

# NATIONAL ASSEMBLY

## OFFICIAL REPORT

Tuesday, 30<sup>th</sup> July, 2013

The House met at 2.30 p.m.

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

PRAYERS

### PAPERS LAID

The following Papers were laid on the Table:-  
Investigation into the Sacking of Staff at Kenya Wildlife Service.

*(By hon. (Ms.) Abdalla)*

**Hon. Speaker:** Just a minute. I see there is John Mureithi Waiganjo. Is it a Paper?

**Hon. Waiganjo:** No, hon. Speaker. Actually, I was just being strategic but now that I have the microphone---

**Hon. Speaker:** No, it is not time for anything other than Papers.

**Hon. Waiganjo:** Very well, but again I wanted to---

**Hon. Speaker:** You are now out of order.

Next Order. Yes, Hon. Amina Abdalla.

### NOTICE OF MOTION

#### REPORT ON SACKING OF STAFF AT KENYA WILDLIFE SERVICE

**Hon. (Ms.) Abdalla:** Hon. Speaker, Sir. I beg to give notice of the following Motion:-

THAT, this House adopts the Report of the Departmental Committee on Environment and Natural Resources regarding the sacking of staff at the Kenya Wildlife Service (KWS), laid on the Table of the House today, Tuesday, 30<sup>th</sup> July, 2013.

**Hon. Speaker:** Next Order.

### REQUESTS FOR STATEMENTS

TRIP TO UNITED STATES OF AMERICA BY GOVERNORS AND FORMER PRIME MINISTER

**Hon. Kanini Kega:** Thank you, hon. Speaker, Sir. Pursuant to Standing Order No.44(2)(c), I wish to request for a Statement from the Leader of Majority Party on the trip to the United States of America (USA) by a section of governors. The Leader of Majority Party should clarify the following:-

(a) whether the funding for this trip is by the Kenyan taxpayer; if not, who funded this trip and for what reason;

(b) the role of the former Prime Minister as the head of the delegation, and is his expenditure being met by the Kenyan taxpayer?

(c) whether he can deny or confirm that the governors are scheduled to have a meeting with one Dick Morris whose role in 2007/2008 elections, which resulted in the violence witnessed in the country, is well documented.

Hon. Speaker, this is a matter of national importance and I would request that issuing of this Statement be expedited.

Thank you.

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

**Hon. A.B. Duale:** Hon. Speaker, this is a very complex issue. I do not know where to start, because it touches on the governors and the board of the governors is the Senate, but I will ask the Government to give information. Maybe I will do that next week on Thursday.

**Hon. Speaker:** Yes, Kanini Kega.

**Hon. Kanini Kega:** Hon. Speaker, Sir, according to our calendar, which we adopted in this House, we are supposed to be on recess from this Thursday.

**Hon. Speaker:** According to our rules until a Motion is brought to the Floor and the House adopts it, you are not expected to anticipate debate. Therefore, let us hold the Leader of Majority Party to his word and if the House will be in recess, then at the next earliest sitting of the House he will act. Those are our rules.

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

**Hon. Speaker:** Hon. Chris Wamalwa, I want to tell Members who want to keep shouting in their places “point of order,” like the indomitable John Mbadi that, please let us, for the time being, deal with what is on the Order Paper. You will obviously stand on a point of order.

#### THREATENED STRIKE BY MEDICAL PERSONNEL

**Hon. Wakhungu:** Thank you, hon. Speaker, Sir. Pursuant to Standing Order No.44(2)(c), I wish to request for a Statement from the Leader of Majority Party regarding the threatened strike by the Kenya Medical Practitioners, Pharmacists and Dentists Union (KMPDU) over devolution and uncertainty in the health sector. The KMPDU is planning to paralyse operations in all public health facilities in the country unless their grievances are addressed.

Hon. Speaker, Sir, in his Statement, the Leader of Majority Party should report on the following:-

(i) whether salaries for July have been disbursed and when they will receive them; and,

(ii) the measures being taken to mitigate the attempted strike and provide clarity on the devolution of health services.

Thank you, hon. Speaker, Sir.

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

**Hon. A.B. Duale:** Hon. Speaker, Sir, I need your guidance. I think this Statement can be dealt with jointly by the Departmental Committee on Finance, Planning and Trade and the Departmental Committee on Health. Those Committees can bring a substantive report to the House.

**Hon. Wakhungu:** Hon. Speaker, Sir, in your earlier ruling you told us that matters of urgency should be addressed to the Leader of Majority Party. This is a cross-cutting issue. We have the Departmental Committee on Health and the Departmental Committee on Labour and Social Welfare. We also have the Departmental Committee on Finance, Planning and Trade. I think the Leader of Majority Party will be in a better position to lead from the front and give us a comprehensive answer, as he has always been doing.

Thank you, hon. Speaker, Sir.

**Hon. Speaker:** The Leader of Majority Party accolades are still yours, as granted by hon. Wakhungu.

**Hon. A.B. Duale:** Hon. Speaker, Sir, today is a good day because he has confirmed that not only was I leading from the front but also that I was doing well. I will give the Statement on Tuesday, next week.

**Hon. Wakhungu:** Hon. Speaker, Sir, they are threatening to come to Nairobi from Friday, this week. I ask that if it is possible the Leader of Majority Party gives the Statement before the threat date of this week. If he brings the Statement tomorrow, on Wednesday or Thursday we will appreciate.

**Hon. Speaker:** But you know Nairobi is the capital city of Kenya. Therefore, everybody is welcome to come here, including all those who have threatened. They do not have to worry about coming to Nairobi. This is because they are welcome to the city. However, the Leader of Majority Party should respond to what you have raised.

**Hon. A.B. Duale:** Thank you very much, hon. Speaker, Sir. Maybe, he is the one who is bringing those doctors to Nairobi City. I will try and bring the Statement on Thursday.

**Hon. Okoth:** Hon. Speaker, Sir, I wanted to respond to the issue that was raised by hon. Kanini Kega. I do not think---

**Hon. Speaker:** No, you do not have the capacity to do that.

**Hon. Okoth:** Thank you, hon. Speaker, Sir. The former Prime Minister is free to travel since he---

**Hon. Members:** No! No!

**Hon. Speaker:** Just sit! Yes, hon. Outa.

**Hon. Outa:** Hon. Speaker, Sir, I just wanted to ask the Leader of Majority Party if he was in order to accept to give some Statements which he considers to be urgent while others are not. Since he has also accepted to give the other one by hon. Wandayi, I thought that he was in order. I just wanted to know whether he is accepting the one about the Prime Minister, which he needs to issue in the House urgently, without denying the other hon. Member a chance to get his. That would have been discriminatory. I think that was in order.

**Hon. Speaker:** I will correct you that it was not hon. Wandayi. I had noticed that he was smiling and was eager to say something. However, it was hon. Wakhungu who raised the issue. Hon. Wandayi is comfortable at his place. He is waiting to bounce.

*(Laughter)*

Yes, hon. Nyamai.

**Hon. Nyamai:** Thank you very much, hon. Speaker, Sir, for this opportunity. I just wanted to support my colleague, hon. Wamalwa, and thank him for bringing that matter to the House. I also agree with him that this matter does not only touch on the Departmental Committee on Health, but also touches on matters of devolution and finance. I just wanted to appreciate that.

Thank you, hon. Speaker, Sir.

**Hon. Speaker:** Yes, but that is not the way to go about it because there is no Motion for you to support. In future, you should know that you will be ruled out of order.

Yes, hon. Njuki.

## STATEMENT

### CRITERIA FOR CLASSIFICATION OF HARDSHIP AREAS

**Hon. Njuki:** Thank you, hon. Speaker, Sir. I have been very envious of Members who seek Statements in this House and they get answers. Earlier in April, I sought a Statement from the Departmental Committee on Education, Research and Technology. For the last two months, I have just been waiting for answers. The last time I raised the issue was last week, and the Chair of the Committee purported that I was seeking airtime in the House. I believe that I am paid by the taxpayers to speak for my people in this House. I seek your guidance on this matter. I would like the Chair of the Departmental Committee on Education, Research and Technology to respond to that request for a Statement. This is because Members seek Statements in this House and they get them. I do not know what is so special about the issue that I raised, so that I should be asking for the Statement again. If she wants me to repeat the request, I can do that again with your permission.

**Hon. Speaker:** The Chair of the Departmental Committee on Education, Research and Technology, do you know the nature of the Statement sought? I do not think it was so as to get airtime. Maybe, you could also address that aspect, because I was not aware that people seek airtime, I do not know whether they seek it from Safaricom, Airtel or which company.

Yes, hon. S.W. Chege.

**Hon. (Ms.) S.W. Chege:** Thank you, hon. Speaker, Sir. I actually have the answer to the question. We had the issue of the strike which we addressed last week. The answer that I will give might not be complete because it touches on Legal Notice No.534.

I wish to give the Statement on the criteria for classification of hardship areas for the purpose of payment of hardship allowance to teachers and other civil servants, which was requested by hon. Njuki.

The Government set up a taskforce on the harmonization of hardship areas and allowances in the Public Service in 2002 under the Ministry of State for Public Service. The objective of the taskforce was to review the new hardship areas and allowances payable to all civil servants working in those areas, including teachers, in order to remove disparities in the payment of hardship allowances.

Originally, determination of hardship areas and allowances payable to teachers working in hardship areas was based on Legal Notice No.534 of 11<sup>th</sup> November, 1997, under which areas determined to entitle officers to hardship allowance were gazetted. The gazetted areas were based on the proposal of the Teachers Remuneration Committee (TRC). However, the matter is under review to harmonize it with other civil servants.

According to Legal Notice No.534 and the TSC, the remuneration of teachers done in 1997, a teacher posted to designated hardship areas is entitled to a hardship allowance at the rate of 30 per cent of his or her basic salary irrespective of his or her marital status and whether or not he or she is resident of the area. This is meant to compensate them for lack of basic social services and facilities that may inhibit their performance. The information received from the Directorate of Public Service Management confirms that the areas currently designated as hardship areas in the Civil Service and the TSC were analyzed and determined based on the degree of hardship experienced in different geographical zones. The criterion for classification of the areas were, therefore, the severity of the hardship experienced in each locality and classified as either low, moderate or extreme depending on the following factors:-

(i) the criterion for limited availability of, or accessibility to, food was given 25 per cent;

(ii) limited access to portable water was 20 per cent;

(iii) inadequate transport and communication services were 20 per cent;

(iv) limited availability of basic social services and amenities was 15 per cent;

(v) harsh climatic conditions were 10 per cent;

(vi) insecurity and high possibility of insecurity threats was 5 per cent; and,

(vii) high poverty index was 5 per cent.

As concerns hardship allowance to teachers, Tharaka Division in the larger Tharaka Nithi County was among the areas designated through Legal Notice No.534 of 1997, and teachers in the area are paid hardship allowance. I wish to confirm that Chuka/Igambang'ombe Division in Meru South District, which is in Tharaka Nithi County, is not a hardship designated area as per Gazette Notice 534 of 1997. Therefore, it does not qualify for payment of hardship allowance to the teachers in the division.

**Hon. Speaker:** Hon. Muthomi Njuki, even as you seek further clarification, bear in mind the fact that the Chairperson of the Committee is merely giving information that is contained in legal notices. Part of the rules of the House is that you do not seek information on matters which are already in law because everybody is deemed to understand it.

**Hon. Njuki:** Thank you, hon. Speaker. I want to thank the Chairperson of the Committee on Education, Research and Technology for bringing the information. That gives me a basis upon which to go and bargain for the people of Igambang'ombe Division. This is because the reasons that have been given here, which warranted Tharaka and Mbeere to be given hardship allowance, are exactly the same conditions that exist in that particular division. So, I am satisfied. I will take up the matter from there because I

know that the Chairperson of the Committee is unable to do anything beyond what she has done. So, she has done her bit and I appreciate.

**Hon. Speaker:** Are there any other hon. Members who may have sought Statements for which they are expecting responses?

**An hon. Member:** Yes.

**Hon. Deputy Speaker:** Yes, hon. Marcus Muluvi!

## REQUESTS FOR STATEMENTS

### SECURITY SITUATION IN KITUI EAST CONSTITUENCY

**Hon. Muluvi:** Thank you, hon. Speaker. Two months ago, I sought a Statement from the Chairman of the Departmental Committee on Administration and National Security regarding the deteriorating security situation in Kitui East Constituency, specifically in the areas of Malalani, Endau and Voo locations. The Leader of Majority Party had promised to give the Statement last week. We discussed the matter while I was on a campaign tour in Makeni County and he promised to give that Statement today. So, I am waiting for him to do so.

**Hon. Speaker:** Yes, Leader of Majority Party.

**Hon. A.B. Duale:** Hon. Speaker, it is true that I had agreed to issue the Statement, on behalf of the Chairman of the Committee, last Thursday but hon. Muluvi was seriously campaigning in Makeni. I want to congratulate him and the CORD Coalition for ably winning the Makeni senatorial seat. I would also like to congratulate Senator Mutula Junior, who has replaced his late dad – a man we respected a lot.

Hon. Speaker, the Statement sought by hon. Muluvi is with the Chairman of the Committee, hon. Kamama. With your indulgence, I will ask him to issue it tomorrow. We allowed hon. Muluvi to go and do the campaign last week. So, he should also allow me to go and look for the Chairman of the Committee.

**Hon. Speaker:** Fortunately, hon. Asman Kamama Abongotum is in the House. Do you want to respond?

**Hon. Abongotum:** Hon. Speaker, I want to thank the Leader of Majority Party. First of all, I want to comment on the issue of teachers' hardship allowance. Are we past that stage?

**Hon. Speaker:** We have, obviously, passed that stage. The hon. Member who had sought the Statement said that he was comfortable and that he would follow up the matter. It was only about his area of representation.

**Hon. Abongotum:** Hon. Speaker, on the Statement, I will issue it tomorrow.

**Hon. Speaker:** Hon. Muluvi, is that okay with you?

**Hon. Muluvi:** Hon. Speaker, I think the Chairman of the Committee also needs to tell us why two months after he made the commitment, he is promising again to issue it tomorrow.

**Hon. Speaker:** Hon. Muluvi, you have just said that you were also not around last week. Is that right?

**Hon. Muluvi:** Hon. Speaker, they had promised to issue the Statement today.

**Hon. Speaker:** Hon. Muluvi, you were also out in the field doing some other things, for which you have been congratulated. You should also be happy that your efforts bore some fruits.

**Hon. Muluvi:** Hon. Speaker, that is true but what I want to put on record is that we have lost six people since the time I sought the Statement from the Government. The cardinal responsibility of the Government is to protect its citizens and their property. We must take this matter very seriously. In fact, it is unfortunate. If we proceed on recess, it will be very difficult for me to face those people because of what has happened over the last six days.

**Hon. Speaker:** Hon. Marcus Muluvi, may I also give you advice *gratis*. Having sought the Statement from the Government, you should have been to some Government offices. This is the National Assembly. So, if you were seeking the Statement from the Government, you should have been in some Government offices. You sought a Statement from the Chairperson of the Committee on Administration and National Security of the National Assembly. You now say that you sought the Statement from the Government, and I do not see it here. The response to the Statement request is just a matter of advice being given to the Committee Chairman, after which he would explain what has been done. If you are not satisfied with the Statement that is going to come from the Committee Chairman, obviously, I advise that you go to the relevant Government offices and seek further assistance. That is the only advice we can give you. We appreciate that the matter you have raised is very important, lives of innocent Kenyans having been lost. However, it requires better handling than just an investigation by a Committee of this House.

So, hon. Kamama, you can table the Report tomorrow.

**Hon. Abongotum:** Hon. Speaker, Sir, just to be in sync with your directives, I just want to confirm to hon. Members that we have bureaucracy in the Government. Sometimes answers to the questions that are referred to me take quite a while to be brought forward because of the bureaucracy involved in Government. It is not because we are not prepared to bring them in good time. So, sometimes hon. Members have to bear with the situation. We will ensure that responses to Statement requests are brought to the House as quickly as possible.

Thank you.

**Hon. Speaker:** Hon. Benson Mutura Kangara, you are seeking some intervention. What is it?

**Hon. Kangara:** Hon. Speaker, on 22<sup>nd</sup> May, 2013, I requested for a Statement from the Chairman of the Committee on Finance, Planning and Trade regarding the Government's official position on engine capacity of our vehicles. I was given an undertaking that the response to the request would come in two weeks' time but to-date, no reply has been brought to the House. When I tried to get the indulgence of the Chairman, he mentioned to me that he had some more pressing matters to handle. So, I am seeking your guidance on this matter.

**Hon. Speaker:** Hon. Kangara, did you say that you sought the Statement from the Chairman of the Committee on Finance, Planning and Trade?

**Hon. Kangara:** Yes, I did so casually, and he mentioned to me that he had more serious issues to handle.

**Hon. Speaker:** Hon. Kangara, the reason as to why I asked you that question is that he does not even appear to think that you had actually sought a Statement from him. Hon. Benjamin Langat, what is your reaction on the Statement sought from you by hon. Kangara?

**Hon. Langat:** Thank you very much, hon. Speaker. I agree that a Statement was sought concerning the vehicles. I want to invite the hon. Member to our Committee next week because we had decided to deal with the matter at the Committee level. So, I invite him, so that we can discuss the matter when we have the Cabinet Secretary next week. I still remember that he had asked about fuel guzzlers. Some hon. Members think that I do not remember what the Statement is all about. So, I would like him to give me up to next week, so that we can square out the matter with the Cabinet Secretary.

**Hon. Speaker:** Is that okay with you, hon. Kangara?

**Hon. Kangara:** Hon. Speaker, going by the response of the Chairman, I still doubt that he is going to give a proper Statement, the matter having taken two months.

**Hon. Speaker:** Hon. Kangara, the Chairman has invited you to appear before his Committee when the Cabinet Secretary responsible will also be present. You will be in a better position to canvas the matter there.

**Hon. Kangara:** Hon. Speaker, I am requesting for your protection because when I casually asked him about the matter, he told me that he had more pressing matters to deal with.

**Hon. Speaker:** You do not need protection, hon. Kangara. He has invited you to a meeting of his Committee. Please, do not fear the Cabinet Secretary.

**Hon. Kangara:** Hon. Speaker, another issue is that I requested for the Statement as we approached the Budget. I am sure that the mess is now even bigger than we anticipated then.

**Hon. Speaker:** You will still be able to prosecute your concerns before the Committee, in the presence of the Cabinet Secretary, hon. Kangara.

**Hon. Kangara:** Thank you, hon. Speaker.

**Hon. Ng'ongo:** Hon. Speaker, Sir, given that this Statement was sought from the Chair of the Departmental Committee on Finance, Planning and Trade, the hon. Member who is a good friend of mine and my junior some few years ago promises things that he does not deliver. He promised me that they would be done with my Bill. He did not promise me but the House and up to now, he is very quiet about it. Could I know when this Bill on the Deputy President and other designated officers; Retirement Benefits Bill will be done by his Committee?

**Hon. Speaker:** I think that Bill requires some consideration in terms of Article 114 of the Constitution, is it not so, hon. Ng'ongo?

**Hon. Ng'ongo:** Hon. Speaker, Sir, you are right because definitely according to the definition of money Bills, that Bill is likely to go to the Budget and Appropriations Committee. That is why I am concerned because it is taking too long with the Departmental Committee on Finance, Planning and Trade.

**Hon. Langat:** Hon. Speaker, Sir, I want to tell my friend that his Bill is in safe hands. I want to request you that on Thursday, which is the day after tomorrow, we give him a response.

**Hon. Speaker:** Hon. Ng'ongo, he says he is your friend or you are his friend; one of them may be correct or both of them are correct. He is your friend but you also said he



is your friend. So, he says that in the course of next week you can sort it out; that it is in safe hands. That you know it is in safe hands.

**Hon. Ng'ongo:** Hon. Speaker, Sir, if I got him correctly, he said Thursday. This is pre-publication scrutiny and I do not understand why it should take time yet the Standing Orders are very clear. It is supposed to be done with within seven days. So this Bill has been with the Committee for over a month.

**Hon. Langat:** Hon. Speaker, Sir, I wish that my friend can understand. If you look at the Order Paper, all the Bills that are lined up, except the Media Bill, are from the Departmental Committee on Finance, Planning and Trade. He should congratulate me for lining all those Bills but I promise that on Thursday we will give him a response on that Bill.

**Hon. Wamunyinyi:** Hon. Speaker, Sir, mine is not about the friendship between hon. Ng'ongo and the Chairperson but I would like to seek a clarification. When a colleague Member sought to get a Statement from the Chairperson, he did that on the Floor of the House and the Chairperson is now inviting the Member to go and receive the answer in the Committee. I would like you to clarify that. I appreciate that the Committee is also a Committee of the House but the Statement has been sought on the Floor here. Why should he invite the Member to go and receive an answer in the Committee?

**An hon. Member:** That is okay!

**Hon. Wamunyinyi:** We have been getting responses here.

**Hon. Speaker:** Hon. Wamunyinyi, do not answer to some voices from some quarters. We may recognize the voices but do not respond to them. We have adopted a procedure by which we encourage hon. Members who seek certain forms of Ministerial Statements to appear before Committees because it may be easier when they appear there, not to receive answers from the Cabinet Secretaries but to prosecute the matter there in the presence of those Cabinet Secretaries or other technical arms of Government so that if the Statement is one in the form of investigations, then the Committee will come up with a report that makes recommendations on action to be taken. But of course a majority of the Statements being sought are answers and we do not want a Committee Chairman to come here and start reading an answer that a Member is disputing when the hon. Member could have disputed that before the Committee. This is so that if a Committee makes a report to the House, then it is something that has been canvassed properly at that level.

**Hon. K.K. Kinyanjui:** Hon. Speaker, Sir, I stood to seek clarification on very serious matters. I am seeking your guidance on issues pertaining to four Cabinet Secretaries who I would not like to mention their names who are supposed to appear before three Joint Committees of this House to answer issues of national importance and none of them appears. They just wrote a letter through the Clerk of the National Assembly, very disrespectful reply that we appear before them; something which I was not expecting. So I need to be guided. Those are Cabinet Secretaries for Devolution, Energy, National Treasury and Transport and Infrastructure. The three Committees were meeting today and we had met from around 10.00 a.m. before the---

**Hon. Speaker:** Do you chair any of those Committees?

**Hon. K.K. Kinyanjui:** Hon. Speaker, Sir, I am seeking clarification and guidance as a Member of the committee. I am seeking guidance on how I should go and as a Member for Kinangop Constituency, Nyandarua County.

**Hon. Speaker:** The hon. Member remember, earlier on we heard some very unusual remarks about airtime and things like those. The information I have is that the committees have agreed that they are meeting with the said Cabinet Secretaries tomorrow at 12.30 p.m. Letters to that effect have been sent out to the affected Cabinet Secretaries. If they do not appear, then you could raise the issue. Now that the committees themselves have agreed to come and raise it here, it would appear that we are not being fair.

**Hon. K.K. Kinyanjui:** Hon. Speaker, Sir, you were not given the right information---

**Hon. Speaker:** You will have to resume your seat. If the information I get from the Clerk who is the one signing those letters is that he has signed the letter then you stand in your place to argue that it is not correct information, then I do not know how the Chair is going to work. You do not write those letters. It is not even the Speaker who writes those letters; it is the Clerk who writes them. He has confirmed that he has written those letters and he has signed them.

**Hon. K.K. Kinyanjui:** Hon. Speaker, Sir, the---

**Hon. Speaker:** We are not going to engage in those tired arguments.

*(Laughter)*

**Hon. Nooru:** Hon. Speaker, Sir, I wanted your guidance on this issue of Ministerial Statements that are sought by hon. Members. I am not challenging your ruling, but if an issue is raised on the Floor and then the hon. Member goes to the relevant Committee to sort out the matter, how will the House know how the matter was concluded? That is my concern.

**Hon. Speaker:** The Committee will make a report which they will table on the Floor.

**Hon. Okoth:** Hon. Speaker, I am rising on point of order under Standing Order No.182 which states thus:

“A sitting of a committee shall be held at such place, date and time as shall be determined by the Chairperson or on a petition made by at least seven members of that committee but no meeting of a committee may be held outside the precincts of Parliament without the approval of the Speaker.”

Standing Order No.191 states thus:

“Committees shall enjoy and exercise all the powers and privileges bestowed on Parliament by the Constitution and statute, including the power to summon witnesses, receive evidence and to request for and receive papers and documents from the Government and the public.”

I am concerned that the Member of Parliament for Kinangop has brought up this point and yet he is being bullied. Cabinet Secretaries should be summoned to appear before a Committee at the Committee’s request. This is according to our Standing Orders. Let us not diminish and relinquish powers of Parliament which represents the people of this country just for the sake of pleasing some few Cabinet members. This is a country of laws and rules. We know that we have the national Government and 47 county governments with governors who are free to travel. So, hon. Member for Kinangop, thank you for pointing out this issue.

*(Applause)*

**Hon. A.B. Duale:** Hon. Speaker, we need your guidance because the hon. Member for Kibra, which is a constituency that was represented ably by the former Prime Minister, is contradicting your very ruling. You have said that the Clerk has written to the Cabinet Secretaries and the Members of Parliament are aware of the Standing Orders---

**Hon. Members:** Table the letter! The letter!

**Hon. Speaker:** You are out of order those of you who are shouting, "Table the letter." That is not the way parliaments the world over operate.

**Hon. A.B. Duale:** Hon. Speaker, now that we have agreed that the Cabinet Secretaries are coming tomorrow, if they do not come then the Constitution and the Standing Orders are very clear on how to deal with them.

**Hon. Speaker:** Hon. Members, when I come here and say that I have signed a letter, or the Clerk says that he has signed a letter and you start demanding, "table it here", then you know that you will be ignored. Some people have been put on notice.

**Hon. Kamau:** Hon. Speaker, I just wanted to set the record straight with regard to the meeting that was held this morning. Indeed, we had a joint committee meeting comprising the Departmental Committee on Transport, Public Works and Housing, the Departmental Committee on Energy, Communication and Information and the Budget and Appropriations Committee. We had summoned the Cabinet Secretaries in charge of devolution, Treasury, transport and energy.

It is true that none of them appeared before the joint committee. However, later on they reached us and explained that there was confusion caused by a letter written to the committees through the Clerk stating that there is supposed to be another meeting on Thursday. Therefore, that was the reason some of them never turned up. The joint committee, on its own volition, decided that the Cabinet Secretaries appear before it tomorrow at 12.30 p.m.

I want to assure hon. Members that in case they do not appear tomorrow, we will be able to sort out the matter.

**Hon. Speaker:** Can we now move into business?

**Hon. Members:** Yes!

**Hon. Speaker:** This is because I can see a lot of interventions, for example, from Jared Odhiambo Opiyo. Is it on the same issue?

**Hon. Opiyo:** Yes, hon. Speaker. I am sorry that I am speaking after our Chairman, but I think what we said, unless there was change of mind is that we really needed to enlighten this honourable House that some of the Cabinet Secretaries and, indeed, Government functionaries when you call them to question them, they kind of ignore this august House or the committees of this House. That is a great concern.

Hon. Speaker, if you may allow us a few minutes, hon. Members who are in this House will want to ventilate because they face frustrations at the Committee level.

**Hon. Speaker:** I will not allow that. Fortunately, I will invite you instead to carefully study from Section 15 to Section 22 of the National Assembly Powers and Privileges Act and see how as committees you are supposed to behave in the event you are faced with those kinds of challenges. So, please, do not invite the House to discuss in vain something which as a committee you can always deal with under the said Act. Let us not just discuss things. You have the power!

Hon. Ken Odhiambo, I just read to you Standing Order Nos.190, 191 and 182. This House has teeth. I want to encourage you to feel that you have teeth even if you may have removed some.

**Hon. Aluoch:** Hon. Speaker, the issue that has been raised by the Member for Kinangop is actually very serious. I do not sit in any of those three committees, but if I was the Chairman of any of the committees I would have known what to do.

Apart from what you have advised, Article 125(1) of the Constitution is very clear. It states that either House of Parliament and any of the Committees has power to summon any person to appear before it for purposes of giving evidence or providing information and for that purpose the Committee has the same powers as the High Court. They should know that.

**Hon. Speaker:** And having those powers as provided for in the Constitution then you proceed. If you want to punish disobedience, then you go to the National Assembly Powers and Privileges Act, particularly the sections I have advised hon. Opiyo to look at.

**Hon. Member:** Hon. Speaker, I am a member of the Departmental Committee on Transport, Public Works and Housing and also a member of the Budget and Appropriations Committee. What they have said is what transpired. However, to add onto what hon. Olago Aluoch has said, the Constitution under Article 152(6) states that in case all those things fail, a Member of the National Assembly supported by at least one-quarter of all the Members of the Assembly may propose a Motion requiring the President to dismiss a Cabinet Secretary, that is, if they continue misbehaving.

**Hon. Speaker:** You see, advice *gratis*. So, you have it. Now we will not listen to any Member mourning that they have summoned a Cabinet Secretary and he or she has failed to show up. So, please, let us not mourn any more now. We have it. You now know it.

**Hon. Chepkong'a:** Hon. Speaker, Sir, last week, I undertook to respond to the Statement requested by hon. Wamalwa. In fact, he has been very patient. So, should I respond to the Statement that was requested by hon. Wamalwa, the Member for Kiminini? I have it with me and it is very short, if I can go ahead.

**Hon. Speaker:** Go ahead.

## STATEMENT

### RELEASE OF OFFICIAL RESULTS OF 2013 GENERAL ELECTION

**Hon. Chepkong'a:** Hon. Speaker, Sir, the Member sought a Statement on when the Independent Electoral and Boundaries Commission (IEBC) is going to release the official results based on the coalitions/political parties for purposes of computation and subsequent disbursement of funds to the respective political parties as contained in the Political Parties Act.

The IEBC responded in kind. They filed with us, as the Committee on Justice and Legal Affairs, the final results of the general election that was held on 4<sup>th</sup> March, 2013. The question that was then asked by hon. Wamalwa was responded to in kind on 18<sup>th</sup> July, 2013, with the official release of the results of that election. We dispense with that Statement. I will table the official results.

**Hon. Speaker:** What is that? You want to table something?

**Hon. Chepkong'a:** It is the official response.

**Hon. Speaker:** I quite agree with some voices under the carpet that hon. Chepkong'a maybe speaking to himself. Did I hear you to purport to want to table some paper?

**Hon. Chepkong'a:** I just wanted to table the Statement requested by hon. Wamalwa.

**Hon. Speaker:** No, we are not there yet. What Statement?

**Hon. Chepkong'a:** He sought a Statement and I undertook to respond to it today. I think you have given guidance that people should not interfere with you when Members are raising serious issues. I realize that one Member was interfering with you.

**Hon. Simba:** On a point of order, hon. Speaker, Sir. I do not know if the Chairperson of the Justice and Legal Affairs Committee is in order to say that you could not get him whereas even the Members could not get what he was trying to put across from the Floor of the House. He is insinuating that you are not listening to what he was reading. Is he in order to say that you were not listening?

**Hon. Chepkong'a:** Hon. Speaker, Sir, I never said that you were not listening. I said there was loud interference by a Member. Hon. Simba knows that I am very tall and those gadgets were meant for people as short as him. So, I run into a little bit of problems.

**Hon. Speaker:** Please, hon. Members, I want to tell you this: Please, avoid lengthy consultations with the Chair. You are advised again, *gratis*, avoid because the Chair must hear and understand what is being said by other Members.

Next Order!

## MOTION

### EXTENSION OF PRESCRIBED PERIOD FOR ENACTMENT OF BILLS

THAT, pursuant to Article 261(2) of the Constitution, this House resolves to extend the period prescribed for enactment of legislation necessary to give effect to Article 34 of the Constitution (Freedom of the Media) by a period of four months from 27<sup>th</sup> August, 2013.

*(Hon. Baiya on 23.7.2013)*

*(Resumption of Debate interrupted on 23.7.2013)*

**Hon. Speaker:** Members, as we resume debate on the Motion by the Chairperson of the Constitutional Implementation Oversight Committee (CIOOC) on the extension of the period for enactment of the Freedom of the Media Bill, which is contemplated in the Constitution, by a period of four months from 27<sup>th</sup> August, 2013, it is important to bear in mind that the Question will not be put unless and until the House has not less than 233 Members. So, even those of you who are coming and withdrawing leisurely, you are advised that you contribute to lack of quorum. The net effect is that if by Thursday you will not have done away with this Motion, one way or the other, then you do not proceed

for the proposed recess as per the calendar. Of course, the alternative also is that without the passage of this Motion, any Kenyan may move to the High Court to petition that the 11<sup>th</sup> Parliament be dissolved for failing to enact that legislation.

*(Applause)*

Therefore, the House is accordingly informed of the options available. We will proceed with debate now. Hon. Langat, you were on the Floor when debate was adjourned and you have a balance of eight minutes. I can see that he is walking around, but you have a balance of eight minutes.

**Hon. Langat:** Hon. Speaker, Sir, I was saying that this is a Procedural Motion, kind of, because of the reasons given. I am very happy you have clarified that this is not what it appears to be. In fact, I want to urge my colleagues from the other side that this is not a Government Motion, so they do not need to frustrate it. It is in our best interest that this Motion is passed, so that we can get extra time to pass this Bill.

You have also said, at the risk of anticipating debate, that failure will mean that our anticipated recess might be cut short. Some of the Members are saying that they want to go to an election yet some of them have not even learnt the Standing Orders. They want to go back before even learning the Standing Orders of this House. I can hear hon. Arati shouting yet we are barely six months in this House. This is a Procedural Motion that gives us time to look at the Bill. We also deserve the recess, which is coming, because we need to start working with our constituents. Otherwise, they will say that since we were elected, we have not done anything. It is in our best interest all of us from both sides of the House that this Motion is passed. About the quorum, I want to ask the Leader of Minority or the Whip on the other side to call his troops, so that we can raise the quorum to pass this constitutional Motion.

With those few remarks, I hope my colleagues, this time round, will not give the tyranny of work. I support the Motion.

**Hon. Outa:** Thank you, hon. Speaker. The hon. Benjamin is my neighbour and I really want to agree with him on one thing, that even if we pass and have the numbers that will require us to go for our vacation--- I was somehow talking loudly. Members will be going home without the money for the roads because the Deputy President has just made a declaration on the roadside that the Kenya Rural Roads Authority (KeRRA) money goes to the governors.

**Hon. Members:** What? When?

**Hon. Outa:** He said it yesterday and that is the truth. Since we will be going home without anything, why do we not just continue here? As much as I want to agree that it is important that we might go on recess, is it right for us to work hard supporting the national Government and yet they are not ready to support Members of Parliament when it comes to the Budget?

**Hon. Lessonet:** On a point of order, hon. Speaker, Sir.

**Hon. Speaker:** Hon. Lessonet is on a point of order.

**Hon. Lessonet:** Hon. Speaker, I stand on a point of order. Hon. Outa is misleading the House that the Deputy President has the powers to reallocate money meant for roads. The question of funds allocation to various sectors and Government departments including this House is the mandate of this House. I sympathize because we

might have all slept on the job when the Budget was being processed, until we did not see that there was no money for KeRRA and Kenya Urban Roads Authority (KURA); that was an oversight on this House. It is not the Deputy President. This House still has the power to make sure that those departments; KeRRA and KURA have been allocated adequate resources. So, hon. Outa, stop bringing the name of the Deputy President to those issues when you know you slept on the job.

**Hon. Outa:** On a point of order, hon. Speaker. I want to believe that he was also listening to what the Deputy President said when he met the governors yesterday. It is not a matter of who is protecting who but as hardworking Members of Parliament here, this money of KeRRA and KURA has been devolved to the constituencies. It is the right time that this money is given back to the constituencies where it belongs; it is not a matter of hearsay. This is the truth that will face us as Members of Parliament, that tomorrow we might not be having KeRRA and KURA money because of the roadside declaration. As much as we want to continue to work for the national Government, we also want the Executive to support this House. They should stop roadside declarations because we have the Constitution that empowers us as Members of Parliament over this and it is a matter that is not just hearsay. It is the truth. We might lose KeRRA, KURA and Rural Electrification Authority (REA) money by tomorrow. So, this is a reality. So, stop roadside declarations. That is all gone. This Parliament has been given the mandate to oversee the entire Budget and we do not want---

**Hon. Speaker:** Hon. Outa, back to the Motion because you know about the issue of relevance. Back to this Motion now so that we can discuss that other one when it is before the House.

**Hon. Outa:** Hon. Speaker, back to the Motion, I want to support it but we want to be assured that we do not go home without the money. I want some response from the Executive that they should not be interfering with us and KeRRA, KURA and REA money must be left as devolved like the Constituencies Development Fund (CDF). That is what I want to bring up but I want to support loosely.

*(Laughter)*

I needed some answers. I support half-heartedly.

**Hon. Speaker:** I want to encourage hon. Jimmy Angwenyi to get a bit more used to those---

**Hon. Angwenyi:** Yes, those gadgets.

**Hon. Speaker:** Yes.

**Hon. Angwenyi:** Hon. Speaker, I support hon. Outa and I say that to take that money away from us to the Their Excellencies the Governors will be over our dead bodies.

*(Laughter)*

**Hon. Speaker:** Now, I think it will not be fair that hon. Members start using language that is really intimidating to others but let us hear from hon. Maina Kamanda, the Chair of the Departmental Committee on Transport, Public Works and Housing.

**Hon. Kamanda:** Thank you, hon. Speaker. I want to assure Members here that until you hear from me do not panic.

*(Laughter)*

I want to assure Members that money for KeRRA is going to be there. The Kenya Roads Act has not been repealed. We have been promised that the money is going to be there. We were assured. We have letters even from the Cabinet Secretary to that effect and I guarantee that. So, do not panic. Give us until tomorrow and until I tell you otherwise, the money for KeRRA and KURA is still there.

**Hon. Speaker:** Well, that is the Chairman of the relevant committee particularly with regard to what hon. Outa was raising. So, until we hear otherwise, everything is fine. Maybe let us hear from hon. Jamleck Kamau with regard to energy.

**Hon. Kamau:** Thank you, hon. Speaker. Let me also echo the words of my colleague that until you hear from me, we do know that the money for REA will be there.

*(Laughter)*

Whether there was a mess in the Budget or not, our expectation and belief is that the Government must get money to bring to REA so that it can continue with its operations and we are not stopping at anything. We must make sure that this is actually achieved. Therefore, let me assure Members that for the meeting that we are going to be having tomorrow, we want to encourage as many Members as possible to come and attend it so that if there are issues that are going to be there, we can also solve them together. We agreed that the meeting will be at 12.30 p.m. here in the Main Chamber.

Thank you, hon. Speaker.

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

**Hon. A.B. Duale:** Hon. Speaker, there were un-parliamentary words “until you hear from me” that were used by Members. We want to know the insurance involved because we might hear the wrong information that we do not want to hear.

*(Laughter)*

**Hon. Speaker:** Hon. Jamleck Kamau, can you explain to the House what this “until we hear” means or stands for?

**Hon. Kamau:** Hon. Speaker, what that means basically is that this House, by its own nature, is the one that passes Budgets of this country. You can make Budgets or unmake them in this House. You can do whatever you want to do with Budgets but make sure there is provision for those funds that are required for this country to move forward. So, when we say you will hear from us as committee responsible for that, it means there will be a report to that effect. If there are no funds, then it means we can even alter the Budget so that we can get enough funds for that particular purpose, irrespective of whoever says what. Therefore, I think Members of Parliament must be satisfied. We are going to do the job because at the end of the day, what we want to do is to make sure we do good for this country.

Thank you.



**Hon. Speaker:** Now, we are on Order No.8. Until we hear, we are on Order No.8.

**Hon. Wamunyinyi:** Thank you, hon. Speaker. I would like to say that the Motion before the House is not one that we should take too much time on or belabour very much because it is procedural. In our discussions at the House Business Committee (HBC), we agreed that we are going to pass this Motion and we have been talking to our colleague Members. We would like to dispense with this Motion so that we are able to stick to the calendar of the House that will enable us to take our recess in the coming Thursday. So, I would like to say that I am supporting this Motion but also point out that last week I think there was a demonstration in the House. We really had the tyranny of numbers of the Majority but also effectiveness of the tyranny of the Minority.

Last week the Minority also demonstrated that they can effectively use their numbers. So, Members from the Majority side should know that the tyranny of numbers they have been using can have a negative effect sometimes. So, do not use the tyranny of numbers all the time.

*(Laughter)*

This is because the Minority can also effectively use their minority numbers. What happened last week has taught all of us from both sides some lessons. We should recognize that we all have some role to play as Members of Parliament and as leaders of this country. I, therefore, appeal to this side to take cognizance of that fact and we move on to serve the people of Kenya.

Hon. Speaker, Sir, thank you very much.

**Hon. Kipyegon:** Thank you, hon. Speaker, Sir. I also wish to air my sentiments on this particular Motion. Like what the hon. Member has just said, we all need to support this Procedural Motion so that we deal with this issue comprehensively, and so that it can allow us time to have a serious look into the details of this Motion. I would like to say that I support this Procedural Motion and the whole House should support it because this is not something that belongs to one side of the political divide. It belongs to all of us and it is an issue that affects the nation. It is also an issue that affects our media and we must look at it properly.

This Bill was delayed not because of this House. It was because of some quarters who never took their job seriously. So, we cannot take the blame. We should not be punished because of the delay from other quarters. This House should come together and deal with it.

Hon. Speaker, Sir, before I sit, although I know you had closed debate on that Motion, we would also like anything that has to be done by either the Government, any Cabinet Secretary or even the Committee of this House to be done in consultation with the relevant people so that we do not rush issues and decisions that can be detrimental to us. So, we need to have serious consultations in most of those issues.

Otherwise, I support this Motion. I request all hon. Members that we sit together and agree on this particular one so that next time we have other issues we deal with them at that particular level.

**Hon. Ng'ongo:** Thank you, hon. Speaker, Sir. I rise to support this Motion. My concern is only whether we will get the two-thirds majority. Could the whips whip two-thirds of the Members of Parliament so that we can pass this Motion?

First, this particular Bill has already attracted a lot of emotions. The media fraternity is not fully convinced that it is a Bill that we should pass in its current form. Therefore, we need more time. This is probably presenting us an opportunity, as the august House to have more time and get a Bill out of this House that will become an Act of Parliament that is friendly to the media and promotes media freedom that we need.

As we debate this issue about freedom of the media I request you, hon. Speaker, that you reopen the Media Centre for the media. We are really inconvenienced whenever we want to issue Press releases. It is a nightmare. I know maybe for some good reason that the Media Centre was not made available to the media but as it is now, it is also affecting Members of Parliament. So, I would like to request that we reconsider this issue and possibly tomorrow or today, if you could issue a directive that, at least, one room be availed to the media so that they can use it for our benefit as well.

Hon. Speaker, Sir, with those few remarks, I support the Motion.

**Hon. Speaker:** The only assurance I can give you is that they will be given a room but not where they were. They have been told that more than once but because they choose to say that they have been chased out, I encourage them to continue saying that. They will be given a place which is being designed properly; indeed, a place where they originally started. So, they have no reason to make noise. However, if they want to say that they have been kicked out, they are at liberty to say what they want. Kenyans are used to this freedom.

So, hon. John Mbadi, do not mind about the media saying that they have been kicked out. That place was temporary. So, I do not see the attraction for the media to other things that they were not invited here to do. That was a temporary location and they are being given a permanent location within Parliament. That is, indeed, the place where we began which is much more suited to them and to all of us, hon. Members of Parliament who may wish to address them from time to time or in the course of their duties.

**Hon. Katoo:** Thank you, hon. Speaker, Sir. I rise to second and support this Motion. I want to pick from where my good friend, hon. Mbadi has left on the issue of the whips being able to whip the required number – 233 Members. That is the number that is required for the Question to be put and all must be in support of it for it to go through.

However, I want to say that this Motion came up last week and in the last House Business Committee, as hon. Wamunyinyi has said, it was agreed that this is more of a Procedural Motion and it should be approached from a bipartisan point of view. I think we were tasked as the leadership of the House to whip all our Members to come and support this Motion. So, we have been doing that. Even text messages have been sent to all Members from both sides of the House. Text messages have been sent even three times a day. To some extent some Members were complaining that the text messages were becoming too many. So, in terms of whipping Members from both sides of the House, I can confirm that this has been done.

But most importantly, I kindly appeal to my colleagues that when they come to the House, they should try and have some retention capacity because the problem is that a Member just gets in and out.

Hon. Speaker, Sir, you can see that I have changed my position for the last one month. I have donated my normal position to hon. Benjamin Langat. I am sitting here

because I am trying to talk to hon. Members to remain in the House so that the business of the House can go on.

Hon. Speaker, we have taken a physical count on both sides of the House and we are falling short of the 233 Members. The highest count we have achieved so far is 190 Members. However, I want to say two things. Firstly, the reason for falling behind, in terms of passing the proposed legislation, is not the failure of this House. I want to take to task the Committee responsible for the Commission for the Implementation of the Constitution (CIC). The CIC should be bringing Bills on time to avoid delaying the business of this House. We are extending our sitting time because the Bill, which is supposed to originate from CIC, has not reached this House.

The second culprit which, unfortunately, is part of us, being a creation of this House, is the Constitutional Implementation Oversight Committee (CIOC). The CIOC oversees the work of CIC. It is, therefore, paramount for CIOC to play oversight role perfectly. The Committee should summon CIC and ask them why they have not stuck to the schedule of the implementation of the Constitution.

Having said so, I want to appeal to hon. Members that Article 261, on Transitional and Consequential Provisions, which you cited as you communicated to this House states that if Parliament fails to pass certain legislation by a specified period of time, any Kenyan may go to court and seek an order that Parliament be dissolved. If the court gives such an order, the President shall dissolve Parliament. For the information of hon. Members, it is Parliament which will be dissolved and not the Executive. Therefore, this is one of the Motions on which we have to come together, as legislators to pass. There is no interest for the Executive.

**An hon. Member:** We are ready to go!

**Hon. Katoo:** Hon. Speaker, I can hear some hon. Members saying that they are ready to go, but I am sure that they are not. It is very unfortunate that one of us lost his parliamentary seat today, following an appeal at the High Court. I would not want to see such losses occurring. I am sure that if by Thursday we will not have passed this Motion, hon. Members will say that there will be no going for recess because the deadline for the passage of the Media Bill by this House is 27<sup>th</sup> August, 2013. That is as per the Constitution. During that time, we are supposed to be on recess.

So, we will have to choose to do another two weeks before going on recess to ensure that we pass the Bill or bear the consequences. Therefore, I would like to appeal to my colleagues to pass this Motion. We have interacted with hon. Members on both sides of the House. There is no opposition to this Motion. However, getting the required number to pass it is becoming a problem. Therefore, I would like to ask my colleagues on both sides of the House to come here, so that we can pass this Motion.

**An hon. Member:** But we are here!

**Hon. Katoo:** Hon. Speaker, hon. Members are saying that they are here, but we are not getting the requisite figure of 233 Members.

**An hon. Member:** We have the numbers!

**Hon. Katoo:** Hon. Speaker, if we have the numbers, I would urge that you put the Question, so that we can finalise this debate.

With those remarks, I beg to support.

**An hon. Member:** (*off-record*)

**Hon. Speaker:** You, young Member of Parliament, if you have an orientation based on Cap.265, be reminded that it was repealed. So, you must now do business in the National Assembly.

Yes, hon. Kajwang'!

**Hon. Kajwang':** Thank you, hon. Speaker, for allowing me to support this Motion. Last week, we had an eventful time of our lives. We were in Makueni and we are happy to have brought the victory home.

Hon. Speaker, I have started this way because of what I want to discuss – the question of bilateral approach to matters. Last week, we were in Makueni. Today, we are here, discussing this very important Motion. Last week, the Leader of Majority Party dared the Minority by saying that he could easily get people from the Minority side of the House to support this Procedural Motion. If we go that direction in this House, we will be unable to transact business, which is the reason as to why we are here.

We need to join my friend, hon. ole Metito, in his public relations exercise, as the Whip of the Majority Party, so that both the Minority and the Majority can be able to come together on important issues like this one, so that we can move the business of this House forward. If we go as either Minority or Majority, very few things that matter to the public will be transacted.

Hon. Speaker, allow me to say something about CIOC, which my friend, hon. ole Metito, has talked about. The hon. Member for Kibra read out an extensive provision of the Standing Orders, which allows Committees to fast-track the business of this House. It is true that we are on this matter because the Nyachae Commission has not brought us the Bill but we also need to audit ourselves. What have we done as a House? The Committee becomes our lifeline, in terms of making sure that those people perform their duties in a timely manner. Can we ask ourselves live questions? For example, what timelines has the Committee given to the Nyachae Commission, and what are the responses they have got from the Commission?

If the Committee has not been getting responses from the Chairman of the Commission, why has this not been reported to this House, so that we know what steps to take? It is an open secret that the Nyachae Commission wants to have its time extended, so that they can be in office for as long as it takes for them to continue earning salaries. For the CIC, it is a matter of earning salaries. For us, it is a matter of enhancing the business of implementing the Constitution.

So, it is important that CIOC does not sleep on its job. I can see that my very good friend is here. I do not want to say that he is the one who is sleeping on the job because I know that he is awake all the time. There is need for CIOC to report to the House and tell us exactly why CIC, which seems to have an opinion on everything else in this country, cannot give us a Media Bill that we can look at and pass.

Hon. Speaker, I am doing this reluctantly because I feel that I am not able to do my work within the constitutional timelines. It is not because I am unable to do so but rather, because someone else who wants to be relevant and outlive his time is trying to make my work very difficult. So, although I support the Motion so that we can deal with this issue, even if we extend the time by a period of four months, if the CIOC does not rein in CIC to do their work; and if we do not have a working timetable the way it was done during the 10<sup>th</sup> Parliament so that within a week, we know that we will have the Bill, we will come here and still have no Bill to legislate on. The Constitution says that

we can extend the legislation deadline for any Bill only once. We cannot do it a second time.

So, hon. Speaker, Sir, I support this Motion with a rider that CIOC should move and rein in the Chairman of CIC.

**Hon. (Ms.) Kiptui:** Hon. Speaker, Sir, would it not be in order, looking at the mood of the House and numbers, that you put the Question now?

**Hon. Members:** Yes!

*(Loud consultations)*

**Hon. Speaker:** Be serious! Hon. (Ms.) Kiptui, it is important to appreciate the constitutional threshold and the procedural requirements. It does not matter what mood there is. You can be in the happiest of moods but if we do not quorate, we cannot call the Mover to reply. Therefore, the mood is that hon. Members continue to discuss or we move away from it.

**Hon. Waiganjo:** Hon. Speaker, Sir, I rise to support this Motion and echo the sentiments of my learned friend, hon. Kajwang', that CIC does not appear to be doing what they should do in good faith. It appears that the House is under sabotage. I can assure you that you will hear comments that we are not able to transact the business of this House and that is why we are asking for an extension, and that is not the case.

Secondly, the Media Bill is an important piece of legislation that we need time to look into. I know that the media fraternity is not very comfortable with some sections of this Bill, and which I will be moving amendments. So, I ask this House to adopt a bipartisan approach to this and extend time. Let us invoke Article 261(2). The reason why hon. Members have not looked at this Bill is because they do not even have offices from where to transact business. I get very surprised sometimes because it would appear as though this House, without prejudice, has some cartels. This House in its membership has some sharks, hounds and hundreds of *omenas*. I say this because how else do you explain that a new constituency that has no offices is the last to get an allocation for those offices, when other constituencies which have fully-fledged secretariats are in operation? How would you explain that hon. Members who cannot go to their constituencies because they do not have vehicles are the last to get the grants, and hon. Members who have fleets of vehicles have the grants at the first instance? Still, how do you explain that even if those matters should have been raised properly in a *Kamukunji*, we hardly get that *Kamukunji* and that is why we are raising those issues at the plenary of the House, unfortunately? This is just an installment of the grievances of hon. Members. Our champions, who in the first instance---

**Hon. Speaker:** Can you get back to this Motion? Study and re-study your Standing Orders, you will never find any Committee called *Kamukunji*. So, please, even as you discuss other things, you must appreciate that there is nothing called *Kamukunji*.

**Hon. Waiganjo:** Hon. Speaker, Sir, I needed to say it!

**Hon. Speaker:** You do not have to say what is irrelevant to the Motion.

**Hon. Waiganjo:** Hon. Speaker, Sir, I will ask that even when we extend time, let us look at the welfare of hon. Members. Our champions, who had begun very well, look very healthy, satisfied and very comfortable. You wonder what has suddenly happened. Our good champion, hon. Angwenyi, is now very comfortable. He was even shouting

without a microphone and he was leading from the front. We must ask hard questions even if we are discussing important matters of this House.

*(Loud consultations)*

**Hon. Speaker:** Order, hon. Members! You will benefit from some of the more experienced hon. Members like hon. Anyango, hon. Ng'ongo, hon. A.B. Duale and others that, in many jurisdictions - and Kenya is not an exception - there is seniority. Whether you like it or not, there is seniority in Parliament.

**Hon. Members:** No!

**Hon. Speaker:** Hon. Members, it does not matter how much--- You may not be happy about that but, of course, I will uphold your right to be very annoyed and defend that you must be annoyed. Nevertheless, I must say what the truth is. There must be procedures in every Parliament. That is why you hear in some jurisdictions ranking of hon. Members as junior senators and some have even risen to become presidents. When they were not presidents, they were referred to as junior senators. I am sure this is well within your knowledge. It was not for lack of respect for those hon. Members but when they were at that stage that is what they were. So, today, in this House, there are hon. Members who are sitting here for the very first time and there are others who have been here more than one time. That is a fact of history and we cannot undo it. We cannot undo it. Therefore, our procedures and processes, with regard to that, as well as the procedure adopted, not by this House but even the previous Houses of following names alphabetically will continue until it is changed so that when it comes to allocation of whatever it is, for example cards – of which a majority of you have lost theirs - offices and such like other things, there will always be some formula. The formula most likely will not be supported or agreeable to all of us 100 per cent. Nevertheless, even the best of formulas including the formula giving rise to the innovation that we know today, has never always been supported by everybody. However, somehow, as you all know, this being a House, a legislative chamber, democracy is the rule that carries the day here. So, please, hon. Waiganjo, you may be unhappy and it may be true that you do not have an office from where to work but, take heart that every effort is being made by the administration of this Legislature to ensure that every hon. Member is made comfortable both in Nairobi and the constituencies but processes must be followed.

I am sure it is not just your concern but rather, it is for many others. However, take heart that it is being addressed.

Some of you will want to be given solutions like yesterday. It does not happen like that in Parliaments. It may happen like that in other places, but not in Parliaments. For the time being, hon. Members, let us take a decision on this Motion. We need to decide whether we will debate it and take a decision one way or the other. Once it is defeated, then the normal consequences of the House will follow.

Hon. Cheptumo, are you on a point of order or you want to contribute to the Motion?

**Hon. Cheptumo:** Hon. Speaker, I rise to support the Motion. This is a very important Motion because if we do not extend the time of passing this Bill, then the consequences set out in the Constitution are going to follow.

The delay is not because of this House but rather, it is because of the failure by those who are responsible for introducing the Bills so that they can come into the House. An example is CIC as hon. Members have said, and the various stakeholders. It will be fair that we extend time for an additional four months so that when we come back, we are in a position to comprehensively debate the Bill and pass it.

It is important for Members to know that if we do not extend time for this law and a Kenyan moves to a court of law, this will impact negatively on the image of the House. The public will imagine or assume that failure is on us as a House. It will not be understood that failure is because of CIC and so on. It is, therefore, in our interest as a House that we extend time so that we do not give the public an impression that we are responsible for the delay.

Hon. Speaker, listening to hon. Members, I think the debate for this particular Motion should come to an end and that you allow us, if we have the numbers, to pass it and move forward.

**Hon. Kaluma:** Hon. Speaker, this Motion came to the House late last week and, of course, there was a walk-out from the Minority side. May I add my voice to that of those who have stated that, indeed, there are times when we must realize as a House that we need to be bipartisan. We need to consider each other as leaders. We need to know that there are many issues over which we can stand together or fall together. This is one of those issues.

On my part, I came with a personal decision that I will be supporting this Motion not for fear of recess or dissolution of the House, but for the reason that this is one very important Bill. The Media Bill is one of the Bills that would anchor our fundamental human rights and other governance entitlements that the Constitution speaks to. It is one Bill that requires that we actually take a lot of time to think through.

There is a possibility that we could boycott the passing of this Motion, but the consequence of it will be that we shall be rushing through this very important Bill. That is why we made a decision that today, we need to support and actually go through the Bill. As we find ourselves in this situation, we need to question why we find ourselves in such a situation. We have commissions which are properly mandated to look at issues such as this Bill. We have the CIC and, of course, other commissions.

The situation we are in regarding this Motion reminds us that we need to go on overdrive in the exercise of our oversight mandate. I am not just saying it in the context of this Bill, but remember that in Article 35 of the Constitution we have the Information Bill also pending. We have a host of other Bills which ought to be coming to the House to be passed so that we fully implement the Constitution.

I am sorry to say this because as a Member of this House, I know the power that the law gives us in terms of dealing with those commissions. We have this Commission which should be leading in the preparation of the Bills. The CIC is not able to bring those Bills to the House in good time. However, that Commission is out there talking on virtually every issue that it cares to talk about. So, in as much as we find ourselves in a corner where we have to appear to the nation that we are bending backwards in order to discharge our legislative mandate, we must remind such commissions that for this House to function, we are waiting upon them to do particular things.

Hon. Speaker, may I join those who have spoken on the side of the Majority. There is need for hon. Members to respect each other. I want to thank hon. ole Metito.

Whenever we have issues that can make us move as a leadership of this nation, the approach he gives is that of courtesy and respect. It is an approach that enables you to walk with him in that path of leadership and legislation under the Constitution.

We have problems where you have a leader of the House and, in fact, not a leader of the Government--- A leader of the House went out to the media and said that he can get 50 Members in the Minority side to vote the way he wants any time. It is a slur on the integrity of the leadership of this House. Such attitude ought to be avoided.

I support this Motion.

**Hon. Gichigi:** Thank you, hon. Speaker. I rise to support this Motion. I do not want to belabor the points that have been addressed by the previous speaker. I also feel that this being the National Assembly, we are supposed to lead the way. We are being watched by the entire country. Several things that we may think are jokes, or the way we tease each other, remember the citizenry out there think that, that is the way they ought to treat each other. When you listen to some of those radio stations, you end up thinking that there is war in this country. I agree that we need to ease on the divisions in terms of the coalitions.

Further, we have constitutional deadlines. The country should know that we are not to blame. Looking at the Constitution, the idea was that the elections should have been held in August last year, but they were held in March this year. So, there are quite a number of arrears in terms of what the 10<sup>th</sup> Parliament ought to have done. If there is any blame, it should not be placed on the 11<sup>th</sup> Parliament and perhaps, it should be to the 10<sup>th</sup> Parliament. We came here late and we found the in-tray full. We had to deal with the budget-making process and that took most of our time. I am happy that we have taken care of the necessary Bills to ensure that the Government had money by the beginning of this month to run its operations. We should have more time to consult the stakeholders. On my part, I need more time so that I can speak with the people who are complaining about this Bill.

I beg to support.

**Hon. (Maj-Gen.) Nkaisery:** Thank you, hon. Speaker, Sir. I also stand to support this Motion. I want to point out a few issues here. This Parliament is being blamed for no reason at all. An institution like CIC, which is mandated by the law to meet deadlines with regard to the Bills, is the one that is failing this country. That Commission needs to be censured.

Secondly, CIOC has also failed four months down the line. That is because when you look at the Fifth Schedule of the Constitution, there are certain Bills which require to be tabled in Parliament based on a specific deadline. Therefore, when we come here and say that the 27<sup>th</sup> August is the deadline and it means that if we do not pass this Bill, somebody can go to court and demand that the President dissolves the House, we should know that choices have consequences. Some of us are never afraid to go back and face the electorate.

I want to tell my friends on the other side that you can be very effective on the tyranny of numbers, but with very useless Motions. But when it comes to constitutional Motions, the tyranny of the Opposition or the Minority is very effective. You cannot pass any constitutional issue without a two-thirds majority and you cannot get it without this side of the House. So, from today, we need to see the most important thing for this nation. The issue of the mood of the House is a way of gagging Members from



contributing. There is no mood-meter. I have not seen any mood-meter displayed here to measure the mood of the House. So, we should stop that habit. Let Members contribute effectively, so that Kenyans can understand that their representatives are debating very important issues.

When it comes to the issue of seniority, and I want to comment on that, as we pass this Motion tomorrow, we want hon. Kamanda, the Chairperson of the Committee on Transport, Public Works and Housing to confirm to this House who is senior. He knows the value of seniority. He was a Cabinet Minister and when he landed in Bangkok, the only person the Thai people would recognize was the General. I had to save this fellow from embarrassment. So, when you talk about seniority, it is very important. We know that we have equal rights in this House, but in the United States of America, the Congress, the most senior Senator that they refer to is John McCain. Any President coming to power will get John McCain and other two senior Senators for consultations. We cannot allow seniority to die. We must respect seniority.

So, I support this Motion. We need to rein in the Charles Nyachae Commission. It is the one which is failing this country. I was a Member of CIOC under the former Chairman, hon. Abdikadir and not a single commission could challenge anything if they were not meeting their deadlines. So, the Chairperson of the CIOC and the Committee Members are sleeping on the job.

With those few remarks, I support.

**Hon. (Eng.) Mahamud:** Hon. Speaker, Sir, I beg to support. This House is not being serious. When we are unable to enact a law, we are also unable to extend time. For the last three days, this Motion has been put on the Order Paper and we have been unable to raise the required number. There are no two ways about it. We either extend time or look at the consequences that are contemplated in the Constitution.

The failure by CIC, the Law Reform Committee, the Attorney-General and all the institutions which are empowered to bring legislation is not an issue here now. The issue is that time is about to pass. The 27<sup>th</sup> August is very near and we must extend. This House was a bit full a few minutes ago. We have disappeared again one by one. We need a strategy as a House to see how we can extend time for this Bill. Otherwise, from 3.00 O'clock, we have just been wasting time debating an issue which we know there are no two ways about it. We must extend time, but how do we do it? We are just disappearing from the House. The leaders of the House must get together and see how we can whip everybody to be here in the next session, so that we can extend time for this Bill.

I beg to support the Motion.

**Hon. Wakhungu:** Hon. Speaker, Sir, I rise to support the Motion.

**Hon. Speaker:** Hon. Wamalwa, a moment. Members, I can see some of you grimacing and raising fingers in desperation. Remember, when you arrive here, you put a request. So, we must also allow those who have been here patiently, even as you strolled in an hour later, the opportunity to contribute if they have put in their requests. So, please, because you walked in late, do not just imagine that you are seen on account merely that you grimace, open your eyes widely than normal or open your mouth. That is not the way to be recognized. Please, just like hon. Maj-Gen. Nkaissery talked about the issue of seniority, we must begin respecting the fact that there are some of us who were here at 2.30 p.m. and made requests. Surely, we must allow them to speak before the rest of you, in as much as we may have a lot of respect for the faces that you make. We respect that

and we allow you to make the faces but, please, that is also another aspect of seniority. They arrived here earlier than you. Hon. Wamalwa, please, proceed!

**Hon. Wakhungu:** Hon. Speaker, Sir, I rise to support this Motion. Indeed, this is very important. We are here as Members of Parliament and all of us do oversight. It is not an issue to do with CORD or Jubilee.

It is said that “united we stand, divided we fall”. I support the extension by four months. With regard to this critical Bill, we need ample time to do stakeholders’ consultations. It is an issue that has brought about a lot of interest and that is why we need ample time for consultations. As we move on, we do not want it to be a blame game, but we know that CIC has let us down badly. It is highest time that we focus on their key priorities especially the Chair, Mr. Charles Nyachae, who has been engaging in almost everything. You talk of salaries or the problems of the Senate, he is there but when it comes to constitutional Bills that are supposed to be accomplished within a given timeframe, he sleeps on the job.

My humble request to *Mheshimiwa*, my friend from Githunguri, is that I think it is also high time the CIOC had a clear timeframe and deliverables so that we do not rush those issues when they come to this House. I know in the 10<sup>th</sup> Parliament we had some Bills that were passed but Members were accused of rushing through the Bills. We do not want this 11<sup>th</sup> Parliament to do the mistakes that were maybe done by the 10<sup>th</sup> Parliament. I also want to confirm that some of us who are junior Members of Parliament are not competing with the senior ones. We respect you very much senior ones and with time we will also be there. We know very well when there is that order we are going to have a smooth way of running things. So, we are not competing. I have no problem. I respect *Mheshimiwa* Nooru very much. He is serving his fifth term. Maybe God willing we will also be there. So, I want to confirm that we are not competing.

Hon. Speaker, Sir, we should not encourage divisions in this House. We need to provide leadership and as a Whip, we have been doing this whipping since last week and as you can see, my side can actually demonstrate the numbers.

*(Laughter)*

As time goes by - Members have only gone to have some tea - they are going to come back and it is my prayer that all of us support this Motion and if possible it passes today. My friend, hon. Arati here is saying that he thought he was still in Nairobi City Council (NCC) but he has confirmed that he is in the National Assembly. He is my very good friend though he was saying he wants to oppose but he is converting. Just like Saul became Paul, he is going to support this.

Hon. Speaker, Sir, we have Members of Parliament here who are also facing petitions and it will also be a good time for them to go and follow up on their petitions.

**An hon. Member:** You included.

**Hon. Wakhungu:** Not myself, of course. I am not having any petition. I also want to congratulate you, hon. Speaker, for promising to provide a room for the media because it is very important to have the media around. They are part and parcel of social accountability and in fact this Bill applies to them so that they can also be reporting objectively and professionally. We must all co-exist for the national good of this country. For the Members of Jubilee, I want to say this, being in CORD side does not mean we

oppose everything. That is a very wrong assumption. We are here for the national good of this country and you also need to know that when you rise as a leader, do not rise to make us be apart. Come together for us to unite and I want to congratulate *Mheshimiwa* ole Metito. From the very first time I met him, he has been very good and he has been trying to bring cohesiveness and, of course, of late even the Leader of Majority Party is also following suit. So, I am very sure we are doing a good job. Let us unite and work together as a team for the purpose of improvement of the welfare of this country.

Thank you, hon. Speaker, Sir. I support.

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

**Hon. A.B. Duale:** Hon. Speaker, Sir, I stand to support this Motion. The Media Bill and Communication and Information Bill are also very important.

**Hon. Speaker:** Hon. Mutahi, on a point of order.

**Hon. Kimaru:** Hon. Speaker, Sir, I did not intend to interrupt the Leader of Majority Party but I had indicated earlier that I wanted to rise on a point of order and in particular under Standing Order No.96 on adjournment of debate. From the look of things, the numbers in the House continue to dwindle. I may wish to rise on that point of order so that this debate is adjourned and so that the Whips make sure that we have the numbers. At this rate, I do not think we are going to achieve the numbers because people keep flowing in and out.

So, hon. Speaker, I am asking that we adjourn this debate probably until tomorrow morning and for the Whips, let us be realistic. At this rate, I do not think we are going to achieve the numbers. So, if other Members of this House are in agreement with me, I think it would be a prudent thing to adjourn and probably get back to this debate tomorrow morning when we can marshal the numbers – when we have done a better job at marshalling the numbers. I think the highest numbers we have got so far are 200 and they keep going down.

So, hon. Speaker, I move that we adjourn debate until tomorrow when the Whips will have mastered the numbers.

**Hon. Speaker:** Well, the issue is that we have Members who are contributing and more particularly the Leader of Majority Party who was on his feet and it is fair that we give him a chance. I will also advise again for free as I should that it is not necessary that you should always proceed under Standing Order No.96 even if you think you are likely to raise the necessary quorum. Indeed, other processes can still follow which are open to the House. I do not want to say beyond that. I hope all of you appreciate your own Standing Orders and what other routes you can proceed without necessarily adjourning debate for purposes of further reopening it tomorrow for discussion. If you are only adjourning for purposes of coming to raise numbers and vote, it may be easier so that we can move to other businesses available on the Order Paper but in the meantime, let the Leader of Majority Party proceed.

**Hon. A.B. Duale:** Yes, hon. Speaker. I agree with you. I do not want the public to see that we are full in the House just because we want to get the numbers. We have a mandate to serve the people of Kenya. It is a Tuesday afternoon when we are supposed to be in Parliament and I am sure the colleagues who went out are having tea, according to the Whips. Before we put the Question, the bell will be rung and I am sure there are many Members who will come back. If we can raise quorum, that will be okay. We are 215 and I am sure at 215 we are yet to raise the two-thirds majority. I know from last year's

experience raising a two-thirds majority is a bit tricky but I am sure the commitment is there.

Hon. Speaker, but why are we doing the extension? We are doing the extension because it is not the fault of Parliament that this Bill has come very late. It has been published. This Bill will mature on 6<sup>th</sup> August 2013. The moment it came to Parliament and you signed and it went to the Government Printer, Parliament did not even stay with this Bill for less than seven days. So, I am sure either the Executive or the commissions that are mandated have failed since last year because when we went for elections, CIC was not in any election. They had all the time. The Attorney-General's Office was not in any election and I am sure there are only two arms that the Bill went through. The Law Reform Commission was not in any electioneering period. So, there were only two groups that can say that they were busy between October and March or April. Those were the National Assembly of the Republic of Kenya and maybe the Cabinet but the other arms that were part of the process of making Bills were in office as late as two years ago.

Hon. Speaker, I think the Media Bill is a very important Bill. It is a very controversial Bill. Already the stakeholders are raising a number of fundamental issues. There is an issue that there is an attempt to regulate the media and it is a very fundamental thing. It is an issue and we need to find out who wants to regulate the media and why they want to regulate it. For what purpose and for what reason?

Secondly, I think the media is an important sector in any socio-economic growth of any country and I am sure if we give the months of September and October to the stakeholders so that the committee that is seized of this Bill will go and do public participation and talk to the stakeholders, then I am sure that at the end of the day we will have a win-win situation. Every Bill that comes to this House has a stakeholder's preference. It has a group that it affects in its regulation. So, I think the Media Bill and the Information and Communication Bill affect those two sectors very fundamentally.

Secondly, hon. Waiganjo has raised a fundamental issue. The Parliamentary Service Commission (PSC) that you chair will look at this matter. Again, it is the leadership in the last Parliament, in my opinion, that said that the 11<sup>th</sup> Parliament--- That is because Kenyans voted for a new Constitution in 2010. They knew that there will be a bicameral Parliament. They also knew that there will be the Senate and the National Assembly. They knew that there will be 349 Members.

I am sure that PSC and the Government at that time should have had the foresight to foresee that there will be 349 Members and that the gym that we are using now will be different; that the facilities that will be used by this Parliament will not be the same; that the offices will have to increase and that the cafeteria must be expanded. I am sure that somebody somewhere must have failed but now that the leadership that you lead is seized of the matter, we and the PSC have no choice but to come and---

Hon. Speaker, Sir, even the constituency offices are not operational. All those issues can be dealt with if we go on recess in August. That is because the Speaker will have more time to sit in the office and Members can go to their constituencies. I think in one month's time, we are supposed to submit the various Constituencies Development Fund (CDF) projects to the CDF Board and to the Ministry of Planning to look at them. So, even Members of Parliament need to go back to their constituencies and look at the projects that they want to submit so that, by the time we come back in October, we have projects that are approved so that money can be disbursed to our constituencies.

Hon. Speaker, Sir, on the Motion, this is not the first time that Parliament is moving this kind of Motion. We did it when we were extending the time for the Land Commission; the laws that appertained to the Land Commission got a similar extension in the last Parliament. However, I am sure that it is the commitment of each and every individual Member to that matter. There are Members who have sat here from 2.30 p.m. until now to make sure that this Motion goes through. However, because of human nature, you will see some who came a few minutes ago technically going out. I hope that this is not what the media is writing; that Members of Parliament make technical appearance even in Committees. It is very shameful my colleagues. When you go to a Committee meeting, it is your contribution, presence and critique of that agenda that matters to this Parliament and to the people of Kenya.

If we do not raise the number today, we will have a chance tomorrow or on Thursday. However, I am sure that each and every one of us will look at the Members from his or her county. How many Members of Parliament from your county are in the House today? Starting with me, nearly all my county Members are away. I am not seeing hon. Shidiye and many others. So, can you look around and see whether your county Members of Parliament or your colleagues are there?

I am sure Kiambu County has 12 Members. Please, let us make sure that we get our colleagues if they are in town so that we can pass this Motion and then we move on to more substantive agenda. The Value Added Tax Bill and other financial-related Bills are waiting for us.

Hon. Speaker, Sir, I beg to support.

**Hon. Member:** Hon. Speaker, Sir, we have had a lot of debate and Members supporting the Motion. Under Standing Order No.95, am I in order to request that the Mover be called upon to reply because we do not have to vote today?

**Hon. Speaker:** Hon. Members, I know that a number of you want to speak not to the Motion but to the Bill.

**Hon. Member:** We have had enough contribution in the House.

**Hon. Speaker:** You are totally out of order!

*(Question that the Mover be now called upon to reply, put and agreed to)*

**Hon. Baiya:** Thank you, hon. Speaker, Sir. I wish to appreciate the contribution made by Members, particularly in support of this Motion. I also appreciate the concerns they have expressed concerning both institutions that were involved in ensuring that the Bills were brought before the House. Perhaps, some of the concerns may be that the Members were not able to get them during the initial movement of those Bills. It is important to reiterate the fact that, as far as CIOC is concerned, it is not able to pinpoint any blame anywhere. That is because as I said, the two Bills relating to the media were forwarded by the Attorney-General's Office on 21<sup>st</sup> June to CIC. The CIC stayed with those Bills and forwarded them back to the Attorney-General on 16<sup>th</sup> July. Those Bills found their way to the House on 19<sup>th</sup> July and they were referred for publication by Parliament by 23<sup>rd</sup> July. Therefore, it is not giving Parliament sufficient time to ensure that the two Bills are published and read the First Time within 14 days. That delay did not arise because of the CIC or the Attorney-General.

Generally speaking, legislation emanating from the Executive can only arise after it has originated from the relevant Ministries. In this particular case, there were no Ministries in place because the country had gone through elections on 4<sup>th</sup> March. During that time, there was no Cabinet or government. Immediately after the elections, the country was primarily concerned with the matters of the Presidential Petition and appointment of Cabinet and Principal Secretaries. After that, Parliament was concerned with forming Committees. Immediately we finished those responsibilities, our first pre-occupation was with the Budget, whose timeline had, again, been thrown into disarray by the election calendar. So, by the time we came to address those Bills, timelines had been substantially disturbed. We are struggling now to put everything in the process. What we can assure this House is that the CIOC will take charge and ensure that no such delays recur.

*(Loud consultations)*

**Hon. Speaker:** Order! Order, hon. Members! In as much as I appreciate that you need to consult, please, lower the decibels.

**Hon. Baiya:** Hon. Speaker, therefore, I urge hon. Members to allow for the extension of time, so that we can be able to comply.

With those remarks, I beg to move.

**Hon. Speaker:** Hon. Members, as you know, I cannot put the Question until we confirm that we have the necessary quorum. Even looking at the gaping holes, it is obvious that we do not have quorum. Therefore, I defer putting of the Question on this Motion until tomorrow afternoon.

*(Putting of the Question deferred)*

Next Order!

## **BILL**

### *Second Reading*

#### THE VALUE ADDED TAX BILL

*(Hon. Langat on 25.7.2013)*

*(Resumption of Debate interrupted on 25.7.2013)*

**Hon. Speaker:** Hon. Members, this is resumption of debate interrupted on Thursday, 25<sup>th</sup> July, 2013. No Member was on the Floor at the time of interruption. So, the Floor is open to any hon. Member who wants to contribute to the Bill.

Yes, hon. Gladys Atieno Nyasuna!

**Hon. Nyamweya:** *(off-record)*

**Hon. Speaker:** Hon. Nyamweya, the record of the House shows that there was no Member on the Floor when debate on this Motion was interrupted. You finished making your contribution.

**Hon. Nyamweya:** (*off-record*)

**Hon. Speaker:** Hon. Nyamweya, I will not engage in that kind of exchange. Please, learn how to engage the Chair. If you had really not completed contributing to the Motion, you should not have just remained seated when I was being told that everybody had completed contributing to the Bill by the time of the interruption of debate. I was not in the Chair.

Proceed, hon. Nyasuna.

**Hon. (Ms.) Nyasuna:** Thank you, hon. Speaker, for giving me the opportunity to contribute to this debate.

This Bill has drawn a lot of public attention. The form in which it was brought to the House at the very beginning looked completely unacceptable. I have gone through the Report of the Committee on Finance, Planning and Trade. The Bill now looks a lot better than it was at the beginning. I am happy with the move by the Committee to bring amendments to include a lot of the basic items in the list of exempt items. I am particularly happy that kerosene will now be on the list of exempt items because it is really essential. When you tax kerosene, you get to the life of that very poor Kenyan. In the villages, kerosene is bought in some very small containers. I was wondering how much of that we were going to reduce with taxation on kerosene. Therefore, I am happy with the Committee's amendments and hope that the House will pass them to exempt kerosene, *unga* and other essential items from taxation.

Hon. Speaker, what remains of great concern to me is that all the items that people had complained about have now been included in the list of items exempted from VAT, with the exception of sanitary towels. For women, sanitary towels are even more important than *unga*. Imposing VAT on sanitary towels will return our women to using blankets. We have many girls who have dropped out of school because they are unable to access sanitary towels. We have begun programmes in this country to provide sanitary towels to schools but we know that they have not reached all the schools and all the poor students. As I speak, I am looking at the Chairman of the Committee, so that he can tell the women of this country why everything else, except sanitary towels, has been included on the list of the zero-rated items. The women of this country are looking forward to getting an answer as to why sanitary towels have not been zero-rated, as they were previously.

**Hon. Langat:** On a point of information, hon. Speaker.

**Hon. Speaker:** Hon. Nyasuna, the Chairman of the Committee wants to give you information.

**Hon. (Ms.) Nyasuna:** I accept the information, hon. Speaker.

**Hon. Langat:** Hon. Speaker, I want to sort out my friend, so that she can be comfortable. We had a meeting today and agreed that sanitary towels will be part of the items to be exempted from VAT.

**Hon. Speaker:** Proceed, hon. Nyasuna.

**Hon. (Ms.) Nyasuna:** Hon. Speaker, I actually remained on my seat to stamp my feet because I am very happy to hear of that development. That is a win for us. Without that review on the matter by the Committee, it would have taken us back many years. I

hope that this House will approve that amendment, so that our school girls and many poor women in this country, who would otherwise not afford this particular item, can access it.

With those few remarks, I beg to support.

**Hon. Speaker:** Yes, hon. David Gikaria.

**Hon. Gikaria:** Thank you, hon. Speaker. I had actually placed this request a long time ago, so that I could speak on the Motion that has been disposed of but now, having been given the opportunity to speak on the Value Added Tax Bill, I want to first of all say that I support the Bill. The Jubilee Government has made very many promises to Kenyans. I am not saying that the Government is going to get their money solely from VAT but this is partly the area from which it will raise its revenue in order for it to actualise the promises it made to Kenyans.

I want to support the Government's move in removing some very basic items from the VAT bracket; mostly the very basic food items and, of course, kerosene, which the common *mwananchi* needs on a daily basis. If you look at the amendments that the Committee has, I want to thank them for the good work that they have done. According to the current VAT Act, the Cabinet Secretary has powers to waive tax on certain items but the Committee has since proposed amendments to ensure that he remains with only a few powers to, maybe, just increase or reduce the rates but not to expressly limit and waive any item from taxation.

Of course, the Committee has indicated very clearly that the common *mwananchi* will not be affected by the amendments they have proposed because the Jubilee Government had made some promises, which they have to accomplish. There were proposals contained in the VAT Bill which had brought a lot of controversies. The Committee has since dealt with those issues. I want to take this opportunity to thank the Chairman and his Committee for the good work they have done.

With those few remarks, I beg to support.

**Hon. Speaker:** Yes, hon. Ng'ongo.

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

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

**Hon. Ng'ongo:** Hon. Temporary Deputy Speaker, Sir, first of all, as a Member of the Certified Public Accountants of Kenya (ICPAK), I want to register from the outset that, for a long time, we have called for a repeal of the VAT Act as it is today. The VAT Act, Cap.476 of the Laws of Kenya has its weaknesses and, therefore, there has been increased pressure to have a new VAT law in place, first of all, in terms of management and administration. The complexity in management and administration of VAT in this country has been a source of concern not only to the economists, but also the accountants. Two of the basic principles in taxation are simplicity and economy. You need a tax law that is simple to apply, simple to administer and simple to manage and which, in essence, will result into inexpensive or a cheap way of collecting tax, thereby, realizing the economy as an advantage. I want to add that one of the strong points or the positives of this Bill would be to reduce cases of fraud in terms of refunds because when you have so



many items that are zero-rated, you are faced with the possibility of a number of taxpayers defaulting through fraudulent means.

Another thing that I would also want to point out is that this Bill seeks to avoid distortions and possible leakages in revenue collection. The refund period has been reduced from 12 months to three months. That is a welcome move as well as computerizing or applying IT in terms of revenue collection. However, I would observe that before the proposed amendments - and that is the Bill that we are debating - there is the Report of the Departmental Committee on Finance, Planning and Trade. It is important to acknowledge and appreciate that the Bill we are talking to has not captured those amendments. Therefore, when we critique the Bill, we critique it as it came from the Government and that is where the problem is. The Government has sugar-coated this Bill. Any government in the world must be concerned about the cost of living of its citizens. The Jubilee Government campaigned on the platform of reducing the cost of living and making life better to the people of Kenya. The policy of the Jubilee Government as it is today is tax everything; maize flour, milk, sanitary towels, medical items; tax everything, anything and everybody until there is nothing to tax. That is not the way to govern. If the Jubilee Government wants to govern properly or raise revenue - and I know the concern is to raise revenue - there are better ways of raising revenue. You do not have to tax the poor.

One of the principles of taxation is equity. Go for the rich; do not go for the poor. In this country from 1982, the Capital Gains Tax was suspended. There is no reason why I should be taxed for providing sanitary towels to girls in my village and yet, someone who spends Kshs20 million to construct a house and sells it for Kshs30 million thus getting a profit of Ksh10 million, is not paying tax on that Kshs10 million. There is no reason at all why people who buy and sell shares cannot pay tax on profit on sales of shares. The Government needs to be more innovative and proactive. Some of the taxes that were suspended need to be reinstated. I want to urge that when you go to the informal sector, it is not properly taxed in this country. Look at the *matatu* business, they are not paying tax. We need even to go to church. Some churches are in business. They are making huge profits and they need to pay tax. It is high time this Government thought of innovative ways. They should think of innovative ways as opposed to making the fishermen in Lake Victoria who are using hooks to pay an additional 16 per cent on the cost of a hook. As for mosquito nets, some of us who come from around the Lake need them so that we do not get problems of malaria. If you are going to tax that while leaving rich businesspeople out there, you are missing the point.

Hon. Temporary Deputy Speaker, Sir, if you read some of the provisions or clauses in this Bill, we have to make amendments. If you take, for example, clauses 27 and 28, they speak to a possibility where if there is contention; if I contest the VAT payable by my business, that if I own a house, it can easily be auctioned just because I have contested the VAT payable. This is punitive to land owners; it is discouraging investment. We need to look at some of those provisions critically and make amendments where necessary. I have no doubt in my mind that this Bill should be a better improvement to what we have today. You cannot have over 700 items either exempted or zero-rated. It is untenable. We have about 473 items which are found in the schedule to the current VAT Act that are either exempt or zero-rated. Besides that, over the years, this House has periodically and consistently, through Finance Acts, been adding more

items to be zero-rated and exempt but that should not give this Government a blanket cheque to tax everybody, anybody and everything. Remember this Government is in the process of taxing financial services. Very soon, they are going to tax everything including, if you maintain an account and you are earning only Kshs2,000 in that account, you are going to pay more now because this Government overpromised things, some of which are not even priorities. They want the Kenyan public to finance those non-priority areas by heavily taxing them. Instead, if they want to finance those non-priority areas, they should be innovative. They should think of better ways of raising revenue.

If you look at Clause 52 of the Bill, it is giving the Commissioner powers equivalent to those of Supreme Court. You find under Clause 52(3(e), it says the decision of the Commissioner is final and cannot be subjected to appeal. That is power that is only enjoyed by the Supreme Court of this country. This Bill, much as I appreciate that it is responding to calls of some professionals like myself over the years that we reform the VAT Act---

*(Hon. Langat pointed at himself)*

Hon. Langat is also pointing at himself. I know we were with him in the same campus but somehow, he has refused to be a member of our institute, but that is on a light touch. I want to say that he is yet to pass some small hurdle to enjoy the same privileges that hon. Ng'ongo enjoys.

The proposed amendments that you have suggested should not just be wish lists in form of reports. Make sure that they are actualized. I have looked at your Report and realized that some amendments are for further consideration.

**The Temporary Deputy Speaker** (Hon. Cheboi): Hon. Mbadi, you should be winding up.

**Hon. Ng'ongo:** Hon. Temporary Deputy Speaker, I know I had 10 minutes. This is why I was complaining that sometimes you need to give us more time and people should choose which Motions their input will be needed most. That way, we will not have everybody speaking to some of those things.

*(Laughter)*

Hon. Temporary Deputy Speaker, the Cabinet Secretary may amend the rate of taxation. That is an amendment that should come. It should not be deferred for further consideration. We should not allow the Cabinet Secretary to amend the rate of VAT. He can amend the rate of Excise Duty, but not VAT. I do not understand the rationale behind this.

The Government needs to support the poor and not hurt them. It is good that the Committee has thought positively of bringing amendments. I too will bring more amendments. I hope hon. Langat, the Chairman of the Committee, will support my very positive amendments. When I bring amendments to a matter like this one, it is for a good reason.

**The Temporary Deputy Speaker** (Hon. Cheboi): I am going to give an opportunity to the Leader of Majority Party. However, I would like to ask hon. Members to be alive to Article 114(2) of the Constitution. If you have amendments you should

bring them to the Clerk to be sent to the relevant committees, so that they can be processed properly.

**Hon. A.B. Duale:** Hon. Temporary Deputy Speaker, I stand to support the VAT Bill, 2013, of course with amendments that I am sure the Committee on Finance, Planning and Trade will bring forth.

We want to make it categorical that as a country that wants to be a leader in investment and the hub of financial activities in East Africa, we need to have a modern VAT law. This VAT Bill, 2013 is a replica of the VAT Bill, 2012. I was one of its opponents in the last Parliament, and who made sure that the former Finance Minister withdrew this Bill because of a number of issues.

The VAT Bill, 2013 is a very good law. This is a law that will create clarity. The current VAT law that we have is ineffective. It is also ambiguous. It does not help the business community. In this new proposed law, there is a roadmap as to how the business community will use this law to create a friendly investor environment. Secondly, the procedure of administration of any law, including the VAT law, must be one with a high degree of certainty and that will not take a lot of the taxpayers' time.

The World Bank came up with a report in 2010. They ranked countries in terms of hours wasted in paying taxes. How many hours does a taxpayer waste in a day, month or year? Kenya was rated at 72 per cent. This document is available. Kenyan taxpayers, the report reveals, waste 72 per cent of their time in filling forms and seeking VAT refunds every month. Kenya was ranked at 154 out of the 164 countries listed in that report. Rwanda, South Africa and Mauritius did much better. I think Rwanda was ranked 24<sup>th</sup> and South Africa 15<sup>th</sup>. What am I coming to?

We must make the payment of taxes very efficient and less time consuming for our business community. The law that we have now on VAT, the compliance rate is very low. This means that the tax authority mandated to collect the tax is not aided at all. The current VAT law has created huge refund backlog, running into billions of shillings. The Chairman is telling me it is Kshs29 billion. Nobody can verify whether or not that backlog is genuine. We need to have a law which will ensure that the backlog is reduced.

Hon. Temporary Deputy Speaker, the VAT Bill, 2013 is one of the best in this region and even internationally, if only we enact it as law. If we do that we will be the best. A tax collection law must be very simple. It must be modern, efficient and improve compliance rates. This ought to be the time this House is full of hon. Members now that we are discussing this VAT Bill, 2013. This is because this is a matter that affects the people of Kenya. Parliament must increase the technical capacity of committees. Members must be encouraged to read Bills that come to this House. I do not think it was important for us to do an extension of time of a media Bill by four months when, during discussion on a VAT Bill that affects the common man and businesspeople, we are less than 50 or 20 in the House.

There must be a fundamental difference between exemption and zero-rating. Exemption must only be restricted to unprocessed items. Zero-rating must only be restricted to export of goods. It is from that dimension that we can determine the goods for which we can give exemption and the goods for which we can zero-rate. There are people out there who are saying that if we tax *unga* then the common man will suffer. That is an illusion. I know that 75 per cent of poor Kenyans do not use processed *unga*. They do not go to supermarkets like Nakumatt. They buy their maize which is ground in

posho mills. So, this VAT law is only imposing tax on processed *unga*. How many Kenyans go to Nakumatt Supermarket? There is nothing wrong if we charged VAT on goods that are consumed by the middle class and the wealthy. Everywhere in the world the middle class and the wealthy pay taxes to support social security policy for the poor.

I want hon. Ng'ongo to listen to me. In Jubilee we are taxing everything, but we are creating more subsidies. We must say that. We tax the wealthy. We charge VAT on goods used by the middle class and the wealthy to provide subsidies for our farmers when it comes to fertilizers and even to create social security. If we charge VAT and get something from the wealthy and the middle class and provide more social security like a universal health care for Kenyans, then we will be going in the right direction. If a jobless Kenyan on the streets can walk to a clinic and get treated when he falls sick, that is what nation building is all about.

Fundamentally, the Jubilee Government has realized that you tax the rich, the wealthy and the middle class and reduce the gap between the poor and the rich. You also need to provide free sanitary towels to all the poor girls in this country and build infrastructure. Insecurity is high in our country. I support the Committee in terms of exempting *unga*, sugar and bread from the VAT. If you look at milk, 80 per cent of the rural Kenyans use unprocessed milk. So, if milk in the supermarket is taxed and the tax money is ploughed back to provide social security, we are going to improve the livelihood of our people. We will be able to construct more schools, health centres and provide social security. I am sure the Jubilee Government will bring a social security policy document to show how the common poor Kenyans are gaining from that.

I support.

**The Temporary Deputy Speaker** (Hon. Cheboi): I would have given a chance to hon. Osele, but he is not ready. So, I am giving a chance to hon. Emaase. Hon. Hon. Osele is busy somewhere.

**Hon. (Ms.) Otucho:** Thank you, hon. Temporary Deputy Speaker, Sir, for the opportunity to contribute to this very important Bill. The VAT Bill is very important in the sense that it is through the VAT that the Government raises some of its income. The perception that has been painted out there about this Bill needs to be corrected. We need to tell the people the truth.

Kenya is not an exception. Looking at nations all over the world, most of them depend largely on taxation as one of their revenue source to finance their budgets. Again, we are a Third World country largely because of our inability to collect enough revenue through our taxes. Even when we collect taxes, we still lose a lot of it through the loopholes that are inherent within our systems. Before I even contribute to this Motion, I want to send a very strong message to the KRA that they need to put in place stringent measures to ensure that the revenue that is going to be collected through taxes is efficiently and effectively managed for the benefit of this nation.

Having said that, there are very good things about this Bill. I am happy that the Leader of Majority Party has touched on a number of them. First and foremost, the Bill seeks to broaden the tax base. Some of the items that were in Schedule II of the previous Act are being removed, so that the tax base is broadened to realise the revenue that the Government is looking for. Secondly, this Bill also seeks to speed up the adjudication of the VAT matters at the KRA, so as to allow for both public and private hearings and also simplification of administrative procedures.

If you look at Clause 6(1) and Clause 7(2), they specify timelines for implementation and compliance. So, there is a lot of clarity that is coming in with the new proposed Bill. Also, this Bill seeks to restructure the entire legislation to make it shorter and user-friendly to the taxpayer. Hon. Members will agree with me that this Government needs to raise money. It needs to make our roads better, improve our health institutions and raise money to pay salaries, including salaries of the Members of Parliament. It also needs to raise money to pay salaries of the health workers and teachers. It needs to raise money to improve the living standards of all the Kenyans. As a Member of the Finance, Planning and Trade Committee, we have looked at the Bill and it is also important that we note that there are certain grey areas that require amendments. Therefore, I support this Bill, but with amendments which we are going to bring at the right time, during the Committee Stage, so that we can address some of the areas of concern, especially the areas that concern the poor people of this nation.

A case in point is the tax on basic commodities. We are saying that we are going to propose an amendment to some basic commodities like maize, rice, flour, infant milk and sanitary towels, so that those commodities are exempted from VAT. We are also saying that the proposed Bill comes with certain changes which, if we do not address, will remove the opportunity for fiscal stimulus in certain key sectors of the economy like agriculture, mining, energy and infrastructure. So, we are saying that there are certain areas that we have to amend. For instance, if you look at mining, it is a very risky investment. It is a risky venture. If we are going to impose tax on supplies in this sector, then we will discourage investments. We will be proposing some amendments in those areas. If you look at Chapters 84 and 85 in terms of exemption on plant and machinery, there are certain local services that are consumed by this sector, which will also be subject to tax. Those are inputs in the mining sector. We need to look into all those areas and consider proposing amendments.

When you look at the aviation industry, taxation on the purchase and leasing of aircraft will render our aviation industry incompetent. It might not be able to compete with other industries within the region. We will also be looking at this and proposing certain amendments.

With those few remarks, I beg to support. The Bill is not as bad as it has been painted. The Bill is good, but there are certain areas that we need to amend, so that we can make it acceptable and good for all Kenyans.

**Hon. Kajwang':** Hon. Temporary Deputy Speaker, Sir, I rise to oppose this Bill. Parts of this Bill are so wrong that I am unable to wear spectacles to see what parts of it are good. We are being told that the Committee has looked at certain sections to which they are going to bring amendments. I refuse to bank on the promissory note of this Committee that there will be amendments that will make this Bill acceptable to me both as a consumer in this country and as a legislator for Ruaraka.

If there are amendments, and we have had time with this Bill, why can the Committee not withdraw the Bill and present a Bill without all the issues that are making us have bad feelings about it? To the extent that they are unable to remove those parts--- We know what happened to us when we were discussing the Budget. Some of us who are not knowledgeable in issues of finance were carried away by high sounding words which came from Government officials, and people who are in the know in financial matters. At

the end of the day, we said “Ayes” and “Noes”, and before we knew it, the Budget had passed and we had no time to put in the things which we should have put in.

For example, we need amendments to this Bill, and you have rightly pointed out Article 114(2). Those amendments must be such amendments that are taken to the Cabinet Secretary for processing. Some of us are not given to technicalities in financial issues; we are unable to propose amendments, but we know it when our pockets feel the pinch. So, amendments will only come from the Committee. The Committee should withdraw this Bill, clean it and give us a Bill which will take only five minutes to debate and we pass it.

I want to speak on this Bill as a Member for Ruaraka. I have heard the Leader of Majority Party speak as a Member for Garissa Town, but in Ruaraka, I represent Mathare and Korogocho and we do not have camel milk there. There is no way you will process camel milk until you give me something. I depend on the pint of milk which is sold in the kiosk.

I represent Korogocho in which we eat sifted maize, not by choice, but because we live in a city where sifted maize is in the kiosk. I am able to get it much easier than I can get maize and take it for grinding in the nearest posho mill. So, if the Leader of Majority Party thought that he was talking to middle class, my people of Mathare are not middle class. My Kariandundu people are not middle class. There are people in Dagoretti, men and women, who wake up at sinful hours of the night, and who have to work their back stiff to make rich people happy in their houses. I am talking about the watchmen who have to take care of those people as they sleep comfortably with their families at home. Those are my people and I went before them and said that I would watch their cost of living.

One *gorogoro*, the unit for measuring maize in Mathare where I come from, costs me Kshs90 to buy and grind.

**The Temporary Deputy Speaker** (Hon. Cheboi): Hon. Kajwang’, you must explain what this *gorogoro* is and even Kariandundu or whatever you have said.

**Hon. Kajwang’:** Hon. Temporary Deputy Speaker, Sir, *gorogoro* is the two-kilogramme tin that we use to measure maize before we can go to the posho mill. I do not know any other unit of measuring maize flour other than that used where I come from. So, that costs Kshs90. A kilo of sugar is Kshs120. Cooking fat; that is if you are privileged to get one kilogramme which we do not get, we always measure something in portions at Kshs120. Bread is Kshs45. Milk is Kshs40. When I put together the cost of those items that the ordinary and reasonable woman in Korogocho puts in her shopping basket, the poor lady should be prepared to spend some Kshs800, while on a lucky day when the husband comes from a factory, perhaps, he can only bring in Kshs120. So, the Jubilee Government must be sensitive to the cost of living. This is something which to me is a constitutional issue because it relates to the right to life.

This is one Bill which I think we would have discussed with the Upper House instead of with Members who are excited about procedural issues that we are discussing. This is the heart of the matter. I will tell the Chairman of this Committee as the Member for Ruaraka that I am ready to support his Value Added Tax Bill only if he gives me a Bill that does not contain offensive issues like the ones I can see. What is so difficult about withdrawing the Bill, publishing a better one and bringing it before us? If he does

that, then within five minutes, I can assure the Chairman, he will have an Act of Parliament.

Hon. Temporary Deputy Speaker, Sir, unless those issues are rectified, and unless we are sensitive to those of us who make life comfortable in this city, I am sorry. I am unable to support this Bill the way it is.

Thank you, hon. Temporary Deputy Speaker, Sir.

**The Temporary Deputy Speaker** (Hon. Cheboi): Hon. Kanyua.

**Hon. (Ms.) Kanyua:** Thank you, hon. Temporary Deputy Speaker. I am glad to stand in support of the VAT Bill and to support that there will be amendments as the Chairman has promised this House. However, indeed, the Committee has looked at the Bill and proposed quite a number of amendments and so therefore the Bill will even be in better stance. However, as I support the Bill, I also have further issues of concern for the Committee which I think would even make the Bill better.

One of my major concerns is criteria of exempting and zero-rating of items that have been included in the Bill. One of the best aspects of a tax law is actually predictability. So, as long as we cannot predict what will happen with this Bill we will still fall short. It might be simple. It might be economic but it needs to be predictable. For predictability, there needs to be a criteria. Let us have criteria of what is exempt and let us have a criteria of what is zero-rated and even an attempt at defining those basic commodities.

Hon. Temporary Deputy Speaker, there has been reference to low income households and protecting some of the low income households and the consumer products that they use. If this is indeed the case, I really would urge the Committee to ensure that the Bill does have criteria for the exempted products and also for the zero-rated products so that in future when we come to a matter like this, we do not have to spend so much time adding things onto a list. On the list that we already have now, it is actually possible to get some criteria around agricultural products, medicines and basic products for the low income households.

Hon. Temporary Deputy Speaker, I also want to add that the Bill, and we have been told about the importation of products, also protects the country from importation of products like eggs. It has become very sad in this country that we import eggs that we can have locally here. So, even as we look at this list, let us not have a list of products that we can bring in from abroad even when we can produce some of them locally.

On the policy proposal for subsidies which I completely agree with, I completely agree with the Jubilee agenda of increasing subsidies and increasing the number of people who are put on the safety net. I think the Bill should have a reference to that either in the memoranda or in the reports of the Committee because we have a country where our laws do not come with a policy. So, we do not have a proper policy on this law. I am guided on the timelines that there might not be enough time for a policy paper now but the Committee will need to give us some bit of explanatory notes so that this policy of increasing subsidies is not just out there as we pass the Bill and then in future we have nowhere to go back to that policy proposal to increase the Kenyans who will be put on the safety net.

Hon. Temporary Deputy Speaker, I am happy with the introduction of the sanitary towel as a category of items that will be exempt. Indeed, the women of Kenya are happy and I want to add here that sanitary towels are not just for those in secondary schools.

They are actually important for all women of this country. I am also happy that maize flour and maize seeds are in that category. The people of Nyeri who I represent in this House are very active when it comes to planting maize. So, we are happy that the maize seeds are also covered and will be exempt but even as we exempt those products, the Report says that there is a list and I would want the Chairman to help us get a copy of that list. After page 14, there is no list. We need to see that list so that we can be clear that all of those products that we have all been asking for zero-rating or exemption are actually covered.

On the Bill, subsidiary legislation has received very cursory attention by the Committee. In this country, unlike what the Bible says, we actually have new wine in very very old wine skins. So, Parliament passes very good laws but the officials go out and pull very very old sets of rules and regulations that they use to implement the new law. I would urge the Committee and ourselves as we pass this law that we actually pay very dear attention to subsidiary legislation which is the bulk of the rules that KRA uses. In actual terms, the law is only a basic framework. That subsidiary legislation part needs to receive attention.

Hon. Temporary Deputy Speaker, to the Bill again, to improve implementation, the penalties and offences need to be looked at very carefully. If you look at the Independent Elections and Boundaries Commission and the conduct of the election, a big reason why IEBC officials could not make mistakes was because the penalties in that law were so hefty on individuals who work for the IEBC. I am asking that in this particular Bill we also make the penalties so tight that KRA officials and other persons handling this law do not misconduct themselves. We have to tighten the penalties. We also have to tighten the offences and we have to make sure that officials who deal with this law know that the country expects a lot from them and not only that the country expects a lot from them but any misconduct on their part is thoroughly punished both for the body and also for the individuals who misconduct themselves. I will be asking that we look at the penalties and the offences that are created.

On the last point; the question of implementation, I think a law should not ambush citizens. A law should not ambush the KRA officials. A law should not ambush the traders. I think that if we allow three months for the implementation of this law as soon as the President assents to it, it will allow the environment time to understand the new rules and regime. I am sure there are products already at the high seas. Allow the products on the high seas to arrive. Allow whatever is going on to go on for another three months so that when the law comes into place, everybody is ready to follow it and the transition period allowed by the Constitution did allow this Constitution to sit in well with the citizenry.

There will be a problem because there is a regime that has been going on. I urge that we move an amendment allowing a three months implementation period for this law to commence so that all the traders and everybody else who is captured by this law will know what will happen.

Hon. Temporary Deputy Speaker, Sir, I support the Bill.

**The Temporary Deputy Speaker** (Hon. Cheboi): I hope that hon. Osele is now ready.

**Hon. Onyango:** Thank you, hon. Temporary Deputy Speaker, Sir. I am lucky that every time you are on the Chair, I get an opportunity to speak. It is a good coincidence.



At least, this is now addressed after citizens learnt that there are several amendments to be moved on the VAT Bill. It was a real problem to the already suffering Kenyans to realize that certain basic commodities were to be taxed. I spent almost a sleepless night when I thought of taking our ladies back to the dark days when they used blankets instead of sanitary towels. To me, if Parliament or the Government could allow such a Bill then we could be failing totally in our responsibility to even nurture a generation.

Kenya is among a few nations where everything is taxed. You are taxed when you buy water and milk. Sometimes, you may think of consolidating tax so that we know that we are paying tax once. We pay tax on our salaries and everything. We understand that the country is run through tax. At least, citizens who enjoy a good economic status may not complain much about the taxation. So, in as much as we are trying to expand the tax base, we also have to consider how to strengthen the generation of income of the citizens so that they may be capable of sustaining taxation.

Hon. Temporary Deputy Speaker, Sir, notable is the fact that hon. Kajwang' happens to be my Member of Parliament where I reside. We come across hardworking Kenyans. They wake up early, they do their best and they look upon their leaders to do the rest just as we also look upon God to give us wisdom after we have done the much we can. If we can cushion those Kenyans from certain occurrences that may interrupt their daily lives, we will be executing our responsibility as leaders of this country.

I beg to support this Bill in the spirit that the said amendments will be moved on the Floor and shall be passed by hon. Members.

Notably again, as I conclude because this is the opportunity that I have had to say this, I am happy that we are adopting soberness in deliberating matters in this House that affect this country. I am very happy the way we have done it this afternoon. I believe that we will not only do that when we feel that we are threatened one way or the other but when we are dealing with matters that are important to this country.

As a Parliament, when we assist the Government to make the right decisions and support them, we are helping the whole country. All of us will agree in this House today that our conscience must be pricking us when we look at certain people whose nomination to certain positions in this country we approved in this House. This is because they have either started failing or they are performing below par. But that aside, we all have to agree that in future as we proceed, at times when matters of common interest like the VAT Bill come to this House, we should be sober enough to execute them without looking at the party lines or party position. Otherwise, our work as the Opposition may be taken as to assist the Government fail. It is the joy of the Opposition when the Government fails. So, when an opportunity comes for us to work together for the good of the citizens, let us do it with a genuine heart.

Thank you, hon. Temporary Deputy Speaker, Sir.

**The Temporary Deputy Speaker** (Hon. Cheboi): Hon. Onyango, use more of minority and majority.

**Hon. (Ms.) Wahome:** Thank you, hon. Temporary Deputy Speaker, Sir. I rise to support the Value Added Tax Bill, 2013 because of the reasons that have been given. One of those reasons is that we all know how complex the VAT law has been or the regulations therein. Indeed, the hon. Member for Kasarani, Hon. T.J. has conceded that he hardly understands the current law or even the Bill as proposed. Indeed, he has

proposed that the Mover withdraws this Bill and brings another one that he may be able to understand.

We cannot go that way because in any event, every legislator is expected to understand the Bills which are brought to the Floor. Indeed, Hon. T.J. is a capable legislator and I am very sure that he understands. First, the law is being simplified.

The other impact that is expected to come with the proposed Bill is that there will be increase in revenue---

**Hon. Kajwang’:** On a point of information, hon. Temporary Deputy Speaker, Sir. I do not want to interrupt my learned senior sister but I want her to start learning that I am a Member for Ruaraka and not Kasarani Constituency.

**Hon. (Ms.) Wahome:** I am informed, hon. Temporary Deputy Speaker, Sir. The Hon. Member claims to be representing the poor or people who work very hard. All Kenyans are working very hard. The problem with this country is to assume right now that things are cheap. We have had 700 items zero-rated. What is the price of *unga* today? We have been told on the Floor that it is Kshs120 per 2-kilogramme packet. We have shampoos and sanitary towels which go for Kshs65 and Kshs85 and yet they are zero-rated. Kerosene is almost not affordable and yet we know that it is zero-rated. What are we talking about? Who actually benefits from the 700 list of zero-rated and tax-exempt items? They must be the traders and not the person I represent or the person the Member for Ruaraka represents. There must be another reason why those people do not benefit. Part of the reason is fraud. The list is very long but we do not get the benefit where it is supposed to go.

Hon. Temporary Deputy Speaker, Sir, we are told by this Committee that the Kenya Revenue Authority has been spending a lot of time doing refunds to people who have not imported or brought goods to this country. They have specialized in coming up with documentation to show that they have brought products and goods into this country and then rip off the same poor Kenyans that we say we represent.

We have been told that Kshs1.5 billion is currently being refunded by KRA to people who are fraudsters. This Bill, which Members are opposed to, will cure that. The Kshs1.5 billion is money that is likely to create the impact that the hon. Member for Ruaraka and hon. Mbadi are likely to expect or want.

The Government has been vilified quite often even when it wants to do good. The Government wants to collect more revenue to deal with capital development, equipping our hospitals, coming up with infrastructure, implementing the laptop project and feeding Kenyans by irrigating over one million acres of land. We cannot do that if we do not allow the Government to collect more revenue.

Another expected impact of this Bill is reduction of the 12-month period, within which one should make a refund claim, to three months. That is a good proposal because it will help in curbing the filing of fraudulent tax refund claims. The current law gives people who are notorious for “cooking” documentation, sufficient time to come up with all manner of documents. It is also expected that we shall have a long-term solution to the tax claim refund problem. Too much time has been spent by officers working on tax refund claims they should not be working on.

Hon. Temporary Deputy Speaker, I have looked at the proposed list of items exempted from VAT. If we do not deal with this matter carefully, we will end up with another long list and fail to achieve the objectives of this Bill. I am so far happy that

maize, seed, rice, maize flour, wheat flour, ordinary bread, milk, infant milk, *et cetera*, have been exempted from VAT although I am sure that the people of Kandara, who I represent, and the people of Ruaraka and other constituencies, do not buy infant milk. They feed their infants with cow milk and goat milk, which is quite nutritious. They add water to it to make it acceptable to infants. In respect of some machinery that has been included in the exemption list, I do not think we should go that way. We need to concentrate on ameliorating the situation of poor Kenyans and shorten the list to the bare minimum.

As far as I am concerned, bread, *unga*, milk and sanitary towels are enough exemptions. The rest of the items should not have been included on the list. Since when did machinery become cheap in Kenya? Who makes machinery in this country? We are not industrialists. Moreover, if we keep on lengthening the list, we will find ourselves with the original 400 items that had been exempted because everybody will propose an item for exemption. I hope that hon. Members are not part of the commercial traders benefiting from this long list of items exempted from VAT. I am not imputing improper motive on hon. Members. What I am saying is that we should debate this Bill with an open and broad mind, bearing in mind the fact that collecting revenue is for the good of the country, and not for the Jubilee Government. Whichever Government comes into office next time will benefit from the revenue that will be collected.

Hon. Temporary Deputy Speaker, even as we continue to say that we want to tax each and every item, it is important to remember some of the problems that we have had so far. When we looked at the Budget, we realised that there was a big problem. Even now, there is a big problem in trying to realign the budgetary items and getting enough money. Appropriation was a problem. To-date, the national Government has issues with the county governments because the later are asking for more money. We lose Kshs1.5 billion every month. Therefore, let us zero-rate as many items as possible but let us not pretend that doing so will have the effect of reducing the price of maize meal, whose price I would want reduced to Kshs40 per two-kilogramme packet as that of a half-litre packet of milk goes down to less than Kshs20. That would be the happiest day that all of us would want to see.

I am very sad that this Bill is being debated when many hon. Members, who represent the majority poor, are not here. If we are to decide to pass this Bill now, we would do so without even looking at the list that hon. Members have been complaining about. What I am saying is that our attention should also be---

**The Temporary Deputy Speaker** (Hon. Cheboi): What is your point of intervention, hon. Mbadi?

**Hon. Ng'ongo:** Hon. Temporary Deputy Speaker, is it in order for the Member for Kandara, who is a very good friend of mine, to claim that CORD is not here yet when you see hon. Mbadi, you see real CORD? Is she also in order to claim that this Bill would have been passed without those amendments when we are at the Second Reading stage, and knowing that amendments come up during the Committee Stage?

**Hon. (Ms.) Wahome:** Hon. Temporary Deputy Speaker, I do not have signal on my microphone.

**The Temporary Deputy Speaker** (Hon. Cheboi): Hon. Wahome, actually, your time is over.

**Hon. (Ms.) Wahome:** Hon. Temporary Deputy Speaker, add me one minute, so that I can conclude my contribution.

**The Temporary Deputy Speaker** (Hon. Cheboi): Very well! You have just one minute.

**Hon. (Ms.) Wahome:** Thank you, hon. Temporary Deputy Speaker.

Hon. Members from the CORD alliance are absent. They are still celebrating their win in the just concluded Makueni senatorial by-election. The reason as to why debate has been very sober today is the results of the Makueni senatorial by-election. I was hoping to hear hon. Kajwang' say that the by-election was rigged but he has not said so because this time round, they won.

**The Temporary Deputy Speaker** (Hon. Cheboi): Your one minute is over, hon. Wahome.

**Hon. (Ms.) Wahome:** Hon. Temporary Deputy Speaker, with those remarks, I beg to support.

**The Temporary Deputy Speaker** (Hon. Cheboi): Yes, Member for Migori County.

**Hon. (Ms.) Ghati:** Thank you, hon. Temporary Deputy Speaker, for catching my eye.

**The Temporary Deputy Speaker** (Hon. Cheboi): No, I did not catch your eye. I am sure about that.

*(Laughter)*

**Hon. (Ms.) Ghati:** Hon. Temporary Deputy Speaker, I am one of the hon. Members who were strongly opposed to this Bill. I had intentions of opposing it but I am now very happy with the amendments that the Committee has proposed. Therefore, I support it.

Hon. Temporary Deputy Speaker, I am very concerned because this is a very weighty matter. I would expect hon. Members to be here to give their full contribution. I am also very happy because I represent a constituency of women and girls. I feel extremely happy seeing basic necessities like sanitary pads being zero-rated. Our children will now be able to complete school. As much as primary education is free, we need to ensure that it is really free. We know that there are girls who do not complete school due to hindrances arising from lack of sanitary pads.

With those remarks, I beg to support.

**The Temporary Deputy Speaker** (Hon. Cheboi): Let us now have the Vice-Chairman of the Committee on Finance.

**Hon. Gaichuhie:** Hon. Temporary Deputy Speaker, Sir, thank you. I want to start by saying that tax is a very uncommon thing. If you remember in the Bible, Zacchaeus was very unpopular because he was a tax collector. Having said that, I want to say that I support the Bill because you know very well we have the VAT Act which is very complicated. The Bill is trying to simplify the Act. We are trying to have a very simple VAT Act and that is one of the principles of taxation. When you look at the current VAT Act, we have over 700 items which are zero-rated making this country suffer because when we hear that we have Kshs29 billion, money that is expected to be refunded to people to reinvest and the Government is not able to do so, we are curtailing production.

So when we reduce those items and we just have a few exempted products--- If you look at a country like Rwanda, the VAT Act has only three items exempted but in Kenya we have 700. So we think it is a good Bill because we are going to reduce the number to make sure that everybody pays tax. As has been earlier said, we have so many things that are zero-rated but for the prices, you cannot even believe. It is not about the VAT. It is not about taxation. I think it is about people trying to fleece the consumers but this Bill is trying to address that by making sure that we are shifting from subsidizing consumption and subsidizing production. If we lower the cost of production, I believe that goods will be cheap. So this is a Bill that we should all support and I believe everybody is now supporting it.

As a Committee, we have also looked at a few items which need to be exempted. We do not want to talk about zero-rating because this is where we again start bringing tax refunds. Once we exempt a few items which we even hope that in future we are going to come of age and not exempt them, we will be moving in the right direction. So, I am here to support this Bill and say that it is addressing some administrative issues. I want to differ with my friend, hon. Ng'ongo who was saying that we are giving the Commissioner a blanket cheque and that we are saying that nobody should appeal a decision made by the Commission. It is true but what we are saying, it is only where we have a tax dispute and the two parties agree to settle out of court. So, if they both agree to settle out of court, the Commissioner's decision is final because if you agree to settle out of court, where again do you go to appeal? This Bill is addressing that issue. So we want to support this Bill and say that we have a good tax system and ask that whatever is collected is put into proper use. I remember we passed that we use the GPRS system in the tax collection but it has never been implemented. We even gave it a budgetary provision last time and so as a Committee we have agreed that we are going to follow up and see to it that everything that we pass is followed and make sure that the Kenya Revenue Authority officials collect taxes and make sure that it is put into proper use.

We are supporting this Bill and we urge our colleagues to come and support it. We do not want to have an empty House when we come to the Third Reading because that will be a very important stage where we are going to only debate about four items which, if we have the numbers, we might reduce to one. This is because we do not believe that VAT is the cause of the rising prices. We want to say that if we look into other ways, we can reduce the cost of production. We can make sure that our people get those products cheaply and affordably without saying that it is VAT. The VAT is just value added tax. So the taxation is only on the value addition and not on the commodity. That is why our *unga* is Kshs120 and even when we zero-rate it, I do not expect it to go to Kshs40 if we do not address the other issues.

With those few remarks, I want us all to rally our troops and support this Bill and make sure that we have a very good tax system that will make sure that things that are taxed are only taxed because they have to be taxed. However, we want to support the VAT Bill.

**Hon. (Ms.) Chebet:** Hon. Temporary Deputy Speaker, Sir, thank you for this opportunity. I want to say I am happy to be in the House at this time although the House is half empty or three quarters empty. I am happy to contribute on this VAT Bill. I want to appeal to hon. Members to support it.

One, we need to demystify the Bill so that we can understand when we talk of basic commodities, zero-rating and reducing the prices of such basic commodities like sanitary towels. I am very happy because our girls will remain in school full time. Our mothers also will have access to cheap and affordable sanitary towels but when it comes to foodstuff, we need to look at the value chains; the chain of production. Who is benefiting? If we are importing food from South Africa, Israel and other countries, who is going to benefit from the VAT refunds that we give to traders or commercial people who bring this food to the country? I know some time back and even now, the amount of refunds that our Commissioner is giving back is a lot of money and sometimes it makes our people engage in corrupt practices. They have to be talked to nicely by the people asking for the refunds and we are not sure if those refunds are real or “cooked” from the people who are asking for them. So, we have to be very careful on what we support. If we are supporting zero-rating, we have to check carefully and make sure that the money does not eat into what the Government should be benefiting from.

If we do not make money through the collection of tax in Kenya, then it means we are going to be below what other developing countries are getting for the advancement of the country. So what we need to do is to ensure that whatever needs to be collected through tax is collected 100 per cent. What we need to supplement as a Government or a country, we supplement the basic things so that we do not give room for the refunds that are eating into our money. If we make production of our food efficient, for example, if we can give seeds and fertilizer at affordable prices to the farmer, it means the farmer will produce more food and when more food is produced, it creates an oversupply and food becomes available and cheap to consumers. This is unlike if we are making food available through the processors or millers. Millers are the beneficiaries. It is not the farmer who is producing but it is the miller who is milling the maize and putting it on the shelves; the chain of supermarkets will also eat into more money and leave the consumer paying more than expected. So, what I would have recommended is to look at how we can supplement the farmer or producer and not the processing or the miller.

Finally, if we support this Bill, the amendments that are on course from the Committee, then I think we are going to have the basic commodities available to our people. We need to look at issues like kerosene, for example. This is a basic commodity which every household needs to access, otherwise even in the rural areas where I come from, Elgeyo Marakwet County, we are destroying the environment because we are looking for firewood.

If we supplement our kerosene then it means that we are going to save the environment. This is because we will have an alternative source of energy to use at home.

**Hon. Odanga:** Thank you, hon. Temporary Deputy Speaker. Initially, I would have opposed this Bill, but with the amendments that we have been assured of, I stand to support. This Bill touches on the basic items that my people of Matayos Constituency and by extension Busia County and the whole nation depend on for their daily lives.

The problem here is not taxation. If we go ahead to tax then we should target the very wealthy people. The KRA should ensure that corruption is avoided because that is what makes the country not to collect enough revenue. The country is able to meet its budgetary commitments if only KRA collected a lot of revenue.

The poor people in the villages depend on kerosene for lighting and other energy needs. Even for those who depend on electricity, in the absence of it they use kerosene.

They buy kerosene in small quantities. If you go ahead to levy VAT on that item, I do not know what will happen.

I would like to support the amended Bill which goes ahead to exempt the basic items that have been mentioned, that is, kerosene, maize, milk and so on. I propose that we go ahead to levy VAT on the very rich. The civil servants in this country, that is, teachers, medics, and even Members of Parliament pay taxes. The other people doing business have evaded taxes for so long. This is because they work in cahoots with some of the officers of the KRA. We need to be strict on this matter and this country will have enough revenue.

I stand to support.

**Hon. (Ms.) Emanikor:** Thank you, hon. Temporary Deputy Speaker. I rise to support the Bill. The initial intention of the Bill was to realize revenue that would be ploughed back to support the poor through service delivery. However, I am pleased that the consultations with stakeholders have borne results by having most of the basic necessities exempted.

Most fundamentally is the need to put checks and balances at the revenue collection points. I believe that corruption and fraud are the order of the day at those points. This is where the Government should focus its attention. It defeats our very purpose of levying taxes on those products.

On a different note, I stand here today with a bit of stress because of what the people of Turkana are undergoing right now. As we talk, there is fighting going on in Lake Turkana. This is because the Merille from Ethiopia ambushed Turkana fishermen from the centres of Lowareng'ak, Todonyang---

**The Temporary Deputy Speaker** (Hon. Cheboi): Hon. Emanikor, as much as I sympathize, please, be very brief.

**Hon. (Ms.) Emanikor:** I will be very brief. The fighting is going on now. The security personnel in Turkana have run short of ammunition. I want to commend the Kenya Marine boats for responding and taking security personnel to the area. For once, there has been response in time. I would like to urge the Cabinet Secretary in charge of security to increase marine boats and forces in the region.

**The Temporary Deputy Speaker** (Hon. Cheboi): That should be it. I just thought that was an important issue, otherwise I would have ruled you out of order.

**Hon. Bunyasi:** Thank you, hon. Temporary Deputy Speaker. Taxation is one of the miserable things that we have to face in life. I am talking about any form of tax. So, this discussion could be about any form of tax. We have to survive and governments have no other way of doing it other than by taxation.

I come from a constituency whose poverty index is very high. Actually 65 per cent of people in Nambale Constituency live below the poverty line. Our people are too poor to pay any form of taxes. What will take them out of that state is improved services and support for the productive sectors. Taxation is, therefore, essential.

One can argue that the rich should pay more and that, indeed, they must pay more. Maybe one day in this House we will get a policy paper that will discuss the relative weights in tax burden between our various members in society, that is, the well-to-do, the very poor and the very rich. That is a very essential debate.

In respect of this Bill, there are very many important components that will make the system efficient and increase tax collection. Perhaps, one day, we will be discussing

less reliance on VAT. I hope one day we will be discussing two per cent and not 16 per cent. This will be an indication that systems are so efficient and tax would be coming from different corners. Contribution from inherently regressive tax like VAT would be greatly diminished.

We need to look at what good this Bill is going to do to the system. There are provisions, as has been indicated, on zero-rating and exemptions. Let us remember that the conditions that lead to price levels are not just in taxes. There may be sticky points in supply especially in the supply chain so that when goods are too few then prices rise. We would be looking more broadly at issues such as productivity in order to increase basic commodity supply including food supply so that prices do not rise significantly. It is not normally because of VAT or lack of it.

I support this Bill in the hope that it will be followed by an explicit statement on how additional resources are going to address the needs of the poor and how they are going to overcome the bottlenecks in supply. I support this Bill because I believe it is going to support the people of Nambale in tarmacking the roads, improving our hospitals and other facilities that we so dearly love, but lack completely.

This is a Bill that we have to live with. Yes, we must pay tax, just who pays what tax? This discussion is not about the VAT right; it is about VAT as tax. I hope Members will focus on VAT right. I support this Bill because I know it will make a difference in the poor communities in my constituency. This is because it will help fund the essential services that are so dearly missing. I urge everybody in the House to support this Bill so that we improve our revenue base and supply the services our communities need.

I thank you, hon. Temporary Deputy Speaker.

**Hon. Chepkong'a:** On a point of order, hon. Temporary Deputy Speaker, Sir. Judging from the mood of the House and the previous speaker who has spoken very eloquently in support of this Bill and noting the fact that the mood of the House is to support the passage of this Bill, so that we can get a little bit of money and increase cash transfer from the current---

**The Temporary Deputy Speaker** (Hon. Cheboi): What is your intervention?

**Hon. Chepkong'a:** I rise under Standing Order No.83 as read together with Standing Order No.96. Judging from the mood of the House, would I be in order to ask you to call upon the Mover of the Motion to reply?

**The Temporary Deputy Speaker** (Hon. Cheboi): Hon. Chepkong'a, you have just walked in and there are a few more Members who want to contribute.

**Hon. Chepkong'a:** Hon. Temporary Deputy Speaker, Sir, I was following the proceedings very keenly from the coffee place.

**The Temporary Deputy Speaker** (Hon. Cheboi): I will give a chance to one more Member before I can put that Question. Hon. Tonui.

**Hon. Tonui:** Hon. Temporary Deputy Speaker, Sir, I have waited for what looked like forever to get this chance. I stand to support this Bill. The other day, we approved the 2013/2014 Budget which was coming to about Kshs1.6 trillion. This Government requires funds to fund its operations both at the national level and the county level. So, it must look for resources to fund those expenditures. One of the sources is the VAT. I fully support this. I am a Member of the Committee on Finance, Planning and Trade and going through this Bill, I believe that the people who sent me here will be quite happy with this Bill. It is friendly to them because their areas of interest have been taken care of notably



in terms of exemptions. For example, maize flour is being exempted from the VAT. There is a proposal to add sugar to the list of the exempted items. Fertilizer has also been exempted and because we are a farming community, this is a good thing to us. Milk is also being exempted, which we rely on in Bomet.

Bomet County is a tea growing region. The fact that the VAT Bill is proposing to zero-rate tea mainly for export, it will encourage protection of tea. This is good because it is going to earn more foreign exchange for this country. It is unfortunate that when we are discussing this, the House is not full yet it is a very major Bill. All the same, we will do it. It is unfortunate that sometimes, we do not take time to read Bills. Even me, I might not have read all of them. The other day, we were here busy defending our positions as Jubilee and CORD and we could not even look at the details of the Appropriation Bill which we approved, we could not ascertain the information on KeRRA. I would have wished that we take time to read those Bills, so that when we pass them, they will help our people.

The Budget is huge, but it is for the better because it is going to help our youths by providing the money that they require for self employment. It is also going to improve our roads. The roads in Bomet are impassable. So, I beg to support this Bill.

**The Temporary Deputy Speaker** (Hon. Cheboi): I am going to take cognizance that we are beginning to repeat ourselves. I want to put the Question that the Mover be called upon to reply.

*(Question, that the Mover be now called upon to reply, put and agreed to)*

The Mover, you have four minutes and probably the rest will be taken to the next sitting.

**Hon. Langat:** Hon. Temporary Deputy Speaker, Sir, I want to thank the Members who contributed to this Bill. I wish to donate two minutes to hon. Mwadeghu who was a very good Chairman in the last Parliament and I was his Vice-Chair.

**The Temporary Deputy Speaker** (Hon. Cheboi): Strictly two minutes.

**Hon. Mwadeghu:** Asante sana, Bw. Naibu Spika wa Muda. Ninaomba kuchukua nafasi hii ili nchangie Mswada huu ambao umeletwa na mhe. Langat. Kwanza, ningetaka kumshukuru na kumpongeza kwa wakati ambao ameuchukua pamoja na Kamati yake kutuletea Mswada hii.

Pili, kama tunavyojua, mara nyingi Serikali ni lazima ipate fedha za kuendeleza miradi yake. Miradi hii ni lazima iendelezwe kulingana na hali ya uchumi. Mara ya kwanza, tulikuwa na wasiwasi kuwa Mswada huu ukiletwa na ukiendelea vile ulivyokuwa, ungeuhujumu uchumi wetu na ungewatatiza wanyonge na watu wa kima cha chini kwa hali ya chakula, malazi, shule na kadhalika. Lakini Mswada huu uliporudishwa Bungeni, umefanyiwa marekebisho kadha wa kadha na unaambatana na mahitaji ya wananchi. Kama unaambatana na mahitaji ya wananchi, ni muhimu tuunge mkono ili Serikali ipate fedha za kutosha za kuendeleza miradi yake.

Tatu, kupitia Mswada huu, ambao umekuja wakati unaofaa, Serikali ina nia ya kuona kuwa yale majukumu ambayo ilikuwa imejipatia ama majukumu ambayo ilikuwa inatarajia kutimiza, itatimiza. Kwa hivyo, ninachukua nafasi hii kuunga mkono Mswada huu kikamilifu bila tashwishi yoyote. Ninaomba Wabunge wenzangu waunge mkono.

## **ADJOURNMENT**

**The Temporary Deputy Speaker** (Hon. Cheboi): Hon. Members, it is now time to adjourn. So, the House is hereby adjourned until tomorrow, Wednesday, 31<sup>st</sup> July, 2013, at 9.00 a.m.

The House rose at 6.30 p.m.