

# NATIONAL ASSEMBLY

## OFFICIAL REPORT

Thursday, 23<sup>rd</sup> February, 2012

The House met at 9.00 a.m.

*[Mr. Deputy Speaker in the Chair]*

### PAPERS LAID

The following Papers were laid on the Table:-

Report of the Departmental Committee on Agriculture, Livestock and Cooperatives on proposed role of the Ministry of Youth Affairs and Sports in increasing production and productivity of maize through drip irrigation by the National Youth Service.

Report of the Departmental Committee on Agriculture, Livestock and Cooperatives on the non-renewal of the employment contract of the New Kenya Co-operative Creameries Managing Director, Mr. Francis Mwangi and also the milk glut and the 2010 non-payment of former KCC employees.

Report of the Departmental Committee on Agriculture, Livestock and Cooperatives on the Inspection Tour of ADC Galana Ranch, ADC Kisiwani Complex and Bura Irrigation Scheme on 11<sup>th</sup> to 13 August, 2009.

*(By Mr. Mututho)*

### NOTICE OF MOTION

#### ADOPTION OF REPORT ON INSPECTION TOUR OF ADC GALANA/KISIWANI /BURA

**Mr. Mututho:** Mr. Deputy Speaker, Sir, I beg to give notice of the following Motion:-

THAT, this House adopts the Report of the Departmental Committee on Agriculture, Livestock and Cooperatives on the Inspection Tour of ADC Galana Ranch, ADC Kisiwani Complex and Bura Irrigation Scheme on 11<sup>th</sup> to 13<sup>th</sup> August, 2009, laid on the Table of the House today, Thursday, 23<sup>rd</sup> February, 2012.

#### ADOPTION OF REPORT ON NON-RENEWAL OF EMPLOYMENT CONTRACT OF NEW KCC MANAGING DIRECTOR

**Mr. Mututho:** Mr. Deputy Speaker, Sir, I beg to give notice of the following Motion:-

THAT, the House adopts the Report of the Departmental Committee on Agriculture, Livestock and Cooperatives on non-renewal of employment contract of the New Kenya Co-operative Creameries Managing Director, Mr. Francis

Mwangi and also the milk glut in 2010 and non-payment of former KCC employees, laid on the Table of the House, on 23<sup>rd</sup>, February, 2012.

ADOPTION OF REPORT ON INCREASED MAIZE PRODUCTION  
THROUGH DRIP IRRIGATION BY NATIONAL YOUTH SERVICE

**Mr. Mututho:** Mr. Deputy Speaker, Sir, I beg to give notice of the following Motion:-

THAT, this House adopts the Report of the Departmental Committee on Agriculture, Livestock and Co-operatives on the proposed role of the Ministry of Youth Affairs and Sports in increasing production and productivity of maize through drip irrigation by the National Youth Service, laid on the Table of the House on 23<sup>rd</sup> February, 2012.

**Mr. Deputy Speaker:** Next Order!

QUESTIONS BY PRIVATE NOTICE

**Mr. Mututho:** On a point of order, Mr. Deputy Speaker, Sir. I have a Question No.910 which has been moving around between departments and Ministries for the last seven months.

**Mr. Deputy Speaker:** Is it on the Order Paper today?

**Mr. Mututho:** It is not on the Order Paper today.

**Mr. Deputy Speaker:** Fair enough! You will have to raise that at the appropriate time.

IRREGULAR ACQUISITION OF ST. MICHAEL'S PRIMARY SCHOOL LAND

(**Mr. Ruto**) to ask the Minister for Lands:-

(a) Is the Minister aware that the proprietor of Bomet Teachers' Training College has fenced off about 33 acres of public land, including four acres belonging to St. Michael's Primary School in Bomet County?

(b) What steps will the Minister take to ensure that the irregularly acquired land is restored to the public?

(c) Could the Minister direct that St. Michael's Primary School be formally allocated the land and given unfettered access for development?

**Mr. Deputy Speaker:** Is it my understanding that there is an understanding between Mr. I. Ruto and the Minister for Lands that this Question will be answered at a later date?

**The Minister for Lands (Mr. Orengo):** Yes, Mr. Deputy Speaker, Sir. I had asked Mr. Ruto to give me a little time although it is a Question by Private Notice. But there are issues there that need a little bit of research.

**Mr. Deputy Speaker:** When will the answer be ready?

**The Minister for Lands (Mr. Orengo):** Tuesday afternoon, next week.

**Mr. Deputy Speaker:** It is so directed that the Question be listed on the Order Paper on Tuesday afternoon.

BOYCOT OF COURT SESSION BY ADVOCATES IN BUNGOMA

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

(a) Is the Minister aware that advocates at the Bungoma High Court have been boycotting court sessions since 2011 in protest of the shortage of judges at the court?

(b) What measures will the Minister take to arrest the situation which is denying Kenyans access to justice?

**Mr. Deputy Speaker:** Is the Minister for Justice, National Cohesion and Constitutional Affairs here? Where is the Minister? Mr. Assistant Minister, have you resigned from your position as an Assistant Minister and joined the Backbenchers?

**The Assistant Minister for Justice, National Cohesion and Constitutional Affairs** (Mr. Cheptumo): I am sorry, Mr. Deputy Speaker, Sir. I was consulting on an issue. I would request for a few minutes. The answer is being brought to me because we were getting information from the Judiciary. I believe in the next few minutes, I will be able to have the answer.

**Mr. Deputy Speaker:** Under the circumstances because the House cannot be on hold for a few minutes to be able to allow you to have the answer here, the Chair directs that this Question be listed on the Order Paper on Tuesday morning.

**The Assistant Minister for Justice, National Cohesion and Constitutional Affairs** (Mr. Cheptumo): Most obliged, Mr. Deputy Speaker, Sir.

**Mr. Deputy Speaker:** Are you comfortable with that, Dr. Khalwale?

**Dr. Khalwale:** Mr. Deputy Speaker, Sir, I cannot attempt to overrule the Chair. This Question is so practical. In Bungoma as we speak now there is no justice being dispensed. The Assistant Minister has been saying: "I will come tomorrow, I will come the following day."

Mr. Deputy Speaker, Sir, you have a lot of power where you are seated. I request that at the very worst, we do it this afternoon, the reason being that I will be in Kigali on Tuesday and Wednesday.

**Mr. Deputy Speaker:** Whereas the Chair understands and sympathizes with the people of Bungoma on the matter just being raised here by your Question, the Chair is also cognizant of the fact that you are on your second term. Is this your second or third term?

**Dr. Khalwale:** Mr. Deputy Speaker, Sir, this is my third term. I have won elections three times.

**Mr. Deputy Speaker:** Indeed, yes, that is very well put and the Chair appreciates that too. You understand that the Order Paper for the afternoon is ready in the morning. As a matter of fact, it has been ready since last night. Therefore, that Order Paper cannot be altered. In any case, where I directed before that the Question be listed on the Order Paper on Tuesday morning, I have just recollected that we have not passed a Motion to have the House sit on Tuesday morning. Therefore under those circumstances, it can only be on Tuesday afternoon but you claim that you will be out of the county on Tuesday. When can you be in the country for the matter to be listed on the Order Paper?

**Dr. Khalwale:** Mr. Deputy Speaker, Sir, allow me to revisit this matter on Thursday because I will be travelling in from Kigali on Wednesday.

**Mr. Deputy Speaker:** Very well! The Chair directs that this Question be listed on the Order Paper on Thursday afternoon.

*(Question deferred)*

**Mr. Deputy Speaker:** Do we have any Statements that were supposed to be given?

## POINTS OF ORDER

### DELAYED STATEMENT ON DEMOLITIONS OF RESIDENTIAL BUILDINGS IN NAIROBI

**Mr. Keynan:** Mr. Deputy Speaker, Sir, last week I sought a Statement from the Minister for Lands. I just saw the Minister five minutes ago and he said he is ready with the Statement so I do not know where he is.

**Mr. Deputy Speaker:** Yes, the Chair did indeed see the Minister for Lands just a few minutes ago. Where is the Minister for Lands?

Minister for Lands, you have business this morning in the House.

**The Minister for Lands (Mr. Orengo):** Mr. Deputy Speaker, Sir, I am sorry. I was expecting this Statement to come from my office at 9.10 a.m. but it is not yet here. Although I had agreed with my friend that I will give it in the morning, if he can bear with me I can give it in the afternoon. Actually, it was meant to be given in the afternoon.

**Mr. Deputy Speaker:** Fair enough, the Chair directs that this Statement be delivered in the afternoon today.

### DEMOLITIONS IN RESIDENTIAL AREAS IN NAIROBI

**Mr. Hassan:** Mr. Deputy Speaker, Sir, I had asked for a Ministerial Statement on the demolitions that had taken place in Nairobi in November. I was made to understand that the Statement would have been made on Thursday, which is today, after repeated delays.

**Mr. Deputy Speaker:** The Statement was from which Minister?

**Mr. Hassan:** Mr. Deputy Speaker, Sir, the Attorney-General. I just want to remind the Chair that this is a long overdue Statement and I want to be assured that the Attorney-General and the Executive take issues relating to the poor people of Nairobi whose houses have been demolished rather seriously. It is now February.

**Mr. Deputy Speaker:** Can any of the Ministers give an undertaking on this matter that clearly is urgent?

*(Mr. Mwatela stood up in his place)*

I would have assumed that the Assistant Minister for Justice, National Cohesion and Constitutional Affairs would be closer to the Attorney-General.

**The Assistant Minister for Justice, National Cohesion and Constitutional Affairs (Mr. Cheptumo):** Mr. Deputy Speaker, Sir, I undertake to take up the issue with the Attorney-General and hope that by Tuesday next week they should be able to give the Statement.

**Mr. Deputy Speaker:** Clearly, once you have undertaken this and you have given a firm promise to the House that by Tuesday next week the Statement will be there, there is a presumption of the House that you will inform the Minister concerned at the earliest opportunity. On a number of occasions, Ministers make this undertaking and fail to relay the same to the concerned Minister.

**The Assistant Minister for Justice, National Cohesion and Constitutional Affairs (Mr. Cheptumo):** Mr. Deputy Speaker, Sir, I undertake to inform the Attorney-General this afternoon.

## COMMUNICATION FROM THE CHAIR

### CONSIDERED RULING

#### COMMITTEE ON JUSTICE AND LEGAL AFFAIRS CAN MAKE RECOMMENDATIONS ON IEBC REPORT

**Mr. Deputy Speaker:** Hon. Members, before we go to the next item on the Order Paper, the Chair has a Communication to make.

Hon. Members, the Chair did undertake to give both direction and Communication on the matter that was raised by Mr. Jakoyo Midiwo yesterday morning. The direction has been given and the Report has been laid. But to address the concerns raised by hon. Members who raised very pertinent and important issues on this matter, the Chair is going to give a communication on the same.

Hon. Members, during the morning sitting held yesterday Wednesday, 22<sup>nd</sup> February 2012, Mr. Jakoyo Midiwo rose on a point of order seeking the direction of the Chair on what he described as the boundaries report which is about to make its way to this House. He claimed that as a Whip he had received many calls from hon. Members seeking the way forward and expressing concerns whether the Departmental Committee on Justice and Legal Affairs had any power in law to change the recommendations of the Independent Electoral and Boundaries Commission (IEBC).

He argued that under the Constitution, the delimitation of constituencies and wards is a function of the IEBC and that a Member of Parliament is ineligible to sit on the Commission. Hon. Midiwo was concerned about the proper constitutional role of Members of Parliament, the Committee and, indeed, this House, in matters relating to the delimitation of constituencies and wards in general and the IEBC Report in particular and whether specifically, changes could be made to the Report of the IEBC or whether the role of the Committee is limited to merely looking at the Report and then tabling it before the House.

Several Members similarly rose on points of order on the matter; Mr. Isaac Ruto, Dr. Bonny Khalwale, Eng. M.M. Mahamud, Mr. Mbadi, Mrs. Odhiambo-Mabona, Mr. Kabogo, Mr. Abdikadir, Mr. Muriithi, Mr. Bahari, Mr. James Orenge, Ms. Karua, Mr. Olago, Mr. Githae, Mr. Ababu Namwamba and Mr. Baiya.

The Chair has carefully considered all the contributions made and has come to the view that they raised the following issues:-

(i) Whether it is in order for issues relating to a report of the Departmental Committee on Justice and Legal Affairs to be debated in the House and objections raised even though the report has not itself been tabled in the House.

(ii) Whether the provisions relating to the first review of the delimitation of boundaries of constituencies and wards set out in the Fifth Schedule to the Independent Electoral and Boundaries Commission (IEBC) Act (No.9 of 2011) in providing for a role for the Departmental Committee on Justice and Legal Affairs and thereafter this House, in matters relating to delimitation of boundaries of constituencies and wards are in conflict with the Constitution to the extent that they undermine the constitutional independence of the IEBC.

The hon. Members, at the Bar may walk in.

*(Hon. Members at the Bar entered the Chamber)*

(iii) Whether arising from items (i) and (ii) the report of the Departmental Committee on Justice and Legal Affairs may be tabled for debate and resolution by the House.

On this last issue, it may be noted that the report was permitted by the Speaker to be tabled yesterday and was indeed tabled. To appreciate these issues, it is important on the outset to understand the constitutional and statutory provisions in the process of the first review of the delimitation of boundaries of constituencies and wards. Article 88 of the Constitution establishes the IEBC and invests in it the responsibilities of amongst other things the delimitation of constituencies and wards.

Clause 5 of Article 88 provides that the Commission shall exercise its powers and perform its functions in accordance with the Constitution and national legislation. It has also been noted that the IEBC is one of those commissions to which pursuant to Article 248(1) Chapter 15 applies.

Article 249(1) of the Constitution is clear that such commissions including the IEBC are established to:-

- (a) Protect the sovereignty of the people.
- (b) Secure the observance by all the State organs of democratic values and principles.
- (c) Promote constitutionalism.

Additionally, Clause 2 of that Article provides that commissions are only subject to this Constitution and the law, and are independent and not subject to direction or control by any person or authority.

The Fifth Schedule to the IEBC Act is underpinned by Section 36 of the Act and sets out the procedure for first review. Under Paragraph 3(2), the IEBC, having prepared and published a preliminary report, was required to make it available to the public for a period of 21 days and invite representations from the public on the proposals contained in the report. Upon the expiry of that period, the Commission was required, within 14 days, to review the proposed delimitation of boundaries considering the views received from the public and submit the revised preliminary report of proposed boundaries to the relevant parliamentary Committee, in this case the Departmental Committee on Justice and Legal Affairs.

Sub-paragraphs 4, 5, 6 and 7 detail the procedure and the fate of the revised preliminary report before the National Assembly. Sub-Paragraph 4 requires the Departmental Committee on Justice and Legal Affairs, within 14 days of receipt of the revised preliminary report, to table it together with its recommendations. Upon such tabling, Sub-Paragraph 5 requires this House to consider the revised report and forward its resolutions to the Commission within seven days.

*(Several hon. Members stood at the Bar)*

Hon. Members at the Bar may walk in.

*(The hon. Members at the Bar entered the Chamber)*

Thereafter, under Sub-Paragraph 6, the Commission is required to prepare and submit its final report for publication in the *Kenya Gazette*, taking into account the resolutions of the National Assembly. These words are critical, hon. Members, and I will return to them in the course of this ruling.

Sub-Paragraph 7 is also important because it makes it clear that if this House fails to consider and adopt the Report of the Departmental Committee on Justice and Legal Affairs within seven days from the date on which it is tabled, the IEBC may proceed to publish its report in the Gazette without the input of this House.

Having thus put matters into constitutional and statutory perspective, it is now opportune to make a determination on the issues raised.

On whether it is in order for issues relating to a Report of the Departmental Committee on Justice and Legal Affairs to be debated in the House and objections raised even though the report itself has not been tabled in the House, I already pronounced myself this morning. The Chair did already pronounce himself this morning in response to the points of order raised by hon. Isaac Ruto. Although Standing Order No.77(2) provides that it is out of order to anticipate debate of a Motion of which notice has been given by discussion upon a substantive Motion or amendment or by raising the same subject matter on a Motion of the adjournment of the House, it is clear that no notice of Motion for the Report had been given when the hon. Jakoyo Midiwo raised his point of order. The Standing Order is, therefore, inapplicable to the present matter.

More importantly, hon. Members, a careful reading of Standing Order No.47(3) empowering the Speaker to rule certain proposed Motions to be out of order for unconstitutionality as well as Article 3(1) of the Constitution enjoining all persons, including the Chair of this House to respect, uphold and defend the Constitution, all lead to the conclusion that the Chair cannot wait for an unconstitutional Motion to be moved before overruling it. It follows, and the Chair has previously ruled that on a question of an alleged violation of the Constitution or a threatened violation of the Constitution, it is incumbent to any hon. Member to raise it at any time for the Chair to rule thereon. The question of constitutionality raised by hon. Jakoyo Midiwo and the critical nature of the matter of constituency and ward boundaries to the entire electoral process is, indeed, the reason that the Chair has found it necessary to make this considered ruling.

The second issue, and which is really the key issue at hand in this matter, relates to whether the provisions relating to the first review of the delimitation of boundaries of constituencies and wards set out in the Fifth Schedule to the IEBC Act No.9 of 2011 is providing for a role for the Departmental Committee on Justice and Legal Affairs and thereafter this House in matters relating to the delimitation of boundaries of constituencies and wards; they are in conflict with the Constitution to the extent that they undermine the constitutional independence of the IEBC.

*(Several hon. Members stood at the Bar)*

Hon. Members at the Bar may walk in.

*(The hon. Members at the Bar entered the Chamber)*

The arguments making the case for unconstitutionality, as I understand them, are weighty. They raise the whole question of whether considering the entire history about constitutional development in the area of electoral boundary demarcation culminating in the constitutional provisions that were cited this morning establishing an IEBC and considering the direct interest that hon. Members serving in this House have in the matter in which constituencies and wards are delimited, it is in keeping with the letter and spirit of the

Constitution to allow a House Committee and thereafter this House to make resolutions on the Report of the IEBC. Indeed, it is a legitimate concern.

On the flip side, and which is the argument made by Messrs Khalwale, Orengo, Abdikadir, Muriithi; Ms. Karua, Messrs. Namwamba, Githae, Olago and Baiya, one wants to consider carefully the legitimate role of Parliament and the meaning of the independence of constitutional commissions. I have to agree with these hon. Members that Parliament cannot be limited in its oversight and the deliberative role on any matter. These roles are invested on Parliament by Article 1 of the Constitution which recognizes that all sovereign power belongs to the people of Kenya and that this sovereign power may be exercised either directly or through democratically elected representatives.

*(Several hon. Members stood at the Bar)*

Hon. Members at the Bar, you may walk in.

*(The hon. Members at the Bar entered the Chamber)*

These roles are invested on Parliament, as I had said earlier, by Article 1 of the Constitution which recognizes that all sovereign power belongs to the people of Kenya and that this sovereign power may be exercised either directly or through democratically elected representatives. Whereas this mandate of Parliament cannot be construed as entitling Parliament to direct and control independent commissions and offices, the Constitution cannot similarly be read or construed as barricading independent commissions and offices in an isolated space immunized from entertaining the views and opinions of the citizens of this country, whether those citizens are in this House or elsewhere.

*(Applause)*

Hon. Members, it is, therefore, important that this House and Kenyans at large understand the status of the revised preliminary report of the IEBC and the work thereon by the Departmental Committee on Justice and Legal Affairs and this House. As correctly put by hon. Orengo and endorsed by a number of hon. Members, there are in fact two documents that will come before this House. The first is the revised preliminary report of the IEBC, which has been published and which cannot be altered neither by the Departmental Committee on Justice and Legal Affairs nor by this House. The second document consists of the recommendations on the revised preliminary report made by the Departmental Committee on Justice and Legal Affairs and tabled in this House; and the Chair repeats the recommendations. These are no more than recommendations by our Committee to the House. The House can alter, amend, adopt or reject them. The House, as envisaged at Paragraph 6 of the Fifth Schedule to the IEBC Act, can also fail within the time provided to do anything at all with these recommendations.

Hon. Members, if the House makes resolutions on the recommendations of the Committee, the law requires that these are forwarded to the IEBC, which should take these recommendations into account. As I had mentioned earlier on, it is these words “taking into account” that we must interrogate. No doubt, the courts will pronounce themselves on the meaning of these words if the matter should arise before them. For the purposes of my ruling on the point of order raised by hon. Midiwo, however, I am satisfied, and I so rule that it is not



unconstitutional for the Committee to make recommendations for the House to make resolutions which can be taken into account of by the IEBC. The resolutions of the House, though they may be useful, arising as they do from the representatives of the people, are not binding on the Commission and, therefore, are not in conflict with the functional independence of IEBC. The Commission can accept them all, some of them or reject them in their entirety and proceed to publish its final report as it determines.

In that event, paragraphs 4 and 5 of the Fifth Schedule provide recourse to the High Court for a person whether in this House or outside of it who is dissatisfied with the decision of the Commission.

Hon. Members, finally, considering that the Report of the Departmental Committee on Justice and Legal Affairs was tabled and Notice of Motion thereon given in accordance with the rules and the procedures of the House, the Chair now urges all hon. Members to take heed of these matters as the Report is debated by the House.

Thank you.

## POINT OF ORDER

### RE-ARRANGEMENT OF BUSINESS ON THE ORDER PAPER

**Mr. Deputy Speaker:** Hon. Abdikadir, you had an issue you wanted to raise.

**Mr. Abdikadir:** Mr. Deputy Speaker, Sir, I had sought your indulgence to arrange the matters on the Order Paper so that this matter could come in the afternoon.

**Mr. Deputy Speaker:** Indeed, yes. You all understand the rules that the matter before us in Order No.8 is a constitutional matter that requires the requisite threshold of two-thirds. We cannot proceed on that. The Chair---

*(Mr. Deputy Speaker consulted with the Clerk-at-the-Table)*

The rules are very clear. The only time we need the constitutional threshold of two-thirds is just before a Division or enactment of the Bill itself. It is, indeed, a constitutional Bill and the Chair directs that this process can continue. The debate can commence. However, the Whips of this House just have to make sure that they have the requisite numbers as they so wish. This matter cannot be disposed of we do not have the requisite number of, I think, 147 Members of Parliament in the House at the time it is being passed or rejected.

**Mr. Abdikadir:** Mr. Deputy Speaker, Sir, my contention was not that the matter could not start. I was just requesting the Chair's indulgence to re-arrange the matters on the Order Paper so that this matter comes in the afternoon.

**Mr. Deputy Speaker:** The Chair recollects very much that the numbers are not there. That is what you said, hon. Abdikadir.

**Mrs. Shebesh:** On a point of order, Mr. Deputy Speaker, Sir. I rise to support the Chair of the Committee. This issue of canvassing so that we are able to seek extension of debate of these Bills is not only alive in this House, but is also a public debate. I think we need to give Members of this House adequate time to prepare for the debate on this issue.

**Mr. Deputy Speaker:** Since it is the Chairperson himself and he is already indicating that---

**The Assistant Minister for Energy** (Eng. M.M. Mahamud): On a point of order, Mr. Deputy Speaker, Sir. To my recollection, the Speaker made a communication that this matter comes this morning. The House Business Committee (HBC), in its wisdom, arranged this Order to come this morning. In the event that this is not carried, we have to think of the next alternative. If we do not do it this morning, afternoon will be too late.

**Mr. C. Kilonzo:** On a point of order, Mr. Deputy Speaker, Sir. The Speaker was courteous enough to make an announcement from the Chair of a proposed Motion that was to appear this morning and to inform hon. Members of the importance of them to be here. It has, however, come to our knowledge that the Government is against this Motion and it is playing dirty tricks. For that reason, we do not have any of the two joint whips here. We do not have the Leader of Government Business here and neither do we have his Deputy here. We do not even have the Minister for Justice, National Cohesion and Constitutional Affairs. We do not have the Right Honorable Prime Minister. We do not have 40 substantive Ministers and 20 Assistant Ministers here.

Mr. Deputy Speaker, Sir, it is very clear that the Government has no intention to allow the citizens of this country to participate in the making of these new laws. It is for that reason they are using dirty tricks by simply not appearing. Even if this debate was to start, it is evident that they will not come. It will be an exercise in futility.

My appeal, therefore, is to the Government to think about the citizens of this country and come to the House. They would rather come to the House and vote against this Motion than not come to the House.

**Dr. Khalwale:** On a point of order, Mr. Deputy Speaker, Sir. I just want to add my voice to the point of order by hon. Abdikadir. All that he is asking for and in accordance with the Standing Orders is for the Chair to re-arrange the Orders. If you will find that it is difficult for you to push until afternoon, I want to propose in my point of order that you re-arrange it such that we start with the Committee of the Whole House and then at the end---

**Mr. Deputy Speaker:** Is the Deputy Prime Minister and Minister for Local Government ready for that? The Chair had taken that matter into consideration because the other business listed on the Order Paper and which is Committee of the Whole House cannot be moved now because the Deputy Prime Minister and Minister for Local Government is not here. There is the County Government Bill, the Intergovernmental Relations Bill, and the Transition to Devolved Government Bill. These are Bills that fall under one Ministry and it is not ready yet.

Under those circumstances, if you cannot move and these Ministers cannot move, then the House will adjourn. That is why the Chair is hesitant to re-arrange the business on the Order Paper.

**Dr. Khalwale:** Mr. Deputy Speaker, Sir, thank you for that observation, but allow me to make the following comment. Kenyans must know that we are in this crisis because the Government refused to act in time. The same Kenyans must know that this Special Sitting was actually initiated by Back Benchers. The Government never wanted this. Members of the public must also know that this matter on land which we are carefully mid-wiving so that all Kenyans are involved is the very reason why we have had tribal clashes in this country. It is the very reason why we had the MAU MAU that chased away the white man and we subsequently got our land, but thereafter the Government came in. It is the same reason that during the referendum some hon. Members of this Parliament were hesitant because they were not comfortable with the way land issues were being addressed.

Mr. Deputy Speaker, Sir, it is the time for us to bring everybody on board. Is it purely by coincidence that today in the morning any matter touching on the Constitution has been carefully dodged by the Government? The question I had on the High Court is because we were expecting that the new Chief Justice would now be spreading judges equally across the Counties. However, because this is not the intention of the Government, the Minister concerned has come here and played to public gallery.

Mr. Deputy Speaker, finally, so that we are not misunderstood, we want it to be on record, for sure that the Minister, some of them extremely senior, who like talking to Kenyans during funerals--- This is the time they should come and address this matter because over the weekend you will hear them talking about the issue of land and how they are committed to implementing the new Constitution and how they think that the people who voted “No” are not fit to drive the new Constitution. This is the time for them to say these things on this Floor of the House.

*(Several hon. Members stood up in their places)*

**Mr. Deputy Speaker:** Hon. Members, the Chair is on his feet. When the Chair is talking, you do not rise on a point of order. You sit down!

Whereas the Chair is equally not impressed with the way the Government side is, and how seriously the Government side takes business in this House, but on this matter, itself, which is before the House today, which is the first business on the Order Paper, it is not a matter that needs to be moved by a Minister. It is a matter that needs to be moved by the Chair of the Constitutional Implementation Oversight Committee. So, whether they are ready or not, that can only be established when it comes to voting on the matter, which, of course, can change either way in two hours time, when the matter is being debated. So, you are probably whipping the wrong horse for this matter now.

**Mr. Ruto:** On a point of order, Mr. Deputy Speaker, Sir. The Backbench really seeks your indulgence to understand us.

Mr. Deputy Speaker, Sir, you will realize that the implementation of the Constitution is, indeed, a very serious matter. The Constitution was promulgated a year and half ago. The time lines for the implementation of the Constitution are very clear. We are expected to pass these Bills before us within 18 months. However, 18 months are now over.

I recently asked the same Government to give us a statement on why they failed to obey the timelines for Parliament. For example, for 18 months, they knew these Bills would be here. What timelines did they accord to every stage of the development of that Bill? It is very clear in the Constitution, and in fact, the Government is flouting the Constitution by giving Parliament one week or two weeks to pass legislation, when they are aware that the same Constitution allows for the publication period for two weeks. It then allows First Reading, and then it is committed to the Committee. That is another two weeks, and then the period for debate is another two weeks; the period for the President to assent is another two weeks. Why do we not work out timelines for every Bill to allow Parliament the normal six weeks it must have for the implementation?

Mr. Deputy Speaker, Sir, I want to draw the attention of the Attorney-General to Article 261(4), and it says:-

“For the purposes of Clause 1, in consultations with the Commission for the Implementation of the Constitution shall prepare---

**Mr. Deputy Speaker:** Order, hon. Ruto! For the purpose of the business which is on the Order Paper, which brings us together this morning, it is the question of whether the Chair is ready to move---

**Mr. Ruto:** It is, Mr. Deputy Speaker, Sir. I am giving you the background, and that the Attorney General has failed to give us the necessary advice in time, and we are requesting for the extension of time, and in the afternoon--- Let us give this same Government just another four hours to re-arrange itself. Maybe, they are asleep. Maybe, the Attorney-General will tell us why he allows this Parliament to reach this quagmire.

**Mr. Imanyara:** On a point of order, Mr. Deputy Speaker, Sir. The matter before you is really simple. The Chair of the Committee simply asked you to reorganize the business. For good reasons, you have explained it is not possible. I think we should move on. Let the Chair move.

**Mr. Deputy Speaker:** That is the point. How do we proceed? Hon. Abdikadir, you have to proceed and move this Motion.

## MOTION

### EXTENSION OF PRESCRIBED PERIOD FOR ENACTMENT OF CONSTITUTIONAL BILLS

**Mr. Abdikadir:** Mr. Deputy Speaker, Sir, I accept your directions, and I will go ahead. I beg to move:-

THAT, aware that pursuant to Article 261(1) of the Constitution and the Fifth Schedule thereof the following Bills now pending before this House, namely: the Land Bill, 2012, the Land Registration Bill, 2012 and the National Land Commission Bill, 2012 are required to be enacted by this House not later than 27th February 2012; further aware that these Bills seek to implement critical and fundamental aspects of the Constitution; noting that owing to delays in the drafting, publication and presentation of these Bills to the House the time left before the 27th of February 2012 is not adequate for this House to effectively study and scrutinize the Bills and engage with the public as required by the Constitution and debate and pass the Bills into law; noting that the Honourable Speaker of the National Assembly has certified that there exist exceptional circumstances in accordance with Article 261(3)(b) of the Constitution, this House resolves to extend the period prescribed in respect of the enactment of these Bills for a period of sixty days commencing on 27th February 2012.

Mr. Deputy Speaker, Sir, these Bills deal with land. The substantive Bill dealing with land is the Land Bill, 2012. The critical deadlines required are all in that Bill, majority of them are all in that Bill. That Bill was published on 13<sup>th</sup> February, this year. If we had allowed for the 14 day publication period, that time would have lapsed after the deadline was passed. So, we ask: Why would the Executive who is most aware of these deadlines, publish a Bill that is required to be passed by this House latest the 26<sup>th</sup> of February, on the 13<sup>th</sup> of February, knowing that 14 days are required for publication to mature? Why would that be the case? Why especially when it is something as substantive as land? Why should the Executive not be aware of that?

Mr. Deputy Speaker, Sir, you had a lot of frustration earlier on. I agree with your ruling that this is a Motion coming from the Committee. But those issues are germane. The issues of land, the emotive nature and the substantive nature of that cannot be gainsaid. So, it is very critical that we deal with them with the seriousness that they deserve. In fact, from before Independence up to the fight for Independence, throughout the Majimbo debates of the 1960s and 1970s, up to the politically instigated clashes, and the fiasco we had in the last elections, the root cause of all those can be traced one way, or the other to land, and the issue of land. Indeed, in most other countries, for example, in the South African case, land is so huge that when they were doing their Constitution reform process, they took a different approach so that other issues could be discussed, debated and finalized, and then later, have a special time to deal with land.

These are the issues that the Committee and Members of the House are asking; that now that the House has been put in this position, the Constitution allows for a window which should be utilized very sparingly, in only special circumstances. We should utilize that mechanism to allow for more debate for purpose of this House passing. Members of this House are not a rubberstamp for the Executive. They do not wait for the Executive to do its work, for Cabinet to concoct something together, and then come pass them through here, one afternoon so that we say we have passed Bills. What we want is for the House to have sufficient time to deliberate, interrogate and digest these proposals, so that the people who elected these Members, who are waiting for them to exercise that sovereignty can know that that sovereign power has been exercised deliberately; it has been exercised after due judicial process has taken place through the deliberation of Members.

Mr. Deputy Speaker, Sir, land is a substantive issue. The issues of land, especially land tenure, are very complex. What kind of land tenure should we have? How are we going to treat communal land? How are we going to treat private land? How are we going to handle this issue?

*(Loud consultations)*

**Mr. Deputy Speaker:** Order, hon. Members! Consult in very low tones so that the hon. Member who is speaking can be heard.

Proceed, hon. Abdikadir!

**Mr. Abdikadir:** Thank you very much, Mr. Deputy Speaker, Sir. The entire economy is based on land. What kind of land tenure do we have? Do we have a communal land tenure, or a private land tenure? How can land be utilised as collateral? There are requirements of gender and gender equity in the ownership of land. These are substantive issues and the Constitution requires very many of those issues to have been determined come the 27<sup>th</sup> of February. That is why we require more time in fairness to this House; the House has to have divisions based on debate, decision making and deliberations. It is for that reason that I put this Motion to the House and seek that the House approves it.

Mr. Deputy Speaker, Sir, I beg to move and ask my Vice-Chair to second.

Thank you very much.

**Mrs. Odhiambo-Mabona:** Mr. Deputy Speaker, Sir, I thank the Chairman for moving that Motion, and in seconding it, I would want to indicate that for all of us who are listening and observing--- There are a lot of Kenyans who are calling for more time for debating this critical issue. If you see the post-election violence report, one of the issues that is raised as an underlying factor for the conflict is land. Even though we are mindful of the constitutional timeframe, we want to indicate that as the Constitutional Implementation Oversight Committee (CIOC) we were

not responsible for the lapse of time, neither was it as a consequence of an act by the Back Bench; it was a consequence of an act of the Executive.

Mr. Deputy Speaker, Sir, just before we went on recess, Members raised concern that the Executive had not prioritized constitutional Bills; we raised this concern more than one time. We do not want to make the mistakes we have made before. If there are issues in these Bills, we must have time to look at them carefully. Whether they are serious issues or not, the Constitution now enshrines the principle of the participation of the people, and we must, therefore, give Kenyans ample time to debate this matter.

With those few remarks, I beg to support.

*(Question proposed)*

**Mr. Musyimi:** Thank you very much, Mr. Deputy Speaker, Sir. I happen to have the honour to be the Chairman of the Departmental Committee on Lands and Natural Resources, and so I wish to speak in that capacity.

Mr. Deputy Speaker, Sir, the issue of land is a national issue. It is an issue that has caused us enormous problems in our history. As you are aware, this is one of the issues that we agreed we must resolve under Agenda Four. I commend this honourable House for passing the land policy; I commend the Kenyan people for---

**Mr. Ruto:** On a point of order, Mr. Deputy Speaker, Sir. Under Standing Order No.25, I seek to move that the debate be now adjourned, and we then continue in the next session.

*(Applause)*

**The Minister for Lands (Mr. Orengo):** Mr. Deputy Speaker, Sir, I support this proposal for adjournment.

*(Applause)*

Mr. Deputy Speaker, Sir, in fact, when I stood up when we were wondering what to do, I was thinking of a practical way to move forward rather than lamentations. In fact, my idea initially was that we can continue with the debate. I thought that probably we should use our time more effectively by knowing at what point to adjourn debate; if we adjourn at this particular moment, the arguments for and against will not go on record; but now that the Motion has come at this particular point in time I have no problem, but I would wish that in the spirit of keeping timelines when the substantive Motion comes for debate at the time appointed, as hon. Ruto is proposing--- It should be revisited this afternoon; it is important also to make sure that if the requisite number is not raised, then Parliament should be committed to continue the debate and meet the constitutional timelines.

Mr. Deputy Speaker, Sir, for me, what is important is that everything should be done to make sure that we have something that satisfies the desires of the Kenyan people as a whole. Indeed, what I am surprised at is that when we were in Mombasa, we had more Members of Parliament attending that session, including the Chairman, than are here this morning. When we were discussing the Bills yesterday, there were hardly six hon. Members in the House. I do not speak for other Ministers, but speak for myself. When it comes to matters of principle, I do not

need to consult anybody; that I can assure you. But on this particular issue, I have no problems with an adjournment as proposed by hon. Ruto.

**Mr. Mungatana:** Mr. Deputy Speaker, Sir, if the purpose is to adjourn debate on this particular Motion, the request that I would want to make is that there is the other business for the Committee Stage. We could proceed with that one and then this other one can come in the afternoon, and we see if the required number will be present.

**Mr. Deputy Speaker:** Hon. Mungatana, you clearly came in late. We tried to rearrange the priority of the business today but we could not because the Minister was not ready to move and this is the Committee Stage.

Yes, Mr. Mwatela!

**The Assistant Minister for Education** (Mr. Mwatela): Mr. Deputy Speaker, Sir, the impression that is being created is that the Front Bench was whipped not to be here this morning.

**Hon. Members:** Yes! Yes!

**The Assistant Minister for Education** (Mr. Mwatela): Mr. Deputy Speaker, Sir that is the impression that is being created. I would like to state categorically in this House that unless that was selectively because I was not whipped. I am one person who supports the Minister for Lands and the Adjournment as articulated by hon. Isaac Ruto. This is because issues of land must be debated adequately to the satisfaction of the Kenyan people.

**Mr. Samoei:** Mr. Deputy Speaker, Sir, I think we have almost reached a consensus on this matter and it will be important for you to make a decision on it. This is because if the Government side is not in the House to move a very important Motion on Devolution, it really puts their commitment to the implementation of the Constitution into very serious question. That is not the business of the Back Bench. If, indeed, any Minister can move the Committee of the Whole House---

**Mr. C. Kilonzo:** On a point of information, Mr. Deputy Speaker, Sir.

**Mr. Deputy Speaker:** Mr. Ruto, do you want to be informed by Mr. C. Kilonzo?

**Mr. Samoei:** Yes, Mr. Deputy Speaker, Sir.

**Mr. C. Kilonzo:** Mr. Deputy Speaker, Sir, I wish to inform hon. Samoei that there is no commitment on the part of the Government in implementing this Constitution. That is why this Parliament wants us to stay at home. When we put pressure on the Government to come to the House, they do not want to come and they stay in their offices. My colleague should be informed that there is no commitment by the Government.

*(Laughter)*

**Mr. Deputy Speaker:** That is an opinion and not a point of information because information is presumed.

**Mr. Samoei:** Mr. Deputy Speaker, Sir, in the interest of the Kenyan public who really want this Constitution put in place and all the other legislations that are necessary to operationalize sections of this Constitution, we should move in the direction we have suggested and the Government, within 20 or 30 minutes should reorganize itself so that we can prosecute the business of this House.

**Mr. Deputy Speaker:** The whole idea is we put it right now. If you clearly intend to give the Government about half-an-hour to reorganize itself, it is not by seeking this one to be adjourned because when it is adjourned and there is no other business, the House will adjourn the

Session. Adjourning means that the House can only reconvene in the afternoon. Do hon. Members clearly understand the significance or the import of this?

*(Loud consultations)*

Order! The very basic decorum and dignity of this House can be protected if you allow the Chair to do so when he is talking. You should not shout! This is not a fish market! Listen to what the Chair has to say and then you will have your opportunity. The Chair is asking; do you understand the significance of this? If this is adjourned now, the House is not able to move into another business and we will not be able to deal with this thing and make this constitutional amendment, you either will have to sit through Friday, Saturday and Sunday to dispose of the business or get the constitutional threshold to pass this Bill. Otherwise, if we get to Monday, next week, then we will have a constitutional crisis.

**Mr. Baiya:** On a point of order, Mr. Deputy Speaker, Sir. The predicament in which Members of Parliament find themselves in is purely caused by the Government. All we are saying is that the Kenyan public has a big interest to participate in the debate on the very important land laws that are being passed. The Government has published the Bills very close to the deadline. Kenyans, naturally, want an opportunity to debate these Bills. All we are asking is that the opportunity be extended. If the Government is not ready to even conduct the other aspect of the business for the day, it is only fair that this Motion be delayed. Whatever will happen, it is the Government that will have caused it. Otherwise, we are not ready to pass laws hurriedly and then take responsibility for---

**Mr. Deputy Speaker:** Order! Whereas the Chair empathizes very much with the frustrations on the part of the Back-benchers, the Chair also has the responsibility to protect this country. I plead with the Government side because it has a collective responsibility for any Minister to proceed and prosecute the next business on the Order Paper. That will be on behalf of the Deputy Prime Minister and Minister for Local Government.

Yes, hon. Orengo!

**The Minister for Lands (Mr. Orengo):** Mr. Deputy Speaker, Sir, this is the point I have been trying to make. In fact, most of the amendments are by the Chair of the Committee in the next stage of the Committee of the Whole House. We are prepared, as a Government to prosecute the next order. So, there is no problem.

**Mr. Deputy Speaker:** Hon. Members, indeed, Standing Order No.25(1) gives that window. Standing Order No.25 (1) says:-

“A Member who wishes to postpone to some future occasion the further discussion of a question which has been proposed from the Chair may claim to move “ That, the debate be now adjourned” , or, in Committee of the whole House “That, the Chairperson do report progress.”

Hon. Members, based on that and under the predicament we are in now, the Chair will now put the Question that the debate be now adjourned!

*(Question put and agreed to)*

**The Minister for Lands (Mr. Orengo):** On a point of order, Mr. Deputy Speaker, Sir. Hon. Isaac Ruto’s Motion was that it be adjourned until the afternoon sitting. It should be specific, otherwise, if it is passed in that sense---

Thank you.



**Mr. Deputy Speaker:** Order, hon. Members! The Chair further directs that this matter be placed on the Order Paper in the afternoon today 23<sup>rd</sup> February, 2012.  
Next Order!

## COMMITTEE OF THE WHOLE HOUSE

*(Order for the Committee read)*

*[Mr. Deputy Speaker left the Chair]*

### IN THE COMMITTEE

*[Mr. Temporary Deputy Chairman  
(Mr. Imanyara) took the Chair]*

#### THE TRANSITION TO DEVOLVED GOVERNMENTS BILL

**The Temporary Deputy Chairman** (Mr. Imanyara): Order, hon. Members! We are now on Order No.9. There are three items on Order No.9 and the Chair is re-arranging the order of discussion so that we can start with No.3 – The Transition to Devolved Government Bill, Bill No.5, 2012. Who is standing in for the Deputy Prime Minister and Minister for Local Government?

**The Minister for Lands** (Mr. Orenge): Mr. Deputy Speaker, Sir, I will stand in for the Deputy Prime Minister and Minister for Local Government.

#### *Clause 2*

**The Temporary Deputy Chairman** (Mr. Imanyara): Mr. Nyamai had a proposed amendment. Where is Mr. Nyamai! Is Mr. Nyamai not here? Is there any hon. Member who wishes to propose that amendment on behalf of Mr. Nyamai?

*(Clause 2 agreed to)*

We are on the Transition to Devolved Governments Bill.

#### *Clauses 3 and 4*

**Mr. Mungatana:** On a point of order, Mr. Temporary Deputy Chairman, Sir. Let us be fair to everyone. According to the Speaker's ruling on Tuesday, the Bill that was coming for Third Reading was supposed to be the County Governments Bill. Indeed the Speaker directed that we should file our proposed amendments by 2.30 p.m. on Wednesday, which we complied with. The County Governments Bill is the one that should come for Third Reading. We have amendments on The Intergovernmental Relations Bills and Transition to Devolved Governments Bill. So, it would be unfair for us to go into the Third Reading without giving an opportunity for us to file our amendments because the Speaker was very clear that we are going to do amendments and go to Third Reading on the County Governments Bill only. It would be fair for

us to be given an opportunity to file our amendments so that at 2.30 p.m., we can go into those other two Bills. Those other two are small Bills which we can deal with. I would urge that just to be fair to all of us who have worked so hard to prepare those amendments that we deal with the County Governments Bills and the other two we can deal with them at 2.30 p.m. That is according to how the Speaker had directed this matter.

I beg.

**The Temporary Deputy Chairman** (Mr. Imanyara): Mr. Mungatana, I really appreciate what you are saying but the Clerks-at-the-Table tell me that the reason we are not starting with those ones is that even as we talk, there are amendments being typed in the office. If we were to go to the County Governments Bill now, the hon. Members who had until 2.30 p.m. to propose amendments would not be able to do so. That is the reason I have rearranged the order of business. Had you raised this issue right at the beginning, perhaps we could have considered it. We are now in the middle of debate on The Transition to Devolved Government's Bill. I do not know under what procedure I would be able to go back on that.

**Dr. Khalwale:** On a point of order, Mr. Temporary Deputy Chairman, Sir. I just wanted to augment his argument but having so ruled, I cannot go ahead.

**Mr. Mungatana:** On a point of order, Mr. Temporary Deputy Chairman, Sir.

**The Temporary Deputy Chairman** (Mr. Imanyara): As long as you are not seeking to make me revise my ruling!

**Mr. Mungatana:** Mr. Temporary Deputy Chairman, Sir, I am just saying that regarding the County Governments Bill, the ruling was very specific. It was for the County Governments Bill.

**The Temporary Deputy Chairman** (Mr. Imanyara): Except that we are not on the County Governments Bill right now. We are on The Transition to Devolved Governments Bill.

**Mr. Mungatana:** But it was supposed to come before the others!

**The Temporary Deputy Chairman** (Mr. Imanyara): Yes, but I have explained to you that the reason that it is not so is that, even as we are talking now, hon. Members are submitting proposals for amendments. Therefore, we would be denying them opportunity if we start with the County Governments Bill if the proposals for amendments are coming even as you stand where you are.

**Mr. Ngugi:** On a point of order, Mr. Temporary Deputy Chairman, Sir. The Committee is ready with its amendments but using your arguments that there are amendments being typed on the County Governments Bill, the same argument is being advanced by Mr. Mungatana that they have also taken amendments on The Transition Bill. Unless we adjourn, we should just carry on because the Committee is ready with its amendments.

**Dr. Khalwale:** On a point of order, Mr. Temporary Deputy Chairman, Sir. The reason that you have advanced whereas it is plausible, we understood the ruling of the Speaker yesterday. So these amendments should have been with the Office of the Clerk by 2.30 p.m. I took my amendments at 2.20 p.m. and they have been captured. So, which amendments are these that are making us not work on The County Governments Bill? If they came after 2.30 p.m. and they are not being accommodated, then they should not inconvenience Parliament. I want to confirm that I took mine at 2.20 p.m. and they are all here.

**The Temporary Deputy Chairman** (Mr. Imanyara): Let me hear what the Government has to say about that. Mr. Orenge, what is the position of the Government on what the hon. Members are saying?

**The Minister for Lands** (Mr. Orengo): Mr. Temporary Deputy Speaker, Sir, that being the case, whichever Bill we begin with, we will be in the same state that Mr. Mungatana is talking about. My suggestion is that we report progress to the House and give hon. Members time until the afternoon.

**The Temporary Deputy Chairman** (Mr. Imanyara): That appears to be the mood of the House. If it is so, then we move to report progress.

*(Question proposed)*

*(Question put and agreed to)*

*(The House resumed)*

*[The Temporary Deputy Speaker  
(Mrs. Odhiambo-Mabona) in the Chair]*

## **PROGRESS REPORTED**

### THE TRANSITION TO DEVOLVED GOVERNMENTS BILL

**Mr. Imanyara:** Madam Temporary Deputy Speaker, I beg to report that the Committee has considered the matters listed on Order No.9 and seeks leave to sit again today.

**Dr. Khalwale:** On a point of order, Madam Temporary Deputy Speaker.

My point of order is anticipating what is going to happen after you rule. In view of the fact that we are likely to adjourn after you make the ruling, I propose that you direct from the Chair that the House Business Committee sits with immediate effect to re-arrange the business of this House starting from 2.30 p.m., so that it is clear. I want to put it on record that it might be important that upon being convened, the House Business Committee should consider recommending that the sittings of this House continue indefinitely until we beat the deadline of this. It should be indefinitely without any break. We should sit for 24 hours.

*(Question proposed)*

*(Question put and agreed to)*

**Mr. C. Kilonzo:** On a point of order, Madam Temporary Deputy Speaker. Before we adjourn, I wish to request you to give direction, if not a warning, to the Government to take matters of the Constitution seriously. As of today, it is evident that they are not doing so. Were hon. Orengo not the Minister for Lands, obviously, he would not have been in the House. So, it is a plea for the sake of this country that the Government considers matters of the Constitution seriously. We would want to see that effective from this afternoon.

*[The Temporary Deputy Speaker  
(Mrs. Odhiambo-Mabona) left the Chair]*

*[The Temporary Deputy Speaker]*

*(Mr. Imanyara) took the Chair]*

**Dr. Nuh:** On a point of order, Mr. Temporary Deputy Speaker, Sir. It is not lost and it has been reiterated by many Members that the quagmire we find ourselves in is because of the delay in publishing these Bills and the recall of the House. I very well remember many instances where the Government had a particular interest that it discussed and disposed of in this House, it would go out of the way to whip all the Members and in fact, even the Back Bench because we all belong to parties which are still in the Government. So, the reason why the Motion, which the Committee was doing, at least, to save the face of the Government because it was the Executive that caused the delay, for them not to have whipped the Back Bench and even the Members of the Front Bench and even if they whipped, for Members not to attend, is contempt.

As hon. C. Kilonzo has said, it is not a matter of giving direction, it is a clear ruling from this House and a plea again that when it comes to 2.30 p.m., this House should be full to deliberate on these issues. As the Back Bench, as we have said, we are again willing to even extend the hours of sitting or the days of sitting of this House to, at least, ensure that we are within the time limit. But the odds are against us. If we are asking for extension of time and a simple Motion that should have got the full support of the Executive side of this House to be dilly dallied in such a manner is a great shame.

**The Assistant Minister for Education** (Mr. Mwatela): Mr. Temporary Deputy Speaker, Sir, this repeated allegation that the Government was whipped is a fallacy because I was not whipped. However, let me make a suggestion that the Motion by the Committee Chairman, if it is agreeable, be amended to include the county Bills, so that we have enough time instead of extending time and people getting so tired that they cannot input. We should include the county Bills in this.

**The Minister for Lands** (Mr. Orengo): Mr. Temporary Deputy Speaker, Sir, I want to follow up to what hon. Khalwale was saying that probably because of the deficit in terms of time, the House Business Committee may consider that this afternoon we only deal with substantive business with no Questions and Statements because we are really short of time, even in dealing with the Motion itself. I agree with hon. Khalwale entirely.

**The Temporary Deputy Speaker** (Mr. Imanyara): Very well! I am sure the HANSARD will reflect all that has been stated and I would ask the Clerk of the National Assembly to communicate the sentiments of the House to the Leader of Government Business and the Speaker, so that the Supplementary Order Paper for this afternoon takes in account the feelings of the Members as to the need to conclude the Business of the House.

## ADJOURNMENT

**The Temporary Deputy Speaker** (Mr. Imanyara): Hon. Members, on that note, we interrupt our business to 2.30 p.m. this afternoon. It has been indicated that the House Business Committee will be meeting at 12.00 o'clock.

The House rose at 10.25 a.m.