NATIONAL ASSEMBLY

OFFICIAL REPORT

Wednesday, 18th September 2019

The House met at 2.30 p.m.

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

PRAYERS

PAPER LAID

Hon. William Cheptumo (Baringo North, JP): Hon. Speaker, I beg to lay the following Paper on the Table:

Report of the Departmental Committee on Justice and Legal Affairs on its consideration of the President's reservations on the Parliamentary Service Bill 2018.

ORDINARY QUESTIONS

Question No. 333/2019

ELEVATION OF THE TOM MBOYA UNIVERSITY COLLEGE TO UNIVERSITY

Hon. Speaker: The Member for Homa Bay Town is not at his usual sitting point.

Next Question is by the Member for Gichugu.

Question No. 403/2019

OVERSUPPLY OF COURSE BOOKS IN SCHOOLS IN THE COUNTRY

Hon. Gichimu Githinji (Gichugu, JP): Hon. Speaker, I rise to ask the Cabinet Secretary for Education the following Question:

(i) Could the Cabinet Secretary explain why there is an oversupply of course books every year in schools in the country and particularly in Gichugu Constituency?

(ii) Could the Cabinet Secretary consider utilising the funds used to purchase the surplus books for infrastructure development in the schools?

Hon. Speaker: The Question is to be responded to before the Departmental Committee on Education and Research.

Next Question is by nominated Member, Hon. Gideon Keter.

Question No. 404/2019

COLLECTION AND DISBURSEMENT OF ROYALTIES BY

THE MUSIC COPYRIGHT SOCIETY OF KENYA

Hon. Gideon Keter (Nominated, JP): Hon. Speaker, I rise to ask the Cabinet Secretary for Sports, Culture and Heritage to explain how the Music Copyright Society of Kenya collects and disburses royalties to local performing artistes in light of the controversy surrounding the recent disbursement of royalties to artistes?

Hon. Speaker: The Question is to be responded to before the Departmental Committee on Sports, Culture and Tourism. Next Question is by the Member for Nakuru Town East, Hon. Gikaria.

Question No.405/2019

TRAFFIC CONGESTION AND INSECURITY AT THE GILGIL WEIGHBRIDGE

Hon. Speaker: He is not in. For the second round, the first Question is by the Member for Homa Bay Town. I thought I saw him making his way in. I can see he went to be tutored by the Member for Nyando.

(Laughter)

Question No. 333/2019

ELEVATION OF THE TOM MBOYA UNIVERSITY COLLEGE TO UNIVERSITY

Hon. Peter Kaluma (Homa Bay Town, ODM): Thank you, Hon. Speaker. I was struggling with technology. Hon. Speaker, I rise to ask the Cabinet Secretary for Education the following Question:

(i) What are the reasons for delays in elevating and granting Tom Mboya University College in Homabay County a full university Charter?

(ii) When will the University College be elevated and granted a Charter in line with the Ministry's previous undertakings to do so?

Hon. Speaker: Again, that will be responded to before the Departmental Committee on Education and Research. For the second time, we have the Question by the Member for Nakuru Town East. What is happening? Hon. Pukose, your chairperson is not around these days. He has been seen in local media displaying his possessions on earth.

Hon. (Dr.) Robert Pukose (Endebess, JP): You know, Hon Speaker, the Chairman has a lot of responsibilities and being a man of a big family, I think he might be held up somewhere. Can I ask on his behalf? I will take responsibility to make sure that… I do not mean that I normally help him in other things, only in House Business.

Hon. Speaker: If you desire to ask the Question on his behalf, proceed.

Question No.405/2019

TRAFFIC CONGESTION AND INSECURITY AT THE GILGIL WEIGHBRIDGE

Hon. (Dr.) Robert Pukose (Endebess, JP): I ask this Question on behalf of Hon. Gikaria, the Member for Nakuru Town East, to the Cabinet Secretary (CS) for Transport, Infrastructure, Housing and Urban Development:

(i) What steps has the Ministry taken to ease traffic congestion and insecurity that is experienced occasionally at the Gilgil weighbridge in Gilgil, Nakuru County?

(ii) What measures are in place to ensure safety of passengers and goods during the traffic snarl-ups at the weighbridge?

This concerns all of us who travel to Western Kenya. It is a very serious issue.

Hon. Speaker: Very well. You have done well to ask the Question on his behalf. It will be responded to before the Departmental Committee on Transport, Public Works and Housing.

That ends that process. Hon. Gideon Keter, your Question is to be responded to before the Departmental Committee on Communication, Information and Innovation not the Departmental Committee on Sports, Tourism and Culture.

The Member for Tharaka Nithi, I can see you are raising your hand up. Is your hand up? I see. Are you supporting him because he is right behind you? There is an intervention by the Member for Mwingi Central, Hon. Mulyungi.

Hon. Gideon Mulyungi (Mwingi Central, WDM – K): Thank you, Hon. Speaker. I rise under Standing Order No.42 (2) regarding a Question which I asked on the Floor of the House on 7th August. It is Question No.33 of 2019 to the CS for Planning and the National Treasury. This concerned the census which was going on. I asked this Question under Private Notice. In accordance with the Standing Orders, the CS is compelled to respond to that Question within three days. Up to now, I have not received any response. I have not been called to that Committee. This was supposed to be answered before the census because the Question was relating to that. I wanted your intervention.

Hon. Speaker: If you asked the Member for Homa Bay Town who is not too far away from you, he would have told you that you may be guilty of something called laches. It is also said that delay defeats equity. This was a Question by Private Notice. Hon. Mulyungi, after the expiry of those three days, you ought to have been very active here drawing the attention of whoever was in the Chair to the fact that the Standing Orders were being breached. As you said, it was to be responded to before the census. As we know now, the census has happened. Do you still feel that you want a response? The Chair of the Departmental Committee on Finance and National Planning is here. He may not be concentrating. He is talking to his neighbour from Kipkelion West but if you still desire, we can ask him to respond.

Hon. Gideon Mulyungi (Mwingi Central, WDM – K): Thank you, Hon. Speaker for your advice. I still desire to get an answer because the Question concerned relief food and water supply. My constituents are currently suffering from hunger and lack of water. I wanted a response so that I know whether the relief food is still there or it is finished.

Hon. Speaker: Did you direct it to the CS for National Treasury and Planning?

Hon. Gideon Mulyungi (Mwingi Central, WDM – K): Yes, Sir.

Hon. Speaker: When did you ask the Question?

Hon. Gideon Mulyungi (Mwingi Central, WDM – K): On 7th August, just before we went on recess; the same day we went on recess.

Hon. Speaker: Then you ought to have reminded the House on the first day of sitting because the three days would have been running around that time. If you raised the Question on the last day the House sat, two of those three days would not be counted for the period that the

House was on recess. Soon after resumption, two days thereafter, you ought to have raised that Question.

Hon. Joseph Limo, the Member for Mwingi Central has issues to do with famine relief. Is it under your docket?

Hon. Joseph Limo (Kipkelion East, JP): Yes, I confirm that famine relief is under the State Department for Devolution, and funding comes from the National Treasury. Given that the Question was brought to the House just before recess, I confirm that we have never had the CS in charge of the National Treasury coming to answer Questions. The obvious reason is that there were changes and, therefore, the substantive CS was replaced by an acting one and there were a lot of activities thereafter. We anticipate him in the next week or so. I hope it is not overtaken by events but at the end of the day, we plan to have that session very soon. I will have to confirm with the diary of my Committee to see whether it will be this coming Tuesday or the next one.

Hon. Speaker: Hon. Limo, your Committee also oversees the Ministry of Devolution and ASALs. I have seen in recent times the CS for Devolution moving around the countryside distributing food. Maybe that is the CS you need to direct the Question to so that he can give an answer. That is the CS to speak to because it is about famine relief. I have seen him all over the countryside sometimes distributing food, ensuring that it has been distributed or doing other related activities. Hon. Mulyungi, you should get in touch with Hon. Limo so that you can get the answer in the course of next week.

Next Order!

MOTIONS

CONSIDERATION OF REPORT AND THIRD READING

THE PUBLIC FINANCE MANAGEMENT (AMENDMENT) BILL

Hon. Speaker: Hon. Members, debate on this Bill was concluded and what remained was for the Question to be put.

(Question put and agreed to)

Let us have the Mover.

Hon. Aden Duale (Garissa Township, JP): Hon. Speaker, you saw the Member for Rongai and an old Member of KANU before he joined the Orange Democratic Movement (ODM), Hon. Koyoo, just chatting and laughing when you were on your feet.

Hon. Speaker: Given their sizes, they may have assumed that they had frozen.

(Laughter)

Hon. Aden Duale (Garissa Township, JP): Hon. Speaker, I beg to move that the Public Finance Management (Amendment) Bill (National Assembly Bill No.63 of 2019) be now read the Third Time.

I request Hon. Chris Wamalwa to second.

Hon. (Dr.) Chris Wamalwa (Kiminini, FORD-K): Hon. Speaker, I second.

(Question proposed)

Hon. Speaker: Is it the desire of the House that I put the Question?

Hon. Members: Yes.

Hon. Speaker: Having ascertained that the House has the requisite Quorum, I put the Question.

(Question put and agreed to)

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

Hon. Speaker: Next Order.

RATIFICATION OF BEIJING TREATY
ON AUDIO-VISUAL PERFORMANCES

THAT, this House adopts the Report of the Departmental Committee on Communication, Information and Innovation on its consideration of the Beijing Treaty on Audio-Visual Performances, laid on the Table of the House on Wednesday, 26th June 2019, and pursuant to Section 8 of the Treaty Making and Ratification Act, 2012 approves the ratification of the Beijing Treaty on Audio-Visual Performances.

(Hon. William Kisang on 17.9.2019)

(Debate concluded on 17.9.2019)

Hon. Speaker: Hon. Members, debate on this Motion was concluded yesterday. Therefore, I put the Question.

(Question put and agreed to)

Next Order!

BILLS

First Readings

THE LOCAL CONTENT BILL (SENATE BILL)

THE MENTAL HEALTH (AMENDMENT) BILL (SENATE BILL)

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

Hon. Speaker: Next Order!

Second Reading

THE FINANCE BILL 2019

Hon. George Gitonga (Tharaka, DP): On a point of order, Hon. Speaker.

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

Hon. George Gitonga (Tharaka, DP): Thank you, Hon. Speaker. I rise under Standing Order No.40(3) to seek direction from the Chair regarding the Finance Bill. According to the practice of this House – it is a parliamentary practice all over the world in comparative jurisdictions – a Finance Bill is introduced in the House to purely deal with matters of national income, budget, taxes and how else the Government will raise money and spend it towards the services to be given to the citizens of the country.

I have noticed that in this Finance Bill, there is a proposal to amend Section 48 of the Proceeds of…

Hon. Speaker: Hon. Gitonga Murugara, which Standing Order did you say you are standing under?

Hon. George Gitonga (Tharaka, DP): Standing Order No.40(3).

Hon. Speaker: That Standing Order says: "On Wednesday morning, a Bill or a Motion not sponsored by the Majority or Minority Party or by a Committee; shall have precedence over all other business in such order as the House Business Committee (HBC) shall ballot."

Is that the Standing Order you are referring to?

Hon. George Gitonga (Tharaka, DP): Yes.

Hon. Speaker: Is it on Wednesday in the morning?

Hon. George Gitonga (Tharaka, DP): My notes are wrong. It is Standing Order No.83. We may look at it.

(Laughter)

Hon. Speaker: But you rose on a point of order!

Hon. George Gitonga (Tharaka, DP): Yes. Let me get to Standing Order No.83.

Hon. Speaker: You are now in order.

Hon. George Gitonga (Tharaka, DP): Thank you. When I made these notes, the person who typed them typed Standing Order No. 40(3) instead of Standing Order No.83. Do not worry. I will proceed.

There is a proposal to amend Section 48 of the Proceeds of Crime and Anti-Money Laundering Act. What is envisaged here is to provide that advocates who represent their clients will be under legal obligation to disclose any suspicious transactions which are taking place within their areas of practice or firms. Having considered this subsection or this proposed amendment, I am of the considered opinion that the proposal is first and foremost unconstitutional. Under Article 31 of the Constitution, every person is entitled to privacy. The practice of law is anchored on privacy, confidentiality and trust.

Hon. Speaker: Hon. Murugara, in as much as you may be raising a weighty matter, Standing Order No.83 (1) says: "Any Member may raise a point of order at any time during the speech of another Member stating that the Member rises on a point of order and that Member shall be required to indicate the Standing Order upon which the point of order is based."

You are right to rise on a point of order even though there is nobody on his feet. On what Standing Order is your point of order based?

Hon. George Gitonga (Tharaka, DP): Hon. Speaker, it is the same Standing Order you have read. The reason I do so is to ensure that before we come to debate, we have a basis upon which some of the sections can be declined now, so that we move on to pass the Bill or agitate for the entire Bill to be defeated. I am giving notice before the Bill is moved. We feel that the matters that are being raised are very weighty.

Hon. Speaker: You do not want the Bill to be moved.

Hon. George Gitonga (Tharaka, DP): That is why I seek the direction of the Chair to get a ruling on it so that the Bill is not moved before we are considered. That is what I wish to do. If the Bill is moved, then it is without the proposed amendments. We feel that they touch on constitutional matters and other statutes, especially the one which is proposed to be amended.

Hon. Speaker: Leader of the Majority Party, you have the Floor.

Hon. Aden Duale (Garissa Township): Hon. Speaker, I do not want him to talk about the whole Bill. The Finance Bill is very critical and has a deadline of 30th September 2019. What the Member could be doing using Standing Order No.83 is that before the Chair of Departmental Committee on Finance and Planning moves, Hon. Speaker you will guide us on Order No.12. You need to make a ruling based on the arguments the House will make, a determination on how the House will debate the Finance Bill without Clauses 50 and 51. What is in the Bill are Clauses 50 and 51 amending Section 8 of the Money Laundering and Proceeds of Crime Act, 2009. That is where he is coming from. He is saying that before the Bill is moved and seconded, Hon. Speaker, we need to raise certain matters of which I am prepared to oppose.

Hon. Speaker: I see the Member for Rarieda wants to weigh in.

Hon. (Dr.) Otiende Amollo (Rarieda, ODM): Thank you, Hon. Speaker.

In defence of the Member and to persuade you that we can take this course, Hon. Speaker, you have routinely ruled that a matter of constitutionality can be raised at any time. In that respect, I understand the Member to be raising a constitutional matter in two respects.

First, in a procedural manner; the question I believe the Member is raising is, in the Finance Bill whose purpose says; "relating to various taxes and duties and matters incidental to." Is it legitimate to bring the question of reporting by advocates in the Finance Bill procedural? Hon. Speaker, you will consider whether that is an incidental matter to the core purpose of the Bill.

Secondly is the constitutionality in terms of Article 35 of the Constitution. I understand, therefore, Hon. Speaker that you need to guide the House before the Bill is moved so that when it is moved for the Second Reading it is determined whether we expunge Clauses 50 and 51, or if you agree and determine that it may be unconstitutional to direct republication. To that extent, I believe it is a neat way to prosecute that matter before we come to the discussion. When we come to the discussion, I would like the Leader of the Majority Party to contribute because he has a lot to say on it.

Thank you, Hon. Speaker.

Hon. Speaker: Hon. Shamalla.

Hon. (Ms.) Shamalla Jennifer (Nominated, JP): Thank you, Hon. Speaker. I rise to support the comments made by Hon. Murugara with regard to Article 35 of the Constitution on access to information and Article 31 of the Constitution on the right to privacy.

As much as I appreciate the fight against corruption and the fight against money laundering in the country, it is important, as a House, we debate the issue as to whether advocates of the High Court of Kenya will become agents of investigative agencies. Indeed, in countries like the United States you may cease acting, if you come across or have any suspicions that your client may be engaging in suspicious activities, but you are not required to report it and you are not criminally culpable.

In the UK, it is confidential unless the disclosure is required or permitted by law. The Bill proposes to bring very weighty amendments that actually touch on the practice of advocates through the Finance Bill. It touches on Article 31 of the Constitution of Kenya on the right to privacy and on the rights to confidentiality on the relationship between advocates and their clients.

I too want to submit that it is indeed unconstitutional and we seek your direction on this matter, Hon. Speaker.

Hon. Speaker: Hon. John Mbadi, this looks like a matter for practising lawyers.

(Laughter)

Maybe other professions do not have similar confidentiality.

Hon. John Mbadi (Suba South, ODM): Hon. Speaker, I may not be a lawyer, but I am a lawmaker of good standing, of repute and of high experience. So, Hon. Speaker, these are matters of procedure. I agree with you.

I support the sentiments by Hon. Gitonga. It is becoming a tradition in this House that we introduce legislation touching on other matters using other legislation. The reason the title of the Bill is important is for information so that we would know from the title what is likely to be in the Bill but we are now trying to use Bills that touch on other matters, like the Finance Bill that is supposed to deal with taxes and imposition of taxes and other levies then introduce issues that ordinarily should be in the Advocates Act or the Law Society of Kenya Act. We have standalone legislations. If someone wants to amend the Advocates Act, amendments should be brought to the House and we deal with them as standalone amendment Bill, and we engage our brains to it. But, the idea of sneaking legislations touching on other statues through other important statutes is not right.

Hon. Speaker, therefore, you have been called to make a ruling at this stage whether we can proceed with the Bill as it is or not. The question that arises is that if you allow the debate to go on and the matter is found to be unconstitutional, and the House takes a decision, you cannot direct the direction the House will take. Therefore, I suggest that if a matter is found to have been irregularly introduced in the House through whichever means, the Hon. Speaker has powers to declare the debate to stop.

This Bill is very important. We have to continue with it but we must have those provisions expunged from the Bill so that we deal with a Bill that does not violate the provisions of the Constitution.

Thank you, Hon. Speaker. I am sure even the lawyers in the House would agree with me that I did some justice with the minutes I was given.

Hon. Speaker: The Member for Imenti Central, you have the Floor.

Hon. Moses Kirima (Central Imenti, JP): Hon. Speaker, I rise to associate myself with the point of order by Hon. Murugara. The Finance Bill before us infringes or brings in extraneous matters other than what it is supposed to by touching on Cap 16 of the Laws of Kenya. The Finance Bill as it is now, Clause 51 proposes to amend Cap 16 of the Laws of Kenya which should not come in this form because it is bringing in extraneous matters. It infringes on

Articles 35 and 31 of the Constitution. The moment it does that, it touches on the privacy and confidentiality on matters between a client and an advocate. It should be introduced as an independent Bill so that it is debated rather than being sneaked in now as it can be seen. As we stand, it is being sneaked in so that it passes as the Finance Bill, but it is not a Finance Bill per se. It is something else that needs to be amended secretly so that Members are not aware and later say that they did not know that they were making a very serious amendment which amends other Acts which emanated from this Parliament.

I associate myself with Hon. Murugara who stood on a point of order. This amendment should be expunged from the Finance Bill, if it is to proceed before this House.

Thank you, Hon. Speaker.

Hon. Speaker: Hon. Members, I agree that there are many lawyers in the House, but this debate is not just about lawyers. We also need to hear from their clients. Let us now hear Hon. Wamalwa.

Hon. (Dr.) Chris Wamalwa (Kiminini, FORD-K): Thank you, Hon. Speaker. Much as I try to empathise with the lawyers, the Finance Bill, as we know very well, tries to raise funds to fund the Budget. In other jurisdictions, when you do a cost-benefit-analysis; a lawyer can disclose having got consent from the client.

(Loud consultations)

Yes, in other jurisdictions! You should have asked which jurisdiction. You know I am a good researcher. If you listen, I will expound on that.

The aspect of terrorism in this country is, indeed, a big threat. This matter comes under the Advocates Act. Maybe, in line with Article 118 where the public is involved, that substantive statute should be amended on its own as opposed to amending it through the backdoor which is the Finance Bill. No public participation has been done. The Constitution, under Article 118, demands that public participation should be done, particularly on this clause. We need to get a report about it.

Hon. Speaker: Hon. Wamalwa, the Departmental Committee on Finance and National Planning advertised their sittings so that everybody, including lawyers, those who are outside and those who are here, to appear and present their views. Perhaps, we needed to hear from the Chair. If we allow him to move the Bill, he may very well tell us what it is that he was told by those of your colleagues who appeared before the Committee.

Hon. (Dr.) Chris Wamalwa (Kiminini, FORD-K): Hon. Speaker, the information I have is that when it went through public participation under the Departmental Committee on Justice and Legal Affairs, it was rejected. If they were taking into consideration Article 118, and it was rejected particularly by the LSK, then it should not be allowed to continue. That is the argument.

Hon. Speaker: Just a minute, Members. I can see all the lawyers; every lawyer of whatever shade wants to say something.

(Laughter)

Lawyers are of many shades. You must check your grammar. Even accountants are of many shades. So are land valuers, estate agents, and many others. In fact, if you look at the principal law, you will see that estate agents, land valuers, accountants and others are obligated to report any suspicious dealings of their clients, but that is not the point. That is not where I am.

The point is, as you have rightly said, Hon. Wamalwa, it may well be that those who appeared rejected it. Yes, they opposed it. They cannot reject; they can only oppose it. But the Bill had been published. If many of you took time to listen to what Hon. (Dr.) Otiende Amollo proposed, you cannot say that it should not be here. The Bill has already been published with Clauses 50 and 51. What does the Chairman of Departmental Committee on Finance and National Planning do? He can tell us what evidence he received even before he moves the Bill. Were there objections? Were there people who supported it? He has not even begun moving. Those two clauses are in the Bill. He has not said anything.

(Hon. Vincent Kemosi interjected)

Hon. Kemosi, it is not done that way. I needed to hear the Chair of the Committee. The Chair of the Departmental Committee on Justice and Legal Affairs is not the Mover of the Bill. Just read these Standing Orders. The Chair of Departmental Committee on Finance and National Planning is the owner of this Bill. A number of you have raised pertinent issues. As you all know – my assumption is that you all know even if you do not know – the Finance Bill operates as a Statute Law (Miscellaneous Amendments) Bill. It contains proposals to amend various acts. A very pertinent issue has been raised by a number of you. What is the principle object of a Finance Bill? That is the issue that those of you who have spoken would want me to address, including what is contained in the Advocates Act and also the provisions of Articles 31 and 35 of the Constitution. That is not something that we would want to take lightly. It is only fair that I go and apply my mind to all of them holistically.

For the time being, your point of order, Hon. Murugara, is noted and supported by those who have spoken. I will be making a ruling on it.

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

Hon. Speaker: Hon. Atandi is also raising his hand. If you want to address me on the same issue, Hon. Junet, I have given you a chance. You are the Minority Whip.

Hon. Junet Nuh (Suna East, ODM): Hon. Speaker, as you have put it clearly, Parliament has different shades of character. I am not a lawyer. Some of us might be quacks, so when we speak, our opinion must be noted. I support the two clauses in the Bill. In this era of transparency and accountability and where terrorism is a big problem in the global arena, it is very important that if you have nothing to hide, you disclose. For example, if Hon. Kaluma has my money, I have given him, as my lawyer, all authority to disclose any kind of money that he is holding… It is because he is my lawyer. I have told him on the Floor of the House and he is hearing. This enhances transparency and accountability.

A situation arises where money goes through clients' accounts in lawyers' offices amounting to billions of shillings. If they are not suspicious in nature, there is no need of disclosure, but if it is a national duty and obligation for disclosure if you think that money is a threat to national security and order, you are supposed to disclose it. It could be proceeds of illicit trade. This House must legislate for the good of the country. It must see things above personal or selfish interests, that if I have certain amount of money or I am buying certain land, it will be disclosed. That is neither here nor there. So long as you are sure that your money is from a legitimate business or your land transaction is legitimate, you have nothing to fear. Nothing will happen to you. Because you are a senior lawyer in this country as I know, Hon. Speaker, some lawyers want to drag you into their "lawyership". You are the Speaker; you are neither a lawyer nor a Supreme Court judge. You have to judge this matter objectively and not as a senior lawyer.

Thank you.

Hon. Speaker: Hon. Members, even Hon. Junet was on a point of order. He is not out of order. He is at liberty to express his views. That is what I have always tried to encourage – that you be accommodative as much as possible. Please, let me not now listen to amateur opinion as proposed by Hon. Omboko. I do not think your opinion will be amateurish.

Hon. Members, this is a matter over which I have given you direction on what I intend to do. Incorporate the views you have expressed alongside the provisions of Articles 31 and 35 of the Constitution, the provisions of the Advocates Act as well as the proposed amendments to the Proceeds of Crime and Anti-Money Laundering Act. Many of you have not even looked at the Report from the Departmental Committee on Finance and National Planning to see how they have treated these proposals. Your fears may be inchoate; they may be premature. I have not heard how they treated the presentations given to them by those who appeared and who may have raised the same issues that you raised. I think it is important that I make a ruling on the issue that has been raised about the principal object of a Finance Bill relative to other proposals included in it. How do the proposals sit in a situation of this nature where there is danger that Members may decide to reject the entire Bill? How do we stand?

Let me look at all of them and give a ruling tomorrow afternoon. In the meantime, allow the Chair of the Committee to move the Bill, including giving to the House or telling the House the views they have received relating to these two clauses in the Bill. My ruling is capable of directing, *inter alia*, that debate on the two clauses should not be entertained. Why would you want to preempt that? That is also a possibility. In the event I rule otherwise and the matter is not sufficiently within the realms of the Constitution, you will still be at liberty to object. As I have always reminded, you are the people with the vote. Mine is limited to only making a ruling. You have the vote and the House proceeds through votes; you make your decisions through a vote. So, let us allow the Chairman to move. My ruling now is that the Chairman be allowed to move the Bill and the House be at liberty to debate it. My ruling has the potential to terminate any references to the two clauses, including their not being considered when the House proceeds to the Committee of the whole House.

I have heard you. Listening to the number of you that have spoken, we will just hinge around what we make of these proposals vis a vis the constitutional Clauses 31 and 35 and also, importantly while going forward, what we think we should advise or direct other bodies or whoever it is that publishes a Finance Bill in the future. Many of you have argued this in the past. We may be called upon to restate certain other rulings that we have given in the past relating to similar proposals. So, for the time being, you are at liberty to vehemently, when you rise in your place and get a chance to contribute, make all the objections that you desire using the force of all legal arguments available to you. But then, wait for my ruling tomorrow afternoon.

For the time being, we can live with that. Do not worry, the Chairman of the Departmental Committee on Justice and Legal Affairs. I am sure you will have a chance to expound on these issues which are in the two clauses and as you received from those that appeared before you. I am aware that some people even made efforts to even go to court to say that the Bill should be withdrawn. If it is a withdrawal, it will be done here. As you know, in Article 94, nobody or authority has power to make provisions having the force of law except Parliament at the national level. So, you are the people to make the law. Let us just deal with it that way. I have heard. I am sure I will address the issues that you have raised.

Let us listen to the Chairman of the Departmental Committee on Finance and National Planning. What is your point of order, Member for Kiambu?

Hon. Jude Njomo (Kiambu, JP): I rise under Standing Order No.49(1) relating to certain Motions that may not be moved.

As you are aware, this Finance Bill, in Clause 43, seeks to amend Section 33(b) of the Banking Act. It has recommended a repeal of that Act. I sponsored the Banking (Amendment) Act in 2016. It was made into law. There was a court ruling on 14th March 2019. It was about the clarity of the Bill and certain clauses that were ruled to be unconstitutional. The court suspended that ruling for 12 months and gave this august House an opportunity to rectify the anomalies that were in that law.

We have been discussing or debating this law. That law was being debated in this House up to this morning. The Clerk of this House also gave me a lot of assistance to ensure that we have made the necessary corrections that were required by the court of law.

My contention or worry here is that there is a lot of work that has been done on this Bill. It is still under a Motion. Standing Order No.49(1) says no Motion may be moved which is the same in substance as any question which has been resolved either in the affirmative or in the negative, during the preceding six months in the same Session. If we go ahead and debate the Banking (Amendment) Act in this Bill, it will kill all the work that we have been doing in this House. We will not be able to debate it any further because it will have been passed as the Finance Bill.

Hon. Speaker: Hon. Jude Njomo, I sympathise with you because you know that you do not belong to the other profession. You read that Standing Order No.49(1) on a matter which the House has resolved. Your Bill is still under active consideration. The House has not resolved itself either way on it. There is nothing that is inconsistent. You may argue that it does not look very tidy but, it is not inconsistent because the House has not resolved. If the House had actually passed your Bill in Third Reading, then, you could rightly claim that the House has resolved itself because it has become law. It has not.

Hon. Jude Njomo, I observed that your proposals had enormous, almost near unanimous support from the House, even during debate. Why would you be worried? The Members who are supporting you are the ones who will deal with this one. I am sure you will be available to give your input. The House has not resolved. Standing Order No.49 refers to a situation in which the House has resolved. But now, it has not. So, again, it is pre-emptive. Your objection is premature.

Hon. Jude Njomo (Kiambu, JP): Hon. Speaker, perhaps it sounds premature because I have not finished prosecuting my point. Where I am heading to is that the Finance Bill has a time line. It has to be completed by the end of September, 2019 and my Bill will still be ongoing. So, I am foreseeing a situation where we have finished prosecuting and voting for the Finance Bill and it has been passed into law. What that will mean is that the Bill that we will continue to work on in this House – we have invested a lot of energy, research and public participation in it – will go into waste.

Hon. Speaker: Hon. Jude Njomo, I am saying it is still premature. Supposing the Finance Committee has adopted your views in their Report, will it be a waste of time? Suppose they have adopted your proposals which relates to the same piece of legislation?

Hon. Jude Njomo (Kiambu, JP): That will be a welcome move, Hon. Speaker. But, as the previous Standing Order was alluding to, the Finance Bill is being used to bring so many amendments, some of which are already in the process of being amended in this House.

Hon. Speaker: No! On the ones that are in the process of being amended, there is nothing wrong with the Finance Bill touching on them. In fact, on the Banking Act, it is proper for the Finance Bill to have proposals amending it. It is a matter to do with finance.

Hon. Jude Njomo (Kiambu, JP): I stand guided, Hon. Speaker.

Hon. Speaker: It is like saying you have heard something – I do not want to make reference to it. Anyway, because that is the only language that it is known by, I will mention it. You have heard that there is something out there in the villages called "*Punguza Mizigo"*

(Laughter)

Does it stop me from approving proposals to amend the Constitution? Today I have approved so many proposals to amend the Constitution. In fact, that *mizigo* thing is being sorted out there. So, it is the same thing. There are several other proposals before this House and the other House suggesting amendments to the Constitution. Would you say, now we have locked everything because there is a *punguza mizigo* somewhere?

Hon. Jude Njomo, I want to encourage you to be patient and persuade the House to reject that amendment. You know I do not want to go that direction. Doing so would be spoon-feeding. You know, there is something they say; that, you do not ask leading questions. I do not want to spoon-feed. Persuade the House to reject what is in the Finance Bill and go by what is in your Bill. That is the easiest thing to do. Why would you have difficulty with that? It is easy.

The proposal in the Finance Bill, if I understand you correctly, is proposing to do away with the interest caps. Is that correct?

Hon. Jude Njomo (Kiambu, JP): You are right, Hon. Speaker.

Hon. Speaker: Your Bill is trying to comply with the court ruling. Make clarifications but retaining them. As you have rightly said – and I can see the mood in the House – your Bill has received overwhelming support in the House. So, why are you worried?

Hon. Jude Njomo (Kiambu, JP): Thank you, Hon. Speaker.

Hon. Speaker: All you need to do is mobilise your colleagues here to reject what has been proposed. Surely, Hon Members, you are getting me into the realm of debating. This is something you can do easily. Hon. Jude Njomo, which should rest the matter; I am sure you are now better advised.

Hon. Jude Njomo (Kiambu, JP): Thank you for your guidance, Hon. Speaker.

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): On a point of order, Hon. Speaker.

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

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): Thank you, Hon. Speaker. You have given Hon. Jude Njomo a good piece of advice. However, I am reminded that part of his worry has been caused by a concern we have raised – the President has become a super legislature. We might not support that amendment in the Finance Bill then it goes to him and it is negated. That is the worry of Hon. Jude Njomo. I want to encourage him – even though his does not fall within the same ambit as the one we had talked about earlier in relation to the Advocates Act; that, at this point, he needs to persuade the HBC to fast-track his Bill and at the same time try to convince us to drop this amendment even as his Bill is being fast-tracked. It is in the interest of most of us that his Bill passes. Perhaps that is the way to go about it even though it is different from the earlier one.

Thank you.

Hon. Speaker: Hon. Junet, one minute please.

Hon. Junet Nuh (Suna East, ODM): Hon. Speaker, I want to applaud your ruling. When I listened to Hon. Jude, he reminded me of somebody who rushed to court to get an injunction to stop something that was already being heard. The matter is before the House. What we shall do – because his Bill is popular with Members – is to help him to mobilise Members to pass it. But this one must proceed. It must go on. If Members feel that they want to reject it, so be it. If they want to carry it that is the way it is supposed to be. For me, I am supporting the Bill. If we will be defeated by Members, then we will go with his. I am supporting this one.

Hon. Speaker: Very well, Hon Members. Let us allow the Chairperson, Departmental Committee on Finance and National Planning, to move his Bill.

Hon Limo, you have the Floor.

Hon. Joseph Limo (Kipkelion East, JP): Thank you, Hon. Speaker. Finally, I have the greenlight to move this Bill. At the outset, I wish to assure Members that the Departmental Committee on Finance and National Planning is an able Committee. It listens to the country. In the same way, we will take into consideration the mood of the House. We have already attempted to cure your fears. So, *Mhe.* Njomo, you do not need to get worried. When I move the Bill, you will look at the Report which we tabled and you will realise that your fears will...

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

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

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): On a point of order, Hon. Speaker.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Hon. Millie Odhiambo, the Member is just moving. Hon. Limo, allow me to hear what Hon. Millie has.

Hon. Joseph Limo (Kipkelion East, JP): Hon. Temporary Deputy Speaker. I beg to move that the...

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Thank you. Hon. Millie Odhiambo thought that you did not know what you were to do. I can confirm that you are in order.

Hon. Joseph Limo (Kipkelion East, JP): Hon. Temporary Deputy Speaker, I beg to move that the Finance Bill be read the Second Time. Before you took the Chair, there was a heated debate on some sections of this Bill. I want to confirm that this Bill is right in proposing revenue raising measures to ensure that the country bridges the gap in financing. After the Budget was passed, there were shortages that are supposed to be raised.

This Finance Bill is attempting to do that. It is also attempting to amend other consequential laws which have elicited some debate before you came. But I want to assure the House that when you are debating; our committee has attempted to cure those particular fears, especially on the Banking Act and the amendment under Clauses 50 and 51 which touch on the proceeds of crime. The debate has been very good.

I want to confirm that the Finance Bill was published on 1st July 2019 and subsequently forwarded to our committee for the purpose of carrying out public participation to hear the views of Kenyans. Taxation is a very elaborate term. In one way, it is taking by one hand and giving by the other hand. Therefore, we were required by Article 118 of the Constitution to conduct public participation to seek views of Kenyans. I confirm that on Friday, 26th July 2019, an invitation to the public was put in the media and the committee scheduled public hearings. We advertised the dates when we would be sitting. We had stakeholder consultations at the KICC on Wednesday, 21st August and Thursday, 22nd August 2019, where we received presentations. In the first instance, we received more than 40 memoranda from Kenyans. When we had the hearings, we received verbal presentations from most of the stakeholders. The second day, 22nd August, was open and all other Kenyans who had not got a chance to give their memoranda were allowed to present.

Of interest is that during public participation, for the first time we received a memorandum from some very important Kenyans who are our counterparts outside. I hope they are hearing this. When you walk around Nairobi and indeed other towns in Kenya, you will see people surrounding some individuals who talk about several issues, including the current political issues. Those particular individuals, we realised, are well informed. These are the people we call "Bunge la Mwananchi". For the first time, they brought a memorandum. It is a very organised group. They have a president and cabinet secretaries managing various sectors. They came to the committee. They first wrote their memorandum and we invited them and they attended. They were very informed and they discussed several issues, which were not limited to the issues in the Finance Bill. Of interest was the issue of environmental conservation, where they proposed that the Government should strengthen the recycling of plastics to clean the city, together with the issue of capital gains tax which, according to them, was not a good move. They proposed that the Government should ensure that as we build affordable housing, we also retain the incentives which Kenyans have in building houses for Kenyans, so that that rent and all issues on housing should be retained at that level.

In fact, our committee was so impressed that we had invited them but they were not able to come because I think they had a busy schedule. I did not realise that that Bunge is very official that they have an afternoon sitting and therefore they were not able to come.

I want to confirm that various stakeholders came from different sectors of the economy. Number one on the list is an organisation called "Green Bonds". There is also Google Kenya, because of obvious reasons that for the first time we are bringing digital markets into the taxation bracket. There was the Association of International Cargo Consolidators, the Golden Gate Cargo Services, KEPSA, the East Africa Venture Association, which is promoting venture capital, the Agrochemicals Association of Kenya, the East African Forum, the Nairobi Securities Exchange, the Kenya Bankers Association, the Law Society of Kenya, PwC, KPMG, Kenya Wines Agencies, Kenya Breweries, East Africa Petroleum Transporters Association, and other Kenyans who came as individuals. This is majorly led by a Kenyan who has always been participating in analysing the Finance Bill and I wish to recognise him: Ernest Muguku. He has been going through the Bill clause by clause and giving us views. There is also Njoroge Waweru, who has been talking very passionately about promoting a reading culture in Kenya. Those are the few who I can mention for now but over 40 people came for the public participation hearings. The stakeholder consultations went on very well. I want to confirm that the various issues which even this House has touched on when we were starting are the same issues that were covered extensively by the stakeholders.

I now want to go to the Bill itself so that I bring Members up to speed to understand what this Bill proposes to do. This Bill proposes measures to collect at least more than Kshs30 billion to help the Government meet its needs in implementing the Budget, more so in recognition that there is the current policy which the Government is implementing, the Big 4 Agenda. Most of the incentives are here to ensure that the agenda, especially housing and manufacturing, are enhanced.

Under Part II of the Bill on income tax, the Bill is proposing to bring a new dimension where there will be taxation for the digital market. The digital market is a virtual market; it is not physical. It is where you go to the market in the air, to use layman's language. You visit the market, make transactions and complete them without going to the market. This is very popular all over the world now. Therefore, this Bill is proposing to bring that particular market into the tax bracket. At the same time, you remember that there were some amendments to tax demurrage charges. Demurrage charges are charged for delay in collection or delivery of containers.

Hon. Temporary Deputy Speaker, there is a proposal here that instead of taxing the demurrage charges as a standalone income, the demurrage charges will be moved to the income of the shipping line. That way, the consolidated income of shipping line will be taxed as one.

Hon. Temporary Deputy Speaker, there is also a proposal to bring in other players in the market to the tax bracket. It is in Clause 6. It includes the security services, cleaning and fumigation services, catering services in and outside hotel premises, transportation of goods excluding air transport and shipping transport, sales promotion, marketing and advertising services. These are services which are majorly offered by Kenyans. Most of them are small-time start-up businesses. In the amendment, which we will be moving at a later stage in the Third Reading, we will be proposing to safeguard the interest of these small businesses. So, we will be moving an amendment to remove them from this bracket. This is because Kenya is in a situation where we are supposed to promote business start-ups. So, we will be proposing to delete this clause. We will not lose the focus that we are collecting revenue. We will equally be proposing amendments to increase some taxes in some other sectors so as to compensate for the relief which we will be giving to smaller businesses in Kenya.

Hon. Temporary Deputy Speaker, the previous Finance Bill had introduced a concept called presumptive tax in place of turnover tax. To bring Members to speed, turnover tax is the tax paid by small businesses. There are a lot of businesses in the country, for example shopkeepers in the village. Their turnover is below Kshs5 million. Anybody in this country who is in business is required to declare their business turnover. You are supposed to do a self-assessment and declare, for instance, that you will pay tax of Kshs5,000 in a year. That is turnover tax. You declare it as long as your turnover is below Kshs5 million.

The previous Finance Bill did away with the turnover tax and in its place brought a presumptive tax. It was introduced to replace the turnover tax. This particular presumptive tax was attached to licensing. With the presumptive tax, if you are in business, you are required to renew your license yearly. So, the intention was that when you are renewing your license you are required to pay 15 per cent of that as presumptive tax. So, say, if you are paying Kshs1,000 for your license, 15 per cent of that being Kshs150 is actually the tax which is paid as presumptive tax in place of turnover tax.

The intention was to collect more tax but they realised that it was difficult to implement. The intention was to bring taxpayers to a register but it was not itself a tax. So, this Finance Bill suggests that we return the turnover tax. So, one is required to assess oneself and declare. However, when you are applying for your license, you also pay a presumptive tax for the purpose of registering yourself as a taxpayer. If you, say, pay Kshs150 as presumptive tax, at the end of the financial year you are allowed to offset that Kshs150. If you assess yourself and say your tax is Kshs500, then you deduct that Kshs150. So, you pay the tax man Kshs350. So, this presumptive tax will then be treated as an advance tax for small businesses. That is what this Bill is attempting to do. It is expected that it will rope in more tax hence more revenue.

There is also a proposal to increase capital gain tax. Currently, capital gain tax is at 5 per cent. This Bill is proposing to raise that to 12.5 per cent under Clause 9. For the Members who are not well conversant with this capital gain tax, if you buy land or a house now and you are in the business of buying and selling, when you sell you are required to declare that having bought it for, say, Kshs1 million and now you are selling at Kshs1.2 million, you have gained Kshs200,000 and so you are supposed to pay 5 per cent of that. That is the current situation. However, this Bill is now proposing to move it to 12.5 per cent. At a later stage, we will be proposing some other view which if the House supports then we will be okay with it.

There is also a programme which the Government has been running and the youth of this country should be listening to this one. There is what we call "the Ajira Programme" where the youth, who are well conversant with the digital platform, get to the digital platform that has been developed by the Government and do some digital jobs. There is a proposal here that because currently the youth who are engaged in those Ajira jobs are required to pay taxes at the end of the financial year... There is a proposal which has been brought here to say that instead of paying tax, these youths are only required to pay Kshs10,000 upon registration per annum in place of tax. It is an incentive. For the hard working youth, I understand that they can pay that within three hours. So, I encourage the youth to venture into Ajira Programme. This will enhance the income for the youth and it will help them ease pressure on the country in terms of getting employment opportunities. So, the youth who are listening, please, register and enter Ajira programme. The incentive which has been given here is very good for you.

Hon. Temporary Deputy Speaker, under Clause 13, the Bill is proposing to give an incentive to any company which will be engaged in plastic recycling. It will be given an incentive of 15 per cent for 5 years. This is to encourage participation in cleaning the environment in line with the ban on plastics. However, the question is: where will they get plastic? This is because plastic bags were banned completely. It is not practically possible to ban all plastics. So, the existing packaging plastics are supposed to be recycled and we are supposed to avoid littering. Therefore, this Bill is proposing a tax incentive of 15 per cent.

On the Value Added Tax (VAT), this Bill is proposing to move some items from tax exempt to zero-rating. I think this jargon has been used for a long time. I would like to explain the difference between zero-rating and tax exempt. All the items in the country are treated as standard related, namely, the tax rate on VAT is 16 per cent unless otherwise specified. This means that, if indeed, the Government intends to reduce the standard rate of 16 per cent to another one, that particular item will be listed under the First Schedule, which is tax exempt, VAT exempt or under the Second Schedule, which is zero-rate.

In the recent past, we have not been having other rates other than 16 per cent. It has been a while since we operated other rates. Other countries have rates of 3, 10, 16 or 20 per cent, but in Kenya, we have always maintained 16 per cent for a while. Last year, because of public interest, the Government thought it would be better to introduce 8 per cent tax on petroleum products. You can recall very well the drama which was in this House. So, currently, we have 8 per cent tax.

If an item is zero-rated, it is taxed at zero percent, but if it is exempt, it is not taxed. This means that if a manufacturer is manufacturing goods using inputs taxed at 16 per cent, if the product is tax exempt, then when selling in the market, they will be unable to recover the 16 per cent tax. The product will not attract tax. So, for that manufacturer to reclaim the 16 per cent on the inputs used to produce the product, they load the 16 per cent to the final price making the product more expensive.

If the product is zero-rated, the manufacturer will be allowed to claim the 16 per cent from the tax man, namely, the KRA or the National Treasury. Therefore, that product will be cheaper. So, if the Government wants a product to be cheaper, then they zero-rate it. Zero-rating has majorly been left for exports.

On Excise Duty, this Bill is proposing a 10 per cent Excise Duty on betting, which is treated as a sin. Therefore, any tax on betting is called “sin tax”. It is the same as taxation on cigarettes and alcohol. They are in the same family and are treated as sin. Most people who do not take alcohol know this very well. Betting has become very addictive. Therefore, this Bill is proposing to charge Excise Duty on it at 10 per cent.

The objective of the sin tax is to discourage Kenyans from venturing into betting. There was a view that this tax is not enough. Therefore, at a later stage, we will propose to move it to a higher rate of 20 per cent. It is proposed that the Excise Duty on cigarettes and alcohol will be charged at 15 per cent. To encourage local manufacture of motor vehicles, this Bill is proposing an additional tax of five per cent on small and high capacity vehicles.

This Bill is proposing a reduction of Withholding Tax. In the last Finance Bill, I explained to the Members what Withholding Tax is all about. Currently, the business community is required to charge a standard rate of 16 per cent, but when paying the supplier instead of paying in full including the 16 per cent, the law requires them to deduct 6 per cent and remit it directly to the taxman. Then the supplier forwards the remaining 10 per cent tax. The objective of this is to capture more taxpayers. For example, if you supply goods, you are not registered and you have not been paying taxes to a tax compliant person, they will remit the 6 per cent they deduct from you directly to KRA. The KRA then picks your details as being in the supplying business. They wait for you to remit the 10 per cent and if you fail to do so, they come for you saying they received 6 per cent and you can give them the 10 per cent.

The intention was to capture more tax payers by getting Withholding Tax from compliant taxpayers. This attempt affected the cash flow of the business community. If you withhold 6 per cent, obviously, it will delay the cash flow. The difference between what you withhold and what you pay should be refunded, but it takes time. This Bill is proposing to reduce the Withholding Tax from 6 per cent to 2 per cent, so that the cash flow issue is minimised.

On import declaration fee, whenever you import any item, there is a fee charged on every invoice you raise, namely, the 2 per cent levy. This Bill is proposing to move this upwards to 3.5 per cent with the exception of some players who are participating in the Big Four Agenda especially housing and manufacturing according to Clause 34. Clause 35 is proposing to move the Railway Development Levy, which is currently charged for every import at 1.5 per cent to 2 per cent except the players taking part in the Big Four Agenda.

The Bill under Clause 37 is proposing to levy hides and skins at 10 per cent on exports of hides and skins which are popularly known as wet-blue and crust. The intention of this was to discourage exports of these products from Kenya, so that they are used in Kenya. However, unfortunately, when the stakeholders appeared before us, they informed the Committee that 95 per cent of what is currently produced in Kenya is for export. Kenya does not have capacity to use these hides. We use only 5 per cent. To cure that, there is need to promote training of our youth to engage in making of bags and shoes locally. The Technical Training Institutes (TTIs) are currently doing that. So, it is a matter of time before this is implemented. Once we have those youths coming up, they are supposed to help manufacture the items locally.

There is an interesting view by some of the Members here that we should also look for a way of promoting the youths who are trained in the TTIs, so that they are given a start-up pack.

After you leave the TTI, you are given a start-up pack or a tool box so that you are enabled to participate in economic activities directly. If you are a carpenter, a mason or you want to engage in making of shoes like a cobbler and the rest, you are given a tool box. However, this can be addressed at a later stage when we fund the TTIs to give those start-up packs. That way, we will be able to use the wet blue and the skin, which is produced in Kenya. For now, we propose some amendments to save this industry.

As indicated earlier by Hon. Njomo, the Bill is proposing a repeal under Clause 43 of Section 33(b) of the Banking Act to remove the cap. There is an argument that this cap has worked negatively in terms of getting the SMEs the required credit. There was also a view from the courts that the amendment which this House did was unconstitutional. There are a raft of amendments which are required to make it compliant. The Bill is proposing to repeal that section. During public participation, most of the stakeholders who came opposed this repeal. The reason is that banks are claiming that it is working against them and it is going to kill the banking sector. At the same time, they do not show any effort in terms of training and reducing risks on the part of SMEs, so that they are able to take credit, use and refund it, and, therefore, reduce risk. On the other side, what is making SMEs not get credit is not entirely because they are risky. It was the view of many stakeholders that this is because the Government is not stopping the appetite of borrowing locally. If the Government stops borrowing locally, it will reduce competition. Once competition is reduced, the banks will not have an option, but to look for you, build capacity, give you credit and visit you every evening and morning to see how you are doing. They will give you tips on how to perform well and become partners in the SME world.

Therefore, the sentiments which were made by the stakeholders together with the Members here need to be listened to and we look for a way. You know this country is for all of us and we need to ensure that SMEs and banks survive and the Government is able to get some little credit to run its operations. However, if the Government stops or reduces the appetite for credit, then it will somehow resolve the issue.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Order, Hon. Limo! I know this is a very crucial Bill. As you move, you shall have 45 minutes. Mine is just to notify you that you have a balance of eight minutes just for your planning.

Hon. Joseph Limo (Kipkelion East, JP): Hon. Temporary Deputy Speaker, there is also a proposal to register the business cluster of people called consolidators. Remember when the President visited the new terminal, there was an issue in terms of clearing of goods at the port. The small business people are not able to fill a container when they are importing. So, what happens is that they come together and fill one container. The people who do that are called “consolidators”. This Bill has brought those consolidators into registration, so that they help consolidate and bring goods together. This will lessen the hustle of clearing and checking the goods and even paying tax given that the Government is moving to a new way of doing clearance of goods. Checking of standards of the goods which are imported will be done at the country of supply. In fact, this Bill is proposing that that will be done at the country of supply, so that when they arrive, it is a matter of just scanning and being cleared instead of waiting for long for clearance and making the country really unattractive.

The Bill is also proposing to repeal sub-section 2(a) of the Accountants Act. In the last Finance Bill, there was an amendment by an accountants’ institute to ensure that the accountants are regulated the way lawyers and engineers are regulated and to make the accounting profession more feasible and respectable. There is an attempt to reverse that amendment. After discussions and stakeholders engagement, the Committee will move an amendment and replace it with further progressive amendments which will make accountants more respected and ensure that in future, when accountants retire from employment, they can practise accounting and will be respected the same way lawyers and engineers are respected. At least, there is a role which accountants will play in the economy of the country when transactions are being done.

Finally, the Bill is also proposing to amend Section 2 of the Proceeds of Crime and Anti-Money Laundering Act, about which there was a debate in this House and there is a pending Speaker's ruling. In fact, I confirm that in the stakeholder engagements, the Law Society of Kenya (LSK) was represented and other key lawyers came to present. Therefore, in terms of public participation, we did very well and, indeed, there is no fear that public participation was not done. Therefore, we will leave that particular clause for the Speaker to make his ruling tomorrow.

I take this opportunity to thank the Office of the Speaker, the Office of the Clerk, the Office of the Leader of the Majority Party, all the staff of Parliament especially the staff who are working under the secretariat of the Departmental Committee on Finance and National Planning together with the Members of the Departmental Committee on Finance and National Planning for their dedication and support during the processing of this Bill. This Bill takes time to process. It takes at least two months. Therefore, I wish to thank the people who ensured that we were peaceful and comfortable when we were processing this Bill. I urge Members to participate in discussing this important Bill.

I confirm that this Bill anticipates to raise Kshs30 billion. With your support, we will raise more than that amount. We have a raft of amendments, some of which will help in consolidating the Government revenue base. At the same time, we want to safeguard the business environment and ensure that this country is attractive to investments. We know very well that a country which has stable and predictable policies and laws is very attractive to investors. No investor would like to come to a country where the law is changed tomorrow without notice. If that is the incentive to bring an investor to the country and you change it, the following day, it is difficult. We urge the Government that any policy which touches on direct investments should be well thought out, given time and analysed to ensure that this country is left to grow in a progressive manner.

With those remarks, I beg to move and ask my able Vice-Chair, Hon. Ndirangu, to second the Bill.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Very well. You used your allocated time very well. Let us have the Vice-Chairperson to second.

Hon. Isaac Ndirangu (Roysambu, JP): Thank you, Hon. Temporary Deputy Speaker. Allow me this opportunity to congratulate my Chairman for ably presenting and moving the Finance Bill, 2019.

I thank the Members who presented themselves in person during the public participation to give their views on several aspects that have been proposed by the Government in this Bill. Among them, in absentia, let me congratulate and thank Hon. Moses Kuria. He appeared before us. Hon. Joe Manje from Kajiado also appeared and gave his memoranda. We thank them very much.

You saw the interruption that was here even before we moved this Bill. It is because most Members have not had a chance to go through our Report on the Finance Bill. Neither did they show interest during the public participation to come, be heard and give their reservations on some of the clauses they are now talking about. However, we are one in this House. Concerns of one Member are also shared by others Members. We have ably dealt with the concerns of Members with regard to the anti-money laundering proposal.

I do not want to repeat what the Chair has said. Allow me to talk about Clause 36. In the Finance Bill, 2018, we proposed an anti-adulteration levy on kerosene. This Bill seeks to amend that clause and provide that the Commissioner shall refund the levy upon written application of a registered or licensed manufacturer, where the Commissioner is satisfied that the levy was paid in respect of illuminating kerosene that has subsequently been used for the manufacture of paint, resin or shoe polish. This will give relief to the manufacturers of those products. There are many in the *jua kali* sector and cottage industries. The manufacturers who presented before us indicated that it is becoming very expensive to manufacture paint and shoe polish arising from the adulteration levy that was preferred in the Finance Bill, 2018. This refund is a welcome relief to all these manufacturers and will surely boost their production and reduce their cost of production.

Allow me to also touch on the proposal to reduce the Corporate Tax on new investors who are planning to invest in recycling of plastics. Plastics have been a real mess in this country in as far as conserving our environment is concerned. The Corporate Tax relief that we are extending to new investors who will invest their money in recycling plants will help us to clean our environment.

Allow me this opportunity to talk to the governors of this country. The other day, when I was travelling abroad, I sat next to a gentleman who was explaining to me how difficult he found it to invest in one of our counties. He and his company from Spain had proposed to invest in recycling plants in Nairobi and Mombasa. The conditions that were placed on them by the county governments were prohibitive, including suggestions that the leaders there should be given shares in their companies. We must encourage our governors, the staff and the executive who operate at the county level to receive investors and make it easy for them to invest their money, so that we can have direct foreign investment. Clause 13 suggests that companies that will invest in plastic recycling plants will be granted a tax incentive of 15 per cent, down from 30 per cent. This incentive will last for the first five years from the beginning of the operation.

Allow me to also emphasise on the stakeholders' sentiments regarding the Export Duty on hides that are classified as wet-blue that has been proposed in Clause 37. When we sat down to listen to those who have invested in tanneries and those who process hides and skins, they informed us that presently, the market is very good for wet-blue class of hides, but if this proposal to tax Kenyans and Kenyan companies which are earning us foreign exchange by exporting processed hides is passed, we will be killing our own industries. They suggested that they be given time so that locally, we mobilise and train human resources who can absorb wet-blue hides for the manufacture of shoes.

Presently, the value addition of hides and leather products locally is very low. It is time this industry woke up. It is facing a lot of competition, even within East Africa. It is important we give time to the tanneries and even the small-scale operators who process leather, hides and skins from goats, cattle and other animals. We defer this export tax until we have invested sufficiently and trained our young people to have skills to make leather products. Otherwise, our proposal, as a Committee, is to shelve this export tax. We will bring that amendment at an appropriate time.

Generally moving through the Finance Bill, our Committee has encouraged the Government not to fix higher taxes, but to think seriously how we can conserve and manage the taxes we have collected from Kenyans prudently. Hon. Temporary Deputy Speaker, I have an example of one of the counties that is doing very well, namely, Laikipia County. Even without increasing taxes for the last three years, they have almost doubled their tax collection. The Government needs to invest in conserving and using our taxes prudently to deliver services to *Wanjiku*.

With those few words, I beg to second.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Hon. Members, having moved and seconded the Bill, I propose the Question.

(Question proposed)

We have many requests. Members are expressing interest to contribute to the Bill. Pursuant to our provisions, this House passed resolutions that every Member who wants to contribute to this Bill will have 10 minutes. I will start with the Member for Funyula because he is the first one on my request list.

Hon. (Dr.) Wilberforce Oundo (Funyula, ODM): Thank you, Hon. Temporary Deputy Speaker for giving me the opportunity to contribute to this important Bill in the budget-making cycle of the Republic of Kenya. As required by the provisions of the Constitution and the law, now that we passed the Division of Revenue Bill and the County Revenue Allocation Bill, the next and final process is the Finance Bill.

I am encouraged by the presentation of the Chair of the respective Committee. He said that the proposed taxation measures will result in an increase in tax collection or tax revenue of about Kshs30 billion. Like all Kenyans, we are concerned by the impact of taxation. Literally, it is said that we are heavily taxed in Kenya and yet we do not see the result or outcome of the revenue that is collected. A typical earner or worker in this country is subjected to an income tax which is probably 30 per cent and 16 per cent when he purchases or consumes services. He is also subjected to 8 per cent tax when he buys fuel. Literally, you are taxed to the last bone in your body. Many Kenyans out there unanimously feel that the taxes are not used prudently. They end up in pockets of a few individuals who are greedy and have no regard for the interest of the people of Kenya at large. While we support the proposals which are put forward in the Bill, it is important to make a rallying call to the national Government as well as the county governments on two issues. One, we need to up the game in collection of taxes that are due in this country. Nobody should be allowed to fail to pay taxes in whatever manner.

Secondly, and this applies to both the national Government and the county government, we must get value for the money that is collected as taxes. There are numerous cases of corruption and looting of public resources to an extent that out of whatever is collected, it is only 50 per cent that ends up being useful to this country. The Bill contains provisions. Some are good and progressive, but some are objectionable. They will make life for the typical *mwananchi* too hard and expensive. I will mention a few of the progressive and positive provisions in the Bill. One, taxation of the digital market place and Ajira Programme is commendable. It will encourage our youth to engage in online business that can exploit their skills in Information and Communications Technology (ICT). Many of us are ICT founders, but we are unable to catch up. So, we cannot purport to compete in that area. We leave it to the youths and the young at heart.

Imposing taxes on security services, cleaning and fumigation services, catering services which are offered outside hotels, transportation of goods including air transport services and sales promotion, marketing and advertising will hit hard the small enterprises in this country. Many women, youths and people living with disabilities generally engage in these kinds of businesses. Imposing punitive taxes on them will stifle growth and literally drive them out of the market. Knowing that the Kenya Revenue Authority is a ruthless body that does not listen and care about the difficulties encountered by these businesses which supply services to Government agencies that do not pay on time these taxes will kill them.

Many of us were suspicious about the applicability of presumptive tax. It is good the Government has seen sense and returned to the Turnover Tax. However, the question of filing and declaration of taxes as contained in Clause 7(7) requires to be clear. Many of the persons or firms targeted for the Turnover Tax might not have access to internet and capacity or the ability to employ accountants who are experts in taxation matters. The question of delayed or wrong filing will punish them heavily in due course. The KRA and the National Treasury need to look at a more convenient approach of filing and assessing tax, so that we do not end up punishing the common *mwananchi*.

On the question of the Capital Gains Tax, many of us were taken aback when the Government purported to increase it from the current 5 per cent to 12 per cent. In a real estate market that is now a biased market that is doing so badly, it does make sense to impose more taxes that literally slow down transactions in the market. At the opportune time, we will move those amendments, so that we expand the list of exceptions which are contained under Clause 14 of the Bill to include those of us who buy properties on mortgage. When we complete a mortgage, we would like to buy another property. We wish to sell the existing property and upgrade or engage in equity release to upgrade. So, when it comes to the Committee of the whole House, we will make those proposals to see how we can change.

Hon. Temporary Deputy Speaker, I am encouraged by the proposed provision to give tax incentives to recycling plants that deal with plastics. I hold the view that plastics are the enemies of the physical environment. If there is any opportunity to completely ban plastics in this country, I will be the first person to support and give a congratulatory message to the Government. I listened to the Chair of the Committee saying that it is not possible to ban all plastics. However, other countries have tried and managed to ban them. Those that are involved in recycling should also be given much more incentives even if it means being allowed 100 per cent tax exemption.

Clause 43 of the Bill deals with repeal of Section 33B of the Banking Act. The bankers in the country have deliberately misled the country that, that provision is harmful to the banking industry, which is contrary to the truth. Now, the truth of the matter is that banks have continued to make abnormal profits. In fact, banking is the most profitable business in this country. Failure of SMEs to attract financial facility from the banking sector, as all of us know, has nothing to do with the risk profile of SMEs. It is simply because banks have found it easier and less expensive in administrative matters to lend to the Government because it is risk free and the cost of administering Government loans is literally zero. Therefore, they have taken the appetite. So, the call goes to the Government to pull up, so that we can move to a better position. In any case, SMEs can get money from very many other places. Therefore, it is not a big deal.

Clause 44 of the Bill on consolidators on the import market is a most welcome proposal. We need to tighten much more because our small-scale importers have suffered tremendously.

With those few remarks, I support the proposed Bill. Thank you.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Let me have the next Member who desires to contribute to this. Member for Tharaka.

Hon. George Gitonga (Tharaka, DP): Thank you, Hon. Temporary Deputy Speaker. I rise to add my voice to the Finance Bill, 2019.

I start by emphasising that a Finance Bill is purely meant to give ways and means by which the Government is supposed to raise its revenue, which it budgets for and which is used for the wellbeing of the citizens. This is a good Bill save for the reservations we have made which are always mischievous and curious. We have statutes that have nothing to do with revenue-raising being brought into the Bill with a view to amending those particular laws and whose repercussions sometimes are adverse to the people. We have just raised one which we are going to get a ruling from the Speaker. There are other proposed amendments in here, which in my view, do not fall under the ambit of a Finance Bill. When the time comes, we will scrutinise those amendments and possibly call upon the House to reject them at this stage and make a direction that they be brought with proper amendment Bills in their respective statutes.

Taxation in this country is said to be very high. In fact, it is said that the country does not move forward fast because of the high rate of taxation. We would, therefore, urge the fiscal section of the country to ensure that our taxation is not inhibitive and does not prohibit investments, but one that encourages investors. That way, as a result of investments, we will be able to produce more, get more income and create employment. Unemployment is a dilemma in the country. Young and very educated people do not have jobs. The reason is that we are not able to create jobs because of the high rates of taxation.

It is also important to emphasise that while we collect revenue using various methods of taxation that have been introduced in the Bill, the money is meant for rendering services to the people of Kenya. Whether the revenue is by the central Government or by the county governments, it should be for the benefit of the citizens as intended. We know very well that there are vices that come with money collection and the most prevalent one is corruption. Money is collected through taxation and then it is misapplied because of rampant corruption in various sectors. We call upon the Government to ensure that once the revenue is collected, it is applied to the basics or the necessities of the citizens. The basics include education. We must allocate sufficient money to our education sector, so that we can improve on it. We need to improve our primary schools through infrastructure development, TVETs in the constituencies and our universities, which are the pinnacle of our education sector. Let us have each, allocated sufficient money, so that they are able to discharge their functions.

We must also move to other basic needs like health. We call upon the Government to ensure that we have proper health facilities, whether they are under the national Government or the county governments. Without a good health system, the country cannot be said to be productive and as a result, we will have a Finance Bill which we cannot implement, or a Finance Bill that tells us that this is how we raise money for purposes of financing our Budget, but in the process we will not raise the money to do that.

It is very important to avoid substantive amendments coming to the House through a Finance Bill. We know for sure that there is mischief when that is done. It is that mischief that we must curb such that what comes through a Finance Bill are means and ways of raising money. What comes through a miscellaneous amendment Bill are minor amendments to our laws and not substantive amendments which affect other laws. So, as we await the ruling from the Speaker, we will be keenly following this debate to see whether we are doing anything substantive through the Finance Bill which we have before us.

With those remarks, I support the Finance Bill as presented save for the substantive amendments which are being introduced and which may actually not fall within the ambit of a Finance Bill. I support to that extent.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): As you said, the substantive Speaker is to make a ruling on the case that arose in the debate earlier today. Hon. Members, we are debating the Bill as it is until tomorrow afternoon when the Speaker will make a ruling. Before Makali Mulu speaks, let me have the Member for Emuhaya.

Hon. Omboko Milemba (Emuhaya, ANC): Thank you, for saving my chance from the Adam Smiths of the House. From the outset, I support the Finance Bill. I followed keenly when the Mover was moving it. There is no taxation without representation. So, every tax that Kenyans pay must have value for their own benefits. Therefore, we expect that as the Government broadens its net for tax collection, it also makes sure that the taxes go specifically to *mwananchi* at the village and everybody else.

I would also wish to say at the outset that there is no need of loading a Finance Bill, which is basically a Bill about issues of finance, tax collection, how to raise funds and so on, with other baggage. The baggage makes the Bill a difficult topic, so that at any given time, even Members of the National Assembly will be thinking of killing such a Bill at an early stage yet it is a very important Bill. So, as we wait for the ruling of the Speaker tomorrow, I would wish to add my voice, which I should have added earlier, that the baggage that is within the Finance Bill containing other sections and then have them go through the Second Reading, should not be there. In this House, currently, we have a common practice where once we have passed a Bill at the Third Reading, it goes to the President, and finally it is brought back here and we are told we must raise a two-thirds majority under Article 115. Somewhat, the law is made in that order. I am hoping that the ruling that comes is good, so that this baggage is not put in the Finance Bill and if we have any other substantive amendments that have to be done, let them come and we deal with them as a House.

I want to critique the Mover of this Motion. The Chair and the Vice-Chair are here. I should have seen institutions of collecting revenue and taxes strengthened to achieve the means that we want to achieve. I did not see much of that. I hope as we absorb this Bill, we shall make amendments that can strengthen these institutions and reduce wastages as far as tax collection is concerned.

Let me make few direct comments on the Bill. I support the Mover and the Chairman because he said even the participants were not happy with the removal of the capping of the interest rates charged by banks. The people I represent of Emuhaya and I do not wish to remove that capping. The argument by the banks that having reduced the lending rate to 14 per cent has made them unable to give money to small business enterprises is wrong. Our banks, as economists who are here know very well, are operating from oligopolistic kind of market which is very close to a monopolistic kind of market. Therefore, in such a market, they can control prices. Currently, they are controlling the lending and, therefore, controlling the market in such a way that they can influence the entire public to follow them as they wish. That is a common practice in oligopolistic markets which banks in this country are enjoying. Moving forward, we shall be supporting the Chairman especially if he stands strong with the Bill and other amendments that were given in an earlier Bill by Hon. Jude Njomo, that we do not remove the interest capping of 14 per cent.

As I said before, during the times of President Mwai Kibaki, when he refused to borrow money through treasury bills and treasury bonds from the local market, banks had no alternative. They came to us and gave us money. I am a teacher and I saw banks hawk loans to staff and even train us on how we can use those loans well in order to pay back. That is what we should be looking forward to. On that, we shall be supporting it strongly. I also urge Members to support it because it is very important for all of us.

I loved the Mover as he talked about protecting the accounting profession. The accounting profession unless regulated, can be misused. Who is this accountant who will work especially when it comes to Government money and give a report? It can be a source of serious corruption unless it is regulated. Therefore, I support the Chair's views that he will be bringing an amendment, so that we do not remove the regulation on the accounting profession. This will enable us to know the accountants that we are dealing with. I must tell the House that as a teacher and working as a representative of the teachers, it is something that we are also facing. We need a regulator in the teaching profession, so that we can give that teaching profession standards, firmness and the respect that it deserves. Possibly, later on, we shall be creating that Bill in that extent. I thank the Mover for that.

I know there are a number of goods which were to be moved from exempt to zero. Members, do you know that among the goods that were going to be moved in that matrix was *unga* itself? Though the Mover did not speak about it loudly, I know, and the Vice-Chair is here, *unga* is one of them. There is an attempt by the Government to make *unga* very expensive yet it is a very basic good for Kenyans. Everybody works for *unga* first. So, an imagination that you would move *unga*, which is *ugali* in this matter for Kenyans listening to me, to a tax ratio…

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): *Unga* makes *ugali*, *ama*?

Hon. Omboko Milemba (Emuhaya, ANC): *Hiyo*. The maize flour. Moving it to a tax bracket where it will be higher and the Government is making extra money from the flour, would be very wrong. We should be fighting to move to a level, like other developed nations though we may not be having the capacities, where when you go to any hotel, you are given *ugali* for free, then you can buy other things. I will be expecting that the amendments by this Committee should protect the *mwananchi.*

There are many other issues here that are good, but I will only make a statement on one, namely, withholding tax. I was a student of economics up to the university level and not any further than that. Whereas formerly you had said that the firm that was supplied with goods pays 6 per cent, that was withholding a lot of money. I support you in reducing it to 2 per cent. We would even make it much lighter by reducing it to 1 per cent. I am sure you borrowed that from other developed economies. Let us not even make it 2 per cent because that is to prevent the flow of money which we want in the economy.

Without much ado, I support the Bill. We shall be looking forward to making the amendments. Thank you.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Very well, including the *unga* or flour that makes *ugali; unga* for *ugali*. Anyway, it is on a light note.

Next on my request list is the economist, Hon. Makali Mulu. Hon. Makali, why do you doubt yourself? You are the one on the request list. Of course, I had mentioned you before as I wanted to tell the House that we have an economist and that we need to hear from him.

Yes, Hon. Makali Mulu, *Daktari?*

Hon. Makali Mulu (Kitui Central, WDM-K): Thank you very much, Hon. Temporary Deputy Speaker. Let me add my voice to this debate because it is a very interesting one. At the same time, I remind the House that this House passed the Appropriations Act, which approved expenditure for this financial year. Even as we are discussing the Finance Bill, which is supposed to be helping us to know where to raise the revenue from, you need to bear in mind that the expenditure side is already approved by the House. To some extent, we are in a situation where we have approved expenditure, but we are yet to approve how the resources will be raised.

As we move forward, I think it will be important, through the Chairman of the Departmental Committee on Finance and National Planning and his Members, to advise this House how we can have a situation where we can pass the Finance Bill the same time with the Appropriations Bill because in case we do not approve this Bill, it means the projected Kshs30 billion will not be achievable. This will make the situation worse in terms of budget deficit bearing in mind that we passed the Division of Revenue Bill yesterday. As a result of that, we created an additional Kshs6.5 billion which is not factored in the budget. It means that we have a lot of work to do as a House to assist the National Treasury to see how to raise the funds. That is why, to some extent, I want to take a bit of time to explain a number of issues, so that Members can get to know what is in this Bill. There are some good things, as people have said. However, there are things which are somehow discouraging. We need to bear in mind that taxation is always a good evil anywhere in the world. Nobody wants to be taxed, but we must be taxed for the country to grow. We have no choice. People must be taxed. Companies must be taxed. When you hear lawyers trying to bring up issues, these issues will affect a number of sectors. That is why the Finance Bill, by design, is a Bill which will amend existing Acts of Parliament. Unless you do that, you might not be able to raise the money.

Let me say something on the issue of the Capital Gains Tax. One of the principles of taxation is what we call progressive taxation. That is where you tax the rich to empower the power. What is happening in the Capital Gains Tax here is exactly that good practice. We are increasing the Capital Gains Tax from 5 per cent to 12.5 per cent. It is not every Kenyan who buys a house. It is not every Kenyan who buys and transfers land. These activities mostly belong to the rich of this country. There is no harm when you tax the rich to improve the lives of the poor through construction of roads, putting up health centres and all that. To me, even though the increase seeks to be higher, I think it is in line with good practice in taxation.

The issue of withholding tax, which is being reduced from 6 per cent to 2 per cent, is also very good. We are now providing more cash to those who are paying VAT, so that they can run their businesses, but at the same time be able to achieve the initial objective of this law. The initial objective was to make sure that those who are providing goods and services to the Government do not avoid paying taxes. So, when you retain the 2 per cent, it will be known that you have worked for the Government and follow up to pay the remaining 14 per cent will be easy. It is very encouraging to see that it is moving from 6 per cent 2 per cent even though I would not mind even if it moved to 1 per cent. At the same time, let us bear in mind that the good thing with the withholding tax is that it is collected by an agency appointed by the Government and passed to the Kenya Revenue Authority immediately. So, you do not wait for long before you get the money.

[The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu) left the Chair]

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

Another good thing about this Finance Bill is that it is reducing tax on imported timber from 10 per cent to zero. We all know that we are going through very hard times in terms of deforestation. This law is good because it allows more timber to come from outside the country. At the same time, as we implement this Finance Bill, we need to encourage more Kenyans to do afforestation, so that within a few years, we grow our forests to a level where even if we start harvesting our timber, we will not have deforestation problems. So, this is also a good move.

There is the issue of export levy on hides and skins. I agree with the Vice-Chair of the Committee. This is an area about which we need to encourage our people. We all know about the places where they want to start big hides and skins factories. If we want to encourage Kenyans to go that direction, we must not tax them. It is going to discourage them.

I now want to focus on the issue of betting taxation. As I said, betting tax falls under what we call sin tax. These are things which you can choose to do and you do not die if you do not. You can choose not to do them if you think they are very expensive. I do not know why in this country we have sympathy for these kinds of activities - activities which people can fail to do and not die. It is proposed that we increase it by 10 per cent only. We have been saying this is an area we can tax even up to 35, 40 or 50 per cent. The truth of the matter is that betting is not good for this country. That is the truth. You may give it different names, but that is the truth of the matter. More Kenyans than those who benefit from betting suffer as a result of betting. The few who are benefitting are doing so in a big way. The idea of increasing betting tax by 10 per cent is not fair. This is an area I will want to see the Chair of this Committee propose higher rates, possibly 20 per cent, so that it goes to somewhere near 30 per cent, so that, at the end of the day, we discourage the common *mwananchi* from engaging in betting. Some people even sell their land to have money to bet. Children are using school fees to bet. When they lose the money, they do not tell their parents about it. So, they start playing hide-and-seek games with their parents. There are recorded cases where students have committed suicide after engaging in this activity. All their money goes and they do not know what to say. So, one decides that the easier way is to kill oneself and forget about it. This is an area from which we can generate more revenue from people who engage in it to fund public good, which will help Kenyans.

On the issue of interest capping, my training and work as an economist is to promote what we call competitive markets. When you promote competitive markets, you leave the forces of supply and demand to determine the price. This only happens when the market is competitive. Unfortunately, in this country, there seems to be a conspiracy among the banks. When you start ranking the firms which have huge profits at the end of the year, you will find almost all the banks are in that level. They are at the top 10. What we are saying is that banks are making abnormal profits. Time has come when we should start pushing this market to become more competitive. I see two players here. The first player is the Government. The Government cannot compete with the public in terms of borrowing and then say that the sector can remain competitive. The second thing is the Central Bank of Kenya (CBK). The CBK is supposed to serve the public good. The CBK is starting to look like they are serving private good. The Departmental Committee on Finance and National Planning needs to be hard on the CBK, so that it becomes a public institution which serves the public and the interests of the public. In that case, these people will not make such huge profits.

The last point is what we call the public credit guarantee scheme for SMEs. The Government should put as much money as possible in that scheme, so that SMEs can borrow from there and minimise the pressure on interest rates. In that case, we will have low interest rates.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Very well. Shall we have Hon. Ganya Chachu.

Hon. Chachu Ganya (North Horr, FAP): Thank you, Hon. Temporary Deputy Speaker, for the opportunity to support the Finance Bill. It is an important Bill. It enables our Government to raise revenues to support all activities that it will be engaged in, in the next financial year. It has a deadline of 30th September and so, we do not have much time to pass this Bill. Earlier on, before this Bill was moved, serious issues were raised. Hopefully, the Speaker is going to deliver a ruling on them tomorrow. So, I will not dwell so much on that, but it is important for me to state that for any Bill that we are going to pass in this House, its constitutionality is critical. For those who are engaged in ensuring that this Bill is passed on the Floor of this House, they should be concerned and address the aspect of whether it is constitutional or not. Otherwise, it will be an exercise in futility especially on the two clauses that were clearly mentioned by Members who had reservations. Most of us are convinced that there are serious substantive issues to be addressed in those two clauses. Having said that, I support this Bill. It has good provisions.

A number of laws have to be amended to enable the Government to raise revenue. Whereas I do not have a problem with many of them, I have a problem with the Banking Act. They are proposing to remove the capping of interest rates that this House fought so had to pass. The actual law-making is no longer in this House; it is somewhere in State House. This is because after we pass laws in this House, a memorandum is sent here and we are supposed to raise two-thirds majority to veto it. That is almost impossible. In effect, I soundly think that laws are no longer made here. We are here just to facilitate the process for others to do what they need to do in terms of legislating for this country. That is why I have a concern with the Banking Act. From the debates we are hearing across this country, it is likely to go through. I am happy my colleague has taken a strong position on it. If it will go through as proposed in this Bill and the Committee's Report, we will go back to where we came from many years back. It was a surprise to us when the President signed that Bill into law years back. Then, it was moved by a gracious Member of Parliament, Hon. Jude Njomo. That is my major concern with this Bill together with the issue of constitutionality that I earlier remarked on.

There are two elements of this Bill that I am happy about. Coming from the northern part of Kenya where pastoralism is the main livelihood, reduction of taxes on hides and skins will encourage that sector to grow. It is a sector that is neglected. It is highly funded. It used to do well in the 1980s and during the colonial period, but of late it is not. It is known to us that we buy shoes from abroad. Actually, they are imported into the country yet we have so much livestock in many parts of this country. This will enable that sector to grow and our factories will thrive. It will be a good initiative for pastoralists, the people who keep livestock in this country.

The Bill is dealing with the issue of the Mau Forest, our water towers and deforestation in this country. For sure, we are facing serious environmental crisis and degradation. The Bill proposes to reduce, to almost zero, taxation on timber imported from outside the country. That will go a long way in enabling the country to recover its forest base, have a forest cover that we desire and protect the Mau Forest. We will not need to look for timber from outside. There are countries that have a lot of timber and they do not know what to do with it, for example, most Nordic countries like Finland and Norway and some countries in Africa. Zero-rating taxation on timber will be a good thing for this country. As somebody with a background on environmental matters , that is something I support.

With those few remarks, I support the Bill.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Very well. Hon. Odhiambo Akoth.

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): Thank you, Hon. Temporary Deputy Speaker for giving me this opportunity. I wish to support this Bill with amendments. I will not speak on the positives that are contained in this Bill, but I will speak to some aspects that I hope the Chairperson of the Committee will pick and consider bringing amendments.

On the issue of digital market place that is provided in Clause 3, a lot of our young people, because of lack of jobs, have become innovative and creative. We are the ones that encouraged them. They are doing a lot of business online. I bought a second hand dress online to encourage our young people to be in business especially, young women. If we bring them to the tax bracket, we will be encouraging flight from this sector yet we are not able to employ them. So, I want to encourage the Committee to consider bringing an amendment on that.

The Ajira Digital Platform seeks to tax young people who are registered for the Ajira Digital Programme. I know the Ministry is trying to find ways of increasing revenue but the Committee, as they have suggested, would bring other suggestions that will not focus on young men and women who are trying to eke out a living.

If you look at Clause 10, it seeks to amend the Income Tax Act to include areas like outside catering, sales promotion, marketing and fumigation outside hotels. Sometimes I do not know whether we seriously think about these issues. I am using the word "outside catering" because it is outside catering. The women groups that we are supporting in our various constituencies that provide outside catering services in funerals and small gatherings in villages, a lot of times, hardly make any money. Sometimes, they make only Kshs10,000 in a whole month. Some of them wait for funerals probably because that is the nearest they can get in a whole year. If we want to start discouraging them by taxing the little income they get, that will not be proper. When you talk about fumigation outside hotels, we have a lot of Kenyans who are employed and do small business aside. Many of us try to promote them in various ways. If I have cockroaches in my house, I am not going to get a big establishment. I will call a young man or woman who is struggling to do their work here and there to come and do the fumigation in my house. Now we are expecting them to pay taxes.

As much as we are trying to increase revenue, let us acknowledge that a lot of Kenyans are employed in the informal sector because there are no jobs. And you discover a lot of them are graduates. It is shocking. Like the women who wash clothes, when you talk to some of them, you get to know that they are degree holders, but they wash clothes because they are not able to get formal jobs. That is our reality. When, as a country, we have failed to get them jobs, we cannot then chase them from where they are trying to eke out a living and frustrate their small businesses. Let us rethink how we want to increase our taxes, but not by going after the small businesses. I am hoping the Chair of the Committee has heard, though I do not see him, and that as a Committee, they will bring amendments. I can see the Vice-Chair is there. I had consulted with the Chair when I saw this provision and he told me the Committee intends to bring those amendments. I would encourage them to do so.

I also want to speak to Clause 50 that talks to the issue of lawyers. I did not get opportunity to speak to it earlier. I know the Speaker will make a ruling on the same issue. This Bill seeks to basically deal with revenue-raising measures. But when we want to deal with something as substantive as something that touches on lawyer-client privilege, I do not think we should bring it by way of almost a miscellaneous amendment. I know the Committee says that the Law Society of Kenya made a presentation, but I do not think this should be the best way for us to go. Yes, we want to deal with the issue of corruption through money laundering, and I know a lot of people have found lawyers as a safe haven because of the lawyer-client privilege, but I think this is something that we need to look at by amending the Advocates Act. Let us interrogate and see whether there are other ways of dealing with it other than bringing it through this process. I do not think this is a revenue-raising measure. For me, it is much more an issue, as one Member had indicated, touching on Article 35 of the Constitution on the right to privacy. When we want to limit the right to privacy, the Constitution is very clear about how we do that. We cannot limit the right to privacy or any other right by way of a miscellaneous amendment.

Finally, I want to speak to the issue of the Banking (Amendment) Act, which is under Clause 43. You realise that if we pass the amendment to delete Section 33B of the Banking Act, then it means that all the work that Hon. Jude Njomo has done will be in vain, because then there will be nothing he is amending. I think the person who brought this was being mischievous. We know that, that provision has not been very popular. That is why it even found its way to the court. I would encourage Members to support Hon. Jude Njomo by ensuring that this proposed amendment does not see the light of day.

With those few remarks, I beg to support with amendments. Thank you.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Shall we have Hon. Manje Wathigo, Member for Kajiado North.

Hon. Joseph Manje (Kajiado North, JP): Thank you, Hon. Temporary Deputy Speaker, for giving me this chance to contribute to this debate and say, right from the beginning, I support the Finance Bill, 2019, with related amendments that the Committee Chair has proposed. I think it is the right way to raise money. They are targeting virtual trade in the country. You know Kenyans are more enlightened and they are embracing the IT sector, and the description of the market is changing. When we were pursuing Bachelor of Commerce in the earlier days, the description of a market was where people meet and negotiate an item. But currently, they can negotiate through the media and the enterprise takes place. So, I tend to think that is the right way to go in that particular sector.

There are three areas that I want to touch this afternoon. Despite the fact that we have to raise money, we have to go to the ground and do some basic research to know how these sectors are being affected. The first one is in Clause 9, where tax on capital gains is being increased from 5 per cent to 12.5 per cent. This will directly affect the housing enterprise and people who are buying land to subdivide and construct houses to sell. This will be anti the agenda that the President wants to achieve in this country because you are increasing the duty at the same time. They should have tried to see what the impact of that increase would be. When you increase from 5 per cent to 12.5 per cent, this is a very big increase. For example, if there is a change of about Kshs1 million and the entrepreneur was paying about Kshs50,000, now he will be required to pay Kshs125,000, which I think will deplete the gains he was to get. That should be checked, otherwise, it will be anti what we are trying to achieve.

The next section is where import declaration duty will be increased. Kenyans are highly taxed compared to people in other countries. For example, if you import a small vehicle that is worth Kshs300,000 today, you pay so many taxes like import tax at 25 per cent, Excise Duty at 25 per cent, VAT at 16 per cent and others. You end up paying so much than the cost of the vehicle. For a vehicle worth Kshs300,000, you end up paying between Kshs350,000 and Kshs 400,000. When you include the cost of the person who is clearing the vehicle, another Kshs50,000, the cost will go to Kshs400,000. Imagine the Government is taxing Kenyans about Kshs400,000 more than what the manufacturer himself on the other side gets. There is no cost put on manufacturing, but only on taxation. When taxing, you should check the input you are doing as a Government. That is an area I think should be checked.

The area that I want to talk to at length is where the Government wanted to introduce 10 per cent tax on wet blue hides and skins. We have some tanneries that turn hides and skins to a certain level. They are supposed to turn them into finished leather, so that they can be made into shoes. There are tanneries and other big businessmen who can turn them only to remove the first parts and get what we call wet blue which they can then export. When you put duty at 10 per cent, it will discourage exportation of skins and hides. Initially, hides used to be exported raw. But what happened? The prices were very high. Then we put high duty for export of raw hides and tanneries were not able to process all the hides in the country. That is why the price of hides and skins has been going down every day. Initially, you could sell a kilogramme of hide at a price of Kshs100. Today, you still sell at Kshs100. There was an agreement between the East African countries to put a 10 per cent duty on export. Uganda, Rwanda and Burundi have not done this. Tanzania tried last year, but today they have closed down about five tanneries. Is that the direction we want to go? If we make the amendment the way the Committee has proposed, to some extent, it will benefit this industry.

Hon. Temporary Deputy Speaker, I want our agricultural and veterinary officers to ensure that the quality of our hides and skins match that of other countries. In the international market, we cannot compete with hides and skins from other countries. In Brazil, an animal is taken care of from early stages. It is given proper treatment and stored in a cool area as opposed to our animals on the ground where you find there is a lot of destruction of the hides as the animal grows. The animals are not well taken care of. There are those with tick bites, others are pricked with spears for blood drinking and the hides and skins are full of grazing marks.

When it comes to slaughtering – and that is where our veterinary officers should come in strongly - those animals are slaughtered in a very unhygienic way. The butchers add more knife marks thus reducing the quality of our hides and skins. The veterinary officers should come out very strongly in the slaughter houses and ensure that, that industry is well taken care of. Also, the quality of our animals is affected because they are not doing what they used to do such as using Artificial Insemination (AI). They allow animals to breed among themselves and the quality of our animals is going down compared to where we started at Independence. Our animals were very big then. Because of that in-breeding, the sizes of our animals are decreasing. Our agricultural officers are not on the ground doing research.

So, with those few remarks, I want the Ministry, before they impose any duty, to research and know how that will affect our market and industries. Also, given that ours is an agricultural-based economy, we should ensure that it is well taken care of.

I support.

The Temporary Deputy Speaker (Hon. Patrick Mariru): We will have Hon. Mule Mutinda, Member for Matungulu. He is not around?

Hon. Gikaria, I am afraid you cannot give yourself a chance to speak. It shall come from here. But I can tell that you are not far in the request list in my screen. Let us have Hon. Sossion Wilson. That Member has also taken leave. Let us have Hon. Oyula Maelo.

Hon. Joseph Oyula (Butula, ODM): Thank you, Hon. Temporary Deputy Speaker, for giving me this opportunity. This Bill is meant to enable us to raise revenue for the Government. It is important that the Government must have revenue to meet its operations and to do that, taxation must be brought in. Although the revenue is raised for purposes of Government services, we have problems of leakages where corruption takes away most of the revenue and the Government goes borrowing, thus increasing the deficit. I am happy that the Bill improves on the revenue base. For instance, there are areas that have not been under taxation in the past and now they have been covered. So, that will ensure that those making profits and not contributing to the Government's economy will be brought into the tax regime.

The Bill also realigns the taxes by ensuring that the areas that are overtaxed are brought down; except the areas that require a lot of tax such as the sin taxes which must be increased. The Bill also adjusts some rates which have been brought in. I am sure that at a certain time, some of these rates will be lowered or removed.

The Bill has improved on the withholding tax by reducing it from 6 to 2 per cent. This assists those who are collecting tax by ensuring that their money is not held for a long time. So, that reduction improves their cash flow.

The Bill also brings down the Import Declaration Fees (IDF) to 1.5 per cent from 3 per cent in some areas and 2 per cent in some areas. This helps adjust the high taxation in some of those areas.

Hon. Temporary Deputy Speaker, just to mention a little about the Capital Gains Tax (CGT), although it is being raised from 5 to 12.5 per cent, there are some exemptions if you read through the Act. The CGT is not taxing those in rural areas. It is also not taxing land sales below 50 acres. So, it is not the ordinary man that the CGT is taxing. It is taxing those who are able and who make much money. So, we need to look at the various sections of the Bill to ensure that taxation is balanced and the ordinary citizen is not heavily affected.

Hon. Temporary Deputy Speaker, let me talk a little about the Accountants Act. Previously, the Institute of Certified Public Accountants of Kenya (ICPAK) was the only institution that registered trainee accountants without getting information from the examination board. The Bill now brings the registration board to work in liaison with the institution to ensure that whoever is being registered is already a student of the registration board. So, this removes the fear that previously existed that the institution would register people who are not qualified. So, by bringing in the examination board, there is an assurance that every accountant who is going to be registered will have passed through the examination board.

With those few remarks, I support this Bill.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Let us have Hon. David ole Sankok.

Hon. David ole Sankok (Nominated, JP): Thank you, Hon. Temporary Deputy Speaker, for giving me this opportunity to add my voice to this important Bill.

At the outset, I support this Bill basically because it reduces the burden on the common Kenyan and increases the burden on the society's *Mabwenyenye*. Those who can afford land are the cream of our nation and when we tax them, very soon we will collect enough taxes to the extent that we may end up reducing taxation on basic commodities such as food, fuel, clothes and farm inputs. Our farmers are suffering due to high taxation of very basic farm inputs like fertilisers and *jembes*. Taxing those who can afford land is not only good for our nation, but it is also biblical. Leviticus 25:23 says that land must not be sold permanently but should be hired or leased.

Hon. Temporary Deputy Speaker, you know English came in a ship and some of it fell in the ocean on its way to Mombasa. From Mombasa to my home area in Maasai land, you can imagine what happened.

We also need the national Government and also county governments to be proactive in the collection of taxes. The citizens are heavily taxed and we do not see the benefits of those taxes. This is especially because the county governments do not disclose the amount of taxes that they collect. For example, in Mombasa, single bed occupancy is US$2, which translates to

Kshs200. How many people spend a night in Mombasa? If all those taxes were disclosed, we would possibly attract even Kshs60 million in a single day in Mombasa. Where I come from, there is a lot of sand harvesting and building stones quarries. But the county government officials issue parallel receipts made in River Road. They are issued to innocent sand harvesters and lorry owners. They are specifically for the benefit of the individuals who make them in River Road.

From sand harvesting and building stone quarries in this country, only less than 5 per cent of tax collection is declared as revenue. That is why I will support a Motion or Bill that is brought to this House allowing KRA to collect all taxes; including cess from the sale of livestock, *mama mbogas* and other taxes. We should have tax collection done from a central place and distributed equally to all counties. That is because *wananchi* pay many taxes which go to the pockets of a few individuals who sometimes invest outside this country. Even when they invest in our country, they do not employ our youth or pay taxes and, therefore, other countries benefit.

A thief will always be fearful. That is why when they collect taxes using their own receipts, they escape from this country and do not invest here. They know that they are thieves. A thief is shy and a coward. Those cowards are investing in other countries so that they can hide their looted finances. So, as we increase taxes in some areas, let us also tighten tax collection and use of those funds. Therefore, if a Bill on KRA collecting all taxes is bought here, we will support it as a House.

There are receipts that are issued in our livestock markets which are similar to those of county governments that are made in River Road. The money that is collected using those receipts is taken to specific accounts and invested outside the country. That is why I support the currency change and declaration of the old Kshs1,000 notes illegal. When they collect taxes using fake receipts, they are afraid they will be followed to the banks. So, they keep the money in their bedrooms waiting to change it into dollars and invest outside the country. Therefore, we need to tighten collection of taxes.

I am pleased with this Bill especially on reduction of import duty on timber products. This is because we banned logging and yet one of the Big Four Agenda items is housing. We are still building in this country and require timber for furniture and roofing. We banned logging without caring about the timber industry, which supports thousands of our youth. So, when we zero-rate importation of timber, we kill two birds with one stone. This will allow our very important construction industry to go on. Also, we will save our forests as we destroy the forests of Uganda and Democratic Republic of Congo (DRC). We will have our 10 per cent forest coverage and benefit from enough rain and food. We will even realise two of the Big Four Agenda items by reducing import duty on timber products.

The reduction of taxes on hides and skins will jump-start the pastoralists' economy which, for a long time, has been marginalised. This is simply because it was declared low potential *via* Sessional Paper No.10 of 1965 which decided to increase taxes on high potential pastoralists' areas. Therefore, 80 per cent of the land mass in Kenya was not considered high potential. That is why we did not think of value addition to our livestock products like meat, hides and skins and bones. We know bones are rich in calcium and are an important source of nutrients in the manufacture of fertilisers. All this was not realised because 80 per cent of the land mass in Kenya was marginalised by the infamous Sessional Paper No.10 of 1965.

The lawyers-client privilege is the only bit I will oppose because privacy is very important. We also have confidential information kept by doctors. It will not be in good taste to allow our privacy to be infringed upon on pretence that we are fighting corruption. The moment we allow lawyers to disclose their client's information, we will also allow doctors to disclose their client's information. You can imagine if a doctor said: "*Nimetibu huyu jamaa ugonjwa wa kisonono!"* As I finish, I have a little point of information to the MPs that from now henceforth, let us use bio-digesters and forget…

The Temporary Deputy Speaker (Hon. Patrick Mariru): Order, Hon. Sankok! There is nothing about bio-digesters and septic tanks here. It is about the Finance Bill. Do not detour the House. Shall we have Hon. Mutua Barasa.

Hon. Didmus Barasa (Kimilili, JP): Thank you, Hon. Temporary Deputy Speaker for giving me this opportunity to add my voice on this Bill, which I support. Let me take a few minutes to say what I think is not good and needs to be changed through amendments.

The economy of this country is driven by SMEs and the proposal to include digital marketing and outside catering to be within the tax bracket will completely hurt that sub-sector. I want to bring to the attention of the House that SMEs are very fragile and the only way that the Government can guard, protect and nurture them to grow is not to tax them. This is going to affect very many Kenyans who really depend on their small businesses to support their families.

A country like Kenya, whose economy is growing, should be able to design its tax regime to be in a way that they tax the big boys more to support the people of this country who live below the poverty line, and who are engaged in small businesses of groceries to survive. I do not see why a Government can decide to propose a deletion of a section in the Banking Act that regulates the interest rates. The banking business is very lucrative. They make abnormal profits on a daily basis and those are the institutions that Kenyans should tax. I am very worried that the Government of the Republic of Kenya has failed to provide an enabling environment for companies to thrive. In the recent past, we have seen very many companies closing their shops and branches in this country and downsizing their operations and going to invest elsewhere in neighbouring countries. That is because the environment of doing business in this country is not conducive. It is very expensive and yet those are the people who would have eased the burden of taxation on the common *mwananchi* or the small person in this country.

As we grow and move forward as a country, there is need to have a national conversation on how we can improve the environment of doing business so that we can attract very many foreign investors who are going to contribute to the economy of this country through taxation. By so doing, we will lessen the burden that Kenyans have to bear to give the Government the money to fund all the programmes. We need a conversation again. It appears like the people who are advising the Government on matters of taxation are sleeping on their job. It appears that they are not taking much time to do research and come up with a tax regime that is not oppressive. Therefore, this necessitates the need for us to have a national dialogue and conversation on how we can improve our tax regime. I fully agree that the Government needs money to fund her programmes and that money must come in the name of taxes. But we must also agree that we must protect fragile businesses and start-ups because research indicates that 90 per cent of small businesses that are initiated by Kenyans collapse barely after six months because the cost of doing business is very high. So, this is really something that the Government needs to consider to be able to tap into the expertise of the private sector, the National Assembly and very many Kenyans on how to get more money. That way, the Government can fund her programmes without necessarily approving oppressive tax regimes.

The KRA is also to blame for this oppressive tax regime because their collecting efficiency is very low. We also need to have a conversation and really audit the KRA in terms of their commitment because they usually commit themselves to collect taxes but, at the end of the day, it appears that we have pilferages within KRA. If they collect money from Kenyans and they do not remit it to Government, it will mean that going forward into the future, the Government must also increase the taxation of Kenyans and businesses to be able to fund their programmes. The Government has also become over-ambitious by coming up with very many projects which must be funded. The Government is not living within its means. This means that they come up with ambitious budget proposals and when it comes to looking for money, they are digging deeper into the pockets of Kenyans. I say so because there are very many other ways and means of raising more revenue for the Government.

I sit with most of my friends who like drinking beer and smoking cigarettes and they are also looking for a way to stop drinking and smoking. How I wish that the Government can assist them by increasing taxation on beer, Glenfiddich and cigarettes. We all agree that more than 50 per cent of health problems that Kenyans experience or go through are as a result of drinking and smoking, but we are not assisting Kenyans to quit that habit. We have a lot of information that can assist the Government to improve its tax regime by even suggesting more taxation on luxuries. That is because luxuries are not important. There is no Kenyan who will die because he or she is unable to fund some of those luxurious things. But Kenyans will have a problem if the very basic commodities and activities that will assist them to get money and buy food for their families is being curtailed by high taxation. It does not make sense that you are not increasing taxation on beer and cigarettes, but you want to tax those small women groups who engage in outside catering and those young boys, girls and women who engage in online marketing and who sell their small groceries or clothing online.

I appeal to the Government that it needs to do more in terms of getting expertise and advice on how it can improve the tax regime. What this country has achieved in the last 15 years is going to be drained by the deletion of the section that caps interest rates.

I summarise by saying that you can be a very good evangelist or bishop but, the day you sin, you will lose all the glory of God. This Bill is good but a few sections will make this country lose the focus and all the gains that we have attained in the last 15 years. I look forward to support the amendments to improve this Bill further. I thank you.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Hon. Gikaria David.

Hon. David Gikaria (Nakuru Town East, JP): Thank you, Hon. Temporary Deputy Speaker. Just to remind my brother, Hon. Barasa, I am a Catholic and our God is a just God. If you make a mistake and repent, you will be forgiven. Even if you are a bishop, if you sin once, you can still seek for His forgiveness.

I support this Bill but one of the issues that I really want to start with is about taxation. We need to ask ourselves why we must tax. As Hon. Makali Mulu indicated, we had done away with the expenditure. Now we have to look for ways to collect money that will sufficiently cater for the expenditure. As a country, we must be very careful that the taxes that are collected go to the projections and budgetary provisions that we have already agreed upon. I do not know how to call it. I am a Chair of a Committee. You budget for purposes of transforming the country and increasing the revenue through that budgetary development. We were told that there is a supplementary budget which is coming. I hope that the supplementary budget will not touch on the development budgets so that we develop this country, create job opportunities and collect more for this country. It is better for us to start thinking.

I know the Vice-Chair is here. We have the Departmental Committee on Finance and National Planning. How I wish that they could use some of their money for foreign trips to go to other countries and see other tax regimes. I had an opportunity to visit Australia through the

Liaison Committee. When we were there, we talked to some people. In Australia, if you have a vehicle, you pay for the number plate of that vehicle on a quarterly basis. That is a type of tax that the Departmental Committee on Finance and National Planning needs to start thinking about. Anybody who owns a vehicle just pays for the number plate once upon registration. After that, you will never pay for it again. First, it will help this country to grow. Make it an annual payment, for example. Instead of it being a quarterly payment, make it an annual one. How many vehicles are there in this country? This is so that we can stop infringing on the small businesses and young upcoming business people. Instead of infringing on them and the little money that they make, if Gikaria wants four vehicles, he can make that payment. We tried that for vehicles which have been written off so that their number plates cannot be re-used elsewhere. That is one way. How I wish that the Departmental Committee on Finance and National Planning could do that on their foreign trips.

The second point is about absorption. The amount of tax we collected in the last two years is even more than the KRA had intended to collect. But go back to the respective ministries to see the absorption rate. The absorption rate of ministries and state departments hardly goes beyond 60 per cent. Hon. Milemba said that there is no taxation without representation. It is high time we told the National Treasury that they need to wake up. Whatever money they raise should go towards what it was intended for. We should stop this aspect of supplementary budgets. It is very sad that in Nakuru County in the last financial year, they had six supplementary budgets, thus eroding the aspect of public participation. We had two supplementary budgets in the National Assembly. You can imagine a county having six supplementary budgets. It washes away what the people had already suggested.

This country needs to encourage the youth, women and people with disabilities. The National Construction Authority (NCA) charges a lot of money. We encourage youth, women and people living with disability and yet, we put a lot of impediments in our different laws stopping the same people we intend to empower. If you register a company, you cannot be given a permit without NCA certificate. We need to look into that.

The other bit is about tax evasion. So many people do not pay taxes. The taxman is deliberately doing this through his employees not collecting taxes, as and when they are due. It is not even about efficiency. It is about corrupt tax collectors. They come to me and tell me that I was supposed to pay Kshs1 million, but only ask me for Kshs300,000. I pay Kshs300,000 and avoid paying the rest. The new KRA Commissioner needs to start taking action. They need to sweep away any tax collector within KRA who does not do his or her job in the best possible way so that we increase our revenue and get new avenues of collecting money. Eventually, it ends up in other people’s pockets and for what purpose? We better stop harassing Kenyans. This aspect of taking Kenyan investors to court is wrong. They need to get a better way of negotiation. With the new regime in office, the KRA needs to start looking at the commissioners and employees who work there, so that they can fully collect what is due. We do not even need to go in the direction of increasing our tax regime.

I do not want to talk much about the Banking Act and the removal of capping rates. This is something that we want to ask our Government. The Government needs to reconsider its appetite for borrowing from local banks. If the Government stops borrowing from banks, taxes will go as low as 14 per cent. This will give Kenyans an opportunity to borrow from the banks. Under demand and supply rule, taxes will go down on their own. We ask the Government to reduce its borrowing from our local banks so that we allow the SMEs to borrow. The banks collude and give us misguided information that is not supported by facts. At the end of every financial year, every bank pronounces an increment in profits and yet the SMEs are still not being given money.

Hon. Temporary Deputy Speaker, I know you are a lawyer. It is not fair for you to represent me and then you report me and become a witness for the prosecution. We will be losing out on this. It is important for us. We should stop being cheated by the Americans. For example, they are not even signatories to the Rome Statute. There is a law in America that stops any American from ever being charged in the International Criminal Court (ICC) at The Hague. They are the first to tell us to stop benefitting from the proceeds of crime and money laundering and yet they, themselves, do not adhere to the same laws. We need to encourage Kenyans to go into business and effectively contribute to this country's revenue. We will not allow some of these things.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Hon. Gikaria, your time is up.

(Hon. David Gikaria spoke off record)

The Temporary Deputy Speaker (Hon. Patrick Mariru): You cannot say anything. Your time is up, Hon. Gikaria. Incidentally, I will give your neighbour, Hon. Melly, a chance to speak at some point. You could share with him the additional points. He could probably prosecute them for you. Now it is time for Hon. Mboni.

Hon. David Mboni (Kitui Rural, CCU): Thank you, Hon. Temporary Deputy Speaker, for giving me this chance to add my voice to the Finance Bill. At the outset, the Finance Bill is supposed to do three key things: One is to raise revenue to finance the Budget, two is to give incentives to various sectors to grow and support the Government's agenda like the Big Four Agenda and lastly, it is supposed to promote equity. If taxes are not implemented in a better manner because they are supposed to be efficient and cost effective, then we may not achieve what I have said.

Some of the proposed amendments may not promote some of the sectors and their growth, for example, increasing CGT from 5 per cent to 12.5 per cent. I want us to go back to three years ago. The CGT was implemented in the Nairobi Stock Exchange (NSE) and it did not work. It discouraged investments. The NSE went to court and the tax was suspended. We are bringing it back. We are talking about buying and selling of land here. If we increase CGT, we will discourage investments in housing. Therefore, we will defeat our agenda on housing. We need to re-look at it. If we need money from capital gains, then we can re-visit taxing NSE.

Secondly, there is a proposal to increase taxes on security services, cleaning and fumigation services, catering services which are provided outside hotels and transport of goods and services. We know that these are SMEs, which is the sector which drives the economy. It has been denied credit by the banks. If we increase taxes on this sector, we will kill those services. You know very well that the Standard Gauge Railway (SGR) has taken over transportation of goods from Mombasa to Nairobi. Most of the transport companies are going under. We need to re-look at that, so that we do not kill those businesses which employ people who are not well educated and who are the majority in this country.

There is a proposed amendment to impose duty on maize and maize products which are imported. We zero-rated imports on maize and maize products last year. Duty exempt means that we will increase VAT on imported maize. From our experience, when that tax is imposed, the importers will transfer tax to the final consumer. Therefore, the cost of maize products will increase. For the people who come from Arid and Semi-Arid Lands (ASALs) who are facing drought like me, their lives will be very difficult. We need to re-look into that.

The other thing is to increase export duty on wet glue. This country does not have capacity to process hides or skins to the final product. The Government had proposed to set up a leather industrial park in Kinanie in Mavoko Constituency. That proposal was not implemented. Unless we implement that proposal and construct that industrial park…. The industrial park was supposed to set up firms to process hides and skin to the final product. If we impose tax, it means that we shall not export wet glue. We will have a lot of wastage in this country. We need to re-look into that.

The last one is on the interest rates capping. One thing we need to understand is that the credit to SMEs started going down in 2014. That is the time the Government started borrowing heavily from the domestic market and increasing the budget deficit. As it stands now, our budget deficit is about 23 per cent which we are supposed to fund from borrowing either from the domestic market or foreign market. Our debt to GDP stands at 5.9 per cent, which is quite high. I think that the Government is the enemy of the people. If you are competing with the private sector to borrow from the domestic market, you are crowding out the SMEs. Before we think of removing the interest rate capping, the Government should start practising fiscal management discipline. It should start reducing the budget deficit. That is the first step which we need to do so that we live within our means.

Secondly, it should reduce domestic borrowing so that we can release funds to the private sector to borrow. When His Excellency the former President Hon. Mwai Kibaki took over power, the budget deficit was around 5 per cent. Banks were hawking loans everywhere in this country. The interest rate went down to below 5 per cent. That is what the Government needs to do.

The other thing it needs to do is to borrow from multilateral lenders. These are the World Bank and the International Monetary Fund (IMF). They should also go for concessional loans where 30 per cent of the money is a grant which you are not supposed to pay. The maturity period starts after five years. If you are putting up infrastructure, you shall have finished it within five years and you start earning something from it as opposed to what we are borrowing now. We are borrowing commercial loans. If you borrow a commercial loan today at a high interest rate, you start paying the loan plus the interest next year. Therefore, the Government should start working on reducing the budget deficit.

With those few remarks, Hon. Temporary Deputy Speaker, I support the Bill. Thank you very much.

The Temporary Deputy Speaker (Hon. Patrick Mariru): We shall now have Hon. Kabebea. He seems to have taken leave. Hon. Chepkut Chirchir.

Hon. William Chepkut (Ainabkoi, Independent): Hon. Temporary Deputy Speaker, I rise to support this Bill. First of all, I support the progressive regime because I want the rich to be taxed so that the wellbeing and welfare of the poor people can be looked into.

I want to talk about maize. In the Big Four Agenda of His Excellency the President, who happens to be the number one farmer in the Republic of Kenya…. My constituency is in Uasin Gishu County, which is the bread basket of this Republic. I want Government incentives. Up to now, the KRA and National Cereals and Produce Board (NCPB) have not paid my farmers. I have great farmers in my constituency. His worship the late Athanas Kandie and Mayor Leshew have large tracts of land. KRA and NCPB have not paid their money to a tune of Kshs2 billion. I support the Bill but, at the same time, I want my people to be paid for their sweat.

I am happy with the new Commissioner-General of KRA, Mr. Mburu. He is great a man. He is competent, committed and he is a great man of God.

When it comes to digital platform in our own market places, the youth - both young men and young women - who constitute 70 per cent of the total population of this country are below the age of 35 years. Unemployment is the greatest challenge that we have in our country. Therefore, I will not support taxation of young people. I have my reservations. I will support the Finance Bill save for some proposed amendments. Kenya as a country is among the top 10 countries in the world in terms of digital platforms.

On capital gains, since housing is in the Big Four Agenda of His Excellency the President, I want it to remain at 5 per cent and not increased to 12.5 per cent so as to act as an incentive. I do not have an issue with the withholding tax being reduced from 6 per cent to 2 per cent. We must have incentives in place to encourage our people. I support fully the zero-rating of timber.

When it comes to conservation of the environment, I am number one. I moved a Motion here in Parliament that planting of trees in all learning institutions and individual households must be made compulsory. Therefore, we want our forest cover to be increased. As I speak, it is below 2 per cent. We must conserve water towers and environment.

Today, we passed the County Allocation of Revenue Bill for the counties. The Supplementary Estimates will be coming, but I want our people to benefit. We must be sensitive to the needs and wants of our people when we do the division of revenue.

Hon. Barasa talked about alcohol, smoking and other things. He also talked about addiction. We want to live good lives and be law abiding citizens. I do not support betting. It should not be taxed 10 per cent. Instead, I want its taxation to be increased to 50 per cent to discourage our children from getting involved in those activities.

Since it is a money Bill, accountability is the basis of any meaningful achievement. Therefore, we want value for our money. As much as KRA is collecting taxes, we want to see the value for our money. We want the taxes translated into development in equal measure. Therefore, I have faith with the competence of the new Commissioner-General of KRA.

We have talked about the Banking Act. I do not subscribe and I do not support uncapping of interest rates. I do not want them uncapped because banks will take advantage of us.

Personally, I support the Finance Bill save for those amendments that will affect our people. I said in the morning that the National Environment Management Authority (NEMA) must move with speed all over the country to fence dams because pupils occasionally drown in them. I take this opportunity to convey my heartfelt sorrow because we lost three pupils who fell into dams and died. It was a sad incident. So, I want the Cabinet Secretary for Environment, Mr. Keriako Tobiko and the Cabinet Secretary for Infrastructure, Housing and Urban Planning to take charge. Otherwise, henceforth, I will stop the construction and demand for compensation. I will demand that the Chinese compensate the victims' families fully because it was not the wish of the pupils to die like that.

I support the Bill, but I have reservations with amendments that touch on innovation and creativity of our people.

Thank you, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Hon. Chepkut has a way of introducing other issues on the main one. I allowed you because you were almost coming to the conclusion of your submission.

Hon. Martin Owino.

Hon. Martin Owino (Ndhiwa, ODM): Thank you, Hon. Temporary Deputy Speaker. I rise to support this Bill subject to several amendments which we will be proposing here.

Kenyans are over-taxed. That is the truth. Any Government that over-taxes her citizens kills their ability to save. When the ability to save is killed, their ability to invest is also killed with it. It is not only taxation on money, but there is also a lot of taxation on people's time. Today, we were discussing, in the Departmental Committee on Health, the process of waiving costs on some of the essential medications. Red tape takes a lot of people's time and days and people die as a result. We are not just talking about taxation in terms of monitoring, but we are also talking about the waiver in some of the processes in some of the things that should not even be taxed in the first place.

Capital gain has been mentioned here again and again. Taxing the rich is not taxing them. How about the young people who want to get into real estate? They will be blocked because they are going to be rich. How about the incentives that have been talked about here? If we target the rich with double taxation the way it is proposed to be increased from 5 per cent to 12 per cent, then it means they will look for another good environment for doing business. We lose business when they move away. That should not be the spirit. Capital gains should be paid, but let us not double taxation on it so that we can also encourage those who are coming into business in order to be rich as we also aspire to be there. We need to give them an opportunity. You can call that an incentive.

There is a spirit of entrepreneurship that is at risk here. I have just trained 100 young people. Some are graduates but are not employed. In collaboration with *Ajira*, they are graduating and now getting into business so that they can do business of value. If you want to start taxing those people, in the first place, you do not have jobs for them but they are qualified. They have gone to colleges and universities. That will not grow any economy. When I talk of economy, it is about consumption and services. In a nation where people are not consuming and are not servicing, and the economy is growing at a percentage of 6 per cent of the GDP, you are not making any dent in people's lives. The same thing will also affect those who are catering. In my constituency, Ndhiwa, those are poor mothers who are trying to make ends meet, and the young people who we are taking to skills-based training institutions like technical colleges to do catering and later on we encourage them to open their small businesses so that they can make a living. Now you want to tax them. That will not be productive. It is counter-productive.

I believe in progressive taxation, but it is as well as good as regressive. The only difference is the units of addition. If it is reasonable, it works. But if it does not, it kills the whole thing. Even fumigation is to be taxed. This is interesting. We are not going to be a rich nation by dipping our fingers in every income we see. That will not help anybody. What is going to help is to tax less, let people make money because they are going to pay taxes anyway in other spheres. That is how economy is developed. It is bottom-up. It is never top-bottom. The idea that you collect so much water into a can which is leaking; it will never be filled. We should seal all the loopholes in the taxation process. Also, let us tighten the noose so that those who evade tax can have no room. Otherwise, we have a lot in this country. The only thing is that we make unrealistic budget to begin with and then there is a lot of wastages and theft. If we can seal all those, then we do not need to go for Amina, Anyango and Wanjiku. Let them also have some room to grow. In fact, we should measure our development not in terms of taxation, but in terms of small income where each household can be having an increased income. Right now, in my constituency, because that is what I know very well and it is a replica in many constituencies anyway, some households have less than Kshs100 income a day. Some do not even know where that Kshs100 will come from.

As much as this Bill as crafted has very bad things and very good things, let me talk about the good ones. Recycling is good so that we can create jobs and clean the environment. That is inserted there to motivate us to talk positively about it but that is good. On deferred export tax, why do we tax people when they are exporting? The money they get from export will come back and they pay tax through gas and other commodities that they are going to use. We should not look at one side of taxation only.

Zero-rating on timber has been over-emphasized and it is right. Regulating accountants is also right. Many professionals have been subjected to boards so that competencies can be verified as well as the work ethics. That is a good thing to do. Withholding taxes is good as well.

With those few remarks, we challenge the Departmental Committee on Finance and National Planning, to get together and look at all the loopholes in tax brackets. This piecemeal presentation of Bills will not fix tax issues. Let us also look at the budget because we are a budgeting House. The best ways to reduce taxes is to budget right and have a realistic budget so that we cannot overtax people. Now, we are trying to chase the budget we did because it has a shortfall. That is what this Bill is trying to do. The Kshs30 billion we are targeting here was a shortfall. But if we had a realistic budget, you would not need to do the chasing.

I support this but at a later stage, let us look at those amendments. Thank you.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Hon. Kibiwott Melly, Member for Tinderet.

Hon. Julius Melly (Tinderet, JP): Thank you, Hon. Temporary Deputy Speaker. I rise to support the Bill. The Finance Bill that has been introduced by the Chair of the Departmental Committee on Finance and National Planning is important. In the first few weeks, we discussed about the Division of Revenue Bill. We discussed how to divide monies and income but, in this particular Bill, we are talking about revenue raising measures. In each and every State, governments have a responsibility to tax individuals and corporate as a means of raising income so that they are able to provide services. One of the cardinal things of every nation is to ensure that when taxes have been raised, it must be seen in the lives of people in that particular country.

I have looked at the Finance Bill and I have realised that it has addressed a number of issues. One of the major issues which I want to talk about is expansion of the tax base. It is very good so that we increase our income but, as much as we are expanding the tax base so that we are able to raise more money to build the roads, provide for schools, and everything else, there is need to ensure that every business is allowed to grow. We do not need to overtax to an extent that taxation inhibits growth in the sense that all what is raised in small businesses, real estates and small income is taxed. I am saying that, as much as the Bill looks at tax raising measures, it should also make sure that it does not pick money from every pot. Even if it is very little, allow it to grow first.

Two, in Clause 13, there is corporate tax incentive of 15 per cent. I support this especially on plastic bags and recycled products. This is going to support the environment. Factories or companies will recycle plastics and clean the environment. This has been reduced from 30 per cent to 15 per cent. I support this. This is also going to ensure that most of our companies are environmentally friendly. With this tax incentive, it is going to have a very good impact, especially in our industrial areas, factories and where we stay.

There is a very good provision on Clause 8. There is exemption of real estate investment tax to specific purpose vehicles. This is an amendment that is supportive to real estate developers, especially those with specific purpose vehicles. This is going to assist on the Big Four Agenda item of housing. This is the right way to do it. This will support the investors. It is going to support those who will put more money in the real estate development and make sure that this country has enough housing. On the same note, when we talk about taxation on digital economy, I think Kenya is one of the most developed countries in terms of e-commerce as we speak. People buy and sell on the net; people buy and sell goods online. This is a new market platform. This is an area where the Government needs to look into so much because there is a lot that goes on the digital platform. I have seen instances where, especially in some nations, almost every individual and businessman has a portal on e-commerce or the digital market place. By taxing this, it expands the taxation base. It will give the country more money.

On Value Added Tax, I just want to talk on Clause 18 about the items that have been proposed to be introduced into the exemption regime. I really laud this, especially on agricultural pest control products, locally manufactured motherboards, including input for their manufacture. It is going to be very good, especially on the locally manufactured motherboards. I have seen at the Rift Valley Textiles (RIVATEX), Eldoret, where locally assembled products create employment. By so doing, it is going to give incentives to industrialists and companies that want to assemble. It is the same thing to agricultural pest control products. It will assist farmers to buy and get these products and make sure that their farm products are safe from pests.

A few weeks ago, I saw farmers who could not even afford the price of pest control to onions, tomatoes and many other crops. This has affected the income of many farmers across this country. By exempting this, it is going to really assist. I said that plant machinery and equipment for construction of plastic recycling plants have been moved from zero-rating. This is going to assist in recycling.

The last one is on banking. I oppose removing interest rate caps on bank interests. The cap which was proposed by Hon. Jude Njomo is good for this country. There are countries where bank interest rates are as low as 4 per cent. Some banks in this country are known to borrow from foreign countries and lend that money elsewhere. They borrow at a lower rate and lend the same money in this country at a higher rate. Removing bank interest rate capping will impede the growth of businesses in this country. Let us allow control. We saw China growing. And china grew because of control. A sector that cannot regulate itself…. Every year, even when we had interest control, the banks were raking in billions of shillings. If this sector had a problem, they would not be getting this money. So, let the interest rate cap remain, at least, for the good of the small investor. The banks cannot arm twist the Government and everyone else by not lending to the SMEs. The Government instead should stop borrowing from the local banks and let the SMEs borrow so that, by so doing, the sector will flourish. So, an amendment needs to be brought at the Committee of the whole House so that this particular proposal is deleted. The banks have to be regulated and controlled.

Lastly, on taxing exports, the tax on hides and skin is meant to improve value addition on them. At the same time, it is not right to tax what you are exporting already. So, I am proposing that, if it is possible, let us give more incentives to those producers so that they can add value to the hides and skins in their factories instead of…

The Temporary Deputy Speaker (Hon. Patrick Mariru): We shall have Hon. Okuome Adipo, Member for Karachuonyo.

Hon. Adipo Okuome (Karachuonyo, ODM): Thank you, Hon. Temporary Deputy Speaker, for giving me this opportunity to air my views on this. Let me start by congratulating the Chair of the Departmental Committee on Finance and National Planning. It happens I am a member of that Committee and I know the efforts he and his deputy have put in the exercise that gave rise to what we are discussing now.

I support the Bill, but I have some reservations. I know we increase some tax rates in order that we can get enough money to achieve the Kshs30 billion which is in the statement. This was a noble cause. But we also decreased the rate in order that we could encourage investors. Sometimes, I wonder what Kenya can do, because when I look at the situation critically, we do not need to even increase any of these rates if we were managing our resources properly. Corruption is costing us a lot. Perhaps, we are talking of increase in taxes just to bridge the gap because some of the money we collect disappears in the pockets of unknown people. If efforts could be made to ensure that whatever is collected is being used properly and that the revenue itself reaches the Exchequer, probably we would not need to increase our taxes to this extent. The over Kshs3 trillion Kenya Budget is a lot of money and can produce wonderful results. If we were to use this money carefully and for the purposes intended, I am sure we would be comparable to countries like Singapore and Malaysia. I only hope that one time we can reach the level I am thinking about and this should be the dream of all of us.

Hon. Temporary Deputy Speaker, my colleagues have referred to capital gains. In my mind, I tend to believe that there may be more negativity to this taxation than what we may gain because we will be discouraging those who are doing property business. I think we can look for an alternative. But the worst of them is when we touch on outside catering, fumigation and digital platforms. These are areas which new and ordinary people have entered into. They went into these businesses because they could not get any other business. They have stayed unemployed for long and now we want to get from them that money in form of taxation.

I believe we would gain more if they are not taxed. That is because if they are taxed and they fail to continue with that kind of business, I am sure they will go to the alternative of thuggery, which is very dangerous. That is why we have to be very careful and look at the impact of any tax that we are starting or increasing. I have an opinion that this area must be looked into very carefully and immediately.

Moving from zero-rating to exempting maize and maize products is another one which is going to create a lot of noise in this country. People will complain. If the price of maize goes up, everyone in Kenya will feel it because I tend to believe that maize is a staple food for all Kenyans. The increase of the two will touch the lowest as well as the highest. I would wish that maize and other foodstuffs are left without taxation.

Hon. Temporary Deputy Speaker, since I am a member of this Committee, I may not have much to say about what we passed. However, I must give my observation as I have done.

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

The Temporary Deputy Speaker (Hon. Patrick Mariru): Let us have Hon. Noor Sophia.

Hon. (Ms.) Sophia Noor (Ijara, PDR): Thank you, Hon. Temporary Deputy Speaker for giving me this chance to contribute to this Bill. Usually, the Finance Bill addresses key issues in the country like raising of resources, financing Government programmes and projects and giving incentives to investors. Those are key principles of the Finance Bill.

As a nation, we must be very creative in raising resources. We must go out of the traditional way of raising resources and be innovative. We need to reach out and create expanded ways of raising resources. Whenever you meet Kenyans and talk to them, they say this is one of the highly taxed countries in the world. In as much as I support this Bill, it is equally important that we look at our small and upcoming businesses and give them an opportunity to grow and expand. I am very happy and appreciate the empowerment programmes that are being undertaken by our Government. If we introduce taxation to the small businesses and particularly women groups, the youth and persons with disabilities and tax them highly, then they will close down their businesses. We will be giving with one hand and taking away with the other. So, the empowerment programmes will be of no use yet, the Government has invested so much in uplifting and supporting the vulnerable groups like women, youth and persons with disabilities.

Usually, it is said that there is no taxation without representation. But we will say no to taxation without service delivery. There must be meaningful service delivery. We are taxed as Kenyans who love their country and yet, we do not receive basic services like education, water, health issues and food security. We have become a reactive country and this is creating problems. So, I want to encourage tax collection with proper service delivery.

Also, as we expand revenue collection, we must be creative and have a central organ with the mandate of raising revenue through tax collection in the whole country. There are people who are collecting taxes from left, right and center, which is not accounted for because of lack of proper auditing mechanisms and follow-up. This creates a loophole for corruption, which we need to seal. The only way we can seal those loopholes is by being smart and passing legislation on the Floor of this House.

In the Banking Act, the Bill seeks to amend it by repealing Section 33B and removing the cap on interest rates. We know the kind of banks we have and if we give them a blank cheque, they can use it the way they want and then we will create a banana republic…

The Temporary Deputy Speaker (Hon. Patrick Mariru): Order, Hon. Noor Sofia! I am afraid it is 7.00 p.m. I am not cutting short your time because you have a reserve of four minutes when this matter is scheduled again. For the Members who still want to speak to this - and I can tell from the interest - this is not the end of the Bill. It will be scheduled by the House Business Committee. I am sure Members will get an opportunity to speak to it.

ADJOURNMENT

The Temporary Deputy Speaker (Hon. Patrick Mariru): Hon. Members, the time being 7.00 p.m., this House stands adjourned until tomorrow Thursday, 19th September 2019, at 2.30 p.m.

The House rose at 7.00 p.m.