

NATIONAL ASSEMBLY

OFFICIAL REPORT

Thursday, 3rd May, 2012

The House met at 2.30 p.m.

*[The Temporary Deputy Speaker
(Mr. Ethuro) in the Chair]*

PRAYERS

POINT OF ORDER

DELAYED RESPONSE TO PETITION ON ISSUE OF PEOPLE WITH DISABILITIES

Mr. Mureithi: Mr. Speaker, Sir, you remember that I had raised a Petition regarding people with disability. It has taken a bit of time and I wonder whether the Minister of State for Public Service will be in a position to deliver the response.

The Temporary Deputy Speaker (Mr. Ethuro): Mr. Minister, any response?

The Minister of State for Public Service (Mr. Otieno): Mr. Temporary Deputy Speaker, Sir. I had good notice of this impending Petition and I have got a response if you will allow me to issue it.

The Temporary Deputy Speaker (Mr. Ethuro): If you are ready, you may.

PETITION

INTEGRATION OF PEOPLE WITH DISABILITIES IN ALL SPHERES OF LIFE

The Minister of State for Public Service (Mr. Otieno): Mr. Temporary Deputy Speaker, Sir, the Government of Kenya has, over the years, adopted laws and policies that have outlawed discriminatory practices against people with disabilities and guaranteed them the right to productive and decent work and services. These laws have culminated into the Constitution of Kenya, 2010, which has entrenched the rights of the people with disabilities. Articles 27 and 54 of the Constitution, in particular, guarantee persons with disabilities equality and freedom from discrimination and assure them access to basic services including participation in both elective and appointive institutions.

The Government has, indeed, undertaken a number of initiatives aimed at integrating persons with disabilities into all the spheres of life so as to enable them enjoy a full productive life like all the other citizens of our country. We are, therefore, committed to the provision of opportunities to everyone including people with disabilities to obtain decent and productive work based on the principles of freedom, equality, security and human dignity.

Mr. Temporary Deputy Speaker, Sir, it is with the above in mind that the Persons with Disabilities Act was enacted in 2003 and came into operation in 2004. The objective of the Act

was to promote fair treatment of persons with disabilities and where necessary affirmative action has been applied in order to minimize challenges that they face so as to promote normal living.

I have listened to the Petitions and concerns raised by public servants with disabilities on the need to raise the retirement age from 60 year to 65 years. The Government supports the raising of the retirement age of persons with disabilities to 65 years of age as the rationale for the five extra working years are still valid. I know that Section 15(2)(vi) of the Persons with Disabilities Act, 2008 provides 60 years as the minimum retirement age for persons with disabilities. The minimum retirement age was set when the Government retirement age then was 55 years.

In April, 2009, the Government decided to raise the mandatory retirement age for all public servants from 55 years to 60 years, and hence this petition that persons with disabilities who previously enjoyed retirement age at 60 years needed to be accorded an extra five years for there to be equity in retirement age. You will also agree that due to the various forms of disabilities, persons with disabilities access learning institutions a little later than others in life. This means that they enter into careers much later in life than the majority of the people who have no disabilities.

Secondly, for those who suffer disabilities later in life, the time taken to undergo medication and rehabilitation shortens their working life. Affirmative action is, therefore, required to compensate them for this loss in years and help cushion them in the later years in life so that they can lead a more dignified life like all other Kenyans.

Mr. Temporary Deputy Speaker, Sir, while supporting this affirmative action, we need to look into social protection policy that guarantees dignified life for the aged and persons with disability after retirement from active employment. The increase in retirement age will not be the ultimate solution, but the policy that contributes to the protection and welfare of those with disabilities after active working life is also necessary.

In conclusion, I will liaise with the Minister for Gender, Children and Social Development so that an appropriate amendment is brought to Parliament to raise the minimum age of mandatory retirement for persons with disabilities from 60 years to 65 years. In the meantime, it is not possible to reabsorb in service those who already retired in the intervening period, but those who are still in service as of today, this very time I am making this Statement will have all their retirement extended to 65 years. After we amend the law this will apply right across to all employers, but for public servants it will commence from today.

Thank you, Mr. Temporary Deputy Speaker, Sir.

The Temporary Deputy Speaker (Mr. Ethuro): Mr. Mureithi, you must appreciate that Order No.3, Petitions, is not Ministerial Statements. So, once the Minister has responded to it, we will avail copies to you. That is the end of it.

Next Order!

Dr. Khalwale: On a point of order, Mr. Temporary Deputy Speaker, Sir. Under the new Constitution, it is provided that decisions of the Government shall be provided in writing. Is the Minister in order to suggest that the directive that he has given is with effect from today and at the same time fall short of tabling here a signed document showing that these disabled Kenyans who deserve retirement at 65 years will, indeed, do so? Will it not be in order for you to direct him to table a document so that we believe him?

The Minister of State for Public Service (Mr. Otieno): Mr. Temporary Deputy Speaker, Sir, I have tabled the document and it is signed. It will be gazetted as soon as the Attorney-General can process the gazettment effective today.

Mr. Mureithi: On a point of order, Mr. Temporary Deputy Speaker, Sir.

The Temporary Deputy Speaker (Mr. Ethuro): What is it, Mr. Mureithi? But I hope you are not using it as an opportunity to---

Mr. Mureithi: I agree with you, Mr. Temporary Deputy Speaker, Sir. I agree with what the Minister has given and I am very grateful that people with disabilities in service will continue until 65 years. However, I just want to find out something from the Minister. On 5th March, 2009, he issued a Press statement and one of the paragraphs on page 3 of his Statement says:-

“Employees in service including those on extended periods will now be allowed to serve up to age 60 and persons with disability will be allowed to work up to age 65, if they so wish.”

I wanted to know whether this Statement negates his directive made on 5th March, 2009 when he issued this Statement. Is he in order not to follow the directive he had given in the past?

The Temporary Deputy Speaker (Mr. Ethuro): Minister, you may wish to respond to that. However, I just want to say that the Standing Orders, Mr. Mureithi, are very clear. This is not a subject for discussion. If you wanted to interrogate, you know the area in which you would have raised the matter.

The Minister of State for Public Service (Mr. Otieno): Mr. Temporary Deputy Speaker, Sir, as hon. Members are aware when I made that Statement, there were objections here and there and consultations were continuing within Government which have come to this conclusion based on which I have made this Statement today.

QUESTIONS BY PRIVATE NOTICE

ASSAULT/EVICTION OF STUDENTS FROM YUSUF HAJI SECONDARY SCHOOL

Mrs. Shebesh: Mr. Temporary Deputy Speaker, Sir, I beg to ask the Minister for Education the following Question by Private Notice.

(a) Is the Minister aware that 28 students of Yusuf Haji Secondary School who hail from outside Ijara (but mostly from Galole Constituency), were assaulted and forcefully evicted from the school on 24th March, 2012 and, if so, how many students were injured in the incident?

(b) What measures will the Minister take to ensure that the affected students continue with their studies in the school?

(c) Could the Minister consider compensating all the students whose personal belongings were taken away by fellow students?

Mrs. Shebesh: Mr. Temporary Deputy Speaker, Sir, just for your information, we have consulted with the Assistant Minister on additional information that is needed on this Question, but I would prefer that he gives that indication himself.

The Temporary Deputy Speaker (Mr. Ethuro): Mr. Assistant Minister, is that your understanding?

The Assistant Minister for Education (Prof. Olweny): Mr. Temporary Deputy Speaker, Sir, we have agreed with hon. Shebesh that I go and make a little more consultations with regard to answering this Question. It is a bit challenging because there are certain issues which we need to further consult and I request for two weeks.

The Temporary Deputy Speaker (Mr. Ethuro): In two weeks time, the Question will be on the Order Paper!

(Question deferred)

EVICTION OF MACHAKOS DISTRICT HOSPITAL
DOCTORS FROM GOVERNMENT HOUSES

Dr. Eseli: Mr. Temporary Deputy Speaker, Sir, I beg to ask the Minister for Housing the following Question by Private Notice.

(a) Why were senior doctors based in Machakos District Hospital asked to vacate Government houses by 30th April, 2012, in favour of magistrates and judges?

(b) What alternative accommodation has been arranged for them?

(c) What is the Government policy on housing for public servants?

The Minister for Housing (Mr. Shitanda): Mr. Temporary Deputy Speaker, Sir, I beg to reply.

(a) There are three judges and magistrates newly posted to Machakos Law Courts who are commuting from Nairobi to Machakos on a daily basis. On the request by the District Security Committee, my Ministry was asked to identify houses to accommodate the three officers taking into account the following factors namely common security arrangement and accessibility. The Ministry explored the estates within Machakos Town where the judges and magistrates could be accommodated and several pool houses were considered. A zone comprising six housing units occupied by various public servants, among them the two doctors, was identified and vacation advice issued to the occupants of those houses.

(b) The two affected doctors will be relocated to House Nos. HG2 and HG17. House No.HG17 is a pool house while HG2 is located within the Machakos Level Five Hospital which provides convenience for the doctor to stay within the institution.

(c) The Government policy on housing for public servants is to provide housing to those providing essential and strategic services while paying market-based house allowances to all civil servants to enable them access housing equitably in the open rental market.

Dr. Eseli: Mr. Temporary Deputy Speaker, Sir, the Government has persisted in treating doctors with disdain and like second class public servants. There were six units that were identified in this zone. There were three judicial officers who were being posted to Machakos. So, there were six occupants. However, the doctors were moved, but not the other public servants who were in those same units. Why was it that it had to be the doctors to be moved and yet, there were six units? There were only three judicial officers who were moving in. Why could the doctors not have been considered to continue living in those houses? Are those houses of the same standards as the ones they have been asked to vacate? This continued mistreatment of doctors with disdain must end.

Mr. Shitanda: Mr. Temporary Deputy Speaker, Sir, in fact, on the contrary, all the six officers who were living in this area have been asked to vacate. We had one nurse. There were two doctors, two prison officers and one officer from the Ministry of Finance. They have all been asked to leave. In addition, the houses that have been allocated to these doctors are in the High Grade (HG) category. They are similar to the houses where we are asking them to occupy.

Mr. Mbadi: Mr. Temporary Deputy Speaker, Sir, it is interesting to hear the Minister talk about security and say the doctors had to be moved because the judges, probably required more security. Which was the priority to the people of Machakos in terms of their lives between doctors serving them in the hospitals and the judges passing judgment for them to go to prison?

Mr. Shitanda: Mr. Temporary Deputy Speaker, Sir, it is not a question of the priority for the people of Machakos, but rather the priority of Government in providing accommodation and security to its civil servants. So, what we had been asked by the District Security Committee (DSC) was to identify an area that could be convenient in terms of providing security---

Mr. Mbadi: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is it in order for the Minister to mislead this House that the priority of the people of Machakos is secondary to the priority of the Government providing security to the judges? The Constitution is very clear that sovereignty lies with the people. So, the sovereignty is with the people of Machakos, who have put the Government in place. Is it in order for him to mislead Parliament that the priority of Government can supersede that of the residents of Machakos?

The Temporary Deputy Speaker (Mr. Ethuro): Order! Order, Mr. Mbadi!

Mr. Shitanda: Mr. Temporary Deputy Speaker, Sir, as I said earlier, all this was being done at the request of the DSC. So, if there are any security issues, hon. Mbadi knows whom to ask. But as for the Ministry, we were asked by the DSC to find a zone where we could place these judicial officers that would be convenient in terms of the pooled security which they were provided with.

Mr. Kigen: Mr. Temporary Deputy Speaker, Sir, the Minister has told this honourable House that all those houses are all in class HG. What necessitated doctors being asked to vacate them and the judges could have occupied them without necessarily having to disturb other civil servants?

Mr. Shitanda: Mr. Temporary Deputy Speaker, Sir, as I said, the DSC requested for a zone for the judicial officers where they would be provided with pooled security. In my answer, I said that one of the houses that have been identified for allocation to one of the doctors is actually within the hospital. We do not expect a judge to go and stay in a hospital! It was easier for a doctor to relocate to the hospital which is his work station and the magistrate or the judge goes to the other pool house.

Mr. Olago: Mr. Temporary Deputy Speaker, Sir, debate on this Question should not degenerate into whom amongst doctors and lawyers and magistrates are superior in training or superior in terms of service. It is a question of who among them deserves more security. To that extent, the Minister is right. To avoid situations like in Kisumu where magistrates have to share residences with accused persons, thereby making their lives very risky, what is the Ministry doing to ensure that those who dispense justice like judges and magistrates are housed properly and in a secure area?

Mr. Shitanda: Mr. Temporary Deputy Speaker, Sir, as part of the Government policy on housing, the Ministry through the Civil Servants Housing Scheme Fund, has embarked on a programme of enabling them, especially the ones in the senior cadres, to acquire their own houses either in the rural areas or within the municipalities where they are working. So, as a short-term measure, we are trying to put these officers in areas where we can provide pool housing. But the long-term measure is to try and facilitate them acquire houses in safe places.

Dr. Eseli: Mr. Temporary Deputy Speaker, Sir, it is very sad that the Minister has just confirmed that doctors are second class civil servants. There were six units; there were three judiciary officers being moved to Machakos, but they evicted everybody from the six units. It does not make sense why you had to evict the doctors because there were only three judicial officers coming in. So, who occupied the other three houses because there were three judicial officers moving in? They evicted everybody from there. So, the three occupied the three units, but who occupied the other three units if it was not the doctors?

Mr. Shitanda: Mr. Temporary Deputy Speaker, Sir, I just wish to confirm that doctors are not second rate citizens as the hon. Member is trying to imply. These are very important people because they take care of our lives. Therefore, the Government puts a lot of care in terms of their welfare.

Mr. Temporary Deputy Speaker, Sir, as I said, the DSC asked my Ministry to identify a zone which could be reserved for judicial officers. A zone comprising six houses was identified. In that zone, this is where the two doctors and a nurse were staying plus three other officers---

Mr. Lessonet: On a point of order, Mr. Temporary Deputy Speaker, Sir.

The Temporary Deputy Speaker (Mr. Ethuro): Hon. Lessonet, you are completely out of order!

Proceed, Minister!

Mr. Shitanda: Mr. Temporary Deputy Speaker, Sir, the three houses are being occupied by the three judicial officers who have been posted there and they have already reported. There are other judicial officers being expected who will actually go and occupy the other three houses.

The Temporary Deputy Speaker (Mr. Ethuro): Next Question, hon. Simam.

USE OF SPORTSMEN/WOMEN IMAGES BY PRIVATE
COMPANIES WITHOUT FINANCIAL GAIN

Ms. Chepchumba: Mr. Temporary Deputy Speaker, Sir, I beg to ask the Minister for Youth Affairs and Sports the following Question by Private Notice.

(a) Is the Minister aware that private companies are using images of Kenya's sportsmen and women in advertisements without any financial gain made to them?

(b) Could the Minister confirm that Mr. Dennis Oliech, an international footballer, resigned from the national team, Harambee Stars, due to the use of his image without financial gain made to him?

(c) What measures will the Minister take to ensure that sportsmen and women, such as Mr. Dennis Oliech and Ms. Pamela Jelimo, whose images are used by such companies in advertisements, are paid?

The Assistant Minister, Ministry of Youth Affairs and Sports (Mr. Kabando wa Kabando): Mr. Temporary Deputy Speaker, Sir, I beg to reply.

(a) I am not aware of any private company which is using the images of Kenyan sportsmen and women in advertisements without giving them any financial gain.

(b) I am not aware that Mr. Dennis Oliech, an international footballer, resigned from the national team, Harambee Stars, due to the use of his image without financial gain made to him, since no official communication has been received in my Ministry. In the meantime, my Ministry regards Mr. Oliech as a *bona fide* member of the national team, Harambee Stars. Indeed, the national team coach has named him in the current team, which his getting into training to play against Malawi on 2nd June, 2012 and Namibia on 9th June, 2012 in the World Cup qualifier matches, and also against Togo on 16th June, 2012, in the African Cup of Nations qualifier match. We look forward to Dennis Oliech's continued appearance for the national team.

(c) As for the sportsmen and women whose images are used by companies in advertisements, my Ministry is not party to such contracts since it is not involved in the signing of the agreements. My Ministry, however, is and will always be available to advise athletes and all sports individuals on commercial ventures which they may engage in. I, therefore, advise them to involve the Ministry and their sports federations in these ventures.

Mr. Mbuvi: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the Assistant Minister in order to give a very misleading answer in this House? You have just heard him say that he is not aware of any use of images of our international players by these companies, while he is very aware that there are images of these international players all over the country.

The Temporary Deputy Speaker (Mr. Ethuro): Order! Order, hon. Sonko! Make the Assistant Minister aware if you have contrary information.

Mr. Mbuvi: Mr. Temporary Deputy Speaker, Sir, the Assistant Minister is giving a very misleading answer to the hon. Members in this House. I wish to table a picture of one of billboards along Ngong Road by Kenya Breweries, where the images of international players, Dennis Oliech, Mc Donald Mariga and Bob Mugalia appear, contrary to the agreement executed by the Harambee Stars Management Board. This agreement does not benefit the players.

(Mr. Mbuvi laid the document on the Table)

Mr. Temporary Deputy Speaker, Sir, secondly, the Assistant Minister has misled this House by saying that the social media---

The Temporary Deputy Speaker (Mr. Ethuro): Order, hon. Sonko! You rose on a point of order and I think you have made your point!

Mr. Mbuvi: Mr. Temporary Deputy Speaker, Sir, we are interrogating the answer by the Assistant Minister. This is a very misleading answer!

Hon. Members: Answer!

Mr. Mbuvi: Mr. Temporary Deputy Speaker, Sir, it is a very misleading answer and I am challenging it! He does not know his job! He is not conversant with soccer activities in this country!

The Temporary Deputy Speaker (Mr. Ethuro): Order! Order, hon. Sonko! Please, resume your seat!

(Mr. Mbuvi resumed his seat)

(Dr. Khalwale stood up in his place)

The Temporary Deputy Speaker (Mr. Ethuro): I am trying to dispose the point of order by hon. Sonko. I will grant you, Dr. Khalwale, and if you persist, you may not get an opportunity to raise that point of order.

First, I want to say that this is not admissible in terms of a document for purposes of Parliament. But, also, the Assistant Minister needs to remember the Standing Orders. Something in the public domain does not need to be proven. So, Mr. Assistant Minister, unless you do not live in this country not to have seen this, I am afraid hon. Sonko has a point, although he has used the wrong route to demonstrate it.

Mr. Kabando wa Kabando: Mr. Temporary Deputy Speaker, Sir, you heard me answer very clearly. I live in this country and I am in charge of sports and so, I know!

Mr. Temporary Deputy Speaker, Sir, the hon. Member has mentioned the social media. It is good enough that you have, first, dismissed that image because it is not authenticated. My attention has also been drawn to an unsigned letter in the social media, purporting to emanate from Mr. Dennis Oliech.

Mr. Mbuvi: On a point of order, Mr. Temporary Deputy Speaker, Sir.

Mr. Kabando wa Kabando: Mr. Temporary Deputy Speaker, Sir, can you protect the Government to respond?

The Temporary Deputy Speaker (Mr. Ethuro): Order! Order! Let us allow the Assistant Minister to make his response!

Mr. Kabando wa Kabando: Mr. Temporary Deputy Speaker, Sir, first of all, it was a question and not a matter of being out of order. The letter in the social media is not authentic and is neither addressed to the Ministry in charge of sports nor the Kenya Football Federation (KFF). It is not copied to the Ministry. We, therefore, regard it as a rumour until such a time that we will receive an original signed communication from the mentioned player, if at all such a letter exists.

Mrs. Shebesh: On a point of information, Mr. Temporary Deputy Speaker, Sir.

The Temporary Deputy Speaker (Mr. Ethuro): Order, Mr. Assistant Minister! Do you want to be informed?

Mr. Kabando wa Kabando: Yes, Mr. Temporary Deputy Speaker, Sir. I am aware that she has the ability to inform me, although I know that she is just going to provoke me!

Mrs. Shebesh: Mr. Temporary Deputy Speaker, Sir, I am tempted actually to do that, but I actually want to help the Ministry. This is because it is clear to those of us who are seriously interested in football in this country and we follow this story very well. I can give information to the Assistant Minister that the company that is using the image of the footballer, Oliech, is a company that signed an agreement with the Harambee Stars Management Board that was set up by the Ministry. In that contract by that management, there was a clause that said that they can use the images of any player in Harambee Stars, because of the millions of shillings that they gave as sponsorship to Harambee Stars. So, could the Assistant Minister take my information positively and not always doubt when I rise on my feet?

Mr. Kabando wa Kabando: Mr. Temporary Deputy Speaker, Sir, actually, that is outside of the original Question. This is because the Question is about companies that are misappropriating sportsmen and women. If the issue was about positive utilization of advertisements---

Mr. Mbuvi: On a point of order, Mr. Temporary Deputy Speaker, Sir.

Mr. Kabando wa Kabando: Mr. Temporary Deputy Speaker, Sir, protect me from this hon. Member, so that I may proceed.

The Temporary Deputy Speaker (Mr. Ethuro): You are protected. Relax, hon. Sonko! I will give you the opportunity!

Mr. Kabando wa Kabando: Mr. Temporary Deputy Speaker, Sir, in that regard, then it is a positive acknowledgement of what exists. But my response to the original Question is about companies that may be misusing players in this country. The contract was signed by East African Breweries Limited in 2011 with the Harambee Stars Management Board. Later in 2012, the same contract was endorsed by the KFF; the new body that was elected last year.

The Temporary Deputy Speaker (Mr. Ethuro): Order! Order, Assistant Minister! The Chair would like to defend you but it cannot do so. This is because if you look at the Question, part "a" is talking about advertisement without any financial gain made to the players. It refers to the sportsmen and women. Then, part "c" partly says: "By such companies in advertisements, are paid." So, it is still making reference to the financial gain to the individual players.

Mr. Kabando wa Kabando: Mr. Temporary Deputy Speaker, Sir, I insist that, that is a different context and not about the exploitation. Part 5.9 of the agreement between East African Breweries Limited and Harambee Stars Management Board reads:-

“The sponsor has a right to use the images of members of the Harambee Stars Team for promotional and advertising activities. This shall include branding rights, a logo presence on Harambee Stars official sites that is website, twitter, facebook and so on.”

The other article talked about the sponsor having the right to place advertisement on the team collectively or on members of the team individually. The good news is that East African Breweries Limited is sponsoring Harambee Stars to the tune of Kshs110 million in a period of three years. That is an agreement. It is contractual and has been endorsed. The launch of the agreement was actually presided over by the Rt. Hon. Prime Minister in my presence.

Mr. Mbuvi: Mr. Temporary Deputy Speaker, Sir, I think the Assistant Minister is conversant with netball and not soccer! I think this Ministry should elevate Assistant Minister, Ms. Wavinya Ndeti, to be the Minister in this Ministry because she is more conversant with football matters than the Minister himself!

My point of order is that you have just heard the Minister disowning a letter by Mr. Dennis Oliech through the social media. I have just spoken with Mr. Dennis Oliech a few minutes ago and he has sent me an e-mail signed by him. A copy has been sent to Football Kenya Limited (FKL) Chairman, Mr. Sam Nyamweya and his deputy Mr. Sholei. Mr. Dennis Oliech is admitting that he is the author of the letter. Is he in order to reject this letter? He is misleading the House. I table the letter.

(Mr. Mbuvi laid the document on the Table)

Mr. Kabando wa Kabando: Mr. Temporary Deputy Speaker, Sir, the letter has just been tabled. I said that we are not aware of any official correspondence. Mr. Dennis Oliech, apart from being an international player of repute and an inspiration to the youth of this country, he is also a friend to many of us. He has not submitted any complaints to the Ministry of Sports and Youth Affairs. I also have, in my possession, an e-mail that has been circulated purportedly coming from Mr. Dennis Oliech---

Mr. Mbuvi: On a point of order, Mr. Temporary Deputy Speaker, Sir. Could the Assistant Minister respond to my letter first?

The Temporary Deputy Speaker (Mr. Ethuro): Order, hon. Members! We need to be procedural. Mr. Assistant Minister, you are also not helping your own case. I agree that there may be no direct obligation between the sponsor and players. However, you are also admitting that there is an obligation between the Sports Management Board and the sponsor. What the House is asking is what the connection is between the Sports Management Board and individual players.

Mr. Kabando wa Kabando: Mr. Temporary Deputy Speaker, Sir, I could answer please, but I need to be very professional in my answers.

The Temporary Deputy Speaker (Mr. Ethuro): Secondly, Mr. Mbuvi, the Assistant Minister acknowledged that there is something in the social media, but there is no formal communication to the relevant offices. You have now tabled an e-mail between you and Mr. Dennis Oliech. I do not recall you being part of the team in the Ministry of Sports and Youth Affairs. For now, he remains unaware of the letter.

Dr. Khalwale: On a point of order, Mr. Temporary Deputy Speaker, Sir. It is quite obvious that the Assistant Minister is ill-prepared to answer this Question. This Question touches on a matter which is in public domain. He is a member of the same public.

We all know that the issue of intellectual property rights that this Question is raising is a matter that this Assistant Minister is supposed to have a technical answer to. This matter is not limited to football players alone. Even *Mzee* Sakali from Shinyalu and *Mzee* Lukalia from Ikolomoni, their bulls are being used for advertisement and they do not get any compensation. This is a very obvious thing!

(Laughter)

The Temporary Deputy Speaker (Mr. Ethuro): Order, hon. Members! Dr. Khalwale has raised a fundamental issue on your preparedness to answer this Question. He has also introduced other issues which should have come as a supplementary question to the Assistant Minister. However, this matter being serious and some documents being introduced to the House, I suggest that in the public interest, we defer this Question, so that you have the opportunity to interrogate some of the issues that have been raised. I believe by Tuesday, you will have exhausted all possibilities and bring a comprehensive answer to the House. Losing a player of that nature not to play for the national team is a concern to all of us.

Mr. Kabando wa Kabando: Mr. Temporary Deputy Speaker, Sir, as I admitted that we need to move forward, but there are important basics that need to be addressed, so that we are not carried away by the demand for the interest of the player---

The Temporary Deputy Speaker (Mr. Ethuro): The Chair has ruled. You will have an opportunity to raise those basic important issues.

(Loud consultations)

Order hon. Members! Order, Mr. Mbuvi!

We have spent a bit of time on this Question in appreciation of its significance, but it is not the only matter before the House. All the issues are important. In order to make use of our time, we have requested the Assistant Minister to come on Tuesday with the answer. So, if you have any information that you think should be brought to the attention of the Assistant Minister, I think you have an opportunity to do so before Tuesday. So, the Question is deferred to Tuesday next week.

Mr. Kabando wa Kabando: Mr. Temporary Deputy Speaker, Sir, I oblige and I would wish that everybody who has an issue on property rights in a sport to submit a copy of the same to my Ministry, so that we do not engage in rumours.

(Question deferred)

The Temporary Deputy Speaker (Mr. Ethuro): Fair enough!
Next Question, Mr. Chachu!

NON-IMPLEMENTATION OF MARSABIT DISTRICT
SECURITY COMMITTEE RESOLUTIONS

Mr. Chachu: Mr. Temporary Deputy Speaker, Sir, I beg to ask the Minister of State for Provincial Administration and Internal Security the following Question by Private Notice.

(a) Is the Minister aware that the larger Marsabit District Security Committee held a meeting on 13th December, 2011, at Malkona and that its resolutions have not been implemented to date?

(b) Is the Minister further aware that due to failure by Government to recover the camels stolen by members of the Samburu Community of Loiyangalani District from the Gabra Community, there has been tension between the two communities?

(c) Could the Minister provide details on the resolutions made by the District Security Committee meeting of 13th December, 2011 and also state when the Government will recover the stolen camels?

The Assistant Minister for Provincial Administration and Internal Security (Mr. Ojode): Mr. Temporary Deputy Speaker, Sir, I beg to reply.

(a) I am aware that a joint District Security Committee (DSC) sat on 13th December, 2011 to review progress and chat the way forward towards recovery of camels stolen from the Gabra community by rustlers from the Samburu Community at Chari Hashe in Kalacha Location of Maikona Division. These resolutions aimed at the recovery of the said animals and efforts to implement the resolutions are ongoing.

(b) I am not aware of tension between Gabra and Samburu Communities. However, during the time the joint DSC sat there were rumours of tensions and threats of retaliation, especially in Arapal, Olturot and Kurgum which is known as Karbi. The joint DSC has been able to contain the situation so far. A total of 173 camels have already been recovered and efforts to recover the remaining are on. During the joint DSC of 13th December, 2011, it was also resolved that the Loiyangalani DSC liaises with Samburu elders from Arapal, where most of the suspected raiders came from and ensure recovery of the remaining number of camels. It is also important to appreciate here that when the animals were reported stolen, police headquarters deployed a helicopter to help trace the animals for two good days.

The major challenge that the recovery efforts by joint security personnel faced was the impassibility of the roads as the area had experienced heavy rains. To forestall future incidences of this nature, both foot and mobile patrols have so far been intensified.

Mr. Chachu: Mr. Temporary Deputy Speaker, Sir, I appreciate the fact that the Commissioner of Police gave us a chopper to pursue the bandits. This is an incident that happened seven months ago in early November. These bandits are known by name because they admitted the crime and even returned, on two occasions, the stolen animals. A joint District Security Committee of the larger Marsabit sat and made a resolution on 13th December, 2011, and I attended that meeting. Six months down the road, nothing has been done and yet the bandits are known by name and their chiefs are known. Six months down the line, this Government has not done anything. I think it is their wish that we continue fighting perpetually because of livestock.

As a Member of Parliament from a similar environment and you know the problems associated with cattle rustling, I plead with you so that the livestock, since the bandits are known by name, action is taken and the resolutions of the District Security Committee meeting held on 13th December, 2011 are implemented. What will you do for the Ministry or the Assistant Minister to implement that resolutions and recover the stolen livestock?

Mr. Ojode: Mr. Temporary Deputy Speaker, Sir, we have made some inroads and we have so far recovered 173 camels. When they were in a meeting on 13th, we agreed that they supply us with the names of the suspects. We got the names of those who were being suspected last week. We have to investigate those suspects for us to ascertain that, yes, these are the fellows

who are colluding with other rustlers. The hon. Member will also appreciate that when they asked for the chopper to be used in the tracing of the stolen animals because of the heavy rains we are experiencing now, we availed it immediately. In fact, I want to assure my colleague that even if they want the chopper today, I will make sure that they get it to trace the animals. Within two weeks, we will ascertain whether those bandits are the same people who are colluding with the other rustlers.

Mr. Koech: On a point of order, Mr. Temporary Deputy Speaker, Sir. The Member of Parliament is complaining about the lost camels. The Assistant Minister has told the Member that if he requires a chopper to track them, he will avail it. Is he in order to mislead the House that it is not the responsibility of his Ministry to see the need to take the chopper there and ensure that those camels are recovered tomorrow?

The Temporary Deputy Speaker (Mr. Ethuro): Order, Mr. Assistant Minister! In any case, you have said that you availed the chopper in the last two weeks because of the rainy season. This is the case and yet this is a matter that was being referred to on 13th December, 2011. Are you sure of what you are talking about?

Mr. Ojode: Mr. Temporary Deputy Speaker, Sir, I said that we got the names of the suspects in the last two weeks. The chopper was availed immediately when the camels were stolen. I want to say that we will reign on the suspects since we have the names. I do not want to give out the names here because the suspects will hide or run away. So, I ask my colleague to relax so that the police can reign on these suspects. We will arrest them and take them to court because the names are with us.

Mr. Chachu: Mr. Temporary Deputy Speaker, Sir, the larger Marsabit District Security Committee sat and made a resolution. This was for the larger county. The OCPD, Loiyangalani and the DC, Lowak were tasked to enforce that resolution. Six months down the line, they have refused to reinforce that resolution and yet that was a Government decision. What action will the Assistant Minister take against his officers who have refused to implement a resolution of the District Security Committee?

Mr. Ojode: Mr. Temporary Deputy Speaker, Sir, one of the resolutions was that the animals must be brought back. That is what has happened and we have recovered 173 animals. Those who are not enforcing the resolutions, action will be taken against them. I want to assure my colleague that we will take action against officers on the ground who do not take these cases seriously.

Mr. Chachu: Mr. Temporary Deputy Speaker, Sir, a decision was made, half a year ago, on 13th December, 2011. To date, nothing has been done. So, when will the necessary action be taken against those officers? It is now half-a-year down the line.

The Temporary Deputy Speaker (Mr. Ethuro): You have made your point!

Mr. Ojode: Mr. Temporary Deputy Speaker, Sir, currently, we have made some recoveries. If we do not find the animals which were taken, we will definitely take action. However, I am happy that we are currently making recoveries.

Mr. Temporary Deputy Speaker (Mr. Ethuro): Order, Assistant Minister! Failure for the Government to enforce even its own resolution can bring more tension to the communities. Since you have promised to act within two weeks, I order that this Question be deferred for another two weeks so that, at least, we now know the kind of action you would have taken, Mr. Assistant Minister.

(Applause)

It is not enough to give promises to Kenyans when action is necessary!
Mr. Chachu: Thank you, Mr. Temporary Deputy Speaker, Sir.

(Question deferred)

UPSURGE OF CRIME FOLLOWING APPOINTMENT
OF CHIEF OF KIMINDA LOCATION

Dr. Khalwale: Mr. Temporary Deputy Speaker, Sir, I beg to ask the Minister of State for Provincial Administration and Internal Security the following Question by Private Notice.

(a) Is the Minister aware that due to the controversy surrounding the appointment of the Chief of Kiminda Location in Nandi Central, the rate of crime has been escalating at a very alarming rate?

(b) What is the Minister doing to restore normalcy in the area?

The Temporary Deputy Speaker (Mr. Ethuro): Order, hon. Dr. Khalwale! You read it out the other day. Why do you have to repeat it today?

Dr. Khalwale: The Minister was not here, Mr. Temporary Deputy Speaker, Sir.

The Temporary Deputy Speaker (Mr. Ethuro): But the Minister has an Order Paper and he can read it himself. Just ask the Question, Dr. Khalwale.

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Mr. Temporary Deputy Speaker, Sir, for *Daktari* Khalwale, I beg to reply.

(a) I am not aware of an upsurge of crime in Kiminda Location in Nandi Central as a result of the alleged controversy over the appointment of the chief of Kiminda Location. I am talking about Nandi Central. However, I am aware that on 13th January, 2010, interviews for the post of chief, Kiminda Location were carried out. Mr. Stephen Tum, who was among the applicants emerged the best candidate.

The interview results together with the academic qualifications of the best two candidates were forwarded to the Provincial Commissioner, Rift Valley, for further action. Mr. Tum's documents indicated that he was an A level graduate and a holder of a diploma in Human Resource Management from Chester Institute of Science and Technology. This gave him preference over Mrs. Priscilla Meto whose documents indicated that she had the Kenya Certificate of Secondary Education Division II and a teacher's certificate. Mr. Stephen Tum was, therefore, notified of this and was advised to await appointment. However, before the appointment letter was released, information was recovered that the diploma certificate submitted by Mr. Tum was forged and the DCIO, Nandi North was asked to investigate the allegations. The allegations were authenticated and Mr. Tum was arrested and charged with making a document without authority contrary to Section 357(a) of the Penal Code *vides* police criminal case No.771/293/2010. The case is pending before court in Kapsabet. The position of the chief, Kiminda Location was, therefore, readvertized and after interviews, Mrs. Priscilla Meto emerged as the best candidate and was appointed as the chief of the area on 5th October, 2010 *vide* appointment letter No.CON4/7/142 dated 5th October, 2010. Since the appointment of the chief, no serious criminal incidences have been reported to suggest an upsurge in crime in Kiminda Location as alleged by the hon. Member. This is Kiminda Location in Nandi Central.

(b) There has been no serious crime incidences reported in the area except for a few petty offences which are, however, under control. Those are the real facts that we have in the file.

Dr. Khalwale: Mr. Temporary Deputy Speaker, Sir, this is a sad case of how the poor are discriminated against by this Government of *nusu mkate* and *nusu mkeka*. It is also a case of impunity by the Government which acts in total disregard of the Judiciary. I am tabling here a bundle of documents which are copies of the originals. I have the originals here with me.

(Dr. Khalwale laid the documents on the Table)

Mr. Temporary Deputy Speaker, Sir, in that bundle of documents, we have proof that this matter went up to the High Court when the chief realized that he was being shortchanged. The High Court made a ruling---

An hon. Member: Which chief?

Dr. Khalwale: It is Stephen Tum. The High Court made a ruling to the effect that the purported appointment of Madam Priscilla Metto be revoked but because of impunity, the Ministry ignored it.

Mr. Temporary Deputy Speaker, Sir, the second aspect is that in that bundle of documents, Mr. Tum was actually appointed the chief. He was not kept at home to await appointment. The letter of appointment is here. It is the original and it is dated 17th March, 2010. The case in Kapsabet about purported forged documents, here is the original diploma certificate. The copy is there. It is a diploma by Mr. Tum. So, Mr. Tum is being rotated around because he is not the favoured person amongst the men and women of power in that community. His crime is that Nandi District, which provides residence for Nandis, Kipsigis and Luhyas--- Mr. Tum, who is a Kipsigis, is being stopped from being a chief in Nandi. Could the Assistant Minister table in this House any letter which revoked the appointment of Mr. Tum and, secondly, could he table any document in this House showing that an advertisement had been placed for that position because, after the High Court ruling, it was watertight as far as the court was concerned that the appointment of Metto was against the law?

Mr. Koech: On a point of order, Mr. Temporary Deputy Speaker, Sir.

The Temporary Deputy Speaker (Mr. Ethuro): But hon. Dr. Khalwale has asked the Assistant Minister some questions. You cannot rise on a point of order if somebody has asked some questions.

Mr. Koech: Mr. Temporary Deputy Speaker, Sir, it is on the documents tabled.

The Temporary Deputy Speaker (Mr. Ethuro): Okay. What is it, hon. Koech?

Mr. Koech: Mr. Temporary Deputy Speaker, Sir, you heard the Assistant Minister talk about forged certificates. That has very serious implications both within and internationally on the certification within our country. Now that the original certificate has been tabled, could the Assistant Minister withdraw the stated argument that it was forged and apologise to the House? It is important that we protect the integrity and dignity of our certification.

The Temporary Deputy Speaker (Mr. Ethuro): Order! While you have raised an important matter, hon. Koech, I still submit that it is not at the appropriate point. You should have raised it when the Assistant Minister talked about the same statement. So, Mr. Assistant Minister, for now, you can ignore that and just proceed.

Mr. Ojode: Mr. Temporary Deputy Speaker, Sir, I would like to request the Chair to allow the Government to examine the documents which have been tabled here and then, later on, the Government will come back and respond officially to the documents that have been tabled.

That is the only way we can respond to something like this. That is because I am not privy to those other documents. So, you can defer the Question until I go through the documents which have been tabled by my friend, so that justice can be done to our people.

Dr. Khalwale: Mr. Temporary Deputy Speaker, Sir, I want to thank the Assistant Minister for having that attitude. It is a good one, so that he can look at those documents. However, may I also advise him to follow the case where that poor young man was charged in court for using false documents. Please, go and find out that this matter was again heard and determined. In fact, the State Counsel gave an opinion and advice to the magistrate that, that could not be the case because this document was authentic.

Mr. Temporary Deputy Speaker, Sir, let him also go and find out that in that particular location, there are two chiefs. That is because Metto has a letter and Stephen Tum has a letter. So, some of the villagers go to Tum while others go to Metto and, in the process, they cannot solve petty things like cows destroying the crops of a neighbour.

Mr. Ojode: Mr. Temporary Deputy Speaker, Sir, I will check all those concerns by hon. Dr. Khalwale. That is because there is no way we can have two chiefs in one location. The one who was crowned by the District Commissioner (DC) should be the official chief. But give me two to three weeks and I will sort this thing out and report to the House.

The Temporary Deputy Speaker (Mr. Ethuro): Order, Mr. Assistant Minister! While the Chair appreciates the cordial framework in which the two sides are working, if you really look at the Question seriously, it is asking: "Is the Minister aware that due to the controversies surrounding the appointment?" I would imagine that the Minister for Internal Security would be aware in the first place. So, I will not give you three weeks. I will give you one week. The people of Nandi Central also need those services.

Mr. Ojode: Mr. Temporary Deputy Speaker, Sir, two weeks is not a long time. Give me 14 days to check on the authenticity of those documents.

The Temporary Deputy Speaker (Mr. Ethuro): Dr. Khalwale, are you happy with the 14 days since the Assistant Minister has been quite generous to you?

Dr. Khalwale: Mr. Temporary Deputy Speaker, Sir, I have no objection. I also want to offer that I can provide Mr. Stephen Tum to you, so that you also can talk to him from your offices. The big people there usually come with Kimetto. Let the small person come with Khalwale.

The Temporary Deputy Speaker (Mr. Ethuro): Order, hon. Khalwale! If you are helping the Assistant Minister, provide both of them and not just one. Question is deferred for 14 days. That is when it will appear on the Order Paper.

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(Question deferred)

Next Question by Private Notice by hon. Gitari!

MURDER OF GRACE WANJIRU WARUI IN KERUGOYA TOWN

Mr. Gitari: Mr. Temporary Deputy Speaker, Sir, I beg to ask the Minister of State for Provincial Administration and Internal Security the following Question by Private Notice.

(a) Under what circumstances was Ms Grace Wanjiru Warui murdered in Kerugoya Town on the night of 10th April, 2012?

(b) How many suspect(s) have been arrested so far in connection

with the murder?

(c) What measures will the Minister take to enhance security in the area?

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Mr. Temporary Deputy Speaker, Sir, I beg to reply.

(a) On the night of 9th and 10th April, 2012 at Site Estate within Kerugoya Town, an unknown number of assailants broke into the house of Mrs. Grace Wanjiru Warui by removing a window pane near the main door and opened the door using a key which had been left in the key hole. The gang then attacked the deceased and hit her on the head with a blunt object, killing her instantly. Police removed the body to the mortuary where a postmortem was conducted and the cause of death was found to be due to cardiopulmonary arrest which was due to severe blunt penetrating head injury with internal bleeding and brain mater ammonium.

(b) Following the murder, investigations commenced immediately vide file number Criminal Case No.221/125/2012 and one suspect, Wilson Mwangi Njoroge alias Sonny, was arrested and charged before court. Police are pursuing leads which are likely to result in arrest of more suspects because Sonny was not alone when he attacked the lady.

(c) To curb and prevent future occurrences of such incidences, police have enhanced day and night patrols in the area, as well as up-scaling collection and sharing of intelligence with other security agencies. The Government is also implementing community policing aimed at creating partnership between the police and the local community.

Mr. Gitari: Mr. Temporary Deputy Speaker, Sir, while appreciating the answer from the Assistant Minister, I would like to remind the House that on 25th May, 2011, I rose in this House and asked a similar Question; about a person who was murdered and as part (c) of his answer then, the Assistant Minister gave me the same answer he has given me today. Is he committed to whatever he has said in part (c) of his answer?

Mr. Ojode: Mr. Temporary Deputy Speaker, Sir, we are obviously committed as proved by the fact that we have so far managed to arrest a suspect, whom we have taken to court. Let me assure the hon. Member that the other two or three suspects will be arrested any time from now. This shows that the Government is in full control and very committed to arresting the suspects.

The Temporary Deputy Speaker (Mr. Ethuro): Order, Assistant Minister! You have made your point.

Last question, hon. Gitari!

Mr. Gitari: Mr. Temporary Deputy Speaker, Sir, I doubt the Assistant Minister's commitment given in part (c) of the answer because when I raised a similar Question in this House on 25th May, 2011, he gave me the same answer yet since then about six people have been murdered. The Assistant Minister needs to give the people of Kirinyaga Central an assurance that he is going to take other drastic measures, so that we can curb these killings within the constituency.

Mr. Ojode: Mr. Temporary Deputy Speaker, Sir, let me give an assurance to the people of Kirinyaga Central that the Government is fully committed to their security. As I have mentioned here, we will arrest those suspects. I have managed to arrest one suspect so far. Two or three other suspects are also in line for arresting. We are zeroing in on them and we will definitely arrest them. As for now, security will be given priority within Kirinyaga Central Constituency. Let the people sleep without any problem. We are in control.

The Temporary Deputy Speaker (Mr. Ethuro): Next Question, hon. Mbadi.

ASSISTANCE TO FLOOD VICTIMS
IN GWASSI CONSTITUENCY

Mr. Mbadi: Mr. Temporary Deputy Speaker, Sir, I beg to ask the Minister of State for Special Programmes the following Question by Private Notice.

(a) What urgent measures will the Minister take to assist the flood victims in Nyaburu, Gwasssi Central Location; Riamakanga area, Gwasssi East Location, and other affected families in Gwasssi Constituency?

(b) Could the Minister urgently consider availing relief seeds for planting to the farmers who lost their crops due to the recent flash floods in Gwasssi Constituency?

The Assistant Minister, Ministry of State for Special Programmes (Mr. Gabbow): Mr. Temporary Deputy Speaker, Sir, I beg to reply.

(a) Flooding in Gwasssi Constituency was reported to my Ministry on 18th April, 2012. The Ministry responded on 19th April, 2012 by sending food and non-food items as follows: One hundred 90-kilogramme bags of maize; fifty 50-kilogramme bags of beans; twenty cartons of soya oil, 20 bales of nutropup, 15 cartons of corned beef, 50 pieces of blankets and 30 pieces of tarpaulin. The flood victims were also moved to higher grounds.

Further, I personally led a team of Government officials, including the area Member of Parliament, to the constituency on 21st April, 2012 to assess the situation on the ground. The Ministry has continued liaising with officers on the ground, including the Member of Parliament, who have confirmed that no further flooding has occurred, and that the situation has stabilised.

(b) The long rains planting season is over. However, the Government will consider providing seeds during the short rains season, which will start in September/October.

Thank you.

Mr. Mbadi: Mr. Temporary Deputy Speaker, Sir, I would like to thank the Assistant Minister for the Answer.

Let me, first of all, take this opportunity to once again send my condolences to my constituents who lost their loved ones, especially two *wazee*, namely, *Mzee* Walter Adero, who lost seven members of his family; and *Mzee* Onguka Utae, who lost his wife and two children.

Mr. Temporary Deputy Speaker, Sir, I would like to thank the Government sincerely for its quick action. I have to appreciate the fact that the Ministry of State for Special Programmes responded quickly. More particularly, I would like to thank my friend, hon. Gabbow, with whom we went to Gwasssi on 21st April, 2011 and assessed the situation from both the air and the ground.

Having said so, I have a question. It is not in doubt that what has been enumerated here has actually been done because I personally witnessed the packing of those items and their delivery. In terms of the planting season, which the Assistant Minister claims is over, I would like to inform him that---

The Temporary Deputy Speaker (Mr. Ethuro): Order, hon. Mbadi! You have to ask the question.

Mr. Mbadi: Mr. Temporary Deputy Speaker, Sir, I will ask the question.

I just want to ask the Assistant Minister why he cannot provide relief seeds to farmers in my constituency yet the long rains have just begun and our people know when the rains will stop. In my constituency, the long rains last for three months and so far, they have lasted just a few weeks. So, the Assistant Minister is not God. Could he just provide us with the seeds, instead of dictating to us when the rainy season would begin and end? We know how to use the seeds.

The Temporary Deputy Speaker (Mr. Ethuro): You ask one question at a time, hon. Mbadi!

Yes, Assistant Minister!

Mr. Gabbow: Mr. Temporary Deputy Speaker, Sir, the Ministry of Agriculture provided seeds to farmers in Gwassi but the floods swept away those seeds. If the farmers are still in a position to plant under those floods, we will assist so that they can be given some seeds.

Mr. Mbadi: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is it in order for the Assistant Minister to claim that there are still floods yet he has clearly stated in his answer that we have reported to him that the floods have subsided? Now that the situation has stabilised, we can re-plant. I would request him to take the matter of planting very seriously because Gwassi Constituency is the granary of that region and over 80 per cent of the farms have been swept away by floods. Hon. Ojode, who is seated next to him, is my neighbour on the ground. He can confirm to him that many times, we feed them. So, I would ask the Assistant Minister to just consider the matter and tell this House when they are going to give us the seeds. This should be done within a week, so that we can catch up with the rains.

Mr. Gabbow: Mr. Temporary Deputy Speaker, Sir, I will look into the request. This is a new request which has just been made on the Floor of the House. I will look into it and report back to the House regarding what we will have been able to do for farmers in Gwassi.

The Temporary Deputy Speaker (Mr. Ethuro): Order, Assistant Minister! According to your own answer, you actually led a team of Government officials to the constituency. Surely, the people of Gwassi must appreciate why you went there in the first place.

Yes, hon. Duale!

Mr. Duale: Mr. Temporary Deputy Speaker, Sir, first, I would like to thank the able Assistant Minister, hon. Gabbow, and send my condolences to the people of Gwassi.

Now that it is flooding and the waters of the filled up dams have been released, which are going to affect the entire Tana Delta right from the point where the Vice-President's constituency is down to Kipini in Garsen, where whenever there are floods farmers lose their harvest and everything else; what mechanisms is the Ministry putting in place to mitigate the situation, especially being aware that they have asked for Kshs17 billion from the Treasury to purchase maize? Can they get the Kshs17 billion and help the people being affected by the floods, including the Kenya Airports Authority (KAA), who had to close down their airport last night?

Mr. Gabbow: Mr. Temporary Deputy Speaker, Sir, first, I want to table a progress report on the ongoing rains and the flood situation in the country, so that each hon. Member can get an in-depth report of what the Ministry has compiled so far.

(Mr. Gabbow laid the document on the Table)

Mr. Temporary Deputy Speaker, Sir, regarding the issue of the Kshs17 billion, my Ministry is not aware of any such Vote Item in Budget of the Ministry of State for Special Programmes. We are not aware---

Mr. Duale: On a point of order, Mr. Temporary Deputy Speaker, Sir. You have heard what the Assistant Minister has just said. I am very happy that the Minister for Finance is in the House. The Minister for Finance has confirmed to the nation that the Kshs17 billion has been requested by – and allocated to – the Ministry of State for Special Programmes, and not the Ministry of Agriculture. However, again, we have another Minister from the same Government

denying the mysterious allocation of the Kshs17 billion to their Ministry. Can the Leader of Government Business, who is in the House, tell the nation where the Kshs17 billion is?

The Temporary Deputy Speaker (Mr. Ethuro): Order! Restrict yourself Mr. Gabbow for now.

Mr. Gabbow: Mr. Temporary Deputy Speaker, Sir, I do not want to deal with budgetary issues. The Ministry of State for Special Programmes is concerned with issues of flooding, crises response and all that. I will leave the budgetary issues to the Budget Committee of Parliament and the Chief Executive Officer, who is the Permanent Secretary in the Ministry. What I am doing currently is to help the people of Gwasssi to make sure that they get seeds and start planting. I also make sure that they do not die of hunger just because their crops have been swept away.

Mr. Kiptanui: Mr. Temporary Deputy Speaker, Sir, during the visit by the Minister, he did make some roadside declarations that the Government will meet all the medical expenses incurred by the victims. I would like to ask the Minister whether the medical bills were paid by the Ministry and if not, why he failed to fulfill the promise.

Mr. Gabbow: Mr. Temporary Deputy Speaker, Sir, when I went to Gwasssi, we accepted to foot the burial and the hospital bills. My promise still stands and it will be done.

Mr. Mbadi: On a point of order, Mr. Temporary Deputy Speaker, Sir. Now that the Assistant Minister has admitted that the Ministry will foot these bills, will it be in order for me to request him to confirm that because we were to bury those bodies last Tuesday and the burden was really heavy on us? Could the Assistant Minister confirm if we can bring him the bills so that they refund the disaster committee of Suba District?

The Temporary Deputy Speaker (Mr. Ethuro): I thought he did that, but Mr. Assistant Minister, could you confirm that again?

Mr. Gabbow: Mr. Temporary Deputy Speaker, Sir, I would like to assure the Member of Parliament that if he comes with reasonable expenses which we will be able to scrutinize, we will pay.

Mr. Mbadi: Mr. Temporary Deputy Speaker, Sir, my final question to the Assistant Minister is with regard to supplies. About 200 families lost their foodstuff. Could the Assistant Minister confirm to us whether they will allocate more food to these people because the 100 bags of maize have already been distributed? The 50 bags of beans and other items have been distributed and are not likely to last these families up to the next harvest.

Mr. Gabbow: Mr. Temporary Deputy Speaker, Sir, once we get a written documentation from the DSG we will be able to--- We need an analysis because what we received from the Provincial Administration---

Mr. Ogindo: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the Assistant Minister in order to ask for another letter when he actually visited Gwasssi and saw for himself how the farms were swept away? He even extended his visit to Homa Bay and my constituency Rangwe and saw how farms were swept away. Is he in order to ask for another letter to confirm that these people will not have a harvest in order for him to continue with the supply?

Mr. Gabbow: Mr. Temporary Deputy Speaker, Sir, we have already complied with the report which we have received. We have given what they have asked for. The Member for Gwasssi was asking whether we could continue to supply extra food. If we have to continue, he has to make sure that he gives us an update report on it and we will act upon it.

COMMUNICATION FROM THE CHAIR

DEFERMENT OF ORAL ANSWERS TO QUESTION
DUE TO SHORTAGE OF TIME

The Temporary Deputy Speaker (Mr. Ethuro): Order! Hon. Members, you will realise that Question Time is supposed to be one hour. It is now ten minutes to 4.00 p.m. I propose that the rest of the Questions are given priority next Tuesday except the one on National Environment Management Authority that has been pending so that we can conclude it. If the Member is not here, the Question will appear on the Order Paper next Tuesday.

Question No.1159

PAYMENT OF DUES TO MOHAMED ABDIKARIM

(Question deferred)

Question No.1173

REVOCATION OF TITLE DEEDS

(Question deferred)

Question No.1241

STATUS OF CARBON TRADING IN KENYA

(Question deferred)

Question No.1271

NON-PAYMENT OF FARMERS BY PBK

(Question deferred)

Question No.1306

CONSTRUCTION OF DAM ON KIPKAREN RIVER

(Question deferred)

Question No.1334

BENEFICIARIES OF MONEY AWARDED TO M/S
PAN AFRICA BUILDERS & CONTRACTORS LTD

(Question deferred)

Question No.1447

DELAY IN RECRUITMENT OF
NEMA DIRECTOR-GENERAL

(Question deferred)

Question No.1535

VIOLATION OF BANKING ACT BY BANKS

(Question deferred)

Next Order!

MINISTERIAL STATEMENT

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Mr. Temporary Deputy Speaker, Sir, I have a Statement to deliver which was sought by Mr. Ekwee Ethuro. The hon. Member is the Chair now. I need your direction because as usual when I promise to deliver a Statement I have to deliver it as I promised. So, I need your direction. It might not be possible for you to interrogate me because you are on the Chair.

The Temporary Deputy Speaker (Mr. Ethuro): Order! That is obvious. Mr. Assistant Minister, the Statement I sought will be deferred to next week. But if you had given me an earlier undertaking I would have done the needful. Now that you have ambushed me, we will defer it.

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Mr. Temporary Deputy Speaker, Sir, then do we defer it to Wednesday morning, next week?

The Temporary Deputy Speaker (Mr. Ethuro): The Statement is deferred to Wednesday morning, next week.

(Statement deferred)

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Thank you.

The Temporary Deputy Speaker (Mr. Ethuro): Is there any other Ministerial Statement? Yes, hon. Kimunya!

BUSINESS FOR THE WEEK COMMENCING 8TH MAY, 2012

The Minister for Transport (Mr. Kimunya): Mr. Temporary Deputy Speaker, Sir, I wish to take this opportunity to make the following Statement with regard to business for next week pursuant to the provisions of Standing Order No.36(4).

Mr. Temporary Deputy Speaker, Sir, the following Bills are expected to be read for the First Time next week. They are The Water (Amendment) Bill, Bill No.18 of 2011; The

Prohibition of Pyramid Schemes Bill, Bill No.9 of 2012 and The Social Assistance Bill, Bill No.10 of 2012.

We also expect the resumption of debate on the Kenya School of Law Bill, Bill No.61 of 2011 currently at the Second Reading stage. We have also scheduled a Committee of the whole House on the proposed rules of procedure for the election of members of the East Africa Legislative Assembly (EALA) scheduled for Tuesday, next week.

Finally, the House Business Committee will meet on Tuesday, 8th May, 2012, at the rise of the House to consider business for the rest of the week which will include among others the appointment of the Chairman and Commissioners of the Ethics and Anti-Corruption Commission.

Thank you, Mr. Temporary Deputy Speaker, Sir.

POINTS OF ORDER

DELAY IN DELIVERING STATEMENT ON REVENUE STATEMENTS

Mr. Mbadi: Mr. Temporary Deputy Speaker, Sir, there is a Statement that has been awaiting delivery in this House from the Minister for Finance with regard to revenue statements. This Statement has been requested severally. Last week, it was agreed that it should be finally delivered today. The Leader of Government Business made a commitment that that Statement would be delivered. I can see the Minister here. Could I request him to deliver this Statement?

The Minister for Finance (Mr. Githae): Mr. Temporary Deputy Speaker, Sir, let me beg the indulgence of this House so that we can do the Statement on Wednesday or Thursday, next week. That is whichever date is convenient to the Member of Parliament.

The Temporary Deputy Speaker (Mr. Ethuro): Order! I was engaged. Hon. Minister, what did you say?

The Minister for Finance (Mr. Githae): Mr. Temporary Deputy Speaker, Sir, I beg the indulgence of the House that I provide the Statement requested next week because of other pending issues. Because of the Supplementary Appropriations Bill and the Budget, we were not able to prepare the Statement but we can do it maybe on Wednesday or Thursday, next week.

Mr. Mbadi: Mr. Temporary Deputy Speaker, Sir, I would be comfortable with Wednesday afternoon next week. However, I am only pleading with the Chair that the Statement comes this time. That is because there have been several promises. Remember this Statement was asked for in May last year and 12 months down the line, the Statement has not come.

The Temporary Deputy Speaker (Mr. Ethuro): Order! Maybe, the Vice-President and Minister for Home Affairs, as the Leader of Government Business, there was some undertaking to the House on pending Statements. When were they due?

The Vice-President and Minister for Home Affairs (Mr. Musyoka): Mr. Temporary Deputy Speaker, Sir, in fact, the list is very long. I undertook yesterday to bring this matter before the House. The Clerks-at-the-Table were in the process of synchronizing all the pending requests for Ministerial Statements, so that we can deal with them. Some of them date back to August last year. I think it is only fair that we bring some of these matters to a conclusion. Therefore, within that remark, I think we will be able to deal even with what the hon. Member for Gwassi is raising.

Mr. Duale: Mr. Temporary Deputy Speaker, Sir, I want your direction. Please, lend me your ear. Last week, the substantive Chair gave a direction to the Leader of Government

Business, the Vice-President of the Republic of Kenya on a Statement that was pending for the last two months concerning the deportation of a Muslim cleric. The Statement was sought from the Minister of State for Immigration and Registration of Persons.

The Speaker gave directions last week that the Statement be either delivered on Wednesday, which was yesterday, or Thursday. The Minister of State for Immigration and Registration of Persons just walked out when the Order for Statements was due. I want you to give a directive. It is not a question of the Leader of Government Business to say that there are Statements pending since August last year. This is a final plea to you. Yesterday I was waiting for that Statement and the Minister of State for Immigration and Registration of Persons was not here.

The Temporary Deputy Speaker (Mr. Ethuro): Order! Mr. Duale, first, you should have sought your Statement. Then, we would know the whereabouts of the concerned Minister. In his absence, then you should have invited us to the observation that he has just walked out. I want to confirm that the Leader of Government Business is considering those outstanding Statements. But the ones that have been promised in the course of last week must be given as per the promises given.

So, Leader of Government Business, we need to know the fate of that Statement.

The Vice-President and Minister for Home Affairs (Mr. Musyoka): Mr. Temporary Deputy Speaker, Sir, we will immediately go out, seek and get hold of one Otieno Kajwang', the Minister of State for Immigration and Registration of Persons if, indeed, he was supposed to make that Statement yesterday or today. It may also very well be that the matter may not have been communicated, which I doubt. I know how the hon. Member for Dujis has actually been very keen on this particular Statement because while having coffee with him last week, he raised the same matter even at that forum. I think it is important that we bring that matter to a conclusion. However, since I may not have to rush out, on another thought, may I plead with the Chair and the House that this Statement be given promptly on Tuesday.

The Temporary Deputy Speaker (Mr. Ethuro): That is fine, Leader of Government Business. You also need to give an indication to the House on when you will be ready with those outstanding ones. So far, it has been promises of compilation.

The Vice-President and Minister for Home Affairs (Mr. Musyoka): Mr. Temporary Deputy Speaker, Sir, I know a lot of work has been done. I have seen the drafts and I want to be able to deal with this matter next week on Thursday.

The Temporary Deputy Speaker (Mr. Ethuro): Fair enough!
Next Order!

BILL

First Reading

THE SUPPLEMENTARY APPROPRIATION BILL

*(Order for First Reading read – Read the First Time -
Ordered to be read the Second Time today)*

The Temporary Deputy Speaker (Mr. Ethuro): Next Order!

BILL

Second Reading

THE SUPPLEMENTARY APPROPRIATION BILL

The Minister for Finance (Mr. Githae): Mr. Temporary Deputy Speaker, Sir, I beg to move that the Supplementary Appropriation Bill be now read a Second Time.

Mr. Temporary Deputy Speaker, Sir, let me begin from the outset and inform this House that His Excellency the President has signified his consent to this Bill.

The Supplementary Appropriation Bill (2012) seeks statutory approval from this Parliament of the expenditures contained in the Current and Development Supplementary Estimates of the Financial Year, 2011/2012.

Mr. Temporary Deputy Speaker, Sir, let me, again, right from the outset take this opportunity to thank Members of this august House for the valuable contributions they made during the debate on the Supplementary Estimates Motion. I would like to assure hon. Members that I took their views very seriously and will, as much as possible, take them into account as we move forward.

I would also like to take this opportunity, again, to thank Members of this august House for approving even the Finance Bill, which had been outstanding for quite some time. I am pleased to inform this House that His Excellency the President has assented to the Bill and it is now an Act of Parliament.

*[The Temporary Deputy Speaker
(Mr. Ethuro) left the Chair]*

*[The Temporary Deputy Speaker
(Prof. Kaloki) took the Chair]*

Mr. Temporary Deputy Speaker, Sir, the final budget estimates for the year 2011/2012 approved by Parliament consisted of Kshs762.4 billion for Recurrent Expenditure, Kshs386.6 billion for Development Expenditure and Kshs0.5 billion for Civil Contingency Fund. The Recurrent Expenditure included an amount of Kshs552.9 billion for Ministerial discretion expenditure, an amount of Kshs209.5 billion for Consolidated Fund Services payments.

The Development Expenditure comprised of Kshs213 billion which is domestically financed and Kshs183.1 billion financed by development partners. For that, we are grateful to our development partners.

Mr. Temporary Deputy Speaker, Sir, since the commencement of the financial year, the Government faced a number of challenges and emerging priorities which were unforeseen and that required additional funding. They included salaries and advances for health workers--- Members are aware that there is a time when doctors and nurses were on strike. Then there was recruitment of additional teachers, implementation of the Constitution and security operations.

The weakening of the Kenya shilling exchange rate against major currencies also increased the repayment of external debt in shilling terms and the Government expenditure on import of goods and services.

Mr. Temporary Deputy Speaker, Sir, I wish to assure hon. Members that, despite those challenges, we have contained our expenditures within the resources available in order to maintain a micro-economic stability. Specifically, we have been able to finance using the existing civil contingency and, secondly, rationalization and scaling down of expenditures of slow moving projects and deferring of projects not likely to commence within the remaining period of the financial year.

Mr. Temporary Deputy Speaker, Sir, Clause 2 of the Bill provides for the issue out of the Consolidated Fund of the sum of Kshs40,070,568,060 and to appropriate the funds for various services and purposes during the Financial Year ending 30th June this year.

Clause 5 of the Bill seeks a reduction of a sum of Kshs35,569,409,480 of the supply granted for the service of the financial year ending 30th June, 2012.

I have briefly appraised hon. Members of the objects and reasons for the Bill. May I now request the House to pass it in order to authorize the issue of funds from the Consolidated Fund to meet expenditures contained in the Recurrent and Development Supplementary Estimates for this financial year.

Mr. Temporary Deputy Speaker, Sir, I wish to assure this House that the funds allocated to the Ministries and departments shall be utilized efficiently in order to achieve the purposes provided and to provide services for which this House has approved. Financial discipline and economy will be our guiding principles for sustained micro-economic stability necessary for achieving national objectives as envisaged under Vision 2030.

Finally, I thank hon. Members for their continued support on matters of financial management and their contributions will be taken positively and incorporated in the Budget process as we move forward.

With those few remarks, I beg to move and ask Mr. Kimunya to second.

The Minister for Transport (Mr. Kimunya): Mr. Temporary Deputy Speaker, Sir, thank you. I rise to second this Supplementary Appropriation Bill. Hon. Members passed the Motion after lengthy discussions and full support for the changes that were recommended which had been brought about by the current realities *vis-a-viz* the time of the Budget Estimates. I believe this is the matter that Mr. Mbadi had raised. In terms of the sequencing, it is now the time to formalize what had come up by way of Motion, so that at the passage of this Appropriation Bill, then basically the Minister will be given the power to access the money.

So, this is the final stage of that formality that began last week with the House debating and agreeing in principle. The practice has been that this Appropriation Bill has never taken more than five minutes to pass because we are basically endorsing what we have already agreed on but it is a formality through the Commonwealth system that we agree on something and then we bring a Bill to turn it into law. Again, this is a straightforward matter; it does not require a lot of debate. I wish to call upon the House that we finalize and complete the process we began last week or the other week in terms of the formalization of the Appropriations that this House endorsed by passing this Appropriations Bill.

With those few remarks, I beg to second.

(Question proposed)

Mr. Mbadi: Mr. Temporary Deputy Speaker, Sir, when I was listening to Mr. Kimunya, I thought he had a feeling that, probably I would oppose this Motion. But I only expected the

Government and more particularly the Treasury to tell us how they have adhered to provisions of Article 223(2) which says:

“The approval of Parliament for any spending under this Article shall be sought within two months after the first withdrawal of the money---”

So, if the Minister is asking us to approve withdrawal of money, he should have told us whether these amounts have already been spent. If they have been spent, in which month so that we are sure we are not violating the Constitution. But when he just tells us he is asking Parliament to approve expenditure and telling us that they have already overspent, like we know, we have overspent under the Ministry of State for Defence, but when did we overspend? If we overspent more than two months ago, we would be violating the Constitution if we give him the go ahead; the power to spend the money yet he did not live to the letter and spirit of the Constitution. So, I am in a dilemma of what he is asking us to do; what the Government is asking us to do. I am not sure whether what I will be doing would be helping them violate the Constitution. Therefore, he should have provided us with that information. In the absence of that, I am a bit confused and at a loss whether to approve this and in the event that I am not sure, I will just oppose.

So, for that reason I oppose this Motion unless he tells us that these amounts were not spent more than two months before today.

Mr. Njuguna: Mr. Temporary Deputy Speaker, Sir, as I support this Motion, I want to make a few observations. I acknowledge the diligence the Minister has displayed in presenting this Bill to the House. Secondly, I note the endorsement that has been given by the President. One critical observation that I make on this Bill is about the recruitment of teachers. There are currently 80,000 teachers who are required in our primary schools. We cannot talk of quality and standard in our schools if the required number of teachers is not there. Therefore, the sooner these funds are released, the better so that recruitment of teachers will be effected.

Finally, we have seen a lot of our roads destroyed by the heavy rain that has been raining in many parts of this country. We need the roads done as soon as possible, so that transport will continue uninterrupted.

With those few remarks, I fully support the Bill.

Mr. Ethuro: Mr. Temporary Deputy Speaker, Sir, I appreciate the stage at which the Government wants to prosecute business, but we have a constitutional duty to speak to some of these things. If you look at the Constitution, the Supplementary Appropriation Bill, Article 223, Mr. Mbadi has spoken to the issue of time. According to this Constitution, the Government should explain; bring the Supplementary Appropriation Bill after two months of incurring expenditure. I want him to tell us when that happened.

Article 223(5) says:

“In any particular financial year, the national Government may not spend under this Article more than ten per cent of the sum appropriated by Parliament for that financial year unless, in special circumstances, Parliament has approved a higher percentage.”

This Parliament has a Budget Office. We are not dealing with rocket science. We have determined variations of expenditure. If you look at the expenditure of the Ministry of Agriculture, the Government has overspent by 32.4 per cent. On the Ministry of Justice, National Cohesion and Constitutional Affairs, it has overspent by 40.92 per cent; that is almost 50 per cent. The idea why we were putting a variation of not more than 10 per cent is that the Government was already planning and knew what it was planning to spend on. Now, when you go beyond that percentage--- The Constitution allows, in fact, in different circumstances, we

would have acted differently. So, I am asking the Government to realize that we are a bit sympathetic. However, we are running out of sympathy for this Government, particularly when it comes to implementing the constitutional provision on the budgetary process.

(Applause)

The reason why we expended a lot of effort in making sure that these things are provided for by the Constitution is because we are talking about money, equitable development and Government plans. Some of the Ministries, which I am not even going to say, are about livestock where money meant for restocking and stocking for abattoirs for northern Kenya, in this day and age, the Government has not expended the money that is supposed to do abattoirs in the Republic of Kenya. Here we are because we supported this Government; they think we should keep supporting them even when they cannot do what we wanted to do.

Finally, I support with a heavy heart. The Constitution has also given this Government the opportunity to come up with a form in which the Budget process must take place. Up to now, the second year, this Government is still sitting pretty. I am happy and the only reason I am supporting them a bit is because the Equalization Fund has been provided for. They have eaten two out of 20 and we are remaining with 18, but I want to thank the Minister because, at least, since he joined the Ministry, the money is now there and he has allocated for the two years. If not for that, I would have opposed this.

With those remarks, I wish to support.

The Minister for Finance (Mr. Githae): Mr. Temporary Deputy Speaker, Sir, let me take this opportunity to thank Members for those very valuable contributions. I take them to my heart and will try as much as possible to comply with them and make sure that we are all moving together. Let me just reply to two issues that have arisen. One is the recruitment of teachers. In this Supplementary Budget, it is provided that the 18,000 teachers who are on contract be employed on permanent basis and also 5,000 teachers be recruited. If I may just add, even in the Budget Estimates, there is a provision also for recruitment of additional 10,000 teachers. On the Equalization Fund, I am glad to inform the House that now that has been provided for and it will continue to be provided for, for the next 20 years. We have done a double allocation to compensate for last year that was not provided for.

Lastly, I would like to assure this House that the funds which we are seeking today will only be spent after Parliament has approved it. No money has been spent. We are waiting for the Parliamentary approval and all that has been done is that things have been put on hold. Once this approval is given, then the money will be spent.

With those remarks, I beg to move.

(Question put and agreed to)

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

COMMITTEE OF THE WHOLE HOUSE

(Order for Committee read)

*[Mr. Temporary Deputy Speaker
(Prof. Kaloki) left the Chair]*

IN THE COMMITTEE

*[The Temporary Deputy Chairlady
(Dr. Laboso) took the Chair]*

THE SUPPLEMENTARY APPROPRIATION BILL

The Temporary Deputy Chairlady (Dr. Laboso): Hon. Members, we are now in the Committee of the whole House to consider the Supplementary Appropriation Bill, Bill No.11 of 2012.

(Clauses 2, 3, 4 and 5 agreed to)

(First Schedule agreed to)

(Second Schedule agreed to)

(Title agreed to)

(Clause 1 agreed to)

The Minister for Finance (Mr. Githae): Madam Temporary Deputy Chairlady, I beg to move that the Committee doth report to the House its consideration of The Supplementary Appropriation Bill and its approval thereof without amendment.

(Question proposed)

(Question put and agreed to)

(The House resumed)

*[The Temporary Deputy Speaker
(Mr. Ethuro) in the Chair]*

REPORT AND THIRD READING

THE SUPPLEMENTARY APPROPRIATION BILL

Dr. Laboso: Mr. Temporary Deputy Speaker, Sir, I beg to report that a Committee of the whole House has considered the Supplementary Appropriation Bill and approved the same without amendment.

The Minister for Finance (Mr. Githae): Mr. Temporary Deputy Speaker, Sir, I beg to move that the House doth agree with the Committee in the said Report.

The Minister for Nairobi Metropolitan Development (Mr. Jamleck Maina Kamau) seconded.

(Question proposed)

(Question put and agreed to)

The Minister for Finance (Mr. Githae): Mr. Temporary Deputy Speaker, Sir, I beg to move that The Supplementary Appropriation Bill be now read the Third Time.

The Minister for Nairobi Metropolitan Development (Mr. Jamleck Maina Kamau) seconded.

(Question proposed)

(Question put and agreed to)

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

The Temporary Deputy Speaker (Mr. Ethuro): Order hon. Members! Before I call out Order No.11, I have a Communication from the Chair which is related to that Order.

As you may recall, the Chair, on 19th April, 2012, ruled that before the House considers the Public Financial Management Bill, 2012 and the Presidential Memorandum on the County Governments Bill, 2012, whose timelines for legislative action had lapsed as provided for under Article 261(1) of the Constitution, the House was required to comply with the provisions of the aforesaid Article of the Constitution by passing a Motion extending the time for enactment of those Bills.

The Motion under Order No.11, therefore, seeks to extend the period in respect of the enactment of the Public Financial Management Bill and the County Governments Bill. The passage of this Motion will open a window for consideration of the two Bills at the stage they are in. Hon. Members are, therefore, reminded that the provisions of Article 261(1) of the Constitution require that a resolution to extend the period prescribed in respect of any particular matter under Clause 1 of Article 261 of the Constitution must be supported by the votes of, at least, two-thirds of all the Members of the National Assembly. That is 148 Members, at least.

Standing Order No.68(1) provides that in every instance where the Constitution lays down a fixed majority that is necessary to decide any question, the House shall not proceed to a Division on that particular question unless and until a number of Members equivalent to such fixed majority is present at the time of directing the Division.

Further, Standing Order No.60(2) requires the Speaker to direct a Division to be taken in every instance where the Constitution lays down that a fixed majority is necessary to decide any question. The House, therefore, will not proceed to Division unless there are, at least, 148 Members present in the House at the time of directing the Division. Thank you.

MOTION

EXTENSION OF PRESCRIBED PERIOD
FOR ENACTMENT OF CONSTITUTIONAL BILLS

The Minister for Finance (Mr. Githae): Mr. Temporary Deputy Speaker, Sir, I beg to move:-

THAT, aware that pursuant to Article 261(1) of the Constitution and the Fifth Schedule thereof, the following Bills now pending before this House; namely, the Public Financial Management Bill, 2012, and the County Governments Bill, 2012 were required to be enacted by this House not later than 27th February 2012; further aware that these Bills seek to implement critical and fundamental aspects of the Constitution; noting that owing to delays in the consultation, drafting, publication and presentation of the Public Financial Management Bill, 2012, before the 27th of February 2012 and that the House passed the County Governments Bill, 2012 on 23rd of February, 2012; aware that His Excellency the President, pursuant to Section 46 of the former Constitution as saved in Section 3 of the Sixth Schedule to the Constitution declined to assent to the County Governments Bill and submitted a memorandum indicating specific provisions of the Bill to be reconsidered by the House; noting that the Honourable Speaker has certified that there exist exceptional circumstances in accordance with Article 261(3)(b) of the Constitution, this House resolves to extend the period prescribed in respect of the enactment of these Bills for a period of five months commencing on 27th February 2012.

Mr. Mbadi: On a point of order, Mr. Temporary Deputy Speaker, Sir.

The Temporary Deputy Speaker (Mr. Ethuro): What is it, hon. Mbadi? Mr. Minister, have you moved the Motion?

The Minister for Finance (Mr. Githae): I was just moving.

Mr. Mbadi: He has finished.

The Temporary Deputy Speaker (Mr. Ethuro): He has not finished hon. Mbadi! Let us allow the Minister to move the Motion.

The Minister for Finance (Mr. Githae): Mr. Speaker, Sir, this House will recall that on 17th April, 2012, during the parliamentary debate on Public Financial Management Bill, 2012, Members of Parliament raised concerns that legislation to establish the county revenue funds should have been enacted within 18 months, that is 27th February, 2012 as provided for in the Fifth Schedule of the Constitution.

Mr. Temporary Deputy Speaker, Sir, Members will also recall that the Speaker ruled that, that is the correct interpretation and, therefore, we were required to extend the validity period of these two Bills.

Mr. Temporary Deputy Speaker, Sir, just to give Members of this August House an idea, the Ministry of Finance finalized the preparation of the Public Financial Management Bill, 2012 by 20th February, 2012. The Bill was published on 23rd February, 2012 and submitted to Parliament for debate and enactment. The Bill under Section 109 provided for the establishment of the County Revenue Fund as required by the Constitution under Article 207. However, there was general consensus in Parliament that Section 129 of the County Government Bill was sufficient to meet that constitutional requirement.

Mr. Temporary Deputy Speaker, Sir, you will recall that the County Government Bill, 2012 was approved by Parliament before the 26th February deadline and expectation were that the Presidential assent would be obtained soon thereafter. It is on this basis that the Ministry of Finance took the position that it was not necessary to seek an extension of time limit as provided

for under Article 261(2)(3) of the Constitution. However, since the County Government Bill, 2012, has not been assented to by the President, it means that both Bills have missed the 18 months deadline as set out in the Constitution.

Mr. Speaker, Sir, there is, therefore, an urgent need to get the way forward. The way forward is the approval of this Motion. In this regard, it is necessary that a resolution to extend the prescribed period is passed by this House pursuant to Article 261 of the Constitution in order to fulfill the constitutional requirement. Under Article 259((9) of the Constitution, a Motion for the requisite resolution has to be brought to the House. Article 259(9) says:-

“If any person or State organ has authority under this Constitution to extend a period of time prescribed by this Constitution, the authority may be exercised either before or after the end of the period, unless a contrary intention is expressly specified in the provision conferring the authority”

Article 261(3) of the Constitution requires that power of this House to extend the period prescribed on any matter under the Fifth Schedule be exercised only in exceptional circumstances certified by the Speaker. I am happy to inform this House that the Speaker has certified that this amounts to an exceptional circumstance.

Mr. Temporary Deputy Speaker, Sir, therefore today, this House is being called upon to extend the validity of these two Bills. Let me just say two things before I Move this Motion. One, if we do not extend the validity of these two Bills, there will be no County Government. That is because the provisions to operationalise them are in these Bills. You can see the consequences of that action. That is why this morning we had asked all Members of Parliament to be here so that we can pass this very important Motion.

Mr. Temporary Deputy Speaker, Sir, secondly, and I am now saying this to those Members of Parliament who are not in this House and, maybe, who are listening or watching television, if we do not pass these two Bills, then we will give a chance to any Kenyan to go and petition the High Court for the dissolution of this House on the basis that the House has failed to enact the necessary legislation. So, this is a very serious matter. There should be no politics. There should be no intrigues. There should be no ulterior motives. There should be no action that should be taken that will derail these two important pieces of legislation. Therefore, I am appealing, beseeching and pleading to the Members of this august House to come and support this Motion, so that we can continue with the implementation of the Constitution. That is because the consequences are serious. If Members of the House do not come now - the 148 required Members - you are giving a chance to any of the activists, any person and any party to go and petition for the dissolution of this House.

The Independent Electoral and Boundaries Commission has said that it is not yet in a position to conduct elections now. Therefore, we will actually be causing a constitutional crisis.

With those few words, I beg to move and ask hon. Kimunya to second.

The Minister for Transport (Mr. Kimunya): Mr. Temporary Deputy Speaker, Sir, I wish to second this Motion, which has become necessary because of circumstances beyond the control of this House and, indeed, the control of everyone. The time passed while we were still debating the County Government Bill. The Public Financial Management Bill requires a lot of extensive consultations with all the stakeholders who are required to be consulted as per the new Constitution. Holidays came in-between. By the time the matters came to the Floor of the House, obviously, the deadline had passed. The framers of our Constitution, obviously, had all that in mind and did anticipate that situations like these would arise and gave a leeway to this hon. House that should matters like those happen, that the House would be at liberty to then consider

the circumstances, beginning with the Speaker considering the wisdom of the request and, thereafter, the House would then prescribe an extension of the time up to obviously a maximum of six months, during which time the matter can be disposed off.

Mr. Temporary Deputy Speaker, Sir, at times we have been finding ourselves in those circumstances. For example, 27th of February, 2012, did find us in this situation. The establishment of the County Governments which can only be established within the framework of the County Governments Bill, if we do not dispose of this matter in the limited time that we have before the Budget process is even completed, then we will actually be getting ourselves in a situation where we have no legal framework for people to even vie for the county positions.

On the other hand, the Public Financial Management Bill is very critical for the manner in which we spend our money as a Government. Issues have been raised by the various Committees in this House and, indeed, when we started the debate on the Public Financial Management Bill, the matter was highlighted on the importance of this Bill. It should have started last year, but we do not have it yet. The importance of managing our finances within a framework that is consistent with the new Constitution becomes even more relevant.

So, this House is being called upon, first of all, to take advantage of the leeway that has been given to it by the new Constitution to extend the time that gives a window of opportunity for the House then to go into the specific issues of the County Government Bill through discussion of the Presidential Memorandum. Thereafter, to also discuss the Public Financial Management Bill and make whatever decisions the House will make on it in terms of approval and in terms of amendment to give this country a Public Financial Management Bill that is in accordance with the new Constitution, and also unlock the doors for the pending issues on the County Government Bill.

Mr. Temporary Deputy Speaker, Sir, obviously, the granting of the options to the House, the framers of the Constitution also put some riders that should Parliament not take up the offer given to it by the Constitution and the people of Kenya; that Parliament has been given the leeway to extend the time. If Parliament does not do that, then basically we are telling the Kenyan people that we are failing in our duty to legislate within the scheduled time. And any Kenyan can, obviously, go to court and say that Parliament has failed. We would then be ordered by the courts to legislate within a certain time or risk the dissolution of the House because it has failed the Kenyan people in passing the laws within the time required.

So, Mr. Temporary Deputy Speaker, Sir, that is really where we are finding ourselves in; that we have been given our lifeline that, yes, we did not do it by 27th February. We can extend by another six months and a maximum of that will take us to 27th August. We are only asking for five months. We succeeded in doing that for the Land Bill. Had we foreseen this, perhaps, we should have put all those matters together with the Land Bill. It was expected that everything else would have been completed within the time, but it was not. We, obviously, would not want to feel that we let down people and having to force them to go to court to force the House to do what we, ourselves, can do voluntarily.

So, I am appealing to this House to see the necessity and the urgency with which we need to act, so that we create that window for ourselves to give the Kenyan people these two critical laws that are required to take root in our country and for the proper management of our finances in this country.

Mr. Temporary Deputy Speaker, Sir, this debate is obviously very critical; we require 148 hon. Members in this House to pass this Motion. I am hoping that all hon. Members of Parliament are sensitive to what they are being called upon to do this afternoon. We are hopeful

that by the time we exhaust the debate, we will have the numbers to actually have to carry this Motion. Otherwise, we will have to resort to other measures as provided for within our Standing Orders.

I would like to urge hon. Members that we look at the responsibilities that have been bestowed on us by society for the good of our society and our people that we do rise to the occasion and give Kenyan people that window of opportunity to have the two laws.

With those few words, I beg to second.

(Question proposed)

(Mr. Mbadi stood up in his place)

The Temporary Deputy Speaker (Mr. Ethuro): What is it, hon. Mbadi?

Mr. Mbadi: On a point of order, Mr. Temporary Deputy Speaker, Sir. I rise to seek the direction of the Chair to find that this Motion is unconstitutional and is not in line with the spirit of Article 261 (2).

Mr. Temporary Deputy Speaker, Sir, if you read Article 261(2) of the Constitution, it says:-

“Despite clause (1), the National Assembly may, by resolution supported by the votes of at least two-thirds of all the members of the National Assembly, extend the period prescribed in respect of any particular matter under clause (1), by a period not exceeding one year.”

Mr. Temporary Deputy Speaker, Sir, clearly the drafters of this Constitution anticipated that at any given time, this House would only be called upon to legislate or to pass a Motion to extend time of one particular matter and not two Bills lumped into one; guillotined into one to mischievously ask this matter to take a collective decision on two Bills on which we could take decisions differently!

Mr. Temporary Deputy Speaker, Sir, I would urge that the Chair finds that the Government has acted out of the Constitution by bringing this Motion the way it is in its current form and ask them to go and split the request of these two Bills to come independently, especially given that these Bills were brought to this House on different occasions. The County Government Bill was brought on a different day, we debated it, passed it to the President for assent, but for some reasons, the President has referred back the Bill with a memorandum asking us to perform some specific tasks. But we had just started the Second Reading of the Public Finance Management Bill and so, I do not understand why the Government has seen it fit to bring the two in the form of one Motion, so that we extend time. Kindly find that this Motion, in its current form, is unconstitutional so that the Government can go and split the two Motions for us to expedite.

The Temporary Deputy Speaker (Mr. Ethuro): Hon. Mbadi, help me with the last point that you have made.

Mr. Mbadi: Mr. Temporary Deputy Speaker, Sir, the last point that I made was that these two Bills were actually brought on separate occasions. Actually, we are even at different levels of transacting the two Bills. So, we could make a decision on whether to extend time for each differently. We do not have to be conditioned, as Parliament, to take a collective decision on the two Bills, because some of us reason differently. For the County Government Bill, we may even refuse to extend time and ask the President to assent to it, because there is no good

reason why he is not assenting to that Bill. So, I see mischief in trying to lump the two Bills together for the extension of time, because they are not tied to each other. So, based on that and my earlier assertion on Article 261(2), I request that you find that this Motion is not properly before the House.

(Mr. Kimunya stood up in his place)

The Temporary Deputy Speaker (Mr. Ethuro): Hon. Kimunya, do you want to react to hon. Mbadi's point of order?

The Minister for Transport (Mr. Kimunya): Yes, Mr. Temporary Deputy Speaker, Sir. Hon. Mbadi has raised a matter for your consideration. He may be right in the narrow reading of the matter, but I think he has missed the point totally in terms of what the subject matter that we are discussing is. We are not discussing the specific Bills during this Motion. We are discussing the matter of extension of time---

(Mr. Mbadi stood up in his place)

The Minister for Transport (Mr. Kimunya): Mr. Temporary Deputy Speaker, Sir, I am on a point of order.

The Temporary Deputy Speaker (Mr. Ethuro): Hon. Kimunya, just relax!

Mr. Mbadi: Mr. Temporary Deputy Speaker, Sir, is the hon. Minister in order to misunderstand me and then purport to claim that I have understood it in a narrow manner? I have exactly---

The Temporary Deputy Speaker (Mr. Ethuro): Order, hon. Mbadi! That is an argument.

Mr. Mbadi: Mr. Temporary Deputy Speaker, Sir, is it in order for the Minister to say that I am discussing the two Bills, while I am talking about the extension of time? I am saying that it is unconstitutional for the Government to ask us to extend time for the Bills in one Motion. He is not addressing that!

The Temporary Deputy Speaker (Mr. Ethuro): Order, hon. Mbadi! The Chair heard you and that was hon. Kimunya's understanding of your point of order. Let him just continue.

The Minister for Transport (Mr. Kimunya): Thank you, Mr. Temporary Deputy Speaker, Sir, for your protection.

Mr. Temporary Deputy Speaker, Sir, the matter before us and this House is one. We had a schedule that said that all Bills that were listed in the Schedule should have been cleared and enacted by 27th February. Two Bills were not enacted by 27th February. So, the matter in question, regardless of whether it is the County Government Bill or Public Financial Management Bill, is that there are two Bills that have not been enacted and we need to expand the time available to us to transact those Bills. When that matter is disposed of, which is the simple matter of extending the time, then the individual Bills will come to the Floor of the House. If hon. Mbadi wants to argue in terms of what should happen to the President's Memorandum at that point, he will have the opportunity within the time allocated for the Presidential Memorandum. If he wants to act separately for the Public Financial Management Bill, it will be on the Order Paper separately. They will not come as a slate. I think it is important that we make this clarification, so that we have three different issues. There is a Motion to extend the time, which is provided for within the Constitution. The matter here is that we extend the

time. Then, once the time is extended, we now have the specific slots on the Order Paper for the individual Bills, which will then go through their processes within that framework.

Mr. Temporary Deputy Speaker, Sir, with that understanding, I would urge hon. Mbadi to appreciate where we are in this House and that he does not need to go back to the Speaker, who is already seized of the matter.

The Temporary Deputy Speaker (Mr. Ethuro): Order, hon. Kimunya! These are just points of order; just make them literary in bullet form.

The Minister for Transport (Mr. Kimunya): Thank you, Mr. Temporary Deputy Speaker, Sir.

Mr. Temporary Deputy Speaker, Sir, in making a ruling, I would like to point out that all these matters had been considered and the Motion was approved by the Speaker in the full knowledge that it actually contains the two Bills together. So, we should not challenge the wisdom of the Speaker at this point. We should move on with the debate of the matter that we have before the House. So, I beg to ask that you direct us to proceed with the matter, as you had approved in a Motion.

The Temporary Deputy Speaker (Mr. Ethuro): Hon. Members, really, let us not spend a lot of time on this. Just spell out the issue that you want to raise.

Minister for Finance!

The Minister for Finance (Mr. Githae): Mr. Temporary Deputy Speaker, Sir, I agree. Whereas I admit that English is a foreign language that came with the colonialists, Section 261(2) partly reads:-

“...extend the period prescribed in respect of any particular matter under Clause 1---”

Mr. Temporary Deputy Speaker, Sir, “any particular matter” means that you could have various matters. They could be one, two or four. So, any of those can be extended.

Mr. Temporary Deputy Speaker, Sir, secondly, the Speaker has already ruled that the Motion is in order and has been approved. Thirdly, and even more important, when we extended the three Bills for the Ministry of Lands, it was through a single Motion. So, what is so different about this Motion? It is the same Motion. I think we need to be made to understand what is different. Really, a verbatim reading of the Article clearly shows that what we are doing is right.

Thank you, Mr. Temporary Deputy Speaker, Sir.

The Temporary Deputy Speaker (Mr. Ethuro): Hon. Shebesh, hon. Orenge and then the Attorney General to conclude before the Chair gives directions!

Mrs. Shebesh: Mr. Temporary Deputy Speaker, Sir, much as I always agree with my colleague, hon. Mbadi, I want to plead with him on this instance, that we look at the provisions that have been given in the Constitution to the Speaker and this House, to ensure that we legislate and implement Bills on time. What he should be worried about is if we went beyond the time and the Government or House was doing nothing about it. Much as I do want to debate the County Government Bill and challenge the President’s assertion on it, I believe that, that opportunity has been granted to us by this extension. I want to plead with hon. Mbadi that we have a bigger case in front of us to bring in the devolution Bills rather than argue with semantics; and we know very well that the Government, when they want, their voting machines are just a phone call away. This is an exercise in futility.

The Minister for Finance (Mr. Githae): On a point of order, Mr. Temporary Deputy Speaker, Sir. You have just heard what hon. Shebesh has said; that the voting machines--- I

thought that there are only Members of Parliament in this august House. I am looking for machines and I cannot see them.

The Temporary Deputy Speaker (Mr. Ethuro): Order, hon. Githae!

Hon. Orengo!

The Minister for Lands (Mr. Orengo): Mr. Temporary Deputy Speaker, Sir, in the same vein as hon. Shebesh has elaborated why we want to prevail upon the Member for Gwasi to, at least, surrender or agree to what we are saying in respect of this matter, the general position normally in law is that if you want a strict interpretation of the law, the law must be clear in ordinary language. This will ensure that you do not have to import a meaning to it. What hon. Mbadi has tried is to give us a tortured interpretation of the Constitution and not an interpretation based on the very ordinary meanings of the words that are used by the Constitution. The good thing about this Constitution, Mr. Mbadi, which is exceptional if you look at our previous Constitution, is that it tells you how to interpret it. If you look at Article 259, it states that "This Constitution shall be interpreted in a manner that promotes its purposes, values and principles". I pose to emphasize the word "shall". In Constitutional law it is looking for a purposive interpretation, so that the first point you take is not the strict interpretation that you are trying to make but it should be a purposive interpretation in a manner that would enhance its values and principles.

Then Article 259(1)(b) contributes to good governance. This Constitution has recognized the county system of governance as an important and fundamental framework and structure of our constitutional dispensation.

So, if you really believe in this Constitution, you should support a Motion like this that seeks to advance good governance. I think we will be at odds if we do not support a Motion that seeks Parliament to implement what it must implement in regard to the Constitution.

By Mr. Mbadi's own conduct, he cannot rise now and say that this Motion is not properly before the House when the request for extension of the Land Bills was brought before the House. He was actually one of the hon. Members who were on record arguing for the extension of time. So, what is good for goose is good for the gander. So, you cannot speak---

Mr. Mbadi: On a point of order, Mr. Temporary Deputy Speaker, Sir.

The Minister for Lands (Mr. Orengo): I am on a point of order, Mr. Mbadi!

The Temporary Deputy Speaker (Mr. Ethuro): It is not for you to determine who speaks.

The Minister for Lands (Mr. Orengo): I am his senior!

The Temporary Deputy Speaker (Mr. Ethuro): Since he mentioned you in particular and you may wish to confirm whether it is true.

Mr. Mbadi: Mr. Temporary Deputy Speaker, Sir, actually it is true Mr. Orengo came to Parliament for the first when I was in class one. So, he is my senior. But is it in order for him to imply that if there was an error which was committed during the Land Bills, we should continue with it, especially if the hon. Member for Gwassi can dutifully explain to this House that this Motion be split into two?

The Temporary Deputy Speaker (Ethuro): Order!

Proceed, Mr. Orengo and, please, conclude.

The Minister for Lands (Mr. Orengo): Mr. Temporary Deputy Speaker, Sir, I have no reason to believe that hon. Mbadi is not an honourable Member. I believe he should have expunged his conduct in the earlier debate before he spoke on this particular one. That is what good manners normally demand.

Mr. Mbadi: On a point of order, Mr. Speaker, Sir. Did you hear the Minister for Lands imply that I do not have good manners when I have just given an interpretation of the Constitution the way I understand it? That does not mean that if I did not understand it yesterday that way, if I understand it differently today, I would be gagged from explaining that. I believe that Mr. Orengo has been a champion of human rights, especially freedom of speech and expression.

The Temporary Deputy Speaker (Ethuro): Order! Order, Mr. Orengo and Mr. Mbadi! Mr. Mbadi has made a chance for himself although I know you were saying it in jest, but repeatedly it is almost amounting to discussing the conduct of an hon. Member. We have no problem with words like “tortured interpretation” but when you go to the realms of mannerisms, then you are bordering on discussing the conduct of a hon. Member. If you could just desist and proceed then the House will proceed.

The Minister for Lands (Mr. Orengo): Mr. Temporary Deputy Speaker, Sir, I was suggesting that he should have had a preamble to his presentation and said that. The last time the House made a mistake, he compounded it by voting in a particular way. But he just stood up and said that it is not in order.

The Temporary Deputy Speaker (Ethuro): Mr. Orengo, please, proceed!

The Minister for Lands (Mr. Orengo): Let me proceed. Based on what the Constitution said on how we should interpret it, the only other reasonable interpretation to what is before is that it is important to live, not only the letter and spirit of this Constitution, but also allow this Motion to proceed and be debated fully.

The Temporary Deputy Speaker (Ethuro): Finally, the Attorney-General! Be brief.

The Attorney-General (Prof. Muigai): Thank you, Mr. Temporary Deputy Speaker, Sir. I want to draw the attention of the House to provisions that my learned colleague, Mr. Orengo has already read. That is to say that the interpretation of this Constitution is provided for in the Constitution itself. It is not a matter for us to argue or debate. However, I also wanted to caution the House, with tremendous respect, not to allow this House to become embroiled in legalistic argumentation that delays debate on very important, fundamental and far-reaching legislation. I said that with respect because I recognize the right of the hon. Member to raise a Constitutional question if there is one. If it is a genuine one or legitimate one, it is fine. I have had the privilege of debating with him on the legality of the proposed veto by His Excellency the President. I would say to the House that where we have an opportunity to proceed with business, we must do so with dispatch. We must avoid a situation where we have hair splitting---

The Temporary Deputy Speaker (Ethuro): Order, hon. Attorney-General! That is not for you.

The Attorney-General (Prof. Muigai): I withdraw that one and I apologize to the hon. Member, but I do say---

The Temporary Deputy Speaker (Ethuro): Allow hon. Members to petition the Chair on what they might consider unconstitutional.

The Attorney-General (Prof. Muigai): Mr. Temporary Deputy Speaker, Sir, I was suggesting that we must try to ensure that our interpretations are not pedantic, gigantic or narrow in a manner that defeats the purpose for which we intended to have the debate.

The Temporary Deputy Speaker (Ethuro): Hon. Members, the Chair would like to give some direction on this matter.

Mr. Mbadi rose on a point of order to argue on an issue of what he considered “any particular matter” and that they wanted to combine the two Bills and if they did, he would be

denied the right to vote. Therefore, he suggested that they should be dealt with differently. So, he called upon the Chair to determine if that is not unconstitutional.

The rest of the speakers; Mr. Kimunya, the Minister for Finance, the Minister for Lands, the Attorney-General and the only Backbencher who came to the side of the Government, Mrs. Shebesh, have argued that, that is a narrow understanding of the provisions of the Constitution. Indeed, the Constitution has provided in the same Article 261(3) power to extend the time contemplated in clause 2. This may be exercised only once in respect of any particular matter. Since they want to extend time, you can only deal with that particular matter and by combining them; the extension of time, in my view, it does not violate that particular provision.

Article 261(3)(b) which is even more fundamental and is also in the body of the Motion itself provides that “only in exceptional circumstances to be certified by the Speaker of the National Assembly”.

Those exceptional circumstances are provided for. As hon. Orengo argued, the Chair had already sought for the information. The Order Paper for 23rd February, where the Chairperson of the Constitutional Implementation Oversight Committee (CIOC) was requesting an extension of time under the same provision of 261(i), there were three Bills and not two that you are arguing about now, hon. Mbadi. They were The Land Bill, The Land Registration Bill and The National Land Commission Bill. As hon. Orengo can also confirm, although I may not like the way he confirmed it, hon. Mbadi supported.

Further, on the inadmissibility of the two Bills to be discussed by the House on the basis of extension of time, hon. Mbadi and another hon. Member including the Chair petitioned that the provisions of the Constitution had not been violated. The Speaker granted that and that is why this Motion is properly before the House. It is, therefore, my considered opinion that the matter is brought before the House and the Motion may proceed.

Thank you.

We had proposed the question hon. Members. Hon. Kajwang, do you want to contribute?

The Minister of State for Immigration and Registration of Persons (Mr. Kajwang): Just briefly, Mr. Temporary Deputy Speaker, Sir. I want to emphasize the fact that in the heart of this Constitution is devolution. In the heart of devolution is the money to run that devolved Government. These two Bills deal exactly with that. One provides for the devolution and another provides for how we will apply finances to manage devolved units. If for some reason, and the reason here is if we stall where we are now and we do not extend time, the consequences will be that the Constitution, in respect to devolution will not be implemented and we will not have devolved units. In fact, we may not even elect Governors or even Senators because there will be no work for them when there is no devolvement by the Government. There will also be no finances. So, the consequences of not extending time will be that we would have failed as a country to implement the same Constitution which we passed with a lot of hard work because this is what we have been yearning for all these years.

The country is looking at us and it will not listen to the legalities that we are now arguing about. The country will be saying that Parliament defeated devolution. However much you will argue there that we have handled the things together and that time was wasted by those who sought to amend these Bills and so forth, you will not be very persuasive. I think that is why there is not much debate on this matter. I think we had agreed that we expand time, we bring these Bills back, that we debate them, we even amend them and defeat them, if that is what you want, but we extend that time. We can even send the Government back to redraft them if we find

that they are not very good. That will be within the five months that the Government is seeking. I think that is the best way to deal with it.

I support.

Mr. Mbadi: Thank you, Mr. Temporary Deputy Speaker, Sir. I think it should be understood that many of us, if not all, are for devolution. We want county governments to work and we want the Public Finance Management Bill to be passed into law so that we can have a legal framework within which our finances can be managed in this country. But having said that, the way this Motion is drafted, I would like to state categorically, that my vote is lost. This House will not get my positive vote on this Motion. I will oppose this Motion up to the end and so if you were counting to whip 222 Members of Parliament, know that you can only whip 221. Mine is out of it. Why? This is because I do not want to encourage impunity by the Executive.

This House sat here even late in the night to deliberate on the County Governments Bill. We agreed, as a House and the Government Side was properly represented. After we had made agreements, a memorandum came from the Executive with the same authoritarian tendencies that we left on 27th August, 2010, pushing down our throats that we must again amend the County Governments Bill in line with what the Executive wants. For you to overrule and override the President, you know the threshold. I expected, even though I fully support the extension of time on the Public Finance Management Bill, that the two would be separated so that I could easily take my vote the way I want. I would have voted “yes” for the extension of time for the Public Finance Management Bill and voted “no” for the extension of time on the County Governments Bill so that the Executive can know that they cannot intimidate us, blackmail us or force their view on this House. So, if the Government has refused to see sense in what I was trying to plead with the House to accept, to split the request to extend time, then I am only left with one alternative and no one should intimidate me with the dissolution of Parliament. If it is dissolved, I will go for elections, after all, even if it is next year. What is the problem if I go today?

Mr. Temporary Deputy Speaker, Sir, even if I go for elections and lose today, I will still remain John Mbadi. I will be a former Member of Parliament. At least, I will be called an honourable Member because that is a title that I have earned even if I am voted out today. Therefore, I urge the Government not to intimidate us by saying that if we do not act in a specific way-- We know that is what is provided for in the Constitution. However, they are also failing to appreciate that the Constitution, before, arriving at that dissolution of Parliament provides for petition. The Chief Justice will ask Parliament to act in a specific way and if we refuse, that is when that will apply. They are leaving out that deliberately to scare Members of Parliament as they always do so that we feel intimidated and rush this Motion.

I urge this House that the only way we can deal with this Executive is to deny them opportunity to extend time to debate the County Governments Bill and have the President assent to this Bill tomorrow. In fact, the Attorney-General should advise the President to assent to this Bill tomorrow. There is nothing he is waiting for with regard to that Bill. The way it was passed is the way we intended it and he cannot force us to think the way he is thinking. This is a House of 222 Members and he is just one. So, he should respect the 221 Members who passed that Bill the way it was.

Therefore, I strongly, oppose and beg to whip my other colleagues who have not seen the light to support my cause so that we deny the Government opportunity to extend time for both Bills using one Motion.

The Temporary Deputy Speaker (Mr. Ethuro): Yes, Mr. Ngugi because you are the Chair of the relevant departmental Committee.

Mr. Ngugi: Thank you, Mr. Temporary Deputy Speaker, Sir. I rise to support this Motion for the following reasons. When the County Governments Bill was brought to the House together with the Inter-Governmental Relations Bill, we were able to pass the two Bills. In fact, we passed three Bills on that day. The President found something lacking in one of them and he duly returned it to this House. This House committed the Bill to the Departmental Committee on Local Authorities and we did a lot of work. We summoned the Commission on the Implementation of the Constitution (CIC), various Ministries, local authorities and the Provincial Administration. We even had discussions with the Attorney-General as to how we could address this matter.

Finally, we were even able to draft amendments which could address this matter. So, for hon. Mbadi to take us backwards on matters that we have already glossed over and gone beyond, is not helping the country. The County Government Bill is fundamental to establishing how counties will operate and, for him to say that if we do not pass it, the President will be forced to assent to it, that can only be his own interpretation. That is because the Attorney-General, other lawyers and Members of Parliament could argue otherwise. So, he is only prejudging things the way he thinks.

[The Temporary Deputy Speaker (Mr. Ethuro) left the Chair]

[The Temporary Deputy Speaker (Dr. Laboso) took the Chair]

Madam Temporary Deputy Speaker, the Public Finance Bill is equally important. This is the Bill that tells us how both the county and national finances will be administered. If we do not pass these Bills, then we will not have a legal framework to guide us on how to use our resources. So, it is important that this House rises to the occasion because it was only a technicality that barred us from debating or voting, when the matter was in the Committee of the Whole House.

Madam Temporary Deputy Speaker, I want to caution the Government side that we are in this situation - especially in relation to the County Government Bill - because it was brought at the last minute. If this Bill had been brought a month before, we would have debated it, passed it, returned it to the House, make amendments and returned it to His Excellency the President in good time. That is one lesson that we must learn. But saying that we cannot pass the two Bills or any one of them, I think is retrogressive and that will not help this country. So, I urge hon. Members of this House to rise up to the occasion, gather the necessary numbers and pass this Motion so that we can be back on track.

With those few remarks, I support.

The Assistant Minister for Roads (Dr. Machage): Madam Naibu Spika wa Muda, shukrani kwa kunipa nafasi hii ili kuunga Mswada ulio mbele yetu mkono. Wakati wa kielelezo cha Katiba, kabla ya kupiga kura, wengine wetu walikuwa na mafikirio ya kuweka wakfu wa Miswada kadhaa ya kutekeleza Katiba kwa sababu wakati haukutosha. Haya mambo yaliingia kwa vichwa kiziwi na hayakusikilizwa. Sasa majuto ni mjukuu. Tuanza kuyaona sasa. Lakini basi wote tukakubali na tukakula kiapo kwamba Katiba iliyoko tutaitukuza na kuikubali na kutekeleza vile ilivyo. Huo ndio wajibu wetu tuliyonao sasa; kwamba vipengele vyote vya Katiba vilivyoko ambavyo tulivipitisha kwa wingi wa kura za wananchi wa Kenya, vitekelezwe.

Madam Naibu Spika wa Muda, tumeitwa kuhakikishe kwamba Miswada na maswala ya ugatuzi yaangaliwe kabisa kwa makini. Haswa, litakuwa jambo ambalo halitafaa kama tutasema kwamba kuna serikali ya ugatuzi na hatutoi na kuandaa vile vitengo ambavyo vimewekwa kusudi kwamba Serikali hiyo iweze kufanya kazi. Moja wapo ya hayo mambo--- Hata Rais mwenyewe aliona kwamba kuna dosari ya kuingiliwa kwa Serikali ya Wilaya na nguvu zake. Ndio maana alisema afadhali tuangalie haya mambo tena, kusudi kusikuwe na balaa wakati wa kutekeleza sheria hii ya serikali za ugatuzi.

Mimi ningetaka kuwaomba Wabunge wenye hekima na waliochaguliwa na wananchi kuyaangalia haya mambo kwa maanani na kwa undani. Siyo siasa tu na kuonekana kwamba wewe unajua kupinga au wewe utakuja kupoteza kura uitwe jasiri. Unafikiri utaitwa mbumbumbu wakati huo? Naita kila mtu tuangalie haya mambo - hata maswali ya hela – ili tutoe mwongozo mzuri kwa maswala ya utekelezaji na utumiaji wa hela kwa Serikali kama ilivyo ombwa na Waziri wa Fedha.

Madam Naibu Spika wa Muda, naomba kuunga mkono Mswada huu.

Mr. Ethuro: Madam Temporary Deputy Speaker,, I want to support this particular Motion and, since I know there are more people to give more supporting arguments from the other side, I want to support one lonely voice known as hon. Mbadi, and especially with respect to the sentiments by the Attorney-General and other people who think that we cannot argue in this House. This is a debating Chamber. You have no business to be here if you do not like arguments. You can as well go and become a business person or wait for the next dispensation and become a Cabinet Secretary, so that you do not appear before us. But for the current Constitution, which we all conveniently saved for purposes of not bringing confusion until the first general election, this is a debating chamber.

Madam Temporary Deputy Speaker, if you look at the five months asked by the Government, they have basically squandered two. So, in effect, they are back to the original Motion by the Chairman of the Constitutional Implementation Oversight Committee (CIOOC), which had asked for three. But since this is a matter of numbers, the Government must take this House seriously. We are not in the business of spending time for you at your convenience. That is why we put a schedule so that this new constitutional dispensation does not go the way of the first Constitution where, already, there are Bills to be done. But what did the Executive do? Their job was just to continue amending and amending until the Constitution was no longer recognizable. That is why this procedure has been put in place.

Madam Temporary Deputy Speaker, I am supporting on the basis of principle and not because of issues. We, as a House, demanded from the Government that you cannot proceed with these two Bills because you had breached the constitutional time-frame that had been provided. The Speaker then directed the way in which this matter should be prosecuted. The Government has complied. I think it would also be wrong on our side now to come and tell the Government not to do this when they have actually complied as per the request of the House. That is why I am supporting them. I think it is also proper for it to be done.

Madam Temporary Deputy Speaker, on the issue of arguments here and there, we want the Government side to be proactive. Asking for extension of time - and I just borrow the example of the Land Bill--- In fact, I convinced the Deputy Leader of Government Business - and I am sure many other people - on the need to extend time so that, if the Government has done its consultations properly, the House is now seized of the matter. It must also be given an opportunity to get contributions from the public. I was sitting with the Chairman of the Departmental Committee of Lands and Natural Resources today, hon. Musyimi. If you notice,

even some of the fellows who were telling us in Mombasa when we were finalising the amendments that we were not doing the right thing, by the time we came to the Floor, there was such unanimity on an issue that is ordinarily controversial. So, the issue of public participation and the issue of “killing time” in order to have more input cannot be overemphasized. It is extremely important. It must be appreciated. But it is not - and I want to insist - it is not a blank cheque for the Government to be seeking time on a matter that is defined and has clear time lines. It only shows that they are incompetent, lazy and just squandering valuable Kenyan time to implement the reforms of the Republic.

With those remarks, I support.

The Attorney-General (Prof. Muigai): Madam Temporary Deputy Speaker, I rise to support this Motion.

Madam Temporary Deputy Speaker, this House has a collective constitutional responsibility. We must always find a way to work in a bipartisan manner in the national interest. The reason as to why these Bills have not been enacted into law is because there have been legitimate issues relating to the constitutionality, legality and propriety of these Bills.

Hon. Mbadi suggested in his contribution that His Excellency the President may have, in exercising his veto powers under the Constitution, acted to intimate or blackmail the House. I think that submission is regrettable. The authority of the President to veto legislation is part of our constitutional law, which was exercised by the President as part of his constitutional responsibility.

Madam Temporary Deputy Speaker, this House is the final arbiter of what becomes law and what does not become law. Whatever proposals His Excellency the President has made can be overridden by a majoritarian vote of this House. The energies that are now being directed at defeating this Motion should be energies directed towards finding the reasons as to why, in the substantive issues before the House, there is an error.

Devolution is a key part of the Constitution. Indeed, it is estimated that one-third of our Constitution relates to the devolution of power to the counties. The two Bills before the House are a major part of the realisation of that constitutional promise the Kenyan people expected. The Kenyan people deserve it and this House must deliver these Bills to the Kenyan people.

Madam Temporary Deputy Speaker, it was suggested by an hon. Member that we should wait for the Hon. Chief Justice to provide direction to this House on how, when and in what manner we should pass these Bills. It will be a very sad day if this House ever abdicated its constitutional responsibility to any other body or authority, even such an eminent body as the Judiciary of the Republic of Kenya. We must take our responsibility seriously, and that responsibility is to debate and interrogate these Bills and ultimately give the Kenyan people the law that they deserve.

In conclusion, the Tenth Parliament has a good record, having delivered constitutional implementation Bills on time last August, on the 26th. The Tenth Parliament has delivered a large number of the Bills required to-date. We now have these two Bills, and we need a little bit more time. We should allocate ourselves that time. It is our historical responsibility to do so. History will judge us very harshly if we do not do what our constitutional responsibility is.

With those remarks, I beg to support the Motion.

Mr. Mureithi: Madam Temporary Deputy Speaker, I stand here to support the Motion.

I happen to have been a Member of the Departmental Committee on Lands, Environment and Natural Resources. As we organise ourselves on how to extend the time for the passage of

the Bills, we must really give thanks to the Speaker's Panel, because we were able to raise 152 Members.

Therefore, I want to support this Motion because the Government has found out that there exist some exceptional circumstances which need to be looked into. When it comes to debating the Bill on county devolution and the Public Financial Management Bill, we shall put our input there and address ourselves to our own problems. We will also debate and see what can be done.

Madam Temporary Deputy Speaker, my experience with the extension of the legislation period for the three land Bills is enormous. We learnt a lot because we went round the whole country and collected views. Even when we went to Mombasa, where our Minister for Lands was, he was very satisfied with the views that we collected from the public, and they incorporated those views in the lands Bills.

Therefore, if we do not pass this Motion, we will go into history as a Parliament that failed itself half way through. We did very well to pass the Constitution in 2010. We have done very well so far. We have even stayed here until midnight to pass various constitutional Bills. I see no reason as to why we cannot burn the midnight oil and pass this Motion. I do not see why we cannot get enough Members of Parliament to pass this Bill, so that we devolve the Government and get enough funds to finance the devolved governments as well as the National Government.

Madam Temporary Deputy Speaker, therefore, I see no harm in us supporting this Motion and even accepting the fact that His Excellency the President has the mandate of pointing out areas we did not cover well. Since the President sent a memorandum to us, it is for us now to reflect back and see exactly what the issues are that we were supposed to deal with. In the Constitution, the restructuring of the Provincial Administration was given five years, from the effective date. Therefore, we will look at this matter when the actual Bill is tabled in this House.

In conclusion, I feel happy that I am in the Tenth Parliament, making history in terms of creation of a new Constitution for this country and at the same time being part and parcel of the Membership of this House that is passing Bills that are going to make the implementation of the new Constitution a reality.

With those remarks, I beg to support the Motion.

Mr. Ogindo: Madam Temporary Deputy Speaker, I rise to support the Motion.

I want to start by saying that, today, I am very proud to be a Kenyan. I am very proud to be part of the history that ushered in the new Constitution. The jewel in the new Constitution is the Chapter on Devolution. Article 1 of the new Constitution tells us that the sovereign power of this Republic shall be exercised at two levels – at the national level and at the county level – by the people of this Republic. The people of the Republic of Kenya are very eager to get into this new constitutional dispensation.

Every well-meaning hon. Member of this House is aware of Article 261(5), which says:-
“261(5) If Parliament fails to enact any particular legislation within the specified time, any person may petition the High Court on the matter.”

Madam Temporary Deputy Speaker, we do not want to be part of the hurdles that will be derailing the implementation of the new Constitution. We want to appreciate circumstances which were outside our control, but we also want to discourage anybody trying to play around with the implementation of the new Constitution.

The Bills that are the subject of this Motion are very critical to devolution. I want to say that the Bill on devolved governments, the Public Financial Management Bill and the Lands Bill

are the cornerstone of devolution, and anything that stands in the way of their implementation must be fought very vigorously.

Madam Temporary Deputy Speaker, I must say that the Government side who are the sponsors of this Motion do not appear to have done enough on their side in terms of mobilization. This is a Motion that must not go beyond today. I want to plead in the course of my submission that every effort needs to be made to mobilize hon. Members wherever they are to come and pass this Motion. We do a lot of disservice to Kenyans when we delay this Motion. We make them lose hope on the possibility of realizing the benefits of devolution.

I am aware that The Public Finance Management Bill or what is popularly called The Public Financial Management Bill is a very voluminous Bill that requires a lot of scrutiny by this House lest we pass laws that will not serve the purpose that they are intended. As such, I want to support this Motion because it will create ample time for those hon. Members who are interested in seeing what this Bill seeks to achieve in terms of implementing the new Constitution.

It would be irresponsible of us at this point in time to try to deny this extension because doing that will mean that these Bills will die. If these Bills die, then it means that the Devolution Chapter will die. If the Devolution Chapter dies it means the Constitution is dead. On that account I want to persuade hon. Members of this House wherever they are to come and join us here now so that we can pass this Motion so that we can start to implement the new Constitution.

With those few remarks, I support.

The Assistant Minister for Nairobi Metropolitan Development (Ms. Ongoro): Thank you, Madam Temporary Deputy Speaker. I rise to add my voice in support of this Motion seeking extension of the prescribed time to enact these Bills in question.

The theme of devolution is central in our Constitution. Good management of public finance is the pillar that supports the theme of devolution. I believe that we are not setting a precedent of extension, but I also want to believe that the President must have had good reason in his declining to assent to the County Governments Bills. For that reason, it is only in order that we rise to the occasion and give ourselves more time to interrogate and add value to this Bill so that when we next present it to the President, he will have to assent to it.

Madam Temporary Deputy Speaker, I am aware that we are also limited with time but let us not rush and enact Bills that might be overtaken by events because we are trying to pass as many Bills as possible when there is already a question.

With these remarks, I beg to support this Motion.

Eng. Maina: Thank you, Madam Temporary Deputy Speaker. I rise to support the Motion before us. This country has enacted the new Constitution. We must be careful, as a House, never to be in too much of a rush. Quality and doing the right thing at times should always take precedence.

I support his Excellency in the views that made him refer this Bill back to this House. We are going to adopt the devolution system in this country. I want to say that the greatest error we can ever make to this country is if we rush anything when we are not sure.

We passed the new Constitution, and I want to say today on the Floor of this House that we passed the new Constitution and it is not cast in stone. This is because there has been an attitude of some people saying that you cannot change this and you cannot change that. We must be extremely careful. We must take responsibility, as leaders, when the time comes and when there is need to change, we change. I support this Motion on that basis.

I take this opportunity to mention a few things that we must in the future also have to look at. For example, an issue that is mind-boggling in this country today is security. First of all,

the issue of security, from my point of view, must remain and should remain with the national Government. The President of this country ---

The Temporary Deputy Speaker (Dr. Laboso): Hon. Maina, please stick to the matter before us, which is on the extension period.

Eng. Maina: Madam Temporary Deputy Speaker, I am just trying to give reasons why sometimes the period may need to be extended. That is the basis of what I am saying. Although we have a new Constitution, although we will pass Bills here that need to be addressed and which are of more national importance than others--- It is on that basis that I have mentioned security. I have said these are some of the issues that we will need to be a bit careful about.

Madam Temporary Deputy Speaker, going back to the Motion, devolution is a very important system. Similarly, that important system can be dangerous if we hurry for the sake of time. That is why I support that we get enough time and look at this matter. Hopefully, and I would like the country to understand that we intend to carry out our responsibility of enacting the new Constitution. However, as we enact the new Constitution this House must be cognizant of our main responsibility. That is why I support that we extend this time. Hopefully, next time we will have enough Members and we will pass this Motion.

Thank you.

The Assistant Minister for Energy (Eng. M.M. Mahamud): Thank you very much, Madam Temporary Deputy Speaker. I also wish to add my voice in supporting this Motion. The fact is that these two Motions must be enacted if we have to have our Constitution implemented. There is no way we will have devolved governments without The County Governments Bill. There is also no way we will have money and the functionality of our Government without having The Public Finance Management Bill.

First of all, the important thing is to agree that we need to extend time so that we enact these Bills. If we do not extend time, it means no enactment and it will mean that there will be no devolved governments and there will be no money for the Government to function.

Madam Temporary Deputy Speaker, I think sometime we, on the side of the Government, are to blame for all these things. You will realise that we enacted The County Governments Bill the last day. We waited until time lapsed. So, we are coming back here for time extension. I think in future we must be very careful as a Government to bring Bills to Parliament in time because all the time we are getting Bills that are coming towards the deadline.

Madam Temporary Deputy Speaker, I think we are asking for five months and, as somebody mentioned, already two months have lapsed. In these three months we must be able to enact these two Bills. All the other Bills which have timelines must be enacted. We must learn a lesson from this that every time we should not come back to this House to request for extension of enactment time for Bills, otherwise, we will not be serious. I think those of us in the Government who are responsible for drafting Bills and bringing them to the House must do so, so that we do not do things at the last minute.

With those few remarks, I beg to support.

The Minister of State for Special Programmes (Ms. Mathenge): Thank you Madam Temporary Deputy Speaker. I think on the same tone that we agreed to extend the time for the Land Bills, which we felt were very important to this country, we should, under the same breath, agree to extend time on the County Governments Bill and the Financial Management Bill.

The reason is that Kenyans were very excited by the devolved government. We all need to articulate and understand the issues that are laid down in the devolved government. I feel up to now, even in this House, those of us who want to be Senators and Governors have not even quite

understood what devolved government is all about. I, therefore, feel that the few months that we are asking for extension of time is enough for us to articulate, ventilate and fully understand the relationship between the national Government and the devolved government.

I therefore, wish to support and support strongly.

Mr. Bahari: Madam Temporary Deputy Speaker, I beg to support this Motion on the strength that it is important that we look at these Bills in detail and be able to come out with something that is concrete and, perhaps, watertight.

However, any Bill is about negotiations and how you negotiate is based on the obstacles that you find or see in that Bill. The negotiations, however, cannot also go on indefinitely. It must stop at some point. I hope that in this case, we will be able to finally come out and manage the situation. Sometimes, when negotiations are over-done, then you are likely to mess up. That is because every other time, it is possible to change your view point and you keep crossing and crossing the same things that you have done before. It is, therefore, important that, at one point, we do come to a stop on this and then get moving. Indeed, it is a serious indictment on us, as much as are being diplomatic with our own selves. We knew about this. We ought to have organized ourselves better and we do not bring in the whole culture of not being on time in terms of performance.

Madam Temporary Deputy Speaker, since the Public Finance Management Bill is quite central to the benefits of devolution and the new Constitution, I will not object to us having to relook at this again, so that we come out with something that is going to be acceptable.

With those few remarks, I beg to support.

The Assistant Minister for Medical Services (Mr. Kambi): Ahsante Bi. Naibu Spika wa Muda, kwa kunipa wakati huu. Naunga Hoja hii mkono kwa sababu kama Bunge, tulipatiwa uwezo na wananchi na Katiba tulioipitisha. Hatukupitisha Katiba ndio iwe kubwa kushinda wananchi. Tuko hapa kutekeleza matakwa ya wananchi na ndio maana inabidi tukiona pale ambapo kulikuwa kombo, turekebishe.

Ningependa kusema hivi: Rais bado ana mamlaka ya kupitisha kile ambacho anaona kitafaa Wakenya. Siyo kupitisha kitu ambacho kitatuletea shida. Hii ndio maana, kwa hekima zake, aliona Mswada huu urudishwe kwetu ili tupitishie Mswada ambao utaleta manufaa kwa wananchi wa Kenya. Ndio maana umeletwa kwetu ili tuangalia vile vile, kwa hekima zetu, kama viongozi. Taifa nzima linaangalia ule mwenendo tunaenda. Ndio maana mimi nasema kuwa Mswada huu ni muhimu haswa ukiangalia unaguza sehemu nyeti ya ugatuzi. Ugatuzi ndio tumepigania kuanzia wakati tulipopata Uhuru. Tulikuwa na ugatuzi wakati huo. Lakini sheria zilizokuwepo hazikuwa nzuri, mwafaka na za kudumu. Ndio maana zilibadilishwa na tukaenda kwa mufumo ambao wananchi wameukataa saa hii.

Vile vile, hatuwezi kuendesha nchi bila fedha. Kwa hivyo, ni muhimu tupatiane muda huu ili tuyajadili kinagaubaga maswala haya ambayo ni nyeti na yameleta matatizo. Tufanye hivyo ili tuweze kuyapitisha kwa jumla na tuweze kuwahusisha wananchi ambao ndio nguzo muhimu ya nchi hii na uchumi wetu.

Kwa hayo machache, naunga mkono. Ningeomba wale Wabunge wote wako hapa waangalie masilahi ya wananchi kwa sababu nafikiria kwamba walituleta hapa tuangalie masilahi yao.

The Minister for Roads (Mr. Bett): Madam Temporary Deputy Speaker, I too rise to support the Motion.

The management of the affairs of this country is in our hands as Member of Parliament. We must do so with all the necessary cautions and all the necessary wisdom that has been given to us by God almighty.

Madam Temporary Deputy Speaker, where we find that the issues we had discussed are not conclusive, we must give ourselves time to further ventilate on those issues, so that we are able to give the people of this country the best laws that they can have from these great Members of Parliament.

The request to extend time is, indeed, timely and very useful. When we requested for time to be extended to discuss the land laws, it came out beneficial to all of us. Those who were apprehensive were able to be convinced on the various clauses of those Bills. At the end of it all, the membership from the public and in the House were able to agree on the issues on those three Bills. Assuming that we did not allow ourselves time to be able to discuss more and consult one another, I want to believe we would have given ourselves laws that could be a problem to us tomorrow.

On the Ministry of Roads, the Constitution says that there will be national roads and county roads. That is devolution. The funding of our roads will be devolved from the national Government to the county governments. We, in the Ministry, would want to understand very well the substance, letter and spirit of the law that will be managing devolved funds in the various counties, so that we get it right and get our roads right.

Madam Temporary Deputy Speaker, the law that we have today, for example, allows me as the Minister to have an emergency fund of Kshs2.6 billion for our roads. That is so and yet, I would like to get more. The only way I can get more is for me to understand the law on devolution. That way, I can then be able to discuss and say we need more funds for emergency in our counties.

Madam Temporary Deputy Speaker, we need more roads for our counties. As of today, I am required to produce Kshs10 billion on emergency basis, but the current law does not allow me at all to have this amount of money for emergencies on our roads. So this particular law should be relooked at critically, so that it allows the management of counties and the national Government to access additional funds as and when there are emergencies in various sectors of our economy.

Again, the issue of devolution is so critical. It is an issue that has been desired. It takes the resources, responsibility and accountability to the grassroots level. So, we need to properly put into a clear perspective the law that will manage these issues. We are asking ourselves: Who will be managing the Constituencies Development Fund (CDF)? Is it the Governor or the Member of Parliament? Allow ourselves to ventilate on that issue, so that we know who will be managing the resources at the county. The only way to do it is to give ourselves ample and good time to think. The moment we place ourselves under stress, we will not think straight and comprehensively to produce a good product for this country.

Therefore, in order for us to appreciate the goodness of devolved governments, let us go sentence by sentence; clause by clause; coma by coma and full stop by full stop in this law of devolution. Finance management is where we keep on talking of corruption. Corruption comes as a result of loopholes in law. We must look at these loopholes again with a toothcomb and with a microscopic eye, so that we know where our resources get misappropriated. If the law is not right, such avenues will be available. So that is incumbent upon us to give ourselves time to do this. We have done it on lands and it has worked well. I see no reason why it cannot work on these two particular Bills which are of immense importance to the development of this country.

With those few remarks, I beg to support.

The Minister of State for Development Northern Kenya and Arid Lands (Mr. I. E. Mohammed): Madam Temporary Deputy Speaker, at the outset I want to also support this Motion which seeks to extend the time to discuss these two Bills. Just the way we extended time for the Lands Bill, this is critical. These two Bills are even more critical in the sense that we cannot put to effect the new Constitution without them. There are the Devolution Bill and the County Governments Bill. The new Constitution gives us two governments. Without the County Governments Bill, there will be no county governments. Without the county governments, then we will not have Kenya because the Constitution insists on having the two governments. The second Bill is equally critical. We cannot start our devolution or mechanism to disburse finances and the systems for doing that without that Bill.

I believe devolution is what will change this country. I represent or I lead a Ministry that is supposed to take care of Northern Kenya and other arid lands. The arid lands are about 70 per cent of the landmass and yet, today we are talking of such levels of inequalities that are still shocking despite the recent improvement in Government resources to those areas. With devolution, the people of northern Kenya and arid lands will have an opportunity to stop lamenting and really put to use their skills and talents to ensure that those counties actually become at par with the rest of the country.

With those few remarks, I beg to support this Motion to extend the time that we need to discuss these Bills.

The Minister for Energy (Mr. Murungi): Madam Temporary Deputy Speaker, thank you for giving me the opportunity to contribute to this critical Motion. I rise to support this Motion.

Before I give my reasons, allow me to declare my interest in this Motion, especially as relates to the County Governments Bill, 2012. I think I have already stated in public that come 2012, I will be seeking the position of Senator in the Meru County. The delay in enactment of this Bill specifically affects my political interest. I would, therefore, like to support this Motion because it will assist me to realize my dreams of being the Senator for the Meru County. We are not seeking senates merely because it has a beautiful name. We are seeking to go to the Senate because we want to transform our counties. We want to modernize our counties. We want to uproot poverty and we want to bring prosperity and glory to our people.

I had the luck and opportunity to be one of the team leaders for the campaign for the Constitution. I am very happy that Parliament has done an excellent job in passing the laws that have been brought to this House to implement the Constitution. I am also lucky to sit in the Cabinet sub-committee on the Constitution which is part of the process for scrutinizing the Bills before they come to this House. I can tell you that in passing these laws, there are a lot of negotiations and consultations involved. It is a tedious and complex process. So, when the delay happens, it does not happen because people do not want to pass the laws. It does not happen because the Executive wants to block passage of these laws. The delay comes because of the extensive consultations which have to be carried out in the spirit of the new Constitution.

The two Bills that we are seeking to extend time for, so that they can be debated in this House, are critical for the future of this country. The Public Finance Management Bill covers both administrative and procedural issues regarding public financial management, both for the national government and for the county governments. This is the first time in the history of Kenya that the local people are going to be empowered to manage resources at the county level.

We are looking forward to effective management of the counties by the governors and the administrators at the sub-county levels. There are going to be administrators at the ward level. Without this legal framework being passed, all those dreams that we have had of transforming our rural areas will come to naught. We have been calling for transparency, talking about devolution and this is what forms the core of the Bills that we intend to pass.

Madam Temporary Deputy Speaker, I have heard the Members of Parliament saying that they are going to oppose these Bills to teach the Executive a lesson. These Bills are not about teaching anybody a lesson. These Bills are for the benefit of Kenyans. I think it is in the new chamber where it is written at the door that it is for the welfare of men and I would like to include women. Parliament is for the welfare of the people of Kenya. It is not the business of Parliament to punish Ministers or the Executive. The business of Parliament is to act in the best interest of the people of Kenya. It is in that spirit that I would like to urge my colleagues to support this Motion, so that we can have an opportunity to debate and pass these crucial Bills, which will eventually be of immense benefit to the people of this country.

You have heard that we have made a breakthrough in oil exploration and we have discovered oil in Lokichar in Turkana. I have heard people saying that this is an oil curse. Oil is a neutral innocent commodity just like coffee, tea and sugar. It cannot be a curse for this country. What they call “Africa’s oil curse” is not a curse. Indeed, we are talking about a “political under-management curse”. The law that we intend to pass, namely, the Public Finance Management Bill, will address some of these issues because we want to have a framework which will provide for transparent, fair and efficient management of the oil resource in this country for the benefit, not only of the people of Turkana, but for all the people of Kenyans. So, we need these tools for open and transparent management of financial resources of our country. All those things you hear about like the Niger Delta coming into Turkana, there is nothing like that. As the Minister for Energy, I am committed to leave in place a framework for very transparent and fair management of the oil resources in this country, so that they can be a blessing for the people of Kenya. Oil resources will lie at the centre of our fight against poverty, at the centre of our modernization projects and at the centre of our implementation of Vision 2030. So, we need a framework for the management of those resources for the benefit of this country.

With those few remarks, I beg to support.

Mr. Affey: Thank you very much, Madam Temporary Deputy Speaker, for giving me this opportunity to support this very important Motion. At the outset, I would like to say that this is an important Motion because it is a matter that concerns the implementation of our Constitution. Even as we support this Motion, it is important to ask ourselves how we reached this stage in the first place. One of the Bills which were very important was the Devolved Governments Bill. This is where I want to fault the Government side, particularly the Ministers, because when we were debating this, perhaps, half or three quarters of the Cabinet as it is currently constituted were not in the House. For those who were there, they were in line and supported, including the Attorney-General and the Minister for Justice, National Cohesion and Constitutional Affairs, the position of the House. It was an afterthought and only when the President refused to sign this into law after having realized that this Bill was not, in the view of the Government, in line with the tenets of our Constitution. He sent a memorandum to this House. That is the genesis of the problem. I think it is a lesson as we approve this Motion that as Bills come here, they get thoroughly debated in the House and that the Cabinet, because they are the ones who generate the Bills in the first place, are present and alive to the debate in the House, so that any amendment that the Members suggest can be countered by the thinking of the

Government, so that together, all of us can walk this very difficult route of implementing our Constitution.

This Constitution has substantial provisions and it is important that the Government implements the Constitution, not only the letter of it, but also the spirit. As I support this, even now you can see that a large section of the Members of this august House is not in. It is important that the Government Whip whips them, so that we can determine this Motion and implement the Constitution.

With those few remarks, I support the Motion.

Prof. Kaloki: Madam Temporary Deputy Speaker, I rise to support this Motion which is very important to all of us and to this country. The Public Financial Management Bill is going to create structures that will enable this country, especially the county governments and the National Government, to have a wide legal and financial framework to move this country forward.

This Public Financial Management Bill requires much consultation and the Committee on Finance, Planning and Trade is also working on the same. Other financial stakeholders are also working on the same, plus the public participation. It is going to take time and that is why we need additional time, especially the time that is requested here of five months, namely, from February to May. We are only talking about two additional months to complete this project. So, we should come up with a Public Financial Management Bill which should satisfy this country for the next ten years. We should incorporate all the inputs and the public participation and come up with a good Bill to move this country forward. The County Governments Bill has already been completed. The section that the President brought back to us needs very little time to harmonize, agree and pass. The sections which are contained therein, especially the Provincial Administration and in particular the District Commissioners and the fact that they should be independent, the line from the President all the way to District Commissioners should be very clear. That way, they do not have to report to the governors. That is one thing that some of us are supporting and this is an issue that the President brought back and we should harmonize that when it comes.

We need to get enough time and that is why we are supporting this Motion to make sure that we debate the Bill and have a model Bill, so that our friends from East Africa and other countries who are thinking about establishing county governments and passing the Public Financial Management Bill can borrow a masterpiece Bill from Kenya. So, we are doing this for ourselves at the moment, but other countries can come and look at what we are doing and learn from us.

With those remarks, I support.

Mr. Njuguna: Thank you, Madam Chair, for giving me this opportunity to make a brief contribution to this very important Motion.

Madam Temporary Deputy Speaker, this Motion is critical to the life of the Tenth Parliament. Therefore, the citizens of this country are anxiously waiting for the results of this Motion in Parliament today. We remember that a stitch in time saves nine. This being a very important Motion, it is important that I urge all the Members of this House to re-dedicate themselves and be more committed to passing this very important Motion. This Bill is going to enable the formation of the county governments.

Madam Temporary Deputy Speaker, the seats for the 47 county governments have already been identified. We already have aspiring candidates for governors' positions in the counties. So, the desire and inspiration of Kenyans is there. This spirit must not be killed. The

power of the people is going to be devolved to the counties. The resources are also going to be sent there so that citizens will be able to manage the resources to improve their county governments.

Madam Temporary Deputy Speaker, I wish also to appreciate the strong efforts shown by the President by way of indentifying the weak areas of this law. This is not the first time His Excellency the President has referred a Bill to this House for amendment or for correction. Therefore, this was a timely reference to this House so that Kenyans are given a correct law; a law that is going to govern this country for the next 50 or even 100 years. Therefore, it is important that Members who are in the House and even those who are listening from outside, we need to merge our efforts and resolve with zeal to pass this very important legislation. History will judge us very harshly if this law is given a negative position.

Madam Temporary Deputy Speaker, therefore, I take the opportunity to very strongly support this Motion. With those few remarks, I beg to support.

The Assistant Minister for Industrialization (Mr. Muriithi): Madam Temporary Deputy Speaker, I stand to support. I am pleased that many of my colleagues are supporting.

Madam Temporary Deputy Speaker, the issue of devolution has been at the heart of political and economic debate in this country. When regions or counties or districts or communities talk about being marginalized, it is about resource allocation. It is about the feeling of exclusion. Therefore, there can be no bigger question of our time than resolving and laying the foundation for devolution. In my view, the new architecture of Kenya, the new Constitution will stand or fail on the basis of devolution. Devolution, even before the independence of this country, has been at the heart of the political debate and political conflict, in fact. Therefore, this House must rise to the occasion and do everything possible to provide ourselves with ample time to look at these critical areas and ensure that we lay the proper foundation for the future.

Madam Temporary Deputy Speaker, the Public Finance Management Bill, again, speaks to the same question. How are resources used? How are they divided between different places? How do we ensure that moving forward, no Kenyan ever feels that they are excluded? No Kenyan ever feels that they are less Kenyan than others? As we do so, as we look at these critical pieces of legislation, we must remember what the reason is that for over 20, 30 years, this country had been looking for fundamental reforms; and why this country had been looking for a new Constitution. I think that we are in a unique place in the history of this nation; a unique place to ensure that every single one of us moves forward, feeling and being truly Kenyan. No Kenyan ever in the future has to fear about: "Is he or she my tribesman? Is the person from my community occupying a seat of power? Are they the governor?" That has been the heart of our challenge! If we set up the proper mechanisms; if we set up the legislation correctly, we will be able to manage that transition so that Kenyans can now, perhaps for the first time, be able to move away from the question of ethnicity to the questions of those ideas that can help this country to move forward.

Madam Temporary Deputy Speaker, nearly ten million people in this country are either openly unemployed or under-employed. It is time for us to move the political debate and political questions as to how we are creating jobs. How do we create jobs for those people? How will we ensure that every year, we move away from locking 500,000 children of 13 and 14 years out of the economic system by telling them that they have failed Standard VIII? The young people at the age of 14, what are they expected to do? What meaningful skill or what meaningful livelihood can they set up for themselves? These are the questions of our times. Even those that go to Form IV, how will we ensure that we provide them with the requisite skills?

Madam Temporary Deputy Speaker, we have over a thousand youth polytechnics in this country. Most of them are just empty shells. The question of our time, surely, must be: How we are going to put resources into those institutions? So, I believe it is fair, right and proper for this House not only to look at extending time, but also, therefore, afford ourselves the opportunity to really look at these pieces of legislation and to ensure that we are setting up the best foundation for the future of this country.

Madam Temporary Deputy Speaker, today, because we still have duties on grains that were designed in colonial times, food is expensive. I have heard my colleague, the hon. Minister for Finance quipping frustrations and asking: "Why are we importing eggs?" We were importing eggs because the raw materials that go into the production of feeds that feed the chicken that produce the eggs are expensive. They are expensive because we have colonial duties designed during the time of Lord Delamere; and that have no basis in modern social economic structure of this country. These are the questions of our times. Though I agree we are bound by constitutional timelines, we are also bound--- We have a responsibility as a House to ensure that we make the best legislation possible. The question of devolution is the question that will allow us, once and for all, to move from the politics of ethnicity and to move from the feelings that resource allocation is based on ethnicity. Those questions will be resolved by us making the best possible law on county governments and public financial management. Therefore, I want, in the strongest terms and, perhaps, most passionate terms possible, support this Motion to extend time. Thank you.

Mr. Abdikadir: Madam Temporary Deputy Speaker, I agree with what the previous speaker said so much that I think he and I should belong to the same party!

(Laughter)

Madam Temporary Deputy Speaker, I support the sentiments and I am proud to associate myself with the sentiments of the previous speaker. Indeed, ethnicity is an issue which these two pieces of legislation deal with in an indirect way by taking local democracy and local decision-making and by ensuring that resources are allocated efficiently and are looked after properly. Ethnicity is a bane in our politics and in our daily lives.

Madam Temporary Deputy Speaker, in the African setup, ethnicity at Independence was pushed under the rug. There are those who were the intellectuals at the time who felt that talking about tribes and ethnicity was outmoded and old fashioned. There were those who felt, as nationalists, that talking about tribes was dividing the Africans and letting the *Mzungu* rule by dividing them. But the Constitution looks at this right in the eye and determines that we must look at this issue and we must decide how to ensure that we have equitable distribution of resources and we have good management of public finances for everybody's benefit.

Madam Temporary Deputy Speaker, these two pieces of legislation should have been passed a long time ago, but because the Executive delayed with the processing of these Bills on that side, we have had to go for extra time at this point in time.

As far as the Public Finance Management Bill is concerned, we are aware that there were serious issues of policy to be argued over, to be debated over and to be determined. As far as the County Bill is concerned, I personally agree absolutely with the sentiments of the Head of State as far as that Bill is concerned and as far as the proposals he made in his Memorandum to this House.

Having said that, Madam Temporary Deputy Speaker, that could have been done within the allocated time for those Bills to have been passed. We find ourselves in a situation where we have to expand time; we have to enlarge time for us to be able to pass these important pieces of legislation. But the Constitution allows for this House to be able to do just that. I think we should avail ourselves of that opportunity by allowing the expansion and enlargement of time so that we can conclude these processes because these are very critical processes for the implementation of the Constitution. Other than the Judiciary or Land, these two areas – devolution and public finances - those are two independent chapters of the Constitution. These Bills are critical for the implementation of those two chapters. They are critical for the reforming of two major chapters of our public life – public financial management processes have been some of the biggest problems that we have had; some of the iniquities on how, for example, resources are allocated is right now very opaque. It is done by mandarins at Treasury. This House before the last one year essentially was a rubber stamp in that process. Never before did this House have any role in the passing of the national Budget. While the Budget was supposed to have been voted from Parliament; while the power of the purse is one of the critical functions of any legislature; while the whole basis of Parliament is “No taxation without representation,” yet Parliament had absolutely no role in the passing of the Budget. Now, the Constitution has completely redone that process. While the Treasury and the Executive have very critical roles, Parliament also has a key role in that process.

The misuse of public resources and the mismanagement of public resources was also a very critical issue. While the Treasury, to a large extent, was very efficient in terms of that particular side of the process, in fact, to the point where, for example, our debt ratios are far much better than in most of Europe and other places, their function still needed to have been professionalized and to have the proper framework for a proper, efficient and modern financial setup.

With respect to devolution, Madam Temporary Deputy Speaker, the issues that are raised, as I said, are issues we agree with. These Bill needs to be passed so that as we move forward even in terms of setting up the proper infrastructure for the counties, those issues covered by that Bill are very nascent. For example, the number of wards that the Independent Electoral and Boundaries Commission (IEBC) has set up are actually set out in that Bill. Without that Bill, essentially, the IEBC will be flying blind as far as the number of wards and many other critical functions are concerned.

The Temporary Deputy Speaker (Dr. Laboso): Hon. Abdikadir, you will have 15 minutes when this Order next comes on the Order Paper.

ADJOURNMENT

The Temporary Deputy Speaker (Dr. Laboso): Order, hon. Members. It is now time to adjourn the Business of the House. The House now stands adjourned until Tuesday, 8th of May, 2012 at 2.30 p.m.

The House rose at 6.30 p.m.