

NATIONAL ASSEMBLY

OFFICIAL REPORT

Wednesday, 28th November 2018

The House met at 2.30 p.m.

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

PRAYERS

Hon. Speaker: The Chairperson of the Departmental Committee on Special Funds Accounts Committee on the accounts of some county.

PAPERS LAID

Hon. Geoffrey Omuse (Teso South, ODM): Hon. Speaker, I beg to lay the following Paper on the Table of the House:

Reports of the Special Funds Accounts Committee on the Third Report of the Audited Financial Statements...

(Loud consultations)

Hon. Speaker: Order Members, the Member for Teso South shall be heard in silence. Proceed, Hon. Omuse.

Hon. Geoffrey Omuse (Teso South, ODM): Thank you, Hon. Speaker. I beg to lay the following Paper on the Table of the House.

Reports of the Special Funds Accounts Committee on:

i) The Third Report on Audited Financial Statements for the National Government Constituencies Development Fund for constituencies in Kisumu County for the Financial Years 2013/2014, 2014/2015 and 2015/2016.

ii) Regional Public Financial Management Training for improved budget oversight and accountability held in Accra, Ghana, from 22nd to 26th October 2018.

Thank you, Hon. Speaker.

Hon. Speaker: Very well, the Chairperson, Departmental Committee on Trade, Industry and Cooperatives, Hon. Mlolwa.

Hon. Jones Mlolwa (Voi, ODM): Hon. Speaker, I beg to lay the following Paper on the Table of the House:

Report of the Departmental Committee on Trade, Industry and Cooperatives on the SACCO Societies (Amendment) Bill, (National Assembly Bill No.18 of 2018).

Thank you.

Hon. Speaker: Very well, next Order.

NOTICES OF MOTION

REPORT ON NATIONAL GOVERNMENT CONSTITUENCIES DEVELOPMENT FUND FOR
CONSTITUENCIES IN KISUMU COUNTY

Hon. Geoffrey Omuse (Teso South, ODM): Hon. Speaker, I beg to give notice of the following Motion:

THAT, this House adopts the Third Report of the Special Funds Accounts Committee on Audited Financial Statements for the National Government Constituencies Development Fund for constituencies in Kisumu County for the Financial Years 2013/2014, 2014/2015 and 2015/2016, laid on the Table of the House on Wednesday, 28th November 2018.

Hon. Speaker: Very well. Next Order.

QUESTION BY PRIVATE NOTICE

Question No.267/2018

REVIEW OF THE QUANTITY OF MAIZE TO BE PURCHASED FROM FARMERS

Hon. Alfred Keter (Nandi Hills, JP): Thank you, Hon. Speaker. I wish to ask a Question by Private Notice to the Cabinet Secretary for Agriculture, Livestock, Fisheries and Irrigation:

(a) Can the Ministry confirm whether the National Cereals and Produce Board (NCPB) exhausted the maize stocks harvested in the year 2017?

(b) What plans does the Ministry have to cushion farmers against losses due to the increased cost of production in the year 2018 as a result of imposition of VAT on agricultural chemicals and fuel, noting that the recently approved price for purchasing 2,000,000 bags of maize from farmers was set at a price of Kshs2,300 per bag?

(c) Could the Ministry consider reviewing the quantity of maize to be purchased from farmers to 3,000,000 bags at a price of Kshs3,600 per bag, considering that maize farming is their only source of livelihood?

Hon. Speaker, I want to seek your guidance again on the same issue. This is a matter that is before Parliament. I sat in the Departmental Committee on Agriculture and Livestock as a friend of the Committee where the Chairperson of the Strategic Food Reserve Oversight Board, Dr. Noah Wekesa, was present. I remember the Committee recommended that the board should review the figure of Kshs2,300, but I was surprised to see the Cabinet coming up with a decision to have Kshs2,300 instead of Kshs3,600.

Hon. Speaker: Hon. Keter, it looks like you did not have to ask the Question. You seem to have the answer. You seem to be aware. Why then bring the Question? If you look at the rules of the House, you cannot, for example, ask anybody what Section 46 of the Traffic Act Cap. 403 says. You know that it deals with causing death by dangerous driving and because you are expected to know, you can always get that by reading the Act. The rule of the House is such that you cannot ask a Question if you have the answer. Now, you are the one who knows this and you are the one asking the Question. Are you suggesting that even as the Cabinet Secretary is coming, you already have the answer?

Hon. Alfred Keter (Nandi Hills, JP): Thank you, Hon. Speaker. I stick to my Question that the Cabinet Secretary should review the quantity of maize to be purchased from the farmers to 3,000,000 bags and at a price of Kshs3,600 per bag. Thank you, Hon. Speaker.

Hon. Speaker: Very well, since the Question is by Private Notice and I approved it on the basis that you indicated the urgency, let the Question be prioritised by the Committee for the Cabinet Secretary. This requires an answer within three days. So, let this be on Tuesday. Chairperson, Departmental Committee on Agriculture and Livestock, Hon. Haji Aden, so be it accordingly ordered.

Next Question is by the Member for Borabu Constituency.

Why is it that the equipment is adverse to your height?

ORDINARY QUESTIONS

Question No.204/2018

Non-Maintenance of RODI KOPANY-KARUNGU-SORI ROAD

Hon. Ben Momanyi (Borabu, WDM-K): Thank you, Hon. Speaker. It appears there was a mix-up. This Question is not mine. I had requested for a statement, but not this one. I have since established that it is meant for the Leader of the Minority Party.

Hon. Speaker: Vey well, Hon. John Mbadi.

Hon. John Mbadi (Suba South, ODM): Hon. Speaker, this Question, which was assigned to the Member for Borabu Constituency... I had two Questions, one touching on...

Hon. Speaker: Order, Members! Please. There is nothing new happening today other than all that you know. So, why do we not just transact business in the normal way?

Hon. John Mbadi (Suba South, ODM): Hon. Speaker, although this Question was assigned to the Member for Borabu Constituency, I had two Questions and one is identical to the one assigned to the Member for Borabu, who has declined. If you could allow me to ask this Question...

Hon. Speaker: No! He does not have a Question.

Hon. John Mbadi (Suba South, ODM): He says he does not know the origin of this Question and yet I had a Question similar to his. So, there is a mix-up. Just allow me to ask it and not the Member for Borabu Constituency.

Hon. Speaker: The best thing is to defer it. Let the Secretariat in Room 8 sort out who it is that had the Question. Is it you who had asked this on the same substance?

Hon. John Mbadi (Suba South, ODM): Yes.

Hon. Speaker: Have you already asked it?

Hon. John Mbadi (Suba South, ODM): No, Hon. Speaker.

Hon. Speaker: Then we can allocate this to you. It is just to direct that this Question be asked by the Member for Suna North, unless somebody else wants to claim it. Member for Ndhiwa, we have to defer this Question so that it is given to the correct Questioner.

We defer it to tomorrow.

(Question deferred)

Let us get the Member for Homa Bay. Sorry today he has an interesting attire. Hon. Kaluma.

Hon. Peter Kaluma (Homa Bay Town, ODM): My female colleagues have requested that I confirm my love for them.

Hon. Speaker: Sorry, there appears to be some difficulties on this one. Can you take the next microphone?

Hon. Peter Kaluma (Homa Bay Town, ODM): Thank you, Hon. Speaker. I am pleading for the place of the female gender in the country. It is for this reason that my female colleagues have requested me to bandage my head today. That is an important day for them.

Question No.219/2018

ELEVATION OF TOM MBOYA COLLEGE TO UNIVERSITY

Hon. Peter Kaluma (Homa Bay Town, ODM): Hon. Speaker, the Question I have relates to the establishment of a university in Homa Bay County as required by the University Act. It is directed to the Cabinet Secretary for Education.

What steps and measures is the national Government undertaking to grant Tom Mboya College a charter and further elevating it to a full university as per the University Act requirements?

Thank you, Hon. Speaker

Hon. Speaker: Very well, it is referred to the Departmental Committee on Education and Research. Next Question is by the Member for Konoin, Hon. Brighton Yegon.

Question No.223/2018

COMPENSATION FOR VICTIMS OF 2007/2008 POST ELECTION VIOLENCE

Hon. Leonard Yegon (Konoin, JP): Thank you, Hon. Speaker. I rise to ask Question No.223/2018 to the Cabinet Secretary for Interior and Coordination of National Government.

(a) Is the Cabinet Secretary aware that people in Konoin Constituency were affected by the 2007-2008 Post Election Violence (PEV), in particular public officers serving in the constituency, and that the effect of the violence has never been addressed?

(b) What measures is the Ministry putting in place to compensate the public servants who lost their properties during the said violence, namely, chiefs of Kaptien, Boito, Mosonik and Simoti locations whose houses were burnt, and assistant chiefs for Chepkochun, Saseta and Simoti locations whose shops and/or houses were burnt; and retired Chief of Chemelet Location, whose cattle were slaughtered?

(Hon. John Mose stood in the gangways)

Hon. Speaker: Order Members, including Hon. Mose and the Hon. lady in a *buibui*. Look at Standing Order No.103. Hon. Yegon is on the Floor and you cannot stand anywhere between him and I. If you do so, you must bend or go behind him.

The Question is referred to the Departmental Committee on Administration and National Security. The next Question is by the Member for Matayos, Hon. Makokha Odanga.

Question No.225/2018

STATUS OF GOVERNMENT-FUNDED BUILDING PROJECTS AT NACOSTI

Hon. Geoffrey Odanga (Matayos, ODM): Thank you, Hon. Speaker. I beg to ask Question No.225 of 2018 to the Cabinet Secretary for Education.

- (a) What is the status of the Government-funded building projects at the National Commission on Science, Technology and Innovation (NACOSTI) offices, and how much money has so far been appropriated for the construction works?
- (b) Could the Cabinet Secretary explain what caused the delays to complete the said projects?
- (c) What measures has the Ministry put in place to ensure that the projects are completed without further delay?

Hon. Speaker: The Question is referred to the Departmental Committee on Education and Research. The next Question is by the Member for Turkana., Hon. Joyce Akai Emanikor. Member for Kipkelion East, what is exciting?

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

Hon. Speaker: What is out of order, Hon. Junet?

Hon. Junet Nuh (Suna East, ODM): On a point of order, Hon. Speaker. In as much as we are all supporting the gender Bill today, this place has become like a market centre. Some Hon. Members...

(Loud consultations)

Hon. Speaker: Hon. Members! I am not able to follow the proceedings. Whatever it is you are doing, please, do it in low tones. We must transact business. Proceed.

Hon. Junet Nuh (Suna East, ODM): Hon. Speaker, I want to draw your attention to Hon. Mbarire who is distributing some kind of sectoral emblems. This is creating confusion in the House and is part of gender harassment. She is harassing the other gender. In as much as we support the Bill, there is harassment going on here today and it should be addressed.

Hon. Speaker: There is nothing out of order. Already, there is a Bill on national emblems which came from the Senate. So, if this is an emblem, you will discuss it in that context as an issue of emblems and labels. Let us proceed, Hon. Emanikor.

Question No.251/2018

STALLED HIGH COURT PROJECT IN TURKANA

Hon. (Ms.) Joyce Emanikor (Turkana CWR, JP): Thank you, Hon. Speaker. I rise to ask Question No.251/2018 directed to the Judicial Service Commission.

- (a) Is the Commission aware that the construction of the proposed High Court at Turkana which was awarded to M/s. Landmark Holdings Limited of P.O. Box 66537-00800, Nairobi, as the main contractor has stalled?
- (b) When will the construction of the project resume and what is the new contract period?
- (c) What challenges have led to the stalling of the project and how is the Commission addressing the challenges?

Where were the funds for this project channeled to? Currently, the High Court in Lowdar conducts its business in a small colonial open room. This has exposed the judicial officers to safety and security challenges.

Hon. Speaker: Hon. Emanikor, I have allowed you to read through a lot of stuff that is not in the Question. What will be forwarded to the Judicial Service Commission (JSC) is already contained in this Order Paper. So, I suppose the rest was *gratis*. Well, you have indicated that you want a written reply. The Question will be forwarded to the JSC for the written reply to be given to you. That concludes this session of Order No.7.

Let me find out, I have seen two Members who have placed interventions. One of them is Hon. John Olago Aluoch. What is the nature of your intervention?

Hon. Olago Aluoch (Kisumu West, FORD-K): Hon. Speaker, I am sorry, that was when Hon. Kaluma was on his feet and I forgot to remove the intervention.

Hon. Speaker: He said he is wearing a bandage.

Hon. Olago Aluoch (Kisumu West, FORD-K): There was something I wanted to say, but now it has been overtaken by events.

Hon. Speaker: Very well. I see the Member for Malava has also placed his card for intervention. What is it about?

Hon. Moses Injendi (Malava, JP): On a point of order, Hon. Speaker. I am just seeking your guidance and direction. You ruled in this House that Members...

(Loud consultations)

Hon. Speaker: Hon. Members, I am not able to follow debate because the consultations are too loud. I need to hear what Hon. Malulu Injendi is saying. Proceed.

Hon. Moses Injendi (Malava, JP): Hon. Speaker, you ruled in this House that the dress code for men is a suit, shirt and tie and for women is a decent dress. You only allowed two types of caps, a particular one worn by Hon. Eric Njiru, because of his religion, and for female Members, a scarf. I am just wondering about what Hon. Kaluma is putting on. Is it in order for a male Member to put that on?

Hon. Speaker: The Member is at liberty to don something. He looks fairly presentable although he said he is bleeding and explained the reasons for it. Let us allow Hon. Kaluma to continue in that attire. I am sure by tomorrow, the bleeding will have ended. Hopefully, by what you are likely to do today, you will heal his wound.

Hon. John Mbadi (Suna South, ODM): On a point of order, Hon. Speaker.

Hon. Speaker: Hon. Mbadi, what is out of order?

Hon. John Mbadi (Suna South, ODM): On a point of order, Hon. Speaker. We can excuse Hon. Kaluma for today. However, going forward, I think it is important that we come out clearly on this issue of dressing. This morning a similar issue was raised concerning Hon. Sankok and it was just dismissed casually. I am worried that soon, each one of us will come in different shades and colours. I wonder how this Parliament will look. I think we need to be a bit careful and come out clearly on the issue of dressing.

(The Rt. Hon. Raila Odinga walked into the Speaker's Gallery)

(Applause)

Hon. Speaker: Order Members! Proceed, Hon. Mbadi.

Hon. John Mbadi (Suna South, ODM): Thank you, Hon. Speaker. While I was on my feet, something important has happened. I am sure the Speaker will address it, but I cannot fail to recongise the presence of *Baba* in the House.

Hon. Speaker, I just want to persuade you that this issue of dressing needs to be addressed. If we just leave it the way we are leaving it, very soon, Members will come to this House dressed in different shades, colours and types and this House will look really terrible. This is the august House. It is not Gikomba or Kibuye Market. Thank you.

Hon. Speaker: Hon. John Mbadi, I appreciate your concerns and very soon I will be reiterating that issue of attire. However, as you recall, I did allow our gracious ladies to adorn this kind of outfit because there was a message they were passing, but they appear to have infected Hon. Peter Kaluma. Having allowed the ladies to adorn that kind of attire, we should also excuse Hon. Kaluma. However, indeed, I agree with you that it is a matter of concern.

Hon. Kassait Kamket (Tiaty, KANU): On a point of order, Hon. Speaker.

Hon. Speaker: Hon. Members, it is not everything that is out of order. Member for Tiaty, what is your point of order?

Hon. Kassait Kamket (Tiaty, KANU): Hon. Speaker, I rise under Standing Order No.40(2) to seek your indulgence on the sequence of proceedings in the Order Paper. Given the excitement with which Members are treating the Constitution of Kenya (Amendment) Bill, would I ask that we dispose of this matter so that we can deal with other matters under Standing Order No.40?

Hon. Speaker: Fortunately, the Member is only appealing to my discretion. Order, Hon. Members! Hon. Kamket did not even ask the Leader of the Majority Party. Next Order!

MOTIONS

REPORT ON THE JUDICIARY FUND REGULATIONS 2018

THAT, this House adopts the Report of the Committee on Delegated Legislation on its consideration of the Judiciary Fund Regulations, 2018 (Legal Notice No.117 of 2018), laid on the Table of the House on Tuesday, 13th November 2018, and pursuant to the provisions of Section 15(1) of the Statutory Instruments Act, 2013 and Standing Order 210(4)(b) annuls in entirety the said Regulations.

(Hon. (Ms.) Gladys Boss Shollei on 27.11.2018)

(Debate concluded on 27.11.2018)

(Loud consultations)

Hon. Speaker: Order, Hon. Members! Order! What is wrong with this one now? Order, Hon. Members! Take your seats. Member for Eldama Ravine and Member for Samburu, take your seats. Member for Makueni, you do not have to sit where Hon. Kaluma is. I appreciate that, that is almost like your permanent place.

Hon. Members, since Order No.8 has already been read out and debate on it had been concluded yesterday, what remained was for the Question to be put, which I hereby do.

(Question put and agreed to)

Hon. Members, before we proceed to the next Order, allow me to recognise the presence, in the Speaker's Row, of the African Union High Representative on Infrastructure Development, Right Hon. Raila Amolo Odinga, who is the former Prime Minister of the Republic of Kenya. With him is His Excellency...

(Hon. Aden Duale spoke off record)

If the Leader of the Majority Party is the one who is shouting loudest...

(Hon. John Mbadi spoke off record)

The Leader of the Minority Party also shouts like that. We have a problem. With him also in the Speaker's Row is His Excellency Hon. Stephen Kalonzo Musyoka, Special Envoy on Peace in South Sudan and former Vice-President of the Republic of Kenya.

(Applause)

With them are a number of Senators. I may not recognise all of them from where I am, but I can recognise Senior Counsel, Hon. James Orengo, Hon. Fred Outa and Hon. Rose Nyamunga. I am also told there is Hon. Malala. Sorry, he is hidden. There is also Hon. Mutula Kilonzo Junior and Hon. Naomi Shiyonga.

They are welcome to observe the proceedings of the House this afternoon. Also, in the Speaker's Gallery are students from the Co-operative University from Karen in Nairobi County. They are 10 of them. In the Public Gallery, we have Gitiri Elders Group from Runyenjes Constituency, Embu County, and Centre for Rights Education and Awareness. Their place of abode is indicated as countrywide. They too are welcome to observe the proceedings of the House this afternoon.

We move to the next Order.

RATIFICATION OF PROTOCOL FOR ELIMINATION OF ILLICIT TRADE IN TOBACCO PRODUCTS

THAT, this House adopts the Report of the Departmental Committee on Health on the Ratification of the Protocol to Eliminate Illicit Trade in Tobacco Products, laid on the Table of the House on Tuesday, 13th November 2018 and pursuant to the provisions of Section 8 of the Treaty Making and Ratification Act, 2012, approves the ratification of the Protocol for Elimination of Illicit Trade in Tobacco Products.

(Hon. (Ms.) Sabina Chege on 27.11.2018)

(Debate concluded on 27.11.2018)

Hon. Speaker: Hon. Members, if you all have your Order Papers, you know what we are supposed to be doing right now.

Order Members! You must allow the House to transact business.

(Hon. Jimmy Angwenyi consulted loudly)

Hon. Angwenyi, at your age, you cannot be the one making it impossible for the House to transact business.

(Loud consultations)

Please, make it possible for us to transact business. Hon. Shakeel, I can see you are thirsty, but you will quench your thirst very soon.

Hon. Members, again, business appearing in the Order Paper as Order No.9 was concluded yesterday. What remained was for the Question to be put.

(Question put and agreed to)

BILLS

THE CONSTITUTION OF KENYA (AMENDMENT) BILL

Hon. Speaker: Let us have the Leader of the Majority Party.

Hon. Aden Duale (Garissa Township, JP): Hon. Speaker, I rise to seek your indulgence to allow me to defer the business appearing as Order No.10, both in terms of replying and voting on the Second Reading, until such further time as the House Business Committee (HBC) shall decide having consulted widely.

(Loud consultations)

(Hon. Danson Mwashako stood in the gangways)

Hon. Speaker: Order Members. Hon. Mwashako, take your seat.

Hon. Aden Duale (Garissa Township, JP): In making this request, after consulting the House leadership, and more so the Whips, I am conscious of the fact that should we proceed to attempt to take the vote, we will not have the numbers. Upon counting the Members present, if it is discovered that we are less than the requisite threshold of 233 Members as required under Article 256(d) of the Constitution, we will risk losing the Bill. It will, therefore, imply that the Bill has to be republished in the next Session, then wait for 14 days plus 90 days maturity period and fresh public participation. That process will mean that we will consider this Bill earliest in June 2019.

There is nothing out of order. However, if we take the option of deferring it today, we will save it and remain with the voting in the Second Reading, Committee of the whole House and the Third Reading. Those three steps can be entered in February next year having saved the Bill by way of deferment. The claim that if we do not conclude this Bill today it will lapse does not hold any water.

Hon. Speaker, the Deputy Minority Whip needs to relax. Once I finish, he can raise his point of order. In line with Standing Order No.141(2)(b), this Bill will naturally lapse in December 2019. You can confirm this as our leader.

This is a very important constitutional Bill. The whole country is looking upon us. As the leadership, under your direction in the HBC, last night and the whole of today, we know the risk that is involved before we even take a vote. Two hundred and thirty three Members must be present. It is not rocket science to know that we are not 233. As the Leader of the Majority Party and the Mover of this Bill, I do not want history to judge me harshly. I am sure that when we resume for the Second Ssession in 2019, we will have an opportunity to pass this Bill. The political party leaders present and those in the House will lobby some more. When the time comes, I will reply. I have also not finished compiling my replying notes.

(Laughter)

I need to consult. This is not an ordinary Bill. I need more time to write the replying notes to this Bill. That will take me until February next year.

There are those of us who want to throw out the baby with the bath water and look for shortcuts. Parliamentary procedures allow us, as leaders, to think outside the box when the situation calls for it.

I seek your indulgence to allow for the deferment of replying and voting on the Second Reading until such a time as the HBC shall decide, having consulted widely.

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

Hon. (Dr.) Chris Wamalwa (Kimini, FORD-K): Thank you, Hon. Speaker. This is a House of records and traditions. In line with our Standing Orders, when a debate has been concluded, you can only carry forward the voting. It was in order for the Speaker to allow the Leader of the Majority Party to reply then you can postpone the voting.

Hon. Speaker: Let us have Hon. John Mbadi.

Hon. John Mbadi (Suba South, ODM): Hon. Speaker, my quick reaction and response to Hon. Wamalwa's point of order is that the Mover of the Bill can at any time seek the indulgence of the House to withdraw his Bill. I do not think there is anything out of order in the Leader of the Majority Party making this request.

As a Member of the HBC which deals with prioritising debate in the House, we discussed this matter last evening. Realising the magnitude and importance of the Bill before us, we made a decision that in the event we would realise that we are not able to get the threshold required to take a vote, we would ask the Mover of the Bill to withdraw it because of the following:

First, it should be understood that if we take a vote, the timeframe that the Speaker has to allow for a repeat vote within five days would not be actualised. If the Bill is defeated by the mere fact that we cannot raise the threshold, the Bill dies and that would take us another period of time. But in the event the Bill is withdrawn, it is possible that we can reintroduce it at the level we left it. That just makes a lot of sense. If we were 233 Members in the House, we would have gone ahead to take a vote. If we failed to get the 233 Members voting for it, we would later have requested you to allow us a retake.

Hon. Speaker, I want to also urge that we allow the Leader of the Majority Party to get his way as the Mover of the Bill to withdraw the Bill before us.

Thank you, Hon. Speaker.

Hon. Speaker: Member for Kikuyu.

Hon. Kimani Ichung'wah (Kikuyu, JP): Thank you, Hon. Speaker. I rise to support the request by the Leader of the Majority Party on postponement of this debate. Hon. Chris Wamalwa contends that we should continue with the debate. If we were to allow the Leader of the Majority Party to reply, then, that would bring closure to the debate. It is only necessary at this particular point in time to allow the debate to continue and postpone putting the Question to February next year. This will give us the opportunity to lobby more during this festive season. I am sure the very good lobbyists who are working on this Bill will continue lobbying other Members of Parliament who are not in the House this afternoon.

What is more important is the question that the Leader of the Minority Party has raised. Should we lose the vote today and the House be adjourned next week on Thursday, we will be out of time on the five days for us to get a second opportunity. It will also be a very good moment for us to reflect on whether many of us who are supporting this Bill are doing it because we support the letter and spirit of the Constitution or the intent of the drafters of the Constitution to allow our ladies to have an opportunity of leadership in this country. I am saying this because I know there are many of us who are in this House and are supporting this Bill because it is what is required by our Constitution, 2010. Hon. Speaker, guide us because earlier this morning, I had a very animated conversation with my friend and colleague, nominated Member No.001, Hon. Sankok, because of some sentiments I read and heard that he had expressed. I was encouraging him that he has an opportunity to bring another Constitution (Amendment) Bill to amend the particular provision of the Constitution that creates the two-thirds gender rule to exempt elective positions from the two-thirds gender requirement.

I was encouraging Hon. Sankok that during this Christmas festive season, he has time and he told me he would start work to propose an amendment to the Constitution to remove the two-thirds gender requirement on elective positions. It is not lost on us that there are many who support and oppose this Bill for various reasons.

I want to beg that we support the Leader of the Majority Party's request to postpone this reply and vote.

(Loud consultations)

Hon. Speaker: Hon. Members, there is a specific group that has been championing... Sit down! The mere fact that you have stood does not mean that you have caught my eye. You cannot rise when I am speaking. Let me hear a lady's voice. Member for Homa Bay.

Hon. (Ms.) Gladys Wanga (Homa Bay CWR, ODM): Thank you, Hon. Speaker. I want to thank the Leader of the Majority Party for his request, moving this Bill and being bold enough, including the Leader of the Minority Party, for their support of the Bill.

There has been a lot of lobbying and mobilisation going on. We are quite a number given the way we are in this House today. I know you can only move to ascertain the number in the event we are going to vote. I request your indulgence to establish how many Members we have, so that we can know how many we are lacking, so that even in the course of this particular sitting, we can see if we can devise a strategy to bring in more Members for us to move forward. That is my request.

Hon. Speaker: Hon. Members, given the significance of this Bill, I am constantly updating the numbers. Know that. You just hit 212 a while ago. More importantly, it is not enough to just have 233 Members. Remember you still need to go beyond 233 Members voting

in support of the Bill. Hon. Members, it is important that you bear that in mind. You have only hit 233. Hon. Junet, what is your point of order?

Hon. Junet Nuh (Suna East, ODM): Thank you, Hon. Speaker. This is a very important matter as you have alluded. This is a Bill that has held Parliament hostage for the last one month. We have discussed, talked, lobbied and prayed for it. This is a Bill that we need to dispose of. I have not seen this House as full as this recently. We have whipped Members. Look at my numbers; they have never come like this. The National Super Alliance (NASA) Members are 135. Almost over 100 Members are here. They have come. I am seeking your indulgence. You can suspend the House for 10 minutes so that we can fill this place. Let us dispense with this Bill today and let the 33 Members come here. If it is defeated by vote, that is up to them and that is not our business. Let us suspend the House for 10 minutes to get Members from outside at the lobby, bring them here and we vote.

I support the Bill.

Hon. Speaker: Member for Kandara.

Hon. (Ms.) Alice Wahome (Kandara, JP): Thank you, Hon. Speaker. First, I want to thank the Members of this House for the huge turnout today. We know that we have mobilised Members. What is not clear is whether the numbers that have turned out are supporting or opposing the Bill. I want to believe that they came to support this Bill. It is a constitutional moment that the country is engaged in. Therefore, I want to feel more confident in terms of the discussions and conversations that we have exchanged among the Members. Therefore, I want to agree with Hon. Duale that he needs more time to prepare his reply.

I want to take the opportunity to thank the Right Hon. Raila Odinga, His Excellency Hon. Kalonzo Musyoka and Hon. Duale for a very serious approach to this matter. The female Members of Parliament worked overnight. We burnt the midnight oil last night. It is important to disclose and confess that. We had dinner in support of this Bill. The numbers that have turned up today will increase the number of votes that we need by taking out the matter today, but not to go the route that Hon. Kimani Ichung'wah or nominee No.001 discussed. For purposes of getting a vote for supporting this Bill, those who have been championing for the Bill will support that strategy.

Thank you very much, Hon. Speaker.

Hon. Speaker: Hon. Olago Aluoch, I will give you a chance. Let me give this chance to Hon. Dennitah Ghati. Hon. Members, the figure has now gone down to 207 Members in the House.

(Laughter)

I am keeping tabs on what is happening. I am getting the figures. We have gone from 212 to 207 Members.

Let us hear Hon. Dennitah Ghati.

Hon. (Ms.) Dennitah Ghati (Nominated, ODM): Hon. Speaker, allow me to thank you and Hon. Duale.

The two-thirds gender rule has been with us for long. I had hoped we would resolve this issue today by passing the Bill. I represent women with disabilities of this country in this House. I thank Hon. Duale even as we engage further. It is unfortunate that we are unable to pass this Bill today because of engagements. I have appeared in your office, Hon. Speaker, and before the Departmental Committee on Justice and Legal Affairs to present my case on the position of

women with disabilities. As we discuss increasing the numbers of women, we want to see women with disabilities featuring in the framework that we are putting in place.

This is an opportunity the Leader of the Majority Party has given to us to engage further and pick voices of Kenyans and of women of this country. Women with disabilities are also women and look for opportunities. How can we, as a Parliament, actualise Article 54(2) of the Constitution? We need to ensure that even as we discuss the gender top up and the formalities, we should engage women with disabilities in opportunities that present themselves in this country.

I support.

Hon. Speaker: Hon. Olago Aluoch, I see you are holding a copy of the Standing Orders. I hope you are not going to refer us to Standing Order No.62.

Hon. Olago Aluoch (Kisumu West, FORD-K): Hon. Speaker, it has been a long journey. The House needs to understand exactly what we are about to do. The significance of what we have before us this afternoon cannot be downplayed. I am gratified that Rt. Hon. Raila Amolo Odinga is here. Those who might not understand, towards the tail end of the last Parliament, when we were voting on this Bill, he was here with us seated in the Speaker's Gallery. Today, he is here with us.

(Applause)

That signifies the importance of what we are going to deal with.

Hon. Speaker, I want to address the Leader of the Majority Party through you. In making the application he has just made before you, and which you are going to rule on, it is important for him and those who advise him to know the consequences of what he asked you to do. It may result in the Bill dying. There is a difference between deferring and withdrawing. I want you to go back to the Standing Order properly so that if you rule on what he has asked, he does not ask the House to kill the Bill. I would not like that to happen.

Lastly, when he made his application, he said that one does not need to have rocket science to know that we are less than the number required. I have been looking at the Chamber and I think we are 238 Members.

(Laughter)

While we support the Bill, and I personally do, let us do it in a proper way. My fear is that the Leader of the Majority Party may not have looked at the Standing Orders properly and he may end up killing the Bill. Thank you.

Hon. Speaker: Hon. John Olago Aluoch, the Leader of the Majority Party requested to stand down the business. In terms of Standing Order No.141, contrary to some perception out there in the streets, the Bill cannot die at this time until the end of the next Session. It has a life of two sessions. Remember we amended the Standing Orders. So, it cannot die merely because it has been stood down. However, the consequences of taking a vote are all too obvious to all of us. If we take the route of Standing Order No.62, I only have leg room for a maximum of five days after which, the results of the vote must remain as they would have been in the first instance. Therefore, that is why I have taken the unusual step of getting the count.

It is important as Hon. Olago Aluoch said that we all appreciate the importance of the Bill before the House. If we rush and we are forced to apply Standing Order No.62, the consequences will

be that on that day we have 233 Members not just present in the Chamber but present and also supporting the Bill. It is obviously a different thing from having 238 who are not here in the first instance. We must have all of them voting in favour of the Bill. That is important.

I believe what the Leader of the Majority Party and the Leader of the Minority Party have said is that they want more time to try to get a few more Members.

I will still allow more Members to plead like the Member for Homa Bay Town, who says he is bleeding for the women of Kenya. That is why he is dressed the way he is today. It is good to have many more Members on board.

Hon. Kimunya.

Hon. Amos Kimunya (Kipipiri, JP): Thank you, Hon. Speaker. I stand to congratulate the Leader of the Majority Party for his wisdom. We deliberated over this matter in the House Business Committee. We have been very concerned about a Bill of this magnitude not getting to where it is desired.

As part of his reply notes, the Leader of the Majority Party may wish, through you, Hon. Speaker, to get some input from the Committee we set up in the House to tell us about the progress of the implementation of the Constitution, namely, the Constitutional Implementation Oversight Committee (CIOOC). This is coming in part because of the requirement of Article 100. Perhaps now, the Leader of the Majority Party may take this opportunity to meet with the Committee and be updated on where we are, so that as Members vote on the Bill, they will have the advantage of knowing where we are based on the report that would have been tabled in the Committee. I am glad to see the Chair of the Committee here. It will help the Leader of the Majority Party to guide this House on where we are on that. This might come as a blessing in disguise in not having the numbers today, so that we get the input of where we are on the status of implementation. I believe those are the only remaining cogs into getting the wider wheel of the Constitution in place.

Thank you, Hon. Speaker.

Hon. Speaker: Member for Makueni, I have just looked at your card.

(Loud consultations)

Hon. Daniel Maanzo (Makueni, WDM-K): Thank you, Hon. Speaker for giving me an opportunity to comment on this very important Bill. I agree with the wisdom of the Leader of the Majority Party this afternoon. I wish to state that Kenyans are waiting for the outcome of this Bill. There have been a lot of concerns.

A few Members have been contacted by their constituents and have expressed their wishes. It is important we lobby more Members such that we have many Kenyans supporting this good idea so that the Constitution can be implemented in full.

Thank you.

Hon. Speaker: Member for Murang'a.

Hon. (Ms.) Sabina Chege (Murang'a CWR, JP): Thank you, Hon. Speaker. I congratulate the Leader of the Majority Party for his wisdom. Looking at the numbers here, which you have clearly indicated that we were at 212 and we are going down, I would like to urge the Members of this House that we need to have a strategy.

All is not lost because from the time we started moving this Motion, the mood has been changing. I can see that today, the mood is very good. I am almost convinced that every Member who is here today is in support of the Bill. We have more than 70 ladies. We squared it out with

Hon. Sankok, Nominee 001 and even Hon. Didmus and they are now number one supporters of the Bill. I know they are supporting. Once we go for Christmas, I know the Members of this House have wives who will take care of them. You will enjoy your holiday with your daughters and I know the mood will be better after the niceties of Christmas. When it comes to January, I am very sure if every lady in this House texts three Members, we will have 210 Members plus 70. That will be 280 Members. There are people who are insisting that I mention their girlfriends. They are harassing me here. I will not choose which direction you will get entertained over Christmas, but for sure, whichever direction, I know you will be happy when you come back in February. We are 349 Members and if each one of us lobbies even two or three Members, the ladies who are here will achieve 300 Members. It is possible because this is a constitutional mandate that can be passed by more than 300 Members. I urge Hon. Kioni and his team, the Constitutional Implementation Oversight Commission, which I was a Member of in the last Parliament, to hasten and give a proper report on why we need to support this constitutional amendment.

I support. Thank you.

Hon. Speaker: Member for Nambale.

Hon. Sakwa Bunyasi (Nambale, ANC): Thank you, Hon. Speaker. Today is not a day for celebration for me. I have been hopeful that we were going to bring this matter to a close by passing the Bill. I have got a lot of calls from the constituency on both sides of the issue. I stand strongly in support of the Bill because if we passed it, Kenya would be leapfrogging to the future on this issue. I hope this tactical retreat that has been made will, indeed, allow the forces to come back in full strength and get the Bill passed when it is brought before the Floor.

I support. I am eagerly waiting to get it on the Floor, so that we can vote for it. Thank you.

Hon. Speaker: Hon. Members, sometimes I have to balance. That was from Busia County. Member for Samburu County.

Hon. (Ms.) Maishon Leshoomo (Samburu CWR, KANU): Asante sana Mhe. Spika kwa kunipatia nafasi hii. Ya kwanza ninashukuru *Majority Leader*, Hon. Duale, kwa njia ambayo ametuonyesha. Tulikuwa hapa wakati huu Mswada ulipoletwa. Ninashukuru Wabunge wenzangu wote kwa sababu ile sura wametonyesha ni mbili. Kuna sura ya raha, wanatupatia meno na ndani ya roho, hatujui kama wako nasi.

(Laughter)

Ni lazima tufuate Katiba yetu. Ningeomba kusema kusongesha sio kuanguasha. Tujadiliane kama watu wa tumbo moja na watu wanaopendana. Mhe. Spika kuna tatizo kidogo kwa ile njia ambayo wanasema turekebishe ndio tuwe kitu kimoja. Kwa sababu kile wanaongea, nasiwezi kusema hapa, sio ile njia ambayo tunata ka kwa sababu huu Mswada ukipita haupiti kwa sababu ya akina mama peke yake. Utapita kwa sababu ya sisi wote kama Wakenya. Tunaulizwa na kila Mkenya kama Mswada huu utapita. Kwa kila eneo Bunge, kila mama anafaa kumshika Mbunge wake ili kama *anang'etang'eta*, tutajua ni yeye ametuangusha. Ni lazima tujitokeze. Kila mtu amshike Mbunge wake na tuwe kitu kimoja.

Kwa ukweli, lazima tutii sheria ya Katiba yetu. Ninaomba mkienda nyumbani kila moja avae hii *badge* na msiitoe. Tukirudi, turudi nayo. Ukiamka, amka nayo ili tujue tuko pamoja.

Asante. Ninaunga mkono.

Hon. Speaker: Member for Nairobi County.

Hon. (Ms.) Esther Passaris (Nairobi CWR, ODM): Thank you, Hon. Speaker. I support the Leader of the Majority Party's move not to have the vote done today. We have definitely lobbied the male parliamentarians. We have also lobbied some of the women parliamentarians. This is a very important Bill. This is about the two-thirds gender Bill. This is about our Constitution. To have it go to the Floor and fail would not only be a failure to respect our Constitution, but also a failure for us as a country to show that we respect women and the place of women in society.

I take this opportunity to appeal to the Leader of the Majority Party to speak to the President and to engage the Executive to ensure that various ministries like the ICT and the ministries in charge of gender issues engage some budget into sensitising the public on the importance of this Bill. This is not about women. This is not about cost. This is not about the Constitution that we passed during the referendum. It is important that we put some money into making sure that women, men and the youth of this country understand that the Constitution has to be respected. They need to understand that women must have their space. Women are not a burden. They need to have their space in political decisions in our country. When we take it to the public, the public will then engage their leaders, so that when they come back in February, their constituents will have told them to support the Bill. Had we got the numbers, we had no guarantee that all the Members that are wearing the badge today supported the Bill. We have worked tirelessly, but I feel there was still a lot of work that needed to be done. We are grateful for the leaders who were here today, but I believe the Government still has a role to play to ensure that Kenya gets into the map of countries where women are respected and their space in leadership respected.

The Executive can start by ensuring that it respects gender issues. It should remedy its own failure to ensure that it is compliant with the not more than two-thirds gender rule in its appointments.

Thank you

Hon. Speaker: Hon. Members, there is nothing to score today. I allowed those few comments because of the enormity of the matter at hand.

(Hon. Bady Twalib raised his hand)

Do not raise your fingers for me. The Member for Jomvu, it is never done that way. Please, you see, all of you want to say something about this. In fact, other than Hon. Wamalwa, many of you are supporting or have supported the request by the Leader of the Majority Party. I just allowed you not because there was any request made to you; it is not in your domain. This is not where I put a Question. This is not in your domain; it is squarely with me. It is me who was requested. I just wanted to hear a few opinions and comments. Since most of you are supporting, we cannot hear everybody saying: "This is a good move; it is going to allow us."

(Laughter)

The Member for Samburu said: "Some of them are just showing us their teeth but their hearts are very far away from their mouths." Please, this is not business, as you know. Since I have heard so many of you, what else can I do other than to use Standing Order No.40, which deals with the sequence of business?

The business is either as is on the Order Paper or as the Speaker may direct. Now, on the request by the Leader of the Majority Party, and having heard so many of you express yourselves, I direct that the business appearing as Order No.10 be stood down.

(Applause)

(Consideration of the Constitution of Kenya (Amendment) Bill (National Assembly Bill No. 4 of 2018) deferred)

The House Business Committee will convene next Tuesday at the rise of the House to consider when next this business may appear on the Order Paper. It is because this is a grave matter. It is serious. We will not just take it like any other business. It is serious. The House Business Committee will, as it did last evening, consider when next this business should appear on the Order Paper. So, it is accordingly so ordered. That business is stood down.

Hon. Members, some of you will recall that during the protracted period before the new Constitution was adopted, as we created a bicameral system, there was a proposal to create a House of elders – a House of tribesmen and tribeswomen. I think Hon. Jimmy Angwenyi will recall that because he was very happy about that proposal. He wanted to be a Member of the House of tribes or House of elders. That is why he still remembers that bit about elders.
Next Order.

First Readings

THE FOOD SECURITY BILL

THE COUNTY STATISTICS BILL

THE SALARIES AND REMUNERATIONS COMMISSION (AMENDMENT) BILL

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

Second Reading

THE GOVERNMENT CONTRACTS BILL

Hon. Aden Duale (Garissa Township, JP): Hon. Speaker, I beg to move that the Government Contracts Bill (National Assembly Bill No.9 of 2018) be read a Second Time. The current Government Contracts Act became operational on 1st July 1957, when the Republic of Kenya was a colony. Since then, the Act has undergone a number of revisions and amendments. So, this Act refers to the colony and protectorate in its current form. It still preserves all contracts that were entered into on behalf of the colonial power then. Since the enactment of this Act, so many changes have taken place in terms of legislation and governance. It has witnessed a further amendment that led to the attainment of what we now call “amorphous Government Contract Act”. In 2010, this country got a new Constitution resulting in a complete change in the governance structure of our country; hence the revision of a number of pieces of

legislation. That was in order to conform to the current Constitution. So, the Bill before the House, which is the Government Contracts (Amendment) Bill, is one of the pending laws or legislations that have not been reviewed to be in tandem with the Constitution and other relevant laws.

What is the principal objective of this piece of legislation? This is a Government Bill adopted by the Cabinet and forwarded to Parliament by the Attorney-General of the Republic of Kenya. The principal objective of this Bill, as presented before the House, is to repeal and re-enact the Government Contracts Act of 1957 and provide for the powers of Government to enter into contracts within the provisions of the new Constitution and other relevant laws. I am sure some Members have copies of the Bill; it is a very small Bill. It is one of the smallest Bills that are before the House.

Clause 4 of the Bill contains the application provisions that are no more in any Bill. That clause says the Act shall apply to all procurement of goods and services that are entered into by any Government contracting authority. It will provide for the payment of any money by the Government. So, any Government entity that wants to procure goods and service that will ultimately be paid for by Government must follow this piece of legislation on Government contracts that are before the House.

Clause 6 proposes that all contracts made for and on behalf of the national Government shall be made in the name of the national Government and shall be signed by an accounting officer in line with the PFM Act of 2012. That is very critical.

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

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

All Government Ministries, departments and agencies or otherwise as they may be specified in the authorization documentation of Government, must comply with this law if the House agrees with it and the President assents it into law.

Clause 7 of the Bill contains proposals to address Government contracts entered into with county governments. Being another level of Government, county governments must also comply with this law when it is enacted, signed and assented to by the President. The clause provides that all contracts made in Kenya on behalf of a county government, must be made in the name of that county government and signed by all accounting officers. Of course in our case, the accounting officers are the Principal Secretaries, Chief Executive Officers of parastatals, the Clerk of the National Assembly and the Senate in terms of the legislature and the Chief Registrar of the Judiciary as the accounting officer of the Judiciary.

Clause 9 of the Bill provides that contracts of the performance of legal service on behalf of the national Government may be entered only under the authority of the Attorney General. This is a very important clause. It says the only office or the only person authorized to sign a contract on behalf of the national Government is the Attorney General, except contracts for Parliament and the Judiciary, because those are independent institutions and are independent arms of Government and they have their own legal departments that deal with contracts.

Sub-clause 3 provides that contracts for the performance of a legal service on behalf of county government may be entered only by or under the authority of the respective county attorney in every county. So, it is only at the county level that we are putting the requirement of the attorney.

Clause 12 of the Bill contains terms that are deemed to be expressly set out in every contract of Government. This includes declaration that contracts shall not directly or indirectly pay a contingency fee to any individual for the solicitation, negotiation or obtaining... All those terminologies are found in this law but there must be provisions. The contract must not be contrary to the provisions of Anti- Corruption and Economic Crimes Act of 2003 and other applicable anti-corruption and anti bribery laws.

Clause 13 states that contracts which are made after the commencement of this Act shall not be binding upon Government unless entered into in accordance with the provisions of the proposed Act.

Clause 16 which is the last one in the Bill contains provisions repealing the current Government Contract Act Cap. 25 of 1957.

Hon. Temporary Deputy Speaker, the Chair of the Departmental Committee on Finance and Planning, Hon. Limo, is the one who engaged with the stakeholders, including the Government and county governments. I am sure he will give the views of the county governments, national Government through the National Treasury, the Attorney General's office and other stakeholders.

I beg to move and ask him to second.

Hon. Joseph Limo (Kipkelion East, JP): Thank you, Hon. Temporary Deputy Speaker. I rise to second this Bill. This is a very important Bill and it is an overall framework which will govern the way procurement is done in this country. It is actually a Bill which seeks to guide how contracts in this country will be drawn, the contents of the contract documents and the way those particular contracts will be executed.

This Bill repeals the current Government Contracts Act which is old. Remember that after the new Constitution came into being, there were certain Acts of Parliament which were given priority in terms of being replaced and, therefore, they had constitutional timelines. But there are many others which do not have constitutional timelines and, therefore, it is upon this House to continuously do amendments, repeal some provisions in order to conform to the current Constitution 2010. The new Bill also seeks to align the management of Government Contracts to the Constitution, the PFM Act, the Public Procurement and Asset Disposal Act of 2015 and the Public Private Partnership Act of 2013. This Government Contracts Bill is very important because it provides that all Government contracts must be made in writing. We have heard of so many contractors going round in the county government. This Bill will therefore cover for all contracts both in the national and county governments. All Government contracts must be made in writing and this is according to this Bill. We have heard of contractors doing contracts with a word of mouth. The implication of doing contracts with Government without following the laid down procedures and having them put in writing has been causing uncontrolled build-up of pending bills. You will find a Government officer either in the national or county government ordering a contractor to do a job which is not in the Budget and there is no funding for it. Therefore, by the end of the financial year, the allocation for those particular contracts will have been exhausted and there will be no funding to pay for them.

This Bill stipulates that all contracts must be made in writing. It also provides that all the contracts entered to by the accounting officers, must also be signed by the Attorney General when they go beyond a certain threshold, in this case Kshs5 billion. For the county governments, they will be signed in the same way by the county attorneys. This will cure the haphazard award of contracts which exposes the Government. This is a very important clause in this particular Bill.

This Bill, once enacted, also provides for punitive penalties for accounting officers who will not follow or who will not ensure that the procedures stipulated here are followed. It provides penalties in both the county governments and the national Government. It also provides some control for the bidders. What happens is that when contractors are bidding for contracts, there is likelihood that there will be some lobbying. So, this particular Bill provides that the bidder should declare that he has not directly or indirectly paid or agreed to pay any officer or individual in the course of bidding for that particular contract. This is aimed at fighting corruption in the procurement process. It also provides a limitation of personal liability and indemnity of Government and public officers.

When public officers do their work well, it is always good. If they follow the right procedures they cannot be held personally responsible if the law is not followed. It also provides that any contract which is signed properly outside the country for either the national Government or the county governments will be treated as if it is a full Government contract and so any officer who goes outside the country and signs contracts and is allowed by virtue of his job to sign, will not be penalised. This Bill will not occasion additional expenditure on the Government because it is in force already.

As I finalise, this Bill is important. We have talked so much about fighting corruption and this particular Bill is giving strength to the Anti-Corruption and Economic Crimes Act, 2003 and any other anti-corruption and anti-bribery laws which are already in place, on top of complementing the current procurement and the Public Finance Management (PFM) laws. When this Bill was advertised, it invited the public to participate in its making. It was advertised in May 2018. We invited the public and there was no response. What it means is that given that this Bill is a total framework with no details which elicit a lot of controversies and people would like to bring amendments here and there, this one did not attract a single memorandum. This suggests that this Bill, according to the members of the public, is either okay or they did not understand it. However, there are many men and women in this House who are capable and are professionals. Most of them have a history directly or indirectly of being involved in the construction industry or any other industry that deals directly or indirectly with the national Government or county governments. I urge Members who have knowledge on Government contracts to come forward and participate in the making of this particular Bill. Let them suggest amendments which will make this Bill a very comprehensive one.

I thank our Departmental Committee on Finance and National Planning because we went through the Bill and we have suggested a raft of amendments to clauses 2, 4, 6, 7, 9 and 12. But in most cases, the amendments are not very significant. They were designed to make the Bill more friendly and clear. Otherwise, I thank the offices of the Hon. Speaker and Clerk of the National Assembly, our secretariat and Members of the Departmental Committee on Finance and National Planning for their dedication during the processing of this Bill, which has enabled us bring it to Second Reading.

I stand here to second the Hon. Leader of the Majority Party who has ably moved the Bill. He has been playing a very key role in ensuring that every Bill we transact is moved successfully.

I second and urge Members to support it.

(Question proposed)

The Temporary Deputy Speaker (Hon. Patrick Mariru): I will be guided by the screen here. The top-most here who has registered interest is Hon. Oluoch.

Hon. Anthony Oluoch (Mathare, ODM): I thank you for giving me the opportunity to contribute to this Bill. It is a Bill that has been enacted to repeal the contracts, re-enact the Government contracts and to provide for connected purposes. My first point is that we should ensure as we enact this Bill, we are able to tie the definition of the word ‘contracts’ to include Government contracts that we enter into in terms of loans that are advanced to the Government. The reason why I am saying this is because the loans we procure on behalf of the Government carry with them contractual obligations and penalties thereof. Therefore, if this is the case, not only do we need to put this in contractual written form, but we also need to ensure that there is approval by the National Assembly in terms of a Bill which I am aware has been initiated by the Member for Emgwen, Hon. Kosgey.

Secondly, we should request and find out whether the Committee that is looking at this Bill has reconciled it with the pending one on Government loans to the extent of limits that the Government should obtain in terms of loans with or without the approval of Parliament. As I support this Bill, I would like to state that looking at the definition part; I see the word ‘advance’. The Bill contemplates this word to mean advance of payments made for or on behalf of the Government. I would have liked this to be extended to include advances paid into or obtained by the Government in terms of loans. So, we have a broader definition in terms of this word. With that, I support this Bill.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Hon. Murugara Gitonga.

Hon. George Gitonga (Tharaka, DP): Thank you, Hon. Temporary Deputy Speaker. I rise to support the Government Contracts Bill, 2018 which, if enacted by this House, is going to repeal the Government Contracts, Act (Cap. 25) of the Laws of Kenya.

It is very important to note that the Government Contracts, Act (Cap. 25), is one of those colonial relics we inherited from the colonial government, which we baptized as an Act of this Parliament and proceeded to use it. We have used it for the last 55 years. Before it was a relic, we must admit it was a good law, for it would not have survived for over 55 years if it was not. Time has come for us to possibly look at it because of changing times and enact a law that is going to be in conformity with our lives today. This is why we have this Bill. Most of the provisions of this new Bill are not very different from what we had in the old Act, save for the changes that have come in through subsequent legislations, which possibly were not in the other Act or did not exist at that time. It is, therefore, important that this Act does conform to the other Acts which heavily lean towards Government contracting.

Government contracts are like any other and they must conform to the set law and especially, the provisions that they must be in writing. We know very well that our country today is ailing from corruption. We are all crying and trying to fight a monster which has slowly crept into the society and seems to be bent on deviating our ways of life. If this Bill is going to assist the Government in fighting corruption, then it is a good law and we should support it. However, this Bill must be read closely with other Government laws on contracting, which include the Public Procurement and Assets Disposal Act and the Public Private Partnerships Act. It is important to align this law with those particular Acts so that it is not abused. There is potential of abuse and we have seen it especially in the county governments. Accounting officers are defined here and for the national Government, we know the accounting officers to be the Principal Secretaries or persons designated thereunder. In the county governments, the

accounting officers are the County Executive Officers (CECs) or any other persons designated thereunder to do accounting business.

However, in the county governments, we have seen and heard that officers, including the CECs, carry contract documents with them, so that they can dish out contracts the way they wish. We have heard that they carry Local Purchase Order (LPO) books which are used instantly when something needs to be worked on or any transaction, whether legal or illegal, is being entered into. This Bill must be strengthened. We are happy to hear from the Chair of the Departmental Committee on Finance and National Planning that there will be further amendments to make this Bill better. This is because it is the only way that the Government is able to supervise its contracts.

Government contracts are prone to abuse because even the mega corruption scandals we are talking about today emanate from Government contracting. So, the loopholes that have existed from time to time must be sealed. We must have a law that is going to protect public property which includes money that is going to be paid for goods and services supplied, or works done and what the Government contracts for.

It is for this reason that I support this Bill and also note with keen interest that it has the penalty clauses. Any person who is going to breach this Bill is liable either in criminal or civil law. This means that we can have action commenced against that person in a civil court to recover what the Government, would have lost. Most importantly is that the person can be taken to court and punished through a jail term, fine or any other form of punishment that the court would want to mete out. This is all for purposes of ensuring that Government property is protected and public monies are safe.

We must emphasize that it is the work of this Parliament to assist the Government in ensuring that whatever is entrusted to the Government is safeguarded. One way of doing this is by passing a law such as this. Let us revise this law and bring it up to-date, so that we can have an Act of Parliament that will serve us for another 50 years or more. It should be like the old Act which I have referred to as a colonial relic and which has served us for the last 55 years or so.

Hon. Temporary Deputy Speaker, I therefore, seek to support this Bill.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Hon. Mutua Barasa, Member for Kimilili.

Hon. Didmus Barasa (Kimilili, JP): Thank you, Hon. Temporary Deputy Speaker. I rise to support this very important Bill because it seeks to ensure that contracts are not just negotiated poorly and signed by some officers. But that the Attorney General or county attorneys go through such contracts before they are signed. As a country, we have lost a lot of money through corruption.

One time I was told that a contractor could just walk into an office and propose a service that he or she could deliver. Whether he or she is delivering oxygen or not, they would sit down, craft some kind of document and sign and then the Government losses monies in terms of payment of those services.

This Bill seeks to tighten the noose on corrupt contractors and their agents that their days are numbered. It is coming at a time when we have lost a lot of money in NYS I and NYS II. This Bill is timely. My only concern, which I think we will try to address during the Committee of the whole House, is to make it clear that even contracts that have put this country into debts... You realise at times when Government delegations go to other parts of the world like in Europe, you hear that they have signed some kind of contracts committing this country to some loans. We need to be very clear during that time so that we also seek to cure and address the fact that

any contract that the President or any other person will sign on behalf of the Government or even the Cabinet Secretaries must also go through similar procedures.

Even as we approve this Bill, I hope that the Attorney-General and the county attorneys are going to be much more efficient in terms of not sitting on the contracts. I believe that they need some time to review the contracts before they sign, but they cannot take a year, a month or weeks. For them to complement this law, they should be much more efficient not to sit on such contracts once they are taken to their offices for validation, going through and subsequent signing. This is because at times good laws are frustrated by bureaucracies which are unnecessary. When we get to the Committee of the whole House, we will be providing all the nitty gritty to ensure that this Bill is better than it is now.

The amount of money that county governments have lost because of poorly or non-negotiated contracts cannot be under-estimated. I am happy that this Bill does not just talk of the national Government alone, but also talks about the county governments. The county governments are also going to ensure that they keep their county attorneys busy. Instead of just drinking tea, this time they will have a number of contracts that they will be going through to ensure that what the county governments will be signing is in line with this law.

Just like my friend has said, the better part of this Bill is that it proposes penalties on those who will default and commit this country into contracts that are poorly negotiated that, at the end of the day, will make the public lose a lot of money like it has been happening. While doing such things, they will be aware that there is a penalty that awaits them.

With those remarks, I beg to support this Bill.

The Temporary Deputy Speaker (Hon. Patrick Mariru): We shall have Hon. Chege Wanjiru.

Hon. (Ms.) Sabina Chege (Murang'a CWR, JP): Thank you, Hon. Temporary Deputy Speaker. I rise to support this Bill. I am worried to see that this Bill is very old and it has covered the contracts that the Government enters into. Now with the promulgation of the new Constitution, we now have the county governments. We are committing the Government in several areas. Some of the contracts that we are committing a lot of money to, in terms of borrowing, are from outside countries. Then you wonder who authorised them. I think it is important, and I support that the Attorney General must authorise any kind of contract that the Government, especially the national Government enters into. We have been at pains, especially when we go before the Budget and Appropriations Committee, to try and explain how some of the contracts were entered into. I think in the past few days, you have seen what has happened with the issue of the managed equipment system that was done by the national Government to the county governments. It was not clear how the contracts were done. So, if some of these things pass through the Office of the Attorney-General, we will be able to know how we are committing this nation.

There is also the issue of how the contracts are done. Some of the contractors will come in with some conditions and, maybe, the Government might not be able to meet them. It is important then that the Attorney General thoroughly looks into all those commitments. I was a bit worried when I looked at this Bill. In fact, I wondered when it will be effective. This is because I did not really see the effective date. So, as the Departmental Committee on Finance and National Planning goes through the Bill, it needs to put the effective date so that we know when the Bill is going to be effective.

I thank the Leader of the Majority Party for this and I hope that the Committee, as it goes through the several amendments that I have heard, is going to enhance it and make this Bill better. I support.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Hon. Odhiambo Akoth. At least, I can see Hon. Akoth is present.

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): Thank you, Hon. Temporary Deputy Speaker. I rise to support this Bill. Even as I am supporting it, I wish that our legislative drafters would not be lazy because it would have made sense if they consolidated it to the Public Procurement and Assets Disposal Act so that it would be something like Public Contract Procurement and Assets Disposal Act. This is because there is a lot of reference to the Public Procurement and Assets Disposal Act. Because they are dealing very lightly with similar issues, it would make sense for this Bill to have been a chapter in that Act.

I am very happy that this Bill has been brought. It will bring a lot of sanity especially in our counties. However, it also requires a much higher level of qualification for our county attorneys because they are going to be dealing with very serious issues where they are going to obligate counties in contracts. Their role is equivalent to that of the Attorney General. My concern with this Bill is on the issue of timely payment of contracts done. At the county level, most of the counties engage people to do work for them, especially in the last dispensation. They do not pay them timely. Many people have been auctioned or lost their property because of lack of timely payment of bills by the counties.

One of the things that we need to do is to provide a timeline that contracts done, especially by counties, need to find a given timeframe for payment. This should not only be for counties but even at the national level. There is a Bill that we had brought in the last Parliament. I do not know whether it passed. I think it was brought by Hon. Jakoyo Midiwo. If there is such an Act, there is no problem. However, if there is none, I think this Act should provide that.

One of the other things that I am noticing is the laziness in drafting such as this provision: “In case of inconsistency with this Bill and other Bills, this Bill shall prevail.” Why do we wait to look for inconsistency when the Government is employing several drafters at the Office of the Attorney-General? Why can they not look for those inconsistencies and eliminate them so that we are not talking about inconsistencies between this Bill and other Bills. In any event, the legislative rule is that it is the latter Bill that applies. So, it really does not make sense even to provide that.

I also want to say something in relation to Clause 3. It provides that:

“Subject to Public Procurement and Assets Disposal Act, accounting officers shall ensure that all contracts are cleared by the Attorney General, especially for national Government.”

This is good because it enhances accountability and transparency. I was a litigation counsel in the Office of the Attorney-General and, sometimes, some of the things that you would see being brought to us as litigation counsel were very problematic. However, the only challenge which I hope we do not face with the Office of the Attorney-General is that whenever you centralise, then monopoly tends to create corruption and sometimes it creates too much bureaucracy. I hope that will not happen.

Clause 7 provides that all contracts by the county shall be in writing. There are times when people come to you and tell you that they have performed work for the county governments and yet, it is not in writing. Everybody needs to understand that if you have a contract that is not in writing, you are in trouble.

Clause 9 gives the sole responsibilities of the Office of the Attorney-General when the services are of a legal nature. I thought I had heard that the Attorney General would be signing contracts on behalf of Government agencies. But it has been clarified that it is only in relation to legal services. For the other ones, the Attorney General will not sign for them.

Clause 12 provides:

“(1) The following terms are deemed to be expressly set out in every contract that provides for the payment of any money by the Government –

- (a) the contractor declares and warrants that the contractor has not, directly or indirectly, paid or agreed to pay, and shall not, directly or indirectly, pay a facilitation or contingency fee to any individual for the solicitation, negotiation or obtaining of the contract contrary to the provisions of the Anti-Corruption and Economic Crimes Act, 2003 or any other applicable anti-corruption and anti-bribery laws.”

This is a very good provision yet everybody in this country knows that it is almost near impossible to get any contract by the Government, whether county or national, unless you bribe. This is one of the cosmetic pieces that we are putting into the Bill. It is excellent but very cursory. It does not mean anything because people will bribe. The Ethics and Anti-Corruption Commission is not serious. People bribe and get contracts. Young people who want Government contracts face challenges because they do not have money to bribe. It is almost as if we have made bribery official.

I am happy that Hon. Didmus Barasa has told me that I should bring my amendments as usual so that he can support them. I have told him that one of the amendments I will table is that the contract will be deemed null and void where there is evidence of bribery. It should also be deemed null and void where there is evidence of sexual harassment. Men will be asked to pay money and women will be asked to pay with their bodies. If there is any proof that a woman has been forced to submit to sexual favours in return and is, therefore, contrary to the Counter-Trafficking in Persons Act and the Sexual Offences Act, that in itself should negate a Government contract.

Even though we have made possible the 30 per cent provision for women, what ends up happening is that a man will front a woman - maybe his wife - but in the end, he is the one doing the contract because when women go to get those contracts, they find layer upon layer of sexual harassment. From the sweeper who shows you where the office is to the main person who gives you the contract, they all want a relationship with you. That is not very good for women.

A good provision is Clause 12(1)(c) that talks about the fact that the contractor can also give public disclosure according to the Access to Information Act. I say this especially in relation to several funds, whether it is the National Government Constituencies Development Fund (NG-CDF), the National Government Affirmative Action Fund or other funds that are sometimes shrouded in a lot of mystery. You find a contract that is worth Kshs1 million being done for Kshs12 million. There are toilets that should be worth Kshs1 million or Kshs600,000 being done at Kshs8 million. Following the Access to Information Act - which is also referred to here - it is a good provision.

I am also very happy about Clause 14 (1) (c) that provides that a public officer should not be liable for actions done in good faith. It does not include where that officer is negligent. Even though the officer will not be held personally liable, if it is shown that that officer was negligent, they can be held personally liable for making the counties or the national Government lose millions of monies that would otherwise be used to treat cancer, help poor women and children who are struggling with school fees.

With those few remarks, I support the Bill.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Let us have Hon. Chepkut Chirchir. He is yet another Member who took leave and left his card behind.

Next on the line is the Member for Ndaragwa. Is the Member for Ndaragwa in? You have the Floor.

Hon. Jeremiah Kioni (Ndaragwa, JP): Hon. Temporary Deputy Speaker, I thank you because I started struggling even when the main Speaker was here. I am happy you have given me this opportunity to contribute. I will start from where I wanted to when the other Speaker was present.

With regard to the Government Contracts Bill before us, you will notice that we are making sure that those contracts conform with the Constitution of 2010. There is a notion that the implementation of the Constitution is done with because we have enacted what people think were the popular Acts or Bills that needed to be passed. The process of implementing the Constitution will not come to an end. It is ongoing. It will be there for a long time. We have engaged many organizations, including the Office of the Attorney General, the Law Reform Commission and others. They have given us a score-card. They have also pointed out to us that there is a lot of work, more than we can imagine, that requires to be done for us to move a little bit further in implementing the Constitution. With time, we will table a report in this Parliament so that Members can appreciate where we are and the work that is being done.

It is during one of those interactions that the Office of the Attorney General mentioned something that could be useful when dealing with this Bill. They said that most of the Government agencies - if not all of them - refer to them for advisory opinions and even sometimes for signatures, like it will be the case with this Bill if enacted. They are happy to do it. It is very crucial and important that we have now brought in the Attorney General to look at the Government contracts that we sign. It is important that we also do not create a bottleneck because I am not sure that the Office of the Attorney General is currently properly staffed to help them clear their desks as the requests come from various ministries. Quite often, you will find the Attorney General saying that they should carry on and they will be advised with time especially if the advice being called for has a time limit within which it must be met. I am happy that this Bill talks about the need for the Attorney General to look at Government contracts, but let us also quickly address the capacity and staffing levels at the Attorney General's Office.

This Bill states that county attorneys are also required to sign contracts at the county level. It is common knowledge that our staff at the county offices are there for a very short while. They are employed for a reason, sometimes due to nepotism. With the exit of a governor, they are also likely to look for other ways to exit. We need to pay attention to how the county service boards engage those attorneys and even other members of staff at the county level. The Senate should be doing this. As we think about implementing the Constitution, we cannot keep our eyes closed when considering those issues.

What is also crucial is that when you are calling on an attorney at the county level to sign contracts on behalf of the county government, it will be important to also address the levels of qualifications that we need for him to be given that responsibility. You do not want a person who has come straight from the university to be given the task of signing contracts. He or she can easily sign without understanding the dangers that he or she is putting the county and the country into.

Let me also say that this Bill is very crucial at this time. During campaigns, I saw something and it is still happening today. Many of the contractors were so scared of any change

of guard in any of the governor's office for the reason that many of the contracts that they had performed were done from a word of mouth. They had no single piece of paper that they could take to an office for it to be honoured. They were really shaken in many counties, including the ones that border us and Nyandarua. In the event that they had another governor, how were they going to convince him that they had a contract that required to be paid when they get into the office? We have many contractors who have been wound up. Sometimes, we have some who are dealing with auctioneers for the reason that they also did not have any written contract. So, it is important that we make sure that contracts entered into among all those entities, including those at the county level and NG-CDF offices are written, so that any new officer or incoming person is able to look at what was agreed upon and honour it. That way, the contractor will make an informed choice when he wants to support a governor or Member of Parliament. They would not support him or her because of fear of losing funds, but they will do it because they know and believe that the person coming or the one who was there will move the county and region to better levels.

I have heard the Member for Suba North talk about sexual harassment as one of the reasons that need to be punished. I agree with her. However, the only thing is that we have to be careful, so that we do not punish the same lady who was looking for a contract. We need to look for ways of punishing the persons who may have got her to agree to issues that might have been against her thinking or beliefs, so that she does not suffer twice. It is a very crucial thing. We know it is happening. We cannot keep quiet and hide from that truth. The issues of bribery are very difficult to enforce. I agree with that position that, at the point at which it is clear that a person got a contract out of everything else other than competence and merit, it should be cancelled. Cancellation of a few of them might send some good signals elsewhere. I know we really need to be careful with this because it has been used for witch hunt. It is important that we pay attention to that.

I do not need to say what others have said. When the drafting of the Bill is being done, it is important that better attention be paid to existing legislations and Acts of Parliament, so that we are not seen to be doing things that will increase a lot of administrative work. The question which begs for an answer is: Which is this central point where these Acts or Bills are drafted? Before, we had the Commission for the Implementation of the Constitution (CIC) and Kenya Law Reform Commission. When we interacted with them, they were crying because at times they are involved very late as a matter of formality or not at all. They read Acts that have come from this Parliament which seem to run contra to other existing statutes. They have raised that issue. As the Committee on Implementation, we will look into it and perhaps discuss with the House at a later point.

We need to penalise people who sign contracts but not just those in office. The Act must provide penalties for people who get us into contracts that are either dubious, not workable or bad ones that make us lose money. This is provided in the Public Procurement and Asset Disposal Act. However, this Bill may need to go to the point of clearly saying what happens to such contracting officers. They can be delaying contracts.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Order, Member for Ndaragwa. Your time is up. I ask the Clerks-at-the-Table to, please, alert Members with the two alerts, so that they can organise their thoughts. Hon. Kioni, your time is up on this one. If I give you an opportunity, I will definitely be forced to give the next Member an extra minute. I am asking the Clerks-at-the-Table to alert the Members when their time is almost over. Hon. Emanikor Akai, Member for Turkana.

Hon. (Ms.) Joyce Emanikor (Turkana CWR, JP): Thank you, Hon. Temporary Deputy Speaker. I rise to support this Bill which regulates contracts and procurement procedures. The involvement of the attorney both at the county governments and national Government is commendable.

Clause 12 curtails upfront payments and solicitation in the name of contingencies just for vendors, suppliers and contractors to secure contracts contrary to the Anti-Corruption and Economics Crimes Act. The Bill also defines so many contractual technical terms and defines penalties for culprits. We know what is happening in this country in terms of corruption, fraud and bribery. It is very scaring and alarming. The same way we were surprised with what is happening in National Youth Service (NYS) is the same way we should be surprised by what is happening in counties, particularly in the last government where people engaged in reckless and lavish spending using public resources, and non-payment of contractors.

A few weeks ago, the Senate raised concerns over Kshs99 billion pending bills in the counties. A big percentage of that is owed to contractors and suppliers. I am happy because the counties have been told to expedite payment of contractors and suppliers. I know payment is difficult because many of these projects are not visible on the ground. People supplied things that do not exist. There are projects that do not exist. The roads which were constructed do not exist. In one instance, I know of an investigation that is going on of a chief officer who said that he bought fire-fighting equipment, in terms of vehicles worth Kshs50 million. But they do not exist. They only hired some vehicles to be seen in the counties and they took them back. This is the extent to which corruption and public resources in our country and counties have gone to.

Termination of contracts unlawfully is happening. Inability to account for public resources is happening. This has caused limitation of support and even partnerships by bilateral and multi-lateral partners, or investors or donors because of what is going on in the country. I think some of these vices will come to an end and will be controlled.

I support the Bill.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Before I get to my right side, let me give the Floor to Hon. Oduol Adhiambo.

Hon. (Prof.) Jacqueline Oduol (Nominated, ODM): Thank you, Hon. Temporary Deputy Speaker for giving me this opportunity. I would like to support this Bill. I support it because, at the moment, in terms of what would be critical in Government contracts, the regulations, practice and the manner in which they are done, we seem to have an emerging art and science of solicitation of negotiation to have undue influence in the process.

I am particularly happy with Clause 12 which provides very clearly that there will not be an opportunity to have a contractor directly or indirectly agree to pay or engage in solicitation and negotiation to obtain a contract. This afternoon, as an august House, as we looked at the two-thirds gender Bill, there is a sense in which we sometimes have not appreciated the differential treatment that as citizens we experience in the effort to carry out our day to day duties and in realising our goals.

Hon. Millie and Hon. Kioni have referred to an emerging concept where there seems to be understood that there are ways in which solicitation, negotiation or a manner of settling how one accesses an opportunity to undertake an activity at the county or national level takes a different form depending on your gender. The difference in treatment has resulted in untold challenges which, in my humble submission, seem to provide a model for our young girls and boys. It is not so much of the know-how or skill or the hard work that you need in order to

understand the procurement regulations or what is specified, but occasionally, it might be acceptable, appropriate or expected to engage in solicitation or negotiation in kind.

Therefore, in this Bill, we want to ensure that there is a clear engagement that will ensure we keep a very clear focus on the provisions of the Anti-Corruption and Economics Crimes Act, 2003, or any other applicable anti-corruption and anti-bribery laws is welcome because we will not be creating a pattern and a model that will cause a lot of harm.

Secondly and the final basis for supporting this Bill is the delay in payment that is experienced in a number of cases when those who have provided services are not paid on time. I have seen in Siaya County where I come from, and in the national context, where we want to give some portion to the female gender, we have contexts where those who have secured loans and have gone to untold measures to ensure they provide services end up in very difficult circumstances when payment is delayed.

As I support the Bill, it is extremely important we look at the manner in which Government contracts at the national and county levels are provided and operationalized. We continue to look at the way they will clearly follow the stipulated procedures and there will be recourse to those who find challenges.

With those remarks, I support.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Hon. Muhinga.

Hon. Amos Kimunya (Kipipiri, JP): Thank you, Hon. Temporary Deputy Speaker. I rise to support this Bill which is a repeal and re-enactment of another old Bill. Cap.25 is one of the very first laws to have been passed in the old days, hence we can see it is quite ancient and requires to be aligned with the new Constitution, which has obviously brought in counties among others things. Beyond that, there is very little except references to the Public Finance Management Act and other laws that have been updated since, like the Public Procurement Act which came in 2005.

This law is obviously designed to protect the Government. If Hon. Millie were to give me attention, she might capture some of the things in her proposed amendment. The first thing is the issue she raised. Corruption has been defined and even in the Ethics and Anti-Corruption Commission Act, it includes sexual overtures and demands. Hon. Kioni has raised the issue that we could end up thinking we are cancelling a contract because it involved some sexual harassment, which obviously becomes double jeopardy.

Most importantly, we have witnessed in this country where one bidder loses and looks for any means to disqualify the one who won. We may end up with a lady who has won a contract genuinely and the first person who goes to appeal in the tribunal says that she was dressed in a mini skirt, appeared in the tender committee in a mini skirt where she sexually harassed the committee and that is how she won. We may open a Pandora's Box where some of these things are misused to marginalise ladies further. They are already marginalised, so let us not create something in law that can be misused to marginalise them further. So, within your amendment, factor in the potential misuse of it and then we will be good to go.

I wish the Departmental Committee on Finance and National Planning Chair was here, but the message will reach him. This Bill intends to protect Government and all clauses are about what a contractor must do to comply. But there is very little on what the Government will do to comply yet it is a contract which involves two people. I am particularly worried about the current trend that has emerged where all payments are delayed. All contractors enter into contracts that are supposed to be paid within 30 days, but our youths and medium and small enterprises suffer because the county and national governments have not paid them hence the tender financing

loans they take with banks are recalled and auctioned because the Government has failed to honour its part of the contract by paying them on time. So, one of the things I would like to see as we look at this Bill is a clause coming in through an amendment that will force Government to also deliver its part of the contract so that delays in payments or creating a culture of prompt payments becomes embedded in the Bill so that both sides of the contract are taken care of and the contractor and the Government are protected.

Clause 14 has quite a number of exemptions coming from the old days. It exempts public officers. We are saying what they should do but, when we come to Clause 14, we exempt them from all manner of things.

I wish Hon. Millie Odhiambo would help us here to make sure that the exemptions given to public officers who end up contracting is not used to get out of their obligations under the law, particularly Clause 14(c) that states:

“in his personal capacity, be liable in civil or criminal proceedings in respect of any act or omissions done in good faith in the performance of his duties under the Act.”

I am looking at a young officer who has just been recruited in the county. You know the way they are being recruited. He then ends up sub-contracting huge things and says he did it in good faith to the best of his knowledge – which knowledge is not there. The county could be losing lots of money. So, we need to tighten some of these things to define what good faith is. How do we measure this good faith so that we can exempt an officer who contracts and forces the Government to enter into multi-billion contracts? Those are some of the things that we would like to see coming.

In terms of Clause 14(2), I see some drafting issue that needs to be clarified. It is talking about a procurement entity indemnifying an employee when actually it meant an employee who hires legal services shall be indemnified. The hiring of legal services is coming almost as a proviso rather than as the main reason why the person is being indemnified, provided that he succeeds in the case. So, it might require redrafting to get the exact intention of this Bill.

The other items I would like to see sorted out either by the legal team of Parliament or the Committee are Clauses 12(1) and (2). The difference basically is that one is a contract and the other one is a bid contract. When you look at the definitions within Clause 2, a bid contract is not defined. So, we are bringing it into the main Act as 12(2) and saying the following terms are deemed to be expressly set out in every bid contract, but within Clause 2 there is no definition of a bid contract. We would save a lot of space and contradiction by just lifting the bid and including it within the definition of Government contract that it includes bids and then define what bids are so that we do not have 12(1) and 12(2). One is talking of a contract, the other one is talking of a bid but the provisions are all the same in terms of the declarations that a contractor requires in terms of their standing. We could delete 12(2) and merge it with 12(1) and have a better definition of a bid contract because in 12(1), we are talking of a contract which includes bids. That could be redefined to further sort out the inconsistencies in the draft. Since it has taken years to do it, we must as well do it right.

Apart from that, it is a good law and it will help us to redefine. Like I said, I would like to see a situation where we do not just protect contracts from one side, that is, the Government side. We also need to think of how to protect Kenyans because it is Parliament that represents Kenyans.

In a contract that is being entered into between the public as contractors and the Government as the other party, then the Government Contracts Act, perhaps, needs to take both sides of the coin and ensure that we have some protection or some linkage on how we can protect people who

enter into contracts with Government so long as they have fulfilled their end of the bargain. It must be ensured that the Government also fulfils its end of the bargain by paying them promptly and without any undue delay.

With those remarks, I beg to support.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Hon. Oundo, Member for Funyula.

Hon. (Dr.) Wilberforce Oundo (Funyula, ODM): Thank you, Hon. Temporary Deputy Speaker, for giving me this opportunity to also make a contribution to this Bill, which is long overdue. Those of us who have been in private and professional practice for many years have suffered under an archaic legal system that made it practically impossible for us to get value for our money or for our professional service.

Again, the story told of contractors for national Government and county governments, as well as other parastatals and the rest, is such a heartrending story that we need to have mechanisms by which we protect the interests of the Government and public funds. That one we agree. Most importantly, as my colleagues have stated, we are protecting the interests of *mwananchi* who willingly offers to provide a service to the people of Kenya through their Government to allow them get paid for what they have worked for.

I appreciate the drafters. At least, there has been an attempt to set clarity on the issues that require to be addressed. As my colleagues have stated, there are few observations that I want to go on record. Hopefully, at the time of the Committee of the whole House, we will have an opportunity to make the amendments.

One is the issue of an indemnity to the contractor because we believe a typical contractor who is not very well versed with Government procedures and provisions of the Public Procurement and Asset Disposal Act would enter into a contract that turns out to be invalid or illegal unknowingly. Many a times, many contractors have been dragged to court and charged for various offences under the Ethics and Anti-Corruption Act by entering into contracts thinking they were valid contracts. Therefore, I would propose a provision that indemnifies the contractors for signing a contract in good faith believing that it complied with all Government regulations, the law and was done according to the procedures provided for by the Government. Secondly, one of the facts that have literally killed local contractors is delayed payment. Many of them have borrowed funds to service or fund those contracts. Some years back, banks like Equity had a facility called LPO Financing where based on an LPO from the Government, they would give any contractor or service provider funds to undertake or to execute the contract. But due to delayed payments by the Government, most banks no longer have that facility. We will propose at the right time an amendment. Among the applied terms of the contract under Clause 12, there must be a clear provision that payment shall be made promptly upon completion of the contract and in the event of late payment, there must be a very clear system of charging interests and penalties for late payment.

The third issue that we need to consider is the question of adopting ICT in the process of contracting, payment of security bonds and performance bonds. We would look at a situation in order to avoid the case of delayed payment with very minimal recourse. We look at a situation where we could come up with a fixed deposit account or an escrow account where funds committed for that particular contract are available as long as the contractor has met the obligation.

There was talk in the past that when the Government gives you a contract, the Integrated Financial Management Information System (IFMIS) reserved the funds meant for that contract

so that they cannot be reallocated to any other service within the procurement entity. Of course, it surprises most of us when people and contractors keep on complaining that they have not been paid, yet the contracting system adopted or depended on IFMIS. So, we need to have that strengthened or tightened to ensure contractors are not disadvantaged. We enter into contracts believing that the contracting authority has funds. If it does not have, it must be made clear so that contractors have alternative sources of funds to pay for the supplies or materials they have to use. When you walk around, there are so many stalled Government projects. Many of the accounting officers will tell you they have inadequate budget lines or inadequate funds from the National Treasury to undertake the projects.

This Government Contracts Bill should provide mechanisms to ensure the projects are phased or implemented in a scope depending on the availability of funds. That is so that we do not put a strain on contractors to a point that they are being auctioned. Many of them have gone out of business. That is why you find the Government has been unable to fulfill its pledge to the youth and women that 30 per cent of contracts will be given to women and the youth. Once most of the youth and women get one contract, they are not paid on time. They will not have capacity to apply for another contract.

Hon. Temporary Deputy Speaker, the other issue we need to look at is not to make it completely difficult for small contractors who undertake NG-CDF contracts and ward development fund contracts to be paid. They should not be disadvantaged because of provisions of this Bill. For example, it is provided for in Clause 6(3) or Clause 7(3) that, subject to the pecuniary threshold provided for under Section 134 of the Public Procurement and Asset Disposal Act, 2015 an accounting officer of a procuring entity shall ensure that all contracts are cleared by the relevant authority before they are signed. It is silent on who those relevant authorities are. It is unclear how long those relevant authorities will take to clear the contract before it is signed. Such clarity is important so that one does not commit their funds to acquire a performance bond or a contract security and the funds are held forever, as we wait for the contract to be cleared.

On that basis, I support the Bill. We hope the Committee responsible for the Bill will have taken our comments into account and moved amendments in the Committee of the whole House. That will make this Bill useful to the Government by protecting public funds and also not kill businesses as it is now. As we stand, the economy is almost grinding to a halt because the Government, being the biggest spender in the country, is not paying contractors. Banks are seizing contractors' assets. We are going to have a crisis in the banking sector in the near future, unless urgent measures are taken to ensure Government pays contractors.

Thank you, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Very well. Next we shall have Hon. Nkatha.

Hon. (Ms.) Beatrice Nyaga (Tharaka-Nithi CWR, JP): Thank you, Hon. Temporary Deputy Speaker, for giving me this opportunity to support this Bill – the Government Contracts Bill - by the Leader of the Majority Party.

This Bill has come when Kenya is losing a lot of funds through corruption, for example in cases such as the National Youth Service; National Hospital Insurance Fund (NHIF); the maize scandal; the sugar scandal, and many more.

You wonder how someone can give a contract just by a word of mouth. Government contracts are supposed to be in black and white. They should be signed by the parties concerned. You wonder how people operate. It is very sad. Giving contracts is buying services from the

provider and Government. When you are given a service or contract just by word of mouth, it is corruption. At the end of the day and for you to be paid, maybe you have to bribe because you have nothing to show that you gave a particular service. It is important to have rules and procedures. The same procedures should be obeyed by everyone, the giver and the taker.

The contracting authority should comply with provisions of the Public Procurement and Asset Disposal Act and any other law of this country concerning contracting. It is very sad when it comes to payment of the contract or the services the Government has been given, particularly when we give contracts to the youth and the disabled then we take a whole year to pay them. It is very common in the counties and the national Government. They delay payment of these people. It is very discouraging. We are trying to support the youth so that they can make their future. But, it is unfair when you take a whole year without paying them. Maybe they have borrowed this money or taken some loan from whichever quarters yet you do not pay them. They get discouraged. It is the responsibility of the Government to support the youth, the disabled, the women and everyone else.

As I wind up, I want to say that we have a responsibility. If you are given a service or giving a service, you need to follow the rules and procedures. They are there, like in this Bill brought here. It is here today but we do not mean we did not have the rules. We have been having them but we do not follow them because of corruption in this country; they need to be followed like yesterday.

I support.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Before I give a chance to Hon. Nduati, let us have Hon. ole Sankok.

Hon. David ole Sankok (Nominated, JP): Thank you very much, Hon. Temporary Deputy Speaker, for this opportunity to support this Bill which has come at the right time.

The easiest way to become rich in Kenya nowadays is to get contracts from the Government. Sadly again, the easiest way to become poor in this country is to get contracts from the Government. You will be rich very fast if you first of all get a contract, you are connected and you are willing to give kickbacks either in kind or in cash. For the women colleagues, it is in kind; for the male, they normally request in cash. This is what is killing those who are not well connected. You will find them getting contracts, but it takes an eternity to pay them.

This Bill is very clear that we need to protect Government money. We also need to protect contractors. It should be a two-way Bill to make sure that those who get these contracts are paid on time. We should have a timeframe within which the contractor must complete the contract and also for the Government to pay the contractor. We should be alive to the fact that we have a law on access to Government procurement by the marginalised groups. That is women, youth and persons with disabilities. Even within that affirmative action group, there are those who are super-marginalised. You will find that they are lumped together – women, youth and persons with disability..

Women will use resources and connection of their husbands. Youths move faster than persons with disability. Women are getting 25 per cent of the 30 per cent, while the youth get 4.5 per cent. What remains for the persons with disability is 0.5 per cent. At times the contracts awarded to Persons Living with Disabilities (PLWD) are contracts that will not make any economic change in their lives. The PLWDs get contracts to supply tissue paper or tooth picks and they are counted as having been awarded contracts. Even when we are awarding these contracts, we should have these contracts awarded in terms of percentages of the value of the contract not on a number of contracts.

There is a clause on the issue of the attorney who will be signing these contracts. As a House, we should insist on the qualification and experience of this particular attorney. Our youth are graduating and they really need these jobs. When they graduate, you will hear people saying what Hon. Kimunya said, that I did it in good faith to the best of my knowledge. But the knowledge was from the university and they do not have experience, so they may not be able to ascertain and dig out the clauses that are on these contracts in terms of payments. We also need to insist that there should be a clause on the timeframe of these contracts being completed. You will find contracts particularly roads that have taken ages. Even on the NG-CDF, it is demoralising to get a road of five kilometres taking 10 years to complete and before the project is even completed, the first kilometre will need repairs. We therefore, need to have these timeframes.

Hon. Temporary Deputy Speaker, I also expected to see a clause that talks of payments and the memorandum of understanding that whenever a contract is issued, the money provided should be enough. We are having a lot of white elephant projects. Contracts are awarded, people come for variation and they want to increase money. They are then assisted by the people in those offices to get variation. These variations sometimes require kick-backs and it actually delays these contracts.

When I was the Chairman for the National Council for Persons Living with Disabilities, we used to award contracts. We used to give someone an opportunity to bring the BQs signed by the Ministry of Works. Once they brought the BQs, I had to ascertain the amount of money they needed and we would give them a full cheque against a memorandum of understanding that they would finish a particular project within five months. There was no variation at all. The BQs read a specific amount of money and we did not have a back and forth talking of variations. If in awarding contracts the money is not enough, the building will not be completed and there will be no allocation or vote on that particular project. We have so many white elephant projects and incomplete projects that are draining our economy. I support and urge the Committee to ensure that they incorporate the good comments so that they enrich this Bill at the Committee of the whole House so that we can protect the contractors, Government and citizens who are the taxpayers because they suffer when we lose these monies.

Thank you very much, Hon. Temporary Deputy Speaker. I support.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Hon. Nguni.

Hon. Joseph Nduati (Gatanga, JP): Thank you very much for the opportunity to contribute. At the outset, I want to tell Hon. Sankok that the richest people in Kenya are not contractors. In fact if you want to be poor, trade with Government. You will do one contract and you will not be paid, all your assets will be sold, your performance bond will go, then you will realise that you cannot go far. I have looked at this Bill and the Public Procurement and Asset Disposal Act and seen that they vary a little. Most of the amendments being proposed here can be contained in the Public Procurement and Asset Disposal Act, 2015. Clause 6 of the Bill says that all contracts made for and on behalf of the national Government shall be in writing. I support this one. Most Kenyans have lost their money. They have been advised by procurement officers to supply goods, that there is urgent work which is needed, only to realise later that the Local Purchase Order is not available and they end up losing a lot of money.

The other thing I want to say about Clause 6 is that this signing should be done within a certain timeframe because sometimes a tender evaluation committee can do the evaluation then the accounting officer fails to sign the contract. As we propose our amendments we should also

put a timeframe when the accounting officer should sign any contract which is brought to his attention.

Clause 6(3) says that an accounting officer of procurement entity should ensure that all contracts are cleared by the Attorney General. This used to happen in the past but it caused a lot of bottlenecks because the Attorney General would stay with those documents for a very long time. That is why in the new procurement Act this was done away with. If we were to bring it back, we must then say within 21 days, all the tenders with the Attorney General should be signed or returned to the accounting officers. We should also create a timeframe for the accounting officer. After the evaluation that particular contract needs authorisation from the Attorney General. He should be able to do it within a certain timeframe so that he does not stay with it and delay awarding of contracts. We have seen happening in this country.

The other important thing that has been raised in this Bill is in Clause 11 where a contracting authority requires a person to give security. That security shall be dealt with in the manner set out in the Public Procurement and Asset Disposal Act. This one has caused a lot of problems especially with local contractors. In the Act it says that performance bond should be in the form of a bank guarantee. You can imagine where a local contractor is undertaking a contract worth Kshs100 million and the performance bond is 10 per cent. That is Kshs10 million. If you walk to a bank and tell it that you want a performance bond worth Kshs10 million, the bank will demand cash cover of Kshs5 million and assets worth Kshs10 million so that in case of default, those assets can be auctioned with ease. That is why I am proposing instead of having a bank guarantee we change it for the local contractors and have an insurance bond.

An insurance bond is very good for our local people because you can pay in installments. What used to happen in the past is, whenever a local contractor got a tender, the performance bond would be given in cash, deducted in three equal installments from his payment. In the first certificate you would deduct one-third and in the next certificate, you would deduct the other third. Otherwise, even if we say our local contractors should be allowed to do work worth Kshs1 billion, I am sure that most of them will not be able. With this requirement you will put off most of them. You can look at a contract worth Kshs1 billion with a performance bond of ten per cent. That performance bond will be Kshs100 million. How many of us can afford Kshs100 million in this House apart from Hon. Sankok, nominee No.001? We should review that.

Hon. Temporary Deputy Speaker, Government contracts are normally difficult to execute. This is because a Government entity will award a contract knowing they do not have adequate funding to execute it. At times they frustrate the contractor. They take him to the site knowing that they do not have money. I hope Hon. Millie is listening to me. Let us ensure that the Government also provides a contractor with a performance security so that in case the Government defaults, a bank will take up that liability. The same case should apply to a contractor, if they do not perform, their performance bond will be attached.

I encourage the Government to follow the NG-CDF example when they are executing contracts. The NG-CDF is the best model which can be used by any Government entity. As a Member of Parliament, you cannot award any contract when there is no money.

The other thing is that these delayed payments have caused most of our contractors to suffer. When Government does not pay, contracts become very expensive. Even if you are paid for interest on delayed payments, it cannot cover for all your costs. There are various costs such as idle labour which sometimes the Government does not want to cover, there will be idle plant

and other extended preliminaries such that you find that even if you are compensated for that interest, you still lose.

On sexual harassment which was mentioned by Hon. Millie Odhiambo, I would like to say that it is not only women who are harassed. You should go to some of these procurement entities which have been flooded by ladies. I would encourage you to visit them. Some people lost their jobs at the National Youth Service because of harassment by our ladies. So, do not just look at it as if it is only ladies who are harassed. As you make that amendment, also remember us men because we also can be harassed. Imagine if you are invaded by 10 beautiful ladies of your type. Let us not be one sided. I am in support of the gender Bill. I want Hon. Millie to know that I am in support, because we as men are already suffering as men.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Order Hon. Ngugi, please address the Chair. You seem to have gravitated toward addressing Hon. Millie.

Hon. Joseph Nduati (Gatanga, JP): I was supporting the gender Bill. Gender does not necessarily mean women. I come from Murang'a South which is represented by Hon. Alice Wahome, Hon. Ruth Mwaniki, Hon. Mary Wamauwa and myself. Out of the four Hon. Members I am the only man and so I am the disadvantaged gender there. Let us not make it look like it is only ladies who must be nominated. Maybe, next time I will be nominated to Parliament.

With those few remarks, I support with some amendments which I will move when it comes to the Committee of the whole House.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Very well, Hon. Ngugi you seem to have moved into an earlier Order on the constitutional amendment, but I am sure your mind has been heard and noted.

Let us have Hon. Arbelle Member for Laisamis.

Hon. Marselino Arbelle (Laisamis, JP): Thank you, Hon. Temporary Deputy Speaker for giving me this opportunity to contribute to the Government Contractors Bill brought in by the Hon. Leader of the Majority Party.

Sincerely speaking, there have been lots of gaps in the way procurement has been carried out in our country, particularly in areas of roads. As much as we have the county government and equally the national Government, it is very unfortunate that every time a contract is advertised online and you expect Kenyans to apply for those contracts, they normally outline that these contracts belong to people living with disabilities, youth or women. So, they expect that these cadres of people are the only ones who are eligible to apply for those contracts.

Kenyans have mustered every art such that instead of those clusters of people applying, you will find unscrupulous contractors in the name of people living with disabilities in possession of all kinds of certificates to justify that they are people living with disabilities when they are not.

Therefore, this is how corruption chips in. So, you end up awarding a contract which was meant for people living with disabilities to normal citizens. This is in line with the President's decree on setting aside of 30 per cent of public contracts for women, youth and people living with disabilities. When will such people stand on their feet economically, if this is the status quo?

For that reason, the policy must be structured in a way that the organisation in charge of people living with disabilities is required to identify and recommend categories of people living with disabilities. That way, we can move forward. I come from a marginalised area. This is in sync with the constitutional provision of promoting Kenyans who have been left behind

economically so that they can catch up with the rest of Kenyans. For the marginalised communities, we have created the Equalisation Fund. Unfortunately, in the spirit of ensuring that all Kenyans have an equitable share of the national cake, it would be prudent if such contracts are shared equally amongst the marginalised areas.

Assuming a contract has been advertised, if it falls under marginalised areas, as much as we are all Kenyans, in order for us to promote and economically empower people in the marginalised areas, we ought to award such contracts to people from those marginalised areas. As it is, a contractor from Mombasa would go to my constituency simply because he has been awarded a contract, yet this person does not understand the local language, culture and geographical area. So, conflicts arise.

To minimize this, it is better if we craft a legislation that ensures such contracts, particularly those from the national Government, are awarded to local contractors so that the money remains at the grassroots and the communities remain economically stable.

I would also like to state something about payment. It is true that due to corruption in Kenya a lot of money has been lost to corruption cases. Today, everywhere the President gives an address, he must talk about corruption. We should get rid of corruption. If you look at the sugar industry, the other day, we were told by the Cabinet Secretary, Dr. Matiang'i that sugar had mercury content. People across the country are frustrated because there is no single evidence up to-date.

There is corruption everywhere and as you will realise there are maize scandals. In today's newspaper, I read that the NHIF lost money due to corruption. Yet, those genuine contractors awarded contracts do not receive payment in due time. It is very essential that Government agencies who issue these contracts to be undertaken by Kenyans put measures in place so that payments are made on time. So, as they execute road contracts or other contracts payments are made on time.

Thank you, Hon. Temporary Deputy Speaker. I support this Bill.

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

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

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): The Member for Gichugu.

Hon. Gichimu Githinji (Gichugu, JP): Thank you, Hon. Temporary Deputy Speaker. I rise to support and contribute to this Bill. Firstly, it is good because it addresses the two levels of Government in line with the Constitution of Kenya, 2010.

As we are aware, the previous Government Contracts Bill only addressed the issue of the national Government. This Bill will translate into an Act that will enhance competence and quality of work done by contractors awarded by the Government. It will ensure that there is compliance with the Public Procurement and Assets Disposal Act and the Public Private Partnership Act. This will ensure that the contracting authority complies with the requirements of all the Acts relating to matters of contracts.

This will largely ensure that corruption in awarding Government contracts is minimised. So, there will be no favouritism or exaggeration of prices as usually done by some contractors against the Government. A good example is what happened in my county. A contract not known

where it was awarded to represent the County Government of Kirinyaga had a cost of hundreds of millions indicated as legal fees. That was a lot of money which would have been used to improve the conditions of roads in that country or provide water for the people.

I also support this Bill because under clause 9 there is a provision that all contracts that relate to the provision of legal services must be given under the authority of the Attorney General and the county attorney for contracts that relate to the county governments. This will give clear guideline because these personalities are people who have legal backgrounds and are the chief legal advisors of both the national Government and county governments respectively. They will give guidelines on matters of remuneration to avoid exorbitant and unreasonable fees that may be charged against these respective governments.

Clause 15 also gives powers to the Attorney General to make regulations. This is a very important provision because it creates harmony across all the counties in terms of regulations. Otherwise, if every county was left to make its own regulations then, this would mutilate the same law that was supposed to govern the entire country and all counties equally. When the Attorney General is given the mandate of making regulations, harmony and consistency in this law will be guaranteed.

I have also looked at clause 11 which ensures that there is compliance with the Public Procurement and Assets Disposal Act and the Public Finance Management Act in terms of ensuring security is given and contracts must comply with these provisions to ensure Government money is not wasted. Though I support this Bill, I want to propose going forward it is good we get some clarity when it comes to clauses 6 and 7 which deal with contracts entered outside this country.

We must have very clear guidelines to avoid a situation whereby an authorised officer or accounting officer enters into contracts outside the country. Whereby, public money is used without proper mechanisms of recovering it. Also a situation whereby the respective jurisdiction, if a court case arises from these contracts may lack mechanisms of how to effectively handle this.

So, this is a matter that needs a lot of clarity to avoid abuse of these offices that are entrusted with entering into contracts outside the country. Why they should be entered into the first place is the jurisdiction of the courts that should be handling those matters when they arise. Those are the areas that we need a bit of clarity. Also, there is an inclusion of a clause that before Government contracts are given, there must be money available. This is because it is given against some resources that must be available to avoid a situation whereby contracts are given in anticipation that money will be available. Due to budgetary allocations, this money may not be available and someone has already done the work. When Government requires that security must be given from contractors, then the same Government must ensure that that money is available to pay a contractor once work is done and to the satisfaction of the contracting authority.

Another clause that is also necessary and an amendment is also required is that there also needs to be an oversight team like what we have in the NG-CDF. There is a clause that says that there is a team that oversees what is being done and this must be in relation to the areas of expertise. This is because the person who is giving this contract is not an authority in all the areas of the contract. So, we need a lean team to be looking and also advise the contracting authority that a certain work that has been given by the Government has already been done to the satisfaction of that oversight team so that now a satisfaction note will follow and then payment to the contractor.

I rest my contribution and I support.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Hon. Chepkut Chirchir, Member for Ainabkoi.

Hon. William Chepkut (Ainabkoi, JP): Hon. Temporary Deputy Speaker, thank you very much. This is indeed a great Bill. This Bill will protect the Government and at the same time contractors. It will again protect the spending of public funds. Clause 11 ensures compliance with the Public Finance Management Act and the Public Procurement and Asset Disposal Act 2015. Having said that, I want youth, women and people with disabilities to be given 30 per cent of any contracts that are advertised. The Attorney General is being given the powers to harmonise and regulate both the national Government and counties governments. At the end of the day, we want value for money. One of the roles of a Member of Parliament is in the budget-making process. I want to tell Members of Parliament that accountability is the basis of any meaningful achievement. Therefore, we want to see the value for money both in infrastructure and generally all developments in our country.

His Excellency the President gave a decree that the youth, women and people with disabilities be given 30 per cent of the contracts. That has not been followed. I want us to establish an oversight role in seeing that all contractors comply and complete the work that has been awarded to them. These international contractors can sue Kenya Government. So, being the legal advisor of this Republic of Kenya, I want the Attorney General to engage arbitration in the International Criminal Court (ICC) so that Kenyans' money is indeed protected.

We have seen issues with China. We have seen a lot of Chinese people being given more than three contracts. I want us to put it into law that anybody who has more three contracts should not be given the fourth contract. Because we have our own people in Kenya, let them enter into a joint venture so that we protect our own contractors. At the end of the day, all these Chinese will take all the money back to their countries. When they have been awarded contracts, they employ their own Chinese. They do not employ Kenyans. We want to pass a law that if Chinese contractors have been given contracts, let them take 30 per cent local content and we put it into practice.

His Excellency the President is fighting for this nation when it comes to corruption. I want the operational arm of Government to put it into its logical conclusion. We have talked about Parliamentary Service Commission (PSC). We, as Members of Parliament, know there are three arms of Government – the Legislature, Executive and Judiciary. We, as Members of Parliament, are not subordinate to either the Judiciary or the Executive. So, I support all the benefits including the pecking order that we become number seven from 43. This is because we vet and approve all State officers including Cabinet Secretaries, but when it comes to official State functions, we are told to sit very far. Then who are we? So, I am saying that it is important that when we engage with international contractors, let us engage people who are reputable, people who finish their contracts and people who employ our own people at 30 per cent and put into consideration the local content. Let us empower the Attorney General. I want him to act very tough that anybody who is not following the rules of this country should be given 24 hours to leave Kenya. This is because I do not want these Chinese to place Kenya under receivership like they have done to Zambia.

I want to share with the Members of Parliament that leadership is a calling from God to serve. Be sensitive to the needs and wants of our people and serve our constituents with honour, justice, equity, integrity and dignity as opposed to sycophancy and personal greed.

Having said that, let us pass this Bill when the whole House is present. I want Hon. Members to take seriously the role of oversight especially when it comes to competence, experts and people who have authority so that things are done properly and to their logical conclusion.

I support this Bill but I want the youth, women and people with disabilities to be considered.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Very well, Member for Ainabkoi. The next one on my request list is the Member for Molo, Hon. Kimani Kuria.

Hon. Kuria Kimani (Molo, JP): Thank you, Hon. Temporary Deputy Speaker. I rise to support this Government Contracts Bill (National Assembly No.18 of 2018). In this financial year, we passed a Kshs3 trillion Budget. Of the Kshs3 trillion, 38.9 per cent was supposed to go to development. This development is what will be anchored in law through the Contracts Bill No.18 of 2018.

Earlier today, there was an interesting conversation all over the country about the two-thirds gender Bill. Contracts in this country are also guided by a presidential decree for access to Government procurement. In as much as we are fighting for our women's space in the political arena, how well are we fighting for them in the economic arena? How well are our youth, women and people with disabilities incorporated in this Bill? I was going through this Bill and there is no mention of such. I expected that the presidential decree would be anchored in this Contracts Bill so that it now becomes a real constitutional requirement that all institutions should give 30 per cent of their contracts to youth, women and people with disabilities.

The Kshs1.16 trillion development funds should revolve around our country. The few women who have managed to get contracts with the Government end up being first on the pending bills list. Although our Constitution is clear in the Public Finance Management (PFM) Act that the first charge should be the pending bills, when auditing at the Public Accounts Committee we have seen that this is never followed. There are pending bills since 2014, 2015, 2016 and 2017. Those ministries and Government agencies do not bother to pay. The most affected are the youth, women and people with disabilities. When they supply Government contracts, they do not have that capital or the luxury of waiting for one, two, three or five years before they get paid. Most of the time when they are lucky enough to get those contracts, they get them through financing. This financing is not even long-term. It is short-term financing that attracts very high interest rates.

This Bill, for once, settles the issue that has been used as an excuse in delaying payments by the Government. As a Government, we are very quick to take money from the public. If it is taxation, that is Value Added Tax, it is charged at source. When that woman in Molo Town buys sugar, that tax is deducted at source. But when it comes time for that woman to enjoy a service of the Government or payment of goods and services supplied to the Government, that ends up delaying for years and years. This Bill cures such because Government agencies and county governments will only be allowed to procure once they have the cash in the bank accounts just like we do with the NG-CDF funds.

Economic crisis in this country has also been caused by our pricing of items. I am happy that this Bill looks at curing this. Any person knows that for you to get rich, you just need to do business with the Government. A pen that is supposed to cost Kshs10 out there, when supplied to the Government it costs 50 times more. Hon. Temporary Deputy Speaker, I was with you in the Public Accounts Committee where the Independent Electoral and Boundaries Commission (IEBC) procured sim cards at 100 times their cost in the market. This Bill will make it impossible. We hope this will lead to more development in our country and more value for money for our people.

There is also the issue of Chinese contractors. They have taken over the contract business in this country and became wise. When it was resolved that Chinese contractors should only get contracts worth more than Kshs1 billion, they are now using local people. They are taking IDs of Kenyans and youths. You will find a Chinese contractor with a certificate. They claim to be women, youth and people with disabilities. We love our Chinese relations but for us to develop as a country, we must say no to neo-colonialism. Even mining contracts in our constituencies could very easily be manipulated by those Chinese contractors. I am happy because the Bill is now making it illegal for anyone to allow someone else to use their identity to register a company and call themselves youth, women, Kenyan or people with disabilities. If we are to grow this country, we must make sure that we love ourselves and protect our industries, people, youth, women and people with disabilities.

In conclusion, the youth, women and people with disabilities should not just be included in the political space. They need more inclusion in the economic space and in the award of contracts in this country. They should not just receive it as a favour.

With that, I support this Bill.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Very well. It is good to know you are in the youth class. The youth are very well represented in Parliament.

Let us have the Member for Bomet Central, Hon. Tonui.

Hon. Ronald Tonui (Bomet Central, JP): Thank you, Hon. Temporary Deputy Speaker for this opportunity to also support this Bill. This is a very important Bill because it will provide some clarity on the issue of contracts in connection with the Government. We need to have clear rules of engagement with the Government. I support this 100 per cent, possibly with some necessary amendments.

I support the issue of bribery being included in this Bill. There should be issues of integrity whenever anyone wants to engage in business with the Government or in contracts which involve the Government. I once talked to a CEO of a certain parastatal which I will not name and she told me that what they spend efficiently and effectively on any contract is around 30 per cent. Seventy per cent is normally shared through paying commission to others for ensuring tenders and such. When we have clear rules of engaging in tenders with the Government, the issues of bribery and peddling influence here and there will also be reduced.

I am also happy that this Bill will also include county government contracts. There are so many people who were contractors of the county governments and are currently suffering since they have not been paid even for as long as five years. Some have their properties being sold by the banks. It is important that all that is captured in this law to ensure that those people are paid.

I do not see the issue of the mode and sequence of payment and how the contractors should be paid in this Bill and yet that is very important.

I believe there should be a way or some guidance on the sequence like the policy of first come, first served. The first contractor to bring a completion certificate should be the first one to be paid. What happens currently is that those who are in charge of these Government agencies only pay their friends. They pay those who have given them bribes. The honest contractors are rarely paid. Their payment takes long to be processed. They are frustrated. To ensure that such kind of manipulation does not rise, I believe we need to build in this Bill that the first come, first served, policy applies. I will bring an amendment to ensure that it is well captured.

The issue of availability of funds should also be provided in this Bill, so that any Government agency intending to give out any tender should first of all confirm that there is availability of funds rather than just dishing out tenders when they do not have the funds. We

need them to follow the procedure which we use in NG-CDF. We ensure first of all that we have the money before we award the tenders. That one is very important, so that we do not have incomplete projects which take forever to be completed. I believe that will be very important.

In this same Bill, the approval by the Attorney General is required. I do not believe this is necessary. All these Government agencies have their legal officers who are equally qualified like those ones in the Attorney General's chambers, if not even better. Some of those legal officers in the parastatals are paid well and motivated. Therefore, they may provide better legal guidance. I believe incorporating the Attorney General in the approval of all these contracts will bring inefficiency in the awarding of tenders. It will lead to delays. I believe that is one area which we need to re-look into to ensure that there is efficiency.

Clause 14(1) (a) provides that a public officer shall not be liable to be sued in any of these contracts. I believe this one will be open to misuse. Everyone should carry his or her own sins. If a public officer will involve himself in some irregularities in awarding contracts and tenders, then he should be sued by those who are affected. The provision of this part of this Bill needs to be removed to ensure that they become diligent in what they do.

There is also the issue which the President raised in one of the public forum that we need to make public the list of all those applicants for any tender and their quotation. I have not seen it captured anywhere in this Bill. Those are some of the issues which we need to inbuild in this Bill to ensure that there is integrity, transparency and accountability.

With those few remarks, I support the Bill.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Very well, Member for Bomet Central. You support this Bill. Your amendments are very welcome at the right stage which is the Committee of the whole House.

Hon. Members, there being no other request to speak to the Government Contracts Bill (National Assembly Bill No.9 of 2018), this brings closure of debate to this Bill. I therefore call upon the Mover to reply. The Mover is the Leader of the Majority Party. I can see that he is not in the House. Today was a very busy day because of the two-thirds gender rule. I order that the reply to the Government Contracts Bill (National Assembly Bill No.9 of 2018) be done in the next Sitting as it will be indicated in our National Assembly Order Paper.

Next Order.

BILLS

Second Reading

THE KENYA ACCREDITATION SERVICE BILL

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): The Mover is the Leader of the Majority Party and he is not in the House. I order that Order No.15 be deferred.

(Bill deferred)

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): A Member was rising on a point of order. Hon. Omboko Milemba, you are seated in a different side today. We always know you sit in a certain corner. Today is a special day of the two-thirds gender principle.

Hon. Omboko Milemba (Emuhaya, ANC): Thank you, Hon. Temporary Deputy Speaker. Today was a very special day for the two-thirds gender rule. We were supporting it fully. That is why I am seated on this side.

I wanted to draw attention to the fact that according to Standing Order No.95, we do not have the quorum. That is why we are not able to tackle business as it should be tackled. Based on that particular position, we should adjourn so that this business can be discussed seriously when we have the requisite quorum in the House.

Thank you, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Say again. What is your point of order? We will be forced to state the Standing Order which you are rising on in future.

Hon. Omboko Milemba (Emuhaya, ANC): I am quoting Standing Order No.95. There is no quorum in the House.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Hon. Omboko has said that he has risen on Standing Order No.95. It is important for the House to be guided. You did not state the right Standing Order. You said Standing Order No.95 which does not speak to quorum.

Hon. Omboko, please be guided that you have to get the right Standing Order. It is the one that guides us. My assumption from where I sit is that you meant the adjournment of the House. The Leader of the Majority is here. Hon. Omboko, you are advised. Look for the right Standing Order. We are guided by the Standing Orders. I do not know the language that you use but I assume you have quoted Standing Order No.95 to seek for the adjournment of the House.

Second Reading

THE CAPITAL MARKETS (AMENDMENT) BILL

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Leader of the Majority Party.

Hon Aden Duale (Garissa Township, JP): Thank you, Hon. Temporary Deputy Speaker. I will move this Bill because the Chair of the Committee is around.

Hon. Temporary Deputy Speaker I beg to move that the Capital Markets (Amendment) Bill, 2018 be read a Second Time.

The Capital Markets Act is proposed to be amended in order to enhance investor protection as well as investor confidence in our capital markets.

Capital markets are very important when it comes to the level of confidence investors have in them and, of course, they must feel a sense of protection from the regulator.

Hon. Temporary Deputy Speaker, considering that this is a very small Bill, I will explain the rationale for each of the proposed clauses. It has five pages. It is a Bill that came with the Budget. So, this House is under obligation to complete these Bills before we go on the long recess.

Clause 2 of the Bill seeks to expand the definition of the term, “key personnel” in order to enhance the attention given to the calibre of individuals undertaking the very important role of preparing financial statements of listed companies and entities – those reviewing or approving the financial statements as well as those who have a very central role in making sure that there is oversight and assessment of the internal controls within the Capital Markets Authority. That is why there is definition of “key personnel.”

Clause 3 seeks to amend Section 11 of the Capital Markets Act in order to enhance the powers of the Authority when dealing with fraud issues, or dealing with fraud in issuance of securities. In terms of dealing with issuance of securities, the section is being amended to give the Authority or the capital markets more powers.

Clause 4 of the Bill proposes to amend Section 13B of the Capital Markets Act in order to satisfactorily sanction any contravention that may lead to acquisition of any illicit gains and to further provide sufficient powers to the Capital Markets Authority to impose interim measures to ensure real time enforcement. As the capital markets do their business, integrity must always be at the highest level. So, in the event there is an illicit gain at the stock exchange, the Authority must be in a position to impose interim measures to ensure that there is real time enforcement.

Clause 5 of the Bill proposes to amend Section 18 of the Capital Markets Act so as to enhance investor protection by providing compensation to persons who provide new and timely information on any violation relating to securities. So, Clause 5 amends Section 18 to give investors protection where they give compensations to any person who assists the Authority to provide timely information when any violation relating to the securities occurs. This clause also provides for the administration of the Investor Compensation Fund to be done by the Authority. So, there will be an administrator to be in charge of the Investor Compensation Fund.

Clause 6 of the Bill proposes to repeal Section 18A of the Capital Markets Act to remove the board that was established to manage the Compensation Fund. So, it removes the board in order to provide an effective and efficient administration of this Fund whose administrator or administration will be now under the Authority as opposed to having a separate body to manage Compensation Fund.

Clause 7 of the Bill seeks to enhance measures to deal with fraud ranging from embezzlement of funds of listed companies by ensuring that employees and senior management of listed companies are subject to administrative sanctions when fraud takes place. The moment a company is listed, its administrators and top managers are under obligation to live to that integrity.

Clause 8 of the Bill proposes to provide the Authority with the power to address any financial disclosure. It was not there before. All those listed in the stock exchange will now be required to make financial disclosure. They must disclose their accounting procedures. If they are involved in fraud one way or another, that makes them lose investor protection.

Clauses 9 and 10, which are amongst the last clauses of the Bill, propose to introduce new Sections 31JA and 32KA respectively in the Capital Markets Act in order to create certain offences like front running and obtaining gain by fraud. Front running is an offence by market intermediaries where a stock broker or a dealer conducts prior security purchase transactions in order to take advantage of the clients' order. That is with regard to brokers and how they behave before listing takes place. So, the new sections introduce certain specific offences.

We have seen several instances where market intermediaries collude with external firms outside our country, and with private individuals. They make prior purchases and then subject the same securities as disposed of to another purchasing. Such are not transparent transactions.

Finally, Clause 11 of the Bill seeks to clarify matters that may be presented to the Capital Markets Tribunal for determination. I am sure that the Chair of the Departmental Committee on Finance and National Planning, Hon. Limo, has engaged with the Capital Markets Authority, the National Treasury and other stakeholders in the financial sector and listed companies to give us views of the stakeholders when public participation was conducted.

I beg to move and ask Hon. Limo to second.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Hon. Limo.

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

This is a very important amendment Bill to the Capital Markets Authority Act. What is important in any country is investor confidence, which is a cornerstone for any economy to grow. For it to happen, the Government must do one or two things to ensure that the market is properly regulated and investors are fully protected.

The Bill has been well explained by the Leader of the Majority Party. I will not repeat what he has said. It is the intention of the Bill to bring a lot of sanity to the capital markets, especially on issues involving officers and staff who misuse prior information of a customer who has ordered a certain number of shares and go ahead to purchase from the market and thereafter offload the same to the investor.

Therefore, that is an abuse of prior information. This Bill has addressed that so that in future, no one will abuse that. If, indeed they do it, then there is repercussion which has been provided for by the Bill.

This Bill also brings in more staff. Previously, key personnel were limited to the CEOs and the rest. But this Bill is expanding the definition of “key personnel” in order to include individuals undertaking a critical role like preparing the financial statement of listed companies. Those particular individuals normally, through access to these financial statements, can easily know what is happening. Other staff especially who play a central role in oversight and assessment of internal controls have also been brought in. That means it will need good internal auditors in these companies because they access privileged information which cannot be accessed by other people in a normal situation.

This Bill, once it was tabled in this House, was brought to the Departmental Committee on Finance and National Planning and we went ahead as per Article 118 of the Constitution to conduct public participation. This Bill was advertised on 6th July 2018. Subsequently, we received memoranda and held public participation on Thursday 9th August 2018. We had people like Kipkenda & Co. Advocates, an individual by the name Erick Okoth and of course the National Treasury together with Capital Markets Authority.

The inputs which were given to us during public participation has helped in coming up with some amendments which we will be moving in the Committee of the whole House and it will make the Bill much better than it is now.

So that I allow Members to contribute to this Bill, I want to end by saying that given that this Bill is for the purpose of protecting investors, it is a very important Bill. As we are talking now, this country needs a lot of investors. We have had counties going round the world looking for investors. Other than looking for investors outside Kenya, there are many investors who are in our counties but in most cases, they do not have confidence. Therefore, they do not want to invest freely because they are not assured but by strengthening our legal framework, by amending existing and even introducing other laws to protect investors, it is one way of preparing the country for a big shift from the current growth which is still one digit to two digits. We want to encourage our county governments to tap from local investors so that people can move small companies to the level where they would be listed and they will be governed by the laws which we are making.

With those many remarks, I second this Bill. I encourage Members of this National Assembly to support this Bill.

(Question proposed)

Hon. Kuria Kimani (Molo, JP): On a point of order, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Hon. Member for Molo.

Hon. Kuria Kimani (Molo, JP): Thank you, Hon. Temporary Deputy Speaker. I am rising on a point of order according to Standing Order No.96 that debate be now adjourned.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): What is your reason?

Hon. Kuria Kimani (Molo, JP): Our Leader of the Majority Party and my able Chairman of the Departmental Committee on Finance and National Planning have very well elaborated on the issues and, therefore, no Member seems to want to contribute to this Bill. So we adjourn.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): He is rising on Standing Order 96 which is about adjournment of a debate. Following Standing Order 96 which has been reported rightly by the Member of Molo, I put the Question that the debate be adjourned.

(Question, that debate be now adjourned, put and agreed to)

(Debate adjourned)

Next Order.

(Second Reading)

THE INSURANCE (AMENDMENT) BILL

Hon. Aden Duale (Garissa Township, JP): On a point of order, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Yes, Leader of the Majority Party.

Hon. Aden Duale (Garissa Township, JP): Hon. Temporary Deputy Speaker, the House time is from 2.30 p.m. to 7.00 p.m. Members must be here. If you watch the House of Commons, there are times they are only five Members but because the Insurance Bill is important and we are only left with 10 minutes, I want to indulge the Chair that we either move it tomorrow morning when the House is full or tomorrow afternoon. This is a Bill that belongs to the Chair of the Departmental Committee on Finance and National Planning and he can comment on it.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Before the Chair speaks, Leader of the Majority Party, you are right. I can see Hon. Omboko is nodding. In future, he will know the Standing Order to quote. Yes, the Chairperson?

Hon. Joseph Limo (Kipkelion East, JP): Hon. Temporary Deputy Speaker, we have just moved the Capital Markets Authority Bill, but I think it is important for Members to be here when we are moving. That is so that they contribute from a point of information. Therefore, I propose that we defer this Bill.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Very well. Because of the intentions and the fact that the Bill speaks for itself, Order No. 17 is deferred.

(Bill deferred)

Next Order.

Second Reading

THE SACCO SOCIETIES (AMENDMENT) BILL

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): The Chairperson of the Departmental Committee on Finance and National Planning, pronounce yourself on Order No. 18.

Hon. Joseph Limo (Kipkelion East, JP): This Bill is not for the Departmental Committee on Finance and National Planning. I think it belongs to the Departmental Committee on Trade, Industry and Co-operatives. Initially, I think it was published under this Committee. I cannot see the Chair when I look around.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Before you finish, let me hear the Leader of the Majority Party.

Hon. Aden Duale (Garissa Township, JP): This Bill is properly before the Departmental Committee on Finance and National Planning. There are specific Bills that came with the Cabinet Secretary for the National Treasury. The Insurance Bill, the Capital Markets Authority Bill and the SACCO Societies Bill are among them. So, the SACCO Societies Bill belongs to the Departmental Committee on Finance and National Planning. This is different from the other SACCO Bills which are in the House and which the Departmental Committee on Trade, Industry and Co-operatives is dealing with. So, the Chair should tell us whether he will move it tomorrow or the day after – I mean Tuesday next week. These are the Bills that are presented to the House alongside the Budget proposals read by the Cabinet Secretary for the National Treasury when he spoke to the House.

That is why the Bill is under his signature. It has your signature. You cannot run away from the baby that is yours unless we go and do a DNA test and confirm whether this baby belongs to you or not.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Before that, let me hear what is out of order, Hon. Ouda or is it Oudwa?

Hon. (Dr.) Wilberforce Oundo (Funyula, ODM): I am Dr. Oundo as opposed to Hon. Ouda of Kisumu Central. I am from Funyula.

I belong to the Departmental Committee on Trade, Industry and Co-operatives. Strangely enough, the Bill, even though it is under the hand of the Committee, was forwarded to us to review and hold public participations, which we have held. I think the Report from our Committee was tabled here in the afternoon. We need guidance from the Hon. Temporary Deputy Speaker. The only aspect that deals with the issue of finance is that of ICT reporting. The rest are purely administrative issues to align the Act. So, we need guidance from your end.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): You are right. So, the Bill is rightfully in the House. The Chairperson of the Departmental Committee on Finance and National Planning who has signed the Bill can pronounce himself to the effect that it be deferred and those matters tackled.

Hon. Joseph Limo (Kipkelion East, JP): As the Leader of the Majority Party has said, I have recollected my mind and realised this is my baby. I will move it. Because the Committee which did public participation will be here and they have tabled a Report, they will second. Therefore, in the same spirit that this is a very important Bill, I propose that we move it to another Sitting because of the timing. It can be tomorrow.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): I order that the SACCO Societies (Amendment) Bill (National Assembly Bill No. 18 of 2018) be deferred.

(Bill deferred)

Next Order.

Second Reading

THE ASSUMPTION OF OFFICE OF THE COUNTY GOVERNOR BILL

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): The Chairperson of the Departmental Committee on Administration and National Security or the Hon. Leader of the Majority Party.

Hon. Aden Duale (Garissa Township, JP): The Chair of the Departmental Committee on Administration and National Security is busy interviewing members and commissioners of the Public Service Commission (PSC). I think I require your indulgence that we step down this Order. I am sure he will be in a position to move by tomorrow or the day after, on Tuesday.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Thank you, Leader of the Majority Party. I order that the Assumption of Office of the County Governor Bill (Senate Bill No. 1 of 2018) be stood down.

(Bill deferred)

Next Order.

Second Reading

THE NATIONAL FLAG, EMBLEMS AND NAMES (AMENDMENT) BILL

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Again, the Chairperson of the Departmental Committee on Administration and National Security. Following the standing down of the other Orders and with the explanations we got from the Leader of the Majority Party, I order that the National Flag, Emblems and Names (Amendment) Bill (Senate Bill No. 8 of 2017) be stood down for now.

(Bill deferred)

ADJOURNMENT

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Hon. Members, there being no any other business on our Order Paper today and the time being 6.57 p.m., this House stands adjourned until Thursday, 29th November 2018, at 9.30 a.m. It is so ordered. I thank you all.

The House rose at 6.57 p.m.