

NATIONAL ASSEMBLY

OFFICIAL REPORT

Thursday, 16th February, 2012

The House met at 2.30 p.m.

[Mr. Speaker in the Chair]

PRAYERS

PAPERS LAID

The following Paper was laid on the Table:-

The Report of the Committee on Implementation for the year 2011 including the Report of Faza Island in Lamu and on re-opening of Pan African Paper Mills, Webuye.

(By Mr. Mwiru)

Mr. Speaker: Hon. Members, Mr. Mwiru deserves commendation because that is the first Report from the Committee on Implementation.

(Applause)

Mr. Imanyara: And the Members also!

Mr. Speaker: And of course the Members of that Committee. I am being reminded by the hon. Member for Imenti Central. They are appreciated.

(Resumption of Papers Laid)

Financial Statement of Municipal Council of Mombasa for the year ended 30th June, 2008 and the certificate thereon by the Controller and Auditor-General.

Financial Statement of Municipal Council of Eldama Ravine for the two years period ended 30th June, 2009 and the certificate thereon by the Controller and Auditor-General.

Financial Statement of Town Council of Molo for the two years period ended 30th June, 2009 and the certificate thereon by the Controller and Auditor-General.

Financial Statement of Municipal Council of Garrissa for the year ended 30th June, 2009 and the certificate thereon by the Controller and Auditor-General.

Financial Statement of Municipal Council of Mombasa for the year ended 30th June, 2009 and the certificate thereon by the Controller and Auditor-General.

Financial Statement of County Council of Keiyo for the year ended 30th June, 2010 and the certificate thereon by the Controller and Auditor-General.

Financial Statement of County Council of Isiolo for the year ended 30th June, 2009 and the certificate thereon by the Controller and Auditor-General.

Financial Statement of County Council of Marsabit for the year ended 30th June, 2009 and the certificate thereon by the Controller and Auditor-General.

Financial Statement of the Town Council of Rumuruti for the two years ended 30th June, 2009 and the certificate thereon by the Controller and Auditor-General.

Financial Statement of Town Council of Iten-Tambach for the year ended 30th June, 2010 and the certificate thereon by the Controller and Auditor-General.

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

NOTICE OF MOTION

ADOPTION OF THE REPORT OF COMMITTEE ON IMPLEMENTATION

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

THAT, this House adopts the report of activities of the Committee on Implementation for the year 2011 including reports on Faza Island in Lamu and re-opening of Pan African Paper Mills, Webuye laid on the Table of the House on 16th February, 2012.

QUESTIONS BY PRIVATE NOTICE

AMOUNT OF MONEY USED IN LIVESTOCK OFF TAKE PROGRAMME

(Mr. Sirat) to ask the Minister for Livestock Development:-

(a) How much money has been used in the livestock off take programme since 2008?

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

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

Mr. C. Kilonzo: On a point of order, Mr. Speaker, Sir. I think this Question was deferred because there was a dispute by the Members of the relevant Committee and this matter was awaiting a ruling by the Chair.

CONSIDERED RULING

MR. SIRAT'S QUESTION ON LIVESTOCK OFF-TAKE PROGRAMME SHOULD BE ANSWERED

Mr. Speaker: It was deferred to today for direction. If that is the reason why the hon. Member is not here then, yes, I would give directions now.

Hon. Members, Question No.1 by Private Notice by the hon. Member for Wajir South is a Question that has been pending before the House since 13th December, 2011 when it first

appeared on the Order Paper. It came again on the Order Paper yesterday and as the Question was asked, the hon. Member for Mumias rose on a point of order to claim that this Question cannot be transacted because it would be in breach of the provisions of Standing Order No.43 and in particular paragraph 15.

Whereas it is true that the provisions of the Standing Order No.43, paragraph 15 would apply to preclude the House from transacting a Question that is otherwise pending before a Parliamentary Departmental Committee or Select Committee is true, in the circumstances of this Question, that Standing Order will not apply to bar the hon. Member from asking the Question on the following grounds:-

That this Question may very well have been prompted as a result of drought subsequent to the drought that was the subject of the matter in issue and that was being inquired into by the Committee on Agriculture. As a matter of fact, I have perused the record of the House, in particular, the HANSARD and the proceedings of the Committee and I have found that the last time that Committee transacted any business whatsoever related to this matter was 17th February, 2011. Since then, no action has been taken by the Committee. In those circumstances, therefore, one cannot contend that there are any active proceedings before the Committee that would bar the House from proceeding with this matter. So, I direct that the Question be asked and that the Minister be prepared to answer the Question. I further direct that the Question, therefore, appears on the Order Paper on Tuesday next week to be answered.

I also want to take this opportunity to advise or urge Committees that when you take on a matter, please, try and expedite it. Mr. Mututho, hon. Member for Naivasha, please note, you cannot keep a matter pending for a year. If it is a matter that was urgent and of national importance which therefore prompted your action to make inquiries it would then not help because by the time you file a report, the matter maybe very well be spend or that your report would not be useful for purposes of remedial action. So, please, all Committees note. It is not just the Committee on Agriculture but also the Public Accounts Committee (PAC), hon. Member for Ikolomani. It also applies to the Committee on Justice and Administration; the hon. Member for Kisumu Town West and the rest of the Committees.

Please note!

Mr. Mututho: On a point of order, Mr. Speaker, Sir. I want to thank you for your ruling but may it please you that our reports have been pending with your secretariat for over three or five months and yet that report has effectively been concluded.

Mr. Speaker: Order, hon. Member for Naivasha! Just be relevant to this matter! I do not think that is going to help you for me to belabour this matter. I do not want to rub it in and I would rather leave it there.

The Minister for Livestock Development (Mr. Kuti): Mr. Speaker, Sir, I would like to inform the House that we are ready to answer the Question. We were ready on Tuesday but there was that point of order. We are ready even today and we will be ready on Tuesday.

Mr. Speaker: Thank you, Mr. Minister.

Next Question is by hon. Member for Gichugu!

ATTACK ON HOME OF MEMBER FOR LARI

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

(a) What action has the Minister taken following the attack on the home of

the Member for Lari and destruction of his property on the night of 4th/5th February, 2012?

(b) What is the Minister doing to arrest incidents of political thuggery and intolerance generally in the entire country?

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

Immediately the incident occurred, the Officer Commanding Police Division (OCPD), Lari led a team of police officers to the scene and investigations commenced. Personnel from the Crime Scene Support Services from the Criminal Investigation Department (CID) headquarters and the Inspector of Motor Vehicles were called in to help in the investigations and samples which included a matchbox found on the driver's seat were collected for analysis.

Eight persons including four family members, a chief, an assistant chief and two police officers have so far recorded statements with the police. However, Mr. Njuguna and one of his daughters whose statements are considered critical have declined to record statements with the police.

A police inquiry file No.2/2012 has been opened at Lari Police Station and investigations are ongoing.

Following the incident, both foot and mobile patrols by security officers have been enhanced including deploying police officers in the hon. Members compound. I have deployed four CID officers from Nairobi to be in the compound of Mr. Njuguna, day and night.

Mr. Speaker, Sir, as we approach the general elections, police have intensified patrols countrywide and aspiring politicians have been requested to always inform the police of any intended political activity early enough to enable the police to protect them adequately. In addition, the following measures have been put in place:-

(i) Security agencies have intensified collection of intelligence with a view to forestall any attacks during this period of increased political activities.

(ii) Peace Committees through the provincial administration are being reactivated to preach peace and political tolerance during this period and in future.

(iii) Community policing is being strengthened to help restore incidences of intolerance and thuggery in the country.

(iv) Further investigations will be carried out on any incident of thuggery with a view to arrest and prosecute any persons found culpable of such acts.

Ms. Karua: Mr. Speaker, Sir, I must say that I am very disappointed with the answer and the casual manner the Assistant Minister is treating this matter. I have information that the hon. Member has not at all declined to record a statement and nobody has approached him so far. Since four members of his family have already recorded statements and they have already given indication of the identities of the people who attacked, what has the Assistant Minister or the Government done about it? Has there been any arrest, taking into consideration the fact that the hon. Member had, in fact, informed the DC of his area who is the chief of the security committee of the imminent attack on his home? Of what good is it to take police to his home after the fact?

Mr. Ojode: Mr. Speaker, Sir, this is a very sensitive matter and we are not handling it casually as it is being alleged. This is a case that involves one of my colleagues. We have said that people should be recording statements, especially those who are coming from the hon. Member's place. So far, the hon. Member's beloved wife, Beth Wanjiru Njuguna has recorded a statement with us. Josphat Waweru Njuguna, the hon. Member's son and Lucy Wairathi Njuguna, the hon. Member's daughter have also recorded statements. Patrick Njoroge John, the hon. Member's employee, who was in the compound when the incident happened has also

recorded a statement. Kathi Kamau, the Assistant Chief of Kerega Sub-location has also recorded a statement.

(Several hon. Members stood up in their places)

Mr. Speaker: Order! We are just trying to listen to the Assistant Minister!

Mr. Ojode: So, Mr. Speaker, Sir, what we were saying---

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

Mr. Speaker: Order! Let us hear the point of order from the hon. Member for Lari.

Mr. Njuguna: Mr. Speaker, Sir, to me this is a very grave matter. Is the Assistant Minister in order to mislead the House that my wife is Wanjiru while my wife was married through customary marriage and christened thereafter as Beth Wanjiku? I do not have a second wife!

(Laughter)

Mr. Speaker, Sir, is the Assistant Minister also in order to allege that I never made a report whereas on Monday, 7th February, 2012, I reported at the CID Headquarters, Nairobi, met a senior officer, Mr. Muthusi, and recorded a serious statement on this insecurity matter?

(Dr. Nuh stood up in his place)

Mr. Speaker: Order! I would like the Assistant Minister to respond to that point of order first.

Mr. Ojode: Mr. Speaker, Sir, as I was coming to this House, I was briefed by the OCPD of Lari who said that they were awaiting to have the statement of the area hon. Member.

(Several hon. Members stood up in their places)

Mr. Speaker: Order, Mr. Assistant Minister! Please, address the House!

Mr. Ojode: Mr. Speaker, Sir, the information I have is that his statement is quite critical in finding who actually went to the compound of the hon. Member and caused mayhem. If, indeed, it is true that he did not record a statement within Lari and he did it somewhere else, then that is crucial information and I will have to use that in order for the Lari Police Station to have the statement from them.

Mr. Speaker: Order! Mr. Assistant Minister, you have not responded to all the issues raised by the hon. Member.

Mr. Ojode: Mr. Speaker, Sir, I have a list of those who have already recorded a statement. The names I have been given here are Beth Wanjiru Njuguna who is the hon. Member's wife. I will not know whether that is the real name of the hon. Member's wife or not, but I have to check with the hon. Member if it is the real name of the wife.

Mr. C. Kilonzo: On a point of order, Mr. Speaker, Sir. I have two issues. The hon. Member has clearly stated that the name which is mentioned there is not the wife. So, if the Government or the police do not know even who the wife is, how are they expected in the first place to trace the culprits?

(Applause)

Mr. Speaker, Sir, on the second point of order, where is it in law that for you to investigate, the victim must record a statement? Supposing the hon. Member had actually been killed or murdered, does it mean that the famous Kenya Police Force would have no means of investigating that matter?

Mr. Ojode: Mr. Speaker, Sir, let me just respond to that---

Mr. Speaker: Order! Order! You do not have the prerogative to determine which one you will respond to!

(Dr. Nuh stood up in his place)

The hon. Member for Bura, do you want to supplement that?

Dr. Nuh: On a point order, Mr. Speaker, Sir. Is the Assistant Minister in order to evade answering Ms. Karua's question? Ms. Karua said that four family members of hon. Njuguna have recorded statements and have intimated to the police who the likely attackers were. She asked; since then, what have they done, as a police force, to arrest those who have been implicated apart from asking for hon. Njuguna's statement?

Mr. Speaker: Order! The Member for Bura although that passes as a valid point of order, the point at which you have raised it--- You caught my eye, yes, because I thought you were going to enrich the point of order raised by the hon. Member for Yatta. However, you have addressed a different aspect of the matter which, obviously, you would have caught my eye to do separately away from that by the Member for Yatta. So, just, please, note that. That is how we transact Business here, such that we do not mix up matters. But I want the Assistant Minister's response. Let me start with the Assistant Minister's response first.

Mr. Ojode: Mr. Speaker, Sir, first of all, the preliminary investigation or the leads which we have pinpoint to two theories, although we are still investigating the matter. One, they have not yet found those who committed this offense, but the investigation is still going on. The second theory is that it was stage managed.

Hon. Members: No! No! Shame! Shame! Shame!

Mr. Ojode: Yes! Mr. Speaker, Sir, I have said and I am repeating that as of now, we have some leads. One is that, if at all there were those who went into the compound--- This is because the gate was not tampered with and the compound has got live fence which is about 12 meters high. Our security officers are camping there and they have said the following---

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

(Several hon. Members stood up in their places)

Mr. Speaker: Order, hon. Members! Order, the Member for Imenti Central! Order, the Member for Lari! Please, calm down! Let us not get very emotional about this. I know it is a critical matter, but if you contain yourself, you will still address this matter, hon. Njuguna.

Proceed on your point of order!

Mr. Njuguna: Thank you, Mr. Speaker, Sir. Is the Assistant Minister in order to mislead this august House that my compound is fenced with a stone wall---

Mr. Ojode: I did not say that. I said live fence.

Mr. Njuguna: Mr. Speaker, Sir, my compound is not fenced in such a manner that if you wanted to jump, you would jump because this is a hedge that covers the home. Therefore, the information that is coming from the mouth of the Assistant Minister to me is misleading.

Mr. Speaker: Mr. Assistant Minister, respond, please! Order!

Mr. Ojode: Mr. Speaker, Sir, I will always brave the bashing because I am here to say what I have been given from the ground. I am saying and I have to repeat that we are investigating the matter. This is a very sad incident. For an hon. Member to be attacked or for people to go into the compound of an hon. Member - a legislator--- I had to send detectives there to investigate the matter to the conclusion. We will get the people who allegedly camped or jumped into the compound of the hon. Member. But I would also like to plead with my colleagues that let us investigate this matter to its logical conclusion in order for me to arrest anybody who was involved. It is not a question of saying shame, shame! We are saying that it is so shameful for an hon. Member of Parliament to be attacked in this early ages of the 21st Century. So, I want to plead with them---

(Mr. Imanyara stood up in his place)

Mr. Speaker: What is it, the hon. Member for Central Imenti?

Mr. Imanyara: Mr. Speaker, Sir, one cannot possibly be seen to be making investigations when he cast aspersions on an hon. Member of Parliament. Given the circumstances under which this attack was perpetrated, could the Assistant Minister tell us why he has found it necessary to place police or CID officers in the compound if, indeed, there has been no report and if, indeed, he cannot investigate without the so-called statement?

Mr. Ojode: Mr. Speaker, Sir, I did mention here---

(Dr. Nuh stood up in his place)

Mr. Speaker: Order! Let us hear the Assistant Minister's response!

Mr. Ojode: Mr. Speaker, Sir, I did mention here that this is a very sensitive matter and the reasons why I was bringing the detectives from Nairobi is to investigate this matter in order for us to know who actually jumped over the fence, because the gate was not tampered with. So, the police officers are patrolling that area. The Questioner will confirm that, indeed, the detectives are within the compound 24 hours!

Mr. Mututho: On a point of order, Mr. Speaker, Sir. Is the Assistant Minister in order to continuously belittle this particular issue, knowing too well that in the past, there have been political murders in that constituency and within the neighborhood of hon. Njuguna's compound? How long will he take to see the seriousness of the fact that if hon. Njuguna – and God forbid – was in the compound, he would have been killed and we would be dealing with a more serious issue?

Mr. Ojode: Mr. Speaker, Sir, I take this matter seriously and that is why I have posted some detectives within that area. I have also beefed up security within the chief and DO's camps which are just within that area. Sooner or later, we will know the truth that, yes, people jumped over and they are So and So.

Mr. C. Kilonzo: On a point of order, Mr. Speaker, Sir. Is the Assistant Minister in order to cast aspersions on an hon. Member by purporting that this matter was stage-managed? The Assistant Minister has indeed, confirmed that investigations are still going on. He has also

confirmed that they do not even know his wife. He has stated that statements have not been recorded while they have been recorded. Is he in order to cast aspersions when already the information that he has is misleading?

Mr. Ojode: Mr. Speaker, Sir, we are dealing with a very touchy issue here. I have said that there are two theories which are coming up on the preliminary report. Preliminary is a report which we are gathering at that particular time. It is usually called just in time (JIP). The gates were not tampered with. The detectives are saying that if the gates were not tampered with and the fence is very high, this could have been a stage managed thing.

An. hon. Member: Withdraw!

Mr. Ojode: Who is this man?

Mr. Speaker: Order, Mr. Assistant Minister!

Mr. Ojode: Mr. Speaker, Sir, hon. Njuguna is a good friend of mine and I would want a situation---

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

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

Mr. Speaker: Order, hon. Njuguna! Order, hon. Member for Bura! Really, we must transact this matter in a manner that is productive. So, let us hear the Assistant Minister so that we can move to conclude.

Mrs. Odhiambo-Mabona: These are not men?

Mr. Speaker: Order, hon. Millie Odhiambo! That is not really parliamentary! You are saying these men are not men?

Mrs. Odhiambo-Mabona: No, but they--- (*inaudible*)

Mr. Ojode: How do you know? Mr. Speaker, Sir, let me continue. There is a legal term which I can use for this particular colleague of mine. He is a friend; *amicus curiae*. A good friend! I would want us to have a situation where we can know what happened when his house was attacked. Let the detectives continue with their work, come up with a report and once the report is ready, you will definitely get to know what we have done.

Mr. Speaker: Order, Mr. Assistant Minister! When did this incident happen?

Mr. Ojode: Mr. Speaker, Sir, it happened on the night of 4th/5th February.

Mr. Speaker: And how long do you need to complete your investigations on a simple incident like this one?

Mr. Ojode: Mr. Speaker, Sir, I cannot tell but let us give it two weeks from now if we need to have something which is complete.

Mr. Speaker: Is it your position that the Member for Lari has not yet recorded a statement?

Mr. Ojode: Yes, Mr. Speaker, Sir. That is the information that I got. I would also plead with him that if, indeed, he has not recorded a statement, for us to fast-track the investigations, he should do so.

Mr. Speaker: So, within two weeks you will have completed your investigations and you will be able to report back to this House?

Mr. Ojode: Mr. Speaker, Sir, I will be able to report what we will have found on the ground within two weeks.

Ms. Karua: On a point of order, Mr. Speaker, Sir. The Assistant Minister has consistently avoided certain questions. Casting aspersions on a Member, I agree, is a matter of great shame. Is it in order for him to refuse to answer the question I posed first? Some suspects

have been named in the statements already recorded. Has he arrested those people or caused them to record statements? Not the ones who made the statements---

Mr. Speaker: Order, Member for Gichugu! Please, address the House and me.

Ms. Karua: Mr. Speaker, Sir, has he arrested the suspects named in those statements? If not, why?

Mr. Ojode: Mr. Speaker, Sir, according to the information I have, there are no names of suspects with the police. If there are any, I would ask her to give me those names, so that I can give them to the police for the police to interrogate them. We will arrest those suspects if at all there are names. As far as I am concerned, there are no names yet.

Mr. Njuguna: On a point of order, Mr. Speaker, Sir. This is sending a very queer signal because the Assistant Minister has already indicated to this House that this was stage-managed.

Mr. Speaker: Order Member for Lari! I really want us to conclude this matter. You have stood on a point of order. Can you prosecute that point of order within the realm of the Standing Orders?

Mr. Njuguna: On a point of order, Mr. Speaker, Sir. Is the Assistant Minister in order to say that he has already provided security to my home whereas I have not seen the APs or the CID officers? If indeed, he has acted, I would urge him to inform the House the names of these officers. To conclude with your indulgence, I have already provided two names of civic leaders and one political activist in my constituency who were planning to burn my effigy and conduct demonstrations in the constituency.

Mr. Speaker: Order! I want us to proceed rationally. Assistant Minister, there is the first part which I want you to deal with; that you are misleading the House that you have provided security, when, in fact, the Member says in the House that he has no such security. He has not seen any.

Mr. Ojode: Mr. Speaker, Sir, I believe you have known me longer. I do not lie or mislead this House and I will never. If you want me to avail the names, I can do it within 30 minutes from the back here. I will call the OCPD just to give me the names. As I speak, we have three CID officers sitting within the compound of hon. Njuguna. I will also ask after this whether the Member has been to that home because he might not be aware if he has not been there.

Mr. Speaker: With regard to provision of security, Assistant Minister, I will want to direct that you make those names available; the names of the security officers who have been posted to the Member's premises to boost the security at that residence. So, please, furnish the House with those names. I will want you to table those names on Tuesday morning.

Mr. Ojode: Mr. Speaker, Sir, let me table the names on Wednesday morning.

(Several hon. Members stood up in their places)

Mr. Speaker: Order, hon. Members! We really must get over this matter. Secondly, with respect to the claim by hon. Njuguna in respect of what you have said, because the word of a Member to the House is taken as the truth and you have said that you have given names of two suspects who had indicated that they were going to burn down your premises to the police. I do not know in what form you have given that information, but it would be perhaps more advisable if you have not, to actually record a statement in which you state those names, so that you keep a copy of that statement. In fact, if you had recorded a statement and you had a copy of it, you would actually table it in the House, which will be very legitimate challenge to the Assistant Minister. I do not know if you have done that. There would be nothing wrong, in my view, with

recording a statement, more so, if you are the complainant. A complainant normally will be a key witness in a criminal case and you cannot be a key witness if you have not recorded a statement. So, if you have not done so, please do so.

Ms. Karua: On a point of order, Mr. Speaker, Sir. I just want to plead with you. The Assistant Minister had said that he could provide the names in 30 minutes. Why it is important that it be done immediately, this Assistant Minister has told this House before that they have provided security to me and to other people who were under threat, which security was never provided. We are worried about the security of the Member. It is important that today we know that he is secured and I am pleading with you to allow the Assistant Minister to table the names of the officers during this sitting.

Mr. Speaker: Order! From where I am seated, I heard you say that if you are given 30 minutes, you will furnish the House with those names. In that case then, I direct that you table those names not later than 6.00 p.m. today.

(Applause)

Mr. Ojode: Mr. Speaker, Sir, I will table the names here even within 15 minutes!

Mr. Speaker: Order, Mr. Ojode! I direct that you table those names not later than 6.00 p.m. today.

Mr. Ojode: Mr. Speaker, Sir, I will do so!

Let me also respond to what Ms. Karua said. She said that we normally agree that we will provide security and, later on, we do not do so. In my recollection, I think Ms. Karua was dealing with my substantive Minister and, later on, she asked me to push him to provide her the security. So it is not Mr. Ojode! We are different! This is Mr. Ojode and my substantive Minister is Prof. Saitoti, the presidential aspirant.

(Several hon. Members stood up in their places)

Mr. Speaker: Order, hon. Members! As far as I am concerned, we have spent 20 minutes on this Question. It is adequately ventilated for the moment until such time that the Assistant Minister tables the names of the officers posted to the hon. Member's residence. Of course, we take this matter very seriously. More so, because it pertains to the safety and security of an hon. Member and a leader in this country. So, Mr. Ojode, please, take this matter very seriously as the House is doing. If you do not, obviously, then the House will be at liberty to mete out any sanctions it deems appropriate against you. So, please, note!

Mr. Ojode: Mr. Speaker, Sir, I will table those names within 15 minutes.

ORAL ANSWERS TO QUESTIONS

Question No.958

NON-PAYMENT OF BENEFITS TO
DEPENDANTS OF B.M. FAHIM

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

(a) why injury benefits amounting to Kshs.1,181,392.00, due to Bakari Maulana Fahim (P/No. 2006011033), who died on 31st January, 2009, have not been paid to the dependants; and,

(b) when the benefits will be paid.

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

(a) I am aware that workman injury benefits due to ex-police officer Bakari Maulana Fahim have not been paid. However, I wish to confirm that an amount of Kshs1,813,920 is being processed by the Minister of Finance as per the advice from the Minister of Labour in their letter Ref.WIDA/MSCA/137 dated 28th September, 2010. I wish to table a copy of the letter.

(b) The benefits will be paid when the process is finalized. I have evidence to show in the House that the Ministry of Labour had worked on a computerized sheet as from 2010/2011 and his name Bakari M. Ami, P/No. 2006011033, is appended here and signed for. So it is in the process. This is to show that we are a serious Ministry. We do not want to delay with the payment, especially one that pertains to death.

(Mr. Ojode laid the document on the Table)

Mr. Yakub: Mr. Speaker, Sir, I wish to inform the Assistant Minister that his Ministry is not serious at all!

(Applause)

This person passed away in January 2009 and we are now in February 2012. The family has not received the dues of their late father and yet, the Assistant Minister stands here boldly and claims that his Ministry is very serious. It is not! Could he tell us the timeframe within which these dues will be paid? In the meantime, I wish to have a copy of the letter which he has laid on the Table.

Mr. Ojode: Mr. Speaker, Sir, I want to give the chronology of events to show that my Ministry is very serious. We have so far paid Kshs256,945.80 which include the refund of women children pension scheme which was Kshs7,490 and an interest of Kshs255.80. They were prepared and paid to the Public Trustee, Mombasa, on 25th February, 2010. So, whatever was the balance is now being processed by the Ministry of Finance. It amounts to Kshs1,813,930. So, that is what the parents are waiting for. Although the Ministry of Finance does not fall under my docket, I am trying to fast track it using my officers, so that the family of the deceased can get that money immediately. We have tried!

Mr. Olago: Mr. Speaker, Sir, this incidence is alleged to have taken place on 31st January, 2009. Ordinarily, assessing and computing compensation to an officer like this one should take not less than six months. Why has it taken all this long to compute what should be available in the records?

Mr. Ojode: Mr. Speaker, Sir, that is the question we also asked the Ministry of Labour. Why it should take so long because after providing the details of the officer, we were also expecting that the labour officers would compute and then take to the Ministry of Finance. It took a while at the Ministry of Labour. That is not on our side.

Mr. Ethuro: On a point of order, Mr. Speaker, Sir. Time and again, you have reminded the Government that this House expects them to act as one entity.

(Applause)

It is three years since the officer died. Is the Assistant Minister in order to mislead this House that because one arm of the Government did not fail to do something, they have no responsibility over their own fallen officer?

Mr. Ojode: Mr. Speaker, Sir, I said here that when we got the files, first of all, we used it to pay off those entitlements within our docket. We did that immediately. We then transferred the same file to the Ministry of Labour to compute the officer's entitlement and that is exactly what we did and they took it to the Ministry of Finance. So, what we are doing from our side because the officer was working for us, we are trying to fast track the Director of Pension to, at least, make this cheque available to the parent immediately.

Dr. Nuh: Mr. Speaker, Sir, I also have a similar case in Bura concerning the same Ministry. I also want to confirm the sentiments by Mr. Yakub that this Ministry is not serious. However, I want to ask whether the Assistant Minister is aware of what the laws that deal with work injury benefits state. After computation is done by the Ministry of Labour and the figures of how much the beneficiary is supposed to be paid is submitted to the Ministry concerned, the law requires that the person be paid within 90 days. I want to ask him whether 90 days have lapsed since computation was done by the Ministry of Labour and whether they are within the law for having not paid the officer up to now.

Mr. Ojode: Mr. Speaker, Sir, we, indeed, regret that there is a delay on this particular issue. However, let us hope that the Pensions Department will do a cheque within a week or two as they requested. So, I undertake that I will follow it up myself for the parent to get the cheque.

Mr. Yakub: Mr. Speaker, Sir, you heard the Assistant Minister trying to throw the blame to the Ministry of Labour. I wish to table the letter from the Ministry of Labour dated 28th September, 2010. It states clearly that 90 days after the date of this letter, the benefits must be paid and yet the Assistant Minister---

Mr. Speaker: Order! Order! As a matter of fact, the same point has been made by the Member for Bura so effectively, and the Assistant Minister has apologized. He said that they are sorry that they have not lived within the 90 days, but he is taking steps to ensure that payment is effected within the next two weeks. So, that matter is already addressed. Do you have a different question?

Mr. Yakub: Agreed, Mr. Speaker, Sir. But could he withdraw the claim that the delay was coming from the Ministry of Labour?

Mr. Speaker: Order! The Assistant Minister has already apologized for the delay and committed himself to ensure that payment is effected within two weeks.

Mr. Yakub: Mr. Speaker, Sir, as long as the Assistant Minister has agreed to effect the payment in two weeks, we will consult with the family and wait.

Mr. Speaker: Indeed, you are at liberty to do so.

Mr. Yakub: Thank you, Mr. Speaker, Sir.

Mr. Speaker: Very well!

Member for Yatta!

Question No.1004

ACQUISITION OF PREMISES FOR KENYAN HIGH
COMMISSION IN UGANDA

Mr. C. Kilonzo asked the Minister for Foreign Affairs:-

(a) why Kenya does not have its own premises for the High Commission in Uganda, considering that Uganda is Kenya's biggest trading partner; and,

(b) what plans the Ministry has to acquire such premises.

Mr. Speaker: Is the Minister for Foreign Affairs not here? I am on notice that the substantive Minister, hon. Wetangula, is out on official duty in Turkey, but what about the Assistant Minister?

Hon. Oparanya, what is happening to the Assistant Minister?

The Minister for Planning, National Development and Vision 2030 (Mr. Oparanya): Mr. Speaker, Sir, I am not aware of where he is, but I will take the responsibility of informing him that he should be here, maybe next week on Tuesday, to answer this Question.

Mr. Speaker: Very well! We will defer this Question to Tuesday next week, and expect that the Assistant Minister, in the absence of the substantive Minister, will be here to answer it.

Hon. Oparanya, for the time being, let the Assistant Minister know that he is out of order and stands to suffer sanctions if he does not come with a reasonable explanation as to why he is not here!

(Question deferred)

Question No.1100

PROMOTION OF EXPLOITATION
GRANITE ROCKS IN WESTERN KENYA

Dr. Otichilo asked the Minister for Environment and Minister for Environment and Mineral Resources:-

(a) what the extent of occurrence of different granite rocks in Western Kenya in general, and in Emuhaya District is, specifically, and what the commercial value of these rocks is;

(b) whether he is aware that slab manufacturing companies have been licensed and are ferrying the rocks from Emuhaya to process them in Nairobi and Athi River; and,

(c) what measures he is taking to address (b) above and to promote exploitation of the rocks to benefit the local communities.

Mr. Speaker: Hon. Members, Question No.1100 by the Member for Emuhaya is directed to the Ministry of Environment and Mineral Resources. I have communication from that Ministry that both the Minister and Assistant Minister are out of the country on official Government business with the leave of the Speaker. So, I am afraid that this Question will have to be deferred until such time that both of them, that is, hon. Michuki and hon. Murgor, return.

Dr. Nuh: On a point of order, Mr. Speaker, Sir. We are also aware that, that Ministry has two Assistant Ministers. So, in case the Minister and an Assistant Minister are out of the country, then the presumption of this House is that one more Assistant Minister is around.

Mr. Speaker: Who is the second Assistant Minister?

Dr. Nuh: Mr. Speaker, Sir, it is hon. Kajembe.

Mr. Speaker: Yes, that is right! It is the Member for Changamwe. I will, in that case, direct that this Question appears on the Order Paper on Thursday next week.

Hon. Oparanya, please, let hon. Kajembe know that he will have to answer this Question and offer an explanation as to why he was not here to answer the Question.

The Minister for Planning, National Development and Vision 2030 (Mr. Oparanya): Mr. Speaker, Sir, I will make sure.

Mr. Speaker: I have a letter, of course, which is not tenable. It says that the Assistant Minister was responsible to answer the Question. Of course, that does not make sense as you well know.

(Question deferred)

Question No.1162

DETAILS OF NURSES RECRUITED IN BURA
/GALOLE/GARSEN CONSTITUENCIES

Dr. Nuh asked the Minister for Public Health and Sanitation:-

(a) whether she could provide details of the nurses recruited through the *Economic Stimulus Programme* in Bura, Galole and Garsen Constituencies and state the facilities to which they were posted and the respective dates of posting;

(b) what the current shortage in the respective health facilities in the 3 constituencies is and to what extent the shortage has affected service delivery in the health facilities; and,

(c) when she will recruit more nurses to address the shortage.

Mr. Speaker: Hon. Members and Member for Bura, I am afraid that the circumstances that apply to Question No.1100 apply to yours as well. This is because I have received a letter dated today, 16th February, 2012, indicating that both the Minister and Assistant Minister are away for reasons which, I think, all of us are aware of. So, this Question will have to be deferred until such time that the House has information that the two Ministers are available. You know the circumstances, Member for Bura.

(Dr. Nuh nodded)

Very well! Thank you for your understanding.

(Question deferred)

Question No.1359

AMOUNT RAISED BY GOVERNMENT
FROM SALE OF SHARES IN KPLC

Mr. Kathuri asked the Minister for Finance:-

(a) how much was raised by the Government from the sale of its 7.85 per cent Preference Shares in the Kenya Power and Lighting Company (KPLC)

during the Rights issue in December 2010 and whether he could explain how the money was spent; and,

(b) whether he is aware of the recommendation of the Budget Committee on the report adopted in the House on 27th July, 2011, that Kshs.2 billion out of the proceeds of the Government's 7.85 per cent Preference Shares in KPLC be allocated to Rural Electrification Authority (REA) to compensate it for loss of Kshs.1.891 billion paid to KRA for non-refund of VAT and, if so, why was the recommendation ignored.

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

(Applause)

Thank you!

(a) The total amount of money that was raised by the Government during the Rights issue of the Government of Kenya shares at KPLC, amounted to Kshs123 million. The proceeds of this trading were treated as Ordinary Government of Kenya revenue and, hence, were not tied to any specific project.

(b) I am not aware of any arrangements to finance the Rural Electrification Authority (REA) through the redemption of Government of Kenya Preference shares at KPLC. However, I am aware that there are ongoing discussions between Kenya Power and REA with a view to determining the best way of implementing rural electrification projects. The very decision of this matter will be made when these modalities are clear and agreed by all parties.

Mr. Kathuri: Mr. Speaker, Sir, while the Minister is denying the fact that there was oversubscription, it was quoted in the media--- As much as we cannot rely on media reports, the Chief Executive Officer (CEO) was quoted saying that there was oversubscription by 3.17 per cent. The Rights issue had raised Kshs9.8 billion and we had agreed in the Committee that they should organize with Treasury, so that we receive Kshs2 billion under REA. I wonder where this information came from because there appears to be a contradiction given what the Minister is telling us now. Could the Minister clarify where that contradiction is coming from?

Mr. Githae: Mr. Speaker, Sir, there is absolutely no contradiction. The main purpose of this transaction was to remove from the books of KPLC the Preference shares owned by the Kenya Government, which were converted into Ordinary Stock. As a result of that, the shareholding of the Government went up to more than 70 per cent, which was not desirable because we wanted to be a majority owner of just 50 per cent. So, to reduce the Government shareholding in KPLC, a split of eight to one of the shares was done. After the split, there as a Rights issue and it was agreed that the Government would not take up its allotted quota of the Rights issue, so that its ownership gets reduced from 70 per cent to 50 per cent. That is exactly what happened. The shares owned by the Kenya Government are still owned by the Kenya Government and they amount to 50.1 per cent. But I am not unmindful of the fact that we need to increase funding of REA. It has done a wonderful job and put up electricity in areas where, probably, nobody expected them to have electricity. So, I would like to assure the hon. Member that in the next Budget we will increase the funding of REA because it is doing a good job.

Mr. Imanyara: Mr. Speaker, Sir, the issue that the Minister is evading is that this House, on 27th July, 2011, adopted a Report of the Budget Committee that made certain recommendations. There is approval of your knowledge as the Minister. Why are you not

fulfilling what you agreed to fulfil during the debate and adoption of the Report of the Budget Committee?

Mr. Githae: Mr. Speaker, Sir, I have refused to fulfil anything. The agreement was for the shares to be sold. The shares have not been sold to date. The shares are still owned by the Government of Kenya, and the extent is 50.1 per cent. To me, the issue is not the selling of the shares. To me, the issue is the funding of REA. That is the real issue, and I promise this House that we are going to fund REA.

Mr. Mbadi: On a point of order, Mr. Speaker, Sir. Is it in order for the Minister to evade answering the question that has been asked by hon. Gitobu Imanyara, and which was actually asked by the Questioner? Part (b) of the Questions is whether the Minister is aware of the recommendation of the Budget Committee, which was adopted on 27th July, 2011, that Kshs2 billion out of the proceeds of the Government's 7.85% Preference Shares, and not Ordinary Shares, in KPLC be allocated to Rural Electrification Authority (REA).

So, the Minister should restrict himself to answering to this House why that particular Report was not implemented by the Ministry rather than telling us about the Government's shareholding in terms of Ordinary Shares. The Question is specifically on Preference Shares.

*(Several hon. Members, including
Dr. Nuh, stood up in their places)*

Mr. Speaker: Order! Order, Member for Bura!

Minister, proceed and respond to the point of order by the Member for Gwasi!

Mr. Githae: Mr. Speaker, Sir, I have explained very clearly that the principle of capital-base restructuring of Kenya Power's balance sheet was not to raise money. It was to convert the redeemable Preferential Shares of the Government into ordinary stocks, so as to clean up the balance sheet of KPLC. Therefore, the Government of Kenya does not have preference redeemable shares. They are now ordinary stocks of 50.1 per cent. The purpose was to increase the funding of REA, and I promise that we are going to increase the funding for the REA.

Mr. Ethuro: Mr. Speaker, Sir, I want to congratulate the Minister for his appointment and for attempting to answer this Question. I will be lenient with him because he need 100 days of honeymoon to familiarise himself with issues at the Treasury. Apparently, this is one of them. If you will allow me, I will brief him. I am a Member of the Energy, Communications and Information Committee.

Mr. Speaker: Order! It is Question Time! I do not desire to have that brief. Ask your question.

Mr. Ethuro: Mr. Speaker, Sir, the Minister for Energy appeared before the Energy, Communications and Information Committee and confirmed that the shares were actually sold and that Kshs9.83 billion was raised. Indeed, we have information that out of that money, Kshs7 billion was taken to Treasury as ordinary revenue. He has confirmed receiving some money. A sum of Kshs2.5 billion was retained by the Kenya Power and Lighting Company Limited. The Government committed itself to release the Kshs2 billion, in respect of which a Report by the Budget Committee was adopted by this House. The Kshs2 billion is supposed to be used to increase the amount allocated to REA. Could he confirm or deny those facts?

Mr. Speaker: Hon. Ethuro, you have prosecuted that one very ably.
Minister, respond.

Mr. Githae: Mr. Speaker, Sir, I repeat that the Kenya Government has not sold its Preference Shares. The shares are still owned by the sovereign Republic of Kenya. What have been going on are discussions by the Ministry of Energy with the Kenya Power and Lighting Company on how to increase funding to REA. The first proposal was that all the dividends received on the Preference Shares should be remitted to REA. That was the first option. However, because of the need to clean up the balance sheet of the Kenya Power and Lighting Company, this did not happen. So, instead, the Preference Shares were converted into Ordinary Shares. I repeat that the sale of the shares did not happen. The shares have not been sold. We received only Kshs123 billion from the rights issue.

Dr. Khalwale: On a point of order, Mr. Speaker, Sir. You have heard that the Minister has severally repeated what he said at the very beginning. In view of the clear explanation by the Chair of the Committee, could I request that this matter be taken up by the Implementation Committee, so that they can come back to the House with a Report, so that we can know exactly whether it was the Minister's failure to understand what is going on at the Treasury or they just do not want to respect a resolution of this House?

Mr. Speaker: Order, Member for Ikolomani! I have heard you. You are so categorical. Indeed, I think this matter can be clarified this afternoon because the Member for Turkana Central, in fact, has explained it so well. He said that the Minister appeared before the Committee and confirmed to it that these Preference Shares, in fact, had been disposed of and that the Government realised in excess of Kshs9 billion, out of which seven point something billion shillings was given to his Ministry and two point something billion shillings went to the Kenya Power and Lighting Company Limited. So, it is straightforward. If your predecessor confirmed this to be the position, why would you contradict him and say that the Government did not receive any proceeds out of those Preference Shares?

Mr. Githae: Mr. Speaker, Sir, I am not contradicting him. You can do a search right now of the Companies Register. You will find that the Government of Kenya owns 50.1 per cent of the company's shares. The shares were not sold. They are still with the Government of Kenya.

(Mr. Kabogo stood up in his place)

Mr. Speaker: What is your point of order, Mr. Kabogo?

Mr. Kabogo: On a point of order, Mr. Speaker, Sir. The purpose of my point of order is to try and assist this House. The Minister referred to is sitting right at the Front Bench. Could you allow the Minister for Energy to confirm to the House whether that is, indeed, the position as opposed to wasting time for the House?

Mr. Speaker: Order! We will not do that! This Minister now takes full responsibility, including for what is "cold" and what is "hot". He is equal to it.

Yes, Member for Dujis.

Mr. Duale: Mr. Speaker, Sir, if this matter was included in the handing over report that the Acting Minister for Finance got from his predecessor, I would like to quote both what is in the Budget Committee Report and what is in the Report of the Committee on Energy, Communications and Information, especially now that the Minister for Energy is here. What went to the Ministry of Finance was Kshs9.830, out of which Kshs2.5 billion went to the Kenya Power and Lighting Company Limited. The Minister for Energy told the Committee on Energy, Communications and Information that he had written to the Minister for Finance, so that he could transfer Kshs2 billion to REA.

Again, when the Budget Committee presented its Report on the Estimates of Revenue and Expenditure for financial year 2011/2012, at page 12, they recommended that Kshs2 billion be re-allocated from Vote D30, Head 0243 of the Ministry of Finance to REA. The Minister is denying that REA was supposed to get this money. Could he, therefore, tell the nation where the Kshs9 billion has gone? What we are now seeing is that the Kshs9 billion has disappeared. He should tell us where the Kshs9 billion went to.

(Mr. Murungi made some remarks off-record)

Mr. Speaker: Order, Minister for Energy! There is a way in which you can support your friend. You know the tricks!

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

Mr. Speaker: What is it, Member for Gwasi?

Mr. Mbadi: Mr. Speaker, Sir, I remember when the Minister for Finance appeared before the Committee this matter was extensively discussed. It was agreed before we put it in the report that this Kshs2 billion was available and would be transferred. I am surprised at the kind of---

Mr. Speaker: Order! Member for Gwasi although you have a legitimate challenge there, I am afraid applying the Standing Orders, you are out of order. You know you rose on a point of order immediately after the person who was speaking in the House has made his point. If you find anything out of order then you will indicate to the House such that we can make a finding. So, your point of order should actually have been directed to the Member for Dujis if he did anything that was out of order. Please, learn the rules. You are out of order much as you have a legitimate point!

So, Mr. Minister, I want you to respond to the question by the Member for Dujis.

Mr. Githae: Mr. Speaker, Sir, could he repeat the question? I was consulting here.

Mr. Speaker: Member for Dujis, could you, please, repeat your question? The Minister did not follow.

Mr. Duale: Mr. Speaker, Sir, the rights issue of KPLC according to information presented by the Minister for Energy to the Departmental Committee on Energy and Communication on 14th July, 2011, during the scrutiny of his budget, he informed us that out of the Kshs9.83 billion raised during that rights issue, a sum of Kshs2.5 billion was still being held by KPLC. The other Kshs7.5 billion was still with the Treasury. He further informed the Committee that out of this Kshs7.5 billion, he will write to the Treasury and ask them to transfer Kshs2 billion to REA in order to compensate for the loss of Kshs1.8 billion paid to KRA for non refund of VAT.

Again, during the presentation of the Budget Committee Report on the estimates of revenue and expenditure for this current financial year on page 12 of their report which was tabled in the House, a sum of Kshs2 billion from the dividend income and from this rights share of KPLC which was owned by the Government was to be transferred to REA. So, both Committees were informed and we are now asking---

Mr. Speaker: Order, Member for Dujis. Do you want to be informed by the Member for Gwasi?

Mr. Duale: Yes, but let me first finish.

Mr. Speaker: Order! You either choose to be informed or not.

Mr. Duale: I want to be informed, Mr. Speaker, Sir.

Mr. Mbadi: Mr. Speaker, Sir, the information I have for my colleague is that, not only did the Minister for Energy agree with the Committee, but the Minister for Finance himself appeared before us and agreed with us after extensive consultation that this Kshs2 billion be transferred to REA. So, today, this House is surprised to hear that the same Ministry is not aware of the Kshs2 billion.

Mr. Speaker: Very well! Mr. Duale, could you, please, conclude asking your question now?

Mr. Duale: Mr. Speaker, Sir, now that both the Minister of Energy and the Minister for Finance confirmed to the two Committees and now the issue of the Kshs2 billion which was to go to REA is becoming very elusive, could the Minister also tell us what happened to the Kshs9.8 billion?

Mr. Githae: Mr. Speaker, Sir, the intention was to sell those shares. But they have not been sold because the prices went down. Since the price of KPLC shares went down, the Government felt that if we were to sell the shares now we will make a loss. So, we are waiting for the prices of shares to go up then we sell. To me, the most important thing is that we need to fund the REA.

The Minister for Energy (Mr. Murungi): On a point of information, Mr. Speaker, Sir.

Mr. Speaker: Minister for Finance, do you want to be informed by your colleague?

Mr. Githae: Yes, Mr. Speaker, Sir.

The Minister for Energy (Mr. Murungi): Mr. Speaker, Sir, indeed, it is true what the hon. Members are saying that my Ministry did write a letter to the Minister for Finance because there was that intention of reducing the Government shareholding to about 50 per cent. We had requested that we transfer Kshs2 billion to REA because the budget for REA was grossly underfunded. The Members of Parliament wanted to raise money for that.

However, we did not receive any money from the Treasury, but I am not quite sure - because I was not aware whether this question was coming - whether we actually sold the shares; whether the money was received. But I know the Treasury came back to us and they have come with proposals of doing further fundraising to support REA through various donors. So, what I want to confirm is that we did not receive the Kshs2 billion from the Treasury, but I know there are fundraising efforts.

Eng. Rege: On a point of information, Mr. Speaker, Sir.

Mr. Speaker: Mr. Minister, do you want to be informed by the Member for Karachuonyo?

The Minister for Energy (Mr. Murungi): Mr. Speaker, Sir, I have nothing to hide or to fear here. I have no problem being informed by the Chairman of the Committee.

Eng. Rege: Mr. Speaker, Sir, it is true that the Kshs2 billion which was destined for REA is still in KPLC. However, the Minister for Finance refused to give this money directly to REA saying that he has already talked to the Ministry to find some other ways of funding REA. Recently he came to tell us that he has already found an external source to give REA the Kshs2 billion. Until to date, the REA has not completed all of their rural electrification programmes as they had promised.

Mr. Kathuri: Mr. Speaker, Sir, you can see the sort of interest the Question is raising. It is because rural electrification is in the hearts of Kenyans and specifically to the sitting MPs.

Electrification is the only solution to rural development. Since the money appears to be elusive, could the Minister see how he can do a refund of the VAT that was deducted and so that we are able to move on with the programme of rural electrification?

Mr. Githae: Mr. Speaker, Sir, the issue of the Kshs2 billion is not elusive. I have said the intention was to sell the shares. When the price of shares went down, it was realized that it would make a loss. So, we have not sold the shares yet. But the point is that we are looking for external funding. We are in discussion with OPEC Fund, Saudi Fund, Arab Fund and Abu Dhabi Fund. As soon as these discussions come to fruition, we will fund REA. This is an important authority which is doing a commendable job. Therefore, we will support it.

Mr. Speaker: Order, hon. Members. I have followed very keenly what has transpired in the House with respect to Question No.1359. I am convinced that there are matters that need to be properly ventilated further. I, therefore, direct that the Minister for Finance prepares a Ministerial Statement which he will deliver to this House on Thursday next week at 2.30 p.m. Please, prepare a Ministerial Statement that will among other things, embrace the assertion that the Minister, your predecessor made to the committee of Parliament and that will also capture the statement which the Minister for Energy has made in the House this afternoon, so that we have a clear and common position and particularly to ensure that rural electrification will be funded, how and from where. Bring that Statement on Thursday, afternoon at 2.30 p.m.

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security is now able to table the names pertaining to Question No.2 by Private Notice.

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Mr. Speaker, Sir, I assured the House that I have detectives guarding the compound of Mr. David Njuguna. I have with me the names as follows:-

1. PC Dima - P/No.67192
2. PC Peter Kamara - P/No.71671
3. PC Edwin Munjaru - P/No.80655
4. PC Wycliffe Otieno - P/No.80680

Mr. Speaker, Sir, I thank you.

Mr. Speaker: Order, hon. Members!

Mr. Assistant Minister, will you please supply that information to the hon. Member for Gichugu Ms. Martha Karua? Supply that information also to the Member for Lari, Mr. Njuguna and any other Member who may be interested in that information. Otherwise, Question No.2 by Private Notice is deferred to appear again on the Order Paper in two weeks time for the Assistant Minister to file a report on where they will be. Hopefully, some people will have appeared in court by then.

(Question deferred)

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

Mr. Speaker: Order! That must rest that matter there, Member for Ikolomani! I am afraid we have run out of time for Question Time!

That brings us to the end of Order No.6!

Next order!

MINISTERIAL STATEMENTS

Mr. Speaker: Let us begin with the Assistant Minister for Education because he has a very brief Statement!

FUNDS FOR INFRASTRUCTURE DEVELOPMENT /
VEHICLE FOR KURESOI

The Assistant Minister for Education (Mr. Mwatela): Mr. Speaker, Sir, because I am rising to speak for the first time this year, I wish all hon. Members a happy new year and also you, Mr. Speaker, Sir.

I rise on Standing Order No.196. You will recall that on the 17th of February 2011, I undertook here on the Floor of the House upon Question No.525 which was asked by Mr. Zachayo Cheruiyot, the Member for Kuresoi to provide funds for infrastructure as well as a vehicle for Kuresoi. I am pleased to state as follows:-

That the Ministry disbursed Kshs6 million in June 2011 to 11 primary schools in Kuresoi District for infrastructure development and purchase of learning materials. The infrastructure development works are ongoing and learning materials have been purchased by the schools. The District Education Officer (DEO) has also been provided a utility vehicle, Land Rover GK A606K as had been promised by myself on the 23rd of February. The DEO has collected the vehicle.

Mr. Speaker, Sir, I will table the letter that disbursed the vehicle.

(Mr. Mwatela laid the document on the table)

That is the end of my Statement, Mr. Speaker, Sir.

Mr. Speaker: Let us have a Statement from the Minister of State for Planning, National Development and Vision 2030!

GUIDELINES ON CDF CONDITIONAL GRANT

The Minister of State for Planning, National Development and Vision 2030 (Mr. Oparanya): Thank you Mr. Speaker, Sir.

I rise to make a Ministerial Statement on the Guidelines on the CDF Conditional Grant. This Statement has arisen from Members of Parliament making several inquiries about the conditional grant which was provided for in the financial statement for 2011/2012.

Mr. Speaker, Sir, in the financial year 2011/2012 the Government set aside conditional grants to the CDF Board amounting to Kshs3.66 billion or Kshs17.442,857 per constituency towards completion of ongoing projects under education, health, water and sanitation. Towards this end, the CDF Board is compiling constituencies report on ongoing, stalled or abandoned projects. In compiling the report, the Board has adopted the following definitions.

1. Ongoing Projects

These are projects which are still under implementation for which the Constituencies Development Fund Committee (CDFC) already has funds or intends to allocate more funds in the near future. For that purpose of the conditional grants, ongoing projects shall include additional facilities in any institutions earlier financed by the CDF.

2. Stalled Projects.

These are incomplete projects whose implementation has stopped for more than a year but the CDFC intends to continue with their implementation once the issues that led to the stoppage have been resolved.

3. Abandoned Projects.

These are incomplete projects whose implementation has stopped for more than a year but there are no immediate plans by the CDFC to continue the implementation.

The report once fully compiled will help the Board to analyse project proposals from constituencies with respect to the conditional grant. Meanwhile the Parliamentary Constituency Funds Committee (PCFC) headed by Mr. Ethuro who is here, the Ministry of State for Planning, National Development and Vision 2030 and the Ministry of Finance have agreed on the following guidelines for submission and implementation of projects under the conditional grant:-

(i) Allocation Criteria.

The funds allocated shall be shared on equal proportions to all constituencies.

(ii) Project Identification Criteria.

Funds under the conditional grant shall be strictly utilized to complete ongoing, stalled or earlier abandoned projects. The proposed projects shall fall under the education, health, water and sanitation sectors. No new project proposals are eligible for funding under this programme.

(iii) Abandoned or Stalled Projects.

(a) Constituencies with stalled projects shall be expected to revisit the issues that led to the stoppage of the implementation and initiate mechanisms of resolving them. The agreed mechanism of jump-starting the projects shall be well documented and reports submitted as an attachment to the project proposal under the conditional grant.

(b) Estimates of the cost of completing the projects shall be provided as supporting documents to the project proposal.

(c) Project proposals shall be submitted in the standard Project Submission Form. Hon. Members can look at the Second and Third Schedule of the CDF (Amendment) Act, 2009.

4. Where there are no abandoned or stalled projects, what happens? Some constituencies have already spend their normal allocation to complete stalled or abandoned projects. In such cases, the constituencies shall be expected to revisit the 2011/2012 proposal with a view to allocating more funds where necessary to ensure that no facility is left incomplete by the end of the current Parliament. Funds may also be applied to additional facilities in institutions financed by the CDF in the past years.

5. Magnitude of allocation: The Constituency Development Fund Committees (CDFCs) must ensure that the amount of money allocated to each project is adequate to complete the targeted project.

6. Project submission procedure: All project proposals shall be discussed and approved by the CDFC before being submitted to the CDF Board. Signed minutes of the CDFC meeting that approves the project proposals shall be annexed to the project proposals submitted to the Board for approval.

Mr. Speaker: Hon. Members, if you are interested in any clarifications, we will allow just about five. We will begin with the Chairman of the Committee.

Mr. Ethuro: Mr. Speaker, Sir, I want to thank the Minister for bringing out these guidelines. However, this is February. It is the third quarter of the financial year. We have four months to the end of the financial year. The Constitution requires the Minister to bring the other budget two months before the end of the financial year. How come it took him this long to come up with these guidelines?

Secondly, when will the money be available? Having noted all the issues I have raised before, could the Minister finally confirm to this House, now that in the last budget the CDF was not factored in for the next financial year and knowing that the General Election can only come in December, whether he will allocate more money to the normal CDF grant?

Mr. Ruteere: Mr. Speaker, Sir, the Minister knows that the dates are only statutory provisions that have been given to constituencies. This is the third quarter of the year and yet the normal CDF allocations have not been channeled to the CDFCs. Projects are waiting to be given that money. Even schools have opened when classrooms should have been completed. This Minister now tells us that we cannot venture into allocating funds from this kitty that did not get funds. Why is he very strict on this particular Kshs17 million and yet the CDFC has all along known what to do? What is this monitoring that will take more time up to 2013?

Dr. Laboso: Mr. Speaker, Sir, could the Minister clarify whether projects falling under the Economic Stimulus Programme (ESP), particularly the centers of excellence, can also benefit from this allocation?

Mr. Mwathi: Mr. Speaker, Sir, I seek clarification on two issues. We know that ordinarily the allocation for CDF in any constituency is not divided equally. What are the factors that are considered in arriving at equal distribution per constituency? Could he also clarify whether the amount of money allocated has any tie with the normal allocation for CDF such that if any constituency the whole amount of the normal allocation then they cannot receive this amount?

Dr. Kones: Mr. Speaker, Sir, what informed the Minister in deciding which sectors to fund now that he has restricted hon. Members to only four sectors, that is, education; water; health; and sanitation? We have other sectors, for example, in my constituency where plans had already been made that part of that money was going to finance a sports facility. What informed the Ministry to restrict hon. Members from that?

Mr. Speaker: Minister, please, respond.

The Minister for Planning, National Development and Vision 2030 (Mr. Oparanya): Mr. Speaker, Sir, the Chairman of the CDF Committee requested to know why this proposal has come up late. I want to apologize to the House that when the Minister for Finance mentioned that there was a special grant, we were also not aware of the conditions. It took us some time to discuss this issue with the Minister for Finance until we agreed with him and the relevant Departmental Committee. That is why the proposal has come late. I apologize for that.

I want to confirm that up to this moment CDF has received Kshs8.6 billion from the Treasury. We are supposed to have received Kshs11.6 billion by now. So, we have a shortfall. I had a meeting with the officials of Treasury yesterday and they have agreed that in view of the fact that we have had cash flow problems, we are going to endeavor that every two weeks we get Kshs1 billion until the full amount is paid before the end of this financial year.

The Chairman also wanted to know whether CDF is factored in the next financial year or not. There was an omission and this was done without consulting the Ministry of Planning, National Development and Vision 2030. However, let me assure the House that CDF has been factored in the next financial year. Even the Chairman himself is aware. He was asking me what he already knows.

For those constituencies that have statutory proposals only, let me assure the hon. Member that we have had problems. Hon. Member, I am answering that question, but are you attentive? I can see that you are busy with your colleague. Let me assure the hon. Member that we have adequate funds. At the moment we have Kshs1.6 billion in the CDF account. The problem we have had is that some constituencies have not submitted proposals. Where some proposals have been submitted, there have been queries and the CDFCs have not answered those queries quickly to enable remittance of the relevant funds. I would request hon. Members to

check the status of their constituencies. If you have a problem let me know. If you have no problem, you are supposed to have received funds by this time I am talking.

Whether or not this money should be used on ESPs is not a very clear matter. We have also raised the same issue with the Ministry of Finance. We have said that since ESPs are part of the projects that have stalled or are have not been completed, you have the option of deciding whether to use the CDF money on ESPs or use it specifically on CDF projects. However, this issue will be re-looked at afresh.

How did we arrive at the equal distribution mechanism? This is a conditional grant. When you are given a grant there are normally conditions. One of the conditions by the Ministry of Finance was that we share the grant equally.

There are no other normal attachments. I mentioned the categories that you need to come up with. The conditional grant also specified the areas, that is, health, education, water, and sanitation. That is why we are calling it conditional. There is nothing to change there.

Mr. Imanyara: That was the last one on that issue. Who is seeking Ministerial Statements?

POINTS OF ORDER

IRREGULAR TRANSFER OF LAND BELONGING TO PRESIDENT OF KUWAIT

Mr. Kenyan: On a point of order, Mr. Temporary Deputy Speaker, Sir. I would like to seek a Ministerial Statement from the Ministry of Lands and the Ministry of Foreign Affairs. I wish to request Ministerial Statement from the Ministry of Foreign Affairs and the Ministry of Lands in respect of a parcel of land LR No.1870/4/71 granted to Sheikh Shabir Alahmed Aljabir Alkaba, the President and the ruler of the State of Kuwait. The Ruler of Kuwait acquired this property in 2002, but shockingly recently this land was fraudulently transferred to a third party by the name Koibarak Trading Company and subsequently transferred to another company called Miniskul Investment Company. In their Ministerial Statements, I would like the two Ministers to say first of all who are the directors of Koibarak Trading Company, and Miniskul Investment Company. Secondly, I would like the two Ministers to say how the land was clandestinely transferred; this is not something of my making since there is a letter from the Permanent Secretary, Ministry of Lands, addressed to the Director of the CID. So, what I am saying is that, indeed, even the Ministry accepts that this land was clandestinely transferred to a third party without the knowledge of the true owner, who is the ruler of Kuwait. I would like them to say how this land was transferred and the extent of complicity in the Ministry of Lands, taking into account the Syokimau incident where Kenyans were conned; right now investors are still being conned. They should explain how safe our title are. Two, I would like the Ministries involved to also give the steps they have taken to revert the ownership to His Excellency the ruler of Kuwait. Three, I would like to know how this fraudulent activity will affect Kenya as an investment and diplomatic hub, and, indeed, its impact on the cordial bilateral relationship between the state of Kuwait and Kenya.

Four, I would like the two Ministers to tell us how safe our title deeds are in view of---

The Temporary Deputy Speaker (Mr. Imanyara): Order, hon. Keynan! You know that you seek your Ministerial Statement from one Ministry.

Mr. Keynan: Mr. Temporary Deputy Speaker, Sir, there is an aspect of foreign affairs.

The Temporary Deputy Speaker (Mr. Imanyara): Order! You stood to seek a Ministerial Statement from the Minister of Lands. In the course of seeking that, you want two Ministers. So, whom are you requesting the Ministerial Statement from?

Mr. Keynan: Mr. Temporary Deputy Speaker, Sir, I think this is an issue that I have consulted with the Speaker and it has approval.

The Temporary Deputy Speaker (Mr. Imanyara): Hon. Keynan, I am on the Chair right now. I am asking: Which Ministry are you seeking information from?

Mr. Keynan: Mr. Temporary Deputy Speaker, Sir, I for this purpose let us get it from the Ministry of Lands.

Mr. Temporary Deputy Speaker, Sir, four, I would like to get from the Minister of Lands how safe our titles in this country are in the view of this apparent criminal activity in the Ministry of Lands. How the Government, because already there is a letter from the Permanent Secretary acknowledging that there was a fraudulent transfer--- Could the Government of Kenya, again through the relevant Ministry, address this issue as a matter of urgency because it touches on the diplomatic immunity of a friendly country and a property that belongs to a friendly? Under the Geneva Convention and Vienna Conventions this is not allowed?

Mr. Temporary Deputy Speaker, Sir, finally, in the light of all this and taking into account that titles are very important documents that are used as collateral, we want the Minister to assure Kenyans that this racket taking place at the Ministry of Lands will be history and Kenyans will be safe and enjoy rights to their properties.

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

The Temporary Deputy Speaker (Mr. Imanyara): On that issue?

Dr. Khalwale: Yes.

The Temporary Deputy Speaker (Mr. Imanyara): What is it?

Dr. Khalwale: Mr. Temporary Deputy Speaker, Sir, I just want, with your permission, the Minister when he will be coming with this Statement to also come and furnish the House with the details of the circumstances that led to the ruler of Kuwait being given prime land in this country. This is view of the fact that this transaction took place in 2002, a time of transition, when possibly somebody was trying to enrich himself and pretending that they were making a grant.

The Temporary Deputy Speaker (Mr. Imanyara): Mr. Otieno, when can the Ministerial Statement be given?

The Minister of State for Public Service (Mr. Otieno): Mr. Temporary Deputy Speaker, Sir, I will convey the urgency and the importance of the matter to the Minister for Lands and you may allow him up to Thursday next week.

The Temporary Deputy Speaker (Mr. Imanyara): Better still, Minister, in view of the many Ministries mentioned, let the Office of the Prime Minister give directions on which Minister or which Ministry out of the three or four that have been named will respond. He should give that information because there is the Ministry of Foreign Affairs, Ministry of Lands and another one. There are at least three Ministries that have been mentioned. Perhaps, you may wish to refer to the Office of the Prime Minister for directions on which Ministry will give that statement and when.

The Minister of State for Public Service (Mr. Otieno): Mr. Temporary Deputy Speaker, Sir, in that regard, allow us two weeks for the necessary consultations first with the Office of the Prime Minister to decide the Minister who will respond on behalf of all the rest on the issue.

The Temporary Deputy Speaker (Mr. Imanyara): Is that acceptable, Mr. Keynan?

Mr. Keynan: Mr. Temporary Deputy Speaker, Sir, this is a fairly straightforward issue; there is a letter and the Ministry has already addressed it. There is a file. This issue has already been addressed; it is not something new. I think Tuesday or Thursday will be a better day. Two weeks is too long.

The Temporary Deputy Speaker (Mr. Imanyara): Mr. Minister, make it on Thursday next week.

The Minister of State for Public Service (Mr. Otieno): Mr. Temporary Deputy Speaker, Sir, Thursday is possible.

STATUS OF ALLOCATIONS AT CHEPCHOINA ADC FARM

Mr. Ethuro: On a point of order, Mr. Temporary Deputy Speaker, Sir. I also rise to seek a Ministerial Statement on the state of allocations of farms at ADC Chepchoina Farm, which was supposed to be done in three phases in the last 20 years. Phase I was successfully done. Phase II, which involved the Turkana community, is yet to be done and we are told that the Minister is going to go to the third phase, before the second phase is undertaken, on the 21st February this month. I would like the Minister for Lands to state why Phase II allottees are not being allocated land as initially planned. Two, he should confirm also whether there is political interference from the political leadership in this area, including some Cabinet Ministers, and if he could stop the planned allocations of Phase II until the issues around Phase II are dealt with.

The Minister of State for Public Service (Mr. Otieno): Mr. Temporary Deputy Speaker, Sir, we will convey the request for that statement to be ready by Thursday next week.

GOVERNMENT'S WITHDRAWAL OF FUNDS FROM CONSOLIDATED FUND

Mr. Mbadi: On a point of order, Mr. Temporary Deputy Speaker, Sir. Sometime last year, I asked for a Ministerial Statement from the Attorney-General on whether the Government withdrawal of funds from the Consolidated Fund in early July was legal, and up to now he has not brought the response to this request.

The Minister of State for Public Service (Mr. Otieno): Mr. Temporary Deputy Speaker, Sir, I will convey the sentiments and remind the Attorney-General of the delay over the matter.

AUDITING OF KENAO ACCOUNTS

Dr. Khalwale: On a point of order, Mr. Temporary Deputy Speaker, Sir. Before we went on recess, I requested the Attorney-General to inform the House how the Government wants the accounts of the Kenya National Audit Office (KENAO) to be audited in view of the provisions of the new Constitution. I request that he be reminded to come with the Ministerial Statement as soon as possible.

The Minister for Public Service (Mr. Otieno): Mr. Temporary Deputy Speaker, Sir, similarly, I will convey that issue.

BUSINESS FOR THE WEEK COMMENCING TUESDAY 21ST FEBRUARY 2012

The Temporary Deputy Speaker (Mr. Imanyara): Mr. Minister, I understand it is you today to give the Government programme for next week under Standing Order No.36. You may proceed.

The Minister for Public Service (Mr. Otieno): Mr. Temporary Deputy Speaker, Sir, allow me to take this opportunity to make the following Statement on behalf of the Leader of Government Business with regard to the business of next week pursuant to the provisions of Standing Order No.36(4).

First, also allow me to communicate the best wishes of His Excellency the Leader of Government Business to all the Members of the House. The task before us is both critical and phenomenal owing to the fact that we are faced with a very short deadline, that is by 27th February, 2012, to pass key constitutional implementation Bills three of which are currently at their Second Reading stages. It is for this reason that hon. Members agreed to hold special morning sittings on Thursday, today; Tuesday, next week and Thursday, 23rd February, 2012 to allow more time for Members to deliberate on this important Bills.

However, gauging from the goodwill and dedication demonstrated so far by the Members of this House, the Leader of Government Business is confident that we will deliver quality legislation within the stipulated deadlines. Next week, the House will continue with the debate on the following Bills, currently at the Second Reading stage. One, the County Governments Bill, Bill No.1 of 2012; two, the Intergovernmental Relations Bill, Bill No.2 of 2012 and three, the Transition to Devolved Government Bill, Bill No.3 of 2012. The House will also consider the Second Reading of the Land Registration Bill, Bill No.4 of 2012 and the Second Reading of the National Land Commission Bill, Bill No.5 of 2012.

Finally, the House Business Committee will meet on Tuesday, 21st February, 2012 to consider the business for the rest of the week.

Mr. Temporary Deputy Speaker, Sir, I table the Statement.

(Mr. Otieno laid the document on the Table)

Mr. Mbadi: On a point of order, Mr. Temporary Deputy Speaker, Sir. I appreciate the effort being made by the House Business Committee and the Government in general to try to implement the Constitution. However, equally important is the Finance Bill. There are different proposals that were made in that particular Bill which we need to debate for the economy of this country to be certain, definite and to grow.

Could we get an indication from the Government when this Bill will be tabled in the House rather than leaving it for a long time knowing very well that we should have passed this Bill by 31st December, 2011?

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

The Temporary Deputy Speaker (Mr. Imanyara): On the same issue? Is it on the issue that hon. Mbadi raised?

Mr. Ethuro: No.

The Temporary Deputy Speaker (Mr. Imanyara): Let me respond to that and then we come to yours.

Minister for Public Service (Mr. Otieno): Mr. Temporary Deputy Speaker, Sir, you will remember that the Finance Bill was a contentious matter and was kind of left without completion. I will convey to the Acting Minister for Finance that this is a priority and the House must determine the issue without letting it die by default.

Thank you.

The Temporary Deputy Speaker (Mr. Imanyara): When does the Acting Minister for Finance intend to clear the air on that?

Minister for Public Service (Mr. Otieno): Mr. Temporary Deputy Speaker, Sir, I have just said that I will convey the urgency that this is a matter that must be settled and cannot be scuttled in any way and let him make a statement next week with regard on how he proposes to proceed on the matter.

The Temporary Deputy Speaker (Mr. Imanyara): On Tuesday, next week?

Minister for Public Service (Mr. Otieno): Mr. Temporary Deputy Speaker, Sir, Tuesday next, week will be appropriate.

Mr. Ethuro: Mr. Temporary Deputy Speaker, Sir, I had my own issues but then a matter arose as I listened to Mr. Mbadi's point of order to the newly appointed Deputy Leader of Government Business.

I wanted him to confirm that.

The Temporary Deputy Speaker (Mr. Imanyara): Except that you are doing it at the wrong time because you should have done it immediately I pointed to him that he was the one to rise under Standing Order No.36 (4). That is the point at which you should have legitimately raised that issue. He has already completed and the matter is already spent.

Mr. Ethuro: Mr. Temporary Deputy Speaker, Sir, in fact, I am not querying it but I am just highlighting it for purposes of the record. However, the most important point is that you remember when we were going on recess last year there was a tag of war between the Executive and the Backbenchers again on the issue of the fate of the Finance Bill. The Government side promised the nation, through this House, that they would take advantage of the recess period to consult and engage Members of Parliament and other stakeholders in the country so that by the time we resume, they would be ready with the Finance Bill.

Mr. Temporary Deputy Speaker, Sir, are you satisfied that the Acting Leader of Government Business is being faithful towards the Government's promise to this House?

The Temporary Deputy Speaker (Mr. Imanyara): Mr. Otieno, let the Acting Minister for Finance know that there is concern and that he must come prepared on Tuesday to disabuse the concerns and explain when the Bill will be brought to the House.

Next Order!

Mr. Ethuro: On a point of order, Mr. Temporary Deputy Speaker, Sir. If you can remember, I had my own issue. This was just a point of order to a point of order. I wanted to interrogate the Leader of Government Business.

The Temporary Deputy Speaker (Mr. Imanyara): But you sat down. The House cannot wait for you while you read your Standing Orders. What is it?

Mr. Ethuro: Mr. Temporary Deputy Speaker, Sir, I was being obedient to the Chair and I realized that it pays sometimes.

However, I want to commend the Government for that kind of programme, for the resumption of business and also for the Procedural Motion that we passed yesterday. Having said that, according to our Standing Orders, and this is why I was highlighting the issue of whether he has been appointed, Standing Order No.11 requires the Government to form a Government panel and nominate, besides the Leader of Government Business two other Ministers who will be known as the First and Second Deputy Leader of Government Business. I have raised this matter for a very long time. I think this being the beginning of the year; I am just wondering whether the Acting Leader of Government Business has now become either the first or the second Deputy

Leader of Government Business. Why has that panel not been constituted according to the Standing Orders?

Minister for Public Service (Mr. Otieno): Mr. Temporary Deputy Speaker, Sir, again, I will convey this to His Excellency the Leader of Government Business that by Tuesday, next week, the matter of the panel should be clarified and accordingly announced.

BILL

Second Reading

THE COUNTY GOVERNMENTS BILL

*(The Deputy Prime Minister and Minister
for Local Government on 15.2.2012)*

(Resumption of Debate interrupted on 15.2.2012)

The Temporary Deputy Speaker (Mr. Imanyara): Yes, Dr. Machage!

The Assistant Minister for Roads (Dr. Machage): Thank you, Mr. Temporary Deputy Speaker, Sir. As I support the County Governments Bill as proposed to us by the Deputy Prime Minister and Minister for Local Government, I have a few points to make. Indeed, the Chapter on Devolution created a lot of concern in the last referendum. As the Member of Parliament for Kuria, I opposed the referendum on this very Chapter because of the thought of marginalization when it is operationalized. I have read through this Chapter and I think it is fairly done. Congratulations to the Deputy Prime Minister and Minister for Local Government. However, there are a few observations I have to make, and especially so on issues of governance and decentralized units viz-a-viz what is going on now with the creation of the constituencies and wards by the Independent Electoral and Boundaries Commission (IEBC) which will directly impact on the administration of these units by the County Governments.

The Ligale Commission had its own shortfalls. It also had its own successes. One of the successes the Ligale Commission had was to listen in most cases to what leaders presented in most areas of this country not forgetting the Kuria community. The leaders decided how they want to be governed and how their boundaries have to be set. It was agreed, presented and adopted by the Ligale Commission and drawn as a map.

The current Independent Electoral and Boundaries Commission (IEBC) interfered grossly with some of these recommendations to the detriment of the communities who were affected. I have in mind my constituency where we have two districts which are operational and have been there for some years. The people's recommendation was that the existing districts should be turned into constituencies with the existing boundaries. That had been accepted for many years without any commotion. This Commission decided to interfere with the cohesion of these people and moved two wards from Kuria West Constituency to Kuria East Constituency. As I speak, there is anarchy in my community and there is likely to be some fighting which is totally uncalled for. This is something whose solution had been found before.

The Temporary Deputy Speaker (Mr. Imanyara): Dr. Machage, you are an Assistant Minister of the Government. Are you telling this House that---

The Assistant Minister for Public Works (Dr. Machage): Mr. Temporary Deputy Speaker, Sir, I am speaking as the Member of Parliament for Kuria.

The Temporary Deputy Speaker (Mr. Imanyara): You are speaking from the Dispatch Box; from the front, as an Assistant Minister of the Government.

The Assistant Minister for Public Works (Dr. Machage): Mr. Temporary Deputy Speaker, Sir, I will check my language. My apologies! We are trying to look at the document that we have now. I am praying that the Committee that is going to look into the petitions that have been given to this House looks keenly into the anomalies that have been introduced into the Commission report. It should also look keenly into the partisan practices of some of the Commissioners who have decided to put aside their calling and decided to take part in taking partisan decisions in moving arbitrarily some wards from one area to another. I do not want to over-emphasize this fact. Our aim is to have a Constitution that will give peace to everybody and have a devolved structure that will make everybody happy.

As the Minister implements this Bill that we are likely to pass, I would like him to pay more attention to the management of the already created infrastructure, for example, in places where we had municipalities, county councils and town councils properly built and set for that purpose. This Bill is a bit open on what we will have because there is an Act of Parliament that is supposed to be brought to the House to address that. Kehancha Municipality is one of the 70 most viable municipalities in this country. I am hoping that when the Minister decides to name some parts as towns, cities and municipalities, rural areas will not be forgotten just because they are rural areas and denied their position as municipalities during the implementation of the requirements of this Bill. It is important that this is shared equally in all the counties.

There was also an open clause on how the current locations and sub-locations will be managed. The Bill talks about the county government deciding on how to spread that administrative responsibility in those areas. This should not be left open like that. We should have had a Bill that addresses everything up to the village headman level, so that the management and the administration of our counties are done in a similar manner and equitably throughout the country. I am afraid that in the management of finances at the county level when it comes to equitable distribution of resources to those areas that are under privileged, if these areas are not identified properly, then I can see skewed administration of the finances to these marginalized areas. This is another area that must be addressed and clearly shown how the current set up of the county governments is going to address the marginalization of certain areas in the country.

With those remarks, I beg to support.

Mr. Shakeel: Mr. Temporary Deputy Speaker, Sir, I wish to contribute to the County Governments Bill. The Bill is seeking to implement Chapter 11 on devolved governments. It also seeks to replicate national governments at the grassroots level as proposed and the establishment of county executive committees and the county assembly which is equivalent to the Cabinet. However, I do not think this meant that there will be a duplication of the national Government at the county level. The idea was devolution and not decentralization or de-concentration.

I sit in Committees and I have seen the way this Bill has evolved. I am finding it of concern that the Bill, and not only this one, but the others that will be brought to the House including the Public Finance Bill, has been diluted in very specific ways. Some of them, I do not want to use the word clandestinely. I wonder whether I could use another word, but it has been diluted delicately to get away the very essence and spirit of devolution. The very essence and spirit of devolution, as I said, was to give the power back to the people. Devolution was that

instrument or that process where the power back to the grassroots, if only for those aspects of those particular counties and not national interest. I am afraid that what we are finding, even in this Bill, is that this has been diluted. Citizen participation has delicately been removed. That sort of participation at the ground level and even at the village level has been removed. The local authorities under LATF and LASDAP which have taken years to develop are now being thrown out with the birth water. I am afraid that if we do not re-institute that spirit in the County Governments Bill and reinstate the issue of citizen participation, we will have lost one of the pillars of devolution.

I have a list of other things that we want to do, but we will send that through our normal Committee. Public participation in decision and law making was the pillar for devolution and it must remain the pillar of devolution. We do not want a county government which is a replica of the District Committee or the District Commissioner. We want a different institution and administration whose views are different and the spirit of participation is not limited by previous luggage or baggage that has been carried over since the colonial time.

Many people talk about governors and I am sad to say that when people talk about governors, some of us who sat on the District Development Committees are against it. Many are talking about a governor's residence. Much is spoken about the governor's office. Even the Government came up with some suggestions that so much money is to be set aside for building new governors' offices and residences. I felt like we have gone away from the very aspect of devolution. It does not matter whether the Governor sits in the office of the former mayor. It does not mean that we must have a new office or residence for the governor if we have the office and the residence of the Provincial Commissioner.

Mr. Temporary Deputy Speaker, Sir, much has been said about governors wanting helicopters and that we will have 47 mini-presidents. That is where I am coming from. This is not secession. Already we are hearing the talk of secession from the Coast Province. This morning, I sat quietly listening to contributions by hon. Members. Some hon. Members said already people in that province are saying their province is not part of Kenya! This is not the essence of devolution. Devolution does not mean we divide our country. We want to remain united in a country called Kenya. All we are doing is that we are devolving certain rights and responsibilities to a lower level. So, that is the basis of devolution. Even God believes in devolution because He has angels serving in different capacities. However, when some people talk about seceding that is not devolution we want. We must be very careful, especially with the Public Finance Bill and other Bills that will be coming to this House. This is because the very spirit of devolution has been destroyed. I want to highlight the very reason why we have been fighting for devolution for a very long time. We must not have 47 mini-presidents with motorcades in this country. We must not have the symbol of presidency at the level of the district or county.

With regard to devolution we must be careful. I want to give the example of Nigeria. The first years of Federal Government saw many governors in jail. In fact, half of them were jailed. It is sad to note that if we do not put in place very organized systems with firm administration, we might travel on the same way as Nigerians. I would rather that we even delay or devolved governments in stages. So, I do not agree with the acting Leader of Government Business when he says that we push through these things. Let us go systematic, so that we can know what is good and bad for us. We need to have a clear timeframe within which to implement these things. Let us avoid half baked solutions to our problems. We do not want to go backwards!

Last week, I had the opportunity of visiting a country where my grandfather came from. It is called Pakistan. They had similar problems like this country. I remember in 1992 and 1997 trying to put together a new local government act that has never come to pass. Since 1997, they have tried to put together the local government act which provide for devolved system, but they have not succeeded. It started falling apart in 2007. So we are saying that we do not want to go that way. I am urging this House and the Minister to give us more time. Our Committee is scheduled to meet with the stakeholders on Friday. Surely, if we cannot meet them on Friday, we will need another ten days. If they wanted us to push this thing through, we should have done so earlier.

So, my plea is that as much as I think this is a great Bill, let us give it the time to mature as required. Let us have the infrastructure on board. There is no harm in putting the infrastructure now without having the county government in place.

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

Dr. Laboso: Mr. Temporary Deputy Speaker, Sir, thank you for giving me this opportunity to also add my voice to this very important Bill. We are quite aware that this is, probably the most challenging part of the Constitution; Chapter 11 on devolution after the Bill of Rights, in terms of its implementation. We would like to say that even as we are thinking of devolution, we are thinking of the idea of sharing government. As we devolved power, we are also thinking of devolving resources. It is more the devolvment of the resources that guided the idea of devolution being introduced in our Constitution.

I am sincerely hoping that we are not also going to devolve bureaucracy, corruption and all the negative things associated with Central Government. We have just been speaking about the Constituencies Development Fund (CDF) and how it has devolutionalized the rural areas. I am sure that when hon. Members or the public thinks about devolution, they are thinking more about an expanded kind of CDF where they will see development in the rural areas. They are not thinking about another Central Government that will take up all their resources in the rural areas.

Mr. Temporary Deputy Speaker, Sir, on the question of the coat of arms, which I believe are different identities of the counties, we are looking forward to a very colourful country. We will soon see the cultural diversity of our country. Some hon. Members have even suggested that they can go further and have county anthems, so that we will have all these much diversified country though united; one but united in our diversity.

I am also looking at the quorum of two-thirds of members of the assembly as stipulated in this Bill. However, going by the record of this very House, probably, that will be asking for too much. Maybe that needs to be re-looked.

I want to speak a little bit on Article 27 which talks about the number of wards. I think even as we will soon be debating the question on boundaries, it is already imagined that this number of 1,450 which has been expressly stated in Article 27 is, probably, not adequate. I appreciate the fact that we are looking for a leaner assembly. We are also looking at a better remunerated assembly. We are looking at, probably, attracting a higher calibre of aspirants for those positions. However, those numbers may not be tenable. I am looking at the example of my own constituency where there is a ward that is up to 40,000 people. This is when the average you are thinking of is somewhere around 30,000. So there will be a lot of disparities in terms of the number of people that will be administered under each of those wards.

Further, in the creation of some of these wards, again, I am looking at a lot of conflicts that will emanate because of moving one sub-location into another. This will take some time for people to agree, especially those who have already been aggrieved. I know in my own

constituency, one sub-location is feeling particularly aggrieved by having been moved from one ward to another. That is Chepkeige in Ndanai Ward. In fact, residents in that ward are up in arms and threatening to demonstrate. They are not just threatening, but they are actually going to demonstrate for being moved to a different ward.

Mr. Temporary Deputy Speaker, Sir, on the functions of the Governor, I think it is quite expressly stated what the Governor is going to do. My only addition is on part “k” of Article 31, where he is going to be the chair of security. This is something that, probably, needs to be well thought out. It is quite easy for the President at the national level to be chairman of security, but at the county level, I am sure that there are some ethnic overtones and other issues that might make it difficult for that Governor to actually be in control. He might be sucked into the ethnic or clan tensions that might be there.

Mr. Temporary Deputy Speaker, Sir, I am particularly happy with the article on how to remove the Governor. It is not going to be easy business. Therefore, Article 34 is quite comprehensive on the steps that will be taken, that will finally not rest with the county assembly members, but with the Senate. So, I believe that, that is going to give it some level of distance.

Mr. Temporary Deputy Speaker, Sir, Article 36 is very progressive and gender friendly, in the sense that it is asking for gender equality. This means that we will have equal ministers from either gender. I think that is to be applauded and emulated by the other Arms of Government.

Mr. Temporary Deputy Speaker, Sir, in Article 48, I think the county government has also been given some latitude in decentralizing further. They have an opportunity of decentralizing further even up to the village elders. So, that is good because each county will look at their needs and decide whether they want to devolve further.

Mr. Temporary Deputy Speaker, Sir, Article 85 on citizens participation, again, is a new concept that even as the Government and Parliament, we are beginning to get to grips with. It is good that even at the county level we have expressly stated that citizens are going to participate in their own governance.

Mr. Temporary Deputy Speaker, Sir, Article 96 is on civic education. I think that this one even needs to begin straightaway. I think as soon as this Bill is passed, civic education must begin immediately, because the people in rural areas really do not understand what this whole idea is. They are really looking forward to information. They want to know what is a Governor and Senator and what they are going to do. They want to know what the government at the local level is actually going to look like.

Mr. Temporary Deputy Speaker, Sir, Article 100 is on county planning. Again, this has got to be taken very seriously. We must have very clear principles and objectives of how that planning is going to happen, so that an overzealous Governor may not decide to, again, go back to the dark days of making roadside pronouncements on development. We want them to be very clear.

Mr. Temporary Deputy Speaker, Sir, I beg to support the Bill and hope that its implementation will be as has been expressed in the Bill.

The Assistant Minister for Forestry and Wildlife (Mr. Nanok): Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me this opportunity. I want to join my colleagues in supporting this Bill.

Mr. Temporary Deputy Speaker, Sir, this Bill is a product of a lot of consultations, particularly, when the Deputy Prime Minister and Minister for Local Government set up the Taskforce which went round the country. They have held so many consultations, a number of

which I have attended. Going through the Bill, I can see that a lot of the views, wishes and aspirations for those in this country who have been yearning for a devolved system of governance, have been accommodated. I believe that this House should be able to legislate this Bill to enable it to be enacted into law and operationalized.

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

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

Madam Temporary Deputy Speaker, one of the key things that have come out very clearly in this Bill is the fact that it has brought a new paradigm shift on how this country is going to be governed. We are no longer going to be governing the rural areas of this country through the provincial administration. The governance of this country now is going to be through the county governments and decentralized systems. It is for that reason that I applaud the functions that have already been given to the Governor and executive committee of the county, particularly in recognition of the fact that the Governor has executive powers within the county to be the overall. This means that even security matters that have a direct implication on the functions that the county is supposed to be conducting, the Governor will be sitting on that particular committee.

Madam Temporary Deputy Speaker, I want to draw your attention to Article 52 (1) on decentralization. Yes, the Bill has come out very clearly on how the county will go down to sub-county and then wards. But Article 52(1) is not very clear on whose mandate it is going to be for creating decentralized units beyond the wards. This is not going to be a responsibility of national Government. This Bill has to be very clear, so that the county government is given that power to legislate on this if it deems fit within its powers. I will want the Minister to relook into this matter.

Madam Temporary Deputy Speaker, as the previous speaker said, public participation has also been enhanced. I really like the fact that, for the first time in the history of this country, the participation of the public is going to be bottom-up. Decisions are going to be made and influenced by what the people say and think. I hope that this will not only be upheld at the county level, but even for the national Government functions that are going to be enacted, public participation should be enhanced much more than it has been in the past.

Madam Temporary Deputy Speaker, I like the fact that this Bill has actually repealed Cap.265 and enhanced the powers of county assembly representatives. These are the replacers of councillors. They are going to be very powerful and will be enacting legislation and overseeing county governments. They will be like Members of Parliament for the county assemblies. To me, those who will be chosen will, at least, be people who can do this. I am happy that we had set qualifications for this in a previous Act of Parliament. So, competent and right people will be elected by the local voters in the wards and constituencies to be able to occupy these positions. But one thing that I have noted is the fact that through the public hearings which the Independent Electoral and Boundaries Commission (IEBC) held recently, there are quite a number of constituencies and wards, where the public has actually said that the allocation of wards is too small.

Madam Temporary Deputy Speaker, even the way the IEBC created the wards is not clear. They said that they used the recommendations of the Local Government task force, but we know that this task force is not in any law. What we are now enacting this Bill as the law that the IEBC will use, when they do their final check on the boundaries of wards and constituencies; they will then gazette the final wards that we will have for purposes of the elections that will be held at the end of this year or early next year.

There is one thing I would like the Minister to look into again because quite a number of counties have been given few wards, particularly my own backyard of Turkana County, a very vast county comprising of 77,000 square kilometres; it has been given a total of 30 wards. This is not enough to address the issue of under-representation. It is not enough to address the issue of overworking the ward representatives.

Madam Temporary Deputy Speaker, therefore, I urge that under Clause 27(1) and (2), we look at how best we can put a cap. The Bill has already proposed a minimum of 15 wards per county. We can also fix a maximum number of wards per county. I suggest that the Minister considers 40 wards per county as appropriate. I believe that this will accommodate a number of areas we have said are still going to be under-represented. It will help the IEBC to have a law to use to sort out some of the petitions that are going to be presented to this House.

The effect of this would be increasing the total number of wards from the 1,450 recommended by the task force, which the IEBC has included in its Report, to a maximum of 1,880. The IEBC can review this so that we can accommodate those differences. For instance, in Turkana we have re-looked at the number of wards required and we think we need a maximum of 38 wards, and not 30 wards. If this adjustment is done, the under-representation of certain areas will become history. I urge that this House helps us in making amendments to this provision.

Madam Temporary Deputy Speaker, I want to touch on Clause 134, on transition. I have noted that under Part I, the Bill recommends that the IEBC determines the time, the place and the date of the sitting of the first county assembly in each county. My concern is that the IEBC does not have any role to play in determining the time and the place of the sittings of the Legislature; therefore, it should not decide for the county assemblies where and when they should be sitting. Such responsibility should be left to the residents of each county.

In Turkana, it should be left to the residents to decide; the sittings of the county assembly should take place in Lodwar, for instance. Likewise, the residents of Nairobi should decide where the sittings of the county assembly should take place. The eight individuals in the IEBC should not be deciding where the county assemblies should be sitting. So, I want to urge the Minister to see whether this provision can be amended because it is in breach of the spirit of public participation, and also the spirit of letting the people to decide. Most likely, the IEBC would recommend that the sittings take place at the county headquarters. So, if we leave it to the IEBC to decide that the sittings should take place at the county headquarters, it will give a big challenge the communities in the counties.

Madam Temporary Deputy Speaker, this Bill does not say what functions the county government should take up after the elections; such functions can be progressively transferred to the county government during the transition period. If this matter is not addressed through this Bill, let it be addressed through the subsequent Bill that will come to this House, so that the people are not disappointed in the first two years of introduction of the county governments. For instance, if a county government is given only 20 per cent of its functions to perform whereas the *mwananchi* expects the county to fulfil its full mandate, this can cause disappointment. So, we

have to weigh this, so that the resultant law can be much clearer to avoid conflict between the voters and the county governments when they come into place.

Lastly, I would like to speak on the arrangement of public service secondment. The Bill proposes that any public servant who will be within the jurisdiction of the county will automatically be seconded to that county government to work as a member of staff for that county government. I believe that we are talking about the public servants who have been employed by the national Government. However, this clause does not say anything about the county public service board being allowed to work closely with the Public Service Commission. This Bill should be very clear, so that it does not become the business of the Public Service Commission, which is a national body, to micro-manage secondments of personnel to the county governments. There should be mutual consultations between the Public Service Commission and the county public service boards.

With those many remarks, I beg to support.

Mr. M.M. Ali: Madam Temporary Deputy Speaker, I thank you for giving me the opportunity to contribute to this very important Bill.

Let me start by saying that this is a very important Bill. Actually, of all the Bills resulting from the passage of the new Constitution by this House and Kenyans at large, I consider this Bill to be essential to the way we will be conducting our lives as a country. I want to note that the time given for us to pass these Bills is not adequate because the matters before hand are going to affect the lives of generations of Kenyans to come. Therefore, hon. Members should have had more time to peruse these documents, properly so that we can have value addition in the course of debate.

Madam Temporary Deputy Speaker, I want to point out the clause for the removal of the county assembly members. It states clearly the conditions under which county assembly members may be removed from office, and it gives a timeline. It says that after 18 months of being in office, under the conditions given, a county assembly member may be removed from office even though some of the conditions stated might be difficult to be evaluated.

Clause 34(1), (2) and (3), in respect of removal of county governors from office does not give the timelines within which a county governor may be removed from office. That is to say immediately a county governor is elected into office, a group of people can sit down and decide that the county governor should be ousted from office, and that is going to be very dangerous. The opponents of governor-elects might wait until one finishes all his resources during the campaign then scheme and compromise the county assembly members. On the first day after elections, a county may lose its governor.

Madam Temporary Deputy Speaker, in order to avoid such dangers, I propose that we introduce some timelines like after two years or three years or something like that. In my view, leaving it open ended is very dangerous.

Madam Temporary Deputy Speaker, allow me to speak to Article 86 whereby public participation is encouraged. This is very important. Citizens may submit petitions to the county assembly. However, it goes ahead and says the county assembly must deal with these petitions expeditiously. By saying "expeditiously", what do we mean? Is two or three years expeditious enough? I think we must allocate some timelines and further qualify what we mean by expeditiously dealing with such issues.

Article No.88, further refers to these kinds of petitions some of which may end up in a referendum for a county. My problem with that is that it goes ahead and says this referendum must be signed by not less than 25 per cent of the population within that county. In my opinion

that is a threshold which is very high because some ideas might be very noble. An architect might come up with an idea which is very good for a county to improve on the infrastructure and such like things. Here the threshold is very high. Getting 25 per cent of the population approval an idea is not easy. Remember it is not 25 per cent of the voters. It is for the whole population in the county. In my own view, that is rather high and we need to revisit it.

Madam Temporary Deputy Speaker, functions of the county governors is clearly stipulated. It is relatively clear. I have no problem with it. But where I have an issue is about the sub-county administrators and likewise, ward administrators. I would wish that the functions of these two, include among the ones that you have already stated, they should be chairmen of peace and security committees in the sub-county and the wards, respectively. That is very important because these are some of the issues that we already spoke about and that is why we supported this very Clause.

Allow me to speak to the wards as stipulated. It is a very good idea. However, when I see what the Interim Electoral Boundaries Commission (IEBC) has recently done, I have a lot of misgivings. We must not conduct such kind of exercises as mere public relations. Why am I saying this? In Marsabit County where I come from on 19th January, we submitted a memorandum and articulated reasons why we needed a few wards in that county. As you know, it is the biggest county in the country. You very well know because of some of the clauses in our Constitution, we could not qualify for any additional constituency as large as that county is. However, for us to be able to manage effectively the number of the communities that lives there, I thought the proposals that we made of the additional wards would have been upheld. It would have made it easy for us to manage and settle disputes among communities and they will be able to live peacefully.

The issue to do with the constituency, if I may just mention, is concentrating very heavily only on population. This matter of population has disadvantaged a few counties in the northern parts of the country which naturally are not highly populated. You know too well that because of successive regimes that have kept that part of the country under a perpetual condition of under-development where the population cannot be expected to equal other parts of the country.

You recall Sessional Paper No.10 of 1965 where the country was urged not to invest in the northern parts of the country because the returns are not as much. However, I acknowledge efforts by the Kibaki Administration. Immediately he came to power in 2002, the road from Isiolo to Moyale was embarked on. I am happy to report a section has already been handed over. The section from Marsabit to Isiolo the contractor is already on site.

Save for this regime, both the other regimes from Independence up to the Moi era, had kept that part of the country in a condition that cannot be compared to the rest of the country. Therefore, I want to urge the Minister when we are dealing with this issue of the wards and also the boundaries Commission to be a little bit more considerate.

I wonder why we have to go round the country collecting views from the citizens as far as boundaries are concerned and the only thing that we are looking at is the population. The Clerk of the National Assembly has got a lot of manpower. You can just key in that data into the computer and get which population is higher, which is less, which one qualifies and which one does not qualify and they get additional constituencies. That is the only factor that they are looking for.

I appreciate the Equalization Fund to address the kinds of issues I have just articulated in this Bill. However, while the spirit is very good, the amount allocated, 0.5 per cent will not make any meaningful change if we are really serious about this concept of equalization fund. Unless

maybe you have the intention of saying the 0.5 per cent, one year it goes to one county and you rotate it. I think we need to revisit that.

The last item I want to refer to is the Clause on management of counties whereby the Central Government may uplift the mandate for any county to govern itself. Among others it has been listed that where there is persistent war and conflict then the management of that county will be by the Central Government. It is so unfortunate that currently we are experiencing such kinds of conflicts in my own county, specifically Moyale Constituency. Of course, there are conflicts in several other places like Pokot, Isiolo and the rest.

I want to urge the citizens of this country and specifically I am appealing to my people, we stand to lose this county if we do not live in peace. We must be able to preach peace, appreciate each other and live harmoniously.

Finally, as much as we are happy about this Bill and the opportunity we have to devolve the resources to the counties, I want to note that the speed with which the Government is facilitating the county governance system is not satisfactory. For example, assuming that the elections will be held in December this year, and that is the thinking of majority of the people and that we have a county government in place, where do we begin from. Civic education has not been conducted. Infrastructure has not been provided. The county government will have nowhere to conduct its business from. People will not operate in the air. People will not conduct their businesses in the open market. So I think so much needs to be done. Capacities of these counties need to be looked into, especially the same counties that I have referred to in the northern parts of the country. They may not even have the capacity to undertake the basic requirements of such kind of a governance system.

Madam Temporary Deputy Speaker, while I commend the Minister and the Ministry at large for a lot of effort put in, we have a lot of home work to do.

With those few remarks, I support.

Mrs. Odhiambo-Mabona: Madam Temporary Deputy Speaker, I want to support this Bill and thank the Minister for bringing it.

In supporting, I want to give a case of a woman who had a burden she was carrying, she was walking and then she was given a ride. Even when she was given a lift in a car she continued to carry the burden she had on her head and the baby she had on her back. I am saying this in respect to devolution that as a country we have a totally new system but many of us are still operating as though when the new system comes, it will be business as usual. Many Members have indicated that there is need for a clear paradigm shift and we must have it because we moved away from a Central Government system to a devolved structure. Most of us still think in the Central Government system even from the way we talk. I know many of us have vested interests in constituencies, counties and sometimes I want to say the way the “bullfighter” said that we need to take the bulls by the horns even though he failed to take it himself. If we are actually going to the devolved system let us not speak of county councils. When you want more wards then you are talking county councils. We cannot have our cake and eat it.

Madam Temporary Deputy Speaker, I would want to indicate that in order for us to have this paradigm shift the law should use terminology that shows this shift and that bestows this devolved structures with authority. I would want therefore want to urge the Minister that we consider amendments that take into account terminology that bestows authority to these new institutions. Therefore, I would want to suggest an amendment that instead of calling them County Assembly Members we should call them Members of Assembly so that the way we call ourselves MPs they are also MAs.

The way we talk of County Executive Committee they should be County Executive Cabinet. What is a committee? A committee is a committee of Parliament. These are big bodies. This is a cabinet. Call it a cabinet. Do not call it a committee because otherwise you still have the county council mentality.

Madam Temporary Deputy Speaker, we should also call the members of those cabinets Ministers. At the national level now we have Secretaries so at that level let us have Ministers. I do not even know why we are calling it the Public Service Board; it is not a school board. Give it the name that bestows that authority and gives it the stature that it has.

One of the things I would want to say is that the law is very positive but I would want to recommend further amendments. I know there are several Members who have spoken to giving insignia to these counties. Indeed, we have symbols such as flags and other things that indicate that. However, I want to borrow the American system. I want to suggest that using the American system we should also bestow our counties with identikits. For instance, we can call the Kirinyaga County the County of Mountains, we can call Kericho the Tea County, we call Nyeri County the County of Power; it is up to you to decide whether the power is to do with the Presidency or the women power and then call Naivasha the County of Roses. Homa Bay County can be called Aquatic County and Kisumu the County of Kings where you have Kings like *Wuod Alego* and *Owadgi Akinyi*.

Madam Temporary Deputy Speaker, I want to also indicate that under Article 27 (6) of the Constitution, there is a provision on affirmative action. If you look at the way the Constitution is worded, that, "Parliament will take measures including legislative measures to give effect to affirmative action". Therefore, for the Governor position, I want this law to be that law that gives that affirmative measure so that where you have the County Governor as a woman, then the Deputy shall be a man. I am going to move an amendment to that effect. It is constitutional.

I also want to congratulate the Minister for very progressive thoughts. Indeed, the persons who drafted this Bill are very intelligent and very progressive in thoughts. I am extremely excited that they have made provision for input indicators, outcome indicators and other indicators which show that we are a country that wants real reforms. I hope that it will not be merely issues that appear on paper that do not appear in practice. However, I want to encourage the Minister that we have given a lot of definitions; for instance, we have given definition of resigning, redeployment and all that. We should also give a definition of stepping aside so that all the drama we see in this Parliament about what stepping aside means shall not be visited upon County Assemblies.

I will be proposing certain amendments to certain clauses, for instance, on definition of a temporary resident because it is not clear who a temporary resident of a county is. I will be proposing an amendment to Clause 3(c) to add the words, "By the County Government". For avoidance of doubt that we are not talking about the National Government. I will be proposing amendment to clause 6(v) for us to have clarity on what companies we are referring to that the counties can create.

Madam Temporary Deputy Speaker, I know many people have spoken to the issue of public participation. This is one of the areas I can see that the Bill is not very bold about. Even though the Constitution has given the principles and the moral framework to provide for public participation, this Bill is still skirting around the issue of public participation. Mentioning public participation 100 times is not public participation. Therefore, I will be moving an amendment to give clout, to give teeth and give meat to the concept of public participation.

I do not want to speak to the issue of removal of Governors and all that because I am not aspiring as Governor except I would want to indicate that we should ensure that it is not used to destabilize the county. At the same time, we should not make it too stringent to remove. There must be a fair balance.

I would also want to move an amendment to clause 9(f) that we include the role of the County Assemblies to legislate. I do not know if that should not actually have been right on top.

Also on clause 17, I would like to add sign language or Braille. I am very happy about clause 19 that provides the role of the Speaker when there is a tie in voting. In this Parliament, you have seen in the past whenever there is a tie there have been very awkward moments. I am very happy that this Bill has provided very clearly for this.

Madam Temporary Deputy Speaker, another important issue that I want to indicate is clause 27 that has provided for civic education over boundaries. I have noticed in many instances mistakes have been made because the public were not aware. For example, in Lambwe, they have a case where part of Ruma National Park was curved off and taken to Gwasi. There are very valid issues relating to community of interest and historical times but because civic education was not done, this issue was not brought in time. Because of that, the way the boundaries are crafted may be problematic although I know they have already brought a memorandum.

I would want to indicate again that under Clause 29, there should be provision for appeal on recall clause if the IEBC fails or refuses to act. We are giving the IEBC powers that they do not have constitutionally.

On Clause 31(2)(b), it is unconstitutional and I do not know why we are putting there. We have a devolved system as opposed to a central system. The President must know his place likewise the governors. So, the President is not going to tell governors what they are supposed to do. The governors will tell the President what they are doing in their counties. Through the Summit which is proposed in the Inter Government Relations Bill, the President can request governors if he wants something to be done in their counties. This is a new era.

Madam Temporary Deputy Speaker, I want to indicate that we need to provide the timeline for giving of State-of-Address under Clause 31. I will be adding a new sub-clause (m) for any other function as per the Constitution for the role of the county members. I would also want to urge that we add the words "human rights" under Clause 31 where we have the words "promotion of democracy and good governance."

I have a lot of amendments which I will not speak to. I will just pick a few of them. One of them is under Clause 56(7). I am not pushing an amendment on that one. However, I would like to laud the Minister for picking a zebra approach whereby if the chairperson is a woman, then the vice-chairperson should be a man. I think that is positive. I also want to laud the Minister for providing for marginalized groups except that the mention of the word "youth" is missing almost totally in this Bill even though I know that they are part of the marginalized group. So that they feel the ownership, we need to provide for the youth and persons with disability. There are a lot of weak provisions in relation to that.

Madam Temporary Deputy Speaker, with regard to ward administrators, we have to be very clear about their qualifications. I am very uncomfortable with the use of the word, "sub-county" because it sounds like "sub-way". We need to get something serious. If you go out of the country you should be able to say that you represent or you come from this and that place. The word "county" makes sense, but "sub-county" sounds a little strange.

Mr. Ethuro: Like sub-chief!

Mrs. Odhiambo-Mabona: It sounds like sub-chief. We should get away from those funny mentalities. Under Clause 71 we need to tie this with the issue of resources. The national government shall give certain payments under certain circumstances. I would wish to move an amendment that the national government shall take care of all recurrent expenditure failure of which we shall have to put under the Public Finances Bill the capping from 15 per cent that is provided constitutionally to 40 per cent. Otherwise, we will be making nonsense of devolution. I am saying this because if you actually look at all the funds that are available from LATF to CDF all those funds are more than 15 per cent. So, if we are talking of 15 per cent which percentage is going to provide for recurrent expenditure, then we are not talking about devolution, but we are talking about a very quick process of killing devolution before it begins.

I want to laud the Minister on the section of planning. However, I want to request--- For Kenyans, unless something is done by law we cannot do it. I want us to include that over and above the issues that are addressed on spatial planning under Clause 108(2)(c) (ii). It is provided that they shall indicate where the public and private land development and infrastructure investment should take place. We should include that no building should be undertaken before there is infrastructure development. This is because for things which look common sense, here in Kenya common sense is very rare to find. I do not know how we can put up a building without infrastructure development. Once we have houses built, we shall start pushing houses asking where the road should be. For purposes of logic, we need to provide infrastructure before we provide for the buildings. I would like to encourage the Minister to provide it by law. The Minister should ask his counterpart whether we still have a department called planning in this country and why we are paying them any salaries. I do not think they do any work.

Madam Temporary Deputy Speaker, I think the Minister forgot an important chapter on finance. I know that the Bill makes reference to a public service finance that we shall be providing issues of finance there. However, if you look at this Bill, it is actually a mirror of the Constitution at the national level at the county level. So, it is actually the Constitution of the county level. They have borrowed virtually every chapter of the Constitution to this. Where is there a chapter missing on finance? You must give it meat. You must give it flesh. Even if you do not provide details, you must provide principles and some structure so that we know that you are not providing it under miscellaneous provisions as you are doing now. Financing devolution is not a by the way. It is at the core of devolution. I am actually going to move that and several other amendments, but because I want to give my colleagues time with those few remarks I wish to support.

Mr. Kathuri: Madam Temporary Deputy Speaker, I support this Bill. Devolution is the way to go. A doctor's prescription if not taken seriously and you end up taking an under dosage, you will end up not healing and at the same time the body will develop resistance. If you also do not follow the prescription strictly and you take an overdose, it has disastrous consequences. Devolution is good, but if not checked it can also lead to disastrous consequences.

Under Clause 4 of the Bill, it is very important for us to see how the central government will also co-ordinate the activities of the county governments in terms of developing symbols, flags, etc. If that is not co-ordinated you may end up finding that Embu County has a flag which resembles the Machakos County flag. It is also important that we have a sort of registry or a co-ordinating office which will take care of that because if it is not prescribed in this Bill then at the end of the day it might prove to be quite a confusing exercise when you encounter a vehicle from Embu County only to realize that it resembles the one from Machakos County.

It is also important to realize that the whole process may get into confusion if we do not prescribe the way the governors should behave. We have seen our colleagues here in Parliament drive in a convoy of seven cars and yet one body guard is enough. I wonder who this person threatening them is. At the same time, if we allow the governors to go ahead to do their own things we may end up finding that one governor will be in possession of, say, ten vehicles at the expense of the taxpayer. It is important that we have a co-ordinated way of what is prescribed and what should be done so that the governor does not go into extremes. Because he will be a mini-president, it may be impossible to tame him if he is not tamed by an Act of Parliament.

Salaries of staff are an issue that is not yet clear. We have seen in the past councillors from local authorities which are not under municipalities earning very little. Councillors from municipalities do not earn equal salaries despite the fact that the Ministry was trying to harmonize those salaries. However, we are aware of the councillors who have been earning more than others. Others have been earning money for prayers when this was not possible to be done in some other civic authorities. It is important for us to see how this Bill can deal with the anomalies which are likely to arise, just in case we get a rogue governor in any of the counties.

Madam Temporary Deputy Speaker, it is very important also to realize that even the registration of vehicles--- Thanks to hon. Nyachae when he was Chief Secretary; he was able to give identification to vehicles that are owned by semi-autonomous Government agencies. However, this time we will be having county governments and we would want to know whether they will all use the same type of registration for their vehicles, or they will be different. It is important for us to know how we will be differentiating the vehicles that belong to Embu County, Kitui County and so on. This will be very important because these are some of the issues that will create a lot of confusion, and at the end of the day make the whole process look very confused.

Madam Temporary Deputy Speaker, on Clause 47, I am disturbed about fixing of the maximum number of wards. We cannot have a quarter of a person. At the constituency level, we are prescribing the maximum number of wards. At the county level, we are also doing the same. At the national level, we are also trying to do the same. If we start move from the constituency level to the county level, these figures are bound to change things in this country. We cannot put a ceiling on the national level because it will be determined by the ceilings in the constituency or county levels but the formula must be applied. When we apply the formula it will be important for us to also determine the maximum number of wards available to be distributed in the county; I believe there is no way we can have other wards. Surely, even if it is point one or point two of a ward in terms of the population quota, it should qualify for a ward, so that people can feel that they are properly represented. It is important for us to come out very clearly so that we do not get into confusion.

Madam Temporary Deputy Speaker, Clause 29 is the recall clause; I believe it should be revised upwards. Thirty per cent threshold is too low, and we are leaving it open to manipulation by the rich. Some of us did not win because of having used money. It was because of our popularity but it will be very easy to unseat a sitting county assembly member when we have this 30 per cent threshold. A tycoon from within the locality who may feel as if he has been arm twisted by such a member of the county can easily apply this clause, knowing that 30 threshold is not going to be difficult to attain. Let us put it at 50 or 60 per cent for that matter, so that whoever will want to unseat a county member will see that it will be an uphill task . After all, here in Parliament we propose 75 per cent and I want to think we should not be unfair by proposing 30 per cent threshold for a county assembly member.

Madam Temporary Deputy Speaker, it is also sad to see that while the senator is expected to come and represent the interests of the county at the national level, we have not created a link between him and the county assembly. That should come out very clearly; that link should exist because the senator and the women representatives will be country representatives. So, they should be automatic ex-officios of the county assembly, so that whatever is discussed in the county assembly, they have their own input and should it require a petition at the national level, they will be able to defend it and defend it well. When they are not automatic ex-officios or members for that matter, it will be very difficult for them to link up, yet the governor will have access to the Speaker of the Senate. It is very important for us to make it easy for them to also engage with the county assembly.

Madam Temporary Deputy Speaker, it is not that we have been able to exhaust all the issues that are required to be addressed, but I also believe that it is very important for us to ensure that those grey areas are revisited and we should know exactly what the findings of the Ministry are; at least they can draft a better Bill, so that when we come to discuss it, it will give us exactly what we will require at the county level

With those few words, I support.

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Lesrima): Thank you, Madam Temporary Deputy Speaker. I want to begin by congratulating the Minister for bringing this Bill early enough, and also for setting up the task force that did an excellent job by going round the country to collect materials for this Bill. I also want to thank the Minister for carrying out an exercise to improve planning in a number of counties in the Republic; that exercise by his Ministry can be undertaken in all the 47 counties so that we start on a good footing.

Madam Temporary Deputy Speaker, I would like to say that the role and the powers of the assembly members have been properly articulated, but there is one aspect under Clause 8 which I want to be introduced. As you know, under Article 195 of the Constitution of Kenya, the county assembly has the powers of the High Court; it has the power to summon witnesses. I think that this should be lifted from the Constitution to define the roles of the assembly members, and if necessary elaborate on how those powers to summon will be exercised, so that we will not have assembly members misusing those powers to summon the governor, the Executive members and other members of the public on very flimsy reasons.

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

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

Mr. Temporary Deputy Speaker, Sir, on the recall clause, I support the idea of recalling assembly members, because from my own experience I am aware of the county councillors who absent themselves from the activities of their councils. They absent themselves from their wards and, in fact, come and literally live in urban centres, thereby ignoring totally the people who elected them. I do support the idea that there is need for discipline; that is why we have a recall clause. We must also bear in mind that there is a possibility of this recall clause being misused or abused out of malice by those who lose in the elections. So, I would want to say, as hon. Kathuri

has just said, that we need to put a very high threshold for those who will want to recall the members of the assembly.

Mrs. Shebesh: On a point of order, Mr. Temporary Deputy Speaker, Sir. Would I be in order to request that you consider reducing the time because of the number of Members who want to contribute and, of course, the speed at which we are moving considering the short time allocated for the passage of these Bills?

Dr. Nuh: Mr. Temporary Deputy Speaker, Sir, while I appreciate the sentiments by hon. Shebesh, some of us have been here since morning and it is only fair to accord us maximum time to ventilate on these issues because they are very pertinent, important and our constituents are listening. I do not think it would be fair to limit the time just merely because many Members have spoken to the matter.

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Lesrima): Mr. Temporary Deputy Speaker, Sir, I do not intend to go on and on endlessly.

The Temporary Deputy Speaker (Mr. Ethuro): Hon. Lesrima, you have the right to contribute. It is the considered opinion of the Chair that this is really the crux of the matter. We should allow Members as much time as possible to contribute.

(Applause)

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Lesrima): Mr. Temporary Deputy Speaker, Sir, thank you very much. I would like to inform the hon. Lady that I do not intend to go on and on. I am a prospective Governor and I hold this matter very seriously. I have also been following the contributions of Members since yesterday. So, I will follow the Standing Orders and try as much as possible to avoid repetition.

The other point I wanted to make has been mentioned by other Members. However, I want to put emphasis and it would look a bit awkward to say that under Article 31(k), we must deal with security issues very carefully and sensibly. I would not recommend that the Governor shares security committees. We are already experiencing pre-election violence in certain parts of this country. People are jostling for positions and there is indication that our communities are polarized. I will not mention this county but I walked into one county as the Assistant Minister for Internal Security and members of a community looked at me and the leaders simply walked out. This made me think very hard that perhaps, we should look seriously into the issue of chairmanship of the security committees particularly where you have continuous or perennial community conflict over pasture, cattle, boundaries and many other things. If you get a Governor from one community, he will be viewed as somebody who cannot be fair in arbitration. However, I am glad that the Constitution provides, under security organs, an arrangement that can accommodate those fears.

On the issue of public participation, I want to talk about the Budget. I am happy that there has already been an experiment in this field. I know that Government Ministries have already gone round and held workshops for public participation in the formulation of budgets. We want to see community involvement in discussing results of audits for various departments.

Finally, on the issue of suspension of counties in the case of war and conflict, it is not very clear to me whether it is internal war, it is war between counties or war between Kenya and a neighbouring country. We need to refine that.

Mr. Temporary Deputy Speaker, Sir, with those many remarks, I beg to support this Bill.

Mrs. Shebesh: Thank you, Mr. Temporary Deputy Speaker, Sir. I will try to spend as little time as possible so as to give my other colleagues time. First of all, I would like to congratulate this Ministry for bringing before us very comprehensive Bills on Devolution. This is a chapter that was critical to the realization of this Constitution. So, I want to congratulate them.

Certain issues, as we have been debating, have come up that may not have been seen to be critical. One of these issues, as the country has been debating the issue of boundaries has been conflicts between clans and tribal conflict. I would, therefore, ask the taskforce through the Minister whether or not--

I would like the two Ministers to listen to me because they are not listening.

I just want to talk about the tribal issue and the clan problems. When the issue of the boundaries was being discussed, it was clear that boundaries were not supposed to create hatred; they were meant to create cohesion. County Governments are totally based on the constituencies that have been formed and, of course, the new wards that have been merged. I know that before we had probably not seen it, but I feel that there must be a way to ensure that even as we implement County Governments. Where we are definitely seeing conflicts because of the way the boundaries have been drawn, we should have a mechanism within the County Governments that can either correct it or address it.

When I speak about this, let me be specific. I want to give Nairobi as an example. I want to say this without fear of contradiction that Nairobi, during the first review, which is famously called the "Ligale Review", the issues that came out were mainly surrounding one constituency. Specifically, let me say it was Dagoretti. Dagoretti was the main issue. Today, after we got the second review - I hope that I am using the right term - we have seen that in every constituency wards have been subdivided, of course, because of the merger they have now developed into what we can easily say in Nairobi as tribal constituencies. I am 100 per cent sure, at least, for Nairobi that if the County Government of Nairobi with the wards as they are is not addressed, we would clearly have demarcated Nairobi into tribal constituencies and tribal zones. This is something that can be demonstrated because we are all aware of the dimensions of Nairobi and the fact that all through the years in history, we have been able to balance the representation in Nairobi quite fairly and we have never had too much conflict. However, I am sure and I have talked to my other colleagues from other areas that if it not tribal like it is in Nairobi, it will be clans. The provision to sort out that mechanism may be with the IIBC but if the County Government will be the ones that will be dealing with this problem, maybe there is a mechanism that we did not think about that would be good for us to look at. That is probably something that I propose can be put under one of the functions or roles of one of the County Government. Really, I do not think we had foreseen it.

The other issue I want to speak about is the by-laws. It is clear that there are counties that will have the Urban and Cities Act operating within. I am not clear, and again I am speaking on behalf of Nairobi, whether the by-laws will be under the County Assembly or the urban cities, which we will obviously fall under will also be developing their own by-laws. I am saying this because I would not like to be conflicts between laws being created here and there. It has already been seen when we were trying to formulate by-laws here in Nairobi. Of course, the whole country thinks that Nairobi is part of them, and it is true because this is the Capital City of Kenya. However, I would like to tell you that there are unique problems in every county and when by-laws are being fixed, we should respect them. For now, we should respect the councils

if they feel that there is a by-law necessary to regulate an issue. We should, therefore, respect the County Assemblies.

To avoid conflicts, we need to be clear where there is going to be these two levels, namely, the county and the urban cities, as to who will be the final authority and which by-law can be formulated.

I want to finish on the emphasis of the governors because I think with hindsight, we over glorified, as politicians, this position of governor. I want to be very clear and I know many of my colleagues here are garning for governorship, but this is not a federal State. What we did in terms of devolution was to devolve resources and political power. We did not form federal States. So, this comparison with the way the Nigerian governors go in limousines and have their own flags is not certainly what we are expecting to see in Kenya at all. That misconception has been created by us and we must correct it. This correction means that there must again be some regulations on how far the flamboyance of a governor can be allowed. It must be tamed and you can see that everybody who has reached their apex believes that it is only governorship which is the next point. In fact, we have even seen people who want to resign from Government offices, like Permanent Secretaries and people who have ran corporations for years have decided that now governorship is the seat. We are not refusing that it is important, and please, save me from this governor to be of Tana River County. I agree that it is very important, but I would like us to tell Kenyans its importance in terms of what we expect from governors and not what we have seen from maybe in other countries.

This brings me to the issue of women county representatives, a seat that I will be seeking in Nairobi. I really wonder what our role is. Everywhere I go, people never mention the women county representatives and I wonder then why it is in the Constitution. Why would I waste my energy and time going round campaigning while I am not recognised in the Senate, in the County Assembly and I am not sure that when I go to the National Assembly, the Members of Parliament there will give me much time. Really, if this County Governments Bill could not address that, I do not know who will save us. This is an Act of Parliament to actualize a Constitution that clearly gives three electoral units for the counties. I am sure it was not put there by mistake. There was a good reason. If we go behind that reasoning, we will understand whether the women county representatives was just to add numbers for women or there was a reason why we decided they be elected by the county.

Following that, definitely, unless again we want to cause conflict and leave conflict to be dealt with by anybody, the mechanism of how the governor, the Senator and the county women representatives will work together because they represent the same county cannot be ignored. It does not matter how much we want to see who is more powerful than the other. We will ignore it at our own peril. I think we should bite the bullet. Since we are writing the law now, let us just define the roles, whether they are minimal or maximum rather than leaving them to people to politic about them or decide that they are going to ignore them. Already, just on a light touch, I have heard aspiring governors say that when Members of Parliament go to their meetings, they will just be asking them to wave at the crowd because they are the governors. Those are the kind of things that I am talking about. Let us just regulate them. Let us give people their roles and functions. Please, look at the role of the women county representatives and how she can be involved in the County Assembly and how she can translate that to the House where she will be sitting, which is the National Assembly.

I want to thank the Minister and support this County Governments Bill. I believe that this is the future of the country and we are beginning a new step.

I beg to support.

Mr. Muthama: Asante, Bw. Naibu Spika wa Muda, kwa kunipa nafasi hii ili niunge mkono Mswada huu kuhusu kubuniwa kwa Serikali za Kaunti hapa nchi.

Ningependa pia kutoa shukrani nyingi kwa Waziri kwa kuleta Mswada huu hapa Bungeni. Huu ni Mswada ambao umeratibiwa baada ya kuzingatia maoni na fikra za wananchi wote. Hata hivyo, kuna baadhi ya mambo ambayo ningependa kuyazungumzia kwa kina kirefu kwa sababu tunajua kila jambo lina uzuri na ubaya wake.

Jambo la kwanza ni kuhusu uhusiano wa kaunti na kampuni za kibinafsi. Hapa inapendekezwa kuwa kaunti inaweza kuwa na ushirikiano na kampuni au mashirika ya kibinafsi. Wasiwasi wangu ni kuwa maofisa au wafanyakazi katika kaunti fulani wanaweza kuanzisha kampuni zao za kibinafsi ili wafanye biashara na kaunti hizo. Pia wanaweza kuingia mkataba na kaunti ya kuleta bidhaa na mambo mengi. Jambo hili linaweza kuendeleza ufisadi katika kaunti zetu. Kwa hiyo, ninamwomba Waziri afikirie juu ya jambo hili kwa makini.

Ukulingana na Kipengee cha Tatu cha Mswada huu, kaunti yenyewe inaweza kubuni kampuni yake kwa minajili ya kutoa huduma fulani kwa wananchi wake. Kipengee hiki kinaweza kutumiwa na gavana na maofisa wake ili waanzishe kampuni zao. Wakati mwingine utaona ya kwamba gavana anaweza kuwahimiza watu wake kubuni kampuni huko akiwaahidi kuwa kaunti yake itafanya biashara na wao.

Tunajua ya kwamba sheria za wafanyakazi wa Serikali zinawanyima haki ya kufanya biashara na Serikali hata kama wana kampuni zao za kibinafsi. Hii ni kwa sababu matendo yao yataleta mvutano kazini. Ni lazima Waziri pamoja na Serikali kuwa macho na kuhakikisha kwamba watakaofanya kazi katika kaunti zetu wasikubaliwe kufanya bishara yoyote. Hii ni kwa sababu jambo hili litachangia sana katika ufisadi na uporaji wa mali ya wananchi mashinani. Kwa hivyo, ni lazima tuweke mikakati thabiti ya kuhakikisha gavana na watu wake hawataruhusiwa kufanya biashara na kaunti yao. Mimi huzunika sana nikiona ya kwamba baada ya pesa za umma kuibiwa tunaanzisha kamati ya kuchunguza. Hii ni kama kukimbiza upepo kwa sababau hatutapata pesa hizo.

Kulingana na Mswada huu, Serikal za Kaunti zimepewa nguvu zaidi kuliko Bunge hili. Ikiwa kaunti itakuwa na gavana asiyemwaminifu, basi pesa za umma zitapotea na wananchi hawatapata huduma.

Jambo la tatu ni kuhusu kuteuliwa kwa Wabunge sita maalum wa Bunge la Kaunti hapa nchini. Ikiwa uteuzi huu hautafanywa ka njia mwafaka utaleta hali ya kuvuta ni kuvute. Wakiteuliwa mara moja, tena baadaye kutakuwa na mjadala wa kuangalia idadi kamili ya Wabunge maalum watakaoteuliwa. Wakati huu kuna malumbano makali kuhusu mipaka ya maeneo ya Bunge. Ripoti imetolewa na watu wengi hawajaridhika na mapendekezo yake. Kwa hiyo, ni lazima mambo haya ya mipaka ya uwakilishi Bungeni yafanywe kwa njia itakayoridhisha watu wote. Tusipofanya hivyo kutakuwa na malumbano makubwa na tutapoteza wakati na pesa kutafuta tena maoni ya wananchi. Haifa kuunda tena jopokazi ili kupata maoni ya wananchi juu ya ni nani anayestahili kuteuliwa kama Mbunge maalum. Hii ni kwa sababu hatuna wakati wa kufanya hivyo kati ya sasa na uchanguzi mkuu ujao. Ni miezi michache inayosalia kabla ya uchanguzi mkuu. Kwa hivyo, tuweke mikakati maalum kabla ya wakati huo.

Kwa hivyo, naomba kwamba kiwango fulani kiwe. Kama ni Kaunti mbili zinafaa kupata uteuzi wa mtu mmoja. Kama ni Kaunti tatu, zinafaa kupata watu wawili. Hesabu hiyo ni rahisi. Kwa mfano, kama ni Kaunti ya Machakos ambako nataka kuwa Seneta, nitajua kwamba wadi ambazo niko nazo ni 30 au 40 na kati ya hizo ninaweza kuwateuwa wajumbe kiasi fulani, ili mambo yaweze kufanyika kwa urahisi sana bila kupoteza wakati.

Bw. Naibu Spika wa Muda, Kaunti itakuwa kama Serikali, kwa sababu itakuwa na bendera, *seal* na labda hata wimbo wake maalum. Kaunti itapewa uhuru hata wa kukopa pesa. Hata hivyo, Mswada huu hauonyeshi wazi mamlaka haya yanafika wapi. Hata pesa zinaweza kukopwa kutoka kwa mtu binafsi kisha Kaunti inawekwa kwenye matatizo. Wanaweza kuonyesha kwamba wako na pesa, kumbe ni watu fulani ambao wameingia na kufanya ufisadi. Utaona kwamba hizo pesa ambazo zinakopwa labda hata haziendi kufanya kazi inayotakikana. Ni lazima kuwe na mikakati, kutoka nyanja za juu kuteremka chini, ili kuhakikisha kwamba wakati Kaunti inakopa pesa kuna mkataba.

Bw. Naibu Spika wa Muda, katika Mswada huu kuna kipengele kinachosema kwamba kura itapigwa dhidi ya wajumbe ikiwa watashindwa na kazi. Hiyo inafaa na ni vizuri. Pia asilimia fulani ya kura inatajikana ili kupitishia Mswada Bungeni. Ningependekeza iwe thuluthi mbili na sio thuluthi moja, ili kuwe na uongozi wa kufaa.

Bw. Naibu Spika wa Muda, kusema kuna *sub-counties* ambazo zitakuwa zinalingana na *constituencies*--- Kuweka tena sub-counties ni kuleta matatizo mengine. Hii ni kwa sababu *constituency* iko na Mbunge. Ukiongeza muwakilishi wa *sub-county*, ataleta matatizo. Hii ni kwa sababu *sub-county* yenyewe itakuwa na jopo lake na Mbunge pia atakuwa pale. Kwa hivyo, hii italeta matatizo.

Bw. Naibu Spika wa Muda, jambo lingine linaloandamana na hilo ni kwamba itakuwa na vigumu sana kupata pesa na kufanya kazi, kwa sababu ya majopo yatakayoundwa. Zile tume na kamati ambazo zitakuwa ni karibu kumi. Je, hizi kumi zitakuwa zikifanya kazi gani kutoka pembe moja hadi ingine? Mambo haya yote yatakuwa yakiletewa Gavana mmoja. Je, ikiwa atakuwa akifanya kazi ya kusikiza madai na mambo yalizungumzwa na kamati hizi zote, kazi yake mwenyewe itafanyika lini? Kuangalia kazi ya kamati moja itahitaji masaa matatu au hata siku tatu.

Bw. Naibu Spika wa Muda, Kaunti zitaamua ni kiasi gani cha pesa ambayo majopo hayo yatakuwa yakipata. Je, kama pesa zitatumika vile manispaa zinatamia pesa leo, nchi hii itapona lini? Badala ya kupeleka sheria mashinani ili iwasaidie wananchi, tutakuwa tunawafanya masikini kupitia sheria hizo. Hata hivi sasa tuna shida kwenye tume zilizowekwa na Serikali. Kuna matatizo kuhusu pesa ambazo wahudumu kwenye tume hizo wanajipatia na wanataka kuzichukua waende nazo.

Bw. Naibu Spika wa Muda, tatizo lingine ni kwamba serikali za kaunti hazijawekewa vipimo vya matumizi. Kwa mfano, haijabainishwa gavana katika kila kaunti atakuwa na gari moja ama magari mawili. Labda hilo ni jambo ambalo litafanyika baadaye. Shida ni kwamba iwapo hali hiyo haitashughulikiwa hivi sasa, magavana watajipatia madaraka watakayotaka.

Utaona gavana akitaka kununuliwa Range-Rover yenye thamani ya Kshs 20 million, na kama magari saba hivi ya kumfuata nyuma kwenye misafara yake. Atataka naibu wa gavana pia awe na magari kama hayo kwa sababu hakuna kiwango cha matumizi ya pesa kilichowekwa. Watatumia pesa bila kujali na kuziweka kaunti kwenye shida. Watasema: “Tuleni leo. Watakaokuja kesho watatafuta namna yao ya kupata fedha.”

Bw. Naibu Spika wa Muda, ninamwomba Waziri aweke kielelezo kwamba katika kila kaunti kutakuwa na gari moja la kaunti yenye cc zisizozidi kiwango fulani tusije tukajipata na matatizo ya kujaribu kukimbizana na upepo umepita mbele yetu.

Vile vile, suala la muundo wa kamati ya kusimamia masuala ya ulinzi katika kaunti pia ni lazima lizingatiwe kusije kukawa watu wanasimamia viti vya gavana, wanaweka mambo yao na kuamua wanavyotaka. Suala hili lisiposhughulikiwa ipasavyo, utaona kwamba askari wameandikwa wengi hata kupita mapato ya kaunti yenyewe, kwa sababu watu watataka

kutafutia watu wengine kazi. Tunataka kuona Waziri akisema kwamba askari wa kulinda kaunti watapatikana kutoka Serikali kuu.

Bw. Naibu Spika wa Muda, jambo la mwisho ambalo ningependa kuzungumzia ni kuhusu wanaopewa nafasi ya kuongoza wengine. Hivi sasa tunazungumzia mambo ya kuchagua watu. Kuna shida moja. Leo hata wale wanaowania viti vya ugavana wanafanya kampeini za kutafuta kura. Kama gavana atakuwa akipigiwa kura, hali hiyo italeta matatizo mengi sana. Kaunti zitakuwa zikiongozwa na wanasiasa, na wanasiasa hao watatakiwa kutunza hela za umma. Mtu akiwa gavana, atataka kupigania urais baadaye. Kwa hivyo, utaona kwamba pesa za kaunti ndizo zitakazotumiwa kufanyia kampeini kule mashinani.

Ikiwezekana, hiki ni kipengele kinachofaa kushughulikiwa upya. Ninasema hapa leo kwamba inafaa magavana wachunguzwe kama vile tunavyowafanyia majaji wetu ili tuweze kuwajua wao ni watu wa namna gani. Tutafaulu iwapo magavana hawatapigiwa kura bali watachunguzwa ili kubainisha tabia zao zilivyo na kuweza kufahamu walikofanya kazi ama walipata uongozi katika sehemu gani, kwa sababu hao ni watu watakaowania kusimamia serikali ndogo za kaunti.

Bw. Naibu Spika wa Muda, iwapo magavana watapigiwa kura, tutapata magavana ambao wakichaguliwa tu wataanza kutumia vibaya fedha za umma na kuanza kutafuta njia za kuwa rais. Kaunti hazitafanya kazi. Tunataka ikiwezekana watu hao wachunguzwe na kufanyiwa mtihani wa kufuzu kuwa magavana, lakini wasipigiwe kura. Haya maneno ninayosema leo katika Bunge yatakumbukwa.

Kwa hayo mengi, ninauunga mkono Mswada huu.

Mr. Kiuna: Mr. Temporary Deputy Speaker, Sir, let me begin by thanking the Deputy Prime Minister and Minister for Local Government for bringing this Bill at the right time, and at the same time congratulate him for at least coming up with a comprehensive Bill; it has covered a wide range of things that many Kenyans have been expecting from him.

However, besides congratulating him, I have a few reservations about this Bill. Although the Bill is already before the House, there are some issues we feel need to be addressed. The most contentious issue, in my view, is the competence of the county governors because this will be a very powerful office. Whoever will occupy the office of the county governor will have lots of power. If those powers are not structured, a county governor might go to an extent of misusing his powers. We do not want governor to misuse powers. So, it is my humble request that the Minister should look at it and see how we will control those powers and privileges given to a governor in this Bill.

Mr. Temporary Deputy Speaker, Sir, I hope you will agree with me that corruption in this country is rife. I do not know how the Minister will deal with it in devolved governments. Most of the aspirants for these positions are still serving this Government or are sitting Members. They have been serving in this Government for quite some time now. My biggest worry is that senior Ministers and civil servants in this Government are now offering themselves to vie for these positions. In fact, most of them are interested in governorship. To me, it means there is more than meets the eye.

I have a feeling that the reason why they are going for those seats is because they know in the next Government, we will not have Cabinet Ministers and that the PSs will no longer be appointed by the President. They will have to be vetted and approved by this House. So, they are looking for a short cut so that they continue embezzling public funds.

I am also worried in case we have a rogue governor in a county what will happen. A rogue governor with all these powers can mess up a county. We need to control some of these

powers. Some governors might use their powers to benefit their cronies and tribesmen. They may decide to become worse dictators in their counties. We all have heard about secession talk. We should not allow such thing to happen. We must strive to stay as one united nation. Any governor who lead his people on that route, should not allowed to do so. Kenyans must at all times be vigilante and safe our country from disintegration.

Lastly, it is very important that we retain the provincial administration because they will be in charge of our security of our counties.

I do remember very well when we were going across the country educating *wananchi* during the referendum, we promised to retain provincial administration in our governance. Therefore, we need to maintain it in the new constitutional dispensation. There is a major concern that some people want us to scrap it.

Mr. Temporary Deputy Speaker, Sir, I am of the opinion and I will support if possible, that the Governor should not be elected but vetted thoroughly. By electing him, we are going to elect another politician. When it comes to politicians, I know the way they handle themselves and how they tend to cheat *wananchi*.

As I wind up, I would like to ask one question; surely, now we are going to the county system, we are going to start a new baby but as we go on to nurture this new baby, there are so many other projects which the Government has not finished. Surely, however much we would have wanted this county we feel that we have an incomplete job. If we are not very careful, even when we come to counties, we shall create them and leave them hanging.

With those few remarks, I support this Bill but with reservations.

Mr. Chanzu: Mr. Temporary Deputy Speaker, Sir, thank you for the opportunity to support this very important Bill.

I want to congratulate the move that was made by the Ministry and the Committee that was put up under Mr. Mutakha Kangu to come up with these three Bills that we have now. I think the purpose of the new Constitution was because there has been a lot of unfairness and imbalances on the way things were done in the country. The heart of the Constitution is devolution. There are issues we have talked about here many times and over many years; historical injustices and so on.

Mr. Temporary Deputy Speaker, Sir, that is why when Kenyans were asked for their views, it was found necessary that we come up with a Constitution which deals mostly with devolving the Government.

I have seen the affinity of Kenyans being said here. some people talk of big money; people say they want to be Governors because they want to control Kshs5 billion and others say they want to control Kshs10 billion. I keep asking myself whether that money is their money.

Mr. Temporary Deputy Speaker, Sir, the main purpose was for checks and balances. It is good that everything is done right particularly when we come to devolved Governments. It is only hoped that we shall not be devolving corruption from up to down. It is proper and appropriate that we have the right institutions in place so that the services that we intend and the responsibilities and resources that are devolved are properly managed.

What I think and feel has come out very well unlike in the past where it was not even possible for us to quantify to the public what the representatives---

The Temporary Deputy Speaker (Mr. Ethuro): Order, Mr. Chanzu! You will have 17 minutes to contribute when we resume this particular business.

ADJOURNMENT

The Temporary Deputy Speaker (Mr. Ethuro): Hon. Members, it is now time for us to adjourn the House, and House is, adjourned until Tuesday, 21st February, 2012 at 9.00 a.m.

The House rose at 6.30 p.m.