

NATIONAL ASSEMBLY

OFFICIAL REPORT

Tuesday, 17th September 2013

The House met at 2.30 p.m.

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

PRAYERS

COMMUNICATION FROM THE CHAIR

DELEGATION FROM PARLIAMENT OF BOTSWANA

Hon. Speaker: Hon. Members, I would like to introduce to you a delegation of the Education and Skills Development Committee from the Parliament of Botswana, seated on the Speaker's Row. The delegation comprises of the following hon. Members:

1. Hon. Arone Bagalatia, MP – Leader of Delegation
2. Hon. Makosha Rayner, MP – Member
3. Hon. Mmolotsi Winter, MP – Member
4. Hon. Ngaka Ngaka, MP – Member

They are also accompanied by Mr. M.D. Gadibolae, First Secretary; and Mr. Moeng Bonnet, Second Secretary to the Committee.

The delegation is in the country to learn and share ideas with their counterparts of Education, Research and Technology Committee of the National Assembly as well as with other stakeholders in Kenya's education sector. They will be with us until Friday, 20th September 2013.

Let me, on my own behalf and on behalf of the hon. Members of this House, welcome them to Kenya. May I request that we all accord them the support they require.

Thank you.

NOMINEE FOR NATIONAL POLICE SERVICE COMMISSION TO SRC

Hon. Speaker: Hon. Members, Article 230(1)(b)(v) of the Constitution of Kenya, 2010 requires the National Police Service Commission (NPSC) to nominate one person from amongst persons who are not members or employees of the Commission to represent the Commission at the Salaries and Remuneration Commission (SRC). In this regard, the Cabinet Secretary for the Ministry of Interior and Coordination of National Government, vide a letter dated 20th August 2013 has communicated that the Ministry has since nominated Mr. James M. Muhoro as a nominee for the NPSC to the SRC.

Hon. Members, under the Public Appointments (Parliamentary Approval) Act and Part 11 of the Standing Orders of the National Assembly, it is required of us to conclude the process

of approval or rejection of the nominee within 14 days from the date of this notification. In this regard, I would like to guide the House as follows:

(i) that the Departmental Committee on Finance, Planning and Trade should notify the nominee and the general public of the time and place for holding the approval hearings at least seven days prior to the hearings and, owing to the strict statutory deadline, I order that the notification be made on Thursday, 19th September 2013;

(ii) that the Committee may, therefore, commence the hearings on Wednesday, 25th September 2013, which hearings shall be open to the public; and,

(iii) that thereafter, the Committee shall table its Report before this House on or before Tuesday, 1st October 2013 for consideration.

Hon. Members, I now refer the Message from the Cabinet Secretary containing the name of the nominee, together with his curriculum vitae, to the Departmental Committee on Finance, Planning and Trade to conduct the approval hearings.

Thank you.

PAPERS LAID

The following Papers were laid on the Table:

Sessional Paper No.3 of 2013 on the National Productivity Policy from the Ministry of Labour, Social Security and Services;

Sessional Paper No.4 of 2013 on Employment Policy and Strategy for Kenya from the Ministry of Labour, Social Security and Services;

The Fourth Quarter of the County Budget Implementation Review Report for Financial Year 2012/2013 from the Office of the Controller of Budget;

The Post-Elections Economic and Fiscal Report, 2013, from the National Treasury

The Kenya Economic Report of 2012 from the Kenya Institute for Public Policy, Research and Analysis;

The Second Quarterly Report for the Ethics and Anti-Corruption Commission for the Year 2013 covering the period 1st April 2013 to 30th June, 2013;

The Report of the Auditor-General on the Financial Statements of the Witness Protection Agency for the year ended 30th June 2012 and the Certificate of the Auditor-General therein;

The Report of the Auditor-General on the Financial Statements of the Kisii University College for the year ended 30th June 2012 and the Certificate of the Auditor-General therein;

The Report of the Auditor-General on the Financial Statements of the Kenya Meat Commission for the year ended 30th June 2012 and the Certificate of the Auditor-General therein;

The Report of the Auditor-General on the Financial Statements of RIVATEX (East Africa) Limited for the year ended 30th June 2012;

Financial Statements of the National Housing Corporation for the year ended 30th June 2012 and the Certificate of the Auditor-General therein; and

The Annual Report and Audited Accounts for the Sisal Board of Kenya for the year ended 30th June 2009.

(By hon. A.B. Duale)

Hon. Ng'ongo: On a point of order, hon. Speaker.

Hon. Speaker: Yes, hon. Mbadi.

Hon. Ng'ongo: Hon. Speaker, first of all, let me welcome back all my colleagues to this sitting; I believe that they have had enough time with their constituents. From the list the Leader of the Majority Party read out, I heard him mention that he is tabling before this House a Post-Elections Economic and Fiscal update. According to Section 27 of the Public Finance Management Act, the National Treasury shall arrange to be published a Post-Election Economic and Fiscal update not later than four months after the polling day of any general election.

Mr. Speaker, could we get a clarification from the Leader of the Majority Party whether this was complied with? Actually, four months from the date of election ended on 3rd July 2013. This House deserves to be told whether that provision was complied with because we are now in September.

Hon. Speaker: Maybe, Leader of Majority Party you could talk about the date of the Report.

Hon. A.B. Duale: Hon. Speaker, I want to thank hon. Mbadi, but 2013 is a very unique year, and we were engaged in the budget-making process. Hon. Mbadi is aware that there were a number of timelines that we could not meet as a result of the elections being held in March. I am sure the documents came when we were on recess. However, the document is now available. Because of the unique circumstances, the provisions of the Constitution in the budget-making process, the Bill on Division of Revenue that was before this House and the timeline on the Public Finance Management Act were not observed.

Now that the document is in the House, I would urge my good friend that we do not go back to July. Let us look at the way forward and interrogate this document to establish whether the document presented to Parliament today meets the Post-Election Economic and Fiscal Policy Review requirements.

Hon. Speaker: Hon. Mbadi, I think this is a matter that we can resolve very easily but since it is the first day, I am sure you want to be heard.

Hon. Ng'ongo: Hon. Speaker, not really. I do not think so; that is not my intention. However, listening to the Leader of the Majority Party he makes a lot of sense. I wanted us to engage our mind on some point here. If the uniqueness of 2013 was because it was an election year and we will not obey this particular provision in law, then the Leader of the Majority Party needs to bring it for amendment. All the years that this Post-Election Economic and Fiscal Policy Statement will be required will be after an election. Therefore, if the uniqueness of 2013 was because of election then even the next one which will be required after the 2017 election will still face the same problem. So, if the Government is finding it difficult – this is not a constitutional provision, but a provision in an Act of Parliament – to comply with that provision, the honourable thing to do is for it to ask for an amendment.

Hon. Speaker: So that we do not spend a lot of time on this, hon. Mbadi has been heard in his proposal. I am sure when the Report goes to the appropriate committee what hon. Mbadi has said, alongside what the other hon. Members may wish to say, will be incorporated in the report that will finally come to the House with regard to the place of these reports in our proceedings---

Hon. Mutava Musyimi, do you want to say something about it?

Hon. Musyimi: Hon. Speaker, I just wanted to, perhaps, mention for the comfort of my good friend, hon. John Mbadi, that we discussed this matter in the Budget and Appropriations Committee well ahead of time. We were aware that there were timelines by which the report

needed to be before this House. We discussed this matter and instructed the Parliamentary Budget Office to ask the National Treasury to be seized of the matter and report appropriately in good time.

I thank you, hon. Speaker.

Hon. Speaker: I think the House is accordingly informed. Next Order, please.

NOTICE OF MOTION FOR ADJOURNMENT

Hon. Wakhungu: Thank you, hon. Speaker. First, I want to take this opportunity to bring blessings from Pope Francis. I happen to have visited Rome and I requested him to pray for Kenya. So, can you receive the blessings from Pope Frank?

(Applause)

Hon. Speaker: Indeed, hon. Wamalwa you can see that since you caused excitement, I think Pope's greetings are well received. I am sure you brought those best wishes to a number of Members who are facing petitions, and they have benefitted from those blessings.

Hon. Wakhungu: In fact, hon. Speaker, I happen to have a rosary which was blessed, and for those people facing petitions, once you touch the rosary the petition will be thrown out.

(Laughter)

Indeed, *mhe* Wambui of Othaya can testify to that. There is also *mhe* Mwaita and many others.

I requested the Pope to visit Kenya. I was with *mhe* Mwadeghu and Senator Gideon Moi. It was a very nice visit and he is looking forward to visiting Kenya.

RISING COST OF LIVING IN KENYA

Hon. Speaker, pursuant to Standing Order No.33 (1) I wish to seek leave of the House to move a Motion for the adjournment of the House for the purpose of discussing the cost of living in Kenya in view of the increase in food prices, which is now a matter of urgency and national importance.

I need support for this because this matter is not just about the Jubilee Coalition, it is a matter concerning both sides of the House.

(Some hon. Members clapped)

Hon. Speaker: Order, hon. Members! You must not behave like you are in primary schools. This is not the place to clap. You cannot possibly be that excited as to start clapping. I know it is the first day after recess, but surely you cannot have forgotten just after the induction workshop the other day that you do not clap here.

Hon. Members, indeed, hon. Chris Wamalwa had consulted me and I certify the matter to be urgent and of grave national importance, therefore, in view of some other business that is before the House I direct that this matter be discussed today at 5.30 p.m.

Is there any other Statement?

POINT OF ORDER

DISPARAGING REMARKS AGAINST MEMBERS BY HON. MIDIWO

Hon. Ichung'wah: Thank you, hon. Speaker, Sir. I rise on a point of order under Standing Order 108. As you will recall, the other day when we were in this House, during the Special Sitting on 5th September 2013, hon. Washington Jakoyo Midiwo did refer to hon. Members of this House as thieves. On that day I do recall hon. Jamleck Kamau rising to ask hon. Jakoyo Midiwo to withdraw and apologize to Members of this House.

The hon. Member did contend that he did not refer to hon. Members of this House as thieves. You did direct hon. Jakoyo Midiwo to withdraw and apologize to Members and he refused to do so. You did direct that this would be confirmed from the HANSARD; I can confirm that I have a copy of the HANSARD proceedings of that day. On page 26 of the HANSARD, hon. Jakoyo Midiwo did, in fact, refer to Members of this honourable House as thieves. He actually said: "The Judiciary may have been reformed but the occupants of those offices are the same; they are as bad as you," referring to Members of this House. "They think like you; they are thieves like you; that is who they are and that is who you are".

(Laughter)

He went ahead and said: "Yes, you are thieves; that is why the country is failing; you are thieves." I rise to invite you, as the Chair, to assist this House to be able to uphold its dignity. When a senior Member like hon. Washington Jakoyo Midiwo refers to Members of our Judiciary as thieves from the Floor of this House he is, indeed, abusing his privileges as a Member of this House by accusing members of the Judiciary who cannot defend themselves on the Floor of this House. Worse still is to refer to hon. Members of this august House as thieves.

I am, therefore, this afternoon, pursuant to Standing Order No.108, asking you do find hon. Jakoyo Midiwo to have been grossly disorderly. I invite you to name the said Member for his gross disorderly conduct in this House, because we must respect not just the dignity of this House and the Members in this House, but also those who are outside this House like members of the Judiciary who were referred to as thieves on the Floor of this House, yet they cannot defend themselves in this House.

Hon. Jakoyo Midiwo should have substantiated his claim; our constituents were greatly hurt to hear us being referred to as thieves. It was said earlier in this House - I think it was hon. Rachael Shebesh who said it - that those of us in the Jubilee Coalition would not forever have to apologize for having won an election. We do not have to apologize to anybody. We need not apologize to hon. Jakoyo Midiwo or anybody else in this country; we won the election free and fair.

Hon. Members: Yes.

(Applause)

Hon. Ichung'wah: Therefore, I invite you to, indeed, name the member for having referred to us, hon. Members of this House, as thieves.

Thank you, hon. Speaker, Sir.

Hon. Speaker: Hon. Members, you should read your Standing Orders properly. I will take you through them slowly for avoidance of doubt and for clarity. Yes, indeed, it is true; I have the HANSARD Report here of 5th September 2013. Indeed, it shows very clearly that hon. Jakoyo Midiwo referred to Members as thieves. “You are thieves,” he said and went on to repeat that “You are thieves,” upon which, as the record shows, hon. Jamleck Kamau, stood up in his place claiming to be on a point of order to draw the attention of the Speaker to the fact that hon. Jakoyo Midiwo had referred to other Members as thieves, and upon which I directed hon. Jakoyo Midiwo to withdraw the Statement and apologize or substantiate how hon. Members were thieves. That is what the record shows. Hon. Jakoyo Midiwo went on to say that he was not the one who had said it, and that he had heard it coming from hon. Members who had walked out.

(Laughter)

Among other things which are not necessary or relevant for this purpose, hon. Midiwo went on to completely deny his claim. Indeed, he is recorded asking: “Withdraw what hon. Speaker, Sir? Tell me what I must withdraw.” The record shows the hon. Speaker telling hon. Midiwo: “Withdraw calling your colleagues thieves.” Hon. Midiwo went on to say: “I am not the one who called my colleagues thieves. I said the elections had been stolen twice, and I did not know these hon. Members to have been the ones responsible.”

Hon. Members, the record is very clear; hon. Jakoyo Midiwo did, indeed, refer to hon. Members as thieves. He failed to withdraw upon being requested to do so by the Chair; of course, you will recall that if you--- Hon. Members look at your Standing Order No.91 - responsibility for accuracy of statement of fact is on the maker. The word “thieves” is, in my view, exceptional and therefore amounts to disorderly conduct.

It is also to be noted that on 3rd July 2013, I did guide the House during debate in Committee on the Appropriations Bill about the dangers of engaging in disorderly conduct, and against the behaviour that reduces the dignity of the House and compromises it. I need not say that, indeed, hon. Midiwo was disorderly in terms of Standing Order No.88, and deliberately failed to withdraw and apologize when required to do so by the Speaker. The record is there for everybody to see.

(Applause)

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

Hon. Speaker: Proceed.

Hon. Njuki: Thank you, hon. Speaker, Sir. This is a House of rules and under these circumstances, I stand under Standing Order No.108(2)(a) to move that hon. Washington Jakoyo Midiwo be suspended from the service of the House because of gross misconduct.

Thank you, hon. Speaker.

Hon. Ng’ongo: On a point of order, hon. Speaker, Sir.

Hon. Speaker: Hon. John Mbadi, read your Standing Orders. You may be very agitated but read your Standing Orders. When we are in this process, you must remain calm. Before I put the Question as to whether or not to name hon. Midiwo, I need to draw the attention of the House to Standing Order No.108 and particularly 108(2)) which reads:

“Whenever a Member shall have been named by the Speaker or by the Chairperson, then –

(a) if the breach has been committed by such Member in the House, a Motion shall be made by any other Member present “That, such Member (naming the Member) be suspended from the service of the House”, and the Speaker shall forthwith put the question thereon, no amendment, adjournment, or debate being allowed.”

It is therefore, important that hon. Members bear that in mind. That is the procedure. I also draw your attention to Standing Order No.109 (3) which states:

“Any Member who demonstrates or makes disruptive utterances against the suspension of a named Member shall be deemed to be disorderly in accordance with Standing Order No.107 (*gross disorderly conduct*).”

I am reading this for avoidance of doubt, and so that all of you are clear. Hon. Members, I will, therefore, put the Question.

(Question, that hon. Midiwo be named, put and the House Divided)

Hon. Members: Division! Division!

Hon. Speaker: All right. Resume your seats. You are claiming for a Division, is it not so? Ring the Division Bell. Hon. Members, resume your seats and the Division Bell will be rung.

(The Division Bell was rung)

Order Members! Order! Clerk, tell the Serjeant-At-Arms to tell the Members to sit down. Those who are still on the gangways, resume your seats. Hon. Oburu and company, please resume your seats. The Division Bell having been rang I wish to bring to your attention that we will do electronic voting, because it is faster and for the convenience of the House. Those Members without their cards are advised to stand by the Civil Servants Benches on either side of the House and to record their voting with the Clerks after the electronic voting. Those who have their cards are advised to log in their cards in readiness for the vote. Those who do not have their cards should, as directed, stand by the Civil Servants Benches on either side of the House. I now wish to put the Question that hon. Washington Jakoyo Midiwo be named.

I call upon the Members to cast their votes and voting will take two minutes starting now.

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

Hon. Speaker: There is no point of order when you are voting. You have read your Standing Orders over and over again. You cannot possibly start claiming to raise a point of order. If you say that the machines are not working, that is legitimate. Clerk, can you confirm that the machines are working?

Hon. Members, the machines are working. You will vote either “yes” or “no”. Clerk, can you confirm that those machines are working? How come they are not working? The machines are showing that they are working.

Hon. Members, as noted everyone is repeating that you want a repeat. This is the way it will be done; the Bars remain drawn. Any Member who does not have his or her card should come to the front on either side. Those without cards should come---

(Several hon. Members stood up in their places)

Hon. John Mbadi, you are one of those people who have requested this. You have requested that we do it manually but the manual that will be done is for those Members without cards. Those Members should come in front. The Serjeant-At-Arms is instructed to stand---

(Loud consultations)

Hon. (Eng.) Rege: Can we---

Hon. Speaker: Hon. James Rege, I thought you were doing your second term. Hon. Rege, you cannot engage in that. That is also being disorderly. Hon. Members, we want to know which Members have cards and those that do not have cards. The hon. Members without cards will stand in front here.

Hon. Members, the people who have voted are more than the Members who are in the Chamber. Those who do not have cards should come in front and you should not leave until the other Members have voted.

Hon. Members, I will give three minutes to the Members who do not have cards to come to the Civil Servants' Row on either side. Thereafter, voting will be done electronically. Those who will not have come here when I announce will not be allowed to come.

(Loud consultations)

Do not engage in that. You are requested to do that.

DIVISION

Hon. Speaker: Hon. Members, the Question was that Mr. Washington Jakoyo Midiwo be named. These are the results. Those in favour of that Question electronically are 87. Manually, 21. The total is 108. Those against electronically are 64 and those who voted manually are 27. The total is 91. There were two abstentions namely hon. A.B. Duale and hon. Amina Abdalla. Hon. Millie has voted manually. The hon. Member not to have voted is none other than the Speaker.

Hon. Member: Why?

(Laughter)

Hon. Speaker: Hon. Members, since you have just come out of an induction workshop, I encourage you to continue reading the Standing Orders. It, therefore, means that the Ayes have it. The consequences are as follows: That Mr. Washington Jakoyo Midiwo has now been named and therefore suspended from the service of the House. Since it is your first vocation in this Session, you are hereby suspended from the service of the House for four sitting days, including today's sitting. Mr. Midiwo, you are suspended from the precincts of Parliament including the committee rooms of Parliament, offices and any services including any motor vehicles offered by Parliament. Any allowances payable to the Member during the period of suspension are forfeited in terms of Standing Order No.110(2). The privileges and immunities available to a Member are hereby waived during the period of suspension as he is now a stranger. I instruct the Chief Serjeant- at -Arms to enforce the suspension.

(Question put and agreed to)

(Question carried by 108 votes to 91)

AYES: Messrs. Abdi, Abdinoor, Abongutum, S.A. Ali, Angatia, Baiya, Barchilei, Barua, B.K. Bett, J.K. Bett, Chepkong'a, Ms. Chepkwony, Mr. Chanzu, Ms. S.W. Chege, Messrs. Dawood, Dido, Duba, Dukicha, Ekomwa, Ms. Emanikor Mr. Farah, Ms. Fathia, Ms. Gathecha, Messrs. Gethenji, Gakuya, Gichigi, Huka, Ichung'wah, Injendi, Isaack, Kamanda, Koinange, Kangara, Kang'ata, Kihagi, Kariuki Ndirangu, Katoo, Ms. Kipchoim, Messrs. Kilonzo, Kiptanui, K.K. Kinyanjui, Kombe, Ms. Korere, Messrs. Kisang, Losiakou, Langat, Lati, Lemein, Lentoimaga, Ms. Leshoomo, Messrs. Letimalo, Limo, Mbai, Ms. Muhia, Mr. Macharia, Eng. Mahamud, Messrs. Manje, Manoti, Ms. Mathenge, Mr. Melly, Ms. Mitaru, Messrs. Musau, Musyimi, M'uthari, Murungi, Mohamed Abdi, Mwaita, Ngahu, Ms. Ng'etich, Messrs. Ngunjiri, Nakuleu, Nanok, Ndiritu, Ng'ang'a, J.M. Nyaga, Njenga, Njuki, Nooru, ole Ntutu, Nyumu, Otsiula, Ms. Otucho, Dr. Pukose, Messrs. Robi, Rop, Rotino, Sane, Ms. Seneta, Messrs. Serem, Serut, Sudi, Ms. Sunjeev, Ms. Shaban Messrs. Shidiye, Shill, Theuri, Tiren, Tonui, Ms. Teiya, Messrs. Waiganjo, Waititu, Wangwe, Ms. Wanyama, Messrs. Wario, Washiali, Were and Wekesa.

NOES: Messrs. Ababu, Abass, Mr. Aluoch, Ms. Amolo, Messrs. Anyango, Anami, Andayi, A.T. Anyanga, Bady, Bosire, Ms. Chae, Mr. Chea, Ms. Chidzuga, Eng. Gumbo, Messrs. Gaichuhie, Geni, Ms. Ghati, Messrs., Ibren, Iringo, Ms. Juma, Messrs. Kajwang, Kaluma, Kasuti, Ms. Katana, Ms. Kedogo, Ms. Keraa, Mr. Keynan, Ms. Khamisi, Messrs. King'ola, Kisoi, Kitungi, Korir, Koyi, Ms. Lay, Messrs. Lempurkel, Maanzo, Ms. Mbalu, Ms. Mumo, Messrs. M.D. Duale, Midiwo, Mirenga, Mlolwa, Mungaro, Mutambu, Moi, Muluvi, Ms. Mutua, Mr. Mustafa, Ms. Musyoka, Messrs. Mutua, Mwadeghu, Mwadime, Mwamkale, Mwanyoha, Mwaura, Naicca, Prof. Nyikal, Messrs. Ngikor, Ng'ongo, Maj.Gen. Nkaissery, Ms. Nyamunga, Ms. Nyasuna, Mr. Nyenze, Ms. Ombaka, Messrs. Onyango, Opiyo, Sitati, Odanga, Ms. Odhiambo-Mabona, Messrs. Ochieng, G.W. Omondi, J.O. Omondi, Ogari, Dr. Oginga, Messrs. Ogolla, Olum, Onyango, Otaalo, Ottichilo, Outa, Owuor, Eng. Rege, Messrs. Ramadhani, Shehe, Shimbwa, Simba, Wakhungu, Wangamati, Wanyonyi, and Wetangula.

ABSENTIONS: Mr. A.B. Duale and Ms . Abdalla.

Hon. Midiwo, you must withdraw from the Chamber. There is no debate about that. Chief Serjeant-At-Arms, enforce that order. There is no debate on this. Hon. Midiwo, you are a stranger. There must be somebody to enforce the order about the vehicles.

*(Hon. Members from the Minority Party escorted
hon. Midiwo from the Chamber)*

Members, those of you who are withdrawing, you must do so with decorum.

BILLS

First Reading

THE CONSTITUTION (AMENDMENT) BILL

(Order for First Reading read – Read the First Time and ordered to be referred to the relevant Departmental Committee)

(Several hon. Members stood by the door)

Hon. Speaker: The Member who is speaking to hon. Metito, is it possible that-- Serjeant-At-Arms, may you throw out anybody standing by the door! Members, the consequence of naming and subsequent suspension of hon. Midiwo for the period of the next four sittings is that the inappropriate words which he used against other Members are ordered to be expunged from the records of the House.

(Hon. Midiwo's unparliamentary utterances against other members expunged from House records as directed by the Hon. Speaker)

THE MICROFINANCE (AMENDMENT) BILL

Second Reading

Hon. Langat: Thank you, hon. Speaker, Sir, I beg to move that the Microfinance (Amendment) Bill, National Assembly Bill No.3 of 2013 be now read a Second Time.

First of all, I want to welcome the Members back to the House. I am sure they are now ready to transact the business that is ahead of us. Unfortunately, we need to do a lot of induction because when we are doing very important legislation, Hon. Members move out like they have done. Then tomorrow, they will start addressing Press conferences saying that the Jubilee Government has harassed Kenyans. We passed the VAT Bill and all of us in this House agreed with it. Unfortunately, people transact their businesses in the media. We need to do serious induction workshops. Now, we are dealing with another Bill and I will not be surprised if tomorrow people issue Press statements saying that we have passed a lot of bad laws. They have an opportunity to have been elected by the people to represent them in this House.

Having said that, first and foremost, the initial Microfinance Act was passed in 2006. That was meant to give some legislation to the microfinance sector which is a big sector in terms of our development and poverty reduction. Many years back, the banking sector in Kenya used to belong to a very few selected people. They could decide to do anything they wished to do. I remember banks could say that the minimum deposit was Kshs5,000 for everybody regardless of their income. That excluded many Kenyans from the banking sector because not many of us were able to maintain those high levels of deposits. So, the microfinance sector came to provide for those Kenyans who were unable to access the mainstream banking service. That has passed and the sector has stabilised and so far, we have around nine deposit-taking microfinance institutions. They mobilise resources and lend to the small-scale borrowers.

This sector has enabled many small-scale businessmen to access credit and, in the process, they have expanded our economic growth. Therefore, these amendments have come at a time when many Kenyans are desirous of having credit facilities. At the moment, the

Government has come up with what we call the *Uwezo* Fund to reach Kenyans wherever they are. Ideally, if our banking system was working properly, that is the work of the banks. It should not have been the business of the Government to get money to lend to people. That should be the business of banks. But because the system is not accessible to many people, the Government has come up with the *Uwezo* Fund. This is part of micro-financing for the small-scale businessmen and women.

One of the provisions of this amendment is that it seeks to give the microfinance institutions the opportunity to open agencies like banks are doing. I am sure the Members have seen everywhere bank agents. For example, the Equity Bank's agent is called the Equity *Mtaani*. The Co-operative Bank has its agents in shopping centres. These amendments also give the microfinance sector the opportunity to partner with other traders where they can open their branches and agencies, so that they can reach many other sectors.

Hon. Speaker, Sir, the other thing that this Bill seeks to do is to give the Central Bank of Kenya (CBK) which is the regulator an opportunity to have more control. Since we are now saying that these are deposit-taking microfinance institutions – they are taking deposits from customers - the CBK should protect them so that they do not lose their benefits. So, this gives more powers to the CBK to be able to control and exercise oversight over these microfinance institutions. Therefore, the CBK can take corrective measures where the institutions fail so that it saves those who have saved their money or protect their savings. This is because the CBK is a regulator.

Hon. Speaker, Sir, the other issue is giving power of control to the CBK. I hope that this House will support these amendments.

We invited the association of microfinance institutions which is actually the stakeholder when we met. One of the issues that they informed the Committee is that they support the Bill but they wished to propose some amendments which we will bring during the Third Reading. I want hon. Members to keep in mind one of this. They say that when they go to the village shopping centres, they are usually called microfinance deposit-taking. So, it is very hard for them to convince their customers to save because according to many customers, they are used to the word “bank”. They were requesting my Committee to look into that issue. I think my Committee will bring amendments so that we can allow them to be called “microfinance bank” so that they are able to convince their customers since they are now controlled by the CBK like any other bank.

Hon. Speaker, Sir, we are going to consider many other amendments. They are saying, for example, that they are not allowed to issue cheques and they are not allowed to trade in foreign exchange. Those are the issues that we will consider at the third stage so that we do not only pass a Bill that gives the CBK more powers to control microfinance institutions, but we also enable them to do their business very well. I am sure you may not see Barclays Bank or Standard Chartered Bank in many places, but you will see Faulu, Kenya Women Finance and many others in our small towns. This is because they have reached areas where the banks have failed.

I believe that this sector is very crucial in terms of our development. We are encouraging many of our youths now--- Many people are saying that they want our youths to participate in bidding for tenders. I support that our youth be awarded a significant percentage of the Government tenders especially by parastatals. However, they cannot be able to do this unless we have financiers that are able to finance them to deliver their services and therefore, get paid for those services.

I urge the House to support the amendments to the original Act so that the sector can be made more vibrant, it can be regulated properly and they are able to mobilize resources. I know many people have questions on what will happen when people default. I do not want to name names, but I have heard many people say that they come and take cows and small properties. However, those are isolated cases. Overall, this is a sector that has grown and that continues to grow. This is a sector that has instilled some discipline to the banking sector because all the time we have been having the banks, some of them have become rogue and they are unable to provide services.

Hon. Speaker, Sir, I remember trying to meet a bank manager those days was a process. However, since this competition came, bank managers come for you and you do not go to look for them. Therefore, these are the benefits we are getting from this sector that gives competition to the banking sector and therefore, improves the services of our consumers.

I do not want to say much. We have considered these amendments as a Committee and they are not very bad. If anything, we will bring amendments in the Third Reading so that we take care of those concerns from those players. I want to thank the Members who are in the House. I am sure that no Member will transact their businesses tomorrow in the Press and yet he or she has been given the power to represent his or her people in the House and not in the media the way some of us are doing.

Hon. Speaker, Sir, I have made some arrangements for hon. Members to be given some notes. You can update yourselves so that you can make contribution to this Bill.

I beg to move that the Microfinance (Amendment) Bill be now read a Second Time. I request the Majority Leader, Hon. A.B. Duale to second this Bill.

Hon. A.B. Duale: Thank you, hon. Speaker, Sir. First, I want to thank my colleagues and welcome them back to the Second Session of the Eleventh Parliament. Before we went on recess, this House passed the Value Added Tax Bill. I want to tell my colleagues that under Article 95 of the Constitution, the power to amend, the power of oversight, the power of representation and the power of legislation lies with this House.

The VAT Bill was passed in this House and it is very shocking that many days back the same Members who were in this House and had the powers at the Committee Stage to amend the Bill are now addressing the nation in a Press conference.

The Microfinance (Amendment) Bill, 2013 is an amendment Bill to the existing Microfinance Act and I will only highlight the amendments.

As a country, we must have a very clear law and we must support the creation of a robust microfinance institution. Why do I say so? Kenya is a rural-based economy. We want as many Kenyans who cannot access the conventional banks to go to the microfinance institutions for two major reasons. First, accessibility is very key. The microfinance institutions are in our villages, towns and places where big banks like the Standard Chartered Bank, Barclays Bank, the Kenya Commercial Bank (KCB) and Equity Bank will not go. This House has an obligation to bring as many amendments as possible and enrich these amendments from the National Treasury to make sure that Kenya gets a very robust financial institution.

Hon. Speaker, Sir, Clause 2 of this Bill seeks to amend Section 2 of the Microfinance Act. Where we have an amendment to an existing law, I urge the Parliamentary staff concerned to provide Members with that existing law so that they can look at these amendments based on the law that they have.

Clause 2 of this Bill only seeks to amend Section 2 of the Microfinance Act. This is trying to define and refine the term “agency”. It wants to define the term “agency” to mean that

if you have a petrol station, supermarket or chemist and you can easily be identified within that locality and you are reachable, you can get a licence as an agency service on behalf of the deposit-taking microfinance with the approval of the Central Bank of Kenya.

Hon. Speaker, Sir, Clause 2 also defines the significantly undercapitalized institutions. This is mainly for the purpose of the Microfinance Act. It talks about how to create a more effective microfinance.

Clause 3 of this amendment Bill seeks to amend Section 29 of the Microfinance Act. This one wants to empower the CBK to request the external auditors who work with it to provide additional information on their licensee. This is like providing checks and balance. The CBK will use the external auditors to provide information on the licensee before they are granted that service.

External auditors play a very important role. They provide quality assurance, safeguards and operations of the deposit-taking microfinance institutions. External auditors are very important to the CBK, depositors, creditors, members of the public and Parliament. Most of the documents we table here for scrutiny come from external and internal auditors.

Clause 4 of this Bill can only deal with areas that this Bill is trying to amend based on the Microfinance Act. This clause seeks to amend Section 34 of the Microfinance Act. All that it does in this amendment is to empower the CBK to share both positive and negative information that they gather on behalf of the microfinance with other key institutions like the Kenya Revenue Authority, the regulatory institutions, fraud investigators, protection fund and the monetary authorities in order to make sure that this information helps in the proper discharge of the functions of the CBK and the microfinance. This will ensure that as we encourage our people to use the services of the microfinance, their assets are taken care of.

Hon. Speaker, Sir, Clause 5 of this Bill seeks to amend Section 36 of the Microfinance Act by inserting a new subsection called "34A". Again, this empowers the CBK to take punitive actions when auditor's report or when an inspection reports that an institution in place is doing business contrary to the stipulated law. So, the new Section 36A gives power to the CBK that if auditors and regulatory bodies raise the red flag on a microfinance institution against the provisions, regulations or guidelines of the CBK, then the CBK can move in fast and make sure that the interests of the depositors or members of the public are protected.

Clause 6 of this Bill seeks to amend Section 37 of the Microfinance Act. Again, this one empowers the CBK to expand the number of grounds which may cause an intervention by the bank, in making sure that the management of a deposit-taking micro finance includes undercapitalization and failure to provide capital restoration as required by the CBK--- This is more of a safeguard to protect the depositors and the public.

Hon. Speaker, Sir, finally, Clause 6 seeks to amend Section 37(4) of the Microfinance Act. Again, this empowers the CBK to enter into an agreement with the board of directors of a deposit-taking microfinance requiring them to rectify any deficiency within three months. Again, this talks about how the CBK will deal with the deposit-taking microfinance board of directors to make sure that any deficiency both in terms of liquidity and other resources required by that microfinance are taken care of. These agreements will be binding to both institutions and their board of directors. Non-compliance to Section 37(4) will result in the CBK taking further action.

In a nutshell, those are the amendments contained in this Bill on the Microfinance Act which is in existence.

I want to tell my colleagues that in the next one month, there will be more than five very crucial financial-related Bills that will come to this House including the most important which is the Finance Bill depending on how the House Business Committee will tonight give priority. I want to tell my colleagues that this is where the lives of our people will be touched. We can discuss politics but our core or fundamental duty is to make sure that every Bill that comes to this House is done with a toothcomb, we do it in the interest of our people and that once we are through with the Third Reading of a Bill, the 349 Members of this House will take responsibility. It is of no benefit to the people you represent if you are not here when a Bill is being passed at the Third Stage, is assented to by the President and then you go and raise it out there.

Hon. colleagues you have a chance. The VAT Bill was here---

Hon. Speaker: Your time is up!

Hon. A.B. Duale: Hon. Speaker, Sir, with those remarks, I beg to second the Microfinance (Amendment) Bill, 2013.

(Question proposed)

Hon. Angwenyi: Thank you, hon. Speaker, for giving me the opportunity to support this Bill.

COMMUNICATION FROM THE CHAIR

CONSIDERATION AND APPROVAL OF FINANCE BILL

Hon. Speaker: Just hold on, hon. Angwenyi.

Hon. Members, including those who are withdrawing from the Chamber, it is important that I make the following Communication at this point.

That, your own Standing Orders – specifically under Standing Order No.245(4) – provide that this House must pass the Finance Bill 90 days from the day you passed the Appropriation Bill. Ninety days will end on the 27th of this month. So, indeed, we do not have the luxury of a month. We have slightly over a week.

You may continue, hon. Angwenyi.

(Resumption of Debate)

Hon. Angwenyi: Thank you, hon. Speaker. The Mover of the amendment to this Bill is a good person for this country. Most of the developing countries, including Malaysia, Singapore and Dubai, have achieved that kind of development because they have been supported, and have supported microfinance institutions. Even in Kenya, 10 years ago, Equity Bank, K-Rep Bank and Family Bank were microfinance institutions. Those institutions today support the economy of this country. They support the development of this country. So, we should support and give proper guidelines to microfinance institutions, which go to the grassroots where large banks cannot get to.

Let us remember that before Equity Bank came into play, most of the large banks in the country had closed down their branches outside Nairobi. For example, in Kisii where I come from, Standard Chartered Bank, National Bank of Kenya and Barclays Bank had closed down their branches. However, as soon as Equity Bank came into play, those banks re-opened their

branches and are now serving my people in Kisii. What this Bill intends to do is strengthening the microfinancing sub-sector, so that they can serve our people and the economy better, so that Nairobi can become a financial services hub in this part of the world. That is the way we should direct our economy. That is the way this House should support the economy and support Nairobi as a city to become the headquarters of financial services in Africa and take that position from South Africa. It is too far down South. We are in the middle of the continent. It is easier for one to travel to Nairobi from West Africa, North Africa and South Africa.

Therefore, without saying too much, I beg to support this Bill and beg my colleagues to also support it. It is unfortunate that some of us have had to walk out. I urge those who are within the precincts of Parliament and have heard me to come back, so that we can pass this Bill.

With those remarks, I beg to support.

Hon. Speaker: Yes, hon. Daniel Sitati.

Hon. Sitati: Thank you, hon. Speaker. I rise to support the amendment Bill.

It is actually prudent that we take services closer to our people. Microfinance institutions are the only option that will give an opportunity to people in the rural areas to access banking facilities. When we had a monopoly of Standard Chartered Bank and Barclays Bank, those institutions would even go out of their way to raise the minimum account balances to unacceptable levels. With the inclusion of microfinance institutions and putting in place proper mitigation factors to ensure that they observe professionalism and ethical ways of doing banking, I can assure you that this country will move to the next level.

The only way through which we can achieve Vision 2030 is going this route, so that banking facilities can get closer to the people. Therefore, this Bill will give an opportunity to even those people who are not able to access banking facilities at the moment. Therefore, I find it noble that this Bill is here with us in good time.

With those remarks, I beg to support.

Hon. Speaker: Yes, hon. Nicholas Gumbo.

Hon. (Eng.) Gumbo: Thank you, hon. Speaker, for giving me the opportunity to add my voice to the proposed amendment to the Microfinance Act, 2006.

[Hon. Speaker left the Chair]

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

Hon. Temporary Deputy Speaker, the proposed amendments are very timely. They ought to be supported, especially considering the fact that up to now, a good part of Kenya's population still remains unbanked. In my view, by entrenching micro-financing amongst our people, we are promoting financial literacy. In a way, this is going to help us fight poverty at the grassroots level. I agree entirely with my colleague, hon. Jimmy Angwenyi, who spoke before me; that, having allowed microfinance institutions to grow, we now have indigenous banks in this country, which are giving a very positive competition to the major banks. It may be lost to many that hardly 10 years ago, almost 95 per cent of the profits declared by banking institutions in Kenya were in the hands of foreign-owned banks, including Barclays Bank, Standard Chartered Bank and City Bank.

Due to the fact that we have allowed proliferation of microfinance institutions, I am very happy as a Kenyan who believes fully in this country that today, thanks to our own Kenyan

brothers, including the Gideon Muriukis and the James Mwangis of this world, amongst others, the top three banks in Kenya are indigenous banks. A lot of things and achievements are being undertaken by Kenyans, which actually go unnoticed. These are our true Kenyan heroes. As we speak today, over 56 per cent of all the profits declared in the banking sector are in the hands of indigenous banks. In fact, the most profitable foreign bank, which still remains as Barclays, is at number four. Number one still remains KCB; number two is Equity Bank and number three is Co-operative Bank. We need to celebrate these banks which have been steered by Kenyans using Kenyan models. It is, in fact, a reason for us to believe that as Kenyans, we can do it and we must do it because the growth of any country has to happen from within that country. We cannot expect foreigners to come to our country and grow it because their main motivation is profiteering and profit repatriation to their own countries.

Therefore, I support this Bill and hope that as we go along, more and more sections of our population will be involved, so that we promote financial literacy and, that way, fight poverty at the grassroots level.

With those remarks, I beg to support.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Yes, hon. Robert Pukose.

Hon. (Dr.) Pukose: Thank you, hon. Temporary Deputy Speaker. I rise to support the Motion because in this country, microfinance institutions have a role to play in alleviating poverty. As we all know, more than 50 per cent of Kenyans live below the poverty line. They live on less than a dollar a day. Therefore, the areas of loaning, saving, insurance and training of people need a lot of support. We recently saw the Jubilee Government come with the *Uwezo* Fund. We have had the Youth Enterprise Development Fund and the Women Enterprise Development Fund. Today Kenyans are looking at us and asking themselves what we can do as a House to ensure that the common man, and more so the poor Kenyan in the rural areas, accesses those funds at affordable interest rates. The biggest challenge has always been how much interest the various financial institutions charge.

As we are aware, the purpose of microfinance is basically access to money borrowing services by Kenyans who cannot access mainstream banking institutions. These are people who sell their chicken and accumulate a certain amount of money to build houses, buy land and raise school fees for their children. When some hon. Members walk out of the House and avoid debating issues meant to alleviate poverty, Kenyans only wonder what we are doing in this House.

Hon. Kaluma: On a point of order, hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): What is it, hon. Kaluma?

Hon. Kaluma: Hon. Temporary Deputy Speaker, we should stop this idea of debating what other hon. Members are doing. We should debate the Bill before the House. We had a reason for walking out.

Hon. (Dr.) Pukose: Hon. Temporary Deputy Speaker, that is not a point of order. It is a nuisance and disruption to my contribution.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Continue, hon. Member.

Hon. Kaluma: On a point of order, hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Hon. Kaluma, can you state your point of order? What is out of order? Hon. Member, please respect the statements by other hon. Members. Can you point out what is out of order, hon. Kaluma?

Hon. Kaluma: Madam Temporary Deputy Speaker, I am rising to question why the hon. Member, without a substantive Motion is discussing the conduct of other Members of Parliament. He cannot do that without a substantive Motion.

Hon. (Dr.) Pukose: Madam Temporary Deputy Speaker, I will continue from where I stopped. The major reasons we are here are representation, oversight and legislation. When we legislate, we do so in a manner that Kenyans do not ask the next day what we were doing in the House. For instance, when we passed the VAT Bill last time, other hon. Members hit out in the Press---

Hon. Kajwang': On a point of order, Madam Temporary Deputy Speaker. Did you hear a Member saying that a Member's contribution is full of nonsense and of little substance? Is it parliamentary language to refer to a Member's contribution as full of nonsense and lacking substance? Could this hon. Member withdraw his remarks or substantiate how Members can be full of nonsense, or that their contributions are of no substance?

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Hon. Pukose, you either substantiate or withdraw your remarks.

Hon. (Dr.) Pukose: Madam Temporary Deputy Speaker, if I said that, which I cannot recollect, then I withdraw.

(Laughter)

Hon. Members: HANSARD! HANSARD!

Hon. Kajwang': Madam Temporary Deputy Speaker, under the Standing Orders a Member either has to substantiate or withdraw unconditionally. He says that he does not remember. Is he asking us to refer to the HANSARD to find out if this was said or not?

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Thank you, hon. Kajwang'. To my understanding, the hon. Member has withdrawn.

Hon. (Dr.) Pukose: Thank you, Madam Temporary Deputy Speaker. I said that the issue of microfinance is critical. This affects the poorest of this country. They are waiting to see how this House is going to debate this matter and make it affordable for them. We need to create an environment that will enable the poor Wanjiku to access this money. The other day I was at home and many of the youths and women were asking me how soon they will be able to access the *Uwezo* Fund. Kenyans out there are waiting. They have difficulty in accessing banks. They do not have enough savings that can enable them own land or buy any meaningful property. This microfinance is the only way out for them. We have seen it work in other countries. There are many examples. There are people who have won Nobel Peace Prizes in India for mobilizing women to start business on the microfinance line. This is where we are going.

A few years ago, people came up with pyramid schemes which Kenyans thought would alleviate their poverty. Majority of the pyramid schemes ended up being scams that impoverished Kenyans. People are asking how they will be assisted. People ran away with money belonging to those who had joined the pyramid schemes. At that time, we were told that the Central Bank of Kenya had frozen those accounts, but up to date we have nothing to show for that. Committees have been constituted to look into this issue, but at the end of the day it is discovered that the people who fleeced them are the ones who pull shots here and there. It is, therefore, difficult for the *mwananchi* to be assisted to recover his money that he invested in the so-called magical pyramid schemes. These are areas that we need to strengthen. It is high time we supported this Motion and have the Central Bank of Kenya take control. When one joins

these microfinance institutions and borrows money he should be protected. At the end of the day he should be able to get his money and that his *sufurias* and other properties are not taken away.

I stand to support this Motion.

Hon. (Ms.) A. W. Ng'ang'a: Madam Temporary Deputy Speaker, I stand to support this Bill. We have come of age. As Kenyans, we are now able to solve our own problems. Before, it was a nightmare accessing loans. Right now, with microfinance at the grassroots level we can now access our loans easily. For this reason, businesses are now growing. Before, we never used to know what was expected of us even after accessing a loan. Right now, if you go to a bank you are told of the products that are being offered. At the grassroots level, this will empower many people.

Most people at the grassroots level never wanted to access loans and that is why they joined the pyramid schemes which collapsed. Previously, people spent a lot of money to open an account. With microfinance, it is easier to open accounts and access money. In fact, people now are not putting money under blankets and inside mattresses. People now know the need to bank their money. We support the idea of having microfinance institutions at the grassroots level.

It used to be a big deal to go to banks. The big banks knew that they were the only ones in existence. However, today, there are many financial institutions and so the competition has made banks handle customers well. The people can now access funds without anybody pushing them. Women and youth meet in their groups and they are able to collect their money and take it to financial institutions. They are able now to do business as individuals and as groups.

I beg to support.

Hon. (Prof.) Nyikal: Thank you, Madam Temporary Deputy Speaker for the opportunity to contribute to this Bill. The greatest problem we have had in Kenya about those people who live off small businesses in the markets, fish landing beaches, or roadside kiosks has been lack of small level financing that they require to promote their businesses. These finances do not require any collateral that many of them cannot get. This area has been dominated by women and youth that are struggling to get themselves employed. This has been evidenced by the merry-go-rounds where people collect money for each other and the table banking. Through these, many families have found livelihood. Children have been fed and they have gone to school through these small businesses. We have heard evidence that the Women's Fund that I have had opportunity to work with, indicated the desire for funds that can be easily accessed and the *chamas* that we know about have shown this need. Indeed, the banks that have targeted this market like Equity and Family banks have actually been the mainstay of local banking and local bank systems in this country. You are aware that the big banks have always been a threat to the small business people with large collaterals and sometimes the women have put it, when I was dealing with the Women Enterprise Development Fund, that the banks are so frightening that you just feel you do not belong there.

Therefore, this Bill that will make available finances, I believe at low rates or even at no interest rates at all, will allow even small enterprises like petrol stations and shops to be actually collecting funds and passing them out to others, I think this is what will move this country. This is what will move our agro industry. In my mind, we are at the beginning of serious economic improvement and economic participation by the people of Kenya.

I, therefore, support this Bill. Thank you.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Hon. Mwiga Gunga.

Hon. Chea: Thank you, hon. Temporary Deputy Speaker for this opportunity. I rise to support this Bill and I must say from the outset that the microfinance institution has been here for

a while and it is time that it is given teeth to be able to discharge to its best. We realise that the majority of the places that most of us come from have not even seen a bank but we have only been able to see these microfinance institutions. These are the women who benefit from the Kenya Women Enterprise Fund that we have been talking about. There is Faulu Bank and the Small and Micro Enterprise Programme. These are the ones that we have been seeing around going down to the villages to interact and advance money to our people so that they can trade.

Hon. Temporary Deputy Speaker, these microfinance institutions have played a crucial role basically in the eradication of poverty as most of them in the course of lending money to our people, our people have been able to take their children to school. Our people have been able to do some other forms of businesses and their economies have definitely improved. So, as we consider this Bill we must all be able to give it the support it deserves so that it goes through and enables the institution to carry out its mandate, but as we do this we must also be alive to the fact that for quite some time there have also been those we call briefcase microfinance institutions. The laws must actually be strengthened to curb such kind of institutions which have really done great damage to our people. We have seen our people losing a lot of money out of getting involved in these kinds of arrangements. So, I support a situation where laws are actually strengthened and also a situation where these institutions are improved so that they can do business. Areas which have not seen banks before can trade effectively for the betterment of our people.

With those few remarks, I support this Bill. Thank you.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Hon. Joyce Emanikor.

Hon. (Ms.) Emanikor: Thank you, hon. Temporary Deputy Speaker. I rise to support this Bill and one of the basic questions that we would ask is: Where are these other big banks and microfinance institutions? They are not in some places. If you go to Lodwar, you will not find them. It is the microfinance institutions that are accessible and that is a basic question that all of us ought to ask. If we are talking of accessing credit facilities, access to manage assets and economic growth, then we are talking of microfinance. This country is talking of double-digit economic growth. We cannot realise that without promoting the microfinance institutions. The underdeveloped or marginal communities like the Turkana for instance can only take small loans. They cannot manage to access conventional or big loans and, therefore, those projects will transform their lives. They will diversify their lives and they will be able to realise some change.

Hon. Temporary Deputy Speaker, according to the developing world markets report it shows that the repayment rate for the microfinance institutions ranges around 97 per cent to 98 per cent. That is because of the favourable modalities used by the microfinance institutions to give loans and that anybody can access that. The microfinance institutions have even gone beyond lending money in terms of the corporate social responsibilities. We have had children from poor families being given scholarships by these institutions. We have had women groups being trained on capacity building on financial management.

Hon. Temporary Deputy Speaker, when we talk of the family, it is the basic unit in a society and it is very critical in the development of a nation. The family is very much connected to the woman and the woman is the person that has been empowered by these institutions. All the money that women get goes into projects that develop the family.

So, I stand to support. Thank you.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Hon. Mbadi John Ng'ongo.

Hon. Ng'ongo: Thank you, hon. Temporary Deputy Speaker. For a while I think we have realised as a country that the law that is in place governing and guiding the microfinance

institutions has not been sufficient or adequate to address all the challenges affecting and facing the microfinance institutions. Even though this law has attempted to correct some of the issues that have been encountered previously, still a lot needs to be done to make sure that we have proper regulations to guide and steer the microfinance institutions. A lot of us have lost money because of mismanagement of microfinance institutions whereas again in rural areas these institutions have to be there because the big banks are not in existence in most of these places. The microfinance institutions, because they are not properly regulated, again end up fleecing members.

Hon. Temporary Deputy Speaker, you will realise that even though this Bill has made an attempt to regulate the microfinance institutions, there are issues like what Kenyans went through the pyramid schemes. That should have come out clearly so that the law prohibits such kind of initiatives which reflect or mirror the microfinance institutions. I am happy that this Bill is addressing the issues of sharing credit information by deposit-taking institutions. It is important that the deposit-taking institutions share the credit information of members so that the microfinance institutions are protected from people who commit crimes in some deposit-taking institutions and leave for other institutions and again repeat the same. When you leave the structure to be designed by the Cabinet Secretary, I do not think that is right. In fact, during the Committee Stage, I expect the relevant Committee on Finance, Planning and Trade to ensure that we bring proper amendments to specify exactly what kind of information is required and what kind of information will be provided by the deposit-taking institutions.

Madam Temporary Deputy Speaker, the role of the Central Bank in oversight and policy has not been properly defined in the 2006 Act, but with this Act, I am happy that an attempt has been made to ensure that the Central Bank of Kenya is brought in to regulate, police and ensure that the microfinance institutions are conducting business in a proper way.

Finally, the issue of capitalization is very key and important. I am one of the people who believe that as a country and as a Parliament, we did not do justice to those institutions which want to start deposit-taking. You will remember that at one point before Equity Bank and Family Bank became banks, the capital base was very low. It was reduced to accommodate these banks. The moment they became banks, this House, through the initiative of the Cabinet Minister then increased the capital and that it is now discouraging other people who are coming in to start banking institutions. If the capital base was as it is today, the Equity Bank could not be a bank. This is unfair and even as we make it criminal for these deposit-taking institutions not to be undercapitalized, it is important that we review this capital base that we passed as a House through the Finance Bill. I cannot remember the year but it is not long ago. To me, that is very important because other Kenyans also want to start banks. We do not want banks that are started by other Kenyans to come to our areas, take deposits from our areas and go and trade in particular areas of this country leaving our people as poor as they found them.

As a matter of fact, some of these banks come to our areas, take deposits and do not even give loans to our people. They pretend that they would award loans, but the moment you apply, they put conditions that you cannot meet. First of all, they require title deeds. In our regions, title deeds are not even there.

With those many remarks, I support the Bill, but I would ask the Committee to do a thorough analysis of this Bill to bring adequate amendments to make it be acceptable to all of us.

Hon. (Ms.) Tobiko: Thank you, Madam Temporary Deputy Speaker. I rise to support the Microfinance (Amendment) Bill, 2013. Definitely, this is progress in this country which is taking banking services to the people. As many of the speakers have indicated, in this country, we have

Kenyans who have mobilized themselves into small groups trying to do business. We have women doing table banking, merry-go-rounds and small *chamas* that are trying to mobilise their resources for the betterment of their families. The only way for them to access banking services is through microfinance institutions.

I am also happy that the role of the Central Bank has been specified and clarified and Kenyans' money will be taken care of. You realise that soon we will have the *Uwezo* Fund being operationalised and Kshs6 billion will be circulating in our market. The only way for Kenyans to secure their savings and have a saving culture is by having these microfinance institutions available to them and closer home.

You also realise that there are many Savings and Credit Cooperative Societies (SACCOs) that have front banking services. This is the way to go. The microfinance institutions normally handle Kenyans in a friendlier way. They have personalised services. They do not have strict terms like the multinational banking institutions. This is the way we must go. We are encouraged and I believe this is a Bill that we should support.

Hon. Nuh: Thank you, Madam Temporary Deputy Speaker. I rise to support the Bill. Microfinance is the backbone of the economy of the rural sector of this country. Many of the rural-based communities use microfinance institutions to access capital to start different kinds of businesses. It is very important to regulate it, so that the rural community can benefit from it.

On the other hand, microfinance institutions have been misbehaving for many years to the extent that they lend money to desperate Kenyans and when they default, the institutions end up taking even chicken from their houses, *sufurias* and beds. These are terrible people. They need to be regulated so that they do not mishandle other Kenyans who are unable to access funds. That is how schemes like the pyramid schemes went on in this country because there were no regulated microfinance institutions. We need to take these Bills very seriously. We need to look at them critically as Members. The other time when I said that the House is being converted into a conveyer belt, I was vilified here. But the Jubilee side should stop subjecting Bills to tyranny of numbers like they did with the VAT Bill. Kenyans are crying. They are bleeding. Kenyans cannot afford milk and bread because of the Jubilee. We opposed, but they used their numbers. So, the Bills that are brought before this House---

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): There is a point of intervention by hon. Langat.

Hon. Langat: On a point of order, Madam Temporary Deputy Speaker. This House is entitled to facts.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): What is out of order?

Mr. Langat: He is misleading the House that one party used its numbers, yet there were no contentions in the VAT Bill. We agreed on the issues that were there. There was consensus.

Hon. Member: There was no consensus!

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Please, let us watch our words in the House. Continue, hon. Nuh. Members, please note that we have time at 5.30 p.m. to speak about the VAT Bill. Hon. Junet, please, note that.

Hon. Nuh: Madam Temporary Deputy Speaker, hon. Langat, who was on a point of order is the Chairman of the Finance, Planning and Trade Committee. He is the one who presented the VAT Bill to this House on behalf of the Jubilee side. He should take responsibility for making bread and milk expensive.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Hon. Member, you are out of order. At 5.30 p.m., you can discuss that.

Hon. Nuh: It is okay, hon. Temporary Deputy Speaker. As I said earlier on, the Microfinance Bill is very important. I support it because it will regulate the small institutions that should help other Kenyans to start business. As the Chair is aware, the biggest problem that Kenyans face at the moment is unemployment. Kenyans will start their own businesses once capital is available to them. These people would not wish to be employed by anybody. Instead they will become employers.

Hon. Temporary Deputy Speaker, with those few remarks, I support this Bill but the Chairman of the Departmental Committee on Finance, Planning and Trade must take responsibility for the VAT Bill. I know he is a strong supporter of Jubilee.

Thank you, Hon. Temporary Deputy Speaker.

Hon. Mwaura: Thank you, hon. Temporary Deputy Speaker. I rise to support this Bill because Kenyans have really suffered because this part of the financial industry is not properly regulated.

Kenyans are suffering in the hands of people called shylocks who seem to be asking too much in terms of interest rates. In fact, the word “shylock” has even been Kenyanised or even made to appear in local languages. In my mother tongue, I hear them talking about “shylock”.

(Laughter)

This means that our people are really suffering. Because of that we want to make sure that all those shylocks are not affecting our members.

We know very well that under Section 36(a) of this amendment Bill, the CBK has been given powers to institute corrective measures against any microfinance institution that will not go by the straight and the narrow. I would also like to say that this may be subject to abuse because we have seen--- This House has been informed that some of these corrective measures may be informed by political considerations. We are also aware that two years or so ago, the CBK through its discount window was able to allow individuals and corporate to withdraw up to Kshs600 billion under the pretext that they were trying to buy foreign currency because there was a shortage. That led to high rates of inflation and of course, our shilling had to really lose value. Therefore, the CBK must be beyond reproach like Caesar’s wife so that it can also be entrusted with the lives of Kenyans.

Hon. Temporary Deputy Speaker, if you look at the various measures proposed by the Government in terms of, for example, 30 per cent procurement opportunities being offered to women, youth and persons with disabilities, you will find that these microfinance institutions will be critical in terms of generating opportunities for capital so that our marginalized members of the society are able to do business with the Government. Therefore, it also comes within the backdrop of *Uwezo* Fund that has just been initiated.

However, I would also like to take stock of the fact that the Government of the day must learn not just in terms of establishing institutions but also learn from existing institutions like the Women Enterprise Development Fund and the Youth Enterprise Development Fund. This will ensure that these lessons are inculcated towards poverty alleviation and economic empowerment programmes for these marginalized groups of people.

Hon. Temporary Deputy Speaker, I rise to support.

Hon Eric Keter: Thank you, hon. Temporary Deputy Speaker. I rise to support this Bill. The microfinance sector in this country plays a very major role in boosting the economy of our youth in our villages. In fact, they call it the poor man’s bank. All women and young people can

access banking facilities. We have these banks and they have taken many years to reach the ordinary *mwananchi* in the village. So, when we strengthen these facilities, we are indeed, strengthening the youth and women. By doing so, we are boosting the economy of these people. Any ordinary person in the village can afford this. For example, a casual who is paid Kshs50 or Kshs100 a day is able to bank that money. This is very important. However, I take this caution. We need proper regulations on management and registration on how this can be done effectively so that in the process, we do not turn these institutions into places where money is misused and taken from the beneficiaries. So, we require proper regulations so that we support these people.

I know the services of big banks in many areas are not accessible to many people. If we encourage these institutions, we will boost the economy of these people.

Hon. Temporary Deputy Speaker, I support this Bill and urge all Members to support it.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Hon. Ouma, you have two minutes to contribute.

Hon. Ochieng: Thank you, hon. Temporary Deputy Speaker. I support this Bill, but as I do so I would like to say that the reason we discuss amendments is not because the institutions we are talking about are bad. We are saying that a couple of things need to be done and be done right. If you look at the spread of these institutions in the country today, you will see some bias in terms of where they work and how they work. We have heard the Government sometimes infusing money through these institutions' intermediaries and leaving others. I want to say that in case the Government of Kenya decides to provide money through these institutions, this should be done equally, equitably and in a way that benefits all these institutions. This is because we have seen others growing while others do not because of the way the CBK and the Government regularly plans its payment systems. You will find sometimes they favour some and leave out others.

I want to repeat something that has been said today. Whereas these institutions are very good because they help *mwananchi* access credit, they have become rogue institutions in some places like in Ugenya. I have seen them come and auction illegally--- They do not follow the law. They collude with auctioneers and take away chicken, cows and people's wives.

(Laughter)

This is not the way we want to run these institutions. We want to make sure that the institutions are run legally. We want these institutions to operate well. We cannot allow them to do things that are against the law. We want to give them leverage to operate but they must operate within the law.

Hon. Temporary Deputy Speaker, I want to say something on the amendment that has been proposed in terms of strengthening the arms of the CBK to be able to discipline these institutions. We must provide for enforceable sanctions. The idea of saying that the CBK will agree with---

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): There is an intervention from Hon. Kamunye Gichigi.

Hon. Gichigi: Thank you, hon. Temporary Deputy Speaker. Reading the mood of the House, and in view of the business that we have ahead of us, I propose that the Mover be called upon to reply.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Hon. Members, you will remember that we have business to discuss at 5.30 p.m.

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

Hon. Ochieng: I was on my feet, hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): That was an intervention.

Hon. Members: It has been overtaken by events!

Hon. Langat: Thank you very much, hon. Temporary Deputy Speaker. I thank the hon. Members who have contributed and those who had intended to contribute to this Bill will contribute in the next Bill.

I beg to move.

(Question put and agreed to)

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

MOTION FOR ADJOURNMENT UNDER STANDING ORDER NO.33(1)

RISING COST OF LIVING IN KENYA

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Hon. Members, it is now 5.30 p.m. According to the Speaker's direction, we are supposed to discuss a matter of national importance which was raised by hon. Wamalwa. I call upon him to move the matter.

Hon. Wakhungu: Thank you, hon. Temporary Deputy Speaker. As I mentioned earlier on, pursuant to Standing Order No.33(1), a direction was given by hon. Speaker that we discuss the cost of living in Kenya in view of the increase in food prices which is now a matter of urgent national importance.

In the last one month or so, Kenyans have been crying. The prices of food have really gone up and the cost of living has gone up. It is not an issue of Jubilee neither is it an issue of Coalition for Reforms and Democracy (CORD). This is an issue of national importance. As we discuss this, I call upon hon. Members to discuss this matter objectively without fear or favour. The cost of living that is going up is affecting both sides of the House.

Earlier on, half a litre packet of milk was costing Kshs50 but it is now going for Kshs80. A loaf of bread that cost Kshs40 now goes for Kshs70. This applies to both *unga* and sugar. Ninety per cent of Kenyans eat *ugali* which is the staple food not only in western Kenya but in every part of Kenya. The food prices have gone up because of the enactment of the VAT Bill which is an Act right now.

In production, we say that the total cost of production is equal to fixed cost plus the variable cost. We have heard a notion that unscrupulous business people are increasing prices illegally but this is not the case. If the production costs have gone up, definitely the total cost will go up. Price is equal to total cost plus the percentage profit margin.

Hon. Temporary Deputy Speaker, if the total cost of producing a packet of milk was Kshs30 and a businessman wants to make a profit of Kshs10, he will add Kshs10 and definitely the selling price will be Kshs40. However, if the total production cost goes to Kshs70 and he

wants to retain the same Kshs10, commonsense will dictate that he or she will add Kshs10 and the price will be Kshs80. So, the issue of saying that unscrupulous people are increasing prices illegally does not hold water.

When we debated the VAT Bill, there is a difference between tax exempt and zero rate tax. This honourable House exempted tax on basic goods including milk, *unga*, sugar and bread but they were not zero-rated. Definitely, the businessman wants to make profit. When the production cost goes up, definitely it is passed on to the consumer. So, if the Government wants to help the poor Kenyans, we must reverse from tax exemption to zero-rate tax.

Hon. Temporary Deputy Speaker, an empty stomach has a dangerous mind. If this continues, we will have many cases of insecurity in this country. This is because everyone would like to look for *ugali* and food. If they cannot afford this, we will have house breakages and mugging of people.

The cost of water has also gone up because VAT was also introduced in that commodity. Hon. Angwenyi is my neighbour where I come from and he has been a very good hon. Member whom I respect very much. However, today, we must discuss soberly so that we can know how to reduce the prices of these basic goods.

On employment, we know that we have high rate of unemployment in this country. Research has shown that 70 per cent of the people who are unemployed are the youth. We have local industries here which process milk, bake bread or mill *unga*. In terms of production cost, if this cost is high, the price will definitely be high. In economics we have what we call “price elasticity of demand”. When the price goes up, the quantities that will be demanded or purchased will be low. If whatever the factories or industries are manufacturing will not be sold then they will not produce optimally and they will have overheads. On the economies of scale, they will be disadvantaged.

In other words, I am trying to say that in future, the local industries will close down because the price will be high when the production cost is high and the market that we have locally cannot afford. So, people will have to change or substitute products and in the long run these factories will close down and we will have serious unemployment.

Hon. Temporary Deputy Speaker, I had a session with the Chairman of the Departmental Committee on Finance, Planning and Trade whom I respect very much and is a very good friend of mine. Indeed, he admitted that we need to zero-rate tax on basic goods as opposed to tax exemption.

This is not an issue of Jubilee neither is it an issue of CORD. Kenyans are crying and we are the only ones who can save them. Prof. Michael Porter came up with the Diamond Model which shows competitiveness of nations in terms of investors. This country will not attract investors. Already, we have seen investors going to invest in Uganda because the production costs there are low. The same case will happen in Tanzania. I have seen in the newspapers the tourism industry not being spared. The tourists who watch our wildlife now prefer to go to Tanzania as opposed to coming to this country. In the long run, Kenya’s economy will go down.

If you look at the policy that brought this VAT, you will find that the Jubilee Government wanted to get Kshs10 billion. However, getting Kshs10 billion and seeing the way Kenyans are suffering, which one will you go for? People have cried and nobody has heard their voices. I imagine that this honourable House will debate this matter objectively and without partisan approach and see what we can do. We can move an amendment to the VAT Act that was assented to so that Kenyans can enjoy lower prices of basic commodities.

Education is a basic need. In line with the Millennium Development Goals, we advocate for university education for all. People in the village cannot afford exercise books.

Look at the prices of newspapers. They have gone up. Newspapers provide information. They provide oversight in terms of accountability in respect of rich persons. When it comes to jobs advertisements, they are found in newspapers. However, newspapers are no longer affordable. I used to buy three newspapers daily but I now buy only one newspaper. If an hon. Member can feel the pinch, how about the common man in the village? My humble request to this House is that we should look for a way of bringing amendments to the Value Added Tax Act.

I am sure that as I speak, His Excellency the President is hearing me. First of all, I want to thank him for unveiling the *Uwezo* Fund that he has given to the women and youth of this country. Unfortunately, when it comes to the aspects of VAT, they are going to eat into that money, unless we look for a way of amending the Act and reverse its effects. Some Kenyans have been having three meals in a day while others have been having a single meal in a day. Today, those who were having a single meal in a day can no longer afford it. Those who were having three meals in a day can only afford a single meal.

We are going to have a nation of malnourished people. A malnourished nation is not a healthy nation. If I may go by the words of the immediate former President of this country, Hon. Mwai Kibaki, we must be a working nation. In order for us to be a working nation, we must be healthy, and not malnourished. If the issue of VAT persists, Kenyans will be malnourished. They will be vulnerable to diseases. One of the critical issues relating to the care of HIV/AIDS infected people is nutrition. So, if this issue bites, even those who are affected, instead of living for more years, will die faster. This is a national issue, which we must look at objectively and see what measures we need to put in place to reverse the trend because the cry is everywhere.

As leaders of this country, we must listen to the nation. We must be able to know where we went wrong, because the prices of essential commodities started going up when we passed the VAT Bill. So, the problem is in the VAT law. So, we should stop the blame game of saying that unscrupulous businesspeople are increasing the prices of commodities illegally. The Nakumatt Supermarket chain is not run by unscrupulous businesspeople. The Uchumi Supermarket chain cannot do such a thing. However, if you go to supermarket stores being operated by the two business entities you will find that the prices of basic commodities have gone up. Therefore, I urge this House to debate this issue objectively, so that we can develop an amendment and bring it to the House to reverse the harmful effects of the VAT Bill.

With those remarks, I beg to move and request hon. Manson Nyamweya to second this debate.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Yes, Hon. Nyamweya.

Hon. Nyamweya: Thank you, hon. Temporary Deputy Speaker, for giving me a chance to support this very important Motion.

I would like to remind hon. Members that we are here for the just welfare of this country. As Parliamentarians, our responsibility is to protect all Kenyans and ensure that the laws we pass are fair for both the poor and the rich. When the VAT Bill came to this House, I personally opposed it and said that if we pass it, we would experience high prices of various commodities. The KRA should stop the sideshows. We are talking about very basic items, including milk. I want us to look at the income of Kenyans. In the rural areas, the most highly paid person is a teacher. If he does not take a loan from his SACCO society or from another place for various activities---

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Hon. Nyamweya, there is a point of order from hon. Peter Opondo Kaluma.

Hon. Kaluma: Thank you, hon. Temporary Deputy Speaker. I rise under Standing Order No.34 to move that our time for purposes of this debate be extended beyond 6.30 p.m. I note the time now and the importance of the issue before us. A number of hon. Members are coming into the Chamber to contribute to the Motion. Therefore, I beg for an extension of our sitting time.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Hon. Kaluma, that is not how to approach such issues. Please, approach the Table and consult on the same. In the meantime, hon. Nyamweya, proceed.

Hon. Nyamweya: Thank you, hon. Temporary Deputy Speaker. I want us to look at the income of people in the rural areas. The highest paid person in the rural area is a teacher, who earns about Kshs10,000 per month. That teacher has somebody who goes to school. You may find that the teacher is a mother who has a little baby. The prices of milk, bread, maize flour and other essential commodities have gone up. If the prices of all the basic items have gone up and your income remains constant, you are bound to stop buying certain items. This means the increase in the prices of those commodities will result in a decline in revenue collection by the Government because there will be no consumption due to lack of disposable income amongst the citizenry.

I believe that the Cabinet Secretary of the National Treasury is being set up to fail. They should have done a proper consumer cost-benefit analysis and come up with an appropriate list of items that should be taxed. I want to go back to what happened in this country on imports. I mentioned this last time. If you look at textiles, safety shoes and spare parts in the market today, you will appreciate that they are of substandard qualities. Therefore, the first question we should ask ourselves is what is happening with the KRA and the Kenya Bureau of Standards (KEBS). Anything that is imported into this country must meet certain thresholds on quality, standards and value. Even the KRA have admitted that they are collecting less revenue on imports yet we are expanding our sea port, so that we can import more.

It is, therefore, clear that in order for the Government to raise revenue, it should tighten revenue collection at our ports of entry. The items coming into our market should be properly taxed. This country should not be a dumping ground for substandard goods, which appears to be the case today. The KEBS have allowed cheap textile commodities to come into the country. If, as a Kenyan, today, you try to establish a factory to produce cheap commodities like the ones allowed into our market, the KEBS will not allow you to do so. They will be in your office every day to tell you that you have not manufactured products that meet the standards. Talk to any manufacturer who has started to produce anything, he will tell you a similar story.

Some people have natural resources like water springs. Such person would want to bottle the water but if he tries to do so, before he does anything, he will find KEBS officials at his doorstep. First of all, they will tell that person that his product has not met any standard. What is happening with our imports? If somebody tries to establish a small-scale industry, like a water bottling plant, he will not be allowed to do so. Leave alone water, in all sectors where we have Kenyans who have started doing small-scale production, be it in manufacturing of textiles or spares or in anything else, they have not been allowed to do so. How come that nothing is being stopped from coming into our market from outside?

Hon. Members, if you go to any street in this country, be it Tom Mboya Street, Kenyatta Avenue, Koinange Street or Wabera Street, everything you will see being sold there is

substandard. They are supposed to have specific standards. I want to urge hon. Members of the Departmental Committee on Finance, Planning and Trade to---

Hon. Simba: On a point of order, hon. Temporary Deputy Speaker. Is the hon. Member in order to say that even at Koinange Street products are substandard?

(Loud consultations)

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): You may substantiate your remarks, hon. Nyamweya.

Hon. Nyamweya: Hon. Temporary Deputy Speaker I am talking about products which are sold along Koinange Street. I am talking about shoes, radios and other electronic goods. I am talking about imports.

Hon. A.B. Duale: Hon. Temporary Deputy Speaker, the hon. Member is running away from the fact. He knows the kind of products that are found at Koinange Street, particularly at night. Unless he has tasted, could he confirm--- How come he is saying that they are substandard?

(Laughter)

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Order, hon. Duale. I asked the hon. Member to substantiate his remarks and he has already done it. Perhaps, you want to hear him again. Hon. Nyamweya, could you, please, substantiate your statement for the sake of hon. Members who want to hear you again?

Hon. Nyamweya: Hon. Temporary Deputy Speaker, the point I am raising is that this country has become a dumping ground for imports. I have named the streets in this country where you will find electronic items, shoes, mechanical parts---

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Order, hon. Nyamweya. Your time is up.

(Question proposed)

Hon. Members, we are adjourning the House to discuss a matter of national importance that was raised by hon. Wamalwa. Perhaps, for directions with regard to this Motion, each Member will have five minutes, except for the leadership of the House.

The last person to speak will be the Chairman of the Departmental Committee on Finance, Planning and Trade. He is the one who will reply.

Let us have the Leader of the Minority Party to contribute.

Hon. Nyenze: Thank you, hon. Temporary Deputy Speaker for giving me this chance. I support the amendment to this Act. This is because the cost of living has shot up through the roof and most Kenyans cannot afford it. The promises that were made when the VAT Bill came before this House; that the prices of basic commodities will not be increased have not been kept. That is why I am for the amendment.

Currently, bread goes for Kshs70. The price of milk, *unga*, sugar and even sanitary towels has gone up and yet, those are things that are used by common *mwananchi*. Kenyans cannot take this anymore. The cost of living is beyond them.

Hon. Temporary Deputy Speaker, there is a lady by the name Mayaya who called me last night. She comes from a place called Kitamwiki in Kitui. She said, “*Mheshimiwa* Nyenze, please, please, fight for us. We cannot put food on the table.” I felt very touched by the words of that poor widow.

Hon. Ochieng: On a point of order, hon. Temporary Deputy Speaker. I am standing on my own behalf and that of hon. Kaluma. He had requested to move a Motion earlier and you asked him to approach the Table.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Are you standing on your own behalf or on behalf of another Member?

Hon. Ochieng: On my own behalf hon. Temporary Deputy Speaker to move a Motion under Standing Order No.30 that we extend the sitting time today by an hour to 7.30 p.m. I wish to request hon. Eng. Gumbo to second.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Hon. Ochieng, your proposal to extend time is a substantive Motion. However, a Motion to discuss a matter of national importance cannot be interrupted. So, I disallow that.

Hon. Nyenze: Hon. Temporary Deputy Speaker there are many retirees in the country. The teachers who retired were awarded something by the highest court in this country. They were to be paid some money because that was a court ruling. The retired teachers, who are old and sickly, cannot now lead a normal life because of the high cost of living. Let us think about the jobless youth, the widows, orphans, the old and sickly. Those people just want to lead ordinary lives. If the employed people who are poorly paid cannot put food on the table, what about those who have no income? There are so many families who have nothing to live on.

The Jubilee Government promised that it will promote education so that every child in this country gets educated. However, when you tax exercise books, sanitary towels, pencils and everything educational, how will education be affordable to the poor Kenyans who live below the poverty line? Those people form the largest segment of our society.

Today, I read in the newspaper that most hotels in the Coast Province have no tourists. Business is below 30 per cent in most of those hotels. This country, we know, depends on tourism for its growth. Imagine introducing some kind of tax that will keep away tourists, how do we grow our economy? We need to rethink this issue of taxation so that we can realize the double-digit growth of our economy. We want to support the Jubilee Government to realize the double-digit growth of our economy. It is good for them and for us too. However, when you do a flawed kind of taxation, where the poorest are taxed extremely, where do we go? This is the wrong way as far as economic growth is concerned.

This Government should think and overhaul the whole taxation regime. Look at the capital gains taxation, that is where the tax money should come from. We should tax the rich people who own big companies and so on. I am happy today because the chief taxman, Mr. Njiraini, discovered that most of the big multinationals, through audit firms, do not pay billions in form of taxes. This is a credit to Mr. Njiraini. This is something I have been suspicious about for a long time, but now it has been discovered. If further in-roads can be made to those big multinationals and rich Kenyans, then we will be in a position to cushion the less endowed Kenyans. We would be moving in the right direction then.

Hon. Temporary Deputy Speaker, if the budget deficit that the Treasury wanted to plug was Kshs10 billion, there are other ways of getting that money and not through taxing the poor and vulnerable. I am sure hon. Lang’at, an experienced financial manager, agrees with me. I am sure he feels that this tax system is faulty.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Time out, Leader of the Minority Party. Members, I can see we want to make contributions and for this matter, I direct that we reduce our speaking time to three minutes each.

(Loud consultations)

Let us have the Leader of the Majority Party.

Hon. A.B. Duale: Thank you, hon. Temporary Deputy Speaker. I will take three minutes because the matter at hand is very simple, it concerns--- You know, can you protect me from T. J. Kajwang because his witnesses are crumbling and that is why he is very uneasy.

This Motion is very good because it touches on the interest of our people. We are here to serve the people's interests more than any other time. We were elected and whether it is the economy, life or the political direction of our people, this House has the mandate. Any government will always be elected and will survive the coming elections depending on how it treats its citizens. If I go to the most controversial VAT Bill, I am very shocked as a Member of Parliament. When I see the Leader of the Minority Party talk about the VAT Bill---

In the last Parliament, and I want Members to share in this, when we discussed the Truth, Justice and Reconciliation Commission (TJRC) Bill and it went through the Second and Third Reading and we passed it, when I went home, a Member of Parliament called me and said: "Duale, we need to strategize for the TJRC Act." Then I told him: "My friend where do you live? You are talking about the TJRC Act which has already passed. What do you strategize for it?"

Before we went on recess, we had the VAT Bill here. It went through the First Reading and Second Reading and Members debated it. I remember my good friend the member for Ruaraka raising the issue of the processed milk and his constituents who are mainly urban dwellers. I remember that and, of course, the category of people who are entitled to drink camel milk are not from your constituency; they need to go to another level. The VAT Bill passed here after the Third Reading. I remember that day we had a very controversial Constituencies Development Fund Act and Members were so excited about it. They were also excited about the County Allocation of Revenue Bill that was also on the Order Paper that they forgot the VAT. Members brought amendments. I want to read the items because, in the coming days, the VAT agenda will be a serious national agenda. That is because as a Member, your voter will ask: "Hon. Ababu Namwamba and hon. Nyenze, the VAT law you are criticizing now, how come you did not defend me on the Floor of the House? I took you as a Member of Parliament to the 11th Parliament.

(Loud consultations)

I think I do not want a chorus; I am posing questions.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Hon. Member, Leader of the Majority Party, please allow me to disallow you.

Can we have Junet.

Hon. Nuh: Thank you, hon. Temporary Deputy Speaker, for giving me this chance. First, I did not know whether the Leader of the Majority Party was opposing the Motion or whether he was supporting it and according to his demeanor and language, he must have been opposing it.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Hon. Junet, can we get clarification from the Leader of the Majority Party.

Hon. Nuh: Was he opposing or supporting?

Hon. A.B. Duale: Hon. Temporary Deputy Speaker. The HANSARD can be checked. At the start of my speaking, I said something and I am sure I will not go the Jakoyo way.

(Laughter)

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Hon. Junet, I am sure you are satisfied. Let us have hon. Kenneth Odhiambo Okoth.

Hon. Nuh: Hon. Temporary Deputy Speaker, I would like to thank the Leader of Majority---

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Hon. Member, you are on a point of intervention and I am sure you have gotten your clarification. Hon. Kenneth Odhiambo, continue.

Hon. Okoth: Thank you, hon. Temporary Deputy Speaker. My concern here is that the VAT Bill which we passed here is having effects beyond what we imagined on basic goods and supplies. But I want to focus especially on matters that affect our young people and our children's future.

I have said it on this Floor before and I will say it again that the education of our children is not an expense. It is an investment if this country is to afford Vision 2030 and succeed in reaching it. We really need to look at this VAT Act and amend it to exempt educational materials and educational supplies, from the basics such as pencils, exercise books, text books and even as we go into bringing our education into a technological age, computer supplies that are very important.

I do not see why this VAT Bill exempts billionaires who can afford helicopters from paying taxes on their helicopters. But for young people in Kibra who want to start a computer lab or a cyber café, they cannot be exempted from buying the computers to start their business. So, these are the kind of amendments we want to push through and I hope that we will unite as one House and as patriotic Kenyan leaders to relook at the VAT Act and make sure that basic supplies and, in particular, educational supplies that are important for the building of our next generation are not taxed and are exempted. They should be cheap and available for everybody to create an equitable field.

With those few remarks, I beg to support the amendments and this important issue. Thank you. *Tutaleta* amendments. *Tusiogope*.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Hon. Makali Mulu.

Hon. Mulu: Thank you, hon. Temporary Deputy Speaker for giving me this chance to contribute to this Motion. I think we all agree that prices of basic commodities have actually increased and I think as a House we need to agree that when we were passing this Bill to become an Act of Parliament, we had very good intentions in terms of the VAT administration. But what has happened is that the impact of this Act on Kenyans is something of concern. Why am I saying that it is something of concern? What has happened is that the prices of those basic commodities have increased. On the basis of that, the demand of the same commodities will actually go down. Normally, what will happen when the demand goes down is that production will be suppressed. When you suppress production of the same commodities, then the producing units will actually scale down in terms of employment and other things which can help Kenyans.

As hon. Members, we need to think about this Motion in this manner: If we want employment in this country to expand, then we need to rethink this Act which we have actually passed. That is why I am recommending that while we might be making Kshs10 billion from this VAT Act, what will happen is that, at the end of the day, we are going to make Kenyans poorer than they are today. Normally, what happens when you make people poorer? There are a number of consequences. One of them is that the crime rate will increase and there is no doubt about that. The other thing is that the interest rates in this country are likely to be affected negatively by the same thing. The other thing is that Kenyans are likely to experience poor health because they will have no money to take care of their health. To me, the other serious thing that we need to consider is that normally, when people become very poor, they increase their production in terms of birth rates and things like that and this is going to negate all the efforts this country has made in terms of controlling our population.

So, hon. Temporary Deputy Speaker, I think I want to plead with the Members that, despite the fact that we have passed this law, I think we still have room for amendment so that we really ensure that Kenyans do not suffer and, at the same time, we are able to correct some of these things which are likely to happen if we really have this Act in place for a long time.

So, with these remarks, I urge both the Jubilee and CORD sides of this House to support the amendments which are likely to be pushed to this House so that we actually get a better law than we have today. Thank you, hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu: Hon. Gladys Atieno Nyasuna, take the Floor.

Hon. (Ms.) Nyasuna: Thank you, hon. Temporary Deputy Speaker for giving me this opportunity to contribute to this very important debate. The VAT Act as it is has had serious ramifications on the Kenyan consumer. Over the weekend, I was in Homa Bay and there is the assumption that people in the villages do not consume processed milk. This is a fallacy. People all over this country consume processed milk and are now suffering heavily from the tax that has been levied on processed milk.

I would like to urge my colleagues on the Jubilee side that a government that is worth its salt is a government that listens to its people and their cries. I am very amazed that the Leader of the Majority Party did not come out strongly to support this Motion for Adjournment and to give commitment that he will bring back the VAT Act so that we pass the necessary amendments to it. The Government must listen to the cries of its people. People are crying over the rising cost of living. There has been no increase in income. Why are we protecting the rich and coming down on the poor? We must protect the poor. I will speak for less than three minutes because I want the rest of my colleagues to also contribute. But I would like to say that the VAT Act must come back. Processed milk must be exempt. On the exercise books that we talked about I remember that an amendment was brought on the Floor of this House.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu: Hon. Member, we have a point of order from the Leader of the Majority Party. What is your point or order?

Hon. (Ms.) Nyasuna: Hon. Temporary Deputy Speaker, he was not even listening to my contribution.

Hon. A.B. Duale: On a point of order, hon. Temporary Deputy Speaker, Sir. I would not like to interrupt my good friend, hon. Gladys Wanga. When Gladys Wanga vehemently and with emotions talked about amending the VAT Act, if the HANSARD---

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu: Hon. Leader of the Majority Party, what is out of order?

Hon. A.B. Duale: Hon. Temporary Deputy Speaker, if the HANSARD proves me right, she supported the VAT Bill with the same passion and zeal. Is she in order?

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu: Hon. Leader of the Majority Party, you are out of order. Hon. Gladys Wanga can proceed.

Hon. (Ms.) Nyasuna: Hon. Temporary Deputy Speaker, I need the microphone.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu: Just give her the microphone.

Hon. (Ms.) Odhiambo-Mabona: Hon. Temporary Deputy Speaker, did you give me the opportunity to contribute?

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu: Hon. Millie Odhiambo, not yet.

Hon. (Ms.) Nyasuna: Thank you, hon. Temporary Deputy Speaker. I think what the Leader of the Majority Party is responding to is the fact that I have said that I expected him to stand up and firmly give a commitment to the Kenyan people that he will return the VAT Act to the Floor of this House so that we can debate it and look at the areas that Kenyans are complaining about, so that we are able to address the needs of our people who elected us to come and represent them on the Floor of this House.

Hon. Temporary Deputy Speaker, as I finish, I wanted to say that my good friend, hon. Gatobu brought an amendment on the Floor to exempt books, pencils and I think the tyranny of numbers really just swept it away. We need to bring back those educational items so that our children can go to school and learn.

Thank you for this opportunity.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu: Hon. Priscilla Nyokabi Kanyua.

Hon. (Ms.) Kanyua: Thank you, hon. Temporary Deputy Speaker for this opportunity. I am also happy to contribute on the debate on the rising cost of living and to really persuade Members that the rising cost of living in this country is not because of the VAT Act. There are many factors that have caused the cost of living to go up. I think it will be a mistake and a misnomer for us to tell the country that it is only the VAT Act that is causing this high cost of living. I think that the Assembly and especially the Finance Committee should invite the Cabinet Secretary, Treasury and also invite officers from KRA to come and explain to these Members why the cost of living is going up for Kenyans.

However, just contributing to the VAT Act, I am persuaded that this House passed the law in good motion and passed the law following the procedures. If you look at our country now, taxation is a must. We really have got to pay taxes. It will be wrong for this House to go and tell Kenyans that you can live in a country where you need roads and services but you do not pay taxes. Paying tax is a good thing. Paying tax is a duty of all citizens. The citizens were cushioned. I remember in this same House we exempted items like sanitary towels, maize flour and maize seeds that are imported from my part of the region.

Hon. Temporary Deputy Speaker, as we talk today, I would prefer that this House considers a capital gains tax. We deepen taxation in our country. If you look at the mortgages that the Members of Parliament are getting now, only the buyer pays 4 per cent Stamp Duty. The seller pays absolutely nothing to the State and the seller does not pay anything that generates money for this country. Those are the kind of taxes that I think we should discuss.

The other tax, hon. Temporary Deputy Speaker, that we should also discuss is the Estate Tax – the tax that should be paid on inheritance. Inheritance is even easier. All you need to do is to close your eyes. Your parents die and then you become rich and you pay nothing to the State. Those are the matters that we should be discussing. You need to increase taxation, deepen taxation, have more money to cushion the poor in our society but not go back to the VAT Act.

Thank you, hon. Temporary Deputy Speaker.

Hon. (Ms.) Odhiambo-Mabona: Madam Temporary Deputy Speaker, I support. I am actually shocked by the last speaker, my good friend, hon. Nyokabi, with whom I worked very closely in the human rights sector, suggesting that we can tax inheritance. I worked especially in the children's sector and we have many children whose parents have died of HIV/AIDs especially in my constituency. We have almost 5,000 child-headed households in some of those constituencies. If you are going to tax this, you are going to tax the very little money left. But I understand the Member comes from a richer constituency and I come from a poorer one, but we need to understand where people are coming from.

Having said that, this Government must act urgently because a hungry man is an angry man. Kenyans do not understand the language of Jubilee or the language of CORD when they are hungry. Kenyans are saying that they are both hungry and angry. We must respond to the call of Kenyans and stop the semantics of the Leader of the Majority Party telling us the stages of a Bill like we do not understand where they come from. You should do the good thing and whether you do them as CORD or Jubilee, the situation is that Kenyans are suffering. Even if it is not the VAT Act, because we need to wait for six months, we must do something to ameliorate the suffering of Kenyans. In my constituency, milk costs Kshs80. Kenyans cannot survive on that. The first time I saw people who are corded and ODM shouting at the former Prime Minister, Raila Amolo Odinga, was during the time the prices of *unga* was up.

So, let us stop living in this ivory tower when Kenyans are suffering. Let us deal with this issue. We are already enslaving Kenyans with the futures market. That is why we have even paid money for the oil in Turkana. Next year and the years coming are going to be worse. This Government needs to be honest. Let us not enslave Kenyans with Nigerians, Chinese and all manner of people. Let us deal with the current situation now and the future. Let us not mortgage this country.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Hon. Ng'ongo, let me give you two minutes. Since hon. Kaluma you really wanted to extend time, I give you a minute.

Hon. Ng'ongo: Thank you, Madam Temporary Deputy Speaker. First of all, it is wrong to think that the VAT has not caused the sharp rise in the cost of living. The cost of living has been increasing but the sharp rise is because of the VAT. I want to remind my friend, hon. Nyokabi, that this is what we call market reaction. Our market is distorted. The moment you send a wrong signal, it triggers the entire economy and we are where we are.

I remember telling the Leader of the Majority Party plus his Government that the Government has sugarcoated 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 the lives of the people of Kenya better. The policy of the Jubilee Government, as it is today, is to tax everything, anything until there is nothing left to tax. This is the policy which has brought us to where we are. It is wrong for the Jubilee Government today to say that we helped them pass this Bill. The Jubilee Government has been pushing this Bill like it is life and death. They even went to State House to discuss this Bill. The Jubilee Members have let down this country. They must own up, accept and take responsibility for this issue of the tyranny of numbers. The Jubilee Members must realise that this is a presidential system of Government. They are not part of the Executive. They should not be apologists of the Executive.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Thank you, hon. Ng'ongo, you had two minutes. I will give hon. Ndambuki one minute and hon. Kaluma one minute since he

wanted to extend the time. I will give him a minute before I call upon the Chairman of the Finance, Planning and Trade Committee to reply.

Hon. (Ms.) Muia: Thank you, Madam Temporary Deputy Speaker. I rise to support the amendment of the VAT Bill. Last weekend, I went home and I was confronted by some old people asking me how come Members of Parliament are not fighting for them on the issue of the cost of basic commodities. We do not want a Government which is so insensitive to the plight of the people who voted it in overwhelmingly. We do not want to create a vacuum between the rich and the poor.

There are people who even work for Kshs100 per day. There are some families which eat bread and take milk once a month. This time round, I do not expect them to have the commodities even for the next three months. So, I support that amendment, so that our people can access the basic commodities.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu: Hon. Arati, I give you one minute. It is hon. Kaluma who was moving to extend time. So, please, observe that.

Hon. Simba: Thank you, hon. Temporary Deputy Speaker. I opposed the passage of the Bill when it came to the Floor of this House. The Jubilee Government has no mandate to lead this country simply because they have failed us. They are increasing prices of the commodities which are consumed by the common *mwananchi*.

Hon. A.B. Duale: You are going Jakoyo way!

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Your time is over. Hon. Kaluma, you have one minute. Pursuant to Standing Order No.30, this House will adjourn at 6.33 p.m. for convenience.

Hon. Kaluma: Hon. Temporary Deputy Speaker, in retrospection, I now gather that a businessperson is a businessperson, whether he is a leader or not. When we passed the VAT Bill, we did exempt unprocessed milk but immediately we left the House, the radios announced that consumption of unprocessed milk is not permitted. About 80 per cent of the milk firms in this country are owned by the family of the President.

If we have increased milk prices from Kshs50 to Kshs80, it means the family of the President is getting Kshs30 per litre of milk in this country. A leader does not deprive his people then pretend you are giving them *Uwezo* Fund and other things.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Hon. Members, time is out. I can see that we have a lot to ventilate on this. This was a Motion on a matter of national importance that was raised. Hon. Kaluma, sit down. Members, this is a House of procedures and rules. For the convenience, this House is going to adjourn at 6.33 p.m., pursuant to Standing Order No.30. I now call upon the Chairperson, Committee on Finance, Planning and Trade, to reply.

Hon. Langat: Thank you very much, hon. Temporary Deputy Speaker. First and foremost, I want to thank my friend for raising this matter. Indeed, this country is faced with a very serious challenge, but many people are associating this problem with the VAT.

The process of amending the VAT Act started way back in 2009. In 2010, the original Bill that came to this House was passed by the Cabinet. That Bill was very bad and I thought that Members would have appreciated my Committee for the efforts we made to exempt *unga*, bread and rice from VAT. I have a list which shows what the original Bill provided for. All those things could have been taxable if the original Bill was passed. I want Members to remember very well that we even had an amendment to include medical items and we agreed in this House. I agree that the issue of VAT is important, but I want Members to look at the bigger picture.

Hon. Wamalwa has said that the price of bread increased from Kshs40 to Kshs70. That is a Kshs30 increase. If you work out that price, it is not 16 per cent. That is 50 per cent more. The issue is that some people have taken advantage of the situation. That is why the Kenya Revenue Authority is going an extra mile to ensure that those who have taken advantage of the situation are brought to book and taken to court. In another two days, we expect people to appear in court. This issue of going to address the media and we passed the Bill together in this House is dishonest. Dishonesty must stop in this House. We agreed in this House. I remember hon. Gladys saying: "If we have brought in sanitary towels, I support the Bill". Those are her words. It is unfortunate that she can now come back and start saying that she wants us to amend the Bill. It is also not right to mislead Kenyans according to our rules.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): There is a point of order from hon. Odhiambo-Mabona. Please observe time.

Hon. (Ms.) Odhiambo-Mabona: On a point of order, hon. Temporary Deputy Speaker. Is the Member in order to call us dishonest? Just a few hours ago, hon. Midiwo was suspended for four days for calling Members thieves. What is the difference between thieves and dishonest people? Can he be named? I am calling that this Member be named or that he withdraws and apologises for calling Members dishonest.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Hon. Langat, the Chairperson, please observe your words. Use language that is acceptable in Parliament.

Hon. Langat: Hon. Temporary Deputy Speaker, I said that dishonesty must stop and I think there is no problem with that word. Dishonest must stop in this House and we must be honest at all times.

With that, I want to urge Members that my Committee will listen to anybody who has an issue and will consider any positive steps to ensure that this process is complete.

ADJOURNMENT

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Thank you, Chairperson, Finance, Planning and Trade Committee for your sentiments. Members, I can see from the requests that we all want to represent our constituents in this Motion including mine, Kibwezi East.

Members, it is now 6.33 p.m. and this House stands adjourned until tomorrow, Wednesday 18th September 2013, at 9.00 a.m.

The House rose at 6.33 p.m.