

NATIONAL ASSEMBLY

OFFICIAL REPORT

Wednesday, 27th June, 2012

The House met at 2.30 p.m.

[*Mr. Speaker in the Chair*]

PRAYERS

COMMUNICATIONS FROM THE CHAIR

Mr. Speaker: Hon. Members, I have two communications to make.

PRESIDENT'S REFUSAL TO ASSENT TO THE STATUTE LAW (MISCELLANEOUS AMENDMENTS) BILL

The first one is in respect of a Presidential Memorandum. I have the following Communication to make with respect to a Memorandum received from His Excellency the President refusing to assent to The Statute Law (Miscellaneous Amendments) Bill, 2012.

Hon. Members, you will recall that on 21st June, 2012, this House passed The Statute Law (Miscellaneous Amendments) Bill, 2012. On presentation of the Bill to the President for assent, the President, pursuant to Section 46(3) and (4) of the former Constitution as saved by Section 3 of the Sixth Schedule to the Constitution, declined to give his assent to the Bill and on 25th June, 2012 submitted a Memorandum on the Bill indicating specific provisions thereof which should be reconsidered by the National Assembly, including his recommendations thereon.

Hon. Members, in particular, His Excellency the President has objected to the amendment passed by this House introducing a new sub-section 1(a) to Section 51 of the Political Parties Act, 2011, Act No. 11 of 2011 and has proposed its deletion. Additionally, the President has expressed reservations on the amendments passed by this House amending sub-sections (2) and (3) of Section 22 of the Election Act, 2011, Act No.24, 2011. The President has similarly proposed their deletion from the Bill.

Section 46(5) of the former Constitution provides as follows:-

“The National Assembly shall reconsider a Bill referred to it by the President taking into account the comments of the President and shall either-

(a) approve the recommendations proposed by the President with or without amendment and resubmit the Bill to the President for assent; or

(b) refuse to accept the recommendations and approve the Bill in its original form by a resolution in that behalf supported by votes of not less than 65 per cent of all the Members of the National Assembly (excluding *ex-officio* members) in which case the President shall assent to the Bill within fourteen days of the passing of the resolution.”

Hon. Members, it is important to note that Section 46(5) of the former Constitution requires the House to consider the specific recommendations proposed by His Excellency the

President and to make a determination on each of the proposals. Although the House must take into account the reasons advanced by His Excellency the President in his Memorandum, what the House requires to make a determination on are not the reasons advanced by His Excellency the President, but the specific recommendations for amendments made.

Where under Section 46(5)(a) of the former Constitution, the recommendations of His Excellency the President are passed with or without amendments by the Committee of the whole House, this fact shall, as required under Standing Order No.116(12) be reported to the House. Thereafter, Section 46(5) of the former Constitution requires that the Bill be resubmitted to the President for assent. A Third Reading of the Bill is, therefore, not required. Alternatively, the House could refuse to accept the recommendations of His Excellency the President *in toto* and thus accept the Bill in its original form. In such instance, a resolution supported by votes of not less than 65 per cent of the Members of the National Assembly, excluding *ex-officio* members, is required.

Hon. Members, Standing Order No.60(2) would apply to the voting process where the House takes the second option. 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. Section 46(5)(b) of the former Constitution lays down a fixed majority and thus falls within the ambit of Standing Order No.60(2). The procedure for a division is set out at Standing Orders No.61, 62 and 63.

Under Standing Order No.125(6), the House is required to consider and deliberate on the Memorandum within 21 days upon receipt from His Excellency the President.

I direct that this House shall consider the Memorandum at the sitting of the House on Thursday 28th June, 2012 at 2.30 p.m.

In order to address the issues that have been raised in the memorandum, I further direct that the memorandum be referred to the Departmental Committee on Justice and Legal Affairs for consideration and that the Committee reports to the House prior to the consideration of the Memorandum by the House as aforesaid. Meanwhile, the Clerk of the National Assembly is directed to circulate copies of the memorandum to all hon. Members. I thank you.

We will stop here for hon. Members at the entrance to come before we do the second Communication.

(Hon. Members at the entrance entered the Chamber)

BREAKFAST MEETING AT NEW STANLEY HOTEL ON THE
NATIONAL COUNCIL FOR POPULATION AND DEVELOPMENT

Hon. Members, you may recall that the National Council for Population and Development, in collaboration with the Kenya Parliamentary Network for Population and Development, hosted Members of Parliament for a retreat in Mombasa in July, 2011 to fine-tune the Draft Policy on Population Development. I am informed that the final Population Policy Document is ready and due for tabling in the House by the Minister for Planning, National Development and Vision 2030, Mr. Oparanya.

It is for this reason that the National Council for Population and Development, in collaboration with the Kenya Parliamentary Network for Population and Development, is planning to hold a breakfast meeting for all Members of Parliament tomorrow, Thursday 28th

June, 2012 from 7.00 a.m. to 9.00 a.m. at the New Stanley Hotel to build support for the final policy document.

I urge all hon. Members to attend and participate in this important workshop.

PAPERS LAID

The following Papers were laid on the Table:-

Annexure on the Printed Estimates and the Budget Committee Recommendations.

(By the Minister for Finance)

Annual Report and Financial Statement of the University of Nairobi for the year ended 30th June, 2011 and the certificate thereon by the Auditor-General.

*(By the Assistant Minister for Medical Services
(Mr. Kambi) on behalf of the Minister for
Higher Education, Science and Technology)*

Financial Statement of School Equipment Production for the year ended 30th June, 2011 and the certificate thereon by the Auditor-General.

*(By the Assistant Minister for Medical Services
(Mr. Kambi) on behalf of the Minister for Education)*

Annual Report and Financial Statement of Kenya Reinsurance for the year ended 30th June, 2010 and the certificate thereon by the Auditor-General.

*(By the Assistant Minister for Medical Services
(Mr. Kambi) on behalf of the Minister for Finance)*

Annual Report and Financial Statements of Kenya Dairy Board for the year ended 30th June, 2011 and the certificate thereon by the Auditor-General.

*(By the Assistant Minister for Medical Services
(Mr. Kambi) on behalf of the Livestock Development)*

Financial Statements of the Postal Corporation of Kenya for the year ended 30th June, 2010 and the certificate thereon by the Auditor-General.

*(By the Assistant Minister for Medical Services (Mr. Kambi)
on behalf of the Minister for Information and Communications)*

Financial Statements of the Municipal Council of Kitale for the two year period ended 30th June, 2009 and the certificate thereon by the Auditor-General.

*(By the Assistant Minister for Medical Services (Mr. Kambi)
on behalf of the Minister for Local Government)*

Annual Reports and accounts of the Kenya Polytechnic University College for the year ended 30th June, 2011 and the certificate thereon by the Auditor-General.

*(By the Assistant Minister for Medical Services
(Mr. Kambi) on behalf of the Minister for Higher
Education, Science and Technology)*

Annual Reports and accounts of the Kenya Polytechnic University College for ten month period ended 30th June, 2008 and the certificate thereon by the Auditor-General.

*(By the Assistant Minister for Medical Services
(Mr. Kambi) on behalf of the Minister for
Higher Education, Science and Technology)*

Annual Report and Financial Statements of the Kenya Post Office Savings Bank for the year ended 30th June, 2010 and the certificate thereon by the Auditor-General.

*(By the Assistant Minister for Medical Services (Mr. Kambi)
on behalf of the Minister for Information and Communications)*

Annual Report and Financial Statements of the Kenya Year Book for the year ended 30th June, 2011 and the certificate thereon by the Auditor-General.

*(By the Assistant Minister for Medical Services (Mr. Kambi)
on behalf of the Minister for Education)*

Financial Statements of Postal Corporation of Kenya for the year ended 30th June, 2011 and the certificate thereon by the Auditor-General.

*(By the Assistant Minister for Medical Services (Mr. Kambi)
on behalf of the Minister for Information and Communications)*

Financial Statements of the Kenya Agricultural Research Institute (KARI) for the year ended 30th June, 2011 and the certificate thereon by the Auditor-General.

*(By the Assistant Minister for Medical Services
(Mr. Kambi) on behalf of the Minister for Agriculture)*

Financial Statements of the National Cohesion and Integration Commission for the year ended 30th June, 2011 and the certificate thereon by the Auditor-General.

*(By the Assistant Minister for Medical Services
(Mr. Kambi) on behalf of the Minister for Justice,*

QUESTION BY PRIVATE NOTICE

CAUSE OF FIRE AT UPLANDS
IN LORI LOCATION

(Mr. Njuguna) to ask the Minister for Medical Services:-

(a) Is the Minister aware that three children namely, Pauline Njeri Maina, Elizabeth Nyambura Maina and Catherine Wachuka Maina, were burnt at Uplands in Lori location and admitted in the Intensive Care Unit at Kenyatta National Hospital on 9th May, 2012?

(b) Is the Minister also aware that one of the children, Catherine Wachuka, subsequently died?

(c) What was the cause of the fire and could the Minister consider paying the medical bills at the hospital since the parents cannot afford to pay?

Mr. Speaker: Is the Member for Lari not here?

(Question dropped)

ORAL ANSWERS TO QUESTIONS

Question No.1453

SUPPLY OF COMPUTERS TO
CONSTITUENCIES UNDER ESP

Mr. Shakeel asked the Minister for Information and Communications:-

(a) what became of the project of supplying 300 computers to each constituency under the “*Economic Stimulus Programme*” in the 2010/2011 Financial Year;

(b) how much money was set aside for the project in 2010/2011 Financial Year and could the Minister clarify whether the money allocated is still available for the project; and,

(c) when the implementation of the project will start.

The Assistant Minister for Information and Communications (Mr. Ogari): Mr. Speaker, Sir, I beg for your indulgence. I am ready to answer the Question but, as physically evident, I am quite indisposed at the moment. I have talked to the hon. Member about it and he indicates no objection.

Mr. Speaker: Order, Mr. Assistant Minister! Indeed, you have drawn my attention to the fact that you are not feeling that well. As a matter of fact, you need a doctor’s attention very urgently.

Member for Kisumu Town East, do you agree?

Mr. Shakeel: Yes, Mr. Speaker, Sir. I kindly ask that this Question be deferred to tomorrow.

Mr. Speaker: Order! Member for Kisumu Town East, that is not being very considerate! I will defer this Question to Tuesday next week!

(Question deferred)

Mr. Assistant Minister, you may perhaps want to go and seek some attention from those who are qualified to give you that attention.

Question No.1537

AUCTION OF MS. CELESTINE NDANU'S VEHICLE BY KRA

Mr. C. Kilonzo asked the Minister for Finance under what circumstances a vehicle, Engine Number 6D16-5842207 and Chassis Number FH2175-50116, was auctioned by the Kenya Revenue Authority (KRA) even after the owner (Ms. Celestine Ndanu Mwaniki) had paid the customs duty and import declaration fee.

Mr. C. Kilonzo: Mr. Speaker, Sir, I have not received a written answer. If I could perhaps have it.

The Minister for Finance (Mr. Githae): Mr. Speaker, Sir, it was sent a long time ago, but you will get it. It must be there. The Ministry of Finance has become very efficient now.

Mr. Speaker, Sir, I beg to reply.

The motor vehicle Chassis Number FH2175-50116, Engine Number 6D16-5842207, colour white, CC6557, Model 2003, was declared against customs entry number 2010 MSA236674 and taxes amounting to Kshs277,899, paid on 20th July, 2010. However, during verification, it was noted that the importer had not submitted JEVIC certificate which was mandatory. Consequently, the vehicle could not be released to Celestine Mwaniki for failure to comply with inspection requirements. Subsequently, and as required by law, the Kenya Revenue Authority (KRA) included the vehicle in Kenya Gazette Notice Volume CX11 No.24 of 11th March, 2011, as lot number 136/11. Upon expiry of the Gazette Notice on 12th April, 2011, and in the absence of any stop order, the vehicle was condemned and became State property, in accordance with Section 2 of the East African Customs Community Management Act of 2004. The motor vehicle was eventually disposed of as per the auctioneer's registration, in accordance with Section 243 of the said Act on 31st May, 2011.

Mr. C. Kilonzo: Mr. Speaker, Sir, the truth of the matter is that this person complied with the law. I wish to table all the necessary documents.

(Mr. C. Kilonzo laid the documents on the Table)

Mr. Speaker, Sir, further, this particular owner did write to know why the vehicle was being detained, but there was no communication at all. At the same time, she did try to get access to all the necessary officers and there was no communication whatsoever as to why the vehicle was detained. I wish to table the letters, where they have been pursuing this matter. So, I do not think that the Minister is really telling us why the vehicle was sold when all the necessary requirements were met, including the inspection that he is talking about. You never gave this person audience or even informed her why you were detaining the vehicle.

(Mr. C. Kilonzo laid the documents on the Table)

Mr. Githae: Mr. Speaker, Sir, this is a case where a customer was let down by the clearing agent. This is because in the new system – Simba System – a customer does not deal directly with the Kenya Revenue Authority (KRA). You deal through your agent. The agent was aware of these issues, but for one reason or another, never communicated the information to the customer. Actually, I was very sad when I read that she had actually paid customs duty and yet, the vehicle was sold. It was actually a very sad case, where she was let down by the clearing agent. I have been cracking my brain to see what we can do to ameliorate her circumstances. I am thinking of how we can, at least, refund to her the customs duty that she had paid, because this was a result of her being let down by her clearing agent. The clearance agent was aware of all this, but he never submitted the documents. It is really a very sad case.

Mr. Speaker: Last question, Mr. C. Kilonzo.

Mr. C. Kilonzo: Mr. Speaker, Sir, the Minister is pushing the blame to the clearing agent, but this particular owner of the vehicle wrote to the customs people - and I have tabled the letters - and there was no communication as to why the Customs Department detained the vehicle after she had imported it at a cost of slightly over a Kshs1 million and paid all the necessary taxes to the Government. Why would the Customs Department not respond to the queries by the owner?

Mr. Githae: Mr. Speaker, Sir, indeed, we have tried to trace any communication and there is only one communication, dated 8th March, 2012. All the other communications were with the agent. As I said, this was a case where a customer was really let down by the clearing agent. This is because under the new system – Simba System – a customer does not deal directly with KRA. It is the agent who has a password and the customer can do nothing about it. I was actually very sad when I read this. As I said, the only little thing that I can do – because this car was sold last year – is to try and use my discretion to, at least, refund to her the customs duty that she paid, as a way of trying to assist her. I would really request the hon. Member to ask this very innocent lady to apply for, at least, a refund of the customs duty. That is really the best I can do for her.

Question No.1572

LEVEL OF DISCUSSION BETWEEN
GOK/EU ON EXPORT LEVIES

Mr. Speaker: Is Ms. Chepchumba not here? That Question is dropped!

(Question dropped)

Question No.1638

PROVISION OF BOTTLED/DISTILLED
WATER BY HOTELS

Mr. Speaker: Order, hon. Members! The Member for Maragua is on the directions of the Speaker occupied elsewhere on parliamentary business that is of an urgent nature. So, this Question will be deferred to Tuesday, next week.

(Question deferred)

Yes, the Member for Migori!

Question No.1611

MEDIA MEDICAL NEGLIGENCE AT MIGORI DISTRICT HOSPITAL

Mr. Pesa asked the Minister for Medical Services:-

(a) whether he is aware that medical staff at Migori District Hospital denied emergency medical treatment to an abandoned new born baby and instead referred the good Samaritan who was with the baby to Kisii Level Five Hospital on 6th April 2012; and,

(b) what measures he has put in place to ensure that medical staff at the facility perform their assigned duties with diligence; especially after the Government and development partners have spent millions of shillings to upgrade the hospital to its current status for the benefit of the community.

The Assistant Minister for Medical Services (Mr. Kambi): Mr. Speaker, Sir, I beg to reply.

(a) I am aware that an unknown neonate was brought to Migori District Hospital on 6th April, 2012. On examination, the baby was found to be very sick with neonatal sepsis and hypothermia. The medical officer who reviewed the case formed the opinion that the baby required very specialized care which was not available in the newborn unit of the Migori District Hospital. He, therefore, made a professional decision to refer the case to Kisii Level Five Hospital where the newborn unit is better equipped to handle such cases.

The Good Samaritan who brought the neonate to the hospital was asked to take it to Kisii Level Five Hospital as the hospital ambulance was not available at the time. However, the Samaritan did not want the baby taken to Kisii Level Five Hospital but instead carried the baby away to Saint Joseph Mission Hospital. The baby was not denied emergency services at the Migori District Hospital.

(b) Medical staff at the Migori District Hospital are public servants subject to the applicable service sanctions if they do not perform their duties as expected. We have no recent reports of staff in the facility failing to perform their assigned duties. However, the hospital suffers staff shortage which has been aggravated by the needs related to new infrastructure that the Ministry in collaboration with the partners has recently put up in the hospital. The Ministry will address some of these shortages from planned staff recruitment to be carried out in the 2012/2013 Financial Year.

Mr. Pesa: Thank you, Mr. Speaker, Sir. I quite accept the Assistant Minister's response. However, this was a very serious case. This was a baby that was abandoned by the mother and a Good Samaritan came about and decided to rescue the baby. If you look at the records of the baby from the hospital at that time, they state that the baby was hypothermic with maggots coming out of the ears, nose and mouth; a baby who is hardly three days.

Here is a case where he was transferred to Kisii Level Five Hospital, which is over 60 kilometers. The Good Samaritan never had any means to take this baby to Kisii. If there was no ambulance at the hospital, why did the hospital authority not hire a vehicle to transport such a desperate baby to Kisii Level Five Hospital?

Mr. Kambi: Thank you, Mr. Speaker, Sir. This is a very pathetic situation and I have already launched investigations. If we find out that this was due to the negligence of our staff, I promise this House that we will punish them according to the law. However, with regard to the transport to take the baby to Kisii District Hospital, as a Ministry, we do not have a budget outside the one we receive from this Parliament. Therefore, in this case, the Good Samaritan did a good job by deciding to take the newborn baby to a mission hospital for these services.

Mr. Pesa: Mr. Speaker, Sir, in his reply, the Assistant Minister concedes that this particular hospital does not have enough staff. He said that the hospital suffers shortage of staff. Actually, they claim that they lack seven nurses. Could the Assistant Minister undertake and promise me in this House and other Kenyans that when they do the recruitment, they will consider Migori District Hospital for seven nurses in the new recruits?

Mr. Kambi: Thank you, Mr. Speaker, Sir. I want to assure the hon. Member that once we are through with the recruitment, Migori District Hospital will be one of the first priorities in my priority list. We will send these officers to this hospital to minimize the pain and suffering of our people.

Mr. Speaker: Next Question, Mr. Gitari.

Mr. Gitari: Mr. Speaker, Sir, although I do not have a copy of the written answer, I beg to ask Question No.1495.

Question No.1495

UNHYGIENIC CONDITIONS AT
KERUGOYA/KAGUMO MARKETS

Mr. Gitari asked the Minister for Local Government:-

(a) whether he is aware of the deplorable and unhygienic conditions at both Kagumo and Kerugoya markets in Kirinyaga Central Constituency;

(b) whether he is also aware of negative effects of flooding in these two markets during rainy seasons and that traders are forced to sell their wares from outside the market; and,

(c) what plans he has to ensure that the two markets are rehabilitated for the traders to sell their wares in a hygienic environment.

Mr. Speaker: Where is the Minister for Local Government?

Where is hon. Fred Gumo and hon. Nguyai? None of them is in the House. The Minister for Finance, will you hold their brief?

The Minister for Finance (Mr. Githae): Mr. Speaker, Sir, they are supposed to be on their way. Since the Member of Parliament is still here, maybe we can give them some indulgence and see if we will come back to the Question in the second round.

Mr. Speaker: Order! There is no second round. You are aware of that. Mr. Minister, just like the rest of the membership of the House knows that the business of the House on Wednesday afternoon starts at 2.30 p.m. There is no explanation as to why the Minister is not here. To say that they are on their way is not good enough. So, that is obviously disorderly

conduct. I will direct now that the Minister and the Assistant Minister are not allowed into the House this afternoon. They are also excluded from all the other premises in Parliament. We will defer this Question to tomorrow afternoon.

Serjeant-at-Arms, ensure that those directions are complied with strictly. They will not go to the Press Centre, the Members Lounge or their offices! The Question will appear on the Order Paper tomorrow at 2.30 p.m. That brings us to the end of Order No.6.

Mr. C. Kilonzo: On a point of order, Mr. Speaker, Sir. I saw you regarding the matter of the Memorandum from the President.

Mr. Speaker: Order! You cannot go to that matter now. The Memorandum from the President was the subject of communication. It was the subject of Order No.2 and now we are at Order No.6, calling for the next order which would be Order No.7. If my directions---

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

The Member for Yatta, please, resume your seat for a moment.

I have directed that the Memorandum will appear on the Order Paper tomorrow for transaction. So, your relevant points were (a) at No.2 or (b) at whatever order it will appear tomorrow, and you will take up whatever issues you may have. We are equal to the task. Whatever issues you have, we will take them.

Mr. C. Kilonzo: Thank you.

Mr. Speaker: Thank you, the Member for Yatta for your understanding.

Hon. Members, are there any Statements due for delivery this afternoon? There is no Minister with a pending Statement? I will now take requests for Statements. Hon. Millie Odhiambo-Mabona, you can proceed! I know you have one or two hitches, but you are able. So, carry on.

POINTS OF ORDER

EXPLOITATION OF FISHERMEN BY MIDDLEMEN IN MBITA\GWASSI CONSTITUENCIES

Mrs. Odhiambo-Mabona: Thank you, Mr. Speaker, Sir. I will try! I would like to request a Ministerial Statement from the Minister for Fisheries Development in relation to the crisis in the fishing industry, especially in Nyanza Province, affecting mainly Mbita and Gwasi constituencies. In the Statement, I would like to ask the Minister to clarify what he is doing to ensure that fishermen are not exploited by middlemen, who have caused the price of fish to fall tremendously, thereby causing fishermen to down their tools yesterday in a strike. I would like the Minister to also explain to the House how much money has been allocated to fishing in the 2012/2013 Budget, and in particular towards a storage facility in the affected areas. I request him to explain in the Statement what the Government intends to do to enhance marketing of fishing given that the middlemen are exploiting fishermen, and middlemen have opted for other markets such as Uganda and Tanzania.

GOVERNMENT BAN ON OMENA FISHING

Finally, I would like the Minister to explain what the Government intends to do to lift the ban on *Omena* fishing given that Uganda and Tanzania do not have this ban every year and it

only affects Kenyans, especially vulnerable women and children as communities that rely only on *Omena* fishing.

Mr. Speaker, I had forgotten one issue. What measures are in place to subsidize fishing in the same manner that the Government now and again subsidizes agriculture through various incentives such as provision seed and fertilizer?

Mr. Speaker: Minister in charge of fisheries! Hon. Paul Otuoma, do you want to hold brief for your colleague? You were at the Ministry of Fisheries Development before. Could you, please, hold brief for your colleague?

The Minister for Youth Affairs and Sports (Dr. Otuoma): Mr. Speaker, Sir, I promise to deliver the message so that we can have the Statement next week on Tuesday.

Mr. Speaker: I so direct. The Statement should be made on Tuesday, next week.

Mrs. Odhiambo-Mabona: On a point of order, Mr. Speaker, Sir. I appreciate the commitment by the Minister. However, this matter is extremely urgent because the fishermen are on strike. I know we may feel it when teachers are on strike because they go to classrooms, but where I come from people feel it when fishermen are on strike because we do not farm. We normally just go and get fish from the lake and that is what we feed on. The fishermen have been on strike since yesterday. So, if we wait until next week, there are many vulnerable people who will be affected and they will be suffering because of the crisis. Could the Minister, please, consider bringing the Statement tomorrow because it is not really complicated as such? It is just about how to handle the crisis urgently.

Mr. Speaker: Very well. You have made a point there. Minister, would you want to reconsider the possibility of delivering that Statement tomorrow?

The Minister for Youth Affairs and Sports (Dr. Otuoma): Mr. Speaker, Sir, on the basis of that urgency, I will try my best for tomorrow. However, I beg your indulgence that if I do not get all the details, I will report to the House, so that we consider Tuesday next week for an appropriate Statement.

Mr. Speaker: Very good. Let it then be tomorrow afternoon at 2.30 p.m.

Is there any other hon. Member with a request for a Ministerial Statement? It would appear there is none.

PRIME MINISTER'S TIME

Mr. Speaker: We are now into Prime Minister's Time. Could the Minister for Finance seek the Prime Minister?

The Minister for Finance (Mr. Githae): Mr. Speaker, Sir, the Prime Minister is on the way here. However, I think today has been very unusual given the way you have conducted business. We have completed part of our business pretty early. Quite a number of Questions were not asked. I know that, on some occasions, he has been here at 3.00 p.m. and his time came at about 4.00 p.m. I think that is the reason---

Mr. Speaker: Order, Minister! You ought to do better than that! That is just an excuse. Can you find a way of calling the Prime Minister to get into the House at the very earliest? Find a way of communicating with the Prime Minister, so that we have a commitment.

The Minister for Finance (Mr. Githae): Mr. Speaker, Sir, in fact, I am informed that he will be here within two minutes. I must apologize on his behalf. After two minutes, he will be here. I beg that you give that indulgence.

POINT OF ORDER

STATUS OF DEPUTY PRIME MINISTERS' POSITIONS

Mr. Mungatana: On a point of order, Mr. Speaker, Sir. Under Standing Order No. 40, in the absence of the Prime Minister, there are two Deputy Prime Ministers who ought to be here to carry on the business of the House. Could we have the official position as to whether these Deputy Prime Ministers are really still there, or what is the position of the Government? Could the Leader of Government Business clarify the position with regard to the Deputy Prime Ministers?

Mr. Speaker: Order, hon. Members! I want the Front Bench to respond to that. If I look at the Front Bench, the most experienced hon. Member is the Member for Sirisia. Can I have a reaction to that concern from the Member for Garsen?

The Minister for Trade (Mr. Wetangula): Mr. Speaker, Sir, I do not think you seriously want me to make a comment on that. Be that as it may---

Mr. Speaker: Order, Member for Sirisia! You are a Minister and the Speaker does not say anything in vain.

The Minister for Trade (Mr. Wetangula): Thank you, Mr. Speaker, Sir. The country has a Prime Minister and two Deputy Prime Ministers. The arrangement of work between the Prime Minister and his deputies is constitutionally entirely within his purview and as a Minister, I have no role and indeed, other Ministers, in how the Prime Minister assigns assignments and roles to his deputies. I also invite the Chair and the House to take judicial notice of the political happenings in the country and understand what is going on.

Mr. Balala: On a point of order, Mr. Speaker, Sir. Is it in order to assume that the positions of the Deputy Prime Ministers have been scrapped by the Government because during the last Budget Day when the Head of State was here, we did not see one of the Deputy Prime Ministers, and the other Deputy Prime Minister moved behind fearing to sit in front? So, we want to assume that these positions have been scrapped.

Mr. Speaker: Order! Hon. Wetangula, perhaps you want to take note of those concerns and then you will respond to all of them.

The Minister for Trade (Mr. Wetangula): Yes, Mr. Speaker, Sir.

Mrs. Odhiambo-Mabona: On a point of order, Mr. Speaker, Sir. I would also request the Minister to also explain to us whether the Deputy Prime Ministers are actually getting these perks without working which is then robbing Kenyans of their taxes because you cannot be here to answer questions and you are a whole Deputy Prime Minister. Could he, please, tell us whether they still deserve to have those titles and why they are earning Kenyan money with titles which belong to Kenyans?

Mr. Ruto: On a point of order, Mr. Speaker, Sir. It is common knowledge that one Deputy Prime Minister was suspended because of being in court and another one actually walked out and decided to concentrate on other things and probably they are not in communication with the Prime Minister and, therefore, they are unable to discharge those duties. Is it in order then to request that the Government reallocates these responsibilities to more serious Ministers so that then it is clear as to where we will direct our questions? None of them are in the Cabinet and you are asking a Minister to give us directions on, I believe, Members of the Back-Bench. How can Members of the Back Bench be Deputy Prime Ministers?

Mr. Mungatana: On a point of order, Mr. Speaker, Sir. On a serious note and following up on hon. Odhiambo's Question, the country needs to get clarification. Now that they are not deputising the Prime Minister, could the Leader of Government Business explain to the House whether under the titles of Deputy Prime Ministers, those individuals holding those title are still drawing perks from those titles? Are they holding any offices and if they are, what duties are they executing against the salaries, perks or emoluments they are being paid? We want value for money.

Mr. Speaker: Order! Hon. Moses Wetangula, I will want you now to respond to those concerns and even as you do so, bear in mind the provisions of Standing Order No.40 which among other things states that: "Prime Minister's Time shall commence at 3.00 p.m." It is not a new thing. It is not me laying down the rule. It is a rule which this House resolved by adoption in 2008.

Secondly, that the same Standing Order at paragraph 3 states that: "In the absence of the Prime Minister, a Deputy Prime Minister designated by the Prime Minister may make a statement or answer questions under this Part." That being so, Minister, then the concerns of the hon. Members are legitimate. If for any reason the Prime Minister was unable to be here at 3.00 p.m., we will have expected one or both deputies to be here on his brief. So, proceed!

The Minister for Trade (Mr. Wetangula): Thank you, Mr. Speaker, Sir. Hon. Balala wants to know if the positions of Deputy Prime Ministers have been scrapped. No, they have not. They can only be scrapped by this Parliament and as far as I know, Parliament constitutionally has not done such a thing. Hon. Odhiambo-Mabona asked whether they are getting the perks as Deputy Prime Ministers. I have not had the privilege of looking at their pay slips but I know that they are still Deputy Prime Ministers. I can also inform Parliament that the two Deputy Prime Ministers attend Cabinet meetings in that capacity and, therefore, the issue raised by hon. Ruto does not arise. One Deputy Prime Minister was never suspended neither was the other one. You said that he walked out of Cabinet and I do not know where he walked out from because he still attends Cabinet meetings as a Deputy Prime Minister.

Mr. Speaker, Sir, as to how the Prime Minister and his deputies discharge their duties on the Floor of the House by way of assignments, I want to respectfully submit that you do not go to John the Baptist when Jesus is there. The Prime Minister himself is here and he can be able to shed light on that.

Mr. Speaker: Rt. Hon. Prime Minister, we are into Prime Minister's Time and there was nobody present in the House to transact your business. Under normal circumstances, the standard practice is that if you, the principal, is not there, then your deputies will have been expected to be here. It is just a rule of thumb. So, if you may want to proceed, first, offer an explanation as to why you were not here and none of your deputies were here, notwithstanding the importance of parliamentary business and then proceed.

The Prime Minister (Mr. Raila): Thank you, Mr. Speaker, Sir. First, I begin by apologising for coming a little late. It has almost been a standard practice that I usually start, earliest at quarter past three or it usually goes up to 3.30 p.m. before I start. I understand that today, the Questions were fewer and that is why I was needed much earlier but I know that that cannot be an excuse; I am sorry, but I intended to make the statement myself today and that is why I did not delegate to anybody else.

Mr. Speaker, Sir, the other issues which have been raised by hon. Members, I would say are part of coalition challenges that we all know about. So, I will really resolve them in time. As

to why the Deputy Prime Ministers are not here, that would be an issue for another day, if I may. Therefore, I ask that I can now proceed with the statement that I want to read today.

Mr. Speaker: Rt. Hon. Prime Minister, that is fine. Indeed in your explanation, you have, first of all, unreservedly apologized and I note even from your demeanour that you are remorseful. So, I accept the apology and you may proceed.

PRIME MINISTERIAL STATEMENT

NATIONAL PREPAREDNESS FOR DEVOLUTION

The Prime Minister (Mr. Raila): Thank you, Mr. Speaker, Sir. Today, I want to address the House on National Preparedness for Devolution because this is a very critical and important subject for hon. Members.

The state of our national development is marked by great disparities amongst the regions. Such inequity in development is the result of pre-Independence historical factors such as the routing of the railway line from Mombasa to Kisumu, and post-independence choices such as concentrating economic activities in high potential areas to the exclusion of marginal areas.

Mr. Speaker, Sir, you will notice that the railway line from Mombasa to Kisumu has essentially defined what Kenya is today. Alongside the sustained struggle for democratic governance in our country has been the quest for equity in development across the country. Devolution is the answer to the quest for democratic governance and equity in development across the country. Devolution is the heart and soul of our new Constitution. At the core of devolution is the desire to promote democratic and accountable exercise of power characterised by self-governance, people's participation and equitable sharing of national and local resources.

Mr. Speaker, Sir, the realisation of our nation's aspirations, under the new Constitution, largely depends on the successful implementation of devolution. It is important that this august House, and the public at large, continuously keep an eye on the evolution of devolution. Such vigilance is necessary to avoid a repeat of the mutilation of the Independence Constitution, which destroyed devolution.

The twin threats to devolution are deliberate efforts to withhold adequate funding to support devolved functions and the establishment of parallel administrative frameworks to compete with the devolved system of administration. One may already sense that the anti-devolution winds are in the horizon. We must rise to defend devolution before these winds coalesce into a destructive force of undermining democratic governance and equity in development.

Mr. Speaker, Sir, substantial legislative and administrative progress has been made in implementing the Constitution. The laws on devolution contemplated in the Fifth Schedule of the Constitution have been enacted. The County Government Act, The Urban Areas and Cities Act and The Transition to Devolved Government Act are in place. The Members of the Commission on Revenue Allocation (CRA), the Transitional Authority on devolved governments (TA), the Salaries and Remuneration Commission (SRC) and the Controller of Budget have been appointed. The delimitation of electoral wards matter is pending in court and will, hopefully, be determined soon.

The question of financial and human resources to support county governments remain outstanding. While the Constitution provides broad guidelines on these two issues, nuts and bolts are yet to be worked out. The organisation, starting and functioning of the County Public

Service, including the constitution of the County Public Service Boards, awaits the establishment of the county governments. However, it is necessary that the Public Service Commission (PSC) undertakes the necessary preparatory work that may inform the county governments in establishing their respective public service. This is necessary to extend the support to county governments to enable them begin to perform their functions within the shortest period after they are established.

Mr. Speaker, Sir, the Transition Authority (TA) should, quickly, work out a transitional programme to the devolved system of government. The TA must determine the resource requirements for each of the devolved functions, prepare inventories of the public assets and liabilities and arrange their transfer from the National Government or local authorities to the county governments. The TA must urgently assess the capacity needs of the county governments and advise the National Government on the kind of support needed to operationalise county governments.

Sufficient revenue to county governments is like a mother's milk to a baby. Without adequate fiscal resources, the county governments will not survive. Expenditure obligations on the county governments need to be supported by adequate revenues to finance such obligations. It is contemplated that county governments will have own sources of revenues and receive transfers from the National Government. Such transfers will include funds from the Equalisation Fund and budgetary allocations.

Mr. Speaker, Sir, the CRA, working together with the TA, need to prepare guidelines on how the programme's specific transfers will be administered to strengthen the ability of county governments to deliver on their mandates. It may also be necessary for the National Government to directly implement some programmes at the county-level during the formative stages to assist the county governments to have a quick take-off.

Tax administration at the national and county-levels will need to comply with the universally accepted taxation principle of maximum collection yield at minimum collection cost. Tax administration at both levels should be designed to encourage voluntary compliance by taxpayers. Decision as to whether or not tax collection fall and, on behalf of the National Government and the county governments, will be done by a single tax authority, need to be made. Consideration of factors such as capacity and competences in tax administration, and uniformity and simplicity of the tax system, will help to guide in making that decision. Whatever the decision, it is essential that some form of tax competition amongst counties is allowed, so that counties may compete for investment.

Mr. Speaker, Sir, the CRA, the Auditor-General, the Controller of Budget, the TA, the Kenya Revenue Authority (KRA), and other relevant organs under the leadership of the CIC, should undertake the necessary preparatory work in this area. The burden of taxation is to be shared equally. Revenue raised nationally is to be shared equitably among the National Government and county governments. The burden and benefits of the use of resources are to be shared on the basis of intra-governmental and inter-governmental generational equity.

The debate on how to share the national resource revenues among the National Government and the county governments need to begin now. This is particularly important, in view of the fact that there are resource-endowed counties and resource-poor counties. Then there is the question of off-shore resources such as those in the territorial sea, the Exclusive Economic Zone (EEZ), and the sea beds. The newly legal regime envisages that land owners on whose property natural resources are found have a share of the revenue from those resources.

Mr. Speaker, Sir, while the Constitution provides for equalization funds to remedy disparities in the development amongst counties, it has not defined the formula for sharing of natural resources revenues. We need to define such formula so as to avoid any potential conflicts over the sharing of natural resources revenue.

Finally, without the necessary framework for fiscal responsibility, county governments may prove wasteful. The Treasury, the Auditor-General, the Controller of Budget and other organs of the Government must move with speed to put in place the requisite mechanisms for financial accountability at county levels.

Thank you, Mr. Speaker, Sir.

Mr. Ruto: Mr. Speaker, Sir, the Prime Minister has made a Statement on a matter that is of great importance to us. I want to ask certain clarifications. First, it is clear that the life of this Parliament expires on 14th of January and there will probably be no Parliament until around mid March. This is the case and yet the county governments will be expected to function and do their budgetary processes during that period and yet if this Parliament expires on 14th of January, the Auditor-General is supposed to finish audit of revenue within six months, that means the end of December so that the CRA can prepare a report for the purposes of division of revenue. Then there should be a Bill for division of revenue before this Parliament operating both as the Senate and the National Assembly and yet there will be no Parliament. Therefore, how will the counties prepare their budgets when they have got absolutely no idea what monies are available for them to use in that coming year? What has the Government done to ensure this happens, either the auditing is done earlier or elections are held in December so that there is a Parliament continuously; so that all these issues raised in the Constitution are actually adhered to and that there is no vacuum?

Mr. Speaker, Sir, I wonder whether the Bill on the Provincial Administration will be done before then otherwise, it is a danger to the devolved government units.

Mr. Mungatana: Mr. Speaker, Sir, whenever someone goes into new business, there is the requirement of huge capital investment. On the part of the Government, we will go into the new business of counties. I was expecting the Prime Minister to tell us the minimum irreducible in terms of physical infrastructure that the Government has made preparation for. How much money, and I want very specific answers, has the Government set aside for the creation of these least of minimum irreducibles at the county levels:

1. County assembly
2. The county executive government buildings
3. The county hospitals
4. The county university college
5. The county airport
6. The county stadium
7. The residence of the High Court Judge of the county and the High Courts of the county
8. The county immigration offices
9. The county IEBC offices
10. The county police headquarters
11. The county land registry
12. The county governor's offices.

Mr. Speaker, Sir, finally, who are the officers who have been deputed or marked to be deputed on an acting capacities to handle agriculture, fisheries and land on an interim basis in preparation for the take off of the county governments?

I wish the Prime Minister can give us clear monetary allocation for these physical facilities so that we know how prepared this Government is for the take off of the county governments. Otherwise, these are stories. Apart from the county commissioners, who else has been appointed on an acting capacity? I wish to get those clarifications.

Mr. Njuguna: Mr. Speaker, Sir, let me, first of all, apologise that I had a Question by Private Notice and I was not able to attend because I had a funeral in my constituency.

However, let me now come to the main issue. While lauding the Prime Minister for the very good Statement that he has offered, could he inform the House what will be the fate of the civil servants who now work in the local authorities because there is real fear in the minds of these workers?

Mr. Duale: Mr. Speaker, Sir, the provisions on devolution in the current Constitution is one of the most celebrated chapters. I want the Prime Minister to clarify the following:

First, there is a dire need or absence of infrastructure for devolved governments. In the absence of this infrastructure, what has the Government done as much as we have put the institution in place?

Secondly, the weakest link between the national Government and the county governments, in my opinion, there should be a national oversight body on the affairs of the county specifically on the financial management. Do we have those institutions in place that will oversight on the county governments?

Mr. Ogindo: Thank you, Mr. Speaker, Sir. First of all, let me congratulate the Prime Minister on this commitment to devolution. I think it would be imperative for other presidential candidates to pronounce themselves on this important issue. Having said that, could I get a clarification from the Prime Minister, given the fact that the Constitution requires that a division of revenue be debated in Parliament and adopted and the formula agreed upon run for five years; and given the fact that this House has not applied itself to any division of revenue Bill; and given the fact that the mandate of this Parliament will expire on 14th January, when the budget process is just beginning; and given the fact that money is most fundamental to the successful implementation of devolution, what has the Government done to ensure that when the devolution takes off, it does so on a firm foundation in terms of division of revenue?

Mr. Kiuna: Mr. Speaker, Sir, I appreciate and applaud the Prime Minister's contribution. I would like to know how well the Prime Minister has considered the security of this nation. How are the assistant chiefs, chiefs, District Officers (DOs) and the County Commissioners (CC) safe? We know very well that there are some rumours and allegations that some people are talking about secession. The Prime Minister is the most serious contender for the highest office in this land. How safe will he be and make sure that there will be no secession in this Republic?

Mr. Speaker: Rt. Hon. Prime Minister, you want to make responses; try to do so within ten minutes so that we can accommodate one more, if we are able to.

The Prime Minister (Mr. Raila): Mr. Speaker, Sir, the hon. Member for Chepalungu was concerned about the gap that will be created between the time when Parliament's life will expire, on 14th of January--- The Commission on Revenue Allocation (CRA) has not yet prepared the budget for the devolved units, and the devolved units may not have funds when they come into operation.

Mr. Speaker, Sir, this is an issue that is a reality given the fact that elections are likely to be held in March. However, this morning, I have had consultations with various agencies who are charged with the responsibility of implementing the Constitution. We have agreed that all of them will make preparations necessary so that everything else is concluded by December.

Therefore, we are hoping that this budget will be prepared and tabled in this House before its life expires.

The hon. Member also asked about the Bill on Provincial Administration. The Constitution says that the system currently known as the Provincial Administration shall be restructured to make it compliant with the devolved system of government. So, it does not give a deadline for doing that. It says that it shall be done by the national Government. Right now we have the central Government. The national Government envisaged in that Constitution is the one that is going to be elected in the coming general election.

Mr. Mungatana talked of the irreducible minimums. I will call them the minimum irreducible. He then narrated a list of institutions; the county assembly, the executive buildings, the hospitals, the universities, the stadium, the court, immigration offices, the police headquarters and so on. If the central Government is supposed to do all those, then you ask yourself what the country Government is going to be doing. Our understanding is that setting up all these institutions is the responsibility of the devolved government, the county Governments themselves and not the central Government. We do not want to convert these into departments of the central Government the way the current local governments are being managed.

Mr. Mungatana: On a point of order, Mr. Speaker, Sir. I want the Prime Minister to address himself to the physical structures. We are not saying that you set up the county assembly. What we are asking is: Where will the county assembly meet if elections are held today? This is connected to the money issue. There are irreducibles that must happen. If you say it will be by them, then what will they do? Even when the colonists handed over to the first elected President, this House was already in existence. The Old Chamber we are sitting in was in existence.

Mr. Speaker: Order, Member for Garsen! You have made your point. Rt. Hon. Prime Minister, maybe you want to retrace your steps.

The Prime Minister (Mr. Raila): Mr. Speaker, Sir, we are not starting from a vacuum. We have institutions already in place in virtually all parts of the country. We have local Government institutions with town halls, county headquarters and so on. Already, we have the Transitional Authority, which has been appointed and is going to be sworn in next Tuesday. This Authority is going to oversee and ensure that money that has already been allocated in the current Budget is used for the intended purposes.

When the Minister for Finance read the Budget here, he said that he had allocated Kshs3 billion for establishment of these institutions in the counties. The Government is, therefore, not sleeping. Already arrangements have been made and the institutions which exist will be converted for use by the counties. Some of this money will be used for renovations or for construction of new structures.

(Mr. Ruto stoop up in his place)

Mr. Speaker: Order, Member for Chepalungu! We need to use our time optimally. Rt. Hon. Prime Minister, please, resume your seat just for a minute!

(Mr. Raila resumed his seat)

I think it will be easier for you to pilot through this area if, for example, you give information to the House to the effect that you have carried out an audit of all the 47 counties, and you are able to confirm that all the 47 counties have a place where the county assemblies

will meet; all the 47 counties should have the next thing which is premises where the county executive will begin to transact business. If you did that, then these issues really would not arise.

The Prime Minister (Mr. Raila): Mr. Speaker, Sir, indeed, as we are talking here, the process of carrying out valuation of the assets is ongoing. This is because ultimately some of the assets will have to be transferred from the central Government to devolved units. That exercise is being carried out by the Treasury to know which facilities are in the counties, and what is going to be required to convert those facilities for use by the county governments, so that there is some account of uniformity in terms of physical facilities in the counties.

Mr. Ruto: On a point of order, Mr. Speaker, Sir. We really need to be truthful about our preparedness. The Ministry of Finance only set aside Kshs3 billion. We have 47 counties and that translates to about Kshs60 million per county. Obviously, this will not even be enough for a small building. There are counties, like where I come from, Bomet, where there is no building in which anyone can transact any business. Councilors meet in a social hall. It is not practical to run a parliament under such conditions. There is no physical facility that could be used to enable a county government to start functioning, even at the minimums.

Mr. Speaker: Order, Mr. Ruto! Your point is made but that amounts to repetition. Let us take Ms. Karua so that we can conclude this matter.

Ms. Karua: Mr. Speaker, Sir, noting that the Government has not had any concerted effort to enlighten Kenyans on the roles of the National Government and the devolved governments and taking into account that the civil servants may not have acquainted themselves well with the role, has the Government considered training a cadre of officers who then can form a pool from which the county government can hire? I am thinking of administrators like the DCs who were irregularly appointed as county commissioners. Would they consider training them in matters of devolution so that they can form a pool?

Mr. Speaker: Prime Minister, I would like you now to try and make your final responses. Go back to where you were before Mr. Ruto rose on a point of order so that you cover all the hon. Members who had issues.

The Prime Minister (Mr. Raila): Mr. Speaker, Sir, I just want to conclude this matter by saying that preparations are ongoing and in the last quarter of this financial year, there is about Kshs50 billion which has been earmarked for the purposes of setting up facilities in the local authorities. The Kshs3 billion is just now for doing the work that is currently being done by the Treasury.

Mr. Njuguna asked about the civil servants who are now working in the local authorities. There has been fear and this is enforced by the creation of a lacuna about the security agents, chiefs, sub-chiefs and so on. We have said that the intention is not to dismiss those who are already in the service. We will have to do a clear separation of staffing because there are some who will be retained by the Central Government but there are others who will then go to the county governments. The system known as the Provincial Administration is supposed to be restructured and that restructuring has not occurred. I am told that there is an Administration Bill which is under preparation but I have not seen it. However, what we are saying is that those who will remain because the county government must have an administration, they will still be serving. For example, there will be chiefs, sub-chiefs and DOs but our understanding is that these are going to be staff of the county government, accountable and answerable to the governor of the county.

(Applause)

The Central Government will play a more supervisory role in this regard and so we will deal with that matter when that time comes. I want to assure the hon. Members now and the civil servants affected at large, that there is no intention of the Government to lay off the staff as a result of restructuring of the Government when we are separating the local level from the national level. There will be no loss of jobs. My understanding, in fact, is that more jobs are going to be created when we devolve. But let us not hang on to the old, archaic colonial system of Provincial Administration merely because it is the only thing that we know.

(Applause)

As for Mr. Duale's question, I think I have already answered that question. He asked about the oversight authority. There is already an oversight authority in place; the Devolved Government Oversight Authority which is going to be sworn in on Tuesday next week. Mr. Ogindo asked about the Bill on division of revenue which needs to be passed and we have already today undertaken to ensure that all the Bills that deal with devolution are all completely drafted and brought to Parliament and passed by December this year.

Mr. Speaker: Very well. That brings us to the end of Order No.7.

PROCEDURAL MOTION ON A THURSDAY MORNING

HOLDING OF EXTRA HOUSE SITTING

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

THAT, pursuant to the provisions of Standing Order 20(3), this House resolves to sit on Thursday 28th June, 2012 commencing at 9.00 a.m. to 12.30 p.m.

The intention is that we go on Recess tomorrow but there are two substantive issues that we need to deal with. One is the Memorandum from the President over which you have given directions and the other is the Appropriations Bill which we need to pass before going on Recess. That is the reason why I am requesting this august House to pass this Procedural Motion so that we meet tomorrow in the morning so that then, we finish all the business and then we can go on Recess, having finalized all the business that was meant for this session.

With those few remarks, I beg to move and request Mr. Jamleck Kamau Maina to second.

The Minister for Nairobi Metropolitan Development (Mr. Jamleck Maina Kamau): Mr. Speaker, Sir, I second.

(Question proposed)

Mr. Mungatana: Mr. Speaker, Sir, I stand to support that Motion for only one reason. These extensions that the Government always seeks to sit at night have brought very negative connotations to this Parliament. In fact, somebody was telling me that this business of extending Sittings to midnight: "*Kwani nyinyi ni wachawi?*" So I am happy that this time the Government is doing it in the morning. As a matter of practice, even if we have to sit on a Friday, let us do it but let us not do it at night.

With those few remarks, I beg to support.

The Assistant Minister for Education (Prof. Olweny): Mr. Speaker, Sir, I also beg to support. It is well known that we have two major businesses to deal with in this House; the Public Financial Management Bill and the President's Memorandum that he has brought back to us. It is also known that we have really done a lot of work and some of us need a break so that we are back with our constituents to start our campaigns early.

So, I support the Motion.

Mr. Mbuvi: Bw. Spika, asante sana kwa kunipatia huu wakati. Ninasimama kuunga mkono vile Waziri amesema. Mambo mengi tunayopitisha hapa usiku wakati tumechoka na tumeenda kulala, kuna mambo mengine yasiyokuwa na mwelekeo yanayowekwa katika Miswada kama vile mambo ya *degree* ambayo yaliletwa hapa na watu waliotumia *degree* zao kuuza hoteli ya Grand Regency na mahindi! Kwa hivyo, Waziri ametaja mambo ya kwenda likizo.

Kwa hivyo, mambo ya kwenda likizo--- Ni majuzi tuambapo tulijiongezea mishara na pesa za kujiuzulu! Kwa hivyo, mambo ya kwenda likizo, hiyo ni ndoto kwangu! Tufanyie Wakenya kazi---

Mr. Speaker: Order, Member for Makadara!

The Minister for Trade (Mr. Wetangula): On a point of order, Mr. Speaker, Sir. Is my very good friend, the hon. Member for Makadara, in order to say that we passed the degree law at night, when we passed it on Thursday morning at 9.00 a.m.?

Mr. Speaker: That is a valid point of order, Member for Makadara. Do you want to withdraw that part?

Mr. Mbuvi: No, Mr. Speaker, Sir, I am not going to withdraw!

Mr. Speaker: Order! Order Member for Makadara! In that case, you lack the requisite decorum to even be a Member of this House and be present now! So, I am afraid you will have to leave! Withdraw immediately! Immediately! Immediately, Member for Makadara! Withdraw! Leave immediately!

(Mr. Mbuvi withdrew from the Chamber)

Serjeant-at-Arms, could you, please, ensure that the Member for Makadara leaves the premises of Parliament, including every premise? Proceed, Member for Mathira!

Eng. Maina: Mr. Speaker, Sir, I stand to support this Motion. I think with the time we have already taken in this House, we need to dispense with the business of this House because we have constituencies to deal with. Rightfully also, we know the times we are in. Therefore, I support this Motion so that we can dispense with the business as soon as possible. We will then go and meet our constituents. For those who are looking for other positions, they can have time to interact with their constituents.

Thank you.

Mr. Okemo: Thank you very much, Mr. Speaker, Sir. In supporting this Procedural Motion, last week, when we were struggling to pass the Motion on Vote on Account, I did mention that it was unnecessary if only we could give ourselves a few days. Indeed, I think what the Minister has done is trying to do the right thing. The Motion that we passed on Vote on Account is now redundant as soon we do the Appropriations Bill tomorrow. So, actually we acted in vain. But I support the Procedural Motion.

Mr. Pesa: Mr. Speaker, Sir, thank you for giving me the Floor to speak on this Motion.

Mr. Speaker, Sir, Members have had enough time in this House. We have been away from our constituencies for a long time. If it is that deliberating on the two Bills tomorrow can enable Members to go home, I support the Motion.

Mr. Speaker: Hon. Kabando wa Kabando!

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

Mr. Speaker: Order, Member for Chepalungu

The Assistant Minister for Youth Affairs and Sports (Mr. Kabando wa Kabando): Mr. Speaker, Sir, I rise to support this Motion. Indeed, as a House, we should be really proud of the much ground that we have covered and the amount of work that has been done; even for efforts to legislate for the implementation of the Constitution. If there are any instances – and, indeed, there are instances - where the House has faltered, it is important for us individually to embrace the collective responsibility in the House---

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

Mr. Speaker: What is it Member for Chepalungu.

Mr. Ruto: Mr. Speaker, Sir, I heard the Minister for Finance - and it is like now we are debating it - that we will sit tomorrow to, among other things, deliberate on the Appropriations Bill. As of now, I have not seen it. I am sure Members of Parliament have not seen it. I am sure it has not even gone through several other procedures like Committees.

Mr. Speaker: Order, Member for Chepalungu! That will be out of order. You know you are just engaging in speculations. That is not the way we do things. We do not work on presumptions because there is something implicit in a statement by the Minister for Finance. We will not proceed that way.

The Assistant Minister for Youth Affairs and Sports (Mr. Kabando wa Kabando): Mr. Speaker, Sir, in conclusion, I want to say that it is important. Kenyans have been following the work that Parliamentary Committees, departmental Committees, watchdog committees have been doing. They have also followed debates that have been pursued on the Floor of the House.

As we go to our constituencies; as we connect with other stakeholders to continue developing this country in many other ways apart from just contributing on the Floor of the House, it is important for us, as Members of the Tenth Parliament, to celebrate - and loudly so - the much ground that we have covered.

It is also important that we do not make excuses because we are Backbenchers or we are in the Government to say that the Government is asleep. When we decide to extend Parliament, it is a decision of the House. So, I beseech my colleagues to walk proud and say, yes, sometimes in the Committees and on the Floor of the House, we may have faltered. But we must go on record as a Parliament that has executed a responsibility bestowed on it by a dispensation that has come in our time.

With those few remarks, I beg to support.

Mrs. Odhiambo-Mabona: Mr. Speaker, Sir, I wish to support the Motion. In supporting, I want to agree with hon. Members who have indicated that we need to do things during the day, as part of the Committee that is involved in the constitutional oversight.

Mr. Speaker, Sir, we have talked about extending time. But I think that is one of the things we should revise or we should suggest that Parliament revises because I raised it last week. I will raise it again that there is a point---. I was dozing from sheer exhaustion and I am one of the most diligent Members of Parliament in this House.

Mr. Speaker, Sir, whenever we do things at such a time, we will pass laws which we are not even sure of, leave alone the ones which we are passing when we are sure of. I want to very

humbly disagree with my hon. friend Kabando wa Kabando about owning things that we do not agree with. Some of us very vehemently disagreed about certain positions and we cannot have collective responsibility in Parliament over things that we do, and which are not pleasing to Kenyans.

Mr. Speaker, Sir, finally, I support the Motion because it will then give us time to finalize on urgent business and give some of us time to do urgent matters of personal nature, and which Rev. Mutava Musyimi has pleaded with me not to say. I will, therefore, not say.

Mr. Speaker: Order, hon. Members! Hon. Members, we have got the mood of the House and so I proceed to put the Question.

(Question put and agreed to)

COMMITTEE OF THE WHOLE HOUSE

(Order for the Committee read)

[Mr. Speaker left the Chair]

IN THE COMMITTEE

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

THE PUBLIC FINANCIAL MANAGEMENT BILL

The Temporary Deputy Chairlady (Dr. Laboso): Hon. Members, we are now in the Committee of the Whole House to consider the Public Financial Management Bill, Bill No.7 of 2012.

(Clauses 2 and 3 agreed to)

Clause 4

The Minister for Finance (Mr. Githae): Thank you, Madam Temporary Deputy Chairlady. Before I move this clause, I would like to bring to the attention of the House to the Supplementary Order Paper. It is the one that contains the reconciled and agreed amendments.

An hon. Member: They are not there!

The Minister for Finance (Mr. Githae): Madam Temporary Deputy Chairlady, they are there! They are all there! If the hon. Member could, please, use the Supplementary Order Paper because it contains reconciled and agreed amendments! You will find others have withdrawn their amendments. These amendments have been agreed upon by the Budget Committee.

Therefore, I beg to move:-

THAT, Clause 4 be amended in Subclause (4) by inserting the words “with the approval of the Cabinet and Parliament” immediately after the words “from time to time”.

The Temporary Deputy Chairlady (Dr. Laboso): Just before I put that Question, I want to remind the hon. Minister that there are two clauses that are not from the Minister and they have been circulated; they are from hon. Martin Ogindo. So, hon. Members---

The Minister for Trade (Mr. Wetangula): On a point of procedure, Madam Temporary Deputy Chairlady.

The Temporary Deputy Chairlady (Dr. Laboso): What is your point of procedure, Mr. Minister?

The Minister for Trade (Mr. Wetangula): Madam Temporary Deputy Chairlady, may I beg that, like we have been doing before, when an amendment is moved, it is only good for the House to be told what we are amending, so that hon. Members can follow. If the Minister says "as it appears on the Order Paper" and we do not even have the Bill, then it becomes difficult. I think we need that clarity.

The Temporary Deputy Chairlady (Dr. Laboso): Okay. Mr. Minister, as briefly as you can do it, just simply give the import of that amendment.

The Minister for Finance (Mr. Githae): Thank you, Madam Temporary Deputy Chairlady. Most of these amendments are actually cleaning up and corrections of typos. For example, Clause 4 just says:-

THAT, Clause 4 be amended in Subclause (4) by inserting the words "with the approval of the Cabinet and Parliament" immediately after the words "from time to time".

This is basically trying to ensure that the Cabinet Secretary does not misuse his or her powers and, therefore, requires the approval of the Cabinet and Parliament.

(Question of the amendment proposed)

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

(Clause 4 as amended agreed to)

Clause 5

The Temporary Deputy Chairlady (Dr. Laboso): Is there an amendment? According to our records, there is no amendment in Clause 5.

The Minister for Finance (Mr. Githae): Madam Temporary Deputy Chairlady, there is an amendment which had been agreed upon, but it has not been put on the Order Paper. If you just give me one second, I will get it.

(Mr. Githae perused through his folder)

Thank you, Madam Temporary Deputy Chairlady. There was an amendment to Clause 5 which says:-

THAT, Clause 5 be amended in Subclause (1) by deleting the words "Parliament" appearing immediately after the words "county assembly" and inserting the words "county executive committee" and immediately before the words "county assembly."

This is just a clean up; it has been agreed upon, but it is not on the Order Paper. So, I beg to move:-

THAT, Clause 5 be amended in subclause (4) by inserting the words “with the approval of the county assembly” immediately after the words “from time to time.”

Madam Temporary Deputy Chairlady, we want the Executive member in charge of finance to be obtaining approval of the County Assembly before submitting the budget.

The Temporary Deputy Chairlady (Dr. Laboso): Okay. Is this the agreed position? I do not see the Chair of the Budget Committee. Where are Members of the Budget Committee?

Mr. Mungatana: Madam Temporary Deputy Chairlady, I am a Member of the Budget Committee and I confirm what the Minister is saying.

Thank you.

(Question of the amendment proposed)

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

(Clause 5 as amended agreed to)

Clause 6

Clause 6 (b)

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

THAT, Clause 6 (b) of the Bill be amended by inserting the word “and” after the word “preparation” and deleting the words “and auditing” and inserting the words “for audit” after the word “accounts” to read as follows:

6(b) “preparation and submission of accounts for audit, including the time for doing so”

Clause 6 (g)

THAT, Clause 6 (g) of the Bill be amended by striking out the word “operation” in between the words “establishment” and “and” to read as follows:-

6 (g) “establishment and dissolution of state corporations”

This basically is clean up because instead of “auditing”, it says “for audit” and “accounts.” We are saying that it should read as follows:-

“preparation and submission of accounts for audit, including the time for doing so”

Instead of saying “auditing,” they are just saying “for audit.” It is clean up.

(Question of the amendment proposed)

(Question, that the words to be left out

be left out, put and agreed to)

(Question, that the words to be inserted in place thereof be inserted, put and agreed to)

(Clause 6 as amended agreed to)

Clause 7

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

THAT, Clause 7 be amended—

(a) by inserting the words “discuss and” before the word “review” to read as follows:-

7 (a) “discuss and review the Budget Policy Statement and budget estimates and make recommendations to the National Assembly;”

(b) in paragraph (d), by deleting the words “the National Assembly, Cabinet Secretary” and substituting therefor the words “Parliament, the Judiciary”;

(c) by deleting paragraph (e) and substituting therefor the following—

“(e) review the Division of Revenue Bill presented to Parliament and ensure that reflects the principles under Articles 187(2)(a), 201 and 203 of the Constitution.”

(d) by deleting paragraph (h) and substituting therefor the following new paragraph—

“(h) introduce the Appropriations Bill in the National Assembly”.

Again, basically, this is clean up, so that it is discussed before it is approved.

(Question of the amendments proposed)

(Question, that the words to be left out be left out, put and agreed to)

(Question, that the words to be inserted in place thereof be inserted, put and agreed to)

(Clause 7 as amended agreed to)

Clause 8

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

THAT, Clause 8 be amended in Subclause (1) by deleting the words “introduce into the Senate” appearing in paragraph (b) and substituting therefor the word “review”.

Again, this is to clean up. The introduction of the same Motion in Senate had been omitted. We are now saying “introduce into Senate” in the same Motion.

(Question of the amendment proposed)

(Question, that the words to be left out be left out, put and agreed to)

(Question, the words to be inserted in place thereof be inserted, put and agreed to)

(Clause 8 as amended agreed to)

Clause 9

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

THAT, Clause 9 of the Bill be amended by inserting the words “office known as the” before the word “Parliamentary”, delete the words “part” before the word “of” and replace with the words “an office in” ,and then insert a new sub-section (2) for both to read as follows:-

9 (1) “The office known as the Parliamentary Budget Office shall continue to exist as an office in the Parliamentary Service”;

(2) “In addition to any other criteria established by the Parliamentary Service Commission, the Budget Office shall consist of persons appointed on merit by virtue of their experience in finance, economics and public policy matters.”

This is basically to confirm and reiterate that the Parliamentary Service Commission Budget Office shall exist to remove any doubt whatsoever.

(Question of the amendment proposed)

(Question, that the words to be left out be left out, put and agreed to)

(Question, that the words to be inserted in place thereof be inserted, put and agreed to)

(Clause 9 as amended agreed to)

Clause 10

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

Clause 10 (1) (a)

THAT, Clause 10 (1) (a) be deleted.

Clause 10 (1) (c)

THAT Clause 10 (1) (c) of the Bill be amended by striking out the word “Parliament” and inserting the words “Committees of Parliament responsible for budgetary matters” after the word “to” to read as follows:-

10 (1) (c) “Prepare reports on budgetary projections and economic forecasts and make proposals to Committees of Parliament responsible for budgetary matters;”

Clause 10 (1) (e)

THAT, Clause 10 (1) (e) of the Bill be amended by inserting the words “the relevant committee of” before the word “Parliament” and strike out the word “to” before the word “Parliament” to read as follows:-

10(1)(e) “Consider budget proposals and economic trends and make recommendations to the relevant committee of Parliament with respect to the proposals and trends;”

Clause 10 (1) (g)

THAT, Clause 10 (1) (g) be deleted.

Clause 10 (1) (h)

THAT, clause 10 (1)(h) be amended by deleting the words “in a clear and readily understandable, user-friendly form and are”.

New Clause 10(1) (i)

THAT, Clause 10 be amended in subclause (1) by inserting the following new paragraph immediately after paragraph (i)—

“(j) propose, where necessary, alternative fiscal framework in respect of any financial year.”

This is basically to allow reports to be sent to the Committees of Parliament; they could be many. In the other one, I was saying “committee,” so they could be many.

(Question of the amendment proposed)

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

*(Question, the words to be inserted in place
Thereof be inserted, put and agreed to)*

(Clause 10 as amended agreed to)

Clause 11

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

Clause 11 (2) (c)

THAT, Clause 11 (2) (c) of the Bill be amended by inserting the words “office or offices” after the word “departments” to read as follows:-

11 (2) (c) “the department or departments, office or offices of the National Treasury responsible for economic and financial matters”

We basically just want to confirm that the office of the national treasury responsible for economic affairs shall exist or shall continue.

(Question of the amendment proposed)

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

(Clause 11 as amended agreed to)

Clause 12

The Minister for Finance (Mr. Githae): Madam Temporary Chairlady, I beg to move:-

Clause 12 (1) (a)

THAT, clause 12(1)(a) be amended by deleting paragraph (a) and substituting therefor the following new paragraph—

“(a) formulate, implement and monitor macro-economic policies involving expenditure and revenue;”

Clause 12 (1) (h)

THAT Clause 12 (1) (h) of the Bill be amended by striking out the words ‘Technical Committee’ after the word ‘Intergovernmental’ and replace with the words ‘Budget and Economic Council’ to read as follows:-

12 (1)(h) “within the framework of this Act and taking into consideration the recommendations of the Commission of Revenue Allocation and the Intergovernmental Budget and Economic Council, prepare the annual Division of Revenue Bill and the County Allocation of Revenue Bill;”

Clause 12 (2) (d)

THAT Clause 12 (2) (d) of the Bill be amended by deleting the words “and adoption” to read as follows:-

12 (2) (d) “prepare annual estimates of revenue of the national government, and co-ordinate the preparation of the budget of the national government”

Clause 12(2)(f)

THAT, clause 12 be amended in subclause (2) by deleting paragraph (f) and substituting therefor the following new paragraph—

“(f) report every four months to the National Assembly on the implementation of the annual national budget on areas not reported on by the Controller of budget.”

Madam Temporary Deputy Chairlady, again, this is a clean-up. We are just saying that instead of “intergovernmental” the correct organ is “Budget and Economic Council.”

(Question of the amendment proposed)

(Question, that the words to be left out be left out, put and agreed to)

(Question, that the words to be inserted in place thereof be inserted, put and agreed to)

(Clause 12 as amended agreed to)

Clause 13

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

Clause 13 (1) (a)

THAT, Clause 13 (1) (a) of the Bill be amended by striking out the word “inspect” before the word “any” and replacing with the word “access” to read as follows:-

13 (1) (a) “With prior notification to the entity, access any system of public financial management and control of national government entity;”

Clause 13 (1) (d)

THAT Clause 13 (1) (d) of the Bill be amended by inserting the following words at the end of the clause “provided that a person providing information shall not be liable if at the time of providing the information that person, in writing, objected to providing such information on grounds that the information may incriminate him or her” to read as follows:-

13 (1) (d)“require any public officer in the national government to provide information and if necessary, explanations with respect to matters concerning public finance and provided that a person providing information shall not be liable if at the time of providing the information that person, in writing, objected to providing such information on grounds that the information may incriminate him or her;”

Clause 13 (1) (e)

THAT Clause 13 (1) (e) of the Bill be amended by deleting the following words at the end of clause “provided that a person providing information shall not be liable if at the time of providing the information that person, in writing, objected to providing such information on grounds that the information may incriminate him or her” to read as follows:-

13 (1) (e) “provide any County Treasury with any information as it may require to carry out its responsibilities under the Constitution and this Act; and”

Madam Temporary Deputy Chairlady, again, this is clean-up. There is a difference between “inspect” and “access.” What we want to give authority is to access.

(Question of the amendment proposed)

(Question, that the words to be left out be left out, put and agreed to)

(Question, that the words to be inserted in place thereof be inserted, put and agreed to)

(Clause 13 as amended agreed to)

Clause 14

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

THAT Clause 14 (1) of the Bill be amended by inserting the letter “s” and the end of the word “Article “and “189 and” in between the words “Article” and “190” to read as follows:-

14 (1) “Subject to Articles 189 and 190 of the Constitution, the National Treasury may, upon request by the County Treasury, and for a period that shall be agreed, second to a County Treasury for purposes of capacity building, such number of officers as may be necessary for the County Treasury to better carry out its functions under this Act.”

Madam Temporary Deputy Chairlady, again, this is basically more of a clean-up and correction.

(Question of the amendment proposed)

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

(Clause 14 as amended agreed to)

Clause 15

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

THAT, Clause 15 be amended-

(a) by deleting subsection (2)(a) and substituting therefor the following-

“(2) (a) over the medium term a minimum of thirty per cent of the national and county governments’ budget shall be allocated to the development expenditure.”

(b) in subsection (2)(d) by inserting the following words after the word “level” “as approved by Parliament for the National Government and the County Assembly for the County Government.”

(Question of the amendment proposed)

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

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

(Clause 15 as amended agreed to)

Clause 16

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

Clause 16 (3)

THAT, clause 16(3) be deleted.

Clause 16 (4) (d)

THAT Clause 16 (4) (d) of the Bill be amended by Deleting the word “previous” and replacing it with the word “National” to read as follows:-

16(4) (d) “the status of development project initiated by the National Government and if any project has been stopped, the reasons for doing so.”

Madam Temporary Deputy Chairlady, again, this is basically a clean-up.

(Question of the amendment proposed)

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

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

(Clause 16 as amended agreed to)

Clause 17

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

THAT, Clause 17 be amended by deleting sub-clauses (6), (7) and (8) and substituting in place thereof with the following new sub-clauses –

“17(6) The National Treasury shall, at the beginning of every quarter, and in any event not later than the fifteenth day from the commencement of the quarter, disburse monies to county governments.

17(7) The disbursement referred to in subsection (6) shall be done in accordance with a schedule prepared by the National Treasury in consultation with the Intergovernmental Budget and Economic Council, with the approval of the Senate, and published in the Gazette, as approved, not later than 30th May in every year.

Madam Temporary Deputy Chairlady, again, this is just giving time deadlines upon which the national Treasury shall be commencing its work.

(Question of the amendment proposed)

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

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

(Clause 17 as amended agreed to)

(Clause 18 agreed to)

Clause 19

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

THAT, Clause 19 be amended by deleting the words “to the Equalization” and substituting therefor with the words “from the Consolidated”.

Madam Temporary Deputy Chairlady, again, this is a clean-up.

(Question of the amendment proposed)

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

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

(Clause 19 as amended agreed to)

(Clauses 20, 21, 22 and 23 agreed to)

Clause 24

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

THAT, clause 24 be amended by—

(a) renumbering Subclause (1) as Subclause (1C);

(b) inserting the following new subclauses immediately before the renumbered subclause (1C)—

“(1) There is established a fund to be known as the Parliamentary Fund.

(1A) Notwithstanding any other provisions of this Act, where a Fund established under any law for the purposes of Parliament or a House of Parliament, the Parliamentary Service Commission shall—

(i) establish procedures and systems for proper and effective management of the monies and property of the Fund;

(ii) establish accounting procedures and systems for the Commission to properly account for the monies and property;

(iii) superintend the expenditure of the monies of the Fund to ensure that the monies can be properly accounted for;

(iv) prepare and submit accounts for each financial year in accordance with the written law for the time being relating to audit for audit by the Auditor-General; and

(v) ensure that accounts prepared under paragraph (b) comply with the provisions of this Act.

(1B) The Secretary to the Commission shall, on the directions of the Commission, open and operate such bank accounts as may be necessary for the purposes of the Fund.”

Madam Temporary Deputy Chairlady, we were initially opposed to this Clause, but in the spirit of give and take, we have accepted it.

The Temporary Deputy Chairlady (Dr. Laboso): So, in essence, you have not quite said what you were opposed to.

The Minister for Finance (Mr. Githae): Madam Temporary Deputy Chairlady, I am saying that we have now accepted it and, therefore, I am moving that Clause 24 be amended as per the Supplementary Order Paper.

(Question of the amendment proposed)

Mr. Ogindo: Madam Temporary Deputy Chairlady, I want to thank the Minister for his indulgence in this provision, which I thought was a grave omission from the beginning. Now that it is taken up, in the spirit of give and take, I thank him.

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

(Clause 24 as amended agreed to)

Clause 25

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

Clause 25 (5)

THAT Clause 25 (5) of the Bill be amended by inserting new subsections “25 (5) (f)” and “25(5) (g)” to read as follows:-
25 (5) (f) “the Parliamentary Service Commission;” and
25 (5) (g) “the Judicial Service Commission.”

Madam Temporary Deputy Chairlady, again, these two Commissions were missing and we are just including them.

(Question of the amendment proposed)

Mr. Ogindo: Madam Temporary Deputy Chairlady, I want to support this because now it brings the three Arms of Government at par. I think that, that is a very good gesture from the Minister.

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

(Clause 25 as amended agreed to)

Clause 26

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

Clause 26 (1)(c)

THAT Clause 26 (1)(c) of the Bill be amended by deleting the words “any changes in the forecasts compared with the Budget Policy Statement” appearing in between the words “on” and “how” so as to read as follows:-

26 (1) (c) “information on how actual financial performance for the previous financial year may have affected compliance with the fiscal

responsibility principles or the financial objectives in the latest budget policy statement; and”

Clause 26(3)

THAT, clause 26 be amended in sub-clause (3), by deleting paragraph (a) and substituting therefor the following new paragraph—

“(a) submit the paper to the Budget Committee of the National Assembly to be laid before each House of Parliament”.

Madam Temporary Deputy Chairlady, again, these are some of the things that had been missed out and they are now being included.

(Question of the amendment proposed)

(Question, that the words to be left out be left out, put and agreed to)

(Question, that the words to be inserted in place thereof be inserted, put and agreed to)

(Clause 26 as amended agreed to)

(Clause 27 agreed to)

Clause 28

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

Clause 28(1)

THAT Clause 28(1) of the Bill be amended by inserting the words “and sub accounts” in between the words “accounts” and “for” so as to read as follows:-

28(1)“The National Treasury shall authorize the opening, operating and closing of bank accounts and sub accounts for all national government entities in accordance with regulations made under this Act.”

Clause 28 (2)

THAT, Clause 28 (2) of the Bill be amended by deleting the words “excluding state corporations” in between the words “entities” and “are” and inserting at the end of the sub clause the words “into which all revenues received by national government entities shall be deposited and from which all payments of money to or on behalf of national government entities shall be made” to read as follows:-

28 (2) “The National Treasury shall establish a Treasury Single Account into which all revenues received by national government entities shall be deposited and from which all payments of money to or on behalf of national government entities shall be made.”

Clause 28 (4)

THAT Clause 28 (4) of the Bill be amended by striking out the word “authorize” and inserting with the word “cause” and deleting the words “that entity” at end of the clause and replace with words “the National Treasury or a Board of a national government entity, if any” to read as follows:-

28 (4)“An Accounting Officer for a national government entity shall not cause a bank account of the entity to be overdrawn beyond the limit authorized by the National treasury or a Board of a national government entity, if any.”

Madam Temporary Deputy Chairlady, again, this is a clean-up. It is just showing that before bank accounts are opened, authority is required from the National Treasury.

(Question of the amendment proposed)

(Question, that the words to be left out be left out, put and agreed to)

(Question, that the words to be inserted in place thereof be inserted, put and agreed to)

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

(Clause 28 as amended agreed to)

Clause 29

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

Clause 29(2)

THAT, Clause 29(2) of the Bill is amended by inserting the words “and forecasts” in between the words “plan” and “to” so as to read as follows:-

29(2)“Every national government entity other than a state corporation, shall submit an annual cash plan and forecast to-

Clause 29(2)(a)

THAT, Clause 29(2)(a) of the Bill is amended by inserting the words “and relating to such periods” in between the words “manner” and “directed” so as to read as follows:-

“The National Treasury in a form and manner and relating to such periods directed by that Treasury”

Clause 29(3)

THAT, 29(3) of the Bill is amended by

(a) deleting the words “and on such terms and conditions as may be prescribed in regulations” and replaced with the words “subject to any regulations that may be prescribed” so as to read as follows:-

29(3) “The National Treasury may invest subject to any regulations that may be prescribed, any money kept in a bank account of the National Government.”

New Clause 29 (7)

THAT, Clause 29 be amended by inserting a new sub-clause 29(7) immediately after sub clause 29(6) as follows -

29(7) the costs, charges or expenses referred to under subsection (5) shall be paid from the Consolidated Fund in accordance with Article 228 of the Constitution.

(b) inserting the following new sub-clauses immediately after sub-clause (2)—

(2A) “Subject to the Constitution, the Cabinet Secretary may, notwithstanding any previous authority given, limit or suspend National Government expenditure, if in the Cabinet Secretary’s opinion, the exigencies of the financial situation render such a limitation or suspension necessary.”

(2B) “The approval of the National Assembly for any limitation or suspension under sub-section (3) shall be sought within two months of the decision being made.”

This is basically a cleanup and putting the words “plan” and “to” in the right order.

(Question of the amendment proposed)

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

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

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

(Clause 29 as amended agreed to)

Clause 30

Mr. Njuguna: Madam Temporary Deputy Chairlady, what is the motivation of this amendment?

The Temporary Deputy Chairlady (Dr. Laboso): Hon. Njuguna, we have no amendment in Clause 30.

Mr. Njuguna: Madam Temporary Deputy Chairlady, I interject.

The Temporary Deputy Chairlady (Dr. Laboso): I moved to put the Question because there was no amendment on that clause.

(Clause 30 agreed to)

Clause 31

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

Clause 31(1)

THAT, Clause 31 (1) of the Bill be amended by striking out the following words at the end of the clause “not later than seven days after receiving a request to do so from either House of Parliament” and replacing them with the words “in accordance with Article 211 (2) of the Constitution” to read as follows:-

31 (1)“The Cabinet Secretary shall submit to Parliament , a report on all loans made to the national government, national government entities and county governments, in accordance with Article 211 (2) of the Constitution”

New Clause 31 (1A)

THAT, Clause 31 be amended by inserting a new sub-clause 31(1A) immediately after sub clause 29(6) as follows –

31(1A) Where either House of Parliament is canvassing a matter relating to the national debt, the Cabinet Secretary shall submit to Parliament, a report of all loans made to the National Government, national government entities, and county governments, not later than seven days after receiving a request to do so from either House of Parliament.

Clause 31(2)

THAT, Clause 31 (2) be amended by deleting the opening paragraph and substituting therefor the following -

(2) At the end of every four months, the Cabinet Secretary shall submit a report to Parliament stating the loan balances brought forward, carried down, drawings and amortizations on new loans obtained from outside Kenya or denominated in foreign currency, and such other information as may be prescribed by regulations, specifying-

I would also like to report that there is something that was not taken up by the Committee. It should read as follows.

The Temporary Deputy Chairlady (Dr. Laboso): Hon. Minister, let us be clear. Which sub-clause of 31?

The Minister for Finance (Mr. Githae): Madam Temporary Deputy Chairlady, this is clause 31(1). It should read as follows:-

“The Cabinet Secretary shall submit to Parliament “every four months” a report on all loans made to the National Government, national government entities, and county governments in accordance with Section 211(2) of the Constitution.”

What is missing is “every four months.”

That is what we agreed upon but if you want to go all the way, I do not have a problem. As of what we have now, there is no time limit and it is just open. The submission can be once a year or once a month but we had agreed that this should be after every four months.

Dr. Otichilo: Madam Temporary Deputy Chairlady, I want to support the Minister because it is important that we indicate the period.

Mr. Ogindo: Madam Temporary Deputy Chairlady, I beg for your indulgence because these amendments were several. I want to enquire from the Minister about a portion where we were trying to clarify the details that shall be contained in the report in terms of the balance brought forward and carried over.

The Minister for Finance (Mr. Githae): It is there, Madam Temporary Deputy Chairlady.

Mr. Ogindo: Thank you.

(Question of the amendment proposed)

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

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

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

(Clause 31 as amended agreed to)

(Clause 32 agreed to)

Clause 33

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

THAT, Clause 33 be amended in subclause (4), by deleting the words “As soon as practicable” and substituting therefor the words “Within fourteen days after the debt strategy paper is submitted to Parliament”.

Again, this is a clean up. For the information of Mr. Martin Ogindo, what he was asking is under clause 31(2).

(Question of the amendment proposed)

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

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

(Clause 33 as amended agreed to)

(Clauses 34, 35 and 36 agreed to)

Clause 37

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

THAT, Clause 37 (2) (2) of the Bill be amended by deleting the entire clause 37 (2) (c) and providing for it as a sub-section 37(9) with the following amendments by deleting the words “and budget documents, copies of those documents shall be submitted to the Controller of Budget by the person or entity developing the document” to read as follows:-

37(9) “Upon approval of the budget estimates by the National Assembly, the Cabinet Secretary shall prepare and submit an Appropriation Bill of the approved estimates to the National Assembly”

Madam Temporary Deputy Chairlady, again, this is for clean up and to show what documents are requirements and should be submitted to the Controller of Budget.

(Question of the amendment proposed)

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

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

(Clause 37 as amended agreed to)

Clause 38

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

Clause 38 (1)

THAT, Clause 38 (1) of the Bill be amended by striking out the words “and to the Controller of Budget” appearing in between the words “Assembly” and “the” to read as follows:-

38 (1) “The Cabinet Secretary shall submit to the National Assembly, the following other budget documents for each financial year;”

Clause 38 (1) (a)

THAT, Clause 38 (1) (a) of the Bill be amended by inserting a new subsection 38 (1) (a) (iii) to read as follows:-

38 (1) (a) (iii) “A memorandum by the Cabinet Secretary explaining how the resolutions adopted by the National Assembly on the Budget Policy Statement under section 25 (7) have been taken into account”.

Clause 38 (1) (b)

THAT, Clause 38 (1) (b) of the Bill be amended by striking out the words “budget estimates that” and replacing with the words “the formats of the budget estimates shall” to read as follows:-

38 (1) (b) “the format of the budget estimates shall include-“
Again, this is for clean up.

(Question of the amendment proposed)

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

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

(Clause 38 as amended agreed to)

Clause 39

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

Clause 39 (4) (a)

THAT, Clause 39 (4) (a) of the Bill be amended by striking out the following words at the end of the clause “the resolutions adopted with regard to the Budget Policy Statement” to read as follows:-

39 (4) (a) “the Division of Revenue Act; and”

Clause 39 (1), (2) and (3)

THAT, Clause 39 be amended -

(a) in subclause (1), by inserting the words “except the Finance Bill” immediately after the words “relevant Bills”;

(b) in subclause (2), by inserting the words “and the public” immediately after the words “Cabinet Secretary”;

(c) by deleting subclause (3) and substituting therefor the following new subclause—

“(3) The National Assembly may amend the budget estimates of the national government in accordance with the Division of Revenue Act and the resolutions adopted with regard to the Budget Policy Statement ensuring that—

(a) an increase in expenditure in a proposed appropriation is balanced by a reduction in expenditure in another proposed appropriation;;

(b) a proposed reduction in expenditure is used to reduce the deficit.”

New Subclauses 39 (7) and (8)

THAT, the following new sub-clauses be inserted in clause 39 immediately after sub-clause (6) -

“39 (7) Following approval of the budget estimates under this section, and before the Appropriation Act is assented to, the National Assembly may authorize withdrawals in accordance with Article 222 of the Constitution, and such authority shall be communicated to the Cabinet Secretary responsible for finance by the Speaker of the National Assembly, within seven days of that authority being granted by the National Assembly”.

39(8) The Controller of Budget shall ensure that members of the public are given information on budget implementation both at the national and county government level in accordance with Article 228 of the Constitution.”

(Question of the amendment proposed)

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

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

(Clause 39 as amended agreed to)

Clause 40

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

Clause 40(1)

THAT, Clause 40(1) be amended by inserting the word “public” immediately before the word “pronouncement”.

Clause 40 (3)

THAT, Clause 40 (3) of the Bill be amended by striking out the words “the National Assembly” and replacing with the word “Parliament” to read as follows:-

40 (3)“On the same date that the budget policy highlights and revenue raising measures are pronounced, the Cabinet Secretary shall submit to Parliament the Finance Bill setting out the revenue raising measures for the national government, together with a policy statement expounding on those measures.”

Clause 40(4)

THAT, Clause 40(4) be amended by deleting all the words appearing after the words “together with” and substituting therefor the words “the report of the committee on the Bill”.

Clause 40 (5)

THAT, Clause 40 (5) of the Bill be amended by inserting a new sub-clause (g) to read as follows:-

40 (5)(g)“take into account the taxation and other tariff agreements and obligations that Kenya has ratified, including taxation and tariff agreements under the East African Community Treaty”.

(Question of the amendment proposed)

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

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

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

(Clause 40 as amended agreed to)

(Clauses 41, 42, 43 and 44 agreed to)

Clause 45

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

THAT, Clause 45 be amended in subclause (1), by inserting the word “immediately” after the word “lapse”.

Again, this is for clean up and to make it more grammatical by putting in the word “immediately” before the word “lapse”.

(Question of the amendment proposed)

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

(Clause 45 as amended agreed to)

Clause 46

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

THAT, Clause 46 be amended by inserting the following new subclause immediately after subclause (1)-

“(1A) Within twenty-one days after the end of each month, the Cabinet Secretary shall publish in the *Gazette* a statement of actual revenues collected by category and net exchequer issues by the National Treasury.”

Again, this is to give the time limit upon which the gazette notice must be done by the Cabinet Secretary. We are saying that this must be done within 21 days.

(Question of the amendment proposed)

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

(Clause 46 as amended agreed to)

Clause 47

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

THAT, Clause 47 margin note be amended by inserting the words “or third parties” at the end so as to read:

47 “Conditions for receiving grants and donations by national government or its entities or third parties.”

Clause 47(1)(b)

THAT Clause 47 (1) (b) be amended by deleting the words “an arrangement for the provision of” after the word “means” and deleting the words “the national government” after the words “assistance by” and replacing them with the words “a development partner which is not repayable and” and inserting

the word “to” after the word “paid” and replacing the word “to” after the word “used” with the word “by”.

THAT Clause 47(1)(b) be amended further by deleting the words “but does not include” and sub-clauses (i) to (v) after the words “budget does not include-” “ so as to read as follows:-

47(1)(b) ““grant” means financial or other assistance by a development partner which is not repayable and—

(i) under which public money is paid to or used by a grant recipient;

(ii) which is intended to finance or facilitate the development of projects or delivery of services or otherwise assist the grant recipient to achieve goals that are consistent with the policy objectives of the national government; and

(iii) under which the grant recipient is required to act in accordance with any terms or conditions specified in a grant agreement,”

Clause 47(1)(c)

THAT Clause 47(1)(c) be amended by inserting the words “the national government or a national government entity authorised to control or spend money under this Act or” after the word “means” so as to read as follows:-

47(1)(c) “grant recipient” means the national government or a national government entity authorised to control or spend money under this Act or an incorporated or unincorporated body not otherwise authorised to control or spend money under this Act;”

Clause 47(2)

THAT Clause 47(2) be amended by deleting the words “This section applies” at the beginning and replacing with “Subsections (3) to (10) apply” to read as follows:-

47(2) “Subsections (3) to (10) apply to the national government and a national government entity.”

Clause 47(3)

THAT Clause 47(3) be amended by deleting the word “Cabinet” after the words “approval of” and replacing it with the words “the Cabinet Secretary” so as to read as follows:-

47(3) “The national government or a national government entity may receive a grant or donation from a development partner with the approval of the Cabinet Secretary and only as provided under this section.”

This is just a clean-up. It is to make it more grammatical and it now includes third parties so that grants can even be given to third parties.

(Question of the amendment proposed)

(Question, that the words to be left out)

be left out, put and agreed to)

(Question, that the words to be inserted in place thereof be inserted, put and agreed to)

(Clause 47 as amended agreed to)

Clause 48(2)(a)

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

THAT Clause 48 (2)(a) be amended by replacing the word “receipts” with the word “recipients” so as to read as follows:-

48(2)(a) “timely public disclosure to intended beneficiaries of the allocation and disbursement of grants to grant recipients;”

Clause 48(4)

THAT Clause 48(4) be amended by inserting at the end the words “and shall make good the loss arising from the use of public funds contrary to law.”

Madam Temporary Deputy Chairlady, you know English is a foreign language. We are simply correcting “receipts” to “recipients”.

(Question of the amendment proposed)

(Question, that the words to be left out be left out, put and agreed to)

(Question, that the words to be inserted in place thereof be inserted, put and agreed to)

(Clause 48 as amended agreed to)

(Clause 49 agreed to)

Clause 50(2)

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

THAT Clause 50 (2) of the Bill be amended by striking out the following words “only if it is authorized to do so by this Act” and inserting the following words “in accordance with this Act and shall not exceed a limit set by Parliament” to read as follows:-

50 (2) “The national government may borrow money in accordance with this Act or any other legislation and shall not exceed a limit set by Parliament.”

Clause 50 (5)

THAT Clause 50 (5) of the Bill be amended by striking out the following words at the beginning of the clause “Regulations approved by” to read as follows:-

50 (5) “Parliament shall provide for thresholds for the borrowing entitlements of the national government and county governments and their entities.”

Clause 50 (9)

THAT clause 50 (9) of the Bill be amended by striking out reference to number “35” and replacing it with number “227” to read as follows:-

50 (9) “The Cabinet Secretary may, subject to Article 227 of the Constitution and in accordance with national legislation on Public Procurement and Asset Disposal-”.

Clause 50(12)

THAT, clause 50 be amended in subclause (12), by inserting the words “and to Parliament, at the end of each quarter” immediately after the word “Budget”.

Madam Temporary Chairlady, what we are trying to do here is to ensure that all withdrawals must be in accordance with this Act.

Hon. Members: Borrowings!

The Minister for Finance (Mr. Githae): I am sorry! I meant “borrowings”!

The Temporary Deputy Chairlady (Dr. Laboso): Hon. Members, do you want more clarifications or is that sufficient?

(Question of the amendment proposed)

Mr. Ogindo: Madam Temporary Chairlady, I beg to support this because it just says that the borrowing shall be to the extent that is authorized by the Parliament. I think that is a worthy amendment.

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

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

(Clause 50 as amended agreed to)

Clause 51(1)

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

THAT, Clause 51 (1) of the Bill be amended by striking out the following words “only if it is authorized to do so by an Act of Parliament” and replace with the words “in accordance with this Act or any other Act of Parliament” to read as follows:-

51 (1) “A national government entity may borrow money in accordance with this Act or any other Act of Parliament.”

(Question of the amendment proposed)

(Question, that the words to be left out be left out, put and agreed to)

(Question, that the words to be inserted in place thereof be inserted, put and agreed to)

(Clause 51 as amended agreed to)

(Clause 52 agreed to)

Clause 53

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

THAT, Clause 53 be amended in subclause (2), by inserting the words “and approved by Parliament” immediately after the word “regulations”.

Madam Temporary Deputy Chairlady, this is to ensure that whatever regulations are made by the Cabinet Secretary, they are approved by Parliament.

(Question of the amendment proposed)

Dr. Otichilo: Madam Temporary Deputy Chairlady, I want to support this and congratulate the Minister for bringing this amendment. This is extremely good.

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

(Clause 53 as amended agreed to)

(Clauses 54, 55, 56, 57, 58, 59, 60 and 61 agreed to)

Clause 62

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

THAT, Clause 62 be amended by inserting the following new subclause immediately after subclause (1)—

“(1A) .(1A) The Head of the Public Debt Management Office shall be recruited through a competitive process by the Public Service Commission.

Madam Temporary Deputy Chairlady, this is to make sure that the head of the Debt Management Department is recruited competitively and not appointed by the President as it is now.

(Question of the amendment proposed)

Mr. Duale: Madam Temporary Deputy Chairlady, our life now is very simple with Mr. Githae being the Minister for Finance. He is following the Constitution. This is a very good amendment and we thank him for it.

Mr. Shakeel: Madam Temporary Deputy Chairlady, I strongly support this. The Departmental Committee on Finance, Planning and Trade and the Budget Committee have sat for long hours to do this. I want to congratulate the spirit in which the Ministry has met us, especially in respect of this. Indeed, this is a great clause.

Mr. Ogindo: Madam Temporary Deputy Chairlady, I support but I am not quite sure whether this is a typo error or something else. This is because I see “(1A).(1A).

The Minister for Finance (Mr. Githae): Madam Temporary Deputy Chairlady that is a typo error.

The Temporary Deputy Chairlady (Dr. Laboso): It is a typo. So, you can cancel out one of them.

Mr. Ogindo: Thank you.

Mr. Njuguna: Madam Temporary Deputy Chairlady, I support this amendment because this recruitment will introduce a high degree of transparency and accountability.

The Minister for Public Works (Mr. Obure): Madam Temporary Deputy Chairlady, I am opposed to this amendment. This is because this is a member of the Public Service Commission. I feel that this is totally redundant.

Mr. Duale: On a point of order, Madam Temporary Deputy Chairlady. Is the Minister in order to oppose an amendment from the Executive? This is his colleague Minister. Do they serve in the same Cabinet?

Mr. Ogindo: On a point of information, Madam Temporary Deputy Chairlady. I wish to inform the hon. Minister that if he went through the provision in Article 261 of the Constitution, he would appreciate that there is an office that is being established, and which will necessitate competitive recruitment through the Public Service Commission.

The Assistant Minister for Education (Prof. Olweny): Madam Temporary Deputy Chairlady, I beg to support the amendment. This reflects the transparency that we are introducing in the reforms. So, competitive recruitment is part of the reforms that we are introducing.

The Temporary Deputy Chairlady (Dr. Laboso): I think the Minister ought to clarify this although hon. Martin Ogindo has already done so; this is a new office. It is not an existing office.

The Minister for Nairobi Metropolitan Development (Mr. James Irungu Kamau): Madam Temporary Deputy Chairlady, I was actually going to oppose, but I have now heard that it is a new office and so I support.

The Minister for Public Works (Mr. Obure): Madam Temporary Deputy Chairlady, in that event, I withdraw.

(Laughter)

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

(Clause 62 as amended agreed to)

(Clauses 63, 64, and 65 agreed to)

Clause 66

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

THAT, Clause 66(h) be amended by deleting the word “regular” and substituting therefor the word “quarterly”.

Again, what we are trying to do is to be clearer when these independent commissions can submit their reports. Previously it was just regularly but now we are now saying quarterly in order to make it more specific.

(Question of the amendment proposed)

(Question, that the word to be left out be left out, put and agreed to)

(Question, that the word to be inserted in place thereof be inserted, put and agreed to)

(Clause 66 as amended agreed to)

(Clause 67 agreed to)

Clause 68(3)

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

THAT, Clause 68(3) of the Bill be amended by striking out the following words “the Controller of Budget and” appearing in between the words “of” and “Parliament” to read as follows:-

68 (3) “If the concerns referred to in subsection (2) are not adequately addressed by the Cabinet Secretary or the Chief Justice or the Speaker of the National Assembly, the Accounting Officer shall bring those concerns to the attention of Parliament.”

Clause 68

THAT, Clause 68 be amended in subsection (4) (b) by inserting the words, “and the Controller of Budget” at the end thereof.

Again this is clarifying that if Accounting Officers disagree or if the issues are not addressed clearly they can now have recourse to Parliament. They can bring those issues to Parliament.

(Question of the amendment proposed)

(Question, that the words to be left out be left out, put and agreed to)

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

(Clause 68 as amended agreed to)

Clause 69

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

THAT, Clause 69 be amended-

- (a) in sub clause (1), by inserting the words “a prescribed” immediately after the word “exceeding”
- (b) in sub clause (2), by inserting the word “and” immediately after the words “further amount”.

Again this is the clean up.

(Question of the amendment proposed)

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

(Clause 69 as amended agreed to)

(Clauses 70, 71 and 72 agreed to)

Clause 73(3)

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

THAT, Clause 73(3) of the Bill be amended by deleting the following words at the beginning of the subsection “A national government entity” and insert the following words to replace them “The Internal Auditor General Department of the National Treasury” to read as follows:-

73 (3) “The Internal Auditor General Department of the National Treasury shall ensure that its arrangements for conducting internal audits include-”

Let me also thank the Committee. We have now come to an understanding that there are different roles for external auditors and internal auditors. Internal auditors are management tools and this has been left with Treasury. External audit now belongs to a different department.

(Question of the amendment proposed)

Mr. Ogindo: Madam Temporary Deputy Chairlady, I want to support this amendment but I must point out that it was subject of a heated debate at the Committee level. We agreed that this amendment be carried in so far as we await the Public Audit Act so that when it comes, we find a place where we can place the internal audit. So, I just want to highlight that for record purposes.

I support.

Mr. Shakeel: Madam Temporary Deputy Chairlady, I support. As my colleague says, there was a big discussion – a very long one on this one. So, obviously there are different views. When the Public Audit Act comes and if it covers internal audit then this will be a success. I need to clarify to hon. Members that if the Public Audit Act does not cover internal audit then it will not affect this but if it covers internal audit, then, of course, that Act will prevail over this one.

(Question, that the words to be left out be left out, put and agreed to)

(Question, that the words to be inserted in place thereof be inserted, put and agreed to)

(Clause 73 as amended agreed to)

(Clause 74 agreed to)

Clause 75

Mr. Ogindo: Madam Temporary Deputy Chairlady, I beg to move:-
THAT, Clause 75 be amended –

(a) by renumbering subclause (1) as subclause (1A);

(b) in the renumbered sub clause (1A), by deleting the word “shall” appearing immediately before the words “in writing” and substituting therefor the word “may”;

(c) by inserting the following new subclause immediately before the renumbered subclause (1A)-

“(1) The Cabinet Secretary shall be the receiver of the national government revenue.”

I would want to get the attention of the Minister – a man who is very understanding. The President of the Republic is responsible for the security and

property of all Kenyans. So, that is a responsibility that he carries over his head. The head of National Treasury is the Cabinet Secretary and the most important thing in the Treasury is the collection of revenue. I am bringing this amendment against a background that Article 75 (1) which is sub-headed “Receivers and Collectors of National Government Revenue” begins by saying: “The Cabinet Secretary shall in writing designate persons as receivers of national revenue” and what my amendment seeks to do is to give that responsibility of receiving---

The Minister for Nairobi Metropolitan Development (Mr. Jamleck Irungu Kamau): On a point of order, Madam Temporary Deputy Chairlady. I do not want to interrupt my good friend but I am just lost now because I do not see this amendment he is referring to. I do not see that paper. We need to actually follow it so that we can understand it.

The Temporary Deputy Chairlady (Dr. Laboso): Hon. Members, there are quite a number of copies here of the amendment. They were given out but there are still copies that you can have. So, if any hon. Member requires copies then they are available.

(Copies of the amendment were circulated)

So, I think you may have to repeat that with the hon. Members now having the copies.

Mr. Ogindo: Madam Temporary Deputy Chairlady, I want to plead with the House that we move together in this because I do not want to disrupt anything that has been done by the Minister which I was gladly part of. I started by pointing out that it is the responsibility of the President of the Republic to ensure security of Kenyans and their property. It is in that light that I want to assign this responsibility to a specific person. If you look at the Bill as published, Article 75 which is sub-headed: “Receivers and Collectors of national government revenue” begins by saying: “The Cabinet Secretary shall, in writing designate persons as receivers of national government revenue under Article 209(1)(2) and (4)---” It leaves a vacuum on who the actual receiver of revenue is.

We have an Article that says: “All Government revenue shall be paid into the Consolidated Fund account.” It becomes imperative that there is somebody who is responsible for receiving national government revenue.

It is in that light that I have brought this amendment so that after the Cabinet Secretary takes this responsibility, he can delegate it, in writing, to other people to do it on his own behalf. This will go a long way in improving accountability. We could not give this responsibility to anybody other than the head of Treasury, who will be the Cabinet Secretary in charge of Finance.

(Question of the amendment proposed)

The Minister for Finance (Mr. Githae): Madam Temporary Deputy Chairlady, as you can see, this amendment was not agreed upon within the Treasury. Even the Committee Members did not agree with the amendment. Therefore, hon. Martin Ogindo applied to be allowed to present this amendment on his own, which he has done.

This is a question of being practical. There are many receivers of revenue. A Company Secretary cannot be the only receiver of revenue. He cannot be held responsible. For example, in the Lands Office, the Lands Registrar is the receiver of revenue authorised by the Company Secretary to receive revenue. The person who is really responsible for revenue collection from land transactions is the Registrar of Lands.

Likewise, in the Immigration Office, the Principal Immigration Officer is the collector of receiver relating to passports, birth certificates and other documents. There is no way the Cabinet Secretary can know how many births were recorded today and what was received. That is a daily function of that department. After all the revenue is collected, it is paid into the Consolidated Fund. So, we are saying that, for practical purposes, what hon. Ogindo has proposed through this amendment is not possible. That is why the Treasury opposed the amendment. Even the Committee Members agreed that this amendment was not necessary.

Madam Temporary Deputy Chairlady, we are, therefore, opposing it because it is not practical.

Mr. C. Onyancha: Madam Temporary Deputy Chairlady, I thank you for giving me this opportunity.

I want to say at the outset that I oppose this amendment. The reason as to why I am opposing it is that we are trying to build strong institutions in this country, and one of them is the Kenya Revenue Authority (KRA). The KRA operates independently, under an Act of Parliament. The Cabinet Secretary is in charge of the Treasury and all the finances of the country, which are put into the Consolidated Fund. He cannot, at the same time, be the collector of revenue.

Therefore, I want to support the Minister in saying that we oppose this amendment.

Mr. Ogindo: On a point of order, Madam Temporary Deputy Chairlady. I just want to, humbly, persuade the House, so that---

The Temporary Deputy Chairlady (Dr. Laboso): You are on a point of order, hon. Ogindo. What is out of order?

Mr. Ogindo: Madam Temporary Deputy Chairlady, is it in order for the hon. Member to confuse “receiver of revenue” with “collector of revenue”? The amendment is about collector of revenue, which should be one person who ensures that all revenues are paid into the Consolidated Fund.

Madam Temporary Deputy Chairlady, regarding the Cabinet Secretary, whom we have defined as the “receiver of revenue” in the second paragraph, we are saying “the Cabinet Secretary may, in writing, designate persons as receivers of revenue.” That now removes the impracticality of one person doing the job, because he can delegate that function. It is imperative that there is accountability on receipts of revenue. It will be hard to ask persons who had been designated receivers of revenue to account for revenue.

That is the import of this amendment, and I do not think it hurts anything that the Treasury would be jittery about.

The Minister for Public Works (Mr. Obure): Madam Temporary Deputy Chairlady, my understanding is that this Bill, together with the various amendments that we are now considering, have been discussed exhaustively and negotiated between the Minister and Members of the Budget Committee and Finance Committee. I am sure that the negotiations were done in the spirit of “give and take”. Therefore, in the circumstances, I would persuade my friend, hon. Ogindo, to withdraw this amendment in the spirit in which agreement was reached on the various amendments. We are passing the amendments on the understanding that they were agreed upon by the Minister and the Joint Committee Members.

Therefore, I would persuade my friend to withdraw the amendment, in the interest of making progress.

The Minister for Finance (Mr. Githae): On a point of order, Madam Temporary Deputy Chairlady. It is also important to inform the House that, as a result of that agreement, hon.

Okemo and hon. Mbau dropped their amendments. I must commend Members of the Joint Committee. They worked day and night to agree on the amendments.

The Temporary Deputy Chairlady (Dr. Laboso): So, are you on a point of information or point of order, Minister?

The Minister for Finance (Mr. Githae): Madam Temporary Deputy Chairlady, hon. Martin Ogindo is not telling this House that we had agreed to save time. We all agreed on the amendments but this particular one is not amongst the amendments that were agreed upon.

The Temporary Deputy Chairlady (Dr. Laboso): So, it is a point of information, Minister.

Mr. Ogindo: On a point of order, Madam Temporary Deputy Chairlady.

The Temporary Deputy Chairlady (Dr. Laboso): What is your point of order, hon. Ogindo? We need to make progress, hon. Members.

Mr. Ogindo: Madam Temporary Deputy Chairlady, we need to make progress. I want to persuade this House that I am not antagonising the understanding that we had. I just seek to improve what we did. It should be looked at in that spirit. I also drafted my amendment, which was taken up. It would serve to inform this House that I tried to reach the Treasury on this amendment but they came back to me later, after I had filed this amendment. So, I do not want it to be seen like I am trying to antagonise or go against the understanding that we had.

The Temporary Deputy Chairlady (Dr. Laboso): You have made your point, hon. Ogindo. What is your point of order, hon. Shakeel?

Mr. Shakeel: Madam Temporary Deputy Chairlady, let me put this matter into perspective. During the meeting of the Joint Committee, we worked until very late into the night. I do not want to take away from hon. Ogindo, his effort and his personal opinion. It was agreed in the Joint Committee that if there was anything that anybody felt very fervently that he disagreed with, be it me or hon. Ogindo or anybody else; he should go ahead and raise his own independent and private notice to amend that particular aspect. That is what hon. Martin Ogindo has done.

However, this matter was discussed very substantially and many of us were in agreement. For argument's sake, the Permanent Secretary (PS) in charge of the Treasury appoints other PSs Accounting Officers but that does not mean that he is a "supper PS". So, in the same way, I would, really, urge my colleague to, kindly, consider withdrawing the amendment. We have spent a lot of time and energy on this matter. So, I urge him to kindly withdraw the amendment in the spirit of co-operation.

The Temporary Deputy Chairlady (Dr. Laboso): Hon. Members, I will put the Question after we listen to Prof. Anyang'-Nyong'o. There is only one way of getting an answer to this issue. I will put the matter to vote.

The Minister for Medical Services (Prof. Anyang'-Nyong'o): Madam Temporary Deputy Chairlady, I do not want to persuade hon. Ogindo to withdraw this amendment as a matter of philanthropy or some kind of gentleman's agreement that was arrived at in the Joint Committee meetings, but I want to persuade him on the basis of the meaning of "designation".

The paragraph says "designation of receivers of national government revenue". This means the person who is, really, responsible for receiving revenue is the Cabinet Secretary, but he designates. Now, when you designate your powers, you are still responsible for them. So, if those people who will be receiving the revenue on behalf of the Cabinet Secretary mess in any way, it is him who the Government will hold responsible.

Therefore, hon. Ogindo, you should be peaceful and know that the mischief that you are trying to cure through this amendment is actually cured by giving the Cabinet Secretary the power not to surrender his powers, but to designate them to other officers, who will still work under him, and he will still be the person responsible. The buck will stop with him, as it were.

So, you should not fear anything about this matter. Going by what my friend, hon. Shakeel has said, I will persuade you humbly, to just withdraw the amendment because it really does not cure the mischief you are holding.

Mr. Ogindo: Madam Temporary Deputy Chairlady, the miscellaneous caption says “Designation of receivers of national government revenue”. I can only push this matter to an extent. I will not overstretch the House. If you look at Clause 75(1), you will appreciate that the power that this Bill is giving to the Cabinet Secretary is to designate persons, in writing.

To the extent that there is the question of accountability, then you will have to interact with the various receivers of revenue.

Madam Temporary Deputy Chairlady, if it is in the wisdom of this House that we have as many receivers of revenue as is envisaged here, then I would say it is regrettable on my part.

The Temporary Deputy Chairlady (Dr. Laboso): Are you withdrawing your amendment or not?

Mr. Ogindo: Madam Temporary Deputy Chairlady, I would like it to go on record that my amendment was defeated.

*(Question, that the words to be left out
be left out, put and negatived)*

(Clauses 75 and 76 agreed to)

Clause 77

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

THAT, Clause 77 be amended by deleting the word “my” appearing immediately before the words “not be excluded” and substituting therefor the word “may”.

Again this is clean up. English language is a foreign language. There is a difference between “my” and “may”. So, we are correcting it.

(Question of the amendment proposed)

*(Question, that the word to be left out
be left out, put and agreed to)*

*(Question, that the word to be inserted
in place thereof be inserted,
put and agreed to)*

(Clause 77 as amended agreed to)

(Clauses 78 and 79 agreed to)

Clause 80(4)

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

THAT, Clause 80(4) of the Bill be amended by striking out the words “three months” in between the words “than” and “after” and inserting the following words “four months” after the word “than” to read as follows:-

80 (4) “Not later than four months after the end of each financial year, the National Treasury shall-”

Madam Temporary Deputy Chairlady, again, it was realized that three months may be too short so we added one month to make four because of the various documents that are required to be submitted . This is to give more time to the commissions.

(Question of the amendment proposed)

(Question, that the words to be left out be left out, put and agreed to)

(Question, that the words to be inserted in place thereof be inserted, put and agreed to)

(Clause 80 as amended agreed to)

(Clauses 81, 82, 83, 84, 85 and 86 agreed to)

Clause 87(1) (a)

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

THAT, Clause 87(1)(a) of the Bill be amended by striking out the following words “if the investment would result in the state corporation becoming a government-linked state corporation” appearing at the end of the clause to read as follows:-

87 (1) (a) “in a state corporation; or”

Madam Temporary Deputy Chairlady, again, this is basically clarifying that you cannot have a Government-linked corporation. It is either a State corporation or it is not. So, we are saying that any investment referred to which would make it into a State corporation.

(Question of the amendment proposed)

(Question, that the words to be left out be left out, put and agreed to)

(Clause 87 as amended agreed to)

(Clause 88 agreed to)

Clause 89(1)

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

THAT, Clause 89(1) be amended by deleting the word “six” appearing immediately before the word “months” and substituting therefor the word “four”.

Clause 89 (2) (k)

THAT, Clause 89 (2) (k) of the Bill be amended by striking out the alphabet “k” and insert the number “(3)” in order to become Clause 89 (3) , striking out the following words at the beginning of the clause “a cost benefit analysis” and insert the following words at the beginning of the clause “Once every three years, the Cabinet Secretary responsible for matters relating to public investments shall prepare a report on the assessment” and at the end of the clause insert the word “or government linked corporation” to read as follows:-

89 (3) “Once every three years, the Cabinet Secretary responsible for matters relating to public investments shall prepare a report on the assessment of the national government continued involvement or investment in, or funding of, the state corporation or government linked corporation.”

Clause 89 (3)

THAT, Clause 89 (3) of the Bill be amended by renaming it to become Clause 89 (4) to read as follows:-

89 (4) “The Cabinet Secretary responsible for matters relating to public investments shall submit a copy reports in subsection (2) and (3) to the Cabinet Secretary, the Controller of Budget, the Commission on Revenue Allocation and the Auditor General.”

Madam Temporary Deputy Chairlady, again, this is to reduce the period from six to four months. We are saying that within four months the Cabinet Secretary should be able to give reports on all investments. Instead of six months, four months is sufficient.

(Question of the amendment proposed)

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

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

(Clause 89 as amended agreed to)

(Clauses 90, 91, 92 and 93 agreed to)

Clause 94

THAT, Clause 94 of the Bill be amended by inserting the word “or persistent” in the margin note to read as follows:-

94“Additional indicators of serious or persistent material breach”

Clause 94 (1)(a)(iii)

THAT, Clause 94 (1) (a) (iii) be amended by striking out the following words “five percent” appearing in between the words “of” and “of revenue” and replacing with the words “a percentage of” and then inserting at the end of the clause the following words “ as prescribed in regulations” to read as follows:-

94 (1) (a) (iii) “had an operating deficit in excess of a percentage of revenue in the most recent financial year for which financial information is available as prescribed in regulations; or”

Clause 94 (1)(e)

THAT, Clause 94 (1) (e) of the Bill be amended by deleting the entire subsection 94 (1) (e).

Clause 94 (1) (f)

THAT, Clause 94 (1) (f) of the Bill be amended by deleting the entire subsection 94 (1)(f).

This, again, is clean-up exercise.

(Question of the amendment proposed)

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

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

(Clause 94 as amended agreed to)

Clause 95(1)

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

THAT, Clause 95 (1) be amended—

(a) by deleting the words “promptly direct the National Treasury to”;

(b) in paragraph (a), by—

(i) deleting the word “crisis” and substituting therefor the word “breach”;

(ii) by deleting the words “in the national government entity financial affairs; and”,
to read as follows:-

95 (1) (a) “determine the reasons for the breach; and”

Clause 95(2)

THAT, Clause 95(2) be deleted.

Madam Temporary Deputy Chairlady, again, this is really a clean-up.

The Temporary Deputy Chairlady (Dr. Laboso): You may need to explain a little. It looks like it is not just cleaning up.

The Minister for Finance (Mr. Githae): Madam Temporary Deputy Chairlady, it is really cleaning up because what we are saying is that instead of authorizing the Cabinet Secretary to intervene in a county affair every time there is a crisis, he only intervenes when there is a breach of financial regulations. So, we are restricting the events that enable the Cabinet Secretary to intervene.

(Question of the amendment proposed)

Mr. Ogindo: Madam Temporary Deputy Chairlady, I want to support but we thought that “crisis” is not a management word. That is why we talked of a breach. It is a clean-up improvement on English.

I support.

The Minister for Medical Services (Prof. Anyang’-Nyong’o): Madam Temporary Deputy Chairlady, the clause reads, “Where the Cabinet Secretary finds a State organ which is a county government entity to be in serious or persistent material breach of its obligations or financial commitments, the Cabinet Secretary shall with prior approval of the Cabinet immediately stop the transfer of funds.”

Where is the crisis?

The Temporary Deputy Chairlady (Dr. Laboso): We are on Clause 95(1)(a). Instead of “crisis” we are saying “breach”.

The Minister for Medical Services (Prof. Anyang’-Nyong’o): I am Sorry. I was reading Clause 96.

(Question of the amendment proposed)

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

*(Question, that the word to be inserted in place
thereof, be inserted, put and agreed to)*

(Clause 95 as amended agreed to)

Clause 96

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

THAT, clause 96 be amended—

(a) in Subclause (1), by—

(i) deleting the words “with prior approval of the Cabinet”;

(ii) inserting the words “in accordance with Article 225 of the Constitution”;

(b) in Subclause (3)(b), by deleting word “require” and substituting therefor the word “request” to read as follows:-

96 (3) (b) “request the Auditor General to-“;

(c) in Subclause (3) (b) (i) by—

(i) deleting the word “crisis” and substituting therefor the word “breach”;

(ii) deleting the words “in the financial affairs of the county government entity;” to read as follows:-

96 (3) (b) (i) “determine the reasons for the breach;”

(d) in subclause (3)(b)(ii), by deleting the word “entity’s”;

(e) in subclause (3)(b)(iii), by deleting the words “a period specified by the Cabinet Secretary in regulations” and substituting therefor the words “thirty days from the date of the request”.

Madam Temporary Deputy Chairlady, there is clean-up there. We are distinguishing between “require” and “request”. Again, we are saying that it is not every crisis that will require the Cabinet Secretary to intervene. It must be a breach. So it is more of a clean-up.

(Question of the amendment proposed)

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

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

(Clause 96 as amended agreed to)

Clause 97

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

THAT, Clause 97 be amended—

(a) in subclause (2) by deleting the word “thirty” and substituting therefor the word “seven” to read as follows:-

97 (2) “Not later than seven days after the date of the decision to stop the transfer of funds, the Cabinet Secretary shall seek approval from Parliament.”;

(b) by inserting the following new subclauses immediately after subclause (2)—

“(2A) Within fourteen days after the decision to stop the transfer of funds under subsection (1), the Controller of Budget shall investigate the matter and

submit a report to Parliament in accordance with Article 225 (7) of the Constitution.

(2B) Parliament shall, within thirty days of the decision by the Cabinet Secretary to stop transfer of funds, approve or renew the decision of the Cabinet Secretary to stop the transfer of funds and the Cabinet secretary shall abide by the decision of Parliament.”

(c) by inserting the following new subclause immediately after subclause (4)—

“(5) Pursuant to Article 226(5) of the Constitution, the holder of a public office, including a political office, adjudged guilty of a material breach that results in the stoppage of funds shall be—

(a) held accountable and shall make good the loss, whether the person remains the holder of the office or not; and

(b) barred from holding any other public office as long as the person remains undischarged of the breach.”

Madam Temporary Deputy Chairlady, again, we had extensive debate on this. At what point should the Cabinet Secretary after he has intervened in the county affairs or stopped funds, seek Parliamentary approval? We thought that 30 days was adequate but again in the spirit of give and take the Committee said that within seven days the Cabinet Secretary must obtain approval of Parliament. We think it is a tall order but instead of 30 days, it is 14 days. We had proposed 30 days but the Committee felt that, that is too long to wait and it should be done within 14 days.

(Question of the amendment proposed)

Mr. Ogindo: Madam Temporary Deputy Chairlady, you know when you stop funding then it paralyses operations, and that needs to be done with a good reason like the approval of Parliament. That is why we were reducing it. To suffer for 30 days without anybody knowing you are suffering--- I support.

Dr. Otichilo: Madam Temporary Deputy Chairlady, I also want to support his amendment because it is very important that stoppage should be controlled as much as possible.

The Minister for Medical Services (Prof. Anyang’-Nyong’o): Madam Temporary Deputy Chairlady, I agree with the hon. Minister that days will be reduced from 30 to 20 but look at the amendment:-

“By inserting the following new subclauses immediately after subclause (2)—

“(2A) Within fourteen days after the decision to stop the transfer of funds under subsection (1), the Controller of Budget shall investigate the matter and submit a report to Parliament in accordance with Article 225 (7) of the Constitution.

(2B) Parliament shall, within thirty days---“

Why should Parliament take so long? The mischief we are trying to treat is that we should not strangle the county governments. If the report is already before Parliament and you are dealing with a government of a county, Parliament should even sit up to midnight to resolve this in a week or so. Thirty days is too long.

Mr. Shakeel: Madam Temporary Deputy Chairlady, I think the professor may have not read it well. It says, “within 30 days”. It could be done in one day. We said within 30 days because of the calendar and sittings of Parliament. As much as we do not want the county

government to be hamstrung, if all the reports come in and Parliament can do it within one day or two days, it is fine. You cannot put a limit of less than 30 days. So if we put it within 30 days we can do it within three days if everything else is in order.

Mr. Chachu; Madam Temporary Deputy Chair, I think 30 days is too long unless the intention is to strangle the country governments. The leeway is there under the law if you say 30 days.

The Temporary Deputy Chair (Dr. Laboso): Can you allow the Minister to explain?

The Minister for Finance (Mr. Githae): Madam Temporary Deputy Chair, let me explain; maybe it will be very clear. What we are saying is, after the Cabinet Secretary has stopped funding, within seven days he must seek parliamentary approval. Within 14 days the Controller of Budget must conduct an investigation and then forward it to Parliament. So you can see already there is seven days plus 14 days which is 21 days. Parliament is, therefore, given only seven days in effect, if you look at the sequence of events.

Mr. C. Onyancha: Madam Temporary Deputy Chair, while I agree with the Minister, I wonder what will happen when Parliament will be on recess. Would you like to explain to us?

The Temporary Deputy Chair (Dr. Laboso): Did you take into consideration recess time for Parliament?

The Minister for Finance (Mr. Githae): Madam Temporary Deputy Chairlady, the feeling of both Committees and even the Treasury was that stoppage of funds is really a measure of last resort. If it is done then it needs to be rectified as quickly as possible. Once you stop funds you have actually brought the operations of the county to a standstill. That is why there was need now to make sure that within one month this is done, so that employees do not suffer. It is something that we hope will not happen but if it happens then Parliament may need to be recalled.

The Temporary Deputy Chairlady (Dr. Laboso): Hon. Members, we should not take too long on this.

Ms. Martha, please, proceed.

Ms. Karua: Madam Temporary Deputy Chairlady, I just want to draw the attention of hon. Members to the use of the word, "Parliament" which refers to both the National Assembly and the Senate. Remember that the Senate is the guardian of the county government. Therefore, when there is a combination of the two, we can rest assured that the county government will have the protection of the Senate, not just the National Assembly.

I support.

The Temporary Deputy Chair (Dr. Laboso): Prof. Anyang'-Nyong'o, you have already spoken on this matter.

The Minister for Medical Services (Prof. Anyang-Nyong'o): Madam Temporary Deputy Chairlady, maybe all of us are not old enough to remember what happened to the regional assemblies in the early 1960s. It was through financial strangulation that the KANU Government then brought the regional assemblies to their knees.

Secondly, even if we pass this, I hope the Ministry of Finance will have further consideration even if the funds are stopped. Let me assure you that they are going to be stopped because there will be many county governments which are going to find it very difficult to begin to manage their finances properly. I know that. Therefore, we should envisage it.

Even if you stop the funds you must take cognizance of the legal obligation of the county government; they will have awarded tenders, will have contracts, have employees and provide

services and so on. In the meantime, what will you do with a whole series of litigation that may ensure---

(Mr. Shakeel stood up in his place)

Keep your cool! This is very important!

Madam Temporary Deputy Chair, devolution is the centre piece of our Constitution. Any law that touches on devolution must be handled very carefully. So even if Parliament passes this, I know the people in the Committee on Finance, Planning and Trade are eager to pass this; I am just putting a word of caution on record. The Ministry of Finance should go and look at this very carefully, because it will be a powder cake as soon as the county governments start operations.

Mr. Shakeel: Madam Temporary Deputy Chairlady, we looked at all that at great detail. We know what is called persistent material breach. It is not one time breach. It is persistent and Parliament is the custodian of the funds of the people. If it continues in a rogue county then what do we do?

The Minister for Finance (Mr. Githae): Madam Temporary Deputy Chairlady, I think that is enough, but my attention is focused on Article 225 of the Constitution, which talks of 30 days.

It has just been brought to my attention again that in the same Clause 97(c) we are saying that pursuant to Article 226(5) of the Constitution, the holder of a public office, including a political office, adjudged guilty of a material breach that results in the stoppage of fund shall be held accountable and shall make good the loss, whether the person remains the holder of the office or not and be barred from holding other public office as long as the person remains undischarged from the breach. We had agreed that this be deleted, if Members recall.

Madam Temporary Chairlady, I am proposing Clause 97(c) be deleted. It is on page 3840 and the Committee had agreed that, that additional clause be deleted.

The Temporary Deputy Chairlady (Dr. Laboso): That is your amendment! You are saying part (c) of your amendment be deleted?

The Minister for Finance (Mr. Githae): Yes, Madam Temporary Chairlady.

The Temporary Deputy Chairlady (Dr. Laboso): Can we hear from the Committee whether this is an agreed position?

Mr. Ogindo: Madam Temporary Chairlady, I want to confirm that, that was the position. It is only that it came late in the deliberations when most of us were exhausted. I remember referring to Mr. Shakeel as the Sheikh and I said if the Sheikh had agreed to it, then we are agreeable because I was the last person to agree and there was the second person after Mr. Okemo. He might not remember but if he remembers the reference of the name "Sheikh", it was in reference to this.

Mr. Shakeel: Madam Temporary Chairlady, there was disagreement in the Committee and we agreed to agree. There were two parts. I was firmly of the opinion that this must remain and the person must be charged. He even jokingly asked me: "Sheikh, what would you do if you were in charge?" I said: "If this was a material breach, he should be taken to Uhuru Park and shot." That was on a lighter note but we really feel that if you delete this, this is impunity. However, as my colleague says, the Committee then agreed to it but I disagreed.

The Temporary Deputy Chairlady (Dr. Laboso): But that is personal. You are talking of what was the agreed position. I think that is what the Minister alluded to.

Mr. Njuguna: Madam Temporary Chairlady, that is the position that I wanted to confirm because after the Committee deliberated, we wanted to get a very articulate position on this issue. Now that it has been offered and concurred with the Chairman, I support.

The Temporary Deputy Chairlady (Dr. Laboso): So, Minister, could you then withdraw because you cannot delete? Can you withdraw that part (c) of your proposed amendment?

The Minister for Finance (Mr. Githae): Madam Temporary Chairlady, I beg to move that part (c) be withdrawn. Just to make sure, what it means is that if somebody makes a report and says that a county is misusing money and the Cabinet Secretary stops it, if it is found out that the allegation was not right, then you would be held responsible. That is what we are trying to cure and that is why I am proposing that Clause 97(c) be deleted.

(Messrs. Njuguna and Ogindo stood up in their places)

The Temporary Deputy Chairlady (Dr. Laboso): Order! You cannot both be speaking at the same time. You are on a point of order, Mr. Ogindo.

Mr. Ogindo: Yes, Madam Temporary Chairlady. Procedurally, what the Minister should do is to withdraw the amendment and not delete it.

The Minister for Finance (Mr. Githae): Madam Temporary Chairlady, I have withdrawn part (c) of the amendment.

(Proposed amendment to part (c) withdrawn)

The Temporary Deputy Chairlady (Dr. Laboso): That part is withdrawn! So, hon. Members, when we read out, it means you are saying as amended by the Minister, meaning the two parts which are left and the last one which is deleted. So when you say “ayes” that is what you will be meaning.

*(Question, that the word to be left out
be left out, put and agreed to)*

*(Question that the word to be inserted in place
thereof be inserted, put and agreed to)*

(Clause 97 as amended agreed to)

Clause 98

The Minister for Finance (Mr. Githae): Madam Temporary Chairlady, I beg to move:-
THAT, Clause 98 be amended—

(a) in Subclause (1), by deleting the word “thirty” in between and substituting therefor the word “fourteen”;

(b) in Subclause (3) (a) by deleting the word “crisis” and substituting therefor the words “serious or persistent material breach” to read as follows:-

98 (3) (a) “the serious or persistent material breach in the state organ’s or public entity’s financial affairs has been resolved;”

(c) in subclause (3) (c) by deleting the words “has not renewed” and substituting therefor the words “has declined to renew” to read as follows:-

98(3)(c) “Parliament has declined to renew the Cabinet Secretary’s decision to stop the transfer of funds.”

Again, this is in line with the other clauses that we have amended so that the timelines fall within.

(Question of the amendment proposed)

(Question, that the words to be left out be left out, put and agreed to)

(Question, that the words to be inserted in place thereof be inserted, put and agreed to)

(Clause 98 as amended agreed to)

Clause 99

The Minister for Finance (Mr. Githae): Madam Temporary Chairlady, I beg to move:-

THAT, Clause 99(1) be amended—

(a) in subclause (1), by—

(i) inserting the words “there is a serious or persistent material breach or that” immediately after the words “determines that”;

(ii) deleting the words “or is not operating a financial management system that complies with the requirements prescribed by this Act or other legislation”, so as to read as follows:-

“If as a result of an assessment using criteria provided for under this Act, the Cabinet Secretary determines that there is a serious or persistent material breach or that a county government is unable to perform a function, the Cabinet Secretary shall —“

(iii) inserting the word “county” immediately after the words “notify the” in paragraph (a);

(iv) inserting the word “and” immediately after the word “government” in paragraph (a);

(v) deleting the words “and the Senate” appearing in paragraph (a);

(vi) deleting the words “under Article 190 of the Constitution” appearing in paragraph (a), so as to read as follows:-

“notify the county government and the Cabinet Secretary responsible for matters relating to intergovernmental relations, of the findings and the intention to intervene;”

(vii) deleting the word “financial” in paragraph (c) so as to read as follows:

“in consultation with the county government prepare an appropriate recovery plan for the county government; and”

(a) inserting the following new subclause immediately after subclause (2)—

“99(2A) The approved recovery plan by the Joint Committee shall form the basis for releasing funds withheld during the period of stoppage and the release of subsequent transfers to a state organ or public entity .”

(b) in subclause (3)(g) by—

(i) deleting the words “financial”;

(ii) deleting the word “unnecessary” and substituting therefor the word “wasteful”;

(c) in subclause (3)(h) by deleting the words “and financial resourced needed to assist in resolving problems”;

(d) in subclause (4), by—

(i) deleting the word “financial” immediately before the words “recovery plan”;

(ii) deleting paragraph (d);

(4)—

“(4A) In addition to provisions under subsection (4), a recovery plan may

—

(a) provide for the liquidation of specific assets, excluding those needed for the provision of the minimum level of basic services;

(b) provide for special measures to prevent unauthorised, irregular and wasteful expenditure and other losses; and

(c) identify any actual and potential sources of revenue.”

Again, this is to make it difficult for the Cabinet Secretary to intervene in county affairs. We are saying that he can only intervene if there is serious or persistent material breach. That is the only time that he can intervene.

(Question of the amendment proposed)

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

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

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

(Clause 99 as amended agreed to)

Clause 100

The Minister for Finance (Mr. Githae): Madam Temporary Chairlady, I beg to move:-

THAT, Clause 100 be amended—

(a) in subclause (3)(a) by deleting the words “financial” in between the word “and” and “recovery” so as to read as follows:-

“The progress on resolving the County Government’s financial problems and the recovery plan; and”

(b) in subclause (3)(b) by deleting the word “financial” in between the word “the” and “recovery” to read as follows:-

“The effectiveness of the recovery plan.”

(c) in subclause (4) by deleting the word “three” and replace it with the word “four” so as to read as follows:-

“The Joint Committee shall, every four months, submit progress reports and, where appropriate a final report on the intervention to the Cabinet Secretary, the County Executive Committee responsible for Finance, the relevant county assembly, the Intergovernmental Budget and Economic Council and the Senate.”

(Question of the amendment proposed)

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

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

(Clause 100 as amended agreed to)

Clause 101

The Minister for Finance (Mr. Githae): Madam Temporary Chairlady, I beg to move:-

THAT, Clause 101 be amended—

(a) in subclause (1) (b) by—

(i) inserting the words “the Joint Committee is satisfied that” immediately after the word “where”;

(ii) deleting the words “the executive” and substituting therefor the word “its”, so as to read as follows:-

101(b) “where the Joint Committee is satisfied that the county government is able and willing to fulfill its obligation in terms of legislation or the Constitution that gave rise to the intervention;”

(b) in subclause (2) by deleting paragraphs (d), (e) and (f) so as to read as follows:-

“At the end of an intervention, the Joint Committee shall notify-

(a) Parliament;

(b) the relevant County Assembly; and

(c) the Controller of Budget.”

Again, this is a clean-up!

(Question of the amendment proposed)

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

(Question, that the words to be inserted in place thereof be inserted, put and agreed to)

(Clause 101 as amended agreed to)

(Clauses 102 and 103 agreed to)

Clause 104

The Minister for Finance (Mr. Githae): Madam Temporary Chairlady, I beg to move:-

THAT, Clause 104 (1) (n) be amended by deleting the words “excluding the County Assembly” so as to read as follows:-

104 (1)(n) “issuing circulars with respect to financial matters relating to the county government entities.”

Again, this is just for clean-up; the County Treasurer cannot issue circulars to the county assembly.

(Question of the amendment proposed)

(Question, that the words to be left out be left out, put and agreed to)

(Clause 104 as amended agreed to)

Clause 105

The Minister for Finance (Mr. Githae): Madam Temporary Chairlady, I beg to move:-

THAT, Clause 105(1) be amended—

(a) in paragraph (a) by deleting the word “investigating” and substituting therefor the word “access”;

(b) in paragraphs (c),(e) and (f) by deleting the words “but excluding the county assembly” wherever these words appear.

Again, this is just a clarification that the County Treasurer cannot issue circulars to the county assembly.

(Question of the amendment proposed)

Mr. Ogindo: Madam Temporary Chairlady, the other information here was that we wanted to ensure separation of powers between the Executive and the county assemblies just like it is here at the national government.

(Question, that the words to be left out be left out, put and agreed to)

(Question, that the word to be inserted in place thereof)

be inserted, put and agreed to)

(Clause 105 as amended agreed to)

Clause 106

The Minister for Finance (Mr. Githae): Madam Temporary Chairlady, I beg to move:-

THAT, Clause 106(1) be amended by deleting the word “shall” after the word “Treasury” and substituting therefor the word “may” so as to read as follows:-

106 (1)“A County Treasury may, upon request of the National Treasury, second to the National Treasury such numbers of officers as may be necessary for the National Treasury to better carry out its responsibilities under this Act.”

(Question of the amendment proposed)

Dr. Otichilo: Madam Temporary Chairlady, I would like the Minister to give more explanations as to why we have this amendment because I do not understand why the County Treasury may, upon request of the National Treasury, second to the National Treasury such numbers of officers as may be necessary. Why would the County Treasury second officers to the National Treasury? I need more explanation for this.

Temporary Deputy Chairlady (Dr. Laboso): Mr. Minister, do you have an explanation?

The Minister for Finance (Mr. Githae): Yes, Madam Temporary Chairlady. We are only saying that we are substituting the word “shall” with “may” to give an option. Sometimes you never know. We are going through transition and we may send all the officers from the National Government to the county and realize that they are needed at the National Government. So we are saying “may” and not “shall” that they may in case it is necessary. If it is not necessary then there is no harm.

Mr. Ogindo: Madam Temporary Chairlady, it was a little controversial at the Committee level but we agreed that the two levels of government are inter-dependent and that is where the Minister says that you may have a situation whereby all the experienced staff are seconded there and there is a need to have them at the national level. So we were creating that window.

The Temporary Deputy Chairlady (Dr. Laboso): Hon. Members, we have hon. Chachu, hon. Professor and hon. Njuguna. Please, a minute each.

Mr. Chachu: Madam Temporary Deputy Chairlady, I want to know whether this is imperative because as it is, it is conditional. But if the County Treasurer refuses to second those staff, does he or she have a right to say no?

The Temporary Deputy Chairlady (Dr. Laboso): I think hon. Martin Ogindo said it was on agreement. I have already indicated to hon. Prof. Anyang’-Nyong’o and then hon. Njuguna.

The Minister for Medical Services (Prof. Anyang’-Nyong’o): Madam Temporary Deputy Chairlady, I think this is a very good amendment. Let us really take note that managing materially at the county level is going to be a big problem.

In fact, I will request the Ministry of Finance and the Cabinet Secretary actually to mount capacity building programmes at the Kenya School of Monetary Studies for all county

governments for management of finances and running treasuries at the county level. This actually will be more in the interest of the county government rather than the Treasury.

Mr. Njuguna: Madam Temporary Chairlady, the amendment by the Minister, in my view, is accommodative and healthy. It gives leeway to the workers.

(Question, that the word to be left out be left out, put and agreed to)

(Question, that the word to be inserted in place thereof be inserted, put and agreed to)

(Mr. Githae stood up in his place)

The Temporary Deputy Chairlady (Dr. Laboso): Now, I am finishing. So, if you have anything else to say on that--- You do not have anything else to say on that?

(Clause 106 as amended agreed to)

The Minister for Finance (Mr. Githae): On a point of order, Madam Temporary Deputy Chairlady. It is on Clause 107. I notice that---

The Temporary Deputy Chairlady (Dr. Laboso): Hon. Minister, I have not even called that clause yet.

The Minister for Finance (Mr. Githae): It is because it is not there. There is an amendment which is missing.

The Temporary Deputy Chairlady (Dr. Laboso): Hon. Minister, hold your horses. I shall call it and then we will talk about its amendment.

Clause 107

The Minister for Finance (Mr. Githae): Madam Temporary Deputy Chairlady, I stand guided.

Madam Temporary Chairlady, we had agreed on an amendment with the Committee. Its aim was to avoid county governments becoming employment bureaus. We agreed the clause to read as follows:-

THAT, Clause 107 of the Bill be amended –

(a) By deleting sub-section 2(b) and substituting thereof with the following-

“2(b) over the medium term, a minimum of 30 per cent of the county government budget shall be allocated to the development expenditure”

(b) In subsection 2(e) by inserting the following words after the word “level”, “as provided by the county assembly”.

We do not know how those county governments are going to operate. We said that a minimum of 30 per cent of its revenue must be allocated to development, so that it does not become an employment bureau. That is missing from our amendment.

(Question of the amendment proposed)

Dr. Otichilo: Madam Temporary Deputy Chairlady, I support that amendment very strongly.

Mr. Shakeel: We really discussed it and I support it.

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

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

(Clause 107 as amended agreed to)

Clause 108

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

THAT, Clause 108 of the Bill be amended by deleting subclause (3)

Again, this is really subsequential to the previous amendments. It is basically deleting subclause (3)

(Question of the amendment proposed)

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

(Clause 108 as amended agreed to)

Clause 109

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

THAT, Clause 109 of the Bill be amended-

(a) In subclause (6) by inserting the following new paragraph immediately after paragraph (b)-

“c) this Act in accordance with Sections 134 and 135”

(b) In subclause (9) by inserting the words “with a copy to the Controller of Budget” after the word “allocation” at the end of the subclause so as to read as follows:-

109(9) “Financial Reports shall be submitted to the Commission on Revenue Allocation with a copy to the Controller of Budget”.

This is basically saying that the Commission on County Revenue must give a copy of their report to the Controller of Budget so that he is also aware of what is happening.

(Question of the amendment proposed)

(Question, that the words to be inserted be inserted,

put and agreed to)

(Clause 109 as amended agreed to)

(Clauses 110, 111, 112, 113, 114 and 115 agreed to)

Clause 116

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

THAT, Clause 116 be amended –

(a) in Subclause (7) by deleting the words “Accounting Officer” and replacing them with the “administrator” so as to read as follows:-

116(7) “The administrator of a County public fund shall-”

In Subclause (8) by deleting the words “Accounting Officer” and replacing them with “administrator” so as to read as follows:

116(8) “The administrator of a County public fund shall ensure that the accounts of the fund and the annual financial statements relating to those accounts comply with the accounting standards prescribed and published by the Accounting Standards Board from time to time.”

Here, we are making a distinction between an Accounting Officer and an administrator. We are saying they are different. The Accounting Officer is the overall person in charge. But the Accounting Officer could have administrators. They could be market administrators or ward administrators. So, we are making that distinction.

(Question of the amendment proposed)

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

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

(Clause 116 as amended agreed to)

Clause 117

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

THAT, Clause 117 be amended in Subclause (6) by deleting the word “recommendations” and substituting therefor the word amendments”

Again this is really a correction. Instead of “recommendations”, it should be “amendments”.

(Question of the amendment proposed)

*(Question, that the word to be left out be left out,
put and agreed to)*

*(Question, that the word to be inserted in place
thereof be inserted, put and agreed to)*

(Clause 117 as amended agreed to)

(Clause 118 agreed to)

Clause 119

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

THAT, Clause 119 (4) be amended by-

- (a) deleting the word “authorize” and inserting therefor the word “cause”;
- (b) deleting the words “that entity” at end of the clause and substituting therefor the words “the County Treasury or a Board of a county government entity, if any” to read as follows:-

119 (4) “An Accounting Officer for a county government entity shall not cause a bank account of the entity to be overdrawn beyond the limit authorized by the County Treasury or a Board of a county government entity, if any”

Madam Temporary Deputy Chairlady, this is basically trying to give provisions for banking facilities for county governments.

(Question of the amendment proposed)

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

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

(Clause 119 as amended agreed to)

Clause 120

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

THAT, Clause 120 be amended-

- (a) in subclause (2) by inserting the words “and forecasts” in between the words “plan” and “to” so as to read as follows:-

120(2) “Every county government entity shall submit an annual cash flow plan and forecasts to the County Treasury in a form and manner directed by the County Treasury and shall send a copy to the Controller of Budget.”

(b) in subclause (3) by deleting the words “and on such terms and conditions as may be prescribed in regulations made with the approval of the county assembly” and replacing with the words “subject to any regulations that may be prescribed, any money kept in a bank account of the County Government” so as to read as follows:-

120(3) “The County Treasury may invest subject to any regulations that may be prescribed, any money kept in a bank account of the County Government.”

Again, Madam Temporary Deputy Chairlady, this is basically cleaning up. We are saying that in addition, “forecast” and “plan” should also be part of the strategy paper.

(Question of the amendment proposed)

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

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

(Clause 120 as amended agreed to)

(Clauses 121, 122 and 123 agreed to)

Clause 124

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

THAT, Clause 124 be amended by inserting the words “within fourteen days of the request” immediately after the word “responsibilities”.

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

*[The Temporary Deputy Chairman
(Mr. Ethuro) took the Chair]*

Again, Mr. Temporary Deputy Chairman, Sir, we are putting a time limit upon which the County Treasurer, if he is asked for reports, must give them within 14 days. So, we are just putting a time deadline.

(Question of the amendment proposed)

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

(Clause 124 as amended agreed to)

(Clauses 125 and 126 agreed to)

Clause 127

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

THAT, Clause 127 be amended by deleting Subclause (3).

Again, Mr. Temporary Deputy Chairman Sir, this is on the insistence of the Committee; they do not want to hear about cash schedules, they want money to the county governments to be paid on quarterly basis.

An hon. Member: Yes!

(Question of the amendment proposed)

(Question, that the words to be left out be left out, put and agreed to)

(Clause 127 as amended agreed to)

(Clause 128 agreed to)

Clause 129

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

THAT, Clause 129 be amended-

(a) in subclause (2)(a) by deleting the words “the Appropriation Bill”;

(b) in subclause (2) (b), by inserting the words “except the Finance Bill” immediately after the word “budget”;

(c) inserting the following new subclause after subclause (6)-

“129(7) Upon approval of the budget estimates by the County Assembly, the County Executive member shall prepare and submit a County Appropriation Bill to the county assembly of the approved estimates.

Mr. Temporary Deputy Chair, Sir, I wish to draw attention that there is an error in part “b;” it should read “in subclause (2) (a)” and not (2)(b), because we are removing the Finance Bill. It should actually read:-

(a) in subclause (2)(a), by inserting the words “except the Finance Bill” immediately after the word “budget”;

The Temporary Deputy Chairman (Mr. Ethuro): I, therefore, wish to propose that Clause 129 be amended as proposed by the Minister. Sub-clause (b) should read “in sub-clause (2)(a).”

(Question of the amendment proposed)

Ms. Karua: Mr. Temporary Deputy Chairman, Sir, I just want the Minister to clarify Clause 129(7) about this County Appropriation Bill for the approval of the estimates. It says it

should be upon the approval of the Budget Estimates. Why is it not reading the same as for the national Government?

The Minister for Finance (Mr. Githae): Thank you for that, Ms. Karua. Actually, this is exactly what we are trying to do. We are saying that after the estimates have been approved by the County Assembly, then a County Appropriations Bill must then be prepared. So, basically, we are sequencing what has already been done for the National Government. It may be good to clarify; it was agreed that what is good for the goose is good for the gander; what is good for the national Government is good for the County Government.

Ms. Karua: They are in sync?

The Minister for Finance (Mr. Githae): Yes, they are in sync.

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

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

(Clause 129 as amended agreed to)

Clause 130

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

THAT, Clause 130(1)(a) be amended by inserting the following new subparagraph immediately after subparagraph (ii)-

130 (1) (a) (iii) "A memorandum by the county executive member for finance explaining how the resolutions adopted by the county assembly on the budget estimates have been taken into account".

The Minister for Finance (Mr. Githae): Mr. Temporary Deputy Chairman, Sir, again, this is in line with what was done for the national Government. In addition, the County Treasurer must also show how many resolutions of the County Assembly on the budgets have been taken into account.

(Question of the amendment proposed)

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

(Clause 130 as amended agreed to)

Clause 131

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

THAT, Clause 131 of the Bill be amended-

(a) in subclause (2) by inserting the words “and the public” immediately after the words “County Executive Committee member”;

(b) by inserting the following new subclause immediately after subclause (3) and renumbering the current sub clauses (4) and (5) to be sub clauses (5) and (6) respectively, so as to read as follows:

“(3A) Where a Bill originating from a member of a county assembly proposes amendments after the passing of budget estimates and the appropriations Bill by the county assembly, the county assembly may only proceed in accordance with the resolutions adopted regarding the County Fiscal Strategy Paper.”

Once again, Mr. Temporary Deputy Chairman, Sir, I wish to draw the attention of the Committee that there is one part which is missing, and that was in part (a). We had agreed that there would be a clause saying:-

“An increase in expenditure in a proposed appropriation is balanced by a reduction in expenditure in other proposed appropriation.”

And then (b):-

“A proposed reduction in expenditure is used to reduce the deficit.”

If hon. Members will agree, we will do that so that the budget remains balanced at any time. So, in addition to all these amendments, I am proposing that further amendment, and I will avail it to you.

The Temporary Deputy Chairman (Mr. Ethuro): So, a further amendment in terms of (3)(b)?

The Minister for Finance (Mr. Githae): Yes.

The Temporary Deputy Chair (Mr. Ethuro): No, hon. Minister; the procedure is that the Table should also have seen your amendment, so that they are not ambushed.

The Minister for Finance (Mr. Githae): I agree, Mr. Temporary Deputy Chairman, Sir. But what happened is that the amendments came this afternoon. So, I had my team looking at the actual minutes of what was agreed upon and what has been reflected; and they have just brought to my attention that this is missing and it had been agreed upon.

I beg to move.

The Temporary Deputy Chairman (Mr. Ethuro): What we usually do, under the circumstances, is for you to move a further amendment. So, read the additional amendment.

The Minister for Finance (Mr. Githae): Mr. Temporary Deputy Chairman, Sir, the new amendment is now on Clause 131(b). 3A should now read:-

“An increase in expenditure in a proposed appropriation is balanced by a reduction in expenditure in another proposed appropriation.”

The Temporary Deputy Chairman (Mr. Ethuro): Order, Minister! Let us have a look at it.

*(Mr. Githae passed over the amendment
to the Clerk-at-the-Table)*

(Mr. Shakeel stood up in his place)

Hon. Shakeel, I suppose that you are rising on a point of order, because I need to propose the Question. But that is after I have looked at it. So, whatever you say, say it as a point of order.

Mr. Shakeel: Mr. Temporary Deputy Chairman, Sir, it is not really a point of order.

The Temporary Deputy Chairman (Mr. Ethuro): Let us allow hon. Ogindo!

Mr. Ogindo: On a point of order, Mr. Temporary Deputy Chairman, Sir. We looked at that and we were all in agreement that any amendment must leave the resource envelop and Budget intact without increasing it. We agreed that if, in any case, you have a saving that is not taken anywhere, then it goes in reducing the deficit. But my point of order is that the amendment being proposed is not in order because the Appropriation Bill will come after the Budget is approved and the Budget approval shall have balanced what that amendment is seeking to cure. So, I do not think that it is necessary.

The Minister for Finance (Mr. Githae): Mr. Temporary Deputy Chairman, Sir, even for the national Government, for example, if the Appropriation Bill comes tomorrow, a Member is now entitled to actually move a vote to reduce. It can actually happen. The same thing for the national Government should also be for the county government. Previously it was not possible, but now it is.

The Temporary Deputy Chairman (Mr. Ethuro): Order, hon. Members! I want to read the amendment, in addition to what you see on the Order Paper. I will start with 3A. It reads:-

“(3A) Where a bill originating from a member of a county assembly proposes amendments after the passing of budget estimates and the appropriations Bill by the county assembly, the county assembly may only proceed in accordance with the resolutions adopted regarding the County Fiscal Strategy Paper and ensure:-

(a) an increase in expenditure in a proposed appropriation is balanced by a reduction in expenditure in another proposed appropriation; or,

(b) a proposed reduction in expenditure is used to reduce the deficit.”

(Question of the further amendment proposed)

Mr. Shakeel: Mr. Temporary Deputy Chairman, Sir, I want support that and clarify that we worked very late---

An hon. Member: Save time!

Mr. Shakeel: Mr. Temporary Deputy Chairman, Sir, I will save time. I beg to support.

(Mr. Ogindo stood up in his place)

The Temporary Deputy Chairman (Mr. Ethuro): Hon. Ogindo, I thought that you had already agreed. If you have no objection, I do not think that you need to talk on it.

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

(Clause 131 as further amended agreed to)

(Clauses 132 and 133 agreed to)

Clause 134

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

THAT, Clause 134 be amended by inserting the following new subclause immediately after subclause (2)-

“(2A) The Speaker of the county assembly shall, within seven days, communicate the authority in subsection (1) to the County Executive Member”.

This is a matter of cleaning up.

(Question of the amendment proposed)

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

(Clause 134 as amended agreed to)

(Clause 135 agreed to)

Clause 136

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

THAT, Clause 136 be amended in subclause (1) by inserting the word “immediately” after the word “lapses”.

Again, that is cleaning up.

(Question of the amendment proposed)

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

(Clause 136 as amended agreed to)

Clause 137

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

THAT, Clause 137 be amended by inserting a new sub-clause immediately after subclause 137(1) as follows -

“137(1A) The County Budget and Economic Forum shall consist of –

(a) the Governor of the county who shall be the chairperson;

(b) other members of the county executive committee;

(c) a number of representatives not county officers equal to the number of executive committee members appointed by the Governor from persons nominated by organizations representing professionals, business, labour issues,

women, persons with disabilities, the elderly and faith based groups at the county level.”

I would like to draw your attention to the fact that there are words missing which we had agreed on; “not county public officers”. This is the county forum and we said that we wanted it to be inclusive.

The Temporary Deputy Chairman (Mr. Ethuro): Before you explain, where do you want to add the words?

The Minister for Finance (Mr. Githae): Mr. Temporary Deputy Chairman, Sir, this is on part “c.” We will add the words “not county officers”. We want it to be inclusive so that the Governor does not appoint public officers from his “yes men” or “yes women.”

(Question of the amendment proposed)

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

(Clause 137 as amended agreed to)

Clause 138

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

THAT, the margin note of Clause 138 be amended by inserting the words “or third parties” at the end so as to read as follows:-

138. “Conditions for receiving grants and donations by county government or its entities or third parties.”

Clause 138(1)(b)

THAT, Clause 138 (1) (b) be amended-

(a) by deleting the words “an arrangement for the provision of” after the word “means” and deleting the words “the county government” after the words “assistance by” and replacing with the words “a development partner which is not repayable and” and inserting the words “or used by” after the words “paid to”.

(b) by deleting the words “but does not include” and sub-clauses (i) to (v) after the words “budget does not include –“ so as to read as follows:-

138(1)(b) “grant” means the provision of financial or other assistance by a development partner which is not repayable and —

(i) where public money is paid to or used by a grant recipient;

(ii) which is intended to finance or facilitate the development of projects or delivery of services or otherwise assist the grant recipient to achieve goals that are consistent with the policy objectives of the county government; and

(iii) where the grant recipient is required to act in accordance with any terms or conditions specified in a grant agreement,”

Clause 138(1)(c)

THAT Clause 138(1)(c) be amended by inserting the words “the county government or a county government entity authorised to control or spend money under this Act or” after the word “means” so as to read as follows:-

(b) “grant recipient” means the county government or a county government entity authorised to control or spend money under this Act or an incorporated or unincorporated body not otherwise authorised to control or spend money under this Act;

Clause 138

THAT, Clause 138 be amended by inserting a new subclause (2) to read:
138(2) “Subsections (3) to (9) apply to the county government and county government entities.”

I would like to draw the attention of the House that there is an error. This should read as follows: “The margin note on clause 138 is deleted and replaced by the following.” That will be correct.

(Question of the amendment proposed)

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

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

(Clause 138 as amended agreed to)

Clause 139(2)(a)

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

THAT, Clause 139(2)(a) be amended by replacing the word “receipts” with the word “recipients” so as to read as follows:-

139(2)(a) “timely public disclosure to intended beneficiaries of the allocation and disbursement of grants to grant recipients;”

Clause 139(4)

THAT Clause 139(4) be amended by inserting the words “and shall make good the loss arising from the use of public funds contrary to law” at the end of the subclause so as to read as follows:-

139(4) “A third party shall not receive, have custody of, or pay public money otherwise than in accordance with an authorization given in accordance with regulations made under subsection (1) and shall make good any loss arising from the use of public funds contrary to the law”

(Question of the amendment proposed)

*(Question, that the word to be left out
be left out, put and agreed to)*

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

(Clause 139 as amended agreed to)

(Clause 140 agreed to)

Clause 141

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

THAT, Clause 141 be amended by deleting subclause (2) and substituting therefor the following new subclause-

141 (2)“A county government may borrow money only in accordance with this Act or any other legislation and shall exceed the limit set by the County Assembly”

Mr. Temporary Deputy Chairman, Sir, I draw the attention of the House to the fact that there is a word “not” missing. It should read as follows: “A county government may borrow money only in accordance with this Act or any other legislation and shall not exceed the limit set by the County Assembly”

I move that it be further amended by adding the word “not” between “shall’ and “exceed”.

(Question of the amendment proposed)

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

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

(Clause 141 as amended agreed to)

(Clauses 142 and 143 agreed to)

Clause 144(6)

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

THAT Clause 144(6) of the Bill be amended by deleting the word “Parliament” after the word “by” at the end of the subclause and replacing it with “the County Assembly” so as to read as follows:-

144(6)“An agreement to obtain a loan by a county government entity made under subsection (5) may be amended from time to time, and where the amendment results in further indebtedness or prejudice to the entity that borrowed, the amendment shall be approved by the County Assembly.”

Clause 144(18)

THAT Clause 144(18) of the Bill be amended by deleting the words “Consolidated Fund” at the end of the subclause and replacing them with the words “County Revenue Fund” so as to read as follows:-

144(18)“The right of any person who has a legitimate claim to the proceeds of a security is not affected by the payment of the proceeds into the County Revenue Fund.”

Mr. Temporary Deputy Chairman, Sir, this is basically an error. It should not have been “Parliament”. This is because Parliament should not approve borrowings by county entities. It is supposed to be “the county assemblies”.

(Question of the amendment proposed)

(Question, that the words to be left out be left out, put and agreed to)

(Question, that the words to be inserted in place thereof be inserted, put and agreed to)

(Clause 144 as amended agreed to)

Clause 145

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

THAT Clause 145 be amended by deleting subclause (1) and substituting therefor the following new subclause-

145 (1)“A county government entity may borrow money in accordance with this Act or any county legislation.”

Mr. Temporary Deputy Chairman, Sir, I would like to bring it to the attention of the House that the word “borrow” should read “lend”. A county government entity may lend and not borrow. We have already taken care of the borrowing and it is now lending. So, I want to amend further by replacing the word “borrow” with the word “lend”.

(Question of the amendment proposed)

(Question, that the words to be left out be left out, put and agreed to)

(Question, that the words to be inserted in place

thereof be inserted, put and agreed to)

(Clause 145 as amended agreed to)

Clause 146

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

THAT Clause 146(2) be amended by deleting the words “may make” in between the words “Council” and “regulations” and replacing them with the words “may agree on” so as to read as follows:-

146(2) “The Intergovernmental Budget and Economic Council may agree on regulations with guidelines for county government joint infrastructure investments.”

Mr. Temporary Deputy Chairman, Sir, again, this is just a clean-up.

(Question of the amendment proposed)

(Question, that the words to be left out be left out, put and agreed to)

(Question, that the words to be inserted in place thereof be inserted, put and agreed to)

(Clause 146 as amended agreed to)

Clause 147

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

THAT, Clause 147 be amended in sub clause (1) by deleting the words “and the Public Service Board”.

Again, it is a clean up.

(Question of the amendment proposed)

(Question, that words to be left out be left out, put and agreed to)

(Clause 147 as amended agreed to)

Clause 148

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

THAT, Clause 148 be amended by inserting the following new sub clause immediately after sub clause (4)-

“(5) A county government may, in order to promote efficient use of county resources, adopt, subject to approval by the county assembly, a centralized county management service.”

I draw the House’s attention that there is the word “financial” missing and instead of “service”, it should be “services”. Clause 148(5) should now read: “A County Government may, in order to promote efficient use of county resources, adopt, subject to approval by the county assembly, a centralized county financial management services.”

So, I am proposing that this amendment be further amended by inserting the word “financial” between “county” and “management” and substituting the word “service” with “services”.

(Question of the amendment proposed)

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

(Clause 148 as amended agreed to)

(Clauses 149, 150, 151 and 152 agreed to)

Clause 153(2)

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

THAT, Clause 153(2) of the Bill be amended by deleting the word “may” in between the words “entity” and “dispose” and replacing it with the word “shall”, and inserting the word “shall” in between the words “and” and “ensure” so as to read as follows:-

153(2) “The accounting officer for a county government entity shall dispose of assets only in terms of an Act of Parliament pursuant to Article 227 of the Constitution and shall ensure that the proceeds from all asset disposals are credited into a bank of an entity.”

I would like to draw the attention of the House that the word “bank” should be “bank account” It should read:-

“The accounting officer for a county government entity shall dispose of assets only in terms of an Act of Parliament pursuant to Article 227 of the Constitution and shall ensure that the proceeds from all asset disposals are credited into a bank account of an entity.”

So, I am amending further that the word ”account” be between “bank” and “of” and also delete an entity to “the entity”.

(Question of the amendment proposed)

Ms. Karua: Madam Temporary Deputy Chairman, I want to support the amendment as it will protect the assets of the county and remind every accounting officer to work in accordance with the Constitution and also congratulate the Minister for his grasp of the subject.

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

*(Question, that the word to be inserted in place thereof
be inserted, put and agreed to)*

(Clause 153 as amended agreed to)

Mr. Midiwo: On a point of order, Mr. Temporary Deputy Chairman, Sir. I needed to raise that the Committee reports progress and we seek leave for the House to sit again until the conclusion of Order No.9 – The Public Finance Management Bill (Bill No.7 of 2012).

The Temporary Deputy Speaker (Mr. Ethuro): Government Whip, that is fine, but it is for the Minister to move since it is his Ministry's Bill. You may then wish to second him, given your enthusiasm.

The Minister for Finance (Mr. Githae): Mr. Temporary Deputy Chairman, Sir, the Committee of the whole House is considering The Public Financial Management Bill, 2012, and has instructed me to report progress and seek leave to sit again today.

(Question proposed)

(Question put and agreed to)

(The House resumed)

[Mr. Speaker in the Chair]

Mr. Ethuro: Mr. Speaker, Sir, I beg to report that the Committee of the whole House is considering The Public Financial Management Bill, 2012, and has instructed me to report progress and seek leave to sit again today.

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Lesrima) seconded.

(Question proposed)

(Question put and agreed to)

COMMUNICATION FROM THE CHAIR
RE-SUBMISSION OF MEMORANDUM
BY THE PRESIDENT TO MR. SPEAKER

Mr. Speaker: Hon. Members, before we move to the next Order, I have the following communication to make.

You will recall that earlier this afternoon, I made a Communication with respect to a Memorandum received from His Excellency the President, refusing to assent to the Statute Law (Miscellaneous Amendments) Bill, 2012. His Excellency the President has subsequently submitted a Memorandum that reflects the vellum copy of the Statute Law (Miscellaneous Amendments) Bill, 2012, as passed by this House on 21st June, 2012. This is with particular reference to the amendment passed by the House to Section 51 of The Political Parties Act, 2011, and Section 22 of The Elections Act, 2011.

By a letter from the Hon. Attorney-General, dated today, 27th June, 2012, the Attorney-General confirms that this Memorandum supersedes the earlier Memorandum, dated 25th June, 2012, and I will now proceed to read in full the contents of the President's memorandum as follows:-

“THE PRESIDENT’S MEMORANDUM

REFUSAL TO ASSENT TO THE STATUTE LAW (MISCELANEOUS AMENDNTS) BILL, 2012

Memorandum by His Excellency, the Hon. Mwai Kibaki, President and Commander-in-Chief of the Kenya Defence Forces, submitted to the Speaker of the National Assembly.

Whereas a Bill entitled “A Bill for an Act of Parliament to make minor amendments to Statute Law, the Short Title of which is “The Statute Law (Miscellaneous Amendments) Bill, 2012, was passed by the National Assembly on the 21st June, 2012; and whereas The Statute Law (Miscellaneous Amendments) Bill, 2012, was presented to me for assent, in accordance with the provisions of the Constitution, on 25th June, 2012, now, therefore, in exercise of the powers conferred on me by Section 46, Sub-Sections 3 and 4 of the former Constitution, I refuse to assent to the Statute Law (Miscellaneous Amendments) Bill, 2012, for the reasons set out hereunder:

On the Political Parties Act, 2011, Act No.11 of 2011, Section 51, the Bill proposes to amend Section 51 of the Political Parties Act, 2011, to introduce a new sub-section 1(a) as follows:-

1(A) Until after the first general elections held after the commencement of this Act, nothing provided in sub-sections (4), (5) or (7) of Section 14 shall be considered as requiring a person to vacate his or her seat as a Member of Parliament or of a local authority or as disqualifying any person from eligibility to contest an election under this Act.

The matter of the consequence of defecting from political parties or changing allegiance between parties is already the subject of court petitions among them the following:-

- (i) Petition No.220 of 2011 - Ephraim Maina versus the Attorney-General;
- (ii) Petition No.233 of 2011 - Gideon Mbuvi versus Attorney-General;
- (iii) Petition No.172 of 2011 - Alexander Muthengi Muchee versus Minister for Justice;
- (iv) Petition No.198 of 2011 - Johnstone Muthama versus Attorney-General;
- (v) Petition No.254 of 2012 - Isaac Aluoch Polo Aluochier versus Attorney-General.

These petitions are still pending in the courts. In keeping with the doctrine of separation of powers, matters which are before the court should not be the subject of legislation by the National Assembly.

Recommendations: For the reasons specified above, I recommend that the proposed sub-section 1(A) be deleted from the Bill. The Elections Act, No.24 of 2011, Section 22.

The Bill proposes to amend Section 22(2) of the Elections Act to require that candidates for election, as a Member of Parliament should be required to hold a degree from a university recognized in Kenya in the same way as the President, deputy president, county governor or deputy county governor.

The matter of the qualifications for eligibility for election as Member of Parliament is also the subject of the following petition: Petition No.198 of 2011 - Johnstone Muthama versus Attorney-General which challenges the original provisions of the Act relating to the requirement for post-secondary qualifications to vie for elective posts. The petition is still pending in court. In keeping with the doctrine of separation of powers, matters which are before the court should not be the subject of legislation by the National Assembly.

Recommendation: For the reasons stated above, I recommend that the proposed amendment to Section 22(2) be deleted from the Bill. It is dated 27th June, 2012. Mwai Kibaki, President.”

(Applause)

Hon. Members, I direct that the Departmental Committee on Justice and Legal Affairs shall consider this Memorandum and report to the House as I had earlier directed. The Memorandum will, I reiterate, be considered by the House at the sitting of Thursday, 28th, June, 2012, at 2.30 p.m.

The Clerk of the National Assembly is hereby directed to circulate copies of this memorandum to all hon. Members.

I thank you.

Next order!

COMMITTEE OF THE WHOLE HOUSE

(Order for the Committee read)

[Mr. Speaker left the Chair]

IN THE COMMITTEE

*[The Temporary Deputy Chairman
(Mr. Ethuro) took Chair]*

THE PUBLIC FINANCIAL MANAGEMENT BILL

The Temporary Deputy Chairman (Mr. Ethuro): Order, Members! We are in the Committee of the whole House to finish the unfinished business. We had done up to Clause 153.

Let us proceed.

(Clauses 154, 155 and 156 agreed to)

Clause 157

The Temporary Deputy Chairman (Mr. Ethuro): Mr. Ogindo, do you have an amendment?

Mr. Ogindo: Mr. Temporary Deputy Chairman, Sir, I had an amendment but it was defeated here. So, in the same spirit, I wish now to withdraw this one because it is going to suffer the same fate.

(Mr. Ogindo's proposed amendment withdrawn)

(Clause 157 agreed to)

Clause 158

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

THAT, Clause 158 be amended by deleting subclause (3) and substituting therefor the following new subclause-

158(3)“A receiver of revenue for a county government shall provide quarterly statements to the County Treasury with a copy to the National Treasury and the Commission on Revenue Allocation.”

(Question of the amendment proposed)

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

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

(Clause 158 as amended agreed to)

(Clauses 159, 160, 161, 162 and 163 agreed to)

Clause 164

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

THAT, clause 164 (20) (a) (i) be amended by deleting the words “spent was voted” and substituting therefor the words “was spent”.

There is a clarification of the word “spent;” I see a colon which I think we should remove. It is on the Order Paper that I have.

The Temporary Deputy Chairman (Mr. Ethuro): What do you see?

The Minister for Finance (Mr. Githae): A colon. I think it is a typo error. There are two dots before the word “spent”.

The Temporary Deputy Chairman (Mr. Ethuro): That is a typo error. I hope the amendment is not just the typo error. It is the substantive one.

(Question of the amendment proposed)

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

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

(Clause 164 as amended agreed to)

Clause 165

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

THAT, Clause 165 be amended in subclause (3)(b) by inserting the words “Controller of Budget” immediately after the words “National Treasury.”

This is basically to include the “Controller of Budget” as one of the people to receive reports.

(Question of the amendment proposed)

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

(Clause 165 as amended agreed to)

(Clause 166 agreed to)

Clause 167

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

THAT, Clause 167(2) of the Bill be amended by deleting the word “national” in between the words “a” and “public” so as to read as follows:-

167(2)“In preparing a financial statement for a public fund, the administrator shall ensure that the report contains information on the financial and non-financial performance of the fund.”

(Question of the amendment proposed)

(Question, that the words to be left out

be left out, put and agreed to)

(Clause 167 as amended agreed to)

Clause 168

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

THAT, Clause 168(2) of the Bill be amended by replacing the word “national” in between the words “a” and “public” with the word “county” so as to read as follows:-

168 (2)“In preparing a quarterly financial statement for a county public fund, the administrator shall ensure that the report contains information on the financial and non-financial performance of the fund.”

(Question of the amendment proposed)

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

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

(Clause 168 as amended agreed to)

(Clauses 169, 170 and 171 agreed to)

Clause 172

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

THAT, Clause 172(a) of the Bill be amended by deleting the words “collected” in between the words “measures” and “which” so as to read as follows:-

172(a) “revenue arising from rates, fees, levies, charges and other revenue raising measures which is retained by the urban area or city for the purposes of defraying its costs for providing services.”

(Question of the amendment proposed)

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

(Clause 172 as amended agreed to)

(Clause 173 agreed to)

Clause 174

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

THAT, Clause 174(a) of the Bill be amended by deleting the words “including elected officials” in between the words “personnel” and “must” so as to read as follows:-

174(a) “the actual expenditure on the personnel, must not exceed a percentage of their allocation to be prescribed by the County Assembly;”

(Question of the amendment proposed)

(Question, that the words to be left out be left out, put and agreed to)

(Clause 174 as amended agreed to)

Clause 175(2)

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

THAT, Clause 175(2) of the Bill be amended by deleting the word “financial” in between the words “the” and “plan” and replacing it with “strategic” so as to read as follows:

175(2) “The strategic plan along with any other further guidelines from the County Treasury on the county budget process shall form the basis for development of the urban area’s or city’s budget proposals.”

Clause 175(9)

THAT, Clause 175(9) of the Bill be amended by deleting the word “Board” in between the words “the” and “of” and replacing it with “Accounting Officer” so as to read as follows:

175(9) “In preparing the strategic plain in subsection (1) and the annual budget estimates in subsection (5) the Accounting Officer of an urban area or city –“

This is basically cleaning up!

(Question of the amendment proposed)

(Question, that the words to be left out be left out, put and agreed to)

(Question, that the words to be inserted in place thereof be inserted, put and agreed to)

(Clause 175 as amended agreed to)

Clause 176(1)

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

THAT, Clause 176(1) be deleted and replaced with the following new subclause-

“176(1) If the annual county Appropriation Act for the financial year has not been assented to, or is not likely to be assented to by the beginning of the financial year, the relevant county assembly may authorize the withdrawal of funds from the County Revenue Fund in accordance with subsection (2).”

Clause 176(2) (a)

THAT, Clause 176(2)(a) be amended by deleting the words “approved budget for the previous financial year as the basis for apportioning funds across services” and substituting therefor the words “estimates submitted to the county assembly for approval”.

Clause 176(2) (b)

THAT, Clause 176(2)(b) be deleted.

Clause 176(2) (c)

THAT, Clause 176(2) (c) be amended by deleting the words “for the approved budget for the previous financial year” and substituting therefor the words “submitted to the county assembly for approval”.

I want to bring to the attention of the House that there are some words missing on the last line. What was agreed up will be to add “for the purposes of meeting expenditure of an urban area or city”.

This will mean that it will read:-

“176(1) If the annual county Appropriation Act for the financial year has not been assented to, or is not likely to be assented to by the beginning of the financial year, the relevant county assembly may authorize the withdrawal of funds from the County Revenue Fund for the purposes of meeting expenditure of an urban area in accordance with subsection (2).”

The Temporary Deputy Chairman (Mr. Ethuro): Minister, what are you saying?

The Minister for Finance (Mr. Githae): So, I am saying we will be adding the following words between “Fund” and “In”, which is in the last line. The words are for the purposes of meeting expenditure of an urban area or city.

(Question of the amendment proposed)

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

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

(Clause 176 as amended agreed to)

(Clause 177 agreed to)

Clause 178

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

THAT, Clause 178(2) of the Bill be amended by deleting the word “development” in between the words “the” and “plan” and replacing it with the word strategic, deleting the word “granted” in between the words “grant” and “subsection” and replacing it with the word “referred”, and deleting the words “integrated plan for the urban area” after the word “under” so as to read as follows:-

178(2) “The grants referred to in subsection (1) shall be expended in accordance with the strategic plan as provided for under Section 175.”

Question of the amendment proposed)

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

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

(Clause 178 as amended agreed to)

(Clauses 179, 180, 181 and 182 agreed to)

Clause 183

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

THAT, the Margin note of Clause 183 of the Bill be amended by inserting the word “county” in between the words “on” and “government” so as to read,

183 “Restrictions on county government investing in county-government linked corporations.”

Clause 183(1)(a)

THAT, Clause 183(1)(a) of the Bill be amended by deleting the words “if the investment would result in the County Corporation becoming a government-linked corporation;”

appearing after the word “corporation” so as to read as follows:-

183(1)(a) “ in a county corporation; or,

183(1)(b) “in a county government-linked company without the approval of the County Executive Committee, which may be given only after taking into account any recommendations of the County Treasury regarding the financial implication of the investment.

Question of the amendment proposed)

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

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

(Clause 183 as amended agreed to)

Clause 184

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

THAT, Clause 184(1) of the Bill be amended by deleting the words “County Treasury” and replacing them with “County Executive Committee member for that entity” so as to read as follows:-

184(1) “The County Executive Committee member for that entity is responsible for-“

Clause 184(2)

THAT, Clause 184(2) of the Bill be amended by deleting the words “County Treasury” and replacing them with “County Executive Committee member for that entity” so as to read as follows:-

184(2) “The responsibilities of the County Executive Committee member for that entity under subsection (1) shall include in particular-“

Clause 184(2)(b) and (c)

THAT Clause 184(2)(b) and (c) be amended by deleting the words “member for finance” wherever they appear after the words “County Executive Committee member” in these clauses so as to read as follows:-

184(2)(b) “reporting to the County Executive Committee member on the performance of those county Corporations; and

184(2)(c) making recommendations to the County Executive Committee as to how a particular county Corporation or county government-linked corporation could improve its performance.”

Question of the amendment proposed)

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

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

(Clause 184 as amended agreed to)

Clause 185

The Minister for Finance (Mr. Githae): I beg to move:-

THAT Clause 185 be amended-

(a) In subclause (1) by deleting the word “six” appearing immediately before the word “months” and substituting therefor the word “four”;

(b) by replacing sub clause “(k)” with a new sub clause “(3)” and amending this sub clause by deleting the words “a cost-benefit analysis” at the beginning of this subsection and replacing them with the words “Once every three years, the County Executive Committee Member responsible for matters relating to public investments shall prepare a report on the need for”, and adding the words “or government-linked corporation” after the word “corporation” at the end of the sub clause so as to read as follows:-

185(3) “Once every three years, the County Executive Committee Member responsible for matters relating to public investments shall prepare a report on the need for the county governments continued involvement in, or funding of, the County Corporation or government-linked company.”

I want to bring to the attention of the House that on Clause 185 sub 2A should actually be 185(3A).

The Temporary Deputy Chairman (Mr. Ethuro): Do you want to read because it reads:-

“by inserting a new sub-clause immediately after subclause 2.

The Minister for Finance (Mr. Githae): Just correct it; Clause 185 should be 185(3) instead of (2).

The Temporary Deputy Chairman (Mr. Ethuro): But where are you inserting it?

The Minister for Finance (Mr. Githae): I am inserting it after (c).

The Temporary Deputy Chairman (Mr. Ethuro): So, is it an insertion or an additional sub-clause?

The Minister for Finance (Mr. Githae): So, we want to delete 185(2)(a) which should be (3)(a). I also wish to bring to the notice of the Committee Members of another amendment that

had been agreed upon, but again, I have just noticed that it is missing from here. This was on 185(3). It should have read:-

“That Clause 185(3) be amended by striking out the words “the county treasury shall make a copy of the report” and replacing it with “copies of the reports prepared in sub-section (2) and (3) shall be submitted to read as follows:-

“185(3): Copies of the report prepared in sub-section (2) and(3) shall be submitted to the Controller of Budget, the Commission on Revenue Allocation and the Auditor-General.”

So, I am proposing that Clause 185 be further amended by adding this clause and then in Clause 185(2)(a), it should be Clause 185(a) and then on the last word, “county corporation,” it should be “county.”

Mr. Temporary Deputy Chairman, Sir, again, these amendments had been agreed upon and I have them here. I can give them to you.

The Temporary Deputy Chairman (Mr. Ethuro): I would appreciate. We will take it that 185(3)(a) is basically in addition to the new (3)---

The Minister for Finance (Mr. Githae): The new 185(3); yes.

The Temporary Deputy Chairman (Mr. Ethuro): Yes. So, then, your reading of (c); if you read part (c) in the Supplementary Order Paper, you are saying:-

“by inserting the following new subclause immediately after subclause (2)-“

The Minister for Finance (Mr. Githae): Yes, Mr. Temporary Deputy Chairman, Sir.

The Temporary Deputy Chairman (Mr. Ethuro): Then that would not work.

The Minister for Finance (Mr. Githae): No, no; I am saying that after Clause 185(c)---

The Temporary Deputy Chairman (Mr. Ethuro): (c) should read “after sub-clause (3)--

The Minister for Finance (Mr. Githae): Yes, 185(3).

The Temporary Deputy Chairman (Mr. Ethuro): The amended one?

The Minister for Finance (Mr. Githae): The amended one now after 185(3). Now it should read:-

“Copies of the report prepared in section (2) and (3) shall be submitted to the Controller of Budget, the Commission on Revenue Allocation and the Auditor-General.”

The Temporary Deputy Chairman (Mr. Ethuro): Let us see---

*(Mr. Githae consulted the Temporary
Deputy Chairman (Mr. Ethuro))*

Order, hon. Members! The Minister has proposed further amendment to what is already on the Supplementary Order Paper. Let me read it in terms of the sequence. I have not even proposed the question, so I need to read the amendment. There is something you would wish to dispose of either way.

From your Order Paper, you have all the things until (c), which reads:-
“by inserting the following new subclause immediately after subclause---“

Where it was indicating sub-clause (2), he is proposing that it becomes (3). And then the (3) that is already on the Bill, he is also amending it. So, Clause 185(3) is amended as follows:-

“THAT Clause 185(3) be amended by striking out the words “the county treasury shall submit a copy of the report” and replacing with “copies of the reports prepared in sub-section (2) and (3) shall be submitted to read as follows:-

“185(3): Copies of the report prepared in sub-section (2) and(3) shall be submitted to the Controller of Budget, the Commission on Revenue Allocation and the Auditor-General.”

Then, now we have 185(3A) which is changing from 185(2A.) It says:-

“Once every three years, the County Executive Committee Member responsible for matters relating to public investments shall prepare a report on the need for the county governments continued involvement in, or funding of, the County Corporation or County Government-linked company.”

(Question of the further amendment proposed)

Mr. Shakeel: Mr. Temporary Deputy Chairman, Sir, I was quite with you until you read the last bit “or country government-linked company.” If I refer you back to Clause 183(1A), we dropped the words “government-linked corporation.” As the saying goes “what is good for the goose is also good for the gander,” I remember very clearly that we dropped the words “government-linked company.” So, I would urge the Minister to kindly reconsider and amend that.

The Minister for Finance (Mr. Githae): Mr. Temporary Deputy Chairman, Sir, for the sake of good order and also consistency, instead of “government-linked corporation”, we should say “state corporation” as we had done. So, I am proposing that we amend “state-linked corporation” to “State Corporation.”

The Temporary Deputy Chairman (Mr. Ethuro): The difference is that you are referring to the county government here and not the national government. A county is not a state.

The Minister for Finance (Mr. Githae): Mr. Temporary Deputy Chairman, Sir, I think there is a problem here, because you cannot have a county state-linked corporation.

Mr. Shakeel: Mr. Temporary Deputy Chairman, Sir, I did not want the word “state” to come in. I wish that it would have stopped at “County Corporation.”

The Temporary Deputy Chairman (Mr. Ethuro): If I incorporate my chairmanship in my county, that is also a corporation within the county. I thought that the distinction is that this is related really to the county government itself. Do you not want to make that distinction, hon. Shakeel?

Mr. Shakeel: Mr. Temporary Deputy Chairman, Sir, a county corporation is only in that county, whereas a government-linked company is a parastatal or state corporation. So, if you are reflecting it in the county, stop at “county corporation.” This is because any other recognized county corporation will fall within the term “county corporation.”

The Temporary Deputy Chairman (Mr. Ethuro): Hon. Karua, can you assist us here?

Ms. Karua: Mr. Temporary Deputy Chairman, Sir, I think that for harmonizing the language, once we use “county corporation” it should be “or county-linked company,” so that instead of using the word “government” which can refer to the national and also county government, we are specific that this is limited to the county. So, it should be “County Corporation” or “county-linked company.”

The Minister for Finance (Mr. Githae): Mr. Temporary Deputy Chairman, Sir, I agree with what Ms. Karua has said. It will now read; “county corporations” or “county linked

companies.” We were trying to make sure that when we say “Government”, we know that we mean “county”.

The Temporary Deputy Chairman (Mr. Ethuro): I thought, Mr. Minister, that in your amendment, you had spelt this out as county government. Anyway, the job of the Chair is not to argue. That is your job. Mine is just to point it out. I will take whatever you decide.

Mr. Minister, you can confirm with your people. I have a problem with county governments.

Mrs. Odhiambo-Mabona: Mr. Temporary Deputy Chairman, Sir, while the Minister is consulting with his people, perhaps he could just clarify because I know that in this Bill, earlier on, we had defined counties as corporations. I remember that because I had a problem with it. I also want the Minister to confirm from his people whether when we are talking about county corporations, we are also talking about a government linked corporation, a county corporation and the county itself is considered as a corporation. That is a little confusing because you would not be clear when you are talking about the county, the corporation or a different linked company. Maybe while he is seeking clarification from his team, he also needs to get a clarification in relation to that.

Mr. Shakeel: On a point of information, Mr. Temporary Deputy Chairman, Sir.

The Temporary Deputy Chairman (Mr. Ethuro): Who are you informing, hon. Shakeel?

Mr. Shakeel: I would like to inform Mrs. Odhiambo-Mabona.

The Temporary Deputy Chairman (Mr. Ethuro): Mrs. Odhiambo-Mabona, would you like to be informed by your good neighbour from Kisumu City?

Mrs. Odhiambo-Mabona: Mr. Temporary Deputy Chairman, Sir, of course, I am willing since I was just seeking clarification.

Mr. Shakeel: Mr. Temporary Deputy Chairman, Sir, when we were looking at this we were specifically thinking about certain water corporations like the Kisumu Water and Sewerage Company (KIWASCO) in Kisumu. The same applied to Nairobi and others. If you were in Kisumu County, the County Link Corporation would be KIWASCO. So, the county government would not delink itself totally from the KIWASCO or the Turkana Water and Sewerage Company. That was our intention. That is why we said county corporations but I stand guided.

The Temporary Deputy Chairman (Mr. Ethuro): Order, Mr. Shakeel so that I may also inform you. The one in Turkana is called “The Lodwar Water and Sewerage Company (LOWASCO).

Ms. Karua: Mr. Temporary Deputy Chairman, Sir, I have come across the definition of a “county corporation” and it means a public corporation within a county established by an Act of Parliament such as those water companies or county legislation. So, the county can also establish its own corporations. So, it is clear that the county can have its own corporation or a county linked where they share with other entities.

The Temporary Deputy Chairman (Mr. Ethuro): Is that definition coming from the same Bill?

Ms. Karua: Yes, it is from the Bill, Mr. Temporary Deputy Chairman, Sir.

The Minister for Finance (Mr. Githae): Mr. Temporary Deputy Chairman, Sir, I was going to say that the amendment I proposed is correct because if you look at the definition given on page 186, you will see that it makes a distinction between a county corporation and a county-linked corporation. So, my amendment is correct.

The Temporary Deputy Chairman (Mr. Ethuro): Yes it is valid.

Mrs. Odhiambo-Mabona: Mr. Temporary Deputy Chairman, Sir, I am happy with the clarification that Ms. Karua has raised but I had raised a third one where I was also seeking information. We have classified the county as a corporation in this Bill. So, I do not know whether that was corrected. I cannot remember the section but I remember that when I was contributing, I raised it. We talked about the county itself as a corporation.

Ms. Karua: Mr. Temporary Deputy Chairman, Sir, the county is a government set by the Constitution. So, no other definition can make anything else than a second level of government established by the Constitution. So, if there is any such definition it will be null and void and I have not seen it.

The Minister for Finance (Mr. Githae): Mr. Temporary Deputy Chairman, Sir, I can confirm that a county government is not a county corporation. That is not there.

The Temporary Deputy Chairman (Mr. Ethuro): Even if it were to be there, hon. Odhiambo-Mabona, it would be offensive to the Constitution; you know it would suffer instant demise.

(Question, that the words to be left out be left out, put and agreed to)

(Question, that the words to be inserted in place thereof be inserted, put and agreed to)

(Clause 185 as amended agreed to)

(Clause 186 agreed to)

Clause 187

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

Clause 187 (2) (g)

THAT Clause 187(2)(g) be amended by deleting the words “of the Commission on Revenue Allocation”..

Clause 187 (2) (h)

THAT Clause 187(2)(h) of the Bill be amended by deleting the words “Cabinet Secretary” in between the word “the” and “in” and replacing them with the words “Deputy President” so as to read as follows:-

187(2)(h)“Any other matter which the Deputy President in consultation with other Council members may decide. ”

Clause 187(5)

THAT Clause 187(5) of the Bill be amended by deleting the words “Cabinet Secretary” in between the words “the” and “shall” and replacing them with the words “Deputy President” so as to read as follows:-

187 (5)“The Council shall meet at least twice a year and the Deputy President shall decide the time and agenda for the meetings of the Council in consultation with other members of the Council.”

Mr. Temporary Deputy Chairman, Sir, we are basically replacing the words “Cabinet Secretary” with the words “Deputy President” for consistency purposes, because he will be the one in charge of the Council.

(Question of the amendment proposed)

(Question, that the words to be left out be left out, put and agreed to)

(Question, that the words to be inserted in place thereof be inserted, put and agreed to)

(Clause 187 as amended agreed to)

(Clauses 188 and 189 agreed to)

Clause 190

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

THAT, Clause 190 be amended in subsection (2) by deleting all the words appearing after the words “the Constitution”.

This is just cleaning up.

(Question of the amendment proposed)

(Question, that the words to be left out be left out, put and agreed to)

(Clause 190 as amended agreed to)

(Clause 191 agreed to)

Clause 192

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

THAT Clause 192 of the Bill be amended by deleting the word “an” in between the words “established” and “Accounting” and replacing it with the word

“a” and inserting the words “Public Sector” in between the words “an” and “Accounting” so as to read as follows:-

192“There is established a Public Sector Accounting Standards Board which shall perform the functions set out in this part.”

Mr. Temporary Deputy Chairman, Sir, this, again, is basically cleaning up.

(Question of the amendment proposed)

(Question, that the words to be left out be left out, put and agreed to)

(Question, that the words to be inserted in place thereof be inserted, put and agreed to)

(Clause 192 as amended agreed to)

Clause 193

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

THAT Clause 193 be amended-

(a) in subclause (1) by—

(i) inserting the words “Public Sector” immediately before the word “Accounting”;

(ii) deleting the words “the Cabinet Secretary and”;

(b) by deleting subclause (1)(e) and substituting therefor the following new subclause-

“(1)(e) the Institute of Certified Public Accountants of Kenya”;

(c) by deleting subclause (1)(i) and substituting therefor the following new subclause-

“(1)(i) the Institute of Certified Public Secretaries of Kenya”;

(d) by inserting the following new subclause immediately after sub-clause

(1)-

“193 (1A) The Cabinet Secretary shall nominate a chairperson of the Board from members appointed under subsection (1).”

(e) in subclause_(1)(c) by inserting the words “and Economic” after the word “Budget”;

(f) by inserting the following new subclause immediately after subclause (1)-

“(1A) Members of the Board shall serve on a part-time basis.”

(g) in subsection (2) by deleting all the words appearing after the words “their nominees are” and substituting therefor the words “certified members in good standing of a professional body for accountants recognized by law in Kenya.”

Mr. Temporary Deputy Chairman, Sir, I would also like to bring to the attention of the House a few typos. I will start with Clause 193(1)(a) which states in part: “The Cabinet Secretary

shall nominate---” It should actually read: “The Cabinet Secretary shall appoint”. It is not “nominate”. So, I am proposing a further amendment that we replace the word “nominate” with the word “appoint”.

Again, where it states: “a Chairperson of the Board from the members---” instead of the word “appointed”, I want to replace it with the word “nominated.” So, Clause 193(1)(a) should read thus: “The Cabinet Secretary shall appoint a Chairperson of the Board from the members nominated under Section 1.”

In Clause 193 (g) which reads thus: “in subsection (2) by deleting all the words appearing after the words “their nominees are” and replacing them with the words “certified members in good standing of a professional body---”

We had agreed that we would enlarge it so that we say, “in accounting or finance.”

Mr. Temporary Deputy Chairman, Sir, that after the words “professional body” and before “recognised” we add “in accounting or finance” instead of “accountant”.

(Question of the amendment proposed)

Mr. Shakeel: Mr. Temporary Deputy Chairman, Sir, I support and I confirm that those amendments as the hon. Minister has pointed out were the ones that were agreed on in the Committee.

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

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

(Clause 193 as amended agreed to)

Clause 194

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

Clause 194(1)(c)

THAT, Clause 194(1)(c) of the Bill be amended by deleting the words “*relevant audit law*” and replacing them with the words “*this Act*” so as to read as follows:-

194 (1) (c) “Prescribe internal audit procedures which comply with this Act.”

Clause 194(2)(a)

THAT, Clause 194(2)(a) be amended by deleting the words “best domestic and” so as to read as follows:-

194(2)(a) “International accounting practices; and”

However, on Clause 194(2)(a), I propose that we insert the word “best”. We had agreed that it is not just “international accounting practices” but should be “best international accounting practices”. So, I am proposing a further amendment that we add the word “best” before the word “international”.

(Question of the amendment proposed)

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

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

(Clause 194 as amended agreed to)

Clause 195

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

THAT, Clause 195 be deleted and replaced with the following new clauses—

Vacation
of office
Board
members.

- 195.** A member of the Board, other than an *ex officio* member, may—
- (a) at any time resign from office by notice in writing to the chairperson;
 - (b) be removed from office if the member—
 - (i) has been absent from three consecutive meetings of the Board without the permission of the chairperson;
 - (ii) is adjudged bankrupt or enters into a composition scheme or arrangement with his or her creditors;
 - (iii) is convicted of an offence involving dishonesty or fraud;
 - (iv) is convicted of a criminal offence and sentenced to imprisonment for a term exceeding six months or to a fine exceeding ten thousand shillings;
 - (v) is incapacitated by prolonged physical or mental illness or is deemed otherwise unfit to discharge

his or her duties as a member of the Board.

Remuneration of members of the Board.	195A. The remuneration payable to members of the Board shall be determined by the Salaries and Remuneration Commission.
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Mr. Temporary Deputy Chairman, Sir, I also want to bring to the attention of the House the following typo errors: On (a): at any time resign from office by notice in writing to the chairperson;

It is not “office”. It is “board”. You are resigning from the board. So, I am further amending that instead of the word “office”, I substitute it with the word “board”

Then on (b), it should read: “Be removed from the “board” and not the “office”. So, again I am further amending that the word “office” be substituted with the word “board”.

(i) Also in (iv), we had also agreed that it reads: “he is convicted of a criminal offence and sentenced to imprisonment for a term exceeding six months or to a fine exceeding one hundred thousand shillings and not ten thousand shillings. So, I am substituting again “ten thousand shillings” with “one hundred thousand shillings.” Lastly on 195(b), we had also agreed that Clause 195(B)(5) to be inserted so as to read as follows: “Ceases to be a member by virtue of the withdrawal of his or her nomination to the board by the nominating institution.” Again, this is from experience where somebody ceases to belong to that institution but is excommunicated or has defected or he has done something but you cannot remove him from the board. So, I am proposing those further amendments.

Ms. Karua: Mr. Temporary Deputy Chairman, Sir, I just noticed that when the Minister was moving part (iv) of the amendment, he inserted the word “not” before the words “a term not exceeding” but he did not do the same to the fine part aspect. He did not introduce the same word “not”. So, I am wondering whether that amendment reads as it should.

The Minister for Finance (Mr. Githae): Yes, it is not exceeding.

Ms. Karua: Yes, but you did not indicate so while moving the amendment. So, you had better move the amendment afresh.

The Minister for Finance (Mr. Githae): Mr. Temporary Deputy Chairman, Sir, hon. Karua is right. We should put the word “not” between the words “fine” and “exceeding”.

Thank you for that observation, hon. Karua.

The Temporary Deputy Chairman (Mr. Ethuro): Minister, therefore, in part (d)(iv), where the words “exceeding” appears, there must be the word “not” before it?

The Minister for Finance (Mr. Githae): Yes, Mr. Temporary Deputy Chairman, Sir.

(Mr. Ogindo stood up in his place)

The Temporary Deputy Chairman (Mr. Ethuro): What is it, hon. Ogindo?

Mr. Ogindo: Mr. Temporary Deputy Chairman, Sir, I heard the Minister say, in respect of Clause 195(a) “resign from office” but he has now said we should replace these words using the word “Board”. That should be “the Board”.

The Minister for Finance (Mr. Githae): Mr. Temporary Deputy Chairman, Sir, at any time, it should be “resign from the Board”, and not “resign from Board”.

The Temporary Deputy Chairman (Mr. Ethuro): Order, hon. Members! There are people to clean those typos. The substantive amendment was from “the office” to “the Board”.

(Question, that the words to be left out be left out, put and agreed to)

(Question, that the words to be inserted in place thereof be inserted, put and agreed to)

(Clause 195, as amended, agreed to)

(Clauses 196, 197 and 198 agreed to)

Clause 199

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

THAT, Clause 199 of the Bill be amended by deleting the words “five years or to a fine not exceeding ten million shillings” in between the words “of” and “or” and replacing them with the words “two years or a fine not exceeding two million shillings” so as to read as follows:

199. Except as otherwise provided by this Act, a person who is found guilty of committing an offence under this Act for which no other punishment is given, that person is liable on conviction to a term of imprisonment not exceeding two years or a fine not exceeding two million shillings, or to both.”

Mr. Temporary Deputy Chairman, Sir, through this amendment, we are basically reducing the penalty. It was found to be too stiff.

(Question of the amendment proposed)

Ms. Karua: Mr. Temporary Deputy Chairman, Sir, I regret that the penalties have been made lighter, because we are coming from a background of people disobeying the law with reckless abandon. Nevertheless, for a start up, I will personally let it go.

Mr. Shakeel: Mr. Temporary Deputy Chairman, Sir, while in the Joint Committee meeting, I raised this concern because I felt that the penalties must be severe. Otherwise, they are not necessary. A fine of Kshs2 million is very little when you are messing around with a county treasury.

Therefore, I oppose this particular amendment.

Mrs. Odhiambo-Mabona: Mr. Temporary Deputy Chairman, Sir, I beg to oppose the amendment for the reason that I have been consistent about – impunity.

People think that impunity is about being taken to The Hague. In Kenya, we commit petty crimes, and we want to operate like: “We know you. You are the son of so-and-so.” That is why crime never ends in this country. When it is punishment, it is meant to be punishment. The root word is “punish”. You are supposed to feel that you have been punished.

I beg to oppose.

The Minister for Finance (Mr. Githae): Mr. Temporary Deputy Chairman, Sir, this penalty says if there is any other offence where the offence is not specified. That is why we thought it is better to reduce it. This is only for those offences where there is no specific fine. Considering even the economic circumstances, we are saying that two years or Kshs2 million should be adequate punishment instead of five years and Kshs10 million.

The Temporary Deputy Chairman (Mr. Ethuro): Order, hon. Members. We are in the Committee and you are allowed to raise your objections.

Mr. Midiwo has been on his feet. Mr. Otieno, you need to exercise more.

Mr. Midiwo: Mr. Temporary Deputy Chairman, Sir, I also rise to oppose this amendment. The stiffer the penalty, the greater the deterrent. How will we stop impunity if we think a lesser punishment is good enough? In many countries, this is an economic crime where people go to prison for life. I want to plead with the Minister, let us stop this thing once and for all so that we do not export corruption from Nairobi to the grassroots.

Thank you.

Mr. Njuguna: Mr. Temporary Deputy Chairman, Sir, this is one instance where I am not commending the Minister. Stiffer penalties must have been thought about because this amendment will now create fertile ground for the corrupt in the society.

(Applause)

The Minister of State for Public Service (Mr. Otieno): Mr. Temporary Deputy Chairman, Sir, when these clauses are inserted in the law they tend to remain un-amended for a long time. This particular draft said “not exceeding five and not exceeding 10.” We will leave it to the courts and the circumstances prevailing at that time. So, we should say; “not exceeding five and not exceeding 10.”

The Minister for Finance (Mr. Githae): Mr. Temporary Deputy Chairman, Sir, I want to withdraw my amendment. Let it remain five years and Kshs10 million.

Mr. Ogindo: Mr. Temporary Deputy Chairman, Sir, I think the Minister is being cowardly for no reason. We applied our minds to this thing and when we read this thing---

The Minister for Medical Services (Prof. Anyang-Nyong’o): On a point of order, Mr. Temporary Deputy Chairman, Sir. Is my hon. friend really in order to use a word like “cowardly” which I believe is not parliamentary with regard to the hon. Minister for Finance?

The Temporary Deputy Chairman (Mr. Ethuro): He did not refer to the Minister as a coward. He just said he was acting in some cowardly manner which to me is, really, a difference of opinion.

Proceed, Mr. Ogindo.

Mr. Ogindo: Mr. Temporary Deputy Chairman, Sir, I was saying the whole amendment reads as follows:-

“Except as otherwise provided by this Act, a person who is found guilty of committing an offence under this Act for which no other punishment is given, that person is liable to a

conviction of a term of imprisonment not exceeding two years and a fine not exceeding Kshs2 million.”

We have made provisions for punishment for offences that are there.

The Temporary Deputy Chairman (Mr. Ethuro): Order, hon. Members. We will assume that the amendment has been withdrawn by the Minister.

(Applause)

The difficulty with the Chair is that since the amendment had been proposed the natural thing is to move that way. So, if it has been withdrawn I have to restart the process; I think it is neater that way.

*(The proposed amendment to Clause 199 by
Mr. Githae was withdrawn)*

(Clause 199 agreed to)

*(Clauses 200, 201, 202, 203, 204,
205, 206 and 207 agreed to)*

Clause 208

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

THAT Clause 208 of the Bill be amended by inserting the following new paragraph immediately after paragraph (e)-

“(f) the External Loans and Credits Act.”

(Question of the amendment proposed)

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

(Clause 208 as amended agreed to)

Clause 209

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

THAT Clause 209 be deleted.

(Question of the amendment proposed)

Ms. Karua: Mr. Temporary Deputy Chairman, Sir, I support the amendment by the Minister. The clause would have been very oppressive.

The Temporary Deputy Chairman (Mr. Ethuro): Order, Martha Karua! What does that mean?

Ms. Karua: Mr. Temporary Deputy Chairman, Sir, I am agreeing with the deletion because the clause, if it were left to stand, would be totally oppressive.

The Temporary Deputy Chairman (Mr. Ethuro): I take it at its face value.

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

(Clause 209 deleted)

(Clauses 210 and 211 agreed to)

(First Schedule agreed to)

Second Schedule

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

THAT the Second Schedule be amended by inserting the following new paragraphs immediately after paragraph 13—

“14. For the period in between the first general election under the Constitution and the end of the first financial year following the first general election, cash disbursements to County Governments shall be on a quarterly basis and in accordance with the transfer of functions to County Governments”.

15. On the commencement of this Act, the public service offices of the Accountant General and the Internal Auditor General established under the Government Financial Management Act, 2004 (now repealed) shall continue in existence as offices of the national Treasury established under section 11(2)(c) of this Act”.

16. Despite the repeal of the External Loans and Credit Act (Cap. 422) by this Act, the debt limit set by the National Assembly as in existence at the commencement of this Act shall continue in effect until such time as the National Assembly sets another debt limit under section 50(2) of this Act.”

These are basically transitional provisions, so that existing offices continue in existence until new ones are created. Disbursements to counties will be on a quarterly basis until otherwise specified.

(Question of the amendment proposed)

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

(Second Schedule as amended agreed to)

(Title agreed to)

(Mr. Shakeel stood up in his place)

The Temporary Deputy Chairman (Mr. Ethuro): Order, Mr. Shakeel, we were at the voting stage and you could either vote for or against.

Clause 1

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

THAT, Clause 1 be amended in subclause (1) by deleting the word “Financial” and substituting therefor the word “Finance”
Again, this is cleaning up; substituting “finance” with “financial”

(Question of the amendment proposed)

(Mr. Shakeel stood up in his place)

The Temporary Deputy Chairman (Mr. Ethuro): Mr. Shakeel, you need to be alert. You are going to be in trouble with the Chair over nothing.

Mr. Shakeel: Mr. Temporary Deputy Chairman, Sir, I support.

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

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

(Clause 1 as amended agreed to)

The Minister for Finance (Mr. Githae): Mr. Temporary Deputy Chairman, Sir, I beg to move that the Committee doth report to the House its consideration of The Public Financial Management Bill and its approval thereof with amendments.

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Lesrima): Mr. Temporary Deputy Chairman, Sir, I support.

(Mr. Shakeel consulted loudly)

The Temporary Deputy Chairman (Mr. Ethuro): But you will remember that the amendment to Clause 1 was that that it be amended by deleting the word “financial” and substituting therefor the word “finance”.

Mr. Shakeel, the Chair is more alert than the Back Bench. I am the Front Bench combined.

(Question proposed)

(Question put and agreed to)

(The House resumed)

[Mr. Deputy Speaker in the Chair]

**REPORT, CONSIDERATION OF REPORT
AND THIRD READING**

THE PUBLIC FINANCIAL MANAGEMENT BILL

Mr. Ethuro: Mr. Deputy Speaker, Sir, I beg to report that the Committee of the whole House has considered the Public Finance Management Bill, Bill No.7 of 2012, and approved the same with amendments.

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

The Assistant Minister, Ministry of State for Provincial Administration (Mr. Lesrima): Seconded.

(Question proposed)

Ms. Karua: Mr. Deputy Speaker, Sir, I just want to congratulate the Committee and the Minister for this work. Those amendments almost amount to re-writing the Bill. They could not have been managed without co-operation. We have looked at them and they have strengthened the Bill. So, I beg to support.

The Minister for Finance (Mr. Githae): Mr. Deputy Speaker, Sir, I really want to put on record my appreciation for the work that was done by the joint Committees. They sat late at night, very early in the morning, on weekends, on Sunday to have been able to come up with these amendments. You can see if there were to be arguments and voting on the Floor of the House, it would have taken us more than a week to finalize this very important Bill.

Therefore, my thanks really go to the Chairmen of the two Committees and the Members for doing such a wonderful job. I think this shows that this is the way forward. It is for the Executive to discuss with the Committees and agree. If we do that, then this House stands to benefit. I, therefore, thank you.

Mr. Shakeel: Mr. Deputy Speaker, Sir, this Bill is a far cry from what was put to us over a year ago. There was a very big difference between what local authorities had in mind and what the Ministry had in mind.

We went through a lot of antagonisms and - for lack of a better word - fights on this issue. I am very pleased that, at the end of this, there was a lot of co-operation and the Bill has been strengthened. As hon. Karua has said, there were nearly 200 amendments and that is literally the whole Bill.

I want today to recognize - as the Minister has recognized the Committees - that for the first time, we are now finding the Ministry of Finance much more amenable to us. It is able to listen to what we are saying. I want to commend the whole team, the Permanent Secretary and the Minister for being accommodative and actually listening to us. As a result, we have come up with a very good Bill.

Mr. Ethuro: Mr. Deputy Speaker, Sir, I also wish to commend the hon. Minister for this work, and also the Committees.

Mr. Deputy Speaker, Sir, I did not want to speak, but the Minister provoked me by saying that he has found value in working with the Committees. I was here when the Committees and Members were pleading with the Government and the Minister to allow time so that these views can be incorporated. So, I think the lesson that the Minister should take to the Cabinet is that the House is always more than ready and willing to do the job they cannot do. I think if you only convey that particular message, we will be happier.

But more fundamentally, since I came to this Parliament, the Government and the Treasury has always talked about the organic law we are supposed to be bringing. My friend Martin who joined me after ten years, can bear me out. Even in this Parliament, we are being told: "We are bringing the law." They have never brought that law until the Constitution forced all of us to come with this particular one. So, we want the Treasury to realize that there is a new kid on the block and we must listen to the Constitution and abide by it. Thank you.

The Minister for Trade (Mr. Wetangula): Mr. Deputy Speaker, Sir, first, I want to congratulate the Minister for Finance for his tremendous industry and capacity to listen to this House and appreciate what it says.

(Applause)

Mr. Deputy Speaker, Sir, it also demonstrates the bipartisan approach to some of these fundamental issues that we bring to this House that makes things work a lot better, easier and makes the country move forward.

Lastly, Mr. Deputy Speaker, Sir, I think this is a clear demonstration of the positive contribution of the Committee system to our legislative process. This House should also record some thanks to those of us who introduced the Committee system to this Parliament. That is the late Godana, Julius Sunkuli, Henry Obwocha, Bishop Kimani and I. I cannot remember the last person. These hon. Members in the Seventh Parliament painstakingly worked to introduce the Committee system. This system is doing so much in improving legislation.

Lastly, Mr. Deputy Speaker, like I have always said, the quality of legislation hardly lies on the debate on the Floor. It lies on the draft and what is done in the Committees. We have shown so, indeed, in doing this.

Thank you, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: Hon. Wetangula, you have forgotten the hon. Martha Karua in that Seventh Parliament---

The Minister for Trade (Mr. Wetangula): Mr. Deputy Speaker, Sir, the Committee that introduced the Committee system did not include Ms. Karua. It was chaired by hon. Godana. Other members were messrs. Sunkuli, Obwocha, Bishop Kimani and I. Mr. Werunga was the Committee's Clerk.

Ms. Karua: On a point of order, Mr. Deputy Speaker. He is correct; I was not part of the Committee. But I am disputing the fact that they introduced the Committee system in Parliament. The Committee system used to exist, but it was moribund. They actually did improve it, but they did not introduce it.

(Laughter)

Mr. Deputy Speaker: The Chair remembers the efforts by, among others, hon. Prof. Anyang'Nyong'o, the current Chair and a number of very powerful voices those days in the Opposition on the need to revive the Committee system, including putting it in the public domain. I, as the Chair, contributed a number of articles. The Chair should not say! And, of course, Ms. Karua!

(Laughter)

The Minister for Trade (Mr. Wetangula): But you remember the Godana Committee.

Mr. Deputy Speaker: I remember it very well.

But, nonetheless, this is to say we all did a good job.

Mr. Njuguna: Thank you, Mr. Deputy Speaker, Sir, let me also join my other colleagues to very strongly hail the Minister, together with his entire staff, for their thoroughness and diligence in the production of this Public Financial Management Bill. We should not forget the Committee Members who were also very much dedicated and accommodative. I also noted that they were very flexible on certain critical amendments.

The Minister for Medical Services (Prof. Anyang'Nyong'o): Mr. Deputy Speaker, I would like to add my voice to the compliments given to both the Minister and the Committee. This Committee demonstrates the fact that if we work in a bipartisan manner and if the Committee system does not see the Executive as an adversary, but, instead, as a partner, we can achieve a lot. I think what has been missing in certain Committees is the interpretation of the Committee system as being complimentary to the making of laws to the Executive, rather than being in an adversarial relationship to the Executive. I think this is a very good beginning and we should sustain it.

But, Mr. Deputy Speaker, one last plea; when Parliament sits late, as the Minister of Medical Services in charge of people's health, I would like to appeal to Parliament, as an institution, to provide dinner to hon. Members of Parliament.

(Applause)

Parliament is currently providing very unhealthy food to hon. Members outside here. *Mandazi* and tea are not very good things to feed to hon. Members who are sitting late.

(Applause)

I would advocate for fresh juice and fruits and then dinner, so that hon. Members can keep healthy. If you continue giving people tea here - *mandazi* and tea - I assure you that the rate of getting diabetes in this Parliament will increase.

The Assistant Minister for Lands (Mr. Bifwoli): Thank you, Mr. Deputy Speaker, Sir, for allowing me to add my voice. I want to commend the Committees. I also want to assure them that this is the only Minister for Finance who has ears. Others had no ears.

(Laughter)

Mr. Ogindo: Mr. Deputy Speaker, Sir, I want to thank the Minister for his consultative approach to this very important and delicate issue, but I want to regret one little thing. I lost my

amendment which I was very passionate about. But in the spirit of give and take, I will take solace in the amendment in Clause 46(1A.)

Mr. Deputy Speaker, Sir, having said that, let me take this opportunity to commend Members of the Committee on Finance, Planning and Trade and the Budget Committee for having painstakingly gone through this very huge Bill. I want to thank, particularly, the Member for Nambale, hon. Okemo; Member for Kisumu Town East, hon. Shakeel; Member for Maragua, hon. Mbau; Member for Bura, Dr. Nuh and the Treasury team led by Dr. Thuge, who for two days running, were on this Bill, from 8.00 a.m. to 8.00 p.m. I will not forget Members of the House, who have continued to be in this House up to this late, for a worthy job. I want to also congratulate my Chief Whip, hon. Midiwo, who technically came and left. All the same, I think that this is a big achievement for the House.

Thank you.

Mr. Deputy Speaker: Hon. Members, technical appearances are allowed in Parliamentary business. I remember it used to be a big issue in the 7th Parliament.

(Laughter)

(Question put and agreed to)

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

The Minister of State for Public Service (Mr. Otieno) seconded.

(Question proposed)

(Question put and agreed to)

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

ADJOURNMENT

Mr. Deputy Speaker: Hon. Members, the House now stands adjourned until tomorrow, Thursday, 28th June, 2012, at 9.00 a.m.

The House rose at 7.50 p.m.