

NATIONAL ASSEMBLY

OFFICIAL REPORT

Tuesday, 14th February, 2012

The House met at 2.30 p.m.

[Mr. Speaker in the Chair]

PRAYERS

PAPERS LAID

The following Papers were laid on the Table:-

The Financial Statements of the Capital Markets Authority (CMA) for the year ended 30th June, 2011 and the Certificate thereon by the Controller and Auditor-General.

(By the Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode) on behalf of the Minister for Finance)

The Annual Report and Financial Statements of Kenya Tourist Board for the year ended 30th June, 2010 and the Certificate thereon by the Controller and Auditor-General.

(By the Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode) on behalf of the Minister for Tourism and Wildlife)

The Financial Statements of Industrial and Commercial Development Corporation (ICDC) for the year ended 30th June, 2011 and the Certificate thereon by the Controller and Auditor-General.

(By the Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode) on behalf of the Minister for Finance)

The Financial Statements of South Nyanza Water Services Limited for the year ended 30th June, 2010 and the Certificate thereon by the Controller and Auditor-General.

(By the Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode) on behalf of the Minister for Water and Irrigation)

The Financial Statements of the Kenya Social Congress (KSC) for the year ended 30th June, 2010 and the Certificate thereon by the Controller and Auditor-General.

(By the Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode) on behalf of the Minister for Justice, National Cohesion and Constitutional Affairs)

The Financial Statements of Party of Independent Candidates of Kenya for the year ended 30th June, 2010 and the Certificate thereon by the Controller and Auditor-General.

(By the Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode) on behalf of the Minister for Justice, National Cohesion and Constitutional Affairs)

The Financial Statements of the Municipal Council of Mavoko for the year ended 30th June, 2009 and the Certificate thereon by the Controller and Auditor-General.

(By the Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode) on behalf of the Deputy Prime Minister and Minister for Local Government)

The Financial Statements of Exports Promotion Council for the year ended 30th June, 2011 and the Certificate thereon by the Controller and Auditor-General.

(By the Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode) on behalf of the Minister for Trade)

The Financial Statements of Kenya National Accreditation Services for the year ended 30th June, 2011 and the Certificate thereon by the Controller and Auditor-General.

(By the Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode)

The Financial Statements of the Municipal Council of Kerugoya-Kutus for the year ended 30th June, 2010 and the Certificate thereon by the Controller and Auditor-General.

(By the Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode) on behalf of the Deputy Prime Minister and Minister for Local Government)

The Report of the Parliamentary Select Committee on the Decline of the Kenya Shilling against Foreign Currencies.

(By Mr. Keynan)

NOTICE OF MOTION

ADOPTION OF REPORT OF PARLIAMENTARY SELECT COMMITTEE
ON THE DECLINE OF THE KENYA SHILLING

Mr. Keynan: Mr. Speaker, Sir, I beg to give notice of the following Motion:

THAT, this House adopts the Report of the Select Committee on the Decline of the Kenya Shilling against Foreign Currencies laid on the Table on 14th February, 2012.

Mr. Speaker: Hon. Members, may I take this opportunity to welcome you to this Special Sitting of the House and to wish those of you we have not met with directly, a happy new year. May the year be productive for all of us even as you prepare to go for your next election!

(Applause)

QUESTIONS BY PRIVATE NOTICE

EXPENDITURE ON LIVESTOCK OFF-TAKE PROGRAMME

Mr. Sirat: Mr. Speaker, Sir, I beg to ask the Minister for Livestock Development the following Question by Private Notice:-

(a) How much money has been used in the Livestock Off-Take Programme since 2008?

(b) Could the Minister provide a list indicating how the money has been used and state the number of livestock bought?

(c) How many animals died during the last drought in northern Kenya and what specific measures has the Ministry taken to address the situation?

Mr. Washiali: On a point of order, Mr. Speaker, Sir.

Mr. Speaker: What is it Member for Mumias?

Mr. Washiali: Mr. Speaker, Sir, is my colleague in the Departmental Committee on Agriculture, Livestock and Co-operatives in order being aware that this matter he is raising is before our Committee and that is against Standing Order No.43(15)? Is he in order to ask this Question?

Mr. Speaker: The hon. Member will be in order unless the Minister has objection. If the Minister is already being inquired into by the Committee then the Minister will say. This Question may very well be away from the core business that your Committee is inquiring into. So, I will want to hear the Minister first.

The Minister for Livestock Development (Dr. Kuti): Mr. Speaker, Sir, the matters of drought, off-take, and funds applied to mitigate the drought are before the said Committee. We had presented our issues. There were more issues for clarification. I think the hon. Member who is also a member of the Departmental Committee on Agriculture, Livestock and Co-operatives, should have raised his issues at the Committee level.

Mr. Speaker: Hon. Sirat, do you want to say anything at all before I give directions?

Mr. Sirat: Mr. Speaker, Sir, when was this issue raised with the Minister and how long did it take? I am not aware whether or not this issue was interrogated by the hon. Members. My Chairman is here and he could substantiate this issue.

Mr. Speaker: Order, hon. Members. I would want to acquaint myself with the position first. I am aware that this Question has appeared on the Order Paper previously. I would want to look at when it first appeared. I want to acquaint myself with when the Committee started to

inquire into the matter and then I will give directions as early as Thursday this week. I will just give directions. So, please, bear with me.

MEASURES TO REDUCE PRICE OF MAIZE MEAL

Mr. Kiuna: Mr. Speaker, Sir, I beg to ask the Minister for Agriculture the following Question by Private Notice:-

(a) Why has the price of maize flour not reduced and yet the price of maize has gone down?

(b) What measures is the Minister taking to ensure that the price of the commodity is reduced?

The Assistant Minister for Agriculture (Mr. Ndambuki): Mr. Speaker, Sir, I beg to reply.

(a) I am aware that the price of maize grain has come down from Kshs91.42 in July, 2011 to Kshs67.20 in January, 2012 for a packet of two kilogrammes thus reducing the price by Kshs24.20. Consequently, the price of maize flour has reduced from Kshs135.70 to Kshs111.75 for a two kilogramme packet of sifted maize meal giving a reduction of Kshs27.95 over the same period. The net effect is that maize flour prices are responding to the maize grain price reduction. However, the reduction has not been significant due to escalating fuel prices that have contributed to the slow rate of closing the gap.

(b) The Government has undertaken the following measures to address the high cost of maize flour:

(i) Opened a window on importation of maize duty free to cushion the shortfall. This has contributed to the price reduction that has realized the downward trend in the price of maize and maize flour for the last four months.

(ii) Importation authority expired on 31st December, 2011.

(iii) Implementation of fertilizer subsidy programmes, bulk fertilizer procurement, a national agricultural accelerated input access programme intended to make fertilizer affordable and boost maize production.

(iv) Opened National Cereals and Produce Board (NCPB) buying of maize countrywide which will boost the supply and complement stocks bought by millers. The NCPB is buying the maize at Kshs3,000 per 90 kilogramme bag.

Mr. Kiuna: Mr. Speaker, Sir, while I appreciate the answer given by the Assistant Minister, I think these are just but peanuts. It is like a child who is begging his father for food. The father has plenty of food, but he is not willing to give his child the food. It is true that there was a small reduction. However, given the high cost of living, what action is the Government taking to ensure that it responds to the high production of maize especially in the area that I come from? This is because---

Mr. Speaker: Order, Member for Molo! I think you have asked your question.

Mr. Ndambuki: Mr. Speaker, Sir, I would like to remind the hon. Member that the economy is liberalized and as a Ministry we do not have the authority to set the price of maize flour. Secondly, the millers are the ones who have been setting the prices. The problem we have been facing is that the retailers, say, the supermarkets, have not been honoring that. I would like to give the example of sugar. The price of sugar dropped to Kshs2,500 or Kshs3,000 a bag, but the price of sugar in our supermarkets and other retailers is indicative of a very minimal deduction. It is difficult to ensure that the retailers reduce these commodities.

Mr. Njuguna: Mr. Speaker, Sir, could the Assistant Minister inform the House which extra-ordinary measures the Ministry of Agriculture is taking to make sure that our schools access affordable maize flour, aware that secondary school headmasters are raising school fees to levels that are beyond parents?

Mr. Ndambuki: Mr. Speaker, Sir, that is a very good question because it also affects my constituency. The National Cereals and Produce Board (NCPB) had money to buy commercial maize which they are supposed to sell to schools and other institutions. The only thing I can do is to find out how much they have in their stores for commercial purposes.

Mr. Chepkitony: Mr. Speaker, Sir, the Assistant Minister has said that one way of reducing the price of maize and the cost of production is by supplying cheap fertilizer at affordable prices. Could he say how much the price of fertilizer would be for this year? Is it going to come down or will it be the same as last year?

Mr. Ndambuki: Mr. Speaker, Sir, as far as I know the price remains the same. There is no change. The going price would be as last season.

Mr. Imanyara: Mr. Speaker, Sir, in the initial response, the Assistant Minister said that part of the reasons why prices have not reduced significantly is because of the escalating prices of fuel. Is there any mechanism in place for an inter-Ministerial Committee to ensure that the decisions that are taken by one Ministry are also taken up by other Ministries to correspond to the decrease of fuel prices because fuel prices keep decreasing but we do not see any significant reduction in prices? So, could he tell us whether there is a mechanism within the Government that regulates or meets regularly to ensure that there is a collective effort to ensure that these prices reduce when world prices reduce correspondingly?

Mr. Ndambuki: Mr. Speaker, Sir, I do not know whether there is a mechanism unless it is done at the Cabinet level, whose meetings I do not attend. I can only talk about the Ministry.

Mr. Imanyara: On a point of order, Mr. Speaker, Sir. Did you hear the astonishing admission by the Minister that he does not know whether there is any mechanism within the Government and yet we know that there is collective responsibility on the part of the entire Front Bench? Is it in order for the Assistant Minister to say that he does not know because he does not sit in the Cabinet?

Mr. Ndambuki: Mr. Speaker, Sir, I can only check and communicate to the hon. Member if there is any way because at the moment, I do not know any.

Dr. Otichilo: Mr. Speaker, Sir, I wish to know from the Assistant Minister why he has allowed a window for importation of maize into this country when there is a lot of maize in the North Rift and farmers are unable to sell and the NCPB has no money to buy that maize?

Mr. Ndambuki: Mr. Speaker, Sir, at the moment there is no window of importation although they have been writing in the newspapers that the Government is going to import. The Government is not going to import any maize.

Mr. Chanzu: On a point of order, Mr. Speaker, Sir. Is the Assistant Minister in order to mislead the House because the answer he has given in part (b) is that he will open the window on importation of maize, duty-free. It is in the answer that he has given. Is he in order to mislead the House?

Mr. Ndambuki: Mr. Speaker, Sir, I am not misleading the House. If you look further at the answer, I went further and qualified that the window was there last year but it expired. It expired on 31st December, 2011. That is what I have said and I am not misleading the House.

Mr. Mututho: On a point of order, Mr. Speaker, Sir. Is the Assistant Minister in order to constantly mislead this House that importation of duty-free maize will indeed control the price of

maize whereas imports and waivers amounting to over Kshs17.3 billion did not result into any substantive shift in prices?

Mr. Speaker, Sir, is the Assistant Minister in order - I am repeating - is the Assistant Minister in order to consistently mislead this House that importation of duty-free maize leads to reduction of price whereas the experience of 2009 to 2011 has shown that although there was a waiver amounting to Kshs17.3 billion there was no substantive reduction in price and, in fact, the prices increased in local *unga* prices?

Mr. Ndambuki: Mr. Speaker, Sir, at the time that window was opened, we had a crisis in the country and we did not have any maize. That is the reason why it was opened. Now that we are back and we have enough, that is, over 29.5 million bags in the country, that authority has been closed down. There is no authority for anybody at the moment to import maize.

Mr. Kiuna: Mr. Speaker, Sir, the last question that I want to ask the Assistant Minister is that since we have abundant maize in the upper zone of Rift Valley what action is the Ministry going to take to make sure that all the maize that has not been bought by the NCPB has not been bought is bought. Right now, those farmers are unable to sell their produce with the NCPB instead the maize is bought by middle men at a price of Kshs1, 800 per 90-kilogramme bag.

Mr. Ndambuki: Mr. Speaker, Sir, the Government is in the process of looking for more money. It gave NCPB Kshs2 billion and it is in the process of giving more money but at the moment the only thing that I request hon. Members and all Kenyans who have maize is to take the maize to NCPB and the warehousing receipt whereby the maize is stored by NCPB and when the farmer decides to sell or when NCPB gets the money from the Government it can be bought. The maize will be kept, fumigated and dried by NCPB on behalf of farmers.

USE OF 2009 CENSUS RESULTS IN CREATION OF NEW CONSTITUENCIES

Dr. Khalwale: Mr. Speaker, Sir, I beg to ask the Minister for Justice, National Cohesion and Constitutional Affairs the following Question by Private Notice.

Could the Minister clarify whether or not the determination and creation of 80 new constituencies before the 2012 General Elections will take into account the 2009 census results, which were nullified in eight districts in Northern Kenya?

The Assistant Minister for Justice, National Cohesion and Constitutional Affairs (Mr. Cheptumo): Mr. Speaker, Sir, I beg to reply.

The determination and creation of the 80 new constituencies has taken into account the 2009 Population and Housing Census results including those of Lagdera, Wajir East, Mandera Central, Mandera East, Turkana North, Turkana South, Turkana Central and Mandera West.

The Ministry of Justice, National Cohesion and Constitutional Affairs has not received and is not aware of any legal notice cancelling the census results of the said districts by the Minister of State for Planning, National Development and Vision 2030.

My Ministry is aware of the ruling delivered by the High Court in Miscellaneous Civil Application No.309 of 2010 delivered on 7th February, 2012---

Mrs. Noor: On a point of information, Mr. Speaker, Sir.

Mr. Speaker: Order! Mr. Assistant Minister, do you want information from Mrs. Noor?

The Assistant Minister for Justice, National Cohesion and Constitutional Affairs (Mr. Cheptumo): Mr. Speaker, Sir, I could finish answering then she could inform me later.

Mr. Speaker: Very well, the Assistant Minister declines for moment!

Proceed, Assistant Minister!

The Assistant Minister for Justice, National Cohesion and Constitutional Affairs (Mr. Cheptumo): Mr. Speaker, Sir, the case was determined and a ruling made that the decision by the Minister of State for Planning, National Development and Vision 2030 to cancel the census results of Lagdera, Wajir East, Mandera Central, Mandera East, Turkana North, Turkana South, Turkana Central and Mandera West was without any justification and was not based on any statute and as such exceeded the limited and confines of the law. That ruling quashed the decision of the Minister for Planning, National Development and Vision 2030.

Finally, the 2009 Population and Housing Census results were never nullified and the same is being used for determination and creation of the 80 new constituencies.

Dr. Khalwale: Mr. Speaker, Sir, I want to thank the Assistant Minister that finally the Ministry is coming out clearly on this matter. I also want to thank him for quoting from the ruling. If you allow me, according to the population census, Mandera Central has a population of about 340,000, Mandera East about 200,000 bringing it to about 540,000 and finally Mandera West has a population of about 300,000. The total population of the three constituencies is about 840,000. Since this Parliament must provide answers that are in the interest of all corners, could the Minister explain how the total registered number of voters in the three new constituencies of Mandera is only 76,000 if indeed the population is about 800,000? Is the Ministry and the Government convinced that the registration of only 76,000 voters reflects the actual population on the ground?

Mr. Cheptumo: Mr. Speaker, Sir, whereas I appreciate the issues raised by my good friend, the issues are within the confines of the Ministry of Planning, National Development and Vision 2030. It actually amounts to a completely different Question and my position is that the issue of the creation of the 80 constituencies and the entire process of delimitation is an issue before the Parliamentary Committee and it will be coming to this House for debate. Therefore, I pray that the issues that are going to be dealt by the wider subject be considered. The way it is now, it is not possible for me at this point in time to be able to answer that Question raised by Dr. Khalwale. It is a valid issue but I do not have the correct information to respond to it.

Dr. Khalwale: Mr. Speaker, Sir, indeed, the Assistant Minister is right that this matter is being tackled by this House. In view of the fact that it is true that there are 76,000 registered voters in three constituencies with a population of 840,000, since the Assistant Minister is not ready, could he request that he defer the Question so that he comes and convinces us that some sections in this country are not unfairly being given constituencies---

Mr. Farah: On a point of order, Mr. Speaker, Sir.

Mr. Speaker: The hon. Member for Ikolomani is on a point of order and is just executing it then you are standing in the middle of his point of order to raise a point of order!

Dr. Khalwale: Mr. Speaker, Sir, I want to make it abundantly clear to all the hon. Members from this area that I have nothing against those people but the 80 constituencies were not meant for a corner of the country. They were meant for the rest of Kenya. Indeed, Prof. Kriegler said that one of the reasons why we had post-election violence was because of representation. Could he then request that we defer the question so that we harmonize how it is possible that 76,000 people only can be registered in an area of 840,000 people.

Mr. Speaker: Order, Mr. Assistant Minister! Before you respond, I have a feeling that the hon. Member for Lagdera wants to give you information.

Mr. Farah: On a point of order, Mr. Speaker, Sir. This matter has been determined by the court and this is common knowledge. In essence, a matter that has been determined by a

court to be debated on its own merit, I think it is an infringement on that sanctified separation of powers. When a matter is within the Judiciary, we are not here to debate that. But having said that, the process of voter registration is an ongoing exercise. North Eastern Province has had a history and a tradition of only capturing voters within the urban centres themselves. This is the first time that everybody will be captured in. So, let him hold his horse and see those massive numbers that will come from all those constituencies.

Mr. Speaker: Order! The Member for Lagdera, you have not been particularly helpful, I am afraid!

(Laughter)

You know you stood on a point of order and now you are ordering the hon. Member for Ikolomani to hold his horse. Just think about it and you will find that you have a bit of a problem there!

(Mr. Farah stood up in his place)

Order!

Mr. Assistant Minister, will you, please, make a response?

Mr. Cheptumo: Mr. Speaker, Sir, this Question is very specific and very clear. The Question was and still is: "Could the Minister clarify whether or not---?"

I have clarified and said that the 2009 Census results were considered in the creation of 80 new constituencies.

Mr. Speaker, Sir, I believed that I have answered that Question satisfactorily subject to your direction. Should he require any clarification, I am prepared to answer any other Question, but I think it is not fair for us to defer this Question. This is because we have answered the Question exhaustively and I am always grateful to my brother here.

Dr. Nuh: On a point of order, Mr. Speaker, Sir.

Mr. Speaker: What is it, the Member for Bura?

Dr. Nuh: Mr. Speaker, Sir, Part 15 of Standing Order No.43 says:-

"A Question shall not refer to proceedings of a Select Committee before that Committee has made its report to the House."

Mr. Speaker, Sir, the Assistant Minister has said that this is an issue that is pending before a Committee. So, would I be in order to request that you rule this Question out of order until such a time that the Committee has its recommendations before this House?

(Applause)

(Mr. K. Kilonzo stood up in his place)

Mr. Speaker: What is it, the Member for Mutito?

Mr. K. Kilonzo: Mr. Speaker, Sir, having listened to the answer that the Assistant Minister has given, could he tell the House why when the census were being read the substantive Minister stood and said that there were anomalies in the numbers from these districts and they needed to be investigated. What is it that was being investigated now that the Assistant Minister

has said that there was no problem and the census results were used during the demarcation of the constituencies?

Mr. Cheptumo: Mr. Speaker, Sir, I am not aware that the Minister made those kind of remarks. So, I might not respond to that. All I would like to say---

(Mr. K. Kilonzo stood up in his place)

Mr. Speaker: What is it the Member for Mutito?

Mr. K. Kilonzo: Mr. Speaker, Sir, in view of the fact that the Assistant Minister has said that he is now aware that his own Minister made a press release and said that these areas were to be investigated, would I be in order to ask for this matter to be deferred until I bring proof that his Minister did give that information to Kenyans?

(Mr. Farah stood up in his place)

Mr. Speaker: What is it the Member for Lagdera?

Mr. Farah: Mr. Speaker, Sir, I rose on a point of order and I want you to give us the direction on this. My point of order is that the nullification of those census results was contested in court and the matter was determined by court. Once a matter has been determined by the court, can we still talk about whether that population census is valid or not? The court said it is valid. So, the validity of those numbers is not a matter that can come for debate today. That was my point of order although I gave him an added advantage.

(Loud consultations)

Mr. Speaker: Order! Order, hon. Members! Up to where we are, I am satisfied that, in fact, we have proceeded properly. The Member for Ikolomani asked in this Question – and it is very clear; it is simple and straightforward as I see it:-

“Could the Minister clarify whether or not the determination and creation of 80 new constituencies before the 2012 General Elections will take into account the 2009 census results, which were nullified in eight districts in Northern Kenya?”

That is the Question. It is straightforward! The Assistant Minister has answered and said that they will take into account the results of the 2009 census!

(Applause)

So, I do not see any deviation whatsoever and as far as I am concerned, up to where we are unless there are other supplementary questions that want to ventilate this matter further, the Assistant Minister has satisfied me that he has answered the Question.

Yes, the Member for Imenti Central!

Mr. Imanyara: Mr. Speaker, Sir, I am just concerned that the issue that was raised by Dr. Khalwale has not been addressed. That arose directly out of the Assistant Minister’s own answer to the supplementary Question when he said that he is unable to answer that part of the question by Dr. Khalwale. Dr. Khalwale then asked: “Under those circumstances, would it be proper to have the matter deferred?”

Mr. Speaker, Sir, that issue has not been dealt with and I think it was raised on a point order and it needs to be addressed.

Mr. Speaker: Indeed, yes. I can deal with that! But let me hear if there is another question from the Member for Budalangi.

Mr. Namwamba: Thank you, Mr. Speaker, Sir. It is common knowledge and this knowledge is in the public domain that the Government did take a position on this particular census and that position was made public through the Minister for Planning, National Development and Vision 2030.

Mr. Speaker, Sir, indeed, when this matter went to court, it was on the basis of that official Government position which had questioned the validity of the census results in the affected districts. My question, therefore, would be whether the Government – with the public aware of the position you had taken on this matter – has any plans to appeal this decision?

Mr. Cheptumo: Thank you, Mr. Speaker, Sir. I am not aware of any decision to appeal against this decision.

Mr. Speaker: Order! Order, hon. Members! I will further direct as follows. With respect to the concerns raised by the Member for Ikolomani as to consistency between the total population against the number of registered voters, I will defer that part for the Assistant Minister to come and respond to it. I will defer that part alone. Is it okay? It is for good reason Mr. Assistant Minister and I think you must comply. As and when you are ready, we will put the Question back on the Order Paper for you to respond to that aspect alone!

Mr. Cheptumo: Thank you, Mr. Speaker, Sir. With your direction, that aspect would truly be dealt with more efficiently by the Ministry of Planning, National Development and Vision 2030 because the issues touching on populations and all that would be dealt with more critically and clearly by the Minister for Planning, National Development and Vision 2030.

Mr. Speaker: Order, Mr. Assistant Minister! You must be aware that there is a doctrine called “collective responsibility”. Whatever information you do not have, endeavour to get it from the relevant Minister. I have deferred this Question for you to deal with just one aspect; the proportionality of registered number of voters against the total population. That is all you will speak to and I do know that the matter pertaining to voters’ roll is squarely within your Ministry! So, it is legitimate to defer it for you to deal with that and it is so directed!

(Dr. Khalwale stood up in his place)

Mr. Speaker: Order, the Member for Ikolomani! That matter will rest there. As soon as the Assistant Minister is ready, we will put this matter again on the Order Paper!

MURDER OF MR. C.A. OPIYO

(Mr. Ochieng) to ask the Minister for State for Provincial Administration and Internal Security:-

(a) Under what circumstances was Mr. Clement Atiang’ Opiyo, a former teacher and a husband to the Chief of Agoro West location in Nyakach, killed at his home on or about 23.11.2011?

(b) Have any suspect(s) been arrested in relation with the murder and, if not, why?

(c) What measures has the Minister taken to ensure that security is enhanced in the location and its environs?

Mr. Speaker: Hon. Members, the hon. Member for Nyakach is away on official parliamentary business and we will defer this Question to 21st February, 2012, at 2.30 p.m.

(Question deferred)

Dr. Khalwale: On a point of order, Mr. Speaker, Sir. I thank you for your ruling and I agree with it. But it looks like the directive borders on being open ended to the extent that the Minister can very well choose not to come until the parliamentary Committee is through with the exercise.

Mr. Speaker: Order, the Member for Ikolomani! Indeed, I have taken care of that. I have said that as soon as the Assistant Minister is ready with information, we will put this Question again on the Order Paper, and it is expected that the Assistant Minister will do so within a reasonable time! The Assistant Minister is a practicing lawyer as much as I am. When you defer a Question to the earliest opportunity, it must be done within a reasonable time. In parliamentary parlance that means that within 14 days or so, the Assistant Minister must give us an indication! Maybe you need to engage the Member for Imenti Central and he will tell you things like *ejusdem generis*. You will then understand what I was doing!

(Laughter)

Yes, the Member for Makueni!

ORAL ANSWERS TO QUESTIONS

Question No.1232

DISMISSAL OF CONSTABLE G.K. MBINDA
FROM POLICE FORCE

Mr. Kiilu asked the Minister of State for Provincial Administration and Internal Security:-

- (a) under what circumstances Police Constable Gerald Kioko Mbinda (P/F No. 54962) was dismissed from the Force on 30th April, 2009; and,
- (b) whether he could consider reinstating him.

Mr. Kiilu: However, Mr. Speaker, Sir, you will realise that this Question has appeared here several times and what was pending was for the Minister to acknowledge that there was a court ruling on this matter. We have now discussed with the Minister and something fruitful is coming up. Under the circumstances, I would wish that we be allowed to conclude this matter with the Ministry.

Mr. Speaker: Very well! Under those circumstances I will defer the Question infinitely. As and if need be, we will then revisit it. Otherwise, it is deferred infinitely; it will not come back unless there is need for it!

Mr. Minister, please, note that!

(Question deferred)

Yes, the Member for Samburu East!

Question No.1191

CRITERIA USED BY JLTB TO AWARD LOANS
TO SMALL-SCALE TRADERS

Mr. Letimalo asked the Minister for Trade:-

(a) what criteria is used by the Joint Loans Trade Board to award loans to small scale traders;

(b) whether he could provide details of individual traders/groups who have benefited from such loans in Samburu East District since 2008, including their names and locations; and,

(c) what alternative consideration is given to applicants without such collateral as title deeds.

The Minister for Trade (Mr. Mwakwere): Mr. Speaker, Sir, I beg to reply.

(a) The criteria used for awarding loans to small-scale traders under the trade development Joint Loan Board Scheme are as follows. The applicant must:-

1. be a small-scale trader;
2. be aged 18 years or above;
3. be a Kenyan by citizenship;
4. be operating a licensed business;
5. have operated the business for at least six months;
6. have security or collateral for the loan;
7. be operating in a lockable business premises; that is not operating in the open air;
8. The applicant must be keeping simple books of accounts for the business that the applicant has started.
9. The applicant must give an undertaking that he or she would devote his or her full time to the business.
10. He/she must complete a loan application form GP 220 as revised in the year 2010.

(b) Since 2008, Samburu Trade Development Loans Board at Samburu East has disbursed Kshs1.8 million to 34 small scale traders in Samburu East District. The detailed list of the beneficiaries, including the names and loan received is hereby tabled. I could read the whole list, but---

Mr. Speaker: Just table the list.

*(Mr. Mwakwere laid the document
on the Table)*

(c) In the absence of a title deed, an alternative collateral consideration for one's application is given so long as one can use such collateral as a letter of allotment for plots with an undertaking from the local council signed by the Clerk of the Council. Two, produce a share certificate for firms performing well in the stock exchange whose surrender value must be more

than twice the loan being applied for. Three, produce a life insurance policy whose surrender value must be more than twice the loan applied for.

These conditions can also be fulfilled if there is a guarantor who meets the same conditions.

Mr. Letimalo: Mr. Speaker, Sir, I want to thank the Minister for that detailed answer. There are 12 locations in Samburu East District. If you look at the answer that he has given, you will find that only two locations out of 12 where applicants have benefited from this loan. I believe that this is attributed to the fact that we do not have a District Trade Development Officer in that district. What will he do to ensure that those small scale trades interested also benefit from this kind of loan, so that we avoid a scenario where only two locations from the entire district benefit from it?

Mr. Mwakwere: Mr. Speaker, Sir, funds are sent to districts and not locations. It is up to the local leaders, including the Committee that is in place, to inform their people in locations to take interest in trade. It is a question of those who are interested in doing business. The idea here is to give encouragements to both micro and small entrepreneurs to develop their trading skills. As I said, we do not send funds to locations, but to districts. However, distribution of those funds to locations rest in the hands of the Committee and the leaders.

Mr. Njuguna: Mr. Speaker, Sir, acknowledging the good answer given by the Minister, could he inform the House which efforts have been taken by the Ministry to improve loan capacity, so that the youth in the country could access these loans and engage in self employment activities?

Mr. Mwakwere: Mr. Speaker, Sir, that is a very important side question. It is worth noting that this scheme was started way back in 1954 during the colonial days. In most districts in the country, it has fully matured because the arrangement was under the same district that we are considering today.

We have the involvement of three councillors-----

(Loud consultations)

Mr. Speaker, Sir, I cannot even hear myself.

Mr. Speaker: Order, hon. Members! Our rules still apply that if you want to confer with any Member, please, do it conveniently!

Mr. Mwakwere: Mr. Speaker, Sir, as I was saying this scheme was started way back in 1954. In most districts in the country, it has fully matured. We have a record of those who have borrowed since 1962. We have taken every effort to ensure that, it is popularised through local councils, because in every Board there are three councillors who sit as members of a District Joint Loans Board. We took it that through the involvement of councillors, then words spread to wards and locations for the budding entrepreneurs to take advantage of this loan facility.

Mr. Yakub: Mr. Speaker, Sir, there is an element of misinformation on this loan, does it attract interest or not? If there is an interest charged, how much do they charge?

Mr. Mwakwere: Mr. Speaker, Sir, there is a nominal interest charged. However, it is adjusted by the Ministry from time to time looking at the general financial trend in the country. Right now, we are charging an interest not exceeding 12 per cent. In fact, we fixed it at 12 per cent. It will remain so, until reviewed.

Mr. Wambugu: Mr. Speaker, Sir, this loan facility, like you might have heard from the Minister, is being administered by councillors. In fact, it has been used as a political tool to

punish those people who do not support these particular councillors who are actually administering it. What remedial measures will he put in place to make sure that this facility is available to all persons regardless of whether they support those particular councillors or not?

Mr. Mwakwere: Mr. Speaker, Sir, we can make changes, but I would like to refer my colleagues to the Local Government Act, Cap.265, Section 104 to Section 106. What I have said is the law. That is the process we are following. But Parliament could make changes as the need arises.

Nonetheless, the Board is not just comprised of councillors only. In fact, the Chairman is not a councillor. There are two other members. One of them is a lady. The other member is a man. These two members are not politicians or councillors. So, the disbursement is done very fairly. It is not politically motivated. The Ministry does not identify the councillors, but it is the council itself which identifies the three councillors. All we do is to gazette them based on the county's decision.

Mr. Chanzu: Mr. Speaker, Sir, with regard to the third part of the question, the Minister has given three alternative ways of securing the loans. Could he consider working out a mechanism where either the merchandize or stocks that are being traded in be used for additional loaning in these circumstances?

Mr. Mwakwere: Mr. Speaker, Sir, yes, that could be considered. However, there will be several requirements to be fulfilled, so that in the event of one defaulting in servicing the loan, then the merchandize so identified, would help us recover these revolving funds.

Mr. Letimalo: Mr. Speaker, Sir, the Minister tabled the list and if you look at it, the amount allocated or awarded to the beneficiaries is between Kshs50,000 and Kshs100,000, which I consider to be too little to boost the business of these small scale traders. Now, could the Minister inform the House of the highest amount that a loanee can possibly get? Does he intend to increase the minimum amount from Kshs50,000, considering the current high cost of living?

Mr. Mwakwere: Mr. Speaker, Sir, the amount loaned out ranges from Kshs20,000 to Kshs100,000; the whole objective here is to assist young, micro and small entrepreneurs. When I talk of a micro entrepreneur, I am considering somebody whose annual turnover does not exceed Kshs500,000 and has less than three employees. Essentially, we just assist people to take off; when they reach higher level and they can have their own collateral, they go to commercial banks to borrow big amounts of money and continue contributing to the country's economy. The objective of these loans is just to get micro and small enterprises take off the ground and become financially capable of going for bigger loans from commercial banks or other lenders.

Mr. Speaker: Next Question by Mr. Olago!

Question No.1372

REASONS FOR NON-PAYMENT OF COMPENSATION
TO LANDOWNERS IN OBUNGA

Mr. Olago asked the Minister for Lands:-

(a) why the Ministry has failed to pay the agreed compensatory awards to land owners whose parcels of land were acquired in Obunga, Kasule, Kondele and Makasembo areas for the construction of Kisumu by-pass-Kericho, Mau Summit Road, despite the gazettment of the same vide Kenya Gazette Notice No.8754 of 23rd July, 2010;

(b) whether the Minister could consider factoring in accumulated interest when effecting payments, in view of the inordinate delay after assessment and compensatory awards were agreed; and,

(c) when the land owners will be paid.

The Assistant Minister for Lands (Mr. Bifwoli): Mr. Speaker, Sir, I beg to reply.

(a) Compensation awards for the land acquired in Obunga, Kasule, Kondele and Makasembo for the construction of Kisumu bypass, Kericho-Mau Summit Road is supposed to be done by the Director-General of Kenya National Highways Authority (KeNHA) and the Ministry of Roads. The schedule of payment was forwarded on 24th February, 2011.

(b) No provision for payment of interest is provided for in the Land Acquisition Act, Cap.295, Laws of Kenya before taking possession of land. In the case of Kisumu bypass, Kericho-Mau Summit Road, the Government has not taken possession of the land.

(c) In the circumstances of (a) above, I am liaising with the Ministry of Roads to expedite the payment.

Mr. Olago: Mr. Speaker, Sir, I am disappointed by this answer by the honourable Assistant Minister, because the notices of acquisition and valuations were done by the Ministry of Lands and not the Ministry of Roads. It is the Ministry of Lands that has the right under the law to acquire, value land and pay compensation. Where they get the money is not the issue of the people who own the land. On the second of this month, His Excellency the President launched the construction of this road, and the owners of this land were up in arms. They wanted to demonstrate. We had to pacify them and explain to them not to do so on the understanding that the payments were forthcoming. How can the Assistant Minister say that the payment will be effected by the Ministry of Roads, when under the law it is the Ministry of Lands that should effect the payment?

Mr. Bifwoli: Mr. Speaker, Sir, our Ministry's work was just to do the valuation. We did the valuation and informed KENHA to compensate the owners. They are the ones who are supposed to construct the road. In fact, they are the ones to buy the land.

Mr. Olago: On a point of order, Mr. Speaker, Sir. My understanding of the Land Acquisition Act is that everything under it is supposed to be implemented by the Ministry of Lands, and not by any other agency. Is it in order for the honourable Assistant Minister to say that the payment is to be made by the Ministry of Roads when he is fully aware that the responsibility is on his Ministry and not on the Ministry of Roads?

Mr. Bifwoli: Mr. Speaker, Sir, the purpose of acquiring this land was for KeNHA to construct the road. Therefore, the Ministry of Lands was not the one to compensate the land owners; the Ministry of Roads is the one that has the money to compensate the land owners. That was all.

Mr. Speaker: Order, Assistant Minister! Please, resume your seat for a moment. Mr. Assistant Minister, do I understand you to be committing yourself to the position that your Ministry has valued the various parcels of land and sent the values to the KeNHA to find the money to pay? Is that so?

Mr. Bifwoli: Mr. Speaker, Sir, you are right.

Mr. Speaker: Very well. Then hon. Olago, you have somebody to pursue for the money, and that commitment is made to Parliament, and, indeed, the entire country this afternoon. So, you know where to find the money, and you can take authority from that answer. That really must settle the matter.

Mr. Ethuro: On a point of order, Mr. Speaker, Sir. I think time and again you have asked the Executive to operate on the basis of collective responsibility. On a matter of such magnitude and of national interest, the Assistant Minister for Lands cannot just come here, and as part of the answer to this House, say that a matter is not for him but is for another entity. Are you satisfied that the Assistant Minister is taking this House seriously?

Mr. Speaker: I am satisfied and that is why I said to hon. Olago that he knows where to pursue the payment from, and he reasonably agreed. I mean, we do not have to belabour it. On this one, hon. Ethuro, leave it where it is.

Very well! That brings us to the end of Question Time; we want to move to the Next Order.

Mr. Speaker: Any statements due for delivery? The Front-Bench?

(Mr. Pesa stood up in his place)

POINTS OF ORDER

DELAY IN PAYMENT OF RETIREMENT BENEFITS TO RETIRED TEACHERS

Mr. Pesa: On a point of order, Mr. Speaker, Sir. I rise to seek a Ministerial Statement from the Minister for Finance on the delay in payment of retirement benefits to teachers who retired between 1997 and 2003. In his statement, the Minister should address the following.

(a) Why has the Kshs3.34 billion in the current financial year not been paid to the concerned retired teachers as per the Minister's promise in this House on Tuesday the 8th October 2011, while answering a similar Question?

(b) Of the 31,082 retired teachers who are due to benefit from the total amount of Kshs16.7 billion, the Minister should tell the House the number whose revised pension details have been prepared by the Teachers Service Commission and submitted to the Pensions Department for payment.

(c) Lastly, considering that the Government undertook to complete all stalled projects then referred to as "white elephants" and, indeed, factored in sufficient funds for that cause, why was the payment of the teachers who retired between 1997 and 2003 not effected until the affected teachers had to go to court?

Mr. Speaker: Where is the Minister for Finance? Is he not in? Yes, the Leader of Government Business!

The Vice-President and Minister for Home Affairs (Mr. Musyoka): Mr. Speaker, Sir, I saw hon. Njeru Githae in the House. However, in the event that he is not immediately available, may I undertake that this statement be made sometime next week?

Mr. Speaker: Shall we say Wednesday, next week?

The Vice-President and Minister for Home Affairs (Mr. Musyoka): Mr. Speaker, Sir, by Wednesday, next week.

Mr. Speaker: Wednesday morning!

Hon. Members, that brings us to the end of Order No.7.

BILL

First Reading

THE COUNTY GOVERNMENTS BILL

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

PROCEDURAL MOTION

REDUCTION OF PUBLICATION PERIOD OF BILLS

The Vice-President and Minister for Home Affairs (Mr. Musyoka): Mr. Speaker, Sir, I beg to move the following Procedural Motion. However, before doing so, I would like to join the Chair in welcoming Members back to this special session. I have no doubt in my mind that we will make the best use of this time available. Since it is also the first time that I am taking the Floor and since it is also the first time that I am meeting very many of our colleagues since the beginning of the year, allow me, Sir, to join you in wishing all of us a prosperous 2012. I think it is a year that has begun on a very high note in various spheres. You wished us well because it is an election year. I think we can all do with a bit of goodwill from the Chair.

Having said that, I beg to move the following Procedural Motion:-

That, pursuant to the provisions of Standing Order No.107, this House orders that the publication period---

(Loud consultations)

Mr. Speaker, Sir, I request that we have a bit of low consultations because this is important.

Mr. Speaker: Order, hon. Members! Order, Maj-Gen. Nkaisserry.

The Vice-President and Minister for Home Affairs (Mr. Musyoka): Thank you Mr. Speaker, Sir. My colleagues can now consult in relative silence. They even missed the point that I wished all of us the very best in this year.

Mr. Speaker: Indeed, the Member for Lugari should have benefited from the point you were making.

The Vice-President and Minister for Home Affairs (Mr. Musyoka): Yes, indeed, Mr. Speaker, Sir.

Mr. Speaker: We are wishing them well. At least, I have extended my goodwill and so are you now, as the Leader of Government Business. The Member for Lugari is a major beneficiary of that goodwill.

The Vice-President and Minister for Home Affairs (Mr. Musyoka): Yes, indeed, Mr. Speaker, Sir, yes, indeed.

I beg to move the following Procedural Motion:-

THAT, pursuant to the provisions of Standing Order No.107, this House orders that the publication period of the Intergovernmental Relations Bill, Bill No.2 of 2012 and The Transition to Devolved Governments Bill, Bill No.3 of 2012 be reduced from 14 to 11 days.

In moving this Motion, I want to urge my colleagues to agree with me that it may be prudent to drop Orders 12, 13, 14 and 15 for the simple reason that since after every First Reading of a Bill, the same stands committed to a Committee of this House.

(Applause)

Therefore, I am trying to avoid a confrontation with the Member for Gwassu, the Member for Ikolomani and the Member for Bura because I am sure that they were sharpening their knives. This is an obvious position. Therefore, I want to propose that we deal with the---

Mr. Duale: On a point of order, Mr. Speaker, Sir. Is the Leader of Government Business in order to anticipate that Members are sharpening their knives?

(Laughter)

The Vice-President and Minister for Home Affairs (Mr. Musyoka): Mr. Speaker, Sir, I live in this House. At least, I lived in it since this morning and I am sure the hon. Member for Dujis who is my neighbour at home missed out on my goodwill message to him. So, I think it is good to anticipate without necessarily anticipating debate.

On a serious note, I am saying that this House cannot act in a manner that ends up meaning that we flout its Standing Orders. Going to Order No.12 would effectively be undermining the provisions of our Standing Orders. That is why I propose that we proceed up to Standing Order No.11. It is important that we take note of the fact that we have a constitutional deadline to deal with and I think, Mr. Speaker, Sir, that this is what moved you, in your wisdom, and after consultation with His Excellency the President that you decided to convene this Special Session of the House so that we can deal with the business that is of grave national importance before 27th of this month.

Therefore, I beg to move and ask the Deputy Leader of Government Business, hon. Kimunya, seconds this Motion.

Thank you, Mr. Speaker, Sir.

The Minister for Transport (Mr. Kimunya): Mr. Speaker, Sir, as I rise to second this Motion, may I also take this opportunity to wish hon. Members a very happy and productive new year. I know that you wished us that and I want to reciprocate and confirm that I truly believe that it will be a productive year. The productivity will start with the acceleration of the Bills so that we cut off the three days and have the Bill committed to the Committee immediately and we can start the work.

With those words - I do not want to reduce on the productivity - I want to second.

(Question proposed)

Dr. Khalwale: Mr. Speaker, Sir, I wish to support the Procedural Motion. As I support it, I would like to remind the Leader of Government Business that this is not an ordinary session and he knows it. We have come here, specifically, for this kind of business and that is why we shall all go out of our way to support. However, we were not recalled so as to address important agenda in a bad way. My fears are when I looked at Order No.12, which fortunately, the Leader of Government Business has dropped for now, I realized that it started to indicate the kind of spirit in the collective mind of the Government. For the Government to imagine, ever, that we

can allow important business like this to go to the Second and Third Reading without being subjected to Departmental Committees is mischievous, deliberate and intended to ensure that this country does not get the kind of laws we want.

(Applause)

It is not lost to Kenyans that over the last three or four months, there has been a serious rift between the two arms of Government.

One DPM was saying this about this Bill while the other DPM was saying the other. This is the time we want to give an opportunity to hon. Musalia Mudavadi, the Presidential candidate and hon. Uhuru Kenyatta, the Presidential candidate to convince this country that whatever they were saying deserves our support.

Mr. Speaker, Sir, I support with those few remarks.

The Assistant Minister for Public Works (Dr. Machage): Mr. Speaker, Sir, like everybody else, I would like to support this Motion. Indeed, I would rather have said that the reduction should be from 14 to seven days, cognizance of the view that we have to pass all these Bills by 26th of this month. We may really not have enough time for the Committees to look at these Bills if we have to reduce from 14 to 11 days. It would have been quite in order if the Members so wanted, but that is my view. Let me thank the Vice-President and Minister for Home Affairs for taking notice of the mischief that was in the Procedural Motion No.12, which would have raised anarchy in the House. However, it was well intended as far as I am concerned and the issue was about limitation of the time factor. Let us discuss and pass these Bills as soon as possible or reject the ones that we think are wrong because we have no time.

I beg to support.

Mr. Ethuro: Mr. Speaker, Sir, I also rise to support this Motion. I am supporting this Motion in a qualified manner. First, it took the Speaker himself at the workshop in Mombasa to let the country know that the Executive was sleeping on the job because it had yet to petition Parliament. This House, particularly this side, heard you and we petitioned Parliament as provided for in terms of signatures from the Members. I want to thank the Members who appended their signatures. Although we did not raise enough signatures as required, we made our point. We are happy you heard us and the Executive heard us although belatedly as usual. If the Executive listened to what we had proposed; that we resume the business of the House on 7th February, this reduction would not be taking place. I am also happy the Leader of Government Business has indicated that the Orders from No.12 will be dropped. I want to confirm that it is not the three names that he talked about, but this is the position of the Back Bench. The intention of the Government to bypass a Departmental Committee of that nature, namely, the Justice and Legal Affairs Committee, can only demonstrate one thing - and we are confirming our worst fears - that the failure by the Leader of Government Business and the House Business Committee to constitute the Justice and Legal Affairs Committee was so that we do not deal with issues like devolution. If this House allowed that to happen, we would completely have been accused of being party to an Executive that is not interested in implementing this Constitution. The heart of this Constitution is devolution. For devolution not to go through the Departmental Committee is not only abusing the privilege of Parliament but also abusing the Kenyan electorate.

The Minister for Transport (Mr. Kimunya): On a point of order, Mr. Speaker, Sir. While appreciating the passion with which the Member is executing this matter, is he in order to debate a matter that is not on the Floor of this House? We are not debating Order No.12, which is

the subject of his thrust and passion. We are dealing with the reduction of the days which is a different Order. Is he in order to anticipate or even bring debate on an Order that is not before the House?

Mr. Speaker: Let me hear his response before I give directions.

Mr. Ethuro: Mr. Speaker, Sir, that is why we support you as a House. The Deputy Leader of Government Business, apparently, does not listen to his boss. The boss, namely, the Vice-President and Minister for Home Affairs and the Leader of Government Business, when proposing the Procedural Motion stated very well that he has now decided to drop those other Orders because he knew the House will be against that and I am responding to the preposition. I am completely in order.

Mr. Speaker: Very well. Proceed.

Mr. Ethuro: Mr. Speaker, Sir, more importantly, I wanted to make the point that devolution is the heart of the Constitution. The thinking as expressed by the Orders here is what we are faulting. That initial thinking, in the first place, should not have been entertained because it means, one, Parliament's role is negated and two, the Constitution which promotes public participation in whatever we do, is not adhered to. That public will not be given an opportunity to participate in these published Bills.

Having said so, I support, but I hope that next time, the Executive will learn to operate within time.

Mr. Njuguna: Mr. Speaker, Sir, I also rise to support this Motion. I wish to be heard saying that the remaining time, which is very precious must be used sparingly in order to meet the expectations of Kenyans. It has become the responsibility of the Members of this House to give due attention and energy to make sure that this Constitution is implemented as required. It is very important that Kenyans feel not let down considering the process that they underwent when we were doing the campaigns for the passing of this Constitution. Therefore, it is important that we all join hands to make sure that the remaining time is used properly and sparingly.

With those remarks, I support this Motion.

Mr. Imanyara: Mr. Speaker, Sir, for reasons the Vice-President gave when he was proposing this Bill, I support the Motion. I wish to commend him for seeing the wisdom of withdrawing Orders No.12 onwards. May I also take the opportunity to extend our goodwill from this side of the House to you, your Deputy, the Leader of Government Business and the Deputy Leader of Government Business and to express my wish that the goodwill that we are seeing today will be extended in ensuring that Bills are brought in time, published in time and there are no hidden motives in the presentation of Bills. We have a very important task to perform; that is to implement the Constitution to the fullest. The Leader of Government Business occupies a very important position, a position that cannot even be delegated to a backbencher as he purported to do just the other day. I would have expected that in the spirit of the goodwill that he is extending to the House, he would have explained the reasons why he has decided to cede some of the responsibilities of the Leader of Government Business sitting in the House Business Committee. That is an issue that we shall take up when the time comes.

For now, we are ready to sit late, extend the sittings of the House to ensure that we meet the timelines set out in the Constitution to ensure that the Constitution process meets the timelines that are set out. We have witnessed great debate between different arms of the Government, between equivalent Ministers in the Office of Deputy Prime Minister, taking positions that are worrying for a Government that is supposed to work as one collective entity and giving positions that are contradictory and therefore, providing fodder for unnecessary

public acrimony. I would urge those who sit in the Cabinet, this time round, to think and speak collectively and let Kenyans know that the Government is collectively committed to implementing the new Constitution.

I support the Motion.

Dr. Nuh: Mr. Speaker, Sir, I also want to support this Motion. I want to thank the Vice-President and Minister for Home Affairs and the Leader of Government Business for, at least, intimating that he will withdraw the Motions that were raising some emotions in this House. I want to remind the Leader of Government Business and the Executive Bench that when this House rose in December for the adjournment, the concerns that dominated the debate for adjournment was whether the Government would be in a position to meet the deadlines stipulated in the Constitution on implementation of crucial Bills that the Executive has now presented before the House. These were the same concerns you had raised when we were in a workshop in Mombasa. Luckily enough, hon. Ethuro, hon. Mbadi and I had petitioned your office and I want to extend my thanks and gratitude to all the Members of Parliament who supported us and appended their signatures on the petition. I also want to thank, most importantly, the Members of the Executive Bench, namely, Assistant Ministers and Ministers, who saw the concern of the petition and also helped us in appending their signatures, though the Government responded belatedly.

The essence of that petition was only to remind the Executive that we were delaying and that the Members of Parliament and the Back Bench specifically, would not allow to be rushed into enacting laws which are flawed. Meeting the deadlines as stipulated in the Constitution is not only a procedural matter.

We will not want, in our quest to beat deadlines that are stipulated for us to enact legislations which are in conflict. That is what will happen when Bills are not ventilated upon by the specific relevant Committees of the House.

Mr. Speaker, Sir, just as my colleagues have said, we are ready even as the backbench to lend a hand and extend Sitting Hours because this will help the nation.

(Applause)

However, I think it has now become a ritual where those who are concerned with tabling these specific relevant Bills in the House delay and would just want to hoodwink hon. Members and this House, take them for granted to be rushed into enacting legislation, which again will be flouted upon by the public and then the blame comes to this House that we did not take due diligence in enacting laws. We are not ready to take the blame! Let this blame rest where it belongs and that is the Executive Bench for delaying to meet the deadlines that are stipulated.

Upon this, I also want to urge Mr. Orenge who is concerned with the Bills that are so crucial, the Land Bills, to also follow suit and ensure that they are before this House and go through the First Reading just as has the Devolution Bill.

I also want to thank Mr. Midiwo because in our quest for asking signatures from hon. Members, he lend us a hand by sending an Short Message Service (SMS) to all hon. Members unlike his other colleague who is also entrusted with the same office for denying us the opportunity to reach to hon. Members. Hon. Members have been sent messages across by the House or the Chief Whip---

Mr. Muthama: On a point of order, Mr. Speaker, Sir. Is the hon. Member in order to say that messages were sent by my co-whip, but I did not send? What he needed was the message! Was it a must that he sends the messages and I follow suit? Is he in order?

Mr. Speaker: Order, Mr. Muthama! What you have done is ask a question. Maybe you should have asked him to substantiate otherwise then I do not find that valid and Dr. Nun, you need not respond.

Dr. Nuh: Mr. Speaker, Sir, that is a fact. Mr. Midiwo sent the SMS to ODM Members of Parliament.

Mr. Speaker: Order, Dr. Nuh! That matter must rest with my direction! Do not respond! Carry on with your quest!

Dr. Nuh: Thank you, Mr. Speaker, Sir, I abide by your guidance.

With those few remarks, I would like to, once again, call upon the Leader of Government Business to be swift and take our interventions in good light. We are not there to oppose any Government Bill, but we are there to re-direct the Executive Bench of the Government side when they flaw the regulations.

The Assistant Minister for Public Works (Mr. Kiunjuri): Mr. Speaker, Sir, I rise to support this Motion because it is important that we give the Constitution force. We, as a Parliament, have an obligation and we have to agree that time is not with us. In the next three months, most hon. Members will not be available in the House. Maybe from June, we will all take leave, not forced leave, but we have to go back to our constituencies and prepare ourselves because there are others preparing to un-sit us. Therefore, it is important that we make maximum use of the next three or four months.

Secondly, it is not only the concern of this House, but it is the concern of all Kenyans. There is anxiety out there. Kenyans have not been able to understand this Constitution fully without us enacting the relevant Acts of Parliament. That is why it is important so that even those who are now willing to go and educate Kenyans on what devolution is all about, will be properly guided. There will be a proper law that will be saying: "This is what we are following. We are not saying that Parliament might go and amend or bring another Act of Parliament." So for the first time, even the Independent Electoral and Boundaries Commission of Kenya (IEBC) and other commissions and civil societies willing to educate Kenyans will now have, at least, a firm ground to do so. So, we need that time to do so.

If we can enact all the remaining laws in the next two months or so, it will be important for the whole country and not only for hon. Members. It is good for the first time that Kenyans also approach things in an informed manner. The way we are complaining about the Executive not giving us enough time to go through these Bills, is the same thing that will happen to Kenyans when they are confronted with laws that they cannot understand or laws that they have not been educated on. I wish we could do it fast, so that the people of Laikipia can understand what the laws governing them will be. They can understand what the Senate or county representation is all about. So, it is good that we, as a House, take this matter very seriously. That is why I support this Motion.

Mr. C. Kilonzo: Mr. Speaker, Sir, allow me to wish you a happy new and, perhaps, a nice Valentine Day.

As I support this Motion, I need to bring to the attention of hon. Members to what the Constitution Article 118 says. It says:

“Parliament shall conduct its business in an open manner and its sittings and those of the Committees shall be in public. (b) Parliament shall facilitate public participation and involvement in the legislative and other business of Parliament and its Committees.”

What we have done today effectively if we adopt this Motion, automatically, we will deny public participation. The same Government has been accusing Parliament of making bad laws. The same Government through the Minister for Justice, National Cohesion and Constitutional Affairs, only yesterday, said that out of the laws that we have made, we have made 100 errors. So, what I want to plead with the Government is to put its house in order. The whole of January, hon. Members had offered themselves; they were available. It took few hon. Members to talk to Mr. Speaker for him to take it upon himself. I wish to plead with the Government that today we are soft, but tomorrow we will be very reluctant. If we do not utilize the time we have, there will be very little support coming from the back bench.

With those few remarks, I beg to support.

Mr. Samoei: Mr. Speaker, Sir, I thank you for according me the opportunity to make my contribution on these two Bills which are very important in the implementation of the new Constitution.

Both The Intergovernmental Relations Bill and The Devolved Governments Bill are significant in that it will create the necessary platform for the people of Kenya to do the most important thing that made us look for a new Constitution.

One, development initiatives must be anchored on locally developed priorities. Secondly, accountability must be based to a great extent on public participation or direct public audit at the grassroots level.

Mr. Speaker, Sir, the Devolved Government Bill creates the framework for the participation of the people of Kenya in not only growing our economy, but this will also give a platform for millions of Kenyans who currently are locked out from participating in the economy of our country, to mainstream their participation, input and contribution in driving the economy of our country.

Mr. Speaker, Sir, the reduction of the publication period from 14 to 11 days is welcome because as has been said by other hon. Members, the people of Kenya have been waiting in great anticipation for the coming into being of these Bills, so that we can begin to prepare ourselves for devolution, devolved governments and the benefits that will accrue from that exercise.

Mr. Speaker, Sir, it is important that this House plays its rightful role. We have seen the contradictions in both the Elections and Political Parties Acts. There are very serious contradictions that were occasioned by the rushing of those Bills through this House and the fact that the Committee stage was avoided. It is important that the Government takes advantage of the structures of this House, including the relevant Committees of this House, so that the Committees, on behalf of the House, can scrutinize legislation to make sure that they are in order, tandem and in sync with every other legislation, so that we can discharge our responsibility to the people of Kenya by ensuring that there are good laws for the governance of our country.

Mr. Speaker, Sir, without much ado, I want to lend my support and say that this is timely and the way to go. We are looking forward to these Bills. We should note that some amendments have been made on the draft Bill and what the taskforce recommended, especially the participation of the public in the governance structures of the devolved units. We will go through the articles and clauses of this Bill with a toothcomb, so that we ensure that it complies with the

new Constitution and ensures that public participation is at the centre of the governance of our country.

Mr. Speaker, Sir, I beg to support.

Mr. Mbadi: Mr. Speaker, Sir, I also rise to support this Motion. But I want to remind this House and country that the Constitutional Implementation Oversight Committee (CIOC) on a number of occasions has asked the Executive, which had 18 months, to prepare these very important Bills and present them to Parliament in vain. Absolutely, there was no reason the Government had to wait until the last minute to rush these laws into this House.

Mr. Speaker, Sir, many times this House asks the Leader of Government Business, on Thursdays when he reads the order of business for the following week, to tell us the status of these particular Bills. The Executive for some reason decided to keep these Bills until the last minute. We want to give a warning to the Executive that this hide and seek must stop. The Back Bench is sending a very strong message to the Executive that we are not going to be used as rubberstamps. It is not going to be business as usual and if you dare us again, the way you did dare us by listing these Orders up to number 15, we will show you that we are not going to be party to rushing Bills in this House. I would ask the Executive to show commitment to the implementation of this Constitution. I have a feeling that there is a significant percentage of the Executive that is not committed to implementation of this Constitution. But we want to ask that we are not doing this to please you, but for the people of Kenya who gave themselves this Constitution. You have no choice but to co-operate, otherwise, you are not going to find a friendly Parliament.

Mr. Speaker, Sir, I beg to support.

The Minister for Medical Services (Prof. Anyang'-Nyong'o): Mr. Speaker, Sir, I also rise to support this Motion. I want to thank my colleagues, the Backbenchers, for supporting this Motion.

Mr. Speaker, Sir, in contributing to my support, I want to reassure the hon. Members that the Government had no intention whatsoever of bringing these Bills to Parliament as a last-minute strategy. As the Deputy Prime Minister and Minister for Local Government will be saying when the Bills are substantially debated, the process of originating these Bills, given that devolution is a new thing in Kenya, has been a long consultative process and the Cabinet has, indeed, taken its time to make sure that the Bills come into the House on this important issue, given that their trial will meet the standards of details and consonance with the Constitution of the Republic of Kenya that the hon. Members have asked for this afternoon. I, therefore, beseech hon. Members to debate not just this Motion reducing the number of days from 14 to 11 days, but I look forward to a very constructive discussion of the Bills. As hon. Samoei has said, they will comb it with a toothcomb; please, also use a hair-comb if you can to make sure that no non-line is left unattended to.

Mr. Speaker, Sir, having said that, again in supporting this Motion, let me assure hon. Mbadi, the Member for Gwasi, that the Government has no intention whatsoever in using the Backbenchers as rubberstamps. On the contrary, the Government will appreciate it if Members of Parliament turned themselves into rubber tyres on which the people of Kenya will ride into devolved government having discussed thoroughly these Bills, and relying on the sound strength of these rubber tyres which will bear this nation to success.

Mr. Speaker, Sir, with those few remarks, I beg to support.

The Assistant Minister, Ministry of Higher Education, Science and Technology (Dr. Mwiria): Thank you, Mr. Speaker, Sir, for giving me the opportunity to supporting this Motion.

Mr. Speaker, Sir, from the outset, I would like to say that for us to use the coming 11 days effectively, we need to forget a lot of other side shows. In the last few weeks, we spent too much time politicking about the International Criminal Court (ICC), Presidential campaigns and campaigns for governors and senators, and not on the business that we should be involved. So, I would just like to call upon Members of Parliament to appreciate that we have to give in a bit of time to this and concentrate our most important business in the next 11 or 12 days and the weeks to come on the actual business of the House, so that we can pass Bills that will make it possible for those that want to be Presidents to be even better Presidents, because the climate will have been set. We should forget too much politics for the time being and focus on this business if we are going to be able to pass the Bills in the manner in which we would like to see them enacted.

Mr. Speaker, Sir, I beg to support.

Mr. Ruto: Mr. Speaker, Sir, I reluctantly want to support this particular Motion.

Mr. Speaker, Sir, I want to draw the attention of the Government that it is true that according to Article 261 Parliament shall enact any legislation required by the Constitution to be enacted to govern a particular matter within the period specified in the Fifth Schedule. But the same Constitution requires that the Attorney-General, in consultation with the Commission on the Implementation of the Constitution (CIC) shall prepare the relevant Bills for tabling before Parliament, as soon as reasonably practicable, to enact the legislation within the specified period.

Mr. Speaker, Sir, have the Attorney-General and the Committee on Implementation of the Constitution (CIC) published or prepared the Bills within reasonable time? This was quite clear to the Government from the day we passed the Constitution. They are now bringing to Parliament a Bill to be passed within six days. They are telling us that we have to pass the Bill within those six days, otherwise we will be impeding the implementation of the Constitution. Is this reasonable? The same Constitution we want to implement requires that we operate within its principles. It says that there should be public participation at all stages. Is Parliament satisfied that, given the stage at which we are now, the public can petition Parliament and point out to us certain inconsistencies in this Bill?

Parliamentary Committees are now being told that they cannot participate, or we cannot take time off to scrutinise the Bills; we can only come here and debate the Bills in a disjointed manner just because the Government wants to continue sleeping on its job. Is it fair for the Government to give Kenyans Bills of poor quality? The Government refused to bring the Bills to Parliament for Parliament to play its role of scrutinising them. I do not know whether this Government will want to seek re-election in the next six months on the basis that it will be sleeping on its job, and when they realise that there is a deadline to be beaten, they rush to Parliament. They pack all their cars within Parliament Buildings until there is nowhere to pass.

Mr. Speaker, Sir, I am sure that hon. Orenge will agree with me that this is not the best way to implement the Constitution. We have hardly eight months to go before the elections, although they also want to keep the election date as a secret weapon. No matter how things change, they remain the same. Only the other day, these same people were lambasting former President Moi for saying that the election date was a secret weapon. It is now being used as a secret weapon again. The Leader of Government Business should tell us what this is all about.

Nevertheless, we will burn the midnight oil. We will not allow you to conspire in your boardrooms and make us pass half-baked Bills. We will stay awake all nights and try to do our best. However, we want to warn you that this is the last time we are going to allow you to indulge in this kind of laziness.

With those remarks, I beg to reluctantly support the Motion.

The Assistant Minister for Forestry and Wildlife (Mr. Nanok): Mr. Speaker, Sir, I also want to join my colleagues in supporting the reduction of the publication days for the two Bills from 14 days to 11 days.

For the last two years, if there are Bills that have gone through intensive public participation and dissemination of information on them they are these particular devolution Bills. Even as Members of Parliament, we have been able to contribute to these Bills in informal fora. So, the reduction of the publication period does not mean that the contents of the Bills have changed. The only thing that I can urge my colleagues on, particularly those who will be moving debate on these Bills, is to allow the organs of this House to take one last step and scrutinise these Bills, because every person in this country is watching the legislative process on these Bills.

Mr. Speaker, Sir, if one makes a single mistake in devolution, particularly in relation to the areas that have been marginalised in this country for so many times, that will be critical. These are the critical Bills that we are going to be inducted on. So, I would urge that the Departmental Committee be given the opportunity to scrutinise these Bills. If it becomes necessary that we work 24 hours and seven days, so that we meet the deadlines, we are ready and willing to put extra time and effort, so that the Bills that this House will enact can be Bills that will be acceptable to not only this House but also to the people of the Republic of Kenya. We will also ensure that they do not have many errors as was pointed out with regard to other pieces of legislation that this House passed in the past.

With those remarks, I beg to support.

Mr. Speaker: Order, hon. Members! Hon. Members, it is my feeling that we have had the diversity of the House, and we can sense the mood of the House. Therefore, I now want to put the Question.

(Question put and agreed to)

BILLS

First Readings

THE INTERGOVERNMENTAL RELATIONS BILL

THE TRANSITION TO DEVOLVED GOVERNMENTS BILL

*(Orders for First Readings read – Read the First Time –
Ordered to be read the Second Time tomorrow by leave of the House)*

Mr. Speaker: Next Order!

(The Clerk of the National Assembly consulted the Speaker)

Hon. Members, we want to hear the Leader of Government Business with respect to Order No.12. The Clerk of the National Assembly is asking me to do what the Speaker does not do. I do not act on my own Motion, unless the law dictates so.

The Minister for Transport (Mr. Kimunya): Mr. Speaker, Sir, I would like to propose that Order Nos.12, 13, 14 and 15 be withdrawn from the Order Paper because the intention of having Order No.12 was obviously to accelerate the debate and have the Second Reading on The County Governments Bill begin today as it has been looked at in the Committee. However, given the mood of the House, we should do things as we have always done them, that is have those Bills that have already been committed to the Committee go to the Committee. We will come back to the House at the earliest opportunity to start the Second Readings of these Bills, now that they are already with the Committee. This is a matter that will be determined this afternoon at the rise of the House, by the House Business Committee. As of now, the proposal is to have Order Nos.12, 13, 14 and 15 withdrawn from the Order Paper.

Mr. Speaker: Hon. Members, in the light of what the Deputy Leader of Government Business has said, I direct that business at Order Nos.12-15 stands withdrawn.

(Bills withdrawn)

ADJOURNMENT

Mr. Speaker: Hon. Members, that brings us to the end of business for today. Therefore, the House stands adjourned until tomorrow, Wednesday, 15th February, 2012, at 9.00 a.m.

The House rose at 4.25 p.m.