Clause 18, there is a proposed amendment to sub-Clause (a) by Hon. Katoo ole Metito, Hon. Aden Duale and Hon. Adan Keynan. So, we will start with Hon. Katoo ole Metito.

**Hon. Katoo ole Metito** (Kajiado South, JP): Thank you, Hon. Temporary Deputy Chairman. It will be good if Members understand that, this is one of the important legislations that this House is embarking on; the Finance Bill. So, it will be good if they consult in low tones so that others can follow.

My amendments are on page 1018 of the Supplementary Order Paper.

Therefore, I beg to move:-

THAT, the Bill be amended in clause 18 by inserting the following new paragraph immediately after paragraph 95—

96. One personal motor vehicle, excluding buses and minibuses of seating capacity of more than 8 seats, imported by a public officer returning from a posting in Kenya's mission abroad and another motor vehicle by his spouse and which is not exempted from Value Added Tax under the First Schedule:

Provided that the exemption under this item shall not apply-

(a) unless the officer is returning to Kenya from a posting in Kenya's mission abroad upon recall;

(b) unless, in the case of an officer's spouse, the spouse accompanied the officer in the foreign mission and is returning with the officer;

(c) if the officer or the spouse has either enjoyed a similar privilege within the previous four years from the date of importation or has imported a motor vehicle free of duty under item 6 of Part A of this Schedule;

(d) unless the vehicle is imported within ninety days of the date of arrival of the officer or spouse or such longer period, not exceeding three hundred and sixty days from such arrival as the Commissioner may allow; and,

(e) to a State officer.

This amendment is specifically for our returning diplomats, Kenyans who have served in our missions abroad. The reason why we are asking that they import one motor vehicle exempted from Value Added Tax is because we appreciate the excellent work that our diplomats are doing in foreign countries. We should strive to motivate them and help them to mitigate such challenges. I am giving the reasons why I am proposing this amendment.

Hon. Temporary Deputy Chairman, in the Foreign Service regulations, those serving in our missions are provided with transport for official and personal use by the head of mission, but there is also---

**Hon. (Ms.) Odhiambo-Mabona** (Suba North, ODM): On a point of order, Hon. Temporary Deputy Chairman.

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): What is your point of order, Hon. Millie Odhiambo? Before I give her the Floor, the Chairperson of the Departmental Committee on Defence and Foreign Relations, you quoted the wrong page of the Supplementary Order Paper. The correct page that has your amendments on the Supplementary Order paper is page 1027. I suppose that is the same issue you intend to raise on your point of order?

**Hon. (Ms.) Odhiambo-Mabona** (Suba North, ODM): Yes, Hon. Temporary Deputy Chairman. Thank you. We are not able to follow. Various Members have different amendments appearing on different pages of the Supplementary Order Paper. So, for us to follow – with the levels of consultations that are high – whenever a Member is moving an amendment, he can, at the same time, indicate the page so that we follow.

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Fair enough. The amendment that Hon. Katoo ole Metito is moving is on page 1027 of the Supplementary Order Paper. For the Members who have amendments to move, please, as you move your amendments, guide the Members accordingly on the page that your amendments have been captured.

**Hon. Katoo ole Metito** (Kajiado South, JP): Most obliged, Hon. Temporary Deputy Chairman. My amendments are on pages 1027 and 1028 of the Supplementary Order Paper. I was talking of the officers who are serving in our foreign missions. They do an excellent job - diplomatic service for that matter. They serve all Kenyans with great dedication. Therefore, Hon. Members, it will not be asking much, as a token of appreciation, considering the exceptional jurisdiction that many of these officers serve, when we say that they should be given a chance to import one vehicle exempted from Value Added Tax when they are returning home after their service has lapsed. The conditions have been given on the proposed amendment.

If you allow me, Hon. Temporary Deputy Chairman, I will request Hon. Keynan to second.

**The Temporary Deputy Chairman**(Patrick Mariru): Order, Members! Order, Hon. Katoo ole Metito! We cannot second this one, but I will give an opportunity to the person you quoted because he has a similar amendment. However, before I do that, I will propose the Question.

*(Question of the amendment proposed)*

I will take the liberty to give a chance to Hon. Duale and Hon. Adan Keynan who had related amendments. We will then move from that point.

**Hon. Adan Keynan** (Eldas, JP): Hon. Temporary Deputy Chairman, I was the Chairman of the Departmental Committee on Defence and Foreign Relations during the 10<sup>th</sup> Parliament and I really understand...

*(Loud consultations)*

I want to plead with the Chair that we need to have order in the House so that Members can...

**The Temporary Deputy Chairman** (Patrick Mariru): Order, Members! Order, Hon. Alfred Keter!

**Hon. Adan Keynan** (Eldas, JP): This is a very important amendment...

**The Temporary Deputy Chairman** (Patrick Mariru): Order, Hon. ole Sankok! Please, we must have order here now so that we can make progress.

**Hon. Adan Keynan** (Eldas, JP): Hon. Temporary Deputy Chairman, this is a very important amendment. Members of the diplomatic staff provide an interface between Kenya and other countries of the world. It is, therefore, good to appreciate them because every time we ask them to promote and protect the image of Kenya, we also ask them, as our number one diplomats, to project the image of Kenya in a good way. Therefore, when they come back, we must allow them to benefit from certain things. That is why this amendment suggests that when one who has been serving in a post outside the country comes back home, he should be given some incentives to enjoy. I want to thank the Chairman of the Committee and the Leader of the Majority Party for bringing this amendment.

I support it.

**The Temporary Deputy Chairman** (Patrick Mariru): Hon. Members, we were dealing with Clause 18(a). I will give an opportunity to one or two more Members. Hon. Nyikal.

**Hon. (Dr.) James Nyikal** (Seme, ODM): I rise to support the proposed amendment but I would want to get an explanation why there is a difference between the spouse and the officer himself or herself. Let us get the significance of it.

**Hon. Katoo ole Metito** (Kajiado South, JP): Hon. Temporary Deputy Chairman, if Members read the amendment very well, they will realise it says, "... a public officer returning from a posting in Kenya's mission abroad and a motor vehicle by his or her spouse and which is not exempted..." So, for the spouse, it is not exempted. It is the officer's vehicle which is exempted.

**The Temporary Deputy Chairman** (Patrick Mariru): Hon. Members, we still have another amendment on Clause 18, but we must dispense with Clause 18(a).

*(Question, that the words to be inserted)*

*be inserted, put and agreed to)*

**The Temporary Deputy Chairman** (Patrick Mariru, JP): What is it, Hon. Kajwang'?

**Hon. T.J. Kajwang'** (Ruaraka, ODM): Hon. Temporary Deputy Chairman, we appreciate how you are progressing, that is, in a good direction. However, the most important thing in the Chamber is to understand where we are going. We understood Hon. Katoo's amendment perfectly well. A problem arose in what the Member for Seme raised, that is, the question about the spouse. You see, the way this particular amendment is structured and the way Hon. Keynan's amendment is structured, plus the wording, "a motor vehicle of a spouse", they have not specified the motor vehicle. It could be a minibus, a lorry or anything like that. So, just allow Members to understand where we are going. Let the Member who owns the amendment explain to us everything so that we are with him.

**The Temporary Deputy Chairman** (Patrick Mariru, JP): Hon. Kajwang', that is noted even though that has been dispensed with. However, your point is valid and it is noted. Hon. Junet.

**Hon. Junet Nuh** (Suna East, ODM): Hon. Temporary Deputy Chairman, my amendment is on Page 1031 of the Order Paper. I, therefore, beg to move:

THAT, Clause 18 be amended by inserting the following new paragraph immediately after (b)-

"(c) in section B of Part 1, by deleting the expression, "1<sup>st</sup> September 2016" appearing in paragraph 2 and substituting therefor with the expression, "1<sup>st</sup> September 2020".

**Hon. Members:** Which page?

**Hon. Junet Nuh** (Suna East, ODM): It is on Page 1031.

**Hon. (Dr.) James Nyikal** (Seme, ODM): Hon. Temporary Deputy Chairman, Members are using different Order Papers. We have the Supplementary Order Paper yet some people are using the other one. That is what is causing the confusion. Could that be sorted out?

**The Temporary Deputy Chairman** (Patrick Mariru): That is still a fair point. We want to have every Member on the same page. So, Hon. Junet, you have been quoting from the Supplementary Order Paper. Remember we have the Supplementary Order Paper and the other one. We could still quote the pages on both of them. I understand the one you are referring to is on Page 1031 of the Supplementary Order Paper.

**Hon. Junet Nuh** (Suna East, ODM): The import of this amendment is to defer the Value Added Tax on petrol, diesel and other things like that. These taxes were passed in 2016, but they were deferred for two years until now, 2018. If we impose these taxes at the moment, we are going to create a lot of inflation in the country and the cost of living will be very high. I want to plead with Members that we defer the imposition of the taxes for two more years so that we can engage the National Treasury. We could decide to impose the taxes from next year starting with, say, 5 per cent and then 10 per cent. Slowly by slowly, they will achieve the percentage they require. This is a very important matter for the country. Parliament has been accused many times of not being sensitive to the needs of the people. It is time now for us to rise to the occasion and make sure that we side with the people and let the National Treasury impose the taxes on a later date.

With those few remarks, I plead with Members to carry the amendments.

**The Temporary Deputy Chairman** (Patrick Mariru): Before I open it to Members, I must, first, propose the Question.

*(Question of the amendment proposed)*

**The Temporary Deputy Chairman** (Patrick Mariru): Hon. Members, I just want to remind you about what the Speaker indicated with regard to that particular amendment. I will read the paragraph:

“On the proposed amendment by the Member for Suna East, Hon. Junet Mohammed, who is proposing to amend Clause 18, I have decided to leave the matter to the Committee of the whole House to make the decision on how to prosecute the amendment owing to the fact that it is postponing the coming into effect of a provision already enacted by the House and the high interest the proposal has attracted in this House.”

**The Temporary Deputy Chairman** (Patrick Mariru): Hon. Gladys Wanga

**Hon. (Ms.) Gladys Wanga** (Homa Bay CWR, ODM): Hon. Temporary Deputy Chairman, this is one of the most important amendments of the evening. Owing to the heavy burden that Kenyans are facing currently, if we add to the taxes they are already paying, we will be harming them greatly. So, I would like to thank Hon. Junet for proposing that we postpone this overtaxing of Kenyans. I support.

**The Temporary Deputy Chairman** (Patrick Mariru): Leader of the Minority Party.

**Hon. John Mbadi** (Suba South, ODM): Hon. Temporary Deputy Chairman, just as Hon. Wanga has put it, this is a very important amendment. I just want to correct Hon. Junet that this law was actually passed in 2013 and it has been postponed twice. The most critical thing is to note that it is the International Monetary Fund (IMF) that is forcing us into this. It should be understood, with regard to the steps the Government is taking to encourage other sources of revenue raising. We cannot rob the poor to fund our budget. Even as we postpone this tax for a further two years, this House must decide to either do away with VAT on petroleum products or not. That is because we are not going to continue postponing it indefinitely. I want to urge this House to postpone this tax for a further two years as we decide on what to do with it.

Before I sit down, I want this House to note that prices of commodities are likely to rise by not less than 10 per cent. This is a fact that is supported by statistics from the Treasury itself. If you impose this tax on petroleum products, the prices of commodities will increase by not less than 10 per cent. Even the transportation cost will increase by 20 per cent. You know how Kenyans behave when taxes are increased. Employment is also going to be hit. So, this is an amendment that this House should unanimously agree to pass.

Thank you. I support.

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Hon. Gikaria.

**Hon. David Gikaria** (Nakuru Town East, JP): Thank you, Hon. Temporary Deputy Chairman. First, as a Committee, we are also looking at it and thinking about it honestly. But let us look at the technicalities. This will come into effect on the 1<sup>st</sup> of September while these amendments are going to wait for some consent later. So, what happens if we approve this but the existing provision takes effect on 1st of September? We need the House Business Committee to be bringing sensitive issues earlier so that we are not caught up by some technicalities. This is something that we really need to look into.

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Hon. Wamalwa and Hon. Makali, you will certainly get a chance. The Leader of the Majority Party.

**Hon. Aden Duale** (Garissa Township, JP): Hon. Temporary Deputy Chairman, I do not agree with the Chairman of the Departmental Committee on Energy, Communication and Information. Every Member of Parliament is here to legislate. HBC schedules business. It cannot

be your tutor. The Finance Bill has been here for the last four months. What Hon. Junet is trying to raise is that in 2016, we passed a section that was to come into effect on 1<sup>st</sup> September 2018, and he is trying to postpone that, although I do not agree with him. So, this idea of telling us that you should have been consulted is wrong. Consulted by whom? The Bill is here, the amendments are very clear and the justifications are there. Each of us must contribute to that amendment the way it is. You will give me another opportunity to contribute to it because I oppose the amendment by Hon. Junet.

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): I can tell Members are very agitated about this amendment. I will give a few other Members an opportunity and then we make progress. I will come to this side as well. Hon. Wamalwa.

**Hon. (Dr.) Chris Wamalwa** (Kiminini, Ford-K): Thank you, Hon. Temporary Deputy Chairman. This is a very serious matter. In case of an increase in pricing of petroleum products by inclusion of VAT, the cost of living is going to shoot up, not only when it comes to transport, but even food production. So, once we pass this, it is going to take precedence. Wherever the CS for Treasury is, we must suspend this for purposes of containing the cost of living.

There is a reason the CS for Treasury extended this. It was not out of his volition. Demonstrations were all over. We even had the civil society all over. The cost of living was unbearable. So, there is no way we can allow this to happen. Once you put VAT on petroleum products, price of fuel will go up and people will not afford *matatus*. When it comes to construction, healthcare and agriculture, overall, the cost of living will be high. We oppose. We support Hon. Junet Mohamed's proposed amendment.

I thank you.

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): We will have one or two Members. Then we must close this. Hon. Jesire.

**Hon. (Ms.) Gladwell Cheruiyot** (Baringo CWR, KANU): Thank you, Hon. Temporary Deputy Chairman. I also want to support this amendment because raising tax on fuel is a button to raise the prices of everything. When you increase tax on fuel, it is not the right thing for Kenyans now because it will hike everything in life. As we speak, Kenya Power Company is charging us a lot. When you increase the tax on fuel, we will pay more than what it is now.

*(Loud consultations)*

Hon. Temporary Deputy Chairman, I need your protection.

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Please, proceed.

**Hon. (Ms.) Gladwell Cheruiyot** (Baringo CWR, JP): We do not need hiking of this tax now. I seriously propose that the amendment by Hon. Junet goes through. Postpone it even forever.

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Hon. Members, we must make progress.

*(Hon. Robert Pukose spoke off record)*

Hon. Pukose, you cannot possibly say that. Order, Hon. Pukose. You cannot say that.

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

*(Clause 18 as amended agreed to)*

*Clause 19*

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Chairman.

**Hon. Joseph Limo** (Kipkelion East, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, the Bill be amended by deleting clause 19 and substituting therefor the following new clause—

Amendment of  
Second Schedule to  
No.35 of 2013.

19.The Second Schedule to the Value Added Tax Act, 2013 is amended in—

(a)Part A by inserting the following new paragraph immediately after paragraph 13A—

13B. The supply of maize (corn) flour, cassava flour, wheat or meslin flour and maize flour containing cassava flour by more than ten per-cent in weight.

(b) Part C by deleting tariff No. 3004.40.00 and the corresponding description and inserting the following—

<i>Tariff No.</i>	<i>Description</i>
3004.41.00	Containing ephedrine or its salts
3004.42.00	Containing pseudoephedrine (INN) or its salts
3004.43.00	Containing norephedrine or its salts
3004.49.00	Other

The justification for this is that...

*(Loud consultations)*

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Order Members. Chairman, please, remind Members of the page number so that we move together.

**Hon. Joseph Limo** (Kipkelion East, JP): Members, the justification for this is that it will make maize and wheat flour cheaper.

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Chairman, you are being asked the page number so that Members can move together. Let me help you. It is on Page 1018. Please proceed.

**Hon. Joseph Limo** (Kipkelion East, JP): It is Clause 19, Members. The import of this is this: You remember that under Clause 18, we were deleting maize and wheat flour from exemption. Now we are putting them under zero rating to make maize, wheat and cassava flour cheaper for Kenyans to buy.

*(Question of the amendment proposed)*

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

*(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 19 as amended agreed to)*

*(Clauses 20, 21, 22, 23, 24, 25, 26, 27, 28, 29 and 30 agreed to)*

*Clause 31*

**Hon. Joseph Limo** (Kipkelion East, JP): Hon. Temporary Deputy Chairman, I beg to move:  
THAT, clause 31 of the Bill be amended—

(a) in paragraph (a)(iii) by deleting the proposed new item—

Sugar Confectionery (including white Shs. 20. per Kg  
chocolate) of tariff heading 17.04; chocolate  
in blocks, slabs or bars of tariff Nos.  
1808.31.00, 1806.32.00, 1806.90.00

The proposal here is that currently, if this exercise is passed, it is going to make Kenya very uncompetitive compared to countries like Uganda and Tanzania, and it will encourage imports and a lot of counterfeit products to come to Kenya. It is going to make our factories in Kenya be uncompetitive. They will close and move to other regions because this introduction is for the first time.

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): We will deal with one after the other.

**Hon. Joseph Limo** (Kipkelion East, JP): Do I move the whole clause?

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Hon. Chairperson, your request is valid, so then we deal with the entire Clause together. Remember the one by Hon. John Kiarie was disallowed by the earlier communication from the Hon. Speaker.

**Hon. Joseph Limo** (Kipkelion East, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, clause 31 of the Bill be amended—

(a) in paragraph (a)(iii) by deleting the proposed new item—

Sugar Confectionery (including white Shs. 20. per Kg  
chocolate) of tariff heading 17.04; chocolate  
in blocks, slabs or bars of tariff Nos.  
1808.31.00, 1806.32.00, 1806.90.00

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



(c) in Part III by inserting the following new definition in proper alphabetical sequence—

“money transferred” means money transferred from one account to another account either within a bank or from one bank to another bank or from a person to another person through a money transfer agency or other financial service providers, but does not include—

- (a) transfer of taxes to or tax refunds from the Kenya Revenue Authority;
- (b) transfers from the Kenya Revenue Authority’s collection accounts to the Central Bank of Kenya;
- (c) transfers by or to the National Government, County Governments or Central Bank of Kenya;
- (d) transfers relating to the purchase and sale of shares and securities on the Nairobi Securities Exchange by banks or financial service providers on behalf of customers;
- (e) transfers between accounts belonging to the same person; or
- (f) any other category of money transfer that the Cabinet Secretary may specify through a gazette notice.

This proposal had already been justified as the one making Kenya to be uncompetitive. It clarifies that transactions relating to individuals such as if you are transferring your money from one account to another. This tax being proposed under the Robin Hood tax will not apply.

If you have transferred money to a broker to buy shares on your behalf, when they are transferring money to the person selling the shares, then it will not apply; you will not be taxed. The justification is very clear that the amount is very little. Out of Kshs500, 000 you transfer, it is only Kshs250 only and it is for the benefit of our own people because universal health care will cover our members of public. Most of you remember that most of the funds drive we are doing are because of health problems. So, Kshs250 for every Kshs500,000 will not significantly impact on your finances. I beg to move.

*(Question of the amendment proposed)*

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Yes, Hon. Leader of the Majority Party.

**Hon. Aden Duale** (Garissa Township, JP): Chair, I support. To start with the first amendment in Clause 19, it was on confectionaries. Two weeks ago, you remember Uganda was bragging that they have balance of trade: they had done more exports to Kenya. I am sure if we allow this to happen, then many confectionary companies will not be competitive.

But, the most important thing I had a problem with was how we define what money transfer by banks is. The Chair has defined it. For me and many of us, sometimes you can transfer within your account in two different banks to pay for cheques that need to be cleared. So, he has defined it. The most important thing is that the resources that will be collected from Robin Hood tax will be geared towards healthcare provisions in the Big Four agenda of the President. I am sure that commercial banks were charging us money for their own profits, the billions they make. So, the Kshs250 that we will pay for every Kshs500, 000 transfer is worth it if our people have to get that healthcare. I ask Members to support.

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Let us have Hon. Makali Mulu.

**Hon. Makali Mulu** (Kitui Central, WDM- K): Thank you. I have been wondering whether my machine is not working, but I want to support this amendment. Yesterday, we raised issues in these grey areas. I am very happy with the exemptions which the Chair has just presented. So, the fact that we have allowed some exemptions is very good for this country and I support.

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Let us have Hon. Jude Njomo.

**Hon. Jude Njomo** (Kiambu, JP): I support the first part of the amendments on the confectionary. But the second part on money transfer, the Robin Hood tax... We were meant to understand that Robinson was a thief who was stealing from the rich and giving to the poor. The richest guy around is the Government. Yet, we are exempting the Government from paying when it transfers money. We also want the Government to support the healthcare. We want county governments to support the healthcare. So, I oppose.

**Hon. Members:** It is there.

**Hon. Jude Njomo** (Kiambu, JP): The Chair has just explained that it is exempted and so, I am opposing that exemption. Thank you.

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Let us have Hon. Kajwang'.

**Hon. T.J. Kajwang'** (Ruaraka, ODM): Hon. Temporary Deputy Chairman, let us be careful here. It is good to tell Members that the Member for Ruaraka has an amendment. He is rising because he has an amendment which he preferred. It is important to tell Members.

**Hon. Bowen Kangogo** (Marakwet East, JP): On a point of order.

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): What is your point of order?

**Hon. Kangogo Bowen** (Marakwet East, JP): Hon. Temporary Deputy Chairman, every Member in this House has a right of debate and legislation but, according to how you are presiding in the House, it is only the leaders of the Majority Party, Minority Party and the Front Bench who are contributing. The other Members of Parliament (MP) at the Back Bench are not getting an opportunity even to speak. So, be balanced.

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Fair points. Those who want to speak, please, put on your intervention button. Not all Members will have a chance. Those who will manage will get. I will ensure that different Members speak to the various amendments and so Hon. Kangogo, your point is made. Hon. Kajwang', proceed.

**Hon. T.J. Kajwang'** (Ruaraka, ODM): First of all, protect me from Hon. Kangogo.

On page 1031 of the Supplementary Order, Hon. Kajwang', Member for Ruaraka, has an amendment which is the same as what the Chair is proposing. According to the Standing Orders, I have a right to be heard first because when that amendment passes or it does not pass, it affects my amendment. So, protect me first of all! I am not being favoured.

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): You are protected. You have the Floor.

**Hon. T.J. Kajwang'** (Ruaraka, ODM): First of all, I support the Chair on the amendments on confectionary for the reasons that he has stated. He is a very competent Chair and when I see a competent chair, I do not have useful comments to add. But I have a problem and I want to let Members know. There is the bit on money transfer. I know that a lot of discussion has gone on, on the Second Reading and right now about transfers between spouse or child or that kind of thing. The only thing you need to know is that if this amendment of the Chair does not pass, you will go to what is in the Bill. Look at what is in the Bill which is worse than what this Chair is saying. So, we have to be very careful with what we do here. So, when you make an amendment, get to know where we are going according to the Standing Orders.

But I beg to support.

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): I will give a few Members. Hon. Kubai.

**Hon. Kubai Iringo** (Igembe Central, JP): Chair, I want to speak to the next one.

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): One other Member. Hon. Shinali.

**Hon. Bernard Shinali** (Ikolomani, JP): Thank you, Chair. I want to oppose this amendment. It is not right that when you are making any transfer, including paying school fees, you have to pay. The banks are already paying taxes. There are taxes which are clearly prescribed when the bank is transacting. We do not need to burden parents and Kenyans as a whole by taxing any transaction they make. When you receive money from wherever, it is taxed.

I oppose.

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Hon. Members, we must make progress on that now. We really must make progress on that. For purposes of clarity, there are two clauses that we are dealing with.

**Hon. Aden Duale** (Garissa Town, JP): Hon. Temporary Deputy Chairman.

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): What is it Majority Leader?

**Hon. Aden Duale** (Garissa Town, JP): Chair, I think Members did not hear what Hon. T.J. Kajwang' said. We have two choices: what is in the Bill and the amendment by the Chair which he has improved. He has defined what money transfer is.

*(Loud consultations)*

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Order, Hon. Members! Order, Members! I am guiding the House. There are two amendments on Clause 31; Sub-clause (a) and Sub-clause (c). I will put the Question on the two clauses separately. I now put the Question that clause 31 sub-clause (a) be amended as proposed.

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

**Hon. T.J. Kajwang'** (Ruaraka, ODM): No! What have you done? What have you done? We have lost it!

*(Several Members stood in their places claiming Division)*

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Order, Members! Order, Members! Hon. ole Sankok, can you have a seat? Please, have your seats! Order, Hon. Millie Odhiambo! Order, Members again! You know, I am able to see from Members that we needed to be clear on what we are voting on. Remember there are two sub-clauses in one clause. For that reason, I will make sure that Members know on what they are voting, one after the other.

*(Loud consultations)*

Order, Members! The first clause, the one on (a), relates to sugar confectionery which is on sub-clause (a). Sub-clause (c) deals with the money transfer. So, I will put the Question on the two separately.

I now put the Question to Clause 31 (a) that relates to sugar confectionery.

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

*(Loud consultations)*

Order! Order, Hon. Members! Leader of the Majority Party! Order, Hon. Kajwang'. Clause 31 (b) (c) relates to money transfer and I will proceed to put the Question.

*(Loud consultations)*

Order, Hon. Members! I want to be very clear. What is it, Leader of the Majority Party?

**Hon. Aden Duale** (Garissa Township, JP): Hon. Temporary Deputy Chairman, to be on the safe side – you know this is law making – you need to put the Question that was agreed to, to become part of the Bill. Let us do that so that we safeguard it. We do not know what this....

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Finally, I will put the Question to Clause 31 as a whole.

*(Loud consultations)*

Order, Hon. Members! I now put the Question to Clause 31 (a).

*(Loud consultations)*

Order, Hon. Members! Order, Hon. Members! Order, Hon. Members! I now proceed to put the Question that Clause 31 be further amended as proposed in part (c) in relation to money transfer.

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

**Hon. (Ms.) Odhiambo-Mabona** (Suba North, ODM): On a point of order, Hon. Temporary Deputy Chairman.

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): What is your point of order, Hon. Millie Odhiambo?

**Hon. (Ms.) Odhiambo-Mabona** (Suba North, ODM): Thank you, Hon. Temporary Deputy Chairman, for giving me this opportunity. I would request that you properly guide the House. I have actually heard you say that what we have just voted on is a further amendment. It is a further amendment but I have not heard us voting on the actual amendment before the further amendment. To the best of my knowledge, we dealt with (a) and we did not deal with (c). You are not guiding the House properly. You are being distracted.

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Proceed, Hon. Millie Odhiambo.

**Hon. (Ms.) Odhiambo-Mabona** (Suba North, ODM): Hon. Temporary Deputy Chairman, can you properly guide the House on what we have just done? To the best of my knowledge, information and belief, we only voted on (a). When it came to (c), we voted on the further amendment without voting on the main amendment. So, can you please guide the House properly so that we vote first on the main amendment before voting on the further amendment? Can you properly guide the House?

*(Loud consultations)*

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Order, Hon. Members! You cannot stand on another point of order. Hon. Millie Odhiambo has raised a point of order and I want clarity on what decision the House has made. The House has passed Clause 31 (a) with regard to sugar confectionery. The House has declined to pass Clause 31 (b) (c) relating to money transfer. We now need to put the Question on Clause 31 with the understanding that Clause 31 (a) has been approved and Clause 31 (b) (c) has been declined. So, I will proceed to put the Question on Clause 31 as amended.

*(Clause 31 as amended agreed to)*

*(Loud consultations)*

Order! Order, Hon. Members!

**An hon. Member:** On a point of order, Hon. Temporary Deputy Chairman.

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): We have many points of order. I must choose one after another.

*(Loud consultations)*

Order, Hon. Members! The House has decided.

**Hon. Jimmy Angwenyi** (Kitutu Chache North, JP): On a point of order, Hon. Temporary Deputy Chairman.

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): What is it, Hon. Angwenyi?

**Hon. Jimmy Angwenyi** (Kitutu Chache North, JP): Hon. Temporary Deputy Chairman, can I seek a temporary adjournment and you call the Speaker, who knows the rules of the House, to come and chair this Session?

*(Loud consultations)*

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Order, Hon. Members! Hon. Angwenyi, the Chair knows the rules and is well guided.

*Clause 32*

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Hon. Members, we are now dealing with Clause 32.

*(Loud consultations)*

Order, Hon. Members! We are now dealing with Clause 32.

*(Loud consultations)*

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Order, Members! We are now dealing with Clause 32. Order, Members!

*(Loud consultations)*

Order, Hon. Gikaria! Order, Hon. Members. We must proceed.

*(Loud consultations)*

We must proceed, Hon. Members.

**Hon. T.J. Kajwang'** (Ruaraka, ODM): On a point of order, Hon. Temporary Deputy Chairman.

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Members, we are now dealing with Clause 32. Order, Hon. Members!

*(Loud consultations)*

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

*[The Temporary Deputy Chairman (Hon. Christopher Omulele) took the Chair]*

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Order, Members! Order, Members! Members, kindly take your positions. Hon. Kamanda and Hon. Oyoo, take your positions.

*(Loud consultations)*

Members, the Chair is on his feet. I am allowing every Member who is also on his or her feet to find a place to sit so that we can make progress. Thank you very much, Members. We shall proceed with the business that is before the House. We have all taken our positions.

At the point I took over from the previous Chair, we had dealt with Clause 31 which had brought issues.

*(Loud consultations)*

Just listen to me for a moment. Clause 31 had been carried in this order. Part (a) of that Clause with regard to sugar confectioneries was carried. The House rejected parts (b) and (c) on money transfers. That is the position that we have. The Question had been put for the entire Clause 31 which the House agreed to in the amended form. I want to guide the House on what that means. That means that with regard to part (a) on sugar confectioneries, you have carried the day. With regard to part (b) on money transfers, you revert to the position of the Cabinet Secretary which is that all the money transfers will be amenable to that tax charge.

**Hon. Members:** No!

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Members, you need to understand what you have done. I want us to make progress. I would like us to make progress. I am giving directions, Hon. Okello. You cannot give directions to the Chair. Kindly sit down, Hon. Okello! Hon. Members, that is the position of this Clause. With regard to money transfers, this House has reverted to the position of the Cabinet Secretary. If you do not want to, I would like to guide the House that we shall revisit it in this manner. We shall recommit it so that the House can have a fresh look at it.

*(Loud consultations)*

Are we together? I give direction that the entire Clause 31 then shall be recommitted so that we can make progress. We shall then move to Clause 32.

*Clause 32*

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): There are proposed amendments to this Clause.

**Hon. (Ms.) Odhiambo-Mabona** (Suba North, ODM): On a point of order, Hon. Temporary Deputy Chairman.

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Not yet, Hon. Millie. I will allow you. Let me just make a little progress on this, and then I will allow your point of order.

Hon. Keynan, you have a proposed amendment to this.

**Hon. Adan Keynan** (Eldas, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, the Bill be amended in Clause 32 by inserting the following paragraph immediately after paragraph 13-

14. One personal motor vehicle, excluding buses and minibuses of seating capacity of more than 8 seats, imported by a public officer returning from a posting in Kenya's mission abroad and another motor vehicle by his or her spouse and which is not exempted from excise duty under item 6 of Part A of the Second Schedule:

Provided that the exemption under this item shall not apply

(a) unless the officer is returning to Kenya from a posting in Kenya's mission abroad upon recall;

(b) unless, in the case of an officer's spouse, the spouse accompanied the officer in the foreign mission and is returning with the officer;

(c) if the officer or the spouse has either enjoyed a similar privilege within the previous four years from the date of importation or has imported a motor vehicle free of duty under item 6 of Part A of this Schedule;

(d) unless the vehicle is imported within ninety days of the date of arrival of the officer or spouse or such longer period, not exceeding three hundred and sixty days from such arrival as the Commissioner may allow; and

(e) a state officer

This amendment is to provide for tax duty exemptions.

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): The amendment is on page 1029 of the Supplementary Order Paper.

Hon. Keynan, kindly proceed.

**Hon. Adan Keynan** (Eldas, JP): Hon. Temporary Deputy Chairman, this is a further improvement to the earlier amendment which was proposed by Hon. Katoo ole Metito, the Chairman of the Departmental Committee on Defence and Foreign Relations. This amendment is to provide for tax duty exemptions on personal vehicles being imported by a specific public officer returning to Kenya from a foreign mission. It is an improvement. The other one was on the Value Added Tax (VAT). This one is on excise duty. Both are covered. You do not just pay VAT on one thing and then when it comes to something else, you are exempted and end up paying Excise Duty.

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Your explanation is clear, Hon. Keynan.

**Hon. Adan Keynan** (Eldas, JP): It also provides for Excise Duty exemptions on imported vehicles belonging to spouses. It is the same. The other one was on VAT and this one is on Excise Duty.

*(Question of the amendment proposed)*

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

*(Clause 32 as amended agreed to)*

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

*Clause 37*

**Hon. Joseph Limo** (Kipkelion East, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, Clause 37 of the Bill be amended in the proposed new subsection (3) by inserting the words “within thirty days of receiving the application” immediately after the words “such rejection”.

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Members, we are looking at Page 1020 of the Supplementary Order Paper.

**Hon. Joseph Limo** (Kipkelion East, JP): Hon. Temporary Deputy Chairman, this amendment is on timelines on the self-assessment form which the members of the public normally file with Kenya Revenue Authority (KRA). This amendment is introducing a timeline, so that such rejection of an application can come within 30 days instead of staying indefinitely. It is making it definite that if there is no rejection within 30 days, then it will not happen again.



*(Question of the amendment proposed)*

**Hon. Members:** Put the Question.

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

*(Clause 37 as amended agreed to)*

*(Clause 38 agreed to)*

*Clause 39*

**Hon. Joseph Limo** (Kipkelion East, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, Clause 39 of the Bill be deleted.

This Clause was proposing an increase of interest on late payment of tax from the current 1 per cent to 2 per cent, which we found punitive. Therefore, we are deleting it to revert to 1 per cent.

*(Question of the amendment proposed)*

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

*(Clause 39 deleted)*

*(Clauses 40, 41, 42, 43 and 44 agreed to)*

*Clause 45*

**Hon. Joseph Limo** (Kipkelion East, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, Clause 45 of the Bill be amended in the proposed new section 83A by deleting the word “twenty” and substituting therefor the word “five”.

This Clause seeks to introduce a penalty of 25 per cent on late payment of tax. Given that there is an interest which is being charged, we found that this will be punitive. We are proposing to move it from 20 per cent to 5 per cent.

*(Question of the amendment proposed)*

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): I can see an interest from Hon. Bowen.

**Hon. Kangogo Bowen** (Marakwet East, JP): Thank you, Hon. Temporary Deputy Chairman. I oppose this amendment. If you charge 5 per cent because of late application, it is still punitive. We need to put it at 1 per cent or even zero.

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Hon. Bowen, you must understand that there is no amendment to make it zero. If you negative this amendment, then you will go back to the 20 per cent that is there.

*(Loud consultations)*

Hon. Members, allow me to put the Question.

*(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 45 as amended agreed to)*

*(Clauses 46, 47, 48 and 49 agreed to)*

*Clause 50*

**Hon. Joseph Limo** (Kipkelion East, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, the Bill be amended by deleting Clause 50.

This Clause touches on scrap metal which is outlawed in Scrap Metal Act, 2015. Export of scrap metal is outlawed. You cannot propose to tax an illegal item.

*(Question of the amendment proposed)*

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Hon. Kimunya.

**Hon. Amos Kimunya** (Kipipiri, JP): Thank you, Hon. Temporary Deputy Chairman. I rise to oppose that amendment by the Committee. As much as the scrap metal is controlled through another Act, its export is not necessarily illegal because it still continues. If you read the Budget speech clearly, the Cabinet Secretary (CS) sought to make it punitive for people to continue selling scrap metal by imposing a levy of 20 per cent. This levy is not only in Kenya but across East Africa. It is important that we know that we are protecting the vandalisation of copper wires and electricity wires by people who are exporting them. We need to protect that by imposing some levies.

I beg to oppose this amendment and ask the House to support the CS, so that we can protect our wires from vandalisation. Unless we want to support the people who are vandalising our wires and exporting them out there, we should oppose this amendment. Kenya does not produce copper. It is banned but those who export it should pay tax.

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Hon. Wanga.

**Hon. (Ms.) Gladys Wanga** (Homa Bay CWR, ODM): Hon. Temporary Deputy Chairman, exporting copper wires is illegal. Why do you say that you can export them now but then we will charge you? It is illegal. By putting this in the law, you are regularising an illegality. I support the amendment and Chair of the Committee.

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): We shall have Hon. Atandi and then the Leader of the Majority Party.

**Hon. Samuel Atandi** (Alego-Usonga, ODM): Hon. Temporary Deputy Chairman, I want to agree with the Chairman of the Departmental Committee on Finance and National Planning. If this is already illegal according to the law, I wonder how Hon. Kimunya wants an illegality to be taxed. How will that be done, Hon. Kimunya?

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): The Leader of the Majority Party.

**Hon. Aden Duale** (Garissa Township, JP): Hon. Temporary Deputy Chairman, the 11<sup>th</sup> Parliament passed the Scrap Metal Act. We made scrap metal illegal. Hon. Kimunya, you used to be the Leader of Government Business in the 10<sup>th</sup> Parliament, but I am the Leader of the Majority Party now. There cannot be a misnomer in a Bill. We are asking how you tax an illegality.

I agree and support the Chair.

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Hon. Members, this is your business. I will, therefore, now give the Question to you.

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

*(Clause 50 deleted)*

*(Clauses 51 and 52 agreed to)*

*Clause 53*

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): There is an amendment by the Chairman of the Committee. Hon. Gikaria, we are looking at Page 1021.

**Hon. Joseph Limo** (Kipkelion East, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, Clause 53 of the Bill be amended in the proposed new section 69B(1)—

(a) in paragraph (a) by deleting the expression “twenty” and substituting therefor the expression “five”; and,

(b) in paragraph (b) by deleting the expression “two” and substituting therefor the expression “one”.

The import of this is to bring the late payment of taxes in line with what we had moved in the other section from ‘twenty’, to ‘five’ and from ‘two’ to ‘one’ to be consistent with what we had moved.

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Hon. Members, we are following what we had done earlier. We are on Clause 53 on Page 1021 of the Supplementary Order Paper. We have not dealt with the new clauses yet. We have skipped them. We will come back to them. That is the way we proceed.

*(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)*

*(Clauses 54, 55, 56 and 57 agreed to)*

Clause 58

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): There is a proposed amendment by the Chairman of the Committee.

*(Loud consultations)*

Hon. Members, I know it is exciting to pass this legislation, but let us consult in low tones.

**Hon. Joseph Limo** (Kipkelion East, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, the Bill be amended by deleting Clause 58 and substituting therefor the following new clause—

*Amendment of  
section 33B of  
Cap.488.*

58. Section 33B of the Banking Act is amended by—

(a) deleting subsection (1) and substituting therefor the following new Subsection.

(1) A bank or a financial institution shall set the maximum interest rate chargeable for a credit facility in Kenya at no more than four per cent, the Central Bank Rate set and published by the Central Bank of Kenya.

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Hon. Members, I know this is where your interest is. I would like you to hear me.

*(Question of the amendment proposed)*

Definitely, we have a lot of interest in this. We shall start with Hon. Njomo, the owner of the clause. He will have the first bite at it.

**Hon. Jude Njomo** (Kiambu, JP): Thank you, Hon. Temporary Deputy Chairman. I support the amendment by the Chair because he is effectively retaining the capping at 4 per cent above the Central Bank rate and he is removing the bottom, so that banks can now pay whatever they want to pay as interest to deposits of their customers. That is the right direction. I support what the Chairman has proposed. Thank you.

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Hon. Members, I give a chance to Hon. Atandi.

**Hon. Samuel Atandi** (Alego-Usonga, ODM): Thank you, Hon. Temporary Deputy Chairman. We had a very long deliberation on this matter as a Committee. We must accept that

this law has had both positive and negative consequences. One of the negative consequences is that it has led to retrenchment of staff in the banking sector. Many people have lost their jobs. The argument that has been advanced by banks is that the pricing risk has not been taken care of by this law. That is why we were thinking that possibly we can remove the cap and let the existing portfolio in the sector be retained at the prevailing rates.

**Hon. Member:** No.

**Hon. Samuel Atandi** (Alego-Usonga, ODM): I am explaining. Let me put my point across. Let me finish.

*(Loud consultations)*

Hon. Temporary Deputy Chairman, please, protect me!

*(Loud consultations)*

*(Several Members stood up in their places)*

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Order Members. Freeze when the Chair is on his feet. Hon. Members, you must understand the rules of the House. You cannot just be jaywalking in the House.

Hon. Atandi has every right to speak in the House, however unpalatable what he wants to speak maybe to our ears. He has a right to say it. I will allow him to finish his contribution.

**Hon. Samuel Atandi** (Alego-Usonga, ODM): Thank you Hon. Temporary Deputy Chairman for protecting me. I am giving the House some background information because I am an expert on matters banking.

I support the amendment because it is going to give banks an opportunity to price deposits the way they want. They are also going to ensure that people who have excess deposits in banks can negotiate on their own terms. Otherwise, we are giving banks some room for them to lend SMEs. The problem we have now is that SMEs are not able to access these facilities. The banks will have the spread for, of say 10 or 15 per cent, and they can decide to give the benefits to SMEs.

Thank you, I support the amendment.

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Lastly, we shall have Hon. Ichung'wah, the Member for Kikuyu.

**Hon. Kimani Ichung'wah** (Kikuyu, JP): Thank you, Hon. Temporary Deputy Chairman. I rise to support the amendment by the Committee through the Chairman.

It is instructive because I spoke to this yesterday. Two of the points I did not mention yesterday are that banks, within the two years we have capped interest rates, have still been making colossal profits like they were making before the capping. Two, it is important and instructive to note something. I appreciate what Hon. Atandi, who has been a banker, is saying, and he worked with my wife. However, we must also be faithful to the people we represent in this House besides being faithful to the truth, facts and data. Figures never lie. The data that we have been fed with has come from the banking industry. With the spread of four per cent in two years, banks have still made profits. We are now opening that spread by removing the lower cap to allow banks not just to have a wider spread in terms of the margin that we have, but also to allow the Central Bank of Kenya to have greater flexibility on its monetary policy. Then the

CBK can adjust the CBR when inflation goes down and benefit Kenyans with even lower interest rates.

*(Applause)*

Lastly, this must be a challenge to the Government and the National Treasury. The Government cannot continue to compete with Kenyans on borrowing money from the domestic market. I must take this opportunity to state that we, as a House, need to make proposals to ensure that the Government does not compete with Kenyans in the domestic money market.

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Hon. Whip of the Minority Party, what is out of order? You must let him finish his contribution. Have you finished Hon. Ichung'wah?

**Hon. Kimani Ichung'wah** (Kikuyu, JP): Thank you, Hon. Temporary Deputy Chairman. I was saying that as people who speak for borrowers and not the capital owners in this country, we must also speak to the Government to ensure that it does not compete with us and our people in getting money from the domestic market. One of the clear ways is proposals that have come to this House. A part of them has been adopted, but has never been implemented in terms of cash flow management in the Government. Most of the money that the Government borrows in the domestic market is its own funds that are held in deposits of ministries and parastatals. I remember an amendment that was done by the Leader of the Majority Party in the 11<sup>th</sup> Parliament. Even county governments are holding deposits in commercial banks that continue to earn interests that are never declared anywhere.

*(Applause)*

Those are the issues that we need to deal with. The long and short of it is that I fully support the amendment by the Committee. It will help Kenyans to have a sustainable economic growth with checked interest rates in this country.

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Hon. Members, allow me to give this opportunity to Hon. Tuitoek Kamuren; the newest Member of this House and who will, without a doubt be on his Maiden Speech.

**Hon. Daniel Tuitoek** (Mogotio, JP): Thank you, Hon. Temporary Deputy Chairman. I am not the newest Member. Since you have given me the microphone, let me add my voice to this amendment proposed by the Chairman.

What is being given here is quite the right way to do it. I support this amendment because we want to support the economy. Banks are making good profits. They released the half year profits the other day which range from Kshs55 billion. Even bank managers are making a lot of money. To protect bank consumers including Members of this House, 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 58 as amended agreed to)*

**Hon. Aden Duale** (Garissa Township, JP): The other proposed amendment by Hon. Jude Njomo automatically falls now that this has passed. We will make progress.

*Clause 59*

**Hon. Joseph Limo** (Kipkelion East, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, Clause 59 of the Bill be deleted.

The import of this is that this clause was bringing in cooperative societies to regulations which are not relevant for this case. It is providing that any cooperative society which has run front office operations and failed will be deregistered from being a cooperative society. This will impact negatively on cooperatives especially in the rural areas. Therefore, I propose that this clause be deleted because it is negating the spirit of building cooperative societies in Kenya.

*(Question of the amendment proposed)*

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

*(Clause 59 deleted)*

*(Clauses 60, 61, 62 63 and 64 agreed to)*

*Clause 65*

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): There is a proposed amendment by the Leader of the Majority Party.

**Hon. Aden Duale** (Garissa Township, JP): I beg to move:

THAT, the Bill be amended in Clause 65 by inserting the following new paragraph immediately after paragraph 14 –  
15. The Employment Act, 2007.

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Members, it is on Page 1025 on your Supplementary Order Paper. Get your eyes there, please.

**Hon. Aden Duale** (Garissa Township, JP): I am introducing a new thing by inserting: “15. The Employment Act, 2007”. The justification for this amendment is that it is intended to include the Employment Act as a law relating to the revenue in the First Schedule of the Kenya Revenue Authority Act. It talks about how employers will contribute to the Housing Fund.

*(Question of the amendment proposed)*

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): I see interest from the Member for Funyula. We shall start with him.

**Hon. (Dr.) Wilberforce Oundo** (Funyula, ODM): I think we canvassed this matter adequately earlier in the day. We said that we should postpone or put on hold that matter since

we have not agreed on the wordings and the text of the Housing Fund. That is until we agree on the substance of the Housing Fund.

I oppose.

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Hon. Chachu Ganya.

**Hon. Chachu Ganya** (North Horr, FAP): I was trying to get your eye for the next amendment. I support this amendment by the Chairman.

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Hon. T. J.

**Hon. T. J. Kajwang'** (Ruaraka, ODM): We are still vigilant. We are still awake. What the Leader of the Majority Party wants to do is in the deal itself on Page 802 of the Bill. It is this Clause 65 which will allow the KRA to take money from people. The amendment relates to the First Schedule of the Kenya Revenue Act, which allows KRA to take money as provided by the Public Finance Management Act. If you bring the Employment Act here, it will be the enabling vehicle through which KRA will take money from people allegedly for this housing thing. It is the housing thing that we brought down. It must go down the way the housing thing went down!

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Member for Suna East.

**Hon. Junet Nuh** (Suna East, ODM): Hon. Temporary Deputy Chairman, I stand to oppose. On this matter, the House voted a long time ago. There is no fund for KRA to collect money from any employer. So, you do not need to synchronise the Employment Act anywhere because there is no fund. I request the Leader of the Majority Party to drop his amendment.

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Hon. Members, allow me to put the Question, so that we can make progress.

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

*(Clause 65 agreed to)*

*(Clauses 66 and 67 agreed to)*

#### Clause 68

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): There are two proposed amendments with regard to this clause. We will start with the proposed amendment by the Chairman of the Departmental Committee on Finance and National Planning.

**Hon. Joseph Limo** (Kipkelion East, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, Clause 68 of the Bill be amended in the proposed new subsection (2A) in—

- (a) paragraph (a) by deleting the expression “zero point five” and substituting the expression “one point five”; and
- (b) paragraph (b) by deleting the expression “zero point five” and substituting the expression “one point five”.

The import of this is to enhance the contribution.

*(Question of the amendment proposed)*



**Hon. Makali Mulu** (Kitui Central, WDM-K): Hon. Temporary Deputy Chairman, I want to oppose this amendment. I would like to hear your opinion on it. Actually, if I had my way, I would have deleted it completely so that we do not even have the 0.05 per cent.

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

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): There is a second proposed amendment by the Leader of the Majority Party, Hon. Duale.

**Hon. Aden Duale** (Garissa Township, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, the Bill be amended by deleting clause 68 and substituting therefor the following new clause-

68. The Employment Act is amended by inserting the following new section immediately after section 31 –

*Contributions to the  
National Housing  
Development Fund.*

31A. (1) An employer shall pay to the National Housing Development Fund in respect of each employee –

the employer's contribution at one point five per centum of the employee's monthly earnings; and,

the employee's contribution at one point five per centum of the employee's monthly earnings:

Provided that the sum of the employer and employee contributions shall not exceed five thousand shillings a month.

(2) The benefits to an employee shall accrue as follows –

for employees who qualify for affordable housing, the contributions accrue to the employee and shall be used to finance the purchase of a home under the affordable housing scheme; or

for employees who are not eligible for affordable housing, upon the expiry of fifteen years from the date of the start of making the contributions, or after the attainment of retirement age, whichever is sooner—

a transfer of their contributions to a pension scheme registered with the Retirement Benefits Authority;

a transfer their contributions to any person registered and eligible for affordable housing under the National Housing Development Fund; or

a transfer of their contributions to their spouse or dependent children; or to receive their contributions in cash:

Provided that contributions paid out in cash shall be included in the

contributor's taxable income for the year and be subjected to tax at the prevailing rates.

(3) All contributions shall get a return based on the return on the Fund.

(4) The employer shall remit both employee and employer contributions to the National Housing Development Fund before the ninth day of the following month.

(5) If the contributions due under this section are not paid on or before the day on which the payments are due, a penalty of five percent of the contributions shall be payable by the employer for each month or part thereof during which the contributions remains unpaid, and any such penalties shall be recoverable as a sum due and payable to the National Housing Development Fund.

**An Hon. Member:** Which page is it?

**Hon. Aden Duale** (Garissa Township, JP): I am not a teacher! I am not your teacher! Why should I teach you how to go through the Order Paper?

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Hon. Members, it is on Page 1026 of the Supplementary Order Paper.

**Hon. Aden Duale** (Garissa Township, JP): Hon. Temporary Deputy Chairman, the amendment provides for the contribution by the employer and the employee. It is actually 5 per cent of the employer's earnings. It is a further amendment of what is set in the Bill at 0.5 per cent.

*(Hon. (Ms.) Odhiambo-Mabona consulted loudly)*

Hon. Temporary Deputy Chairman, I thought you came here with muscle. You cannot allow Hon. Millie Odhiambo to make noise as if she is in a funeral somewhere near the lake.

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Leader of the Majority Party, you should be magnanimous. It is okay.

**Hon. Aden Duale** (Garissa Township, JP): It is as if she is in a funeral in a place called Tupuli.

*(Hon. (Ms.) Odhiambo-Mabona spoke off record)*

**Hon. Aden Duale** (Garissa Township, JP): Of course, if you compare fish and camel, a camel is more superior.

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Leader of the Majority Party, you will address the Chair! Hon. Millie Odhiambo, kindly allow the Leader of the Majority Party to make his contribution.

**Hon. Aden Duale** (Garissa Township, JP): Hon. Temporary Deputy Chairman, I had moved that Clause 68 be amended as provided in the Order Paper. For those who have the Order Paper, look for the page. It is not my business to tell you the page.

Under Sub-clause 1, we are providing that the contribution by the employer and the employee should be at 1.5 per cent of the employer's earnings. This is a further amendment to what is already in the Bill.

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Hon. Okello.

**Hon. Jared Okelo** (Nyando, ODM): Hon. Temporary Deputy Chairman, I think there is a way in which this mischief keeps on coming. We need your clarification and guidance. This is the same thing we rejected *in total*. However, it has a way of making its way back through some sneaked amendments. Before I proceed further, I need your guidance over this most important subject. It seeks an amendment to a further amendment that had been brought down by this House.

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Hon. Abel Ogutu.

**Hon. (Prof.) Zadoc Ogutu** (Bomachoge Borabu, Independent): Hon. Temporary Deputy Chairman, we are talking of taking money from employees and yet over the years, we have seen the challenges the Government finds itself in. I am talking of a situation where even employees' statutory deductions made by employers are never submitted. We need to protect the interest of our employees. For that reason, I am made to believe that we are yet to demonstrate a case that calls for further contributions from employees. I object.

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Hon. Kimunya then Member for Emuhaya.

**Hon. Amos Kimunya** (Kipipiri, JP): Hon. Temporary Deputy Chairman, I would beg the Committee to travel this journey with me. Earlier on, we made a mistake and negated a Question because, perhaps, we did not get it. Now, the import of this amendment, just so that we understand, is that in the event the contribution to the Housing Fund becomes law, as it is now, it is a levy. It is actually a tax; you pay, you lose it. This particular amendment is seeking to convert it from a levy to a contribution to the Fund whereby at some point in the future, you can retrieve your money if you do not buy the house.

*(Loud consultations)*

It is important that you understand. In fact, if you read...

*(Loud consultations)*

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Hon. Members, allow Hon. Kimunya to make his contributions.

**Hon. Amos Kimunya** (Kipipiri, JP): If you look at Page 1027 of the Order Paper, you will see that you can transfer your contribution to a pension fund. You can even sign it off to your son or daughter in future. Basically, what it says is that all contributions that people make will also get a return based on the return of the fund. If you go by the Bill as it was suggested earlier, it is a tax. This amendment is improving it to be part of a pension fund where you can get your contribution plus your employer's. So, if we are bothered about workers in Kenya, if you are bothered about your children getting housing in future, this is something you should support. But if you do not want people to have houses, if you want people to continue living in slums, then you do not want them to have houses.

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Hon. Members, we do not have a provision in our Standing Orders for carrying up hands. I have already directed that we shall hear the Member for Emuhaya and then we shall leave it to the House. The Member for Emuhaya, make your contribution. The House will decide one way or the other.

**Hon. Omboko Milemba** (Emuhaya, ANC): Thank you very much, Hon. Temporary Deputy Chairman, for this opportunity. I want to draw the attention of the House to the fact that this is the same amendment that we have rejected, but it is being brought back in a different way. Therefore, I want to alert the House that it is the same donkey painted in a different colour. It is the same amendment that wants to deduct employees' salaries by 1.5 per cent. In so doing, it is also asking employers to pay up to Kshs5,000 for each employee. The impact of this is that most employers will lay off their employees while at the same time employees will suffer desperately because they will be deducted the money.

Even if you change this to a fund the way Hon. Kimunya wants to put it, already employees in this country have housing funds. Teachers have their own housing funds. Other employees have similar funds and pension funds. Therefore, in totality, I would want to ask the House to reject this amendment.

Thank you, Hon. Temporary Deputy Chairman.

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Hon. Members, allow me to give this Question to the House. Hon. Junet Mohamed, what is out of order?

**Hon. Junet Nuh** (Suna East, ODM): Hon. Temporary Deputy Chairman, thank you for giving me an opportunity.

*(Hon. Amos Kimunya consulted loudly)*

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Hon. Kimunya, the House listened to you. Let others be heard. Hon. Tonui, I see you and I will give you an opportunity.

**Hon. Junet Nuh** (Suna East, ODM): Hon. Temporary Deputy Chairman, I wanted to contribute by opposing. This issue of a housing fund and the housing agenda is big. It cannot be cured in the Finance Bill. We need to address this matter holistically and come up with an Act that defines anything and everything about this housing issue.

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Hon. Tonui.

**Hon. Ronald Tonui** (Bomet Central, JP): Thank you, Hon. Temporary Deputy Chairman. Mine is to seek guidance because I see lots of danger in terms of the amendments and the main clause. I would wish that you guide us because we want to kill the two, so that we can kill only one. Once we have killed one, the other one should stand. In a situation where we want to reject the main clause in the Bill and also reject the amendments, kindly guide us. These two are poison to workers in this country. This thing tries to exploit workers in this country. I see a real danger where we will all be shouting 'nay'. That is the only clarification I am seeking. The two are very bad to employees in this country, who include everyone right from teachers to Members of Parliament. All of them are employees and they will suffer the fate of this 1.5 per cent or Kshs5,000 per month. This is too bad. Kindly guide us in such a way that we can kill the two, namely, the amendments and the actual clause in the Bill. We do not want any of them to survive. How do we go about dealing with them? Kindly guide us.

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Hon. Members, I think Hon. Tonui has raised a very fundamental and proper question. The guidance is this: You deal with the proposed amendment. If you negate it, then it means that we shall go back to the provision as it is in the Bill as proposed by the Cabinet Secretary. If you negate all the proposed amendments, you shall deal with the proposal as made by the Cabinet Secretary. There is still one further proposed amendment.

*(Hon. Mohamed Mohamud stood up in his place)*

The Member who is standing on his feet and waving papers at the Chair, I do not think that is the way Parliament operates. We cannot allow that. You are out of order. That will not be allowed in this House.

I was giving guidance that if you reject the proposed amendment, then you shall go back to the position that was given by the Cabinet Secretary. Now, allow me to give you this so that you deal with it.

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

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Hon. Omboko Milemba has a further amendment that has been approved by the Speaker and has been circulated. Kindly prosecute your proposed amendment.

**Hon. Omboko Milemba** (Emuhaya, ANC): Hon. Temporary Deputy Chairman, thank you. I withdraw this amendment.

*(Hon. Omboko Milemba withdrew his proposed amendment to Clause 68)*

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Hon. Members, now I want to give you guidance on how to proceed on this. What is out of order, Hon. Wanga?

**Hon. Gladys Wanga** (Homa Bay CWR, ODM): Hon. Temporary Deputy Chairman, in the Order Paper, I see that Hon. Tonui has an amendment to delete Clause 68. Why is he not moving that amendment?

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Hon. Wanga, clearly you were not of the House when the Chair was giving directions. That amendment was disallowed by the Speaker.

Members, the position is this: You are now faced with the provisions of Clause 68 as proposed by the Cabinet Secretary in the Bill. I will, therefore, put the Question.

*(Clause 68 agreed to)*

*Clause 69*

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): There is a proposed amendment by the Chair of the Committee.

**Hon. Joseph Limo** (Kipkelion East, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, Clause 69 of the Bill be amended—

- (a) by inserting the following new paragraph immediately after paragraph (a)—
  - (aa) deleting the definition of the word “accountant” and substituting therefor the following new definition—

“accountant” is a person registered as an accountant under Section 24 of this Act and is a member as defined in section 4 (2) (a) and (b) with expertise achieved through formal education and practical experience, and shall be held to a high professional standard in respect to—

(a) demonstrating and maintaining competence in accountancy in line with International Accounting standards;

(b) compliance with the Institute's code of ethics;

(c) maintaining good standing status; and,

(d) subject to enforcement of the rules and regulations of the Institute.

(b) by deleting paragraph (b) and substituting therefor the following new paragraph—

(b) by inserting the following new definitions in proper alphabetical sequence—

“company” has the meaning assigned to it under section 2 of the Companies Act, 2015;

“accountancy” means practice in accounting, financial reporting, control systems, systems auditing, auditing, assurance, forensic accounting and auditing, finance, financial management, public finance management, taxation, financial risk management, management accounting and advisory services related thereto; and

“trainee accountant” means a person registered by the Examinations Board and who has commenced professional accountancy education or training or is practicing accountancy as part of initial professional development required for qualification as an accountant.

The justification for this is to redefine accountancy and bring it into the limelight of a real profession which is equivalent to other professions like law in this country.

*(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 69 as amended agreed to)*

*(Clause 70 agreed to)*

*Clause 71*

**The Temporary Deputy Chairman (Hon. Christopher Omulele):** Hon. Chairman.

**Hon. Joseph Limo** (Kipkelion East, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, Clause 71 of the Bill be deleted.

The clause was brought in to bring SACCOs, which are currently under regulatory authority, into the operation of another authority. This will affect the operation of the SACCOs as we had moved earlier. These are fairly small SACCOs and will be impacted negatively.

*(Question of the amendment proposed)*

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

*(Clause 71 deleted)*

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Hon. Members, we have finished the clauses as published in the Bill. We are going to the new proposed clauses.

*New Clause 10A*

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Hon. Kimani Ichung'wah. It is on Page 1028 of the Supplementary Order Paper.

**Hon. Kimani Ichung'wah** (Kikuyu, JP): Hon. Temporary Deputy Chairman, I intend to withdraw that amendment on the basis of having consulted with the Chair of the Departmental Committee on Sports, Culture and Tourism, Hon. Munyaka, who is here and can confirm that. As I had articulated yesterday when I was contributing to this Bill, there are other amendments that I intended to carry together with this amendment pertaining to advertisements on betting, lotteries and gaming, especially on what is perceived to be 'fake winners'. I have consulted with the Chair of the Committee and we have agreed because he has a substantive Bill that will carry more weight and incorporate all those issues including tax matters on betting. I have been persuaded by the Chair to drop this amendment and have it in the substantive Bill.

*(Hon. Kimani Ichung'wah withdrew his New Clause 10A)*

*New Clauses 52A, 52B, 52C, 52D and 52E*

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Hon. Chair.

**Hon. Joseph Limo** (Kipkelion East, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, the Bill be amended by inserting the following new clauses immediately after clause 52—

Amendment of section  
29 A of Cap. 131.

52A. Section 29A of the Betting, Lotteries and Gaming Act is amended in subsection (1) by deleting the expression "thirty-five" and substituting therefor the expression "fifteen".

Amendment of section 36 of Cap. 131. 52B. Section 36 of the of the Betting, Lotteries and Gaming Act is amended in—

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

(b) at least five per centum of the gross proceeds of which is to be devoted to the object for which the lottery is promoted:

Provided that the Board may require as a condition that a specified proportion of greater than -five per centum of the proceeds be devoted to the object for which the lottery is promoted, but in no case shall the Board require a proportion greater than twenty-five per centum of the gross proceeds.

(b) subsection (2) by deleting the expression “twenty-five” and substituting the expression “five”.

Amendment of section 44A of Cap. 131. 52C. Section 44A of the Betting, Lotteries and Gaming Act is amended in subsection (1) by deleting the expression “thirty-five” and substituting therefor the expression “fifteen”.

Amendment of section 55A of Cap. 131. 52D. Section 55A of the Betting, Lotteries and Gaming Act is amended in subsection (1) by deleting the expression “thirty-five” and substituting therefor the expression “fifteen”.

Amendment of section 59B of Cap. 131. 52E. Section 59B of the Betting, Lotteries and Gaming Act is amended in subsection (1) by deleting the expression “thirty-five” and substituting therefor the expression “fifteen”.

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Hon. Members, we are on Page 1020. Chair, kindly explain to the Members why you want this to be part of the Bill.

**Hon. Joseph Limo** (Kipkelion East, JP): Hon. Temporary Deputy Chairman, I beg to move that the New Clauses 52A, 52B, 52C, 52D and 52E be now read a Second Time.

Hon. Temporary Deputy Chairman, this particular amendment was suggested during public participation where the stakeholders in this field including the operators, players and teams sponsored, which include Gor Mahia and AFC Leopards. They appeared before our Committee and said that in the current situation, they receive very little support caused by punitive tax. Currently, most of the operators are moving outside Kenya and will be able to operate there and Kenyans will continue to play and the country will lose taxes.

The proposal provides that 20 per cent will be taxed on the winners. Companies will then be taxed at 15 per cent. Currently, out of Kshs100 put in betting, 12 per cent, which is Kshs12,



goes to the companies and 88 per cent goes to winners. If we do not tax the winners, we lose 88 per cent as we only tax the 12 per cent. So, the import of this amendment is to harmonise and ensure that we get more tax than we do now.

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Hon. Members, there is no need to second. We are in the Committee of the whole House. We shall go directly to the Members.

*(Question of the New Clauses proposed)*

*(New clauses read the First Time)*

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

Let us start with the Member for Mvita.

**Hon. Abdullswamad Nassir** (Mvita, ODM): Thank you, Hon. Temporary Deputy Chairman. I heard the Chairperson trying very hard to justify this. He claims that betting and gaming companies have failed to support sports. It would have been prudent for this amendment to provide that instead of 35 per cent, it comes down to 15 per cent and thereafter 20 per cent is set aside specifically for those sporting institutions. That never happened.

He has even gone ahead and he is even telling us that... The Committee has failed to say that there could be a possibility of gaining more taxes by actually reducing. Natural laws of collection of taxes do not work like that. What the Committee should have done - and I am only guiding my fellow Chairperson - is giving us an analysis and telling us that prior to this being at 35 per cent, when it was at 15 per cent, this is the amount of money that Kenyans benefited from betting and gaming. They should tell us what is now being collected from the tax payer at 35 per cent. Just coming up with words without any factual figures is nothing else but misleading. I wish to remind this very honourable House that when we put these figures at 35 per cent, some Members had even suggested that betting should be taxed as high as 60 per cent. One of the major reasons was because our people were going astray. They were being misled and were losing out. Families are being destroyed and these companies are coming out to say that they are only doing business. That business is nothing else but taking away the true livelihoods of Kenyans by calling themselves legitimate companies.

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): The Member for Mvita, you have made your point. Hon. Mohamed Noor, now you can have a chance at this.

**Hon. Mohamed Mohamud** (Wajir South, JP): Thank you, Hon. Temporary Deputy Chairman. Finally, the Chair can see me from that end. Perhaps, I look like the chairs or the seats.

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): The Chair sees everyone.

**Hon. Mohamed Mohamud** (Wajir South, JP): My colour seems to be like so or you could be colour blind on the other end. That is a joke.

Hon. Temporary Deputy Chairman, Hon. Nassir has already mentioned all that I would have said, but I want to add one thing. The last bit of Section (b) actually indicates:

“at least, five per centum of the gross proceeds of which is to be devoted to the object for which the lottery is promoted.”

This is more or less sugar coating. I know the term sugar has been so much in this House but, in this particular instance, it is actually sugar coating and we do not see where that value goes. Let me put my point across. I think 35 per cent is good enough for us to indicate that lottery and gambling is something that is eating up our society. Therefore, I reject this proposal for that matter.

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): We shall have Hon. Chege Wanjiru.

**Hon. (Ms.) Sabina Chege** (Muranga CWR, JP): Thank you, Hon. Temporary Deputy Chairman. I stand to oppose this amendment. It is very sad that in this country, we are adding taxation on fuel and our people have to walk to work because fares have been hiked. We are adding taxation on electricity and things that matter yet we are reducing taxation on things that are killing our young people like betting. This is mockery. This is unacceptable. This is a shame and I oppose it with the strongest terms possible. Let us not ridicule the lives of our youth. We cannot bet with the lives of our young people. Many young people are even committing suicide. Others are even not going to school because of this betting nonsense.

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Hon. Iringo Kubai.

**Hon. Kubai Iringo** (Igembe Central, JP): Thank you, Hon. Temporary Deputy Chairman for noticing me. I oppose the amendment. This will be a day of reckoning in this august House. The whole country is looking at how we will handle this matter. If we can sit here and preside over a process to increase the prices of very essential commodities and reduce tax on gambling and lotteries, it would be a big shame for this House.

The other day, I read in newspapers that Italy has banned gambling and lotteries from their televisions and other media. We want to promote the same. This game is killing our children. It is an abomination to the country. We kill it by opposing this amendment.

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Let us have Hon. Mlolwa. I can see that some Members are agitated yet they have been speaking the whole afternoon. Let those Members who have not spoken also have a go at it. Hon. (Dr.) Makali, you have been speaking. Let Hon. Mlolwa - who is also a Member of this House - make his contribution.

**Hon. Jones Mlolwa** (Voi, ODM): Thank you, Hon. Temporary Deputy Chairman. I oppose this amendment. Betting and gambling have destroyed families in this country, especially our children. Children have taken school fees and used it to bet. We must stop this menace.

I oppose the amendment.

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Let us have Hon. Mbarire.

**Hon. (Ms.) Cecily Mbarire** (Nominated, JP): Hon. Temporary Deputy Chairman, I rise to oppose this amendment. I do so as a mother with children and as a wife, who does not want our family resources to go to gaming and lotteries and cause unnecessary pain to families. The youth in this country are waiting to make Kshs220 million like other persons they saw one year ago. They want to become millionaires out of this. We must stop it. I am surprised that the Committee found it fit to reduce the tax rate from 35 per cent to 15 per cent. It makes me wonder whether they have seen what this thing is doing to our country. Honestly speaking, if we are a right-thinking legislature, we must say 'no' to this amendment.

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Let me give it to the House now so that we can make progress. Hon. Members, you cannot hold the Chair at ransom.

*(Question, that the new clauses be read  
a Second Time, put and negatived)*

*New Clause 56A*

**Hon. Joseph Limo** (Kipkelion East, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, the Bill be amended by inserting the following new clause immediately after clause 56—

*Insertion of  
new section  
82A in Cap.  
480.*

56A. The Stamp Duty Act is amended by inserting the following new section immediately after section 82—

*Payment of stamp  
duty for policy  
“policy of life  
insurance” and  
“policy of insurance  
against accident”*

82A. For purposes of this Act, the stamp duty payable for “policy of life insurance” and “policy of insurance against accident” shall be payable monthly as an aggregate of all policies issued within the month.

This particular proposal touches on levies being levied on insurance policies. Currently, insurance companies use franking machines which are very old in technology. They carry them to the Ministry of Lands and Physical Planning to be loaded and then they use them to stamp the policies. It is now being proposed that they should be allowed to accumulate all the policies and stamp them once in a month, instead of waiting up to the time when it is done with a franking machine.

Hon. Temporary Deputy Chairman, I beg to move.

*(Loud consultations)*

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Hon. Members, the consultations are too high. The Temporary Deputy Chairman cannot hear the Chair of the Committee. The Chair of the Departmental Committee on Finance and National Planning, have you finished?

**Hon. Joseph Limo** (Kipkelion East, JP): Yes.

*(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 Chairman** (Hon. Christopher Omulele): Hon. Pukose.

**Hon. (Dr.) Robert Pukose** (Endebess, JP): Thank you, Hon. Temporary Deputy Chairman, for giving me an opportunity to support this New Clause 56A. Put the Question.

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Is it the mood of the House that I should put the Question to the New Clause 56A?

*(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 57A*

**Hon. Joseph Limo** (Kipkelion East, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, the Bill be amended by inserting the following new clause immediately after clause 57—

Insertion of new section 31A in Cap. 488.

57A. The Banking Act is amended by inserting the following new clause immediately after clause 31—

Information on next of kin.

31A. A bank or financial institution licensed under this Act shall, in respect of all accounts operated at the institution, maintain a register containing particulars of the next of kin of all customers operating such accounts, and shall update this register on an annual basis.

The import of this amendment is that most of the banks do not maintain the details of the next of kin. In case someone dies, then it becomes very difficult to access the bank account because the owner has not indicated the next of kin. We want banks to constantly update the register of next of kin, preferably on an annual basis.

Hon. Temporary Deputy Chairman, it is unfortunate, it slipped my eye. I was supposed to move the New Clause 57A in an amended form. The feeling is that one year is a very short time. Instead of updating it annually, it will be done after every two years to make it reasonable. The banks will not be disturbing you every year to give them information on the next of kin.

Hon. Temporary Deputy Chairman, I beg to move:

THAT, the Bill be amended by inserting the following new clauses immediately after Clause 57—

Insertion of new section 31A in Cap. 488.

57A. The Banking Act is amended by inserting the following new clause immediately after clause 31—

Information on next

*of kin.*

31A. A bank or financial institution licensed under this Act shall, in respect of all accounts operated at the institution, maintain a register containing particulars of the next of kin of all customers operating such accounts, and shall update this register every two years.

*(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 Chairman** (Hon. Christopher Omulele): Let us have the contribution from Hon. Jude Njomo and then I will give directions.

**Hon. Jude Njomo** (Kiambu, JP): Thank you, Hon. Temporary Deputy Chairman. I wish to support this amendment by the Departmental Committee on Finance and National Planning. It is one of the amendments that I had proposed. When many customers pass on, banks take too long to identify the next of kin. Many families of the deceased lose their money.

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Hon. Jude Njomo, I hear you are supporting the proposed amendment by the Chairman. I gave you a chance because you have a proposed further amendment. I would wish you speak to that so that we can move on.

**Hon. Jude Njomo** (Kiambu, JP): Hon. Temporary Deputy Chairman, I have an additional amendment which identifies the offence of not including the next of kin in the register. Hon. Temporary Deputy Chairman I beg to move:

THAT, the amendment by the Committee be further amended by inserting sub-clause (2)-

“A bank or a financial institution that contravenes sub-section (1) commits an offence and shall be liable for each account in which there is a default to a fine not exceeding Kshs1 million in every year or part thereof during which the default persists.”

This is so that this is taken seriously and banks know that if they do not follow the law, they will be punished for it. Thank you.

*(Question of the further amendment proposed)*

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Let us have Member for Migori.

**Hon. (Ms.) Pamela Ochieng** (Migori CWR, ODM): Thank you Hon. Temporary Deputy Chairman for giving me this chance. I rise to support the further amendment. All of us are aware that we have bank accounts and somebody may have an accident or die and the next of kin may not be known. As a result, it takes a lot of time for the people to be identified. The suffering that goes on in the family is enormous. So, it is important that all customers with bank accounts of whatever nature to declare their next of kin and the register should be updated regularly to eliminate funds accumulating in suspense accounts. This is a straightforward amendment that will help the public and families in Kenya.

I support. Thank you.

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Hon. T. J. Kajwang’.

**Hon. T. J. Kajwang’** (Ruaraka, ODM): Hon. Temporary Deputy Chairman, the proposed amendment by Hon. Jude Njomo has just been circulated to us. So, many of us have not looked at it properly.

The amendment is okay because we have to be serious about the next of kin so that every bank lists them. But a fine of Kshs1 million is unreasonable. We will bring banks down. If in every account there is a default, a bank will be required to pay Kshs1 million for it, a bank may pay Kshs10 million just because some clerk refused to put in some things. I plead with the Mover to reduce the fine to Kshs200,000 so that we are reasonable.

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Hon. Kajwang’, the provision does not exceed Kshs1 million. It gives latitude.

**Hon. T. J. Kajwang’** (Ruaraka, ODM): Oooh!

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Member for Funyula.

**Hon. (Dr.) Wilberforce Oundo** (Funyula, ODM): Thank you, Hon. Temporary Deputy Chairman for giving me this opportunity. While I support the amendments both by the Chairman and Hon. Jude Njomo, I am looking at the practicability of implementing the amendments. We have various individual accounts and corporate accounts by co-operative SACCOs. We need more clarity because a corporate account belonging to a company or an incorporated body has specific procedures on how to pass it over in the event there is a director signatory or there is winding up procedure. So, we need to be clear so that we do not leave grey areas. Probably we need further guidance from the legal team to refine particular provisions.

I hope the Chairperson and Hon. Njomo can look at it for purposes of clarity.

Thank you.

**The Temporary Deputy Chairman** (Hon. Omulele): The Member for Wundanyi Constituency, the Floor is yours, but you should be carrying your card.

**Hon. Danson Mwashako** (Wundanyi, WDM-K): Thank you, Temporary Deputy Chairman. I stand to support the amendment.

Indeed, there is a lot of money lying unclaimed in most banks because of the issue of next of kin. It is important that the CBK has this when going round doing their audits. This should be an audit issue. Some of us have worked in banks and we know it is difficult to trace a next of kin for many accounts that were opened long time ago before the era of mobile phones.

I support the amendment and even that of *Mhe.* Jude Njomo. We must be serious on this issue. Banks must comply and they must be penalised if they do not.

**The Temporary Deputy Chairman** (Hon. Omulele): Very well. Let us have Hon. Jomo Washiali.

**Hon. Benjamin Washiali** (Mumias East, JP): Thank you, Temporary Deputy Chairman. I rise to support this noble amendment.

The reason we have the Unclaimed Assets Authority is because of not having taken care of our clients. If we amend it the way it has been proposed by the Chair, it will mean that someone will come in, in the event the owner of an account is not there.

Just to respond to what our brother, Hon. Oundo, was trying to question on corporate clients, you will find corporate clients have several directors in most of the cases. If one of them has a problem, the other one will stand in. That takes care of it. I am sure that will be sorted out.

Therefore, I support.

**Hon. Junet Nuh** (Suna East, ODM): On a point of order.

**The Temporary Deputy Chairman** (Hon. Omulele): Order, Hon. Members. Just because of time, allow me to ask Hon. Junet what is out of order. In one minute, please.

**Hon. Junet Nuh** (Suna East, ODM): Hon. Temporary Deputy Chairman, I want to oppose this amendment. Banks operate with owners of accounts in a very confidential manner. If you want your next of kin to have a say in your account even when you die, then open a joint account with them. If you have left money in the account, the Unclaimed Assets Authority will give your assets to the people you have left behind. This is very ambiguous.

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

*(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)*

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Because of time, we need to report progress. Hon. Mover.

## PROGRESS REPORTED

### THE FINANCE BILL

**Hon. Joseph Limo** (Kipkelion East, JP): I beg to move that the Committee doth report progress and seek leave to sit again another day, having considered the Finance Bill (National Assembly Bill No.20 of 2018) up to New Clause 57A.

*(Question proposed)*

*(Question put and agreed to)*

*(The House Resumed)*

*(The Temporary Deputy Speaker  
(Hon. Patrick Mariru) in the Chair)*

**Hon. Christopher Omulele** (Luanda, ODM): Hon. Temporary Deputy Speaker, I beg to report that a Committee of the whole House is considering the Finance Bill and has instructed me to report progress and seek leave to sit again another day.

**Hon. Aden Duale** (Garissa Township, JP): As I second, I would like to say that this is one of the well-attended Committee of the whole House session. I am sure the white scarfs and betting contributed. We will introduce some controversial clauses in Bills so that people can attend.

I beg to second.

*(Question proposed)*

*(Question put and agreed to)*

RECOMMITTAL OF CLAUSES 18(B) AND 31

**Hon. Junet Nuh** (Suna East, ODM): Hon. Temporary Deputy Speaker I have a recommitment.

I beg to move that the Motion for agreement with the Report of the Committee of the whole House be amended by inserting words, subject to recommitment of Clause 18(b) and Clause 31. I am doing this because there was a typo in my amendment. It was supposed to be from 2018 to 2020, but it was written 2016 to 2020. That means taxation of VAT on petroleum products should continue from 2018 to 2022. I request Hon. Abdullswamad to second.

**Hon. Abdullswamad Nassir** (Mvita, ODM): Thank you very much, Hon. Temporary Deputy Speaker. In seconding the re-commitment by Hon. Junet, it will be very unfortunate for something as important as ensuring that the normal *mwananchi* is not being overburdened by taxation by virtue of a typo error. I congratulate Hon. Junet for ensuring that there is not going to be any fuel taxation. I urge the whole House to be here to pass that recommitment. Thank you.

I second.

*(Question proposed)*

*(Question put and agreed to)*

**ADJOURNMENT**

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Hon. Members, the time being 7.00 p.m., this House stands adjourned until tomorrow Thursday, 30<sup>th</sup> August 2018, at 9.30 a.m.

The House rose at 7.00 p.m.