

NATIONAL ASSEMBLY

OFFICIAL REPORT

Wednesday, 16th October, 2013

The House met at 2.30 p.m.

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

PRAYERS

COMMUNICATION FROM THE CHAIR

CONVEYANCE OF PETITION REGARDING REMOVAL OF MEMBERS OF JSC

Hon. Speaker: Order, hon. Members. I have Communication to make. The first Communication is conveyance of petition regarding the removal of the members of the Finance and Administration Sub-Committee of the Judicial Service Commission (JSC).

Hon. Members, pursuant to Standing Order No.225(2), I wish to convey to the House a petition regarding the removal of the following persons as members of the JSC: Mr. Ahmednassir Abdulahi, Rev. (Dr.) Samuel Kobia, Prof. Christine Mango, Justice Mohammed Warsame, Emily Ominde and Florence Mwangangi.

Hon. Members, the petition dated 4th October, 2013 is addressed to the National Assembly and signed by a Mr. Riungu Nicholas Mugambi praying that Parliament fires the above mentioned members of the JSC as having contravened and violated the Constitution and be removed from office. Standing Order No.230 relates to petitions for removal of a member of a constitutional commission and would, therefore, apply in respect of this petition.

Hon. Members, the petitioner claims that the said members of the JSC have violated the Constitution by breaching one, Article 161(2)(c) that designates the Chief Registrar of the Judiciary as the Accounting Officer of the Judiciary by purporting to approve and/or disapprove expenditure of monies allocated to the Judiciary, thereby causing inordinate delay in the processing of salaries for judicial staff; two, Article 173(1)(3) that designates the Chief Registrar of the Judiciary as the administrator of the Judiciary funds and directing payments to be done by persons not authorised to approve expenditure, thereby increasing the vulnerability of the Judiciary and three, Article 245(4) of the Constitution, which provides that no person may give directions to the Inspector-General with respect to the investigations of any particular offences. The said members of the JSC signed a resolution directing the police not to arrest and charge Judiciary staff who are alleged to have stolen Kshs80 million from the Judiciary, thereby willfully interfering with criminal investigations.

Hon. Members, in accordance with the provisions of Standing Order No.230(3), this petition stands committed to the Departmental Committee on Justice and Legal Affairs for

consideration. Thereafter, the Committee shall consider the petition and within 14 days report to the House whether the petition discloses grounds for removal under Article 251(a) of the Constitution. Please be guided accordingly.

I thank you.

The Members standing should walk in.

(Hon. Members walked into the Chamber)

Hon. Members who are walking in, avoid shaking hands, so that you can take your seats quickly.

(Hon. Members continued walking into the Chamber)

Some of you hon. Members will take forever to go to your seats. So, I think we better proceed.

EXECUTIVE'S ACCOUNTABILITY TO THE HOUSE

Hon. Speaker: This second Communication is on the Executive's accountability to the House. This is about invitations and summons to members of the Executive and heads of Executive agencies to appear or attend committee hearings of the Assembly. This Communication is long. Let me give the Members standing at the door one minute to take their seats, please.

(Hon. Members walked into the Chamber)

Hon. Members, you will recall that following requests made in the House during yesterday's sitting, I undertook to give a communication relating to claims that certain State officers serving in the Executive had not appeared before Committees when formally requested to do so. This matter was raised by the Member for Eldas, hon. Adan Keynan and, indeed, other Members, including the Leader of Majority Party. They raised concerns on an emerging trend by certain members of the Executive who appeared to trivialise requests to appear before Committees of the House.

You will recall that those who raised concerns even claimed that some State officers are reported to have addressed the media on matters they were expected to answer before Committees of the House, in fact, casting aspersions or imputing improper motives on Members and Committees of this House, and purporting to direct the House on how to run its Committees and business in general. This is a matter touching on the execution of the oversight role of the National Assembly on one hand and the accountability, answerability and responsibility to this Assembly and its Committees of all the members of the national Executive, heads of department and agencies and, indeed, all State officers.

Hon. Members, at the outset, I would like to state that Executive's accountability is at the heart of our system of governance. One of the core roles of the Assembly is to oversee the Executive. This model is built on a foundation of three massive planks. These are the separation of power, parliamentary scrutiny of Executive actions and ministerial responsibility. When termites begin nibbling at any one of these planks, the entire structure is in danger.

All oversight committees of this House play an important role of holding to account the ministries, departments and agencies on all matters relating to the mandate, management,

activities, administration, operations, estimates, programmes and policy objectives of those various agencies. You know too well that Committees also conduct audits and investigations. It follows, therefore, that the Executive must be seen to fully account to the Assembly by appearing and answering questions before Committees of the House, when called upon to do so. Invitations and summons to appear before Committees must not, however, be perceived as an irritant to Members of the national Executive, or any State office or officers, but as an opportunity to be accountable to the representatives of the sovereign people of the Republic.

Hon. Members, Article 1 of the Constitution provides:-

“(1) All sovereign power belongs to the people of Kenya and shall be exercised only in accordance with this Constitution.

(2) The people may exercise their sovereign power either directly or through their democratically elected representatives.

(3) Sovereign power under this Constitution is delegated to the following State organs, which shall perform their functions in accordance with this Constitution-

(a) Parliament and the legislative assemblies in the county governments;

(b) the national Executive and the executive structures in the county governments; and

(c) The Judiciary and independent tribunals.”

I invite the House to note that the pecking order of the exercise of the delegated sovereign power puts Parliament before all other arms of Government.

(Applause)

Allow me to further refer to several Articles of the Constitution. Hon. Members, I need to emphasize Article 95(5), which provides as follows:-

“(5) The National Assembly-

(a) reviews the conduct in office of the President, the Deputy President and other State officers and initiates the process of removing them from office; and

(b) exercises oversight of State organs.”

Article 260 of the Constitution defines a “State organ” to mean: “a commission, office, agency or other body established under this Constitution”. It, therefore, means this House has an exclusive function of exercising oversight over all Ministries of Government, departments, State organs and State officers in-charge of the institutions.

I must insist that any hindrance to the carrying out of this singular function can only be construed to be an attempt to obstruct the National Assembly from exercising one of its cardinal functions under the Constitution. As your Speaker, I continue to live to the oath of office which I took on 28th March, 2013, to shun any attempt from any persons or institutions wishing to impede this House from exercising its oversight role.

Hon. Members, while our committee system is a fledgling one, and during the setting up of structures of our Legislature in a presidential system of Government there may be some gaps and complications of transition. I wish to reiterate that the National Assembly of Kenya shall play its oversight role as envisaged by the framers of our Constitution. We have established a working relationship between the National Assembly and the extra parliamentary institutions of accountability such as, the Office of the Auditor-General, commissions and other independent offices that wish to work closely with the National Assembly.

I would like to encourage continued dialogue with all the other State offices and organs on matters of mutual interest. This may include scheduling of committee hearings, timelines for

reporting, implementation of resolutions, reports and legislations passed by the House. Indeed, as we all know the National Assembly approves the appointment of most State officers, including Cabinet Secretaries. Does it not follow, therefore, that the Secretaries would know that this same House retains the power of removing them from office for contempt, violation of the Constitution or any other written law, insubordination and lack of courtesy for the Assembly?

(Applause)

Is it lost to them that this is the House that allocates resources to them for the management of their ministries and departments?

(Applause)

Lest anyone of them has forgotten, this House and all its Committees have the power under Article 125 of the Constitution to call for evidence and the power to summon any person to appear before it for the purpose of giving evidence or providing information as required. I want to remind them that this House has powers of the High Court to enforce the attendance of witnesses and examine them on oath, affirmation or otherwise, and to compel the production of documents.

Hon. Members, I now want to rule as follows:-

(i) that all State and public officers invited or summoned to appear or attend Committee hearings must do so without fail;

(ii) that where State and public officers are invited or summoned to appear or attend several Committee hearings at the same time, they must inform the Office of the Clerk in good time to allow him to advise the Committees concerned, and to arrange for the convenience of both the Committees and the invited State officers, the level and manner of sitting;

(iii) that any request for the postponement or rescheduling of a hearing, must only be made before the Committee at the time the State or public officer was expected and the scheduled hearing. However, in exceptional circumstances, such as when one is indisposed, or has urgent and unforeseen engagements, the relevant Committee must be informed in good time, so that it can make a decision on when next to sit, and meet the intended or invited State or public officer.

This means that no State or public officer shall request the rescheduling of a hearing by writing to the Speaker. This order is meant to stop the whimsical and discourteous correspondences from State and public officers, who purport to want to reschedule Committee hearings, when invited or summoned to appear before those Committees.

(Applause)

(iv) failure to appear must be reported and the plenary will take the necessary remedial action;

(v) we must also do our part; in this regard committees must give all invitees and witnesses at least seven days' notice for any meeting.

(Applause)

I now demand of Members of all Committees to keep time and to adhere strictly to the requirements of Standing Order No.185 which provides that:-

“Unless quorum is achieved within thirty minutes of the appointed time, a meeting of a Committee of the House shall stand adjourned to such further time or day as the chairperson of the committee may appoint”.

I thank you, hon. Members.

(Applause)

NOTICES OF MOTION

STATE\PUBLIC OFFICERS TO USE ECONOMY CLASS AIR TRAVEL

Hon. Kamau: Hon. Speaker, Sir, I beg to give notice of the following Motion:-

THAT, aware that the Government has limited financial resources; given the new governance structures that have occasioned devolution of funds; noting that public and State officers constitute a significant part of the Government; cognizant of the fact that the Government has to cater for their official duties, including transport and other facilitation within the country, conscious of the need to reduce the burden on the taxpayer, this House resolves that all State and public officers, including officers of constitutional commissions, State corporations and departments and county governments, with exception of the President, Deputy President, the two Speakers of the National Parliament and the Chief Justice, using air transport during official trips should travel in economy class instead of business class, and travel not higher than business class on international flights, unless they meet their own costs for an upgrade, and that this decision takes effect immediately and all respective Accounting Officers take necessary action without exception.

This is a party-sponsored Motion. Thank you.

DEPLOYMENT OF GSU PERSONNEL TO COUNTIES

Hon. Koyi: Hon. Speaker, I beg to give notice of the following Motion:-

THAT, aware that the country has been experiencing increased incidents of violence in various areas, for instance the Westgate Mall invasion in Nairobi, the Tana Delta Region, western Kenya, Bungoma, Busia, Migori, north eastern, Garissa, Mandera, Moyale, Wajir, in Rift Valley, Turkana, Maralal and Kitui among many others; deeply concerned that such incidents have led to loss of lives and destruction of our properties; also noting with great concern the security lapses witnessed in our country, having noted that currently General Service Unit (GSU) personnel are situated in a few designated places and are only called to areas where there are security problems, this House urges the Government to align itself to the current governance structures by employing more GSU personnel and deploying them to all 47 counties to deal faster with any security threats in this country.

Thank you.

REQUESTS FOR STATEMENTS

PLANNED NATIONWIDE CIVIL DISOBEDIENCE BY NGOS

Hon. Kanini Kega: Thank you hon. Speaker, Sir. Pursuant to Standing Order 44 (2) (c), I wish to request a Statement from the Leader of Majority Party regarding plans by some Non-Governmental Organisations (NGOs) to stage mass civil disobedience in the country.

Hon. Speaker, there are a number of NGOs which are receiving funding from foreign organizations and embassies to organize civil society organizations across the country to take position on the ongoing International Criminal Court (ICC) cases facing His Excellency the President, his deputy and radio journalist, Joshua Sang.

Hon. Speaker, in his Statement, the Leader of Majority Party should inquire and report on, one; whether the said NGOs are being organized to cause nationwide civil disobedience in the event that the President attends or fails to attend the ICC trials; two, whether the funding from foreign organizations, embassies and individuals will be used to sustain mass protests that will culminate into claims of power vacuum in the event that the President and his deputy are on trial at the same time; three, whether these foreign institutions intend to facilitate the planned capacity building and technical support aimed at fomenting violence in this country; four, what the identities of these foreign bodies are and who are funding these civil societies; five, who are the local recipients of the funding and six, what measures the Government is taking to avert the planned demonstrations and disruption of peace?

Finally, when will the Government introduce a Bill in the House to regulate NGO funding and their activities in the country?

Thank you.

Hon. A.B. Duale: Hon. Speaker, the hon. Member has sought a serious Statement touching on the stability of our country. I will present it on Wednesday next week. I want to assure the House that Jubilee Government is in a very strong position to deal with both internal and external threats.

Hon. Speaker: In keeping with the communication I made earlier this morning, it is to be observed that that response will come in the morning at 9.00 a.m.; those who may want to hear it need to be here at that time.

GANG FIGHT AT DANDORA DUMPSITE

Hon. (Ms.) Shebesh: Thank you, hon. Speaker, Sir. Pursuant to Standing Order No.44(2)(c), I wish to seek a Statement from the Chairperson of the Departmental Committee on Administration and National Security regarding the recent gang fight in Dandora. Two gangs openly exchanged fire over the control of zones within the Dandora dumpsite and it took five hours for the police to intervene, yet the Kinyago Police Station is only five minutes' walk away.

Hon. Speaker, in his Statement, the Chairperson should inquire and report on; one, the disciplinary measures being taken against the police officers who watched the gangs fighting instead of enforcing the law; two, the measures the police have taken to apprehend these gangs given their notoriety in the area; and three, the steps being taken by the Inspector General to strengthen and improve the response of police officers to any emergency situation, especially in Nairobi County.

Hon. Speaker: Very well. Yes, hon. Kamama.

Hon. Abongotum: Thank you, hon. Speaker, Sir. We want to take two weeks to come up with that Statement; a Statement on gangs roaming this town is very serious.

Thank you.

Hon. Speaker: Is that okay, hon. Shebesh?

Hon. (Ms.) Shebesh: Yes, hon. Speaker, Sir.

Hon. Speaker: Very well. But here again remember that Wednesday morning is for responses and one hour on Thursday afternoon for further responses. The request can be made any day be it on Tuesday, Wednesday or Thursday. However, the responses are limited to Wednesday morning between 9.00 a.m. and 10.00 a.m. and Thursday between 2.30 p.m. and 3.00 p.m. or any such time that does not go beyond one hour from the time the House sits on those two days.

Hon. Wandayi, are you making a request or are you holding brief?

EXPULSION/SUSPENSION OF KENYATTA UNIVERSITY STUDENTS

Hon. Wandayi: Hon. Speaker, Sir, in the absence, of course, of the substantive Leader of Minority Party, I can effectively play that role. Besides that, I requested a Statement three weeks ago, which you approved, from the Leader of Majority Party. I am happy I have just heard him say a few minutes ago that the Statement sought by hon. Kega is very serious. When will I get the response? This is because the Statement I requested is equally serious. This Statement touches on the future of 12 university students, who were either expelled or suspended from Kenyatta University in a very curious manner.

Hon. Speaker: Are you reminding him?

Hon. Wandayi: Hon. Speaker, Sir, I am reminding him. When will he issue this Statement?

Hon. Speaker: You do not have to repeat it. Just say that you sought a Statement and it has not come. If it is not from the Leader of Majority Party, he will take note and give responses on the days that we have now agreed.

Hon. Wandayi: Could I know exactly when he will respond? Could I also give additional information on ---

Hon. Speaker: No! If you have solutions, you should withdraw even the request.

Hon. Wandayi: Hon. Speaker, Sir, I am saying that I have some information which could, perhaps, help him to---

Hon. Speaker: No! No! You will be taking undue advantage of the assumed role of the acting Leader of Minority, but---

(Hon. Midiwo entered the Chamber)

Hon. Midiwo has arrived.

Yes, hon. (Maj-Gen.) Nkaissery.

Hon. (Maj-Gen.) Nkaissery: Hon. Speaker, Sir, the Statement sought by hon. Kanini Kega is on a very serious matter. The hon. Member should have gone further to name these NGOs, so that the Majority Leader will be in a position to tell this country who these individuals trying to mess up the security of this country are.

Hon. Speaker: Very well. The Majority Leader may perhaps consider the additional request by hon. (Maj-Gen.) Nkaissery.

Hon. A.B. Duale: Hon. Speaker, Sir, the issue raised by hon. Nkaissey is, of course, very pertinent but I am sure that this House allocates a lot of money to the intelligence agency. When I seek this Statement from the Government, it will give us the names of the NGOs and if they do not exist, I will come back to the House and say that those NGOs do not exist. Hon. (Maj-Gen.) Nkaissey is right. The Member should have gone ahead and named those NGOs.

On the issue raised by hon. Wandayi, I remember that when the Deputy Speaker was in the Chair, she directed that I coordinate with the Departmental Committee on Education, Research and Technology. I will ask the Chair to provide the Statement to the hon. Member latest Wednesday morning, next week.

Hon. Speaker: The Chair, Departmental Committee on Education, Research and Technology has been tasked by the Leader of Majority Party to do that. Is there a response?

Yes, hon. Kiptanui.

Hon. Kiptanui: Thank you, hon. Speaker, Sir. I have a response from our Committee with regard to a Statement requested by hon. David Ouma Ochieng, the Member of Parliament for Ugenya Constituency. Yesterday, you directed that we respond today but it appears as if the Member of Parliament is not in. Should I continue or should---

Hon. Speaker: Is the Member for Ugenya, David Ochieng absent?

Hon. Members: Yes. He is campaigning!

Hon. Speaker: You may table the response. It is not subject to further debate. It looks like the Member has formed the habit of being absent from the Chamber. He was not here yesterday and he is not here today.

Hon. Kiptanui: That is fine, hon. Speaker. I beg to table the Report.

(Hon. Kiptanui laid the Statement on the Table)

Hon. Speaker: Very well. Hon. Kaluma, do you have a request?

Hon. Kaluma: No, hon. Speaker, Sir. I was intervening to raise an issue on the request for a Statement by hon. Kanini Kega. I do not know whether it has passed or I can still raise it. I had an issue I wanted to raise with the Chair concerning the request, if I am permitted.

Hon. Speaker: If you have an issue you want to raise with the Chair, you need to see the Chair.

Hon. Kaluma: It is a further issue that needed to be responded to.

Hon. Speaker: I want us to follow the procedure here. The hon. Member wrote his request and it was approved. He did not seek assistance or indicate that he would seek assistance. In fact, the matter is over.

Hon. Kaluma: Hon. Speaker, Sir, there is a matter that concerns me. It is an issue for the entire House and we want direction from the Chair.

Hon. Speaker: When the response will be given next Wednesday, you will raise the issue. It is better if you raise the issue at that time.

Hon. Kaluma: It would be better before, hon. Speaker, Sir.

Hon. Speaker: Yes, hon. Oyoo. You cannot raise it from there.

Hon. Oyoo: Hon. Speaker, Sir, my card---

Hon. Speaker: Then you lose the opportunity, because people without cards do not speak in the House.

Hon. Oyoo: On a point of order, hon. Speaker.

Hon. Speaker: There is nothing that is out of order. Can someone who is conversant with the use of the card go to his help? Is that card yours?

Hon. Aluoch: Hon. Speaker, Sir, the matter we want to raise is very serious and it cuts across our constituencies. If he cannot do it, I can do it on his behalf. I offer myself because this is a very serious issue.

INSECURITY ALONG MUHORONI/TINDERET BORDER

Hon. Oyoo: Thank you very much, hon. Speaker, Sir. Pursuant to Standing Order No.44(2)(c), I wish to request a Statement from the Chairperson, Departmental Committee on Administration and National Security regarding rampant cases of insecurity along the border of Muhoroni and Tinderet sub-counties of the former Nyanza and Rift Valley provinces.

Huge private farms have recently been taken by the neighbouring Nandi community members from the adjacent Tinderet Constituency. Attempts to get them out of Muhoroni area by the Muhoroni administration have resulted in violence leading to deaths, the latest being of one Naman Abira and local police officers.

In his Statement, the Chairperson should urgently inquire and report on the appropriate steps the Government is taking to ensure that a permanent solution is found, and that the right to protection of private property and life of the citizens is enforced, irrespective of colour, religion, party affiliation or otherwise.

Hon. Speaker, I was on a retreat in Mombasa with a sub-committee of the Departmental Committee on Labour and Social Welfare. There has been simmering insecurity around that area for quite some time. In the neighbourhoods of Tinderet and Muhoroni, there are large-scale farmers who have a right to their private property, having bought those farms. Recently, some people in Tinderet Constituency and specifically members of the Nandi community moved downhill and encroached on those farms. The owners of the large-scale farms reported the matter to the local administration. In their attempt to remove the encroachers, the administration has always encountered violent and marauding youth from the Nandi community. The development resulted in the death of one, Naman Abira on Monday, in the presence of a security team, headed by the Officer Commanding Station (OCS), Chemilil.

While I was waiting to get authority to raise this matter, as the Speaker was very busy consulting with some members of staff of the National Assembly, I decided to consult the Inspector General of Police (IGP), who told me that he was on top of the matter. However, I doubt that he is, indeed, on top of the matter because people are dying. The encroachers are still on the private properties. He told me that he was aware that a firearm was confiscated, and that the security personnel were pursuing the invaders.

I asked him how come an innocent law abiding citizen, who solicited the intervention of the police to have the encroachers repulsed from his farm, was killed in the presence of the OCS. In the ensuing melee, the OSC also lost his firearm but the police did not shoot at the invaders. The IGP told me that the police were unable to shoot at the encroachers because human rights provisions prohibit them from firing back. This was a case of murder. The police officers who were at the scene saw the murderers flee. Why did they not apprehend them?

Hon. Speaker: Hon. Onyango Oyoo, you see, you have my sympathy because the matter is obviously serious, since it touches on the lives of your constituents. It is, however, important that you raise some of the matters you are raising now when the Committee invites you alongside

whomever else from the security agencies. Is the Statement request directed to the Leader of Majority Party or hon. Kamama?

Hon. Abongotum: Hon. Speaker, you must have noted that the hon. Member is really touched by this matter. He has demanded a serious response. So, I want to confirm to this House that we will give a very serious Statement on the matter.

Hon. Aluoch: On a point of order, hon. Speaker.

Hon. Abongotum: Hon. Speaker, I know how we work with the Police Department in the Office of the President. I know their speed. So, two weeks will be sufficient.

Thank you.

Hon. Speaker: Hon. Olago Aluoch, what was your point of order?

Hon. Aluoch: Hon. Speaker, maybe, hon. Langat kept you busy. You may not have heard the Chairman of the Committee.

Hon. Speaker: That is the problem, hon. Members. I am supposed to pay attention to what is being canvassed on the Floor.

Hon. Aluoch: Hon. Speaker, if I had the power, I would have sent hon. Langat away from you.

You may not have heard the Chairman of the Committee state that he will give the Statement in two weeks' time. This matter is actually taking place on the boundaries of my constituency, that is between Tinderet and Muhoroni. Tension is very high in that area. Unless immediate action is taken, we are going to have very serious tribal clashes. We would not like such a thing to happen. This is a matter which must be responded to urgently. If not Tuesday, it should be tomorrow. Two weeks will be too late.

Hon. Speaker: Hon. Olago Aluoch, I have just directed that even the people you want to invite to the Committee sittings are doing some work. They require notice. Being a senior lawyer, you know that more than many others. We are required to give them some notice of at least seven days to appear before the Committee, so that you can engage them. Maybe, in the course of next it week will be appropriate. What do you have to say?

Hon. Abongotum: Hon. Speaker, I have quite a number of pending Statements from the police and the Office of the Cabinet Secretary for Interior and Co-ordination of National Government. We have asked them to get us liaison officers to fast-track movement of Statements from their offices to Parliament, but they seem to be very slow. A notable case is on an issue raised by hon. Aduma. It is a very serious matter, in respect of which I promised to deliver a report in a week's time, but the police have not yet responded. They have even been forced to call all the junior officers concerned to get a statement. So, there is a lot of bureaucracy within the Office of the IGP, and within the Office of the Cabinet Secretary. That is what I am able to say right now. I am willing to even give the Statement tomorrow, but the speed at which Statements are being processed is very low. So, let me promise to bring it in a week's time; I will get in touch with the liaison officers to bring it to us in good time.

So, give me a week, hon. Speaker.

Hon. Speaker: Can we hear from hon. James Onyango Oyoo?

Hon. Oyoo: Hon. Speaker, I will wait for a week but I would plead with the Chairman of the Committee to get in touch with the IGP to be on top of the matter not by mouth but by action, because even his OCS has lost his firearm. People are dying. The encroachers are still there. He has the powers. We have seen the police kill people during riots. In this case, people are dying because they are being moved away from their farms. So, this is a very urgent case because our beloved President took oath to protect the lives and properties of the citizens of this country. In

this case, the properties of citizens are being taken away forcefully as the lives of innocent people get wasted. The matter is very urgent. Therefore, the IGP must really be on top of the matter, and be seen to be on top of it. He should not just say that he is on top of the matter.

Thank you very much.

Hon. Speaker: Hon. Onyango Oyoo, do not take advantage. Since you have not spoken for a long time, you appear to be taking advantage of the opportunity.

Hon. Oyoo: Hon. Speaker, it is because you have denied me a chance to speak. An opportunity has now arisen for me to speak.

Thank you, hon. Speaker.

(Laughter)

Hon. (Eng.) Gumbo: On a point of order, hon. Speaker, Sir.

Hon. Speaker: What is it, hon. Nicholas Gumbo?

Hon. (Eng.) Gumbo: Hon. Speaker, the manner of presentation might make the matter look hilarious, but there is a point which hon. Oyoo made, which has to be taken very seriously. It is that someone was actually killed as the OCS watched.

Hon. Speaker: Hon. Gumbo, you rose on a point of order?

Hon. (Eng.) Gumbo: Yes, hon. Speaker.

Hon. Speaker: What is out of order?

Hon. (Eng.) Gumbo: Hon. Speaker, what is out of order is that if that is what happened, then it means that there is a complete breakdown of law and order in Kenya.

Hon. Speaker: That somebody was killed?

Hon. (Eng.) Gumbo: Yes. If somebody can be killed---

Hon. Speaker: So, is that out of order?

Hon. (Eng.) Gumbo: No, it is not out of order, hon. Speaker. I am just---

Hon. Speaker: Hon. Gumbo, you claimed to rise on a point of order. What is out of order?

Hon. (Eng.) Gumbo: Hon. Speaker, what is out of order is that I just wanted to understand if the Chairman of the Committee understood that---

Hon. Speaker: Because you wanted to understand, it is a point of order?

Hon. (Eng.) Gumbo: Yes, hon. Speaker.

Hon. Speaker: Please, be seated. You are totally out of order.

(Hon. (Eng.) Gumbo resumed his seat)

Hon. Onyango Oyoo, are you still making an intervention or are you through? Is there any other Member who may have had their Statement approved and might not have presented it to the Clerk for inclusion? Hon. Kanoti.

DEREGISTRATION SCHOOLS IN RABAI CONSTITUENCY

Hon. Mwamkale: Hon. Speaker on Thursday, last week, I sought a Statement from the Chairperson of the Departmental Committee on Education, Research and Technology on deregistration of two schools in Rabai Constituency. Unfortunately, she was not in the House and there was no Member of the Committee to give an indication of time. However, the presiding

Chair certified this matter as urgent because deregistration is ongoing as we talk now. There are letters to that effect. I am bringing this matter to your attention and that of the Chairperson. I would like to be told when this Statement will be read in the House. Also I seek to know from the Chairperson if she can arrest the process that is ongoing because it is affecting more than 1,000 pupils from Kajiwe Primary School and Kajiwe Secondary School.

Hon. Melly: Hon. Speaker, I am the Vice-Chairman of the Committee. The issue was brought to our attention. Members of the Committee were out on a fact-finding mission about the One-Laptop-per Child Programme in Rwanda. We have forwarded this matter to the relevant department of the Kenya National Examinations Council (KNEC). I think we will be able to present the answer in this House next week.

Hon. Speaker: Hon. Melly, you know that from next week responses will be given on Wednesday morning and Thursday, but we want also to encourage Chairpersons of Committees to give copies of those responses to the House. That helps the House to engage.

Hon. Melly: Thank you, hon. Speaker. I will do that.

Hon. Mwamkale: Hon. Speaker, Wednesday will be okay. We only request that they stop the PS from the process that he is undertaking right now.

Hon. Speaker: Do they have the wherewithal? First of all, they will have to hear from them to find out whether or not what you are alleging is happening and then make a report. We may be requiring the Committee to do things that they may not have the authority to do. However, they can make a recommendation to this House to resolve to direct that deregistration should not happen. If our assumption is that the Committee is going to stop that then we are thinking differently; we are looking for the wrong solutions.

Hon. Mwamkale: Hon. Speaker, I am making this request because I believe that what they are doing is contrary to some court orders. If the Committee summons these people when they have already deregistered the schools then the issue will have been overtaken by events. If they can, they should stop the PS from doing what he is doing so that the matter is heard by the Committee.

Hon. Speaker: May I suggest that you have some quick meeting, hon. Kamoti Mwamkale with Mr. Melly so that you can discuss that matter. You could see the possibility of having a quick meeting in the morning and you give them more information.

Hon. Mwamkale: I will do that, hon. Speaker.

Hon. Melly: Hon. Speaker, on Tuesday next week in the morning the hon. Member should come before the Committee and then address his issue.

Hon. Speaker: He could give you more information, perhaps. Even though you are sitting on two separate sides, there is no harm in you meeting and discussing that matter. So, hon. Kamoti Mwamkale feel free to sit with hon. Melly.

BILLS

Second Reading

THE TAX APPEALS TRIBUNAL BILL

(Hon. Langat on 10.10.2013)

(Debate Concluded on 15.10.2013)

Hon. Speaker: Hon. Members, debate on the Tax Appeals Tribunal Bill, National Assembly Bill No.7 of 2013, had been concluded yesterday, but the Question had not been put. That is the only business for now because we have the requisite quorum.

(Question put and agreed to)

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

Second Reading

THE KENYA INFORMATION AND COMMUNICATIONS (AMENDMENT) BILL

(Hon. Kamau on 15.10.2013)

(Debate concluded on 15.10.2013)

Hon. Speaker: Hon. Members, the debate on this Bill was concluded yesterday, but the Question could not be put for the simple reason that there was no quorum. I will proceed to put the Question.

(Question put and agreed to)

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

COMMITTEE OF THE WHOLE HOUSE

(Order for Committee read)

[Mr. Speaker left the Chair]

IN THE COMMITTEE

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

THE MICROFINANCE (AMENDMENT) BILL

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Hon. Members, we are now going to the Committee of the whole House on the Microfinance (Amendment) Bill, National Assembly Bill No.3 of 2013.

(Clauses 3, 4, 5 and 6 agreed to)

New Clause 2A

Hon. Langat: Hon. Temporary Deputy Chairlady, I beg to move:-
THAT, the following new clause be inserted immediately after Clause 2-

Amendment
of Section 14
of No. 19 of
2006.

2A. Section 14 of the Microfinance Act, 2006 be amended in Subsection (1) by deleting paragraphs (a), (b) and (c).

Hon. Temporary Deputy Chairlady, my Committee agreed that we should give microfinance institutions additional business items which initially were prohibited by the Microfinance Act of 2006. So, one of those businesses which were prohibited were to deal with foreign currency and opening current accounts. Therefore, after consultations my Committee agreed that we need to allow these microfinance institutions to be able to operate current accounts to be able to deal with foreign currency transactions. So, the effect of that now is they are no longer prohibited from transacting those business items. So, we are just giving them additional business. We are removing the prohibition from the Microfinance Act, 2006. That is the import of that amendment.

(Question of the new clause proposed)

(New clause read the First Time)

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

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

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

New Clause 7

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

THAT, the following new clauses be inserted immediately after Clause 6 -

Amendment of
section 45 of No.
19 of 2006.

7. Section 45 of the Microfinance Act, 2006 is amended by deleting subsection (2) and substituting therefor the following new subsection—

“(2) Where a company registered under the Companies Act as a microfinance bank fails to acquire a licence to operate under this Act within a period of one year from the date of such registration, the company shall forthwith cease the use of the words “microfinance bank” in its name.”

We are allowing the microfinance institutions which have been licensed to take deposits to be referred to as banks. For example, the Kenya women deposit-taking microfinance

institution can be known as Kenya Women Microfinance Bank. We are allowing them to use the word “bank”. The problem we have is that once a company has been registered by the Registrar of Companies, it has to look for a licence from the Central Bank of Kenya (CBK) so as to operate as a microfinance institution. Now, there is a risk because if you are calling yourself a bank and you do not have a licence for up to one year, it is serious. We need to limit that period so that it cannot be abused. So, we are saying that once a company has been registered, if it takes more than one year before it obtains a licence, it shall cease to use such a term so that it does not mislead the public. So, that is the import of that amendment.

(Question of the new clause proposed)

(New clause read the First Time)

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

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

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

New Schedule

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

THAT, the following new schedule be inserted immediately after the proposed new clause 8-
Consequential
amendments to
other Acts.

8. The Acts specified in the Schedule are amended in the manner specified in that Schedule.

The import of the amendment which is being sought under Clause 8 is to allow for what we call the consequential amendments. When we agreed on the amendments which affect the Microfinance Act, 2006, we realised that they are going to affect several other Acts, for example, the CBK Act, the Banking Act and the National Payment Systems Act. So, the amendments which have been in this Bill will affect so many other Acts and they are stated in the Schedule below.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Hon. Chairman, there are some clauses we have not spoken to which the Clerk needs to read out so that we follow the procedure. So, please give us a few minutes and then I will call you.

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

THAT, the following new Schedule be inserted immediately after the proposed new clause 8—

SCHEDULE

CONSEQUENTIAL AMENDMENTS TO OTHER ACTS

Amendment
of Cap. 488.

1. The Banking Act is amended—

(a) in section 3, by deleting paragraph (a) of the proviso to subsection (1) and substituting therefor the following new paragraph—

“(a) the provisions of paragraphs (b) and (c) of this subsection shall not apply to investment banks licensed under section 11(3) of the Capital Markets Act and microfinance banks licensed under section 6(1) of the Microfinance Act, 2006; and”;

(b) in section 54, by inserting the following new paragraph immediately after paragraph (c) in subsection (1)—

“(d) a microfinance bank licensed under the Microfinance Act, 2006.”

Amendment of
Cap. 491.

2. The Central Bank of Kenya Act is amended—

(a) in subsection 2, by—

(i) deleting the definition of “authorized dealer” and substituting therefor the following new definition—

“authorized dealer” means an authorized bank, authorized bureau, authorized mortgaged finance company, an authorised money remittance provider or an authorized microfinance bank licensed by the Bank under section 33 B;

(ii) deleting the definition of “foreign exchange business” and substituting therefor the following new definition—

“foreign exchange business”—

(a) in relation to a specified bank, means –

(i) buying, selling, borrowing or lending foreign currency or any other business involving transactions in foreign currency;

(ii) settling payments to or from Kenya or in Kenya between residents and non-residents;

(b) in relation to a foreign exchange bureau, means the business of-

(i) buying or selling foreign currency; or

(ii) settling payments to or from Kenya as prescribed by the Bank.

(c) in relation to an authorised money remittance provider, means the business of foreign exchange transfers consisting of the acceptance of monies for the purpose of transmitting them to persons resident in Kenya or another country as prescribed by the Bank.

(d) in relation to a microfinance bank, the business of-

(i) buying, selling, borrowing or lending foreign currency or any other business involving transactions in foreign currency;

(ii) settling payments to or from Kenya or in Kenya between residents and non-residents;

(e) in relation to a specified mortgage finance Company, the business of –

(i) buying, selling, borrowing or lending foreign currency or any other business involving transactions in foreign currency;

(ii) settling payments to or from Kenya or in Kenya between residents and non-residents;

(f) in relation to any other person or body of persons granted a permit by the Bank under section 63(3), means engagement in such limited foreign exchange transactions as the Bank may permit;

(iii) deleting the definition of “payment” and substituting therefor the following new definition—

“payment” means the transfer of currency for the purpose of discharging a liability, making a gift or donation or for creating a balance at a bank, financial institution or a microfinance bank which can be drawn upon;

(iv) inserting the following new definitions in their proper alphabetical sequence—

(a) “authorized microfinance bank” means a microfinance bank licensed by the Bank under section 33B;

“microfinance bank” means an institution licensed under the Microfinance Act, 2006;

(b) in section 33H, by inserting the words “or an authorized microfinance bank” immediately after the words “authorized bank” in subsection (1);

(c) in section 47, by deleting paragraph (c) of subsection (1) and substituting therefor the following new paragraph—

“(c) accept money as deposit from commercial banks and microfinance banks on such terms as may be specified by the Bank”.

Amendment of
No. 39 of 2011.

3. The National Payment Systems Act, 2011 is amended—

(a) in section 2—

(i) by deleting the definition of the term “business day” and substituting therefor the following new definition—

“business day” means any day, other than a Sunday, a public holiday declared in accordance with the Public Holidays Act, a day declared to be a bank holiday under the Banking Act, or a day declared to be a bank holiday under the Microfinance Act, 2006, on which the institutions and the Central Bank are open to the public for carrying on business functions;

(ii) in the definition of the term “institution”, by deleting the words “deposit-taking microfinance business” and substituting therefor the words “microfinance bank business”;

(b) in section 20, by deleting the operational part in subsection (2) and substituting therefor the following—

“In addition to any information that is required to be provided to the Central Bank under the Banking Act relating to banks or under the Microfinance Act, 2006 relating to microfinance banks, the management of every designated payment system, and every participant in the system, shall provide the Central Bank with such reports, returns and other information, at such times and in such form as the Central Bank may prescribe, regarding—“.

Amendment of
section 2 of No.
10 of 2012

4. Section 2 of the Kenya Deposit Insurance Act, 2012 is amended by deleting the definition of the term “institution” and substituting therefor the following new definition—

“institution” means a bank, financial institution or mortgage finance company as defined in the Banking Act, or a microfinance bank as defined in the Microfinance Act, 2006, or any other deposit taking entity licensed by the Central Bank”.

Hon. Temporary Deputy Chairlady, I did explain earlier that we agreed in the Committee that microfinance institutions should be called “microfinance banks.” The reasoning behind is

that these are very important institutions within our communities and they are institutions that exist where normal banks do not attempt to go. These are institutions that took over where the big banks left our people a long time ago and they have been trying to mobilize deposits for the purpose of lending to other customers.

The question has been that people are used to the word “bank” and we agreed as a Committee that, if they have been given the power to collect deposits; the highest risk whenever there is a grant is for somebody to hold your deposits. So, we agree that let them be given the power to use the word “bank.” The effect of that is the amendment under the Banking Act.

That paragraph is meant to allow the microfinance institutions use the word “bank”, but at the same time, exempt them from the normal bank issues, just the way we exempt investment banks. The Act exempts Post Bank. It still uses the name “bank” but it is not doing the normal bank operations. That is the effect, hon. Temporary Deputy Chairman.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Hon. Members, the Chairman has clearly explained his amendment to the Banking Act and because these are consequential amendments and they are quite a number, I will allow him to also explain the next amendment so that I put the Question. I will put the Question on all those amendments that he would have spoken to. I hope hon. Members, you are listening to what the Chairman has explained about the amendment to the Banking Act.

If there is no hon. Member who would like to intervene on the same, please go ahead and elaborate on the other amendments.

Hon. Langat: Hon. Temporary Deputy Chairlady, the next one is the amendment to the Central Bank of Kenya Act. Basically, what we are doing is to allow the microfinance banks to participate in foreign exchange transactions, which I had explained earlier were initially prohibited. So, it is to harmonize so that where it was prohibited, we are giving them that power so that it is in line with the microfinance Act, the Banking Act and now the Central Bank Act. The amendment is meant to allow microfinance institutions to trade or to be included as dealers so that they can operate and engage in foreign exchange dealings.

I have additional amendments which I want to read for record so that we align the Microfinance Act, the Banking Act and the Central Bank of Kenya Act. Therefore, those are the issues.

There is also the amendment to the National Payments Systems Act which initially was defining a business day in terms of the banks only, excluding the---

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Hon, Chairman, have you finished with all the amendments on the Central Bank of Kenya Act?

Section 2

Hon. Langat: Hon. Temporary Deputy Chairlady, let me read the additional amendments, for record purposes, which will affect the Central Bank of Kenya Act.

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

THAT, section 2 of the Central Bank of Kenya Act be amended by inserting the following new definition in the alphabetical order:

“specified microfinance bank” means a licensed microfinance bank within the meaning of the Microfinance Act, 2006 which is specified by the Bank for the purposes of this Act.

Since microfinance banks are going to carry on business authorized under the Central Bank of Kenya Act, it is necessary to specify microfinance bank for purposes of the Central Bank of Kenya Act. So, the effect of that now is to include microfinance banks as part of those institutions which have been specified to carry out businesses which are licensed under the Central Bank of Kenya Act. So, that is all about that amendment.

Section 34

THAT, section 34 of the Central Bank of Kenya Act be amended by deleting subsection (3) and substituting therefor the following new subsection:

- (3) For the purposes of this section “institution” includes:-
- (a) a specified bank;
 - (b) a specified financial institution;
 - (c) a specified microfinance bank;
- (d) any other person or body of persons which the Minister on the recommendation of the Bank may by notice in the Gazette prescribe.

For the purpose of this section, “institution” includes a specified bank, as earlier explained. The effect of this is that the institutions which are defined here are allowed by the Central Bank of Kenya to open accounts.

So, microfinance banks will open accounts with the CBK like other normal banks.

I want to say that part of the reason we have allowed the microfinance banks to open bank accounts is to enable them issue third party cheques. Initially, they could not issue them. Now, they are able to open accounts with the CBK; they can participate in clearing houses. That is the effect of that amendment.

Section 36

THAT, the Central Bank of Kenya Act be amended by deleting section 36 and substituting therefor with the following new section:

- (1) The Bank may grant loans or advances for fixed periods not exceeding six months to specified banks and specified microfinance banks which pledge treasury bills or other Government securities specified by the Bank.
- (2) Except as provided in this section the Bank shall not extend credit directly or indirectly to specified banks or specified microfinance banks.
- (3) The Bank may determine the general terms and conditions under which it extends credit to specified banks and specified microfinance banks, and in particular, the bank shall determine and announce the rates of interest or return it shall charge for granting loans or advances to specified banks and specified microfinance banks in accordance with this section and may determine different rates of interest or return for different classes of transactions or maturities.

- (4) The Central Bank shall publish the lowest rate of interest it charges on loans to banks and microfinance banks and that rate shall be known as the central bank rate.

Hon. Temporary Deputy Speaker, Sir, this is meant to bring microfinance under the institutions that can be given loans by the CBK. We are also bringing in microfinance to the normal banking system. The overall effect of the amendments I have read under that section is to enable the CBK, just like it does to the banks, to extend loans to microfinance banks as and when necessary.

Section 43

THAT, section 43 of the Central of Bank of Kenya Act be amended by deleting subsection (1) and substituting therefor with the following new subsection:

- (1) Every specified bank, specified financial institution and specified microfinance bank shall furnish to the Bank, at such time and in such manner as the Bank may prescribe, any information and data the Bank may reasonably require for the proper discharge of its functions under this Act.

We are including the microfinance banks in the list of institutions that are supposed to provide certain information to the CBK because they are now performing the functions of a normal bank. That is the effect of the amendment to Section 43.

Finally, I want to propose amendments to Part VII titled “Relations with specified banks”.

PART VII

THAT, the heading of Part VII of the Central Bank of Kenya Act be amended by adding the following words immediately after the “specified banks”

“and microfinance banks”

That part of the law also includes microfinance banks. So, those are the additional amendments to the CBK Act. I now seek your guidance from there.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Thank you very much the Chairman, Departmental Committee on Finance, Planning and Trade. I believe that if I listened carefully to you, you have added some amendments to the original amendments that you had proposed. Therefore, I will ask you to move the New Schedule because what you have added makes the Schedule you had moved earlier different from what you are now proposing. So, move that the New Schedule be part of the Bill.

(Question of the new schedule proposed)

(New schedule read the First Time)

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

Are there Members who want to ventilate on the amendments that have been proposed by the Chair, Departmental Committee on Finance, Planning and Trade on the CBK Act that allow microfinance institutions to be treated as banks?

Yes, hon. Kimaru.

Hon. Kimaru: Thank you very much, hon. Temporary Deputy Speaker. I rise to support the amendments moved by the Chairman of the Departmental Committee on Finance, Planning and Trade which will allow the microfinance to operate more effectively, and in particular, when we talk about microfinance being allowed to deal in FOREX, receive and also trade locally.

We have very many areas of this country where the only financial service that is available is through either the microfinance institutions or co-operative societies. It is rather sad that co-operative societies have not been brought in and yet we know that today the SACCOs are playing a very big role in financial services across the country. Probably, the Chairman, at a later date, may consider having the co-operative societies or the SACCOs enjoy the same freedom as the microfinance institutions. In a layman's language, we now have microfinance institutions also being allowed to do standing orders not just among themselves but across the financial market and this is very important. The microfinance banks are also having another safeguard because they can go to the CBK as a lender of last resort. I believe that the amendments are desirable.

In future, we may look at the possibility of amending the SACCOs act so that they may also enjoy the same freedom.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Thank you, hon. Kimaru. I can also see a request by hon. Kenneth Okoth.

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

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Thank you. Therefore, I will propose the Question.

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

(The new schedule was read a Second Time)

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

Clause 2

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Hon. Benjamin Langat, do you also have amendments to Clause 2?

Hon. Langat: Yes, hon. Temporary Deputy Chairlady but before I move the amendments, I wish to withdraw all the words appearing under sub-paragraph (d), on page 362 of the Order Paper, reading "non-microfinance bank business" means..." and replace them with another definition to read "non-microfinance bank business" means "microfinance business other than a microfinance bank business as defined under the Act" so as to make the amendment clearer than it currently is on the Order Paper.

Therefore, subject to withdrawal of the words that I have just pointed out and replacing them with those that I have read out, I beg to move:-

THAT, Clause 2 be amended—

(a) in paragraph (b), by inserting the following new definition in its proper alphabetical sequence—

“current account” means an account maintained by a microfinance bank for and in the name of, or in a name designated by, a customer of the microfinance bank into which money is paid by or for the benefit of such customer and on which cheques and other bills of exchange may be drawn by, and transfers and other banking transactions made on the instructions of, the customer;

“microfinance bank” means a company which is licensed to carry on microfinance bank business, and includes all branches, marketing units, outlets, offices and any other place of business that may be licensed by the Central Bank of Kenya;

“microfinance bank business” means—

(a) the accepting from members of the public of money on deposit repayable on demand or at the expiry of a fixed period or after notice;

(b) the accepting from members of the public of money on current account and payment on and acceptance of cheques;

(c) the employing of money held on deposit or on current account, or any part of the money, by lending, investment or in any other manner for the account and at the risk of the person so employing the money including the provision of short-term loans to small or micro enterprises or low income households and characterized by the use of collateral substitutes; and,

(d) such other business activity as the Central Bank may prescribe “non-microfinance bank business” means microfinance business other than a microfinance bank business as defined under the Act, undertaken by a microfinance bank;

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

“(aa) by deleting—

(i) the definition of the term “institution” and substituting therefor the following new definition—

“institution” means a microfinance bank licensed under this Act;

(ii) the definition of the term “deposit-taking microfinance business” and substituting therefor the following new definition—

“deposit-taking microfinance business” means microfinance bank business.

(iii) the definition of the term “deposit-taking microfinance institution”, and substituting therefor the following new definition—

“deposit-taking microfinance institution” means a microfinance bank”;

(iv) the definition of the term “microfinance business”, and substituting therefor the following new definition—

“microfinance business” means “microfinance bank business”;

(v) the definition of the term “non-deposit-taking microfinance business”, and substituting therefor the following new definition—

“non-deposit-taking microfinance business” means “non-microfinance bank business”.

Hon. Temporary Deputy Chairlady, Clause 2 basically provides for the definitions of the terminologies used in the Bill. We are now introducing new terminologies, in light of what I have told the House. Microfinance deposit taking institutions shall henceforth be called “microfinance banks”. So, we need to define what “microfinance bank” is. We have also given microfinance banks additional functions, example of which is opening current accounts for their customers.

So, we also need to define “current account” because, previously, it was not there. We are also defining “microfinance bank business”, which appears in the proposed amendment. Since it is a new terminology, it is replacing the deposit taking institutions that were there.

Hon. Temporary Deputy Chairlady, there are definitions that exist in the current Act as it is. For example, “institution” means “deposit taking microfinance institution”. We are now saying that will no longer be the definition of “institution” in the new Act. Instead, “institution” will mean “microfinance bank licensed under the Act”. So, we are basically introducing new definitions, in light of the additional roles given to microfinance institutions.

Microfinance banks shall issue their own cheques to third parties. They will open current accounts for their customers. They will have accounts with the Central Bank of Kenya (CBK). They can also borrow money from the CBK, just like other banks do. So, the effect of the amendment is basically to capture the new status of the microfinance institutions.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): So, hon. Langat, what you have read out are definitions to the Microfinance (Amendment) Bill. Am I correct?

Hon. Langat Yes, hon. Temporary Deputy Chairlady.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Therefore, I will propose the Question that Clause 2 be part of the Bill.

(Question of the amendment proposed)

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

(Clause 2 as amended agreed to)

(Clause 1 agreed to)

(Title agreed to)

Hon. Langat: Hon. Temporary Deputy Chairlady, I beg to move that the Committee do report to the House its consideration of the Microfinance (Amendment) Bill (National Assembly Bill No.3 of 2013) and its approval thereof with amendments.

(Question proposed)

(Question put and agreed to)

(The House resumed)

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

REPORT, CONSIDERATION OF REPORT AND THIRD READING

Hon. (Ms.) Shebesh: Hon. Temporary Deputy Speaker, I beg to report that a Committee of the whole House has considered the Microfinance (Amendment) Bill, 2013 and approved the same with amendments.

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

Hon. S.S. Ahmed seconded.

(Question proposed)

The Temporary Deputy Speaker (Hon. Cheboi): It is important for the House to note that, that particular amendment was up to Clause 6 only.

(Question put and agreed)

Hon. Langat: Hon. Temporary Deputy Speaker, I beg to move that the Microfinance (Amendment) Bill, National Assembly Bill No.3 of 2013 be now read the Third Time.

Hon. S.S. Ahmed seconded.

(Question proposed)

(Question put and agreed to)

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

The Temporary Deputy Speaker (Hon. Cheboi): Hon. Members it is important for the House to know that we had sufficient numbers to put that Question and transact that Bill.

Next Order.

Second Reading

THE INSURANCE MOTOR VEHICLE THIRD
PARTY RISKS (AMENDMENT) BILL

Hon. Langat: Hon. Temporary Deputy Speaker, I wish to seek your indulgence that we postpone this Order until another available time. We are still deliberating at the Committee level and I wish that you grant me the indulgence so that I move this Bill tomorrow or on Tuesday. I had already communicated this.

The Temporary Deputy Speaker (Hon. Cheboi): I think that is really in order particularly because we know that this is a hardworking Committee. In fact, I want to take this opportunity to say that this is one of the Committees that are doing quite some good work and when you ask for that kind of indulgence, it can easily be understood.

Second Reading

THE MATRIMONIAL PROPERTY BILL

The Temporary Deputy Speaker (Hon. Cheboi): Hon. Members, reliable information indicates that the Committee made its representation before the House Business Committee which allowed that this particular Bill be adjourned until next week. That matter was sorted out yesterday and that is the reason the Chairman of this Committee is not there.

Do we have any other business?

Hon. Members: No!

ADJOURNMENT

The Temporary Deputy Speaker (Hon. Cheboi): Hon. Members, there being no other business, this House now stands adjourned until tomorrow, Thursday, 17th October, 2013 at 2.30 p.m.

The House rose at 4.20 p.m.