

NATIONAL ASSEMBLY

OFFICIAL REPORT

Tuesday, 21st February, 2012

The House met at 9.00 a.m.

*[Mr. Temporary Deputy Speaker
(Dr. Khalwale) in the Chair]*

PRAYERS

QUESTIONS BY PRIVATE NOTICE

AMOUNT OF MONEY USED IN LIVESTOCK OFF TAKE PROGRAMME

Mr. Sirat: Mr. Temporary Deputy Speaker, Sir, I beg to ask the Minister for Livestock Development the following Question by Private Notice.

- (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?

The Assistant Minister for Livestock Development (Mr. Mwazo): Mr. Temporary Deputy Speaker, Sir, I beg to reply.

(a) My Ministry has been allocated Kshs2.198 billion for drought mitigation out of which Kshs1.53 billion was used to purchase livestock in the off take programme while the Kshs668 million was used for other livestock intervention since 2008.

(b) The Ministry has utilized the funds as follows:-

From 2008 to 2010, the Ministry was allocated Kshs1.098 billion. We spent Kshs200 million on animal health interventions, Kshs240million to purchase hay and feed supplements and Kshs100 million for transport and logistics for animals purchased by the Kenya Meat Commission (KMC). The KMC spent Kshs298 million out of which Kshs200 million was used to purchase 17,087 cattle while Kshs98 million was a grant to repair old machinery. The Agricultural Finance Corporation (AFC) was given Kshs200 million for onward lending to ranchers and cattle traders for purposes of buying immature stock for fattening and to traders for buying cattle from the pastoralists. Under this arrangement, 375 individuals received the loans.

In 2010/2011 Financial Year, the Ministry was allocated Kshs1.1 billion. From this amount, Kshs200 million was allocated to district savings groups in 81 drought stricken districts to purchase livestock which was then slaughtered and distributed as relief food. Under this arrangement, 9,278 cattle, 26,455 goats, 12,397 sheep, 95 camels and 6 donkeys were purchased. The AFC was further given Kshs427 million which was advanced as loans to ranchers and cattle

traders where 405 individuals received the loans. The KMC was further given Kshs100 million which was used to purchase 4,120 cattle.

(c) It is estimated that during the current drought in northern Kenya in the counties of Turkana, Samburu, Marsabit, Garissa, Wajir, Isiolo and Mandera, 178,048 cattle, 381,518 sheep, 254,346 goats and 6,104 camels died. The Ministry has undertaken several measures to address this situation as follows:-

(i) The Ministry in collaboration with the Meteorological Department will alert farmers of looming adverse weather changes, so that they can decide to sell their livestock before the drought.

(ii) We are in the process of constructing four abattoirs in Isiolo, Wajir, Garissa and West Pokot. They are all at different stages of completion with the Isiolo abattoir expected to be completed by May, 2012. We are also in the process of constructing other slaughter houses in Moyale, Mandera, Laisamis, Malaral, Ijara, Narok, Gatundu, Marigat, Mumias, Kuria, Loitoktok, Narumoro, Migori and Garsen.

(iii) The Ministry has undertaken receding programme in the ASAL areas. In this programme, we have focused on 20 counties which include Wajir. Most areas earmarked for receding have received assorted grass seeds in the last two years. Wajir is expected to receive 1,000 kilograms of grass seed for planting before the long rains.

Mr. Sirat: Mr. Temporary Deputy Speaker, Sir, as intervention measures, could the Ministry renovate the cattle dips that were constructed during the colonial period and construct new ones in the two districts of Wajir South Constituency?

Mr. Mwazo: Mr. Temporary Deputy Speaker, Sir, the Ministry will undertake to renovate the existing dips. Currently, the Ministry officials are doing the survey to determine how many they are so that we can renovate them. If the Questioner would facilitate us with the list of these dips, then we can expedite the renovation of the same.

Mr. Njuguna: Mr. Temporary Deputy Speaker, Sir, I want to thank the Assistant Minister for the very positive answer that he has given. Could he indicate to this House what measures the Ministry is taking to ensure that when animals are being taken to KMC, they will not die as witnessed during the drought period?

Mr. Mwazo: Mr. Temporary Deputy Speaker, Sir, we are taking intervention measures. These measures include giving animals supplements, so that they become a bit stronger before they are transported to the Kenya Meat Commission (KMC) to be slaughtered. We do not want them to die before they are taken to KMC. In addition to that, we are putting up four abattoirs in those areas of northern Kenya. We do not want them transported across long distances because they are weak and they may die. With those abattoirs, we believe they will be delivered alive and in good health.

Mr. Sirat: Mr. Temporary Deputy Speaker, Sir, I would like to thank the Assistant Minister for undertaking to renovate the cattle dips. Could he state when they will construct hay stores in Wajir South and Habaswein districts as they did in Wajir North, Wajir West and Wajir East districts? We all know Wajir South District has the largest cattle and camel in the whole of the province?

Mr. Mwazo: Mr. Temporary Deputy Speaker, Sir, I would like the Questioner to appreciate what we are doing, especially renovating the dips. When it comes to hay food stores, we have undertaken to construct one at a cost of Kshs8 million in the constituency when the funds are available this financial year.

The Temporary Deputy Speaker (Dr. Khalwale): Hon. Members, the next Question is from the Member for Ikolomani. However, for the reason that this morning the Member for Ikolomani is acting the Temporary Deputy Speaker, we will defer this Question until tomorrow at 2.30 p.m.

MEASURES TO PRE-EMPT DISRUPTION OF SERVICES
AT SHOBWE SUB-DISTRICT HOSPITAL

(Dr. Khalwale) to the Minister for Medical Services:-

(a) Is the Minister aware that the outpatient wing of Shibwe Sub-District hospital in Kakamega South District has been condemned and is due for demolition since it is located on the road reserve of the Sigalagala/Butere Road, which is presently under construction?

(b) Is the Minister also aware that the Ikolomani CDF Committee has purchased ten acres of land adjacent to the hospital for the development of the institution?

(c) What urgent measures has the Minister taken to pre-empt the imminent disruption of services at the hospital?

(Question deferred)

BILLS

Second Reading

THE COUNTY GOVERNMENTS BILL

*(The Deputy Prime Minister and Minister for
Local Government (Mr. Mudavadi) on 15.02.20120)*

(Resumption of debate interrupted on 16.02.2012)

The Temporary Deputy Speaker (Dr. Khalwale): Hon. Members, when we adjourned on this Bill last time, Mr. Chanzu was on the Floor and he was remaining with 17 minutes. Proceed, Mr. Chanzu!

An hon. Member: He is not here!

The Temporary Deputy Speaker (Dr. Khalwale): Mr. Chanzu is not around. For that reason, he has forfeited his time. The Floor is now open to any other hon. Member.

The Assistant Minister, Ministry of State for Defence (Mr. Musila): Mr. Temporary Deputy Speaker, Sir, let me first begin by congratulating you this morning for taking the Chair.

I want to join my colleagues who contributed previously on this very important Bill and to, first of all, congratulate the Deputy Prime Minister and Minister for Local Government for formulating this Bill; The County Governments Bill. This is so important because it operationalizes the Constitution as far as devolution is concerned.

Having looked at it carefully, I think it is good. However, I would like to make some observations. First, Section 13 of the Bill, last week when Mr. Imanyara was making his contributions alluded to the fact that the County Assembly rules must be uniform all over the

Republic. I think this is so important because if we do not take care, we could have different counties having different sets of rules or debate. Therefore, I suggest that initially the rules be initiated by this House because the county assemblies will be meeting after the elections. In the absence of any rules, there will be a vacuum even before those rules are formulated. So I am suggesting that this House takes charge of the rules. It should make rules that will be adopted by county assemblies. In future, I would like to suggest that we have a body, for instance, all the speakers of the counties of the Republic form something like what the governors will form; an association of governors. We could also have an association for county speakers, so that from time to time through the various organs of the county review the rules of procedure of all the assemblies and ensure that there is uniformity. The key word here is uniformity because if there is no uniformity in the rules of debate that govern the procedures of houses then we will have a lot of confusion in this country. Therefore, I would like to urge the Minister to ensure that the rules are formulated initially, probably, with the assistance of the Clerk of this House. Later on, those rules be adopted by the assemblies. This will ensure that there is uniformity, so that any amendment in any one assembly in terms of the rules of debate will be send across the country, so that we do not have disparities in this area.

Part IV of the Bill is delimitation of county wards. I noticed that this Bill borrows very heavily from the Kangu Committee that went round and took views. That is where the delimitation of boundaries comes from. In fact, the Independent Electoral Boundaries Commission (IEBC) appears to have already taken, particularly the population quota that is recommended by the Kangu Committee, use it here. The IEBC has already given the county wards that they want to be given to the country. I think you are agree with me that this exercise by the IEBC was done without a legal framework. However, it has already been done and now this House is being asked rubberstamp what has already been done. Therefore, I want to suggest, through the Minister that the delimitation of boundaries as suggested by the Kangu Committee is not, in my view, fair because it is 26,000 plus or minus 40 per cent in urban areas and 30 per cent in sparsely populated areas. From my experience from the wards that have been given by the IEBC, some wards are too huge in terms of land mass. There are so many disparities in the way the IEBC has formulated the wards at the moment. But to make the matter worse, in the law that we previously passed here in as far as it affects constituencies, this House has a say. After the IEBC has delimited constituencies, they are supposed to bring the results here as they have already done. This House will deliberate on it through the Committee and the whole House, make comments and return them to the IEBC for finalization.

I note with concern that in the case of county wards, it appears like this House will have no role after the IEBC delimitates the wards; it is like the end of the matter. I would like to suggest to the Minister that this House should have a role. After the boundaries have been decided by the IEBC as they have already done, this House should give its comments to the IEBC before they finalize it. After going through this Bill, I have not seen where this House will have a role like it did with the constituencies. The report on boundaries will come here and we will have a say. The Independent Electoral and Boundaries Commission (IEBC) will then review based on our comments. But, in this case, it does not appear so. I would like to recommend that this be the case.

Mr. Temporary Deputy Speaker, Sir, I have also looked at the decentralized units of the county. I think this is a good thing, from the constituencies down. But I am very apprehensive going by the experience that we have already had in the current counties. Current county councils appear to send people who are not qualified to the lower units of administration. I want

to suggest that in this case, we must ensure that the decentralized units in the county, that is, the constituency level, which is a sub-county, will have qualified personnel who will be able to administer them. Otherwise, it will be of no use to decentralize, get an administrator for the sub-county, which is the constituency level, and then get another administrator for the ward level, and these people will just be ordinary persons without any professional experience. I want to submit that the county public service that is going to be given the responsibility of recruiting staff should ensure that the quality of service is maintained right from the headquarters of the county to the sub-county, which is the constituency, and down to the ward. This way, we will be able to succeed in providing services, because this is the essence of devolution. The essence of devolution is to ensure that the *mwananchi* at the lowest level gets quality service; not just at the headquarters, but all the way down to the very lowest.

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

Mr. Mureithi: Thank you very much, Mr. Temporary Deputy Speaker, Sir. I want to congratulate you for being in the Chair. It is a great honour to find you there.

Mr. Temporary Deputy Speaker, Sir, I would like to support this Bill that was brought by the Deputy Prime Minister and Minister for Local Government. We went through various sessions at the Kenya Institute of Administration (KIA) and Naivasha. Originally, there were 13 Bills that had been brought in and while we were at KIA, we requested the Deputy Prime Minister to collapse them to about four Bills. I am very happy that they have been collapsed to what we had agreed. Most of the issues that we discussed are included, but one thing that seems to be missing is the transition from these county governments to Vision 2030. The Government's Vision 2030 and the devolved government must be synchronized, so that when they talk of a ten-year plan and then another five-year development plan, this must be synchronized with what the Government sees as what Kenya must be in 2030.

Mr. Temporary Deputy Speaker, Sir, in terms of various areas, this Parliament must find a way of also synchronizing their own collection of taxes, so that we do not have a situation where the central Government collects taxes from the citizens and at the same time, the county government collects from the same people. We will end up over-taxing the Kenyan people. That is one issue that should be looked at.

Mr. Temporary Deputy Speaker, Sir, finally, from what we have seen right from hon. Ligale's Report to the hearings of the IEBC recently, I think the public must be taken more seriously. When they raise issues they must be listened to. This is because Part VIII deals with citizen participation and Clause 85 provides for that participation by the public. I would like to request the county governments, when they initiate any kind of legislation or issue, to also make sure that what the public says must be recorded.

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

The Assistant Minister, Ministry of Labour (Mr. Ojaamong): Mr. Temporary Deputy Speaker, Sir, I would like to add my voice to what other hon. Members have contributed to this Bill.

Mr. Temporary Deputy Speaker, Sir, I must thank the gentleman by the name Mutakha Kangu who actually put all his energies in crafting this Bill. From the word go, right from the Bomas of Kenya, Mutakha Kangu has been very much concerned and interested in matters regarding devolution. For all this time, he has dedicated his energies together with the Deputy Prime Minister and Minister for Local Government, Mr. Musalia Mudavadi, despite the obstacles they met from some people who did not want to decentralize some of these services. At

long last, we have this Bill and very soon, if the President assents to it, it will be an Act of Parliament.

Mr. Temporary Deputy Speaker, Sir, the delivery of services to the common person has been an issue for a very long time. The employment of people in the public service has also been issue for a very long time. Even the issue of civic education emanates from Nairobi and then goes to the rural areas. This Bill tries to address all these issues. For instance, civic education and hiring of civil servants will be done at the county level. So, the people who have been disadvantaged, especially, the minorities like us, shall have an upper hand now, by also having our people incorporated into the Government service. That is why I want to congratulate all those people who supported the enactment of this Constitution. For example, in all these Commissions that have been formed so far, you will not find a Teso in any Commission. Everytime names keep on popping, you will just find people from three or four tribes. You will not find a Kuria or somebody from Taita Taveta. This Bill tries to cater for all including the minorities, disabled and all cadres of people that will be found in the county. So, for the first time, we are trying to address an issue that has been causing tension amongst Kenyans for long.

Mr. Temporary Deputy Speaker, Sir, I just want to summarize by saying that I am very happy, especially with the delimitation of the wards. At least, the Mutakha Kangu formula was just in tandem with what the IEBC had done. I am very happy because, for instance, in Busia County the number of wards we got from the IEBC was about 35. We held the hearings in the county and everybody was satisfied because the amendments that we proposed have been captured. So, we only hope and pray that this is immediately enacted into law. It is upon the citizens now, when the elections are called, to elect the right people so that they can discharge the duties that have been pointed out in this Bill, for the benefit of the locals.

Mr. Temporary Deputy Speaker, Sir, with those few remarks, I beg to support the County Governments Bill.

The Assistant Minister for Education (Mr. Mwatela): Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me the opportunity, and congratulations for occupying the Chair this morning.

I must join my colleagues who have congratulated the Deputy Prime Minister and Minister for Local Government, and all those who were involved in crafting this Bill for coming up with a piece of legislation that does pretty well in addressing a key component of our new Constitution - devolution. It should be appreciated by all of us that the new Constitution came with a lot of expectations amongst our population, most of all in the areas of land, devolution and governance.

Mr. Temporary Deputy Speaker, Sir, there are certain areas of the Bill I would like to point out to the Minister, so that we can probably move forward together and produce an even better piece of legislation. The first one is Clause 31, which deals with the functions and responsibilities of the county governor. It is about the role of the governor. Looking at the roles spelt out under this clause, my opinion is that there is one particular area of the Constitution that has been omitted although it is captured elsewhere in the Bill. That is Article 176(2) of the Constitution, which reads:-

“176(2) every county government shall decentralise its functions and provision of its services to the extent that it is efficient and practicable to do so.”

It is my view that whereas this is addressed in Article 48, the role should be assigned to the executive of the county to ensure that this bit of the Constitution is made practical. As it has been said, it is true that we have to be careful as we do this and ensure that we have competent

people at every level of management of the different sectors of the county government; let us take the village level, for example. We need a village government that ensures that we have a village health officer, a village education officer and a village infrastructure officer, who will ensure that those areas are properly addressed within the county government.

Mr. Temporary Deputy Speaker, Sir, such a person does not need to have a degree; “O” Level education qualification is fine. He just needs to have basic leadership skills at the village level to ensure, for example, that children attend school at the correct age or ensure that people have clean water. This will help our people to have good services at very minimal costs. It should further be clear that these people should be remunerated. In an attempt to devolve downwards, it should be clear that these people, including village elders, will be properly remunerated by the county government.

The other thing I want to point out is that about removal of the county governor from office. It is important to note that a governor will be elected by universal franchise. That is stipulated in Clause 47. Since a governor will have been elected by universal franchise, it will not be fair for us to create a situation where only one-third of the county assembly can activate the process for his removal. It is my humble suggestion to the Deputy Prime Minister and Minister for Local Government that the threshold for initiating the process for the removal of the governor be fixed at a higher level. We could fix it at 50 per cent of the assembly membership to avoid having petty people trying to initiate the process of removing the county governor from office all the time. This way, we will reduce the number of quarrels that we have at that level.

With those few remarks, I support the Bill and hope that there will be amendments, so that the Bill becomes a better piece of legislations.

The Minister for Gender, Children and Social Development (Dr. Shaban): Ahsante sana, Bw. Naibu Spika wa Muda, kwa kunipa nafasi hii ya kuzungumzia mjadala huu kuhusu serikali za ugatuzi.

Kazi ambayo imefanywa na Naibu Waziri Mkuu na Waziri wa Serikali za Mitaa ni nzuri sana, haswa ile kazi aliyofanya kupitia kamati aliyochagua, ambayo ilizunguka kote nchini na kusikiza maoni ya wananchi. Tunapoanza shughuli ya serikali ya ugatuzi, na haswa tunapozingatia suala la maeneo ambapo kura zitapiwa wale ambao watakuwa wenye kuwakilisha watu kwenye serikali za ugatuzi, kuna jambo la muhimu ambalo ni lazima tulijadili. Kuna maeneo ya kaunti ambayo ni madogo, na ambayo hayana watu wengi, na haswa sana ukizingatia kwamba wakazi wa kaunti hizo wanatakiwa kupatiwa nafasi za kutosha kama wale wenzao ambao ni wengi. Ni matumaini yangu kuwa tutakapokuwa tunajadili Mswada huu katika awamu ya tatu, mapendekezo yetu yatazingatiwa hasa kuhusu Kipengee cha 27. Kipengee hiki kinahusu idadi ya maeneo yanayotakikana. Ni lazima tuseme kwa uwazi kuwa kila kaunti iwe na idadi fulani ya maeneo. Kwa mfano, tunaweza kusema kila kaunti, iwe na maeneo 15 ya chini ambapo watu watachagua waakilishi wao. Ni mapendekezo yangu kuwa maeneo hayo yasipungua 10.

Kupitia Mswada huu tunaonyesha tuko tayari kuwahudumia wananchi wetu kupitia Serikali za Mitaa. Tutakuwa na uongozi wa kisiasa mashinani. Ni kupitia uongozi kama huu ambapo wanyonge katika jamii zetu watapata huduma na haki zao kuheshimiwa. Kupitia Serikali za Ugatuzi, Gavana atahikikisha ya kwamba amewahusisha watu wote katika utawala wake. Atahikikisha ya kwamba wanyonge na wachache katika Kaunti wanapata haki yao na huduma kama watu wengine. Pia sauti zao zitatambulika kule mashinani.

Ni kipengee ambacho kinasema ya kwamba ikiwa Gavana na waheshimiwa Wabunge wake watashindwa kutekeleza majukumu yao, basi watalazimishwa kung’atuka mamlakani na kuomba upya kura kwa wananchi. Hili ni jambo la kutia moyo sana kwa sababu watatoa huduma

wakijua ya kwamba wakiwa wazembe watapokonywa mamlaka yao. Hapa mwananchi wa kawaida amepewe nguvu na sheria hii. Kwa hiyo, hakuna njia ya mkato kuhusu kutoa kutoa kwa huduma kwa wananchi. Ni lazima Gavana asimamie pesa za kaunti kwa makini sana na awe na stakabadhi za matumizi ya pesa za umma.

Jambo ambalo ningependa tulitilie mkazo sana ni kipengee hiki kinachowapa Wabunge uwezo wa kumlazimisha Gavana ang'atuke mamlakani. Kipengee hiki kimefanya kuwa chepesi mno. Ikiwa Gavana ametoka jamii ndogo, basi kuna hatari kuwa Wabunge kutoka jamii kubwa katika Kaunti wanaweza kumfanyia njamaa ya kumtoa mamlakani. Ni lazima kipengee hiki kiwe na uzito na ungumu fulani. Ni lazima pawe na masharti magumu kabla ya Gavana kulazimishwa kujiuzulu. Kwa hivyo, ningependa hapa tutie mkazo kidogo ili vikwazo viwekwe isiwe ni rahisi sana kumtoa Gavana mamlakani.

Ikiwa kipengee hiki kitabaki kama vile kilivyo sasa, basi Gavana hataweza kufanya kazi vizuri. Kila mara atakubana na siasa za duni ambapo itakuwa ni vigumu kwake kutoa huduma kwa wananchi.

Sina mengi ya kusema kwa sasa. Nitakomea hapa na kumpongeza sana Naibu Waziri Mkuu na Waziri wa Serikali za Mitaa kwa kuwasilisha Mswada huu hapa Bungeni.

Kwa hayo machache, ninaunga mkono Mswada huu.

Mr. James Maina Kamau: Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me this chance to contribute on this important Bill, Bill No.1 of 2012.

I will start by thanking the Tenth Parliament for taking a bold step to change the Constitution. This has been a pipedream for many years since we attained our Independence. At the same time, I would also like to thank the Deputy Prime Minister and Minister for Local Government for coming up with such a beautiful Bill which only needs a bit of ironing, so that it can become a good law for our country.

I know County Governments will be very important to this country. As such I think they need to have enough funds so that they can run on their own. We know, for instance, that what is allowed is only three per cent of the national budget. My recommendation is that we give them at least 20 per cent of the national budget. In my opinion 15 per cent is not enough. The job of accounting is actually enormous. If these counties are not properly funded, I do not think they will be able to run on their own. So, I think 20 per cent will not be asking too much because it will be sufficient to run a county.

As I said, for counties to have meaningful development, they must be properly funded. There are so many things to be done. There are hospitals and schools to be taken care of. The development of infrastructure will require a lot of money to be undertaken. Currently, the amount we are giving them in this Bill is not enough.

Mr. Temporary Deputy Speaker, Sir, I would also like to encourage the Government to consider giving the Governor and the employees of the county good salary. This is the only way we can eliminate corruption in the counties. So, whatever the Commission will decide, it is important that the Governor and staff get good remuneration. This is the only way we will fight corruption in counties.

There is also the issue of the CDF. It is not clear exactly who will be in charge of the CDF. I do not know whether it will be managed by the County Governments. As Members of Parliament, our only touch with the people of the county is the CDF. So, I would recommend that the CDF funds are left to be run by the Members of Parliament, so that, at least, we have something to do in the county. If things are left the way they are, we will have nothing to do with the counties rather than passing laws in this House. So, it will be a good idea if the CDF

funds are left to be handled by Members of Parliament, so that they can be in touch with the people at all times.

Mr. Temporary Deputy Speaker, Sir, I would also recommend that every county has a university. The long term economic growth of these counties will depend highly on education. We need to educate people in all our counties. So, it is important that we have good universities. We also need to have technical colleges. These are the backbone of any development of the country. So, we should consider having universities in all the counties in the Republic of Kenya.

At the same time, it is important that we have an energetic Governor. The age of a Governor has not been clearly spelled out in this Bill. However, we will need somebody who is energetic enough to run affairs of the county. We all know what can happen if we have somebody who is over 55 years. We do not want to give a governorship to anybody who is tired. The job of a Governor unlike that of a Senator or county representative or Member of Parliament, he should be a person who is able to run around. The ideal age for a Governor should be below 55 years. Otherwise, anybody over 55 years, I do not think he will be able to do the job of a county governor. We all know that the success or failure of a county will depend on the Governor. So, getting a person who is just too tired or too old, I do not think that county will get anywhere. So, I would recommend that the Governor's age be below 55 years. Of course, he must have good education.

He may not necessarily have a degree, but with good management skills. I think anybody with an A level certificate plus good management skills, that will be an ideal person to run affairs of a county.

With those few remarks, I beg to support this Bill.

The Assistant Minister for Local Government (Mr. Nguyai): Mr. Temporary Deputy Speaker, Sir, thank you for the opportunity to contribute to this very important Bill that is the core of what we call; the devolved government.

First and foremost, let me give my gratitude to my own Minister who timely set up a task force that worked through the Bill and eventually I know there have been quite a lot of communications between the Committee and task force and as such, it has come out to be a pretty refined Bill. We have listened to what the Members have contributed and I am sure it will only add to the few amendments and provide a more refined Bill that will even be better for the delivery of services by county governments to the country.

One of the core elements of this Bill was to provide a structure for governance within the counties. If you look at the role of the Governor, he is a mini-president to the counties; he appoints a cabinet, has county assembly members who check and have been democratically elected and as such, the role of having checks and balances works very importantly.

Mr. Temporary Deputy Speaker, Sir, I want to emphasize that the civic education clause should educate our electorate on the quality and the kind of leadership we want to have within the county assemblies. These county assembly members will be debating, giving inputs, scrutinizing budgets, having committees and as such it is very imperative for us to educate our population on that issue and who to elect.

There has been a little confusion on the clause that seeks the removal of the Governor and I think many Members have read it as if it is a one-third minority of the county assemblies. However, if you further read on, you will find that that is the proposition for the removal and in reality it is still the two-thirds majority of all sitting county members for that removal. As such, it is then referred to as the Senate and I think there are enough checks and balances to ensure county assembly members will not necessarily bully the Governor in place.

Mr. Temporary Deputy Speaker, Sir, even on the issue of 15 per cent, the input required is a minimum of 15 per cent and as such, I believe that when the budgetary provisions are put in place and the Financial Management Bill is in place, you will find the counties will receive way more than even that 15 per cent.

There was also confusion on the right for the county governments to form corporate bodies. A county government cannot be autonomous unless it is able to carry out business whether with the private or public sector. As such, its own representation can only be through having a body that is legally representative. I think you will find that there is no Government that can ever be in operation without having the ability to form corporate bodies. As such, the most important thing is to have sufficient checks. Those will again be through the county assembly committees.

Mr. Temporary Deputy Speaker, Sir, I would like to thank the input of all Members. I can see that they have really truly thoroughly scrutinized the Bills and I would want to assure Kenyans that we are committed to ensure that this is enacted. For that reason, I do not want to speak too long.

Without any further ado, I wish to support.

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

The Temporary Deputy Speaker (Dr. Khalwale): What is it, Mr. Outa?

Mr. Outa: Mr. Temporary Deputy Speaker, Sir, I would really want to thank the Deputy Prime Minister and Minister for Local Government for such a wonderful job but after reading the mood of the House, would I be in order to call the mover to reply so that we can continue with the other Bills?

The Temporary Deputy Speaker (Dr. Khalwale): Order, Mr. Outa!

Can you clarify to the Chair whether on this particular Bill you have already contributed before? Have you talked to this Bill?

Mr. Outa: Mr. Temporary Deputy Speaker, Sir, I have just read the mood of the House. I was meant to contribute but I am seeing the mood of the House; we are repeating the same things and yet there is a lot of work to be done. If we call upon the mover to reply that would enable us to go to the other Bills in time. Mark you, the 28th is just around the corner.

The Temporary Deputy Speaker (Dr. Khalwale): Hon. Members, the hon. Member is perfectly in order. He has not spoken on this Bill and he thinks he has assessed the mood of the House. It is up to the House to tell me whether you agree with that Member on his point of order.

Therefore, I will now find out from the House whether you would like to continue with debate or you would like us to call the mover to reply.

(Question that the mover be called upon to reply put and agreed to)

The Deputy Prime Minister and Minister for Local Government (Mr. Mudavadi): Mr. Temporary Deputy Speaker, Sir, I will take only a few minutes to reply to this Bill.

I would like to encourage hon. Members that the two consecutive Bills that are following; the Inter-Governmental Relations Bill and the Transition to Devolved Government Bill are closely inter-twinned with the County Governments Bill. Therefore, there is still a possibility that some of the issues that have not been raised will be raised when the two Bills are being discussed.

Secondly, I would like to encourage hon. Members to prepare any proposed amendments to the County Bill so that we can have an opportunity to look at them together in good time and also jointly with the Committee that deals with local government issues or county government issues. This would enable us prepare and have all the possible suggestions looked at carefully and then at the Committee Stage, we will be able to effect the amendments as desired by the House.

Mr. Temporary Deputy Speaker, Sir, as I conclude, let me take an opportunity to once again thank Members for their contributions. As I said in my opening remarks, when I moved the Bill, this is one of the Bills that has received a lot of support and interest and consultations from Members of this House at different levels. It has also received a lot of interest from the civil society and the wider public. Judging from the contributions here, most of the Members have said that it is broadly a very thought out Bill but refinement is necessary in the areas that were omitted because nothing is perfect. Broadly, the Bill contains or captures a lot of the issues that Members would have liked.

I would also like to state that looking at it and in working, I forgot to appreciate the support that was given by the UNDP towards the consultative process. I would like to take this opportunity to acknowledge the contribution of the UNDP in helping us because resources were scarce and they helped in coming forward and coordinating donor support towards the development of our Bills in terms of workshops, seeking expertise or even having our experts have external tours to know experiences in other countries. They were very supportive and I want to acknowledge that particular effort by the UNDP in this regard.

Mr. Temporary Deputy Speaker, Sir, I intend to save on time because the Bills are many. I would like to reply so that the House can move to the next Bill.

Thank you very much, Mr. Temporary Deputy Speaker, Sir.

(Question put and agreed to)

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

The Temporary Deputy Speaker (Dr. Khalwale): Let us move on to the next Order!

THE INTERGOVERNMENTAL RELATIONS BILL

The Deputy Prime Minister and Minister for Local Government (Mr. Mudavadi): Thank you, Mr. Temporary Deputy Speaker, Sir. I beg to move that The Intergovernmental Relations Bill, 2012 be now read a Second Time.

Mr. Temporary Deputy Speaker, Sir, this is a very important Bill as well and it is very closely intertwined with the County Governments Bill in the sense that it seeks to actualize Articles 6 and 189 of the Constitution.

If we look at the Constitution, it becomes very clear that the county governments are recognized as governments within the Constitution. There is also the national Government. In this kind of environment, it becomes necessary that as requested or required by the Constitution, a mechanism be put in place to allow both the horizontal and vertical relationship of the county governments. This is important because the framework in which devolution is supposed to operate is through consultation and co-operation. It is not in a situation where one Government –

that is the national Government – is loading it over the county governments. So, in an attempt to create a mechanism, our consultants again after a lot of extensive discussion with the public, believe that creating a legal mechanism to facilitate this consultation and co-operation will be very essential.

Mr. Temporary Deputy Speaker, Sir, I would like hon. Members to look at page 152 of the Bill, which deals with the object and purpose of the Act. That will be very important. We also have the principles of the intergovernmental relations which are reflected under Clause 4 and this, again, is in accordance with the Constitution. So, as they look at those principles, it comes out clearly what is expected.

We then move to Part Two, which deals with the establishment of the intergovernmental relations structure. Under Clause 7 of Part II on page 155 of the Bill, we propose that there be established the National and County Governing Co-ordinating Summit.

Mr. Temporary Deputy Speaker, Sir, what is envisaged here is that we need an apex body to co-ordinate and to be a forum to allow consultation between the national Government and the county governments in a structured manner. Under Clause 7 we propose that the Summit shall comprise of the President or in the absence of the President, the Deputy President, who shall be the chairperson. It will also have the Governors of the 47 counties. Then there will be the chairperson of the elected summit under 19 which deals with the governors, and I will come to it. There will also be a vice-chair to the President, who will be designated as the chair.

The functions of this particular body come under Clause 8. It is for purposes of not missing out on this particular aspect that I would like to just highlight a few of the articles in Clause 8. The Summit shall, among others, provide a forum for consultation and co-operation between the national and county governments, promotion of national values and principles, promotion of national cohesion and unity, consideration and promotion of matters of national interest, consideration of reports from other intergovernmental fora and other bodies on matters affecting national interests; monitoring the implementation of national and county development plans, considering issues relating to intergovernmental relations referred to the Summit by a member of the public and recommending measures to be undertaken by respective governments.

Mr. Temporary Deputy Speaker, Sir, there are quite a number of issues there and these are very important because as we look at devolution and as we implement it, there will be many issues that will require a lot of consultation between the national Government and the county governments. At the same time, we want to be able to have the President of the national Government interacting with the governors in a structured manner, and we believe that this is very important for harmony and cohesion in the country. This forum is not a voting forum and I would like this to come out very clearly. This will largely be an advisory board and a consultative unit because if we were to engage in a voting forum, one would have to start looking at different numbers. That is not the intention here. The intention is to have good consultation.

Under Clause 10, the reports of the Summit must also be submitted to the Senate to---

(Mr. Mudavadi's cell phone rang)

I am very sorry, Mr. Temporary Deputy Speaker, Sir.

The reports of the Summit must be submitted to the National Assembly, to the Senate and to the county assemblies. This is very important because this institution – the Summit – cannot be above Parliament and the Senate. So, whatever they deliberate, those reports must go to Parliament and the Senate so that the Senate can assess and see what issues they have been

discussing and if, indeed, they want to make any suggestions or alterations, they will have the opportunity to do so as the supreme organs in the country.

Mr. Temporary Deputy Speaker, Sir, under Clause 11, we talk of the establishment of the Intergovernmental Relations Technical Committee which is basically the Secretariat of this Summit. It is the one that will be engaged in the day-to-day aspects of co-ordinating and looking at the issues that the Summit will be looking at.

I will move straight to Clause 19. Under this Clause, we create a Council of County Governors. This, again, is important because whereas the Summit provides for the interaction between the national Government or the President – the national Executive and the county Governments, the Council of County Governors is also important because we are now providing a legal framework where the governors of all the 47 counties can also have sessions in a structured format to discuss and maybe harmonize certain issues. There could be issues that relate to may be taxation levels in one county *vis-a-vis* another county. So, there must be a forum where the governors can also consult and harmonise some of these issues. I think this, again, provides a very important forum. One may quickly try and look at it and ask: “Does it resemble Association of Local Government Authorities of Kenya (ALGAK) as it is currently constituted?” The answer is “yes” and “no”.

However, ALGAK, as it exists today, is not covered by any Act of Parliament. Here, we are saying that the Council of Governors shall be covered by an Act Parliament and, again, the functions are clearly spelt out. This is very important because as the Minister for Local Government one of the things I have experienced is that when you call an ALGAK session you realize that it has been turned into some kind of trade union for the civic leaders. When they have called ALGAK all other agenda items are sometimes relegated to matters under AOB and the focus becomes either salaries or remuneration of the civic leaders. Here we are making it very clear what the functions are bearing in mind that now, as public officers, the issue of remuneration is handled by the Salaries and Remuneration Commission there will be better focus in terms of looking at the issues here. That forum will not be turned into a trade union movement because the issues of remuneration are now handled completely separately.

Under Part III, Clause 24, there is an attempt to actualize Articles 186 and 187 of the Constitution. Here we are dealing with the transfer and delegation of powers, functions, and competencies. These provisions are very important to hon. Members because when they will be looking at the Transition to Devolved Government Bill that is a window that works only for three years. The transitional authority is a three year phase in accordance with the Constitution. However, after the three year transition phase - the authority we proposed in the other Bill is supposed to serve for a limited time – the residual issues that will involve assignment of functions and so forth between the national government and the counties, there must be a body that can look at this critically and say, “Musalia Mudavadi’s Vihiga County is now capable of performing certain functions. What is the criterion for them to evaluate and establish that they are ready to perform those functions?”

So, I urge hon. Members to look at Part III carefully because it establishes how the inter-governmental relations will treat transfer of functions and ensure that there are adequate resources and so on. We are making it as a principle that you do not tell a county government to undertake certain functions and you fail to give them the requisite resources. You must give them the resources. If you are being told to undertake additional health functions in your county, the national budget arrangements must ensure that you have the resources to perform that function. They should not tell you that they are giving you those functions and yet they do not resource

you. We do not want that to happen. All these clauses are very important and I urge hon. Members to look at them critically so that where there is weakness we strengthen them.

Mr. Temporary Deputy Speaker, Sir, under Clause 27, we are putting a requirement to ensure that there are certain service standards. We do not want anybody to say that they are engaging in a particular activity and then they offer sub-standard services. We are making it clear that this particular institution will also come in to regulate and ensure that there is a basic minimum in terms of the service that the citizens are going to get. I would urge hon. Members to look at and strengthen Clause 27.

We have the issue of dispute resolution under Part IV of the Bill. This is important because disputes shall arise from time to time – disputes between the national government and some of the county governments. We are providing mechanisms for dispute resolution. This is about how the disputes can be declared and arbitrated. We are looking at what mechanisms are available. This is important because you will find that in certain areas natural resources are shared between county governments. You may find that there is water in one county, say, in Muranga and yet it serves residents, say, in Nairobi. So, questions keep arising, for instance, how does that particular county that is hosting the dam also benefit from the resources? The water is obtained and goes all the way to another area, but those fellows are getting nothing out of it. What do you do? So this is going to provide some mechanism to allow for the resolution of some of these issues. If some royalties are to be obtained and so forth, they can be obtained. I ask the House to look at the dispute resolution mechanisms carefully. Of course, ultimately, it is either the court or senate that may intervene. These are provisions that can be improved depending on the nature of the problem.

Mr. Temporary Deputy Speaker, Sir, under Part V we have miscellaneous provisions. These are operational expenses. Under Clause 37, when the Summit meets, that shall be a charge on the national government. When the Council of Governors meet, that should be a charge on the county governments. When it is the technical committee or secretariat that is working, that shall be a charge on both levels of government. Where there are sectoral working groups because there could be issues that are very specific, then the county governments would then meet the bill for whatever task that is being undertaken. This is very important because we want to be clear who is spending what money where, when and why.

Clause 38 provides for regulation where the Cabinet Secretary in consultation with the Summit may make regulations for the better carrying out of the provisions of this Act. One of the things that has come out in our new Constitution is that any regulations that are made must also be approved at the end of the day by Parliament. So, this, again, is very important to note. Certain regulations cannot be made without Parliament having the requisite input.

The Schedule is on page 172. It is important because it has provisions on the conduct of the meetings of the inter-governmental structures. It deals with the issues of quorum, decisions of the body and how they arrive at them, that is, by consensus. They can have joint-sittings and also co-opt technical advice on some of the issues where they are not adequately equipped. It also states how the meetings should be convened. These are important so that we do not have meetings that have no purpose.

Mr. Temporary Deputy Speaker, Sir, this Bill is very important because it provides the framework of that relationship both vertically and horizontally. I urge hon. Members to scrutinize it the way they are scrutinizing the other ones and their additional input is going to be very helpful. I beg to move and request hon. Lee Kinyanjui to second.

The Assistant Minister for Roads (Mr. Kinyanjui): Mr. Temporary Deputy Speaker, Sir, I wish to second the Bill as read by the Deputy Prime Minister and Minister for Local Government.

From the onset, I would really want to commend the team that was behind this great work. Indeed, they have been able to look at some of the key issues and to ensure that the County Governments, once in force, will be institutions that bring about development to the people. They have also ensured that the spirit of devolution is actually actualized.

Mr. Temporary Deputy Speaker, Sir, I also wish to point out one or two issues as pointed out by the Minister. The transitional mechanisms will be very important if we are to see the full benefits of devolution because already exists certain mechanism on the ground. Without proper transitional mechanism then what we are going to see is that we have Governments that are not really able to work together or to ensure that they maximize at both levels.

Mr. Temporary Deputy Speaker, Sir, two issues have already been achieved in this Bill. One of them is establishment of the Council of Governors. I think this will be an avenue upon which we may be able to do a bit of capacity building for the Governors. This is because we realize on aspects of managements, for example, they are cross cutting across all the Counties. The challenges maybe different, but the methods of addressing those challenges, indeed, will largely be the same. As has already been pointed out what exists today in way of ALGAK is purely more of a political body. It has no mandate within the Constitution, or any Act of Parliament. Therefore, the creation of this Council will enable even the Government to be able to fund them and to enhance training and to ensure that we are able to achieve all that we want.

Mr. Temporary Deputy Speaker, Sir, the other issue that I would wish to point out and I would like the Members to, probably address is the issue of when exactly the County Governments will come into force. I have seen in this Bill, we are proposing that it should be after the first election. I do not know exactly what we mean by the first election. However, I am sure, maybe, we will get proper interpretation, because if you are saying, we have a run-off then I do not know whether the County Governments will already be operational. If they will be operational, what happens within the interface?

Mr. Temporary Deputy Speaker, Sir, lastly, I wish also to point the issue of transfer of assets from the already existing Government structures that are meant to be transferred to the County Governments. Some of them are under the Municipal Council while others are within certain Government departments. This Bill clearly gives a method and a structure between which these assets can be transferred and to ensure that there is no lapse that will, otherwise, lead to the loss of such assets.

With those few comments, I wish to second.

(Question proposed)

Mr. Mungatana: Mr. Temporary Deputy Speaker, Sir, I want to thank the Minister very much. This is a well drafted Bill. It is a good work. However, as I have said before, we can think together and improve it.

Mr. Temporary Deputy Speaker, Sir, I have some points that I want the Minister to think about. The first one is that we must ask ourselves the question: Yes, there is need for a framework for formal consultations between the County Governments and the National Government. Excellent! Why do we need a Council of Ministers on one section established under proposed Clause 19 and Council of County Governors? Why do you want a Council of

County Governors, and, at the same time, we want the National and County Government Co-ordinating Summit established under Clause 7. I pose that question because I am looking at the functions that the National and County Government Co-ordinating Summit which I shall from now, call Summit, shown under Clause 8. The functions of the Council of County Government are shown under Clause 20. The differences really are minimal.

The question we must ask ourselves is: Do we need this bureaucracy that is proposed here, so that we have a Council of County Governors and then we have the Summit? I understand the thinking behind this. I had the opportunity to serve this Government as Assistant Minister in the Ministry of Foreign Affairs. When we are making decisions, first of all, we used to have an ambassador's meeting. The ambassadors meet and discuss. Then the same resolutions are brought to the level of Ministers which are then invited to Addis Ababa, or wherever, to again discuss the same things and thrash out the same things that the Ambassadors have already met in their levels to discuss. Then, once, the Ministers have finished the same things, again, are taken to the third level, which is the Summit. That is when the Presidents come. They start discussing the same things that we have been discussing from the level of the Ambassadors to the level of the Ministers. It is taken to the level of the Presidents.

Mr. Temporary Deputy Speaker, Sir, in passing resolutions in the UN or African Union, it takes a whole year or two years, just to get a resolution through. Why these stages of bureaucracies that have been set up? So, in this country, we will have limited resources. The County Governments are going to have limited resources. The National Government, we all know, we have very little money for the Development Vote. All the money is going to the Recurrent Vote. In order to cut that Vote, I will urge the Minister that we collapse these functions. If the President is chairing the Summit, and if he is too busy, the Deputy President is chairing, and if he is too busy, the Governor who has been elected under the Governors forum, is chairing, we will have a meeting that is fruitful or a meeting that gives decisions. A meeting that makes the Presidents to interact and feel the Governors; not a meeting of the Summit, where decisions have already been made at another level, and they are merely coming, then we have a ceremony, we have the President walking in, Deputy President walking in, and then ceremonies, speeches, and then they go, without true consultations. I propose that we relook at this. If the Minister can collapse these functions into the Summit, so that when the Summit meets with very useful decision making proposal.

Mr. Temporary Deputy Speaker, Sir, I really want the Minister to follow what I am saying with your intervention. Many of the issues which will be in this forum which I propose that we collapse together will have some financial implications. So, I am wondering where the Cabinet Secretary for the Treasury and where the Cabinet Secretary, who will be in charge of Inter-Governmental discussions will be. I know when the President will be coming for this functions, he will be definitely accompanied by the Secretary of the Cabinet who is in charge of County issues. However, we must give him a formal role. We must also give a formal role to the Secretary who is in charge of the Treasury so that when the President is attending this meeting, there will be true consultations. There will be officers of the Government within the structure that we are calling the Inter-Governmental Relations Bill that will be given real functions. Therefore, when the President comes there, the Treasury Cabinet will be there, and the Secretary in charge of County is there, so that when decisions are being made there, between the Governors, President, Deputy President and that forum, then, we have officers who will implement those decisions. So, when the President says this and this will be done, there will be a Cabinet Secretary there who will go to implement those decisions. I want to propose that the

Treasury Secretary and the Secretary in charge of the Counties to be given formal roles within the structure that has been proposed in this Bill.

Mr. Temporary Deputy Speaker, Sir, the technical committee that has been set up is a very good and noble idea that will make this forum not be one of just talkers – not a council that just needs to talk - but a forum that has technical capacity that will make sure that proper decision making is undertaken and these are adopted after discussions. I think it is a very good thing the Minister has done; I would pray that it be properly implemented. The thing that we must look at and make sure that it does not defeat the purposes, for which we are constructing this thing, is that if we have the secretary of the technical committee having some form of tenure of office, and then we have a chairman of that committee--- I am talking about the governor who will be elected under Clause 19 to chair the governors; he will have only a one-year term. Then we will have a technical committee secretary who will continue to serve. There is merit in that but there is no merit in having only a governor who will be supposed to be the voice that will co-ordinate the actual things and decisions that will be taken happen. When the President, the Deputy President and the technical committee will be making things happen, only having one year term--- I can understand the Minister and the drafters; they need to create a level playing ground where we have one among equals who just will sit for one year, and they have another one for another year and so on. We will have a situation where really the chairmanship for that thing will be just a chairmanship and there will be nothing in it.

Mr. Temporary Deputy Speaker, Sir, I want to urge the Minister to remove this clause. You have a technical person who stays continually and then you have a governor who, apart from running his or her own county, will also doing a national duty; he will serve for only one year. He will not be useful and we shall not attain the purposes for which we are setting this co-ordinating committee. The Law Society of Kenya (LSK), to which I belong, used to have annual elections. Every year we had a new chairman. It reached a point when it became clear that although there was a secretary who was there on a day-to-day basis, an employee and the chief of the secretariat, we also needed a chairman who was seized of the issues which existed, and who knew what was happening in the society. He had to be one who was able to understand and, therefore, guide the leadership and the membership of the society appropriately.

If you have a Governor who just comes in and after one year he is out and then another one is in; when the current one is studying issues and before he understands them he goes out, that will not be an efficient utilization of the resources.

Mr. Temporary Deputy Speaker, Sir, I propose that when the governor's forum is convened for the first time under the chairmanship of the President or whichever way it will be done, the election which will take place should give a mandate which should run for at least two and a half years. Then you will have a chairman of that group, who will work with the secretary of the technical committee for a reasonable period of time. The after the term is over, a meeting will be convened to choose the next chair on the side of the governors; that person should stay all the way until after the general election. He should be handing over, just as the President will do, to the incoming person. So, let us create a mechanism here that will make sure that we have sensible use of the leadership that will be chosen, and not for one year only.

Mr. Temporary Deputy Speaker, Sir, I want to make two short points. The third one is the decisions which must be taken in this co-ordinating body – the intergovernmental co-ordinating body - that we are creating. We have said at the end of this Bill - in the schedule--- I will specifically point it out. It is under No 6 of the Schedule We have said that the decisions of this body, or the body that shall be created here, be it a working bodies or any body, will be by

consensus. Now, there will be disputes which the Minister has alluded to, for example over water utilisation, or utilization of forest resources that run across counties. There will be disputes about rivers and riparian resources. There will be disputes about minerals, grass on one side or the other to which cows will come. There will be all these disputes, and in most cases neighbours may not reach a decision. Even if we are saying that the councils must have a consensus, we have got to create a mechanism that will allow for a finality in decision making. We have got to create that consensus. It should be the thing that will guide the process, but there will have to be decision-making at the end of it. That is why I propose to the Minister that we must create a voting mechanism in order to bring the disputes to a conclusion.

Mr. Temporary Deputy Speaker, Sir, I urge the Minister to seriously consider this. Yes, consensus must be there, and be the preferred mode of decision making; but we must have a voting mechanism clearly spelt out, so that people will know what to do. If the central working committee has brought a decision saying that the water must be divided or utilized in this manner, or that this county should now remit funds to this other county in this manner, then if there is no consensus, there should be some voting, so that a decision is arrived at; in this way disputes will have a meaningful way of being resolved within this body that we are creating.

Mr. Temporary Deputy Speaker, Sir, the fourth point which I want to make, which is also a quick one, is that there is a proposal which the Minister has given, that the rules--- I am picking this from the regulations in the proposed Clause 38. These regulations will be made subject to their approval before publication in the *Kenya Gazette* by the Senate. I want to request that these should be done away with. I propose that once the Cabinet Secretary has proposed them, and the forum of governors and the President have met, approved them and have chosen the way they want to operate as a body, let us not wait for the Senate or Parliament to come and look at them before they are operational. I propose that these rules, just like Cabinet rules--- When the President and the Cabinet will do things within the Cabinet, they will not need to bring the rules to Parliament or Senate for approval. This will be a body that will deal with intergovernmental relations between the governors and the President. I do not see why those rules will need to come all the way to the Senate.

Mr. Temporary Deputy Speaker, Sir, for example, if the Senate rejects all those rules, or decides to amend them, they will not know how the systems will be working within the system; how useful will that be apart from delaying things and trying to create a role for the Senate that will really not be necessary, unless we are just out to delay the process of decision making?

Mr. Temporary Deputy Speaker, Sir, finally, as I sit down, if we can remove and collapse these two bodies, what will happen is that the monies that is supposed to be coming from the county governments and the National Government, the way some of the relations are supposed to be voted, as the Minister had proposed--- There will be no need for that. This body will be fully funded by the national kitty.

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

The Assistant Minister for East African Community (Mr. Munya): Thank you very much, Mr. Temporary Deputy Speaker, Sir, for allowing me to also contribute to this extremely important Bill that will implement devolution in the new Constitution.

When we look at all the changes and the revolution that will be brought by the new Constitution, in my opinion, the most important and far reaching change that it will bring is devolution. When we judge the success or failure of the new Constitution, I think the judgment will be passed when we see whether devolution has worked or not. There are people who have opinions about many other issues but in my opinion, that is the most important change that the

new Constitution will bring. Why am I saying so? I am saying this because under the old order when everything was centralized, the rural areas or regions were starved of resources. They were starved of money so that economic growth and GDP was concentrated around Nairobi. Most of our GDP, even when we say that our economy is growing at this rate and that it will join the middle income countries soon, if we went the way we were going without restructuring our governance, the GDP would still be growing here in Nairobi and people in the rural areas would have been watching Nairobi growing and becoming like one of the mini states like Singapore while the rest of the country would remain poor. That is why you were seeing a lot of conflict developing and people becoming restive and angry down there. So, this is what will change Kenya completely because we are devolving resources down to the regions. We are devolving power so that people are in control of their destiny in the rural areas. That is why the way we structure this in terms of the law is critically important.

I want to thank the Minister and the taskforce that worked on these Bills because they have done a great job. They have really interpreted what the people of Kenya want in the right way and they have put it in the law. They have strictly followed the Constitution. We know that there were forces that were not happy with what was happening, especially bureaucrats in Government who always benefit from vested interests that give a lot of power to them. Those ones were not going to accept change quickly. That is why even the Finance Bill is causing a lot of problems. This is because there are people who do not want to let it go. There are people who feel that the power they have been exercising---

(Applause)

Hon. Members: It is about power!

The Assistant Minister for East African Community (Mr. Munya): Mr. Temporary Deputy Speaker, Sir, it is not about the Government but about those individuals. They do not want to let go. They want to continue deciding what project goes where and which money goes where and who gets what contract. They will not allow that power to go just like that. That is why you can see bickering and delays but this is inevitable. The Constitution says that that must be done. It is a matter of time and it must happen. Clearly, this Bill and the other Bills, on devolution that will come have been structured in the right way and I do not see any major problem with them.

The issues that some people are raising, for example, the two key fora that are being created in the Constitution, I do not see how they are increasing bureaucracy. They are facilitating fora. They are fora that are intended to facilitate inter-governmental relations. This is because we have created many governments in the country and Kenya must still continue functioning as a country. If we do not have fora where these governments can meet and resolve disputes when they arise as they carry out their duties; if we do not have fora where they can facilitate projects that run across counties, for example, if a road is being done and one county wants it to pass this place while the other county does not want it to pass there, where else will they resolve the dispute? This is because both counties must approve for the road to pass there. The road will be serving several counties. Where will you resolve those disputes? So, we must have fora that can facilitate the overall vision because Kenya is still one country. We must have a national development plan and a national development programme that must also fit into the county governments. That is why these fora are very critical. I do not understand what you mean

when you say that they are bureaucratic. They are bureaucratic because they are there to help move---

Mr. Mungatana: On a point of order, Mr. Temporary Deputy Speaker, Sir. I made a point here, very clearly, that we are not dismissing all the fora. All we are saying is that we are collapsing those fora in order to make them effective. Is the hon. Member in order to suggest to the House and to the country that we are doing away with these fora and that we are not---

The Temporary Deputy Speaker (Mr. Imanyara): Allow the Member to continue because I do not think that is a valid point of order. It is an opinion that he is expressing to defer from yours.

The Assistant Minister for East African Community (Mr. Munya): Thank you, Mr. Temporary Deputy Speaker, Sir, I am just giving my opinion and I have not even made reference to any particular person. I am just saying that anybody who feels that these are not important fora---- I am trying to explain how important they are. I am just debating and I am not saying that the House should not make a decision either way. I am only giving an opinion that should guide this House in making a decision.

I am saying that these are critically important fora and they are different. So, we cannot collapse them because the Summit, which is chaired by the President brings all the counties together under the President to look at national issues that may affect the counties. However, you may also have counties having problems with themselves that have nothing to do with the national Government. That is why you also have the Council of County Governments to cooperate at that level. So, they are different and important. We need to let them be there. When we are implementing them, we need a lean secretariat so that we do not spend a lot of money there. They are important because they have important functions that they must play. Otherwise, things would come to a halt if the governments are not coordinated. This is if the counties do not have fora that can coordinate work and make things easier.

The other issue is about the Chair of the Council of County Governments. The Chair is also a facilitator. County Governors are equal because they all head counties, whether a county is small or big. They are all equal in terms of what they do. So, this is just a person who will facilitate their meetings when they are meeting. The County Government will be existing only for five years. So, we do not want to have one person sitting there for five years. We also do not want to politicize the fora by thinking that the Chairman, assuming there are other duties that he has beyond chairing those meetings. That is why we need to have rotation; one person being elected chairman this year and the council meets next year to have another person elected as the Chairman so that we do not focus on the politics that the council will be generating but on the facilitative role of delivering services to the people of Kenya. But, if you say that one person sits there for three, four or five years, what will you be creating? You will be creating another centre of power that may not be useful in terms of making county governments function. For me, I think the drafters did the right thing to say that the Chairs of the Council should be a chairman for one year. We have a permanent secretariat which does the main work. Chairing is just chairing and it is done when the council is meeting and then one goes back to do his or her work where he or she is elected. You are elected a Governor of a County.

When someone is the chairman, when is he or she going to work for the people who elected him or her? So, someone will start engaging in national politics when you were elected to do county politics. So, let us not politicize that forum by making a chairman permanent or giving him more time than one year. It should be a period of one year and another person takes over.

After all, they are equal; they are brothers and they want to facilitate the work so that the county can do well.

Mr. Temporary Deputy Speaker, Sir, the issue of taking the report to the Senate is also very important because the Senate, in the structure of our Constitution, is the guarantor or protector of county governments at the national level. Most of the laws that the Senate would be making are laws that are intended to make the county governments work better, get more resources and function better. So, the Senate needs to be informed of what is happening so that when they are doing their budgets for the counties or legislation for the counties, they are able to know what is happening. That is why these reports are critical and important for the Senate to know. This is also important to prevent national governments from undermining the county governments. You may make decisions there but the Cabinet Secretaries do not want to implement them. So, who would make noise and make sure that those decisions made in the Senate, which is the protector of county government is not informed of what is happening? So, it is critically important that the Senate gets those reports and gets to know what is happening.

Regarding the issue of voting, as I said at the beginning, are intergovernmental forums where different governments are meeting. In Intergovernmental forums all over the world, decisions are usually made through consensus because we want to build trust between those governments and also facilitate decisions to be made. You can decide that these governments are equal but they do not implement anything. So, what are you going to do? You can agree that a certain road will pass there and voting took place but the county that is affected by the road refuses to implement the decision. So, they end up going to court. What are you going to do? That is why you need consensus to build trust to make people agree. Voting is for assemblies like the Senate and the National Assembly. Where you come to government forums, the best approach, even in the East African Community (EAC) because we are intergovernmental, decisions are made through consensus. The most important thing is the trust that you build so that government business can move forward. If you build mistrust by voting, then some people from other counties which are affected would refuse to implement those decisions. This will cause problems. How do you resolve those problems? You do not resolve problems through a vote. Votes do not resolve problems. If it is an assembly it is okay but for these forums, let us stick to consensus building because these are facilitative and confidence building forums so that the work of the Government can be facilitated properly.

The last issue that I wanted to comment on is that the Bill does not make it clear the relationship between the county governments and the provincial administration. We thought that the drafters would be brave enough to deal with this issue. I know the argument is that since the Governor would be the chair of the security committee at the county, the provincial administration will be answering to the county government. That may be so but the provincial administration is still answering to Nairobi. The District Commissioner (DC) or the County Commissioners (CC) are still answering to Nairobi and their resources are still coming from Nairobi. So, we may end up creating conflict at the county level. So, we might see security rising because of such conflict. So, the House, either through this Bill or through another Bill which we must bring to deal with the provincial administration, must be bold and clear. If the provincial administration is going to exist then it must conform to the structure of the Government as proposed. The Constitution is very clear. It says that the provincial administration must be restructured to respect and accord with the structure of the county government.

So, if we let the provincial administration exist as a parallel system, then we create another parallel system with the county governments. So you can see where we are creating

conflict. Clearly, there would be conflict. So, we cannot just wait until five years are over. In five years, we shall have created a county government structure. If the county administrator finds a DC there, who would be doing whose work? The county administrator will say he is doing his job and the other one is also giving orders. So, whose orders are going to be obeyed? We are creating conflicts. This matter must be resolved. Prof. Saitoti must bring a Bill to deal with the provincial administration now so that both are synchronized so that we can have functional county governments when we go for elections.

With those few remarks, I support the Bill.

Mr. Chanzu: Mr. Temporary Deputy Speaker, Sir, thank you for giving me the opportunity to support this very important Bill. I want again to congratulate the Deputy Prime and Minister for Local Government and his team. I also want to thank the Committee under Mutakha Kangu which came up with these three very important Bills. Hon. Members have already contributed on the County Governments Bill and now we are on Intergovernmental Relations Bill and after this there is a Transition to Devolved Government Bills. All these Bills are related. The essence of these Bills is to put into effect what the Constitution which was promulgated in August, 2010 requires.

Mr. Temporary Deputy Speaker, Sir, the aspect of devolution has been with the people of Kenya for a long time. They have been yearning for this for a long time. One of the things they thought would be eliminated through devolution is to remove responsibilities and powers from the top and bring them down to the people at the grassroots level. I only hope that what we have seen in this country for many years in form of corruption, we are not devolving it down. Therefore, that requires that we must have proper structures, proper units and proper methods of handling these aspects at the grassroots level. I am also hoping that the positions that we are creating through this devolution are not units for self aggrandizement. That is, people doing whatever they want to do because they think that that was what was intended. I have seen in this country people rushing for jobs and when one has the job what he does is contrary to expectations. They go there for self satisfaction and so on. I am only hoping this is not going to be the case.

One thing that is very impressive about these Bills is the way they have been drafted and set out. In the past, there was no criteria for measuring the performance of an elected person, but in these Bills, we have the criteria where we have set out the duties and responsibilities of an elected person. For example, in the previous Bill, which is related to this one, Clause 9 deals with the roles of the members of the County Assembly. This is a very important thing because it is going to enable Kenyans to know that so and so is supposed to do. Even the elected leaders themselves will know what they are supposed to do. The job that has been done on these Bills is very commendable. However, there are a few issues which arose maybe because of time or the tug of war that was there. When I attended the meeting at Naivasha, I noticed there was a tag of war within the Executive when it came to these Bills. This is the point the Member has just been talking about. I noticed the tug of war within the Executive with Permanent Secretaries feeling totally different particularly in the Office of the President and the Office of Deputy Prime Minister and Ministry of Local Government and looking at the work that is being done through these Bills as one that is going to deprive their offices responsibilities. It is in that process that some of the thorny issues like the one the Member has just talked about were left out. There was so much tug of war in some of the aspects. For that reason, I believe that this is the opportune time for the Minister and the Members, because the matter is now between the Office of Deputy

Prime Minister and Ministry of Local Government and this Parliament, to introduce amendments to cover some of those shortfalls.

Clause 5 of this Bill, namely, Objects of Inter-Governmental Relations, talks about facilitating the realization of the objects and principles of devolution provided for under Articles 174 and 175 of the Constitution. Part (b) talks about Articles 6 and 189 of the Constitution. If you look at these Articles in the Constitution, they are all related. Article 6 of the Constitution deals with devolution and access to services and Article 174 deals with the objects of devolution. There is Article 176 of the Constitution which deals with county governments and states that:-

“1. There shall be a county government for each county constituting of a county assembly and a county executive.

2. Every county government shall decentralize its functions and provision of its services to the extent that it is efficient and possible to do so”.

This is an aspect that needs to be addressed. Clause 11 of the Bill talks about the functions of the technical committee which shall be responsible for the day to day administration of the activities of the summit and in particular facilitate activities of the summit and implement the decisions of the summit, take over the residual functions of the transition entity established under the law relating to devolved governments after the dissolution of such entity. I am looking at a situation whereby this will involve all that goes on that has to come from down and then it gets to a level at which these technical committees will be functioning. If there are any changes that we need to make or amendments that we need to propose, we need to do them at this stage so that we can sort out whatever shortcomings that may be in the Bills.

Clause 52 of the County Governments Bill talks about further decentralization. I am going to bring amendments to these laws that we are discussing now, so that we can deal with that matter which has been left hanging in the main Constitution and also under Clause 52 of the County Governments Bill. Because the Bills are related, I am going to bring an amendment to establish village units within the wards administered by a village administrator. I am also going to bring an amendment on the appointment of the village elders. The Constitution contemplated in Article 176 that we must work out units as to the level where they can be functional for the service delivery that is anticipated. Also, there is going to be a section to deal with the qualifications of those village elders in that amendment. We are also going to develop a criterion which is going to come as an amendment for the establishment of those village units. Those are the amendments that I want to bring.

There is an aspect in these Bills - because of the relationship between the Bills - which we also need to amend. In the earlier Bill, there is an aspect which we will have to look at, which is related to this Bill, because all these technical committees in various places will have to deal with the issues to do with this devolution.

Mr. Temporary Deputy Speaker, Sir, this is something that I noticed here in this Bill. It says:-

“If a county assembly fails to enact any particular legislation required to give any further effect to any provision of this act, a corresponding national legislation, if any, shall, with necessary modification, apply to the matter in question until the county enacts the required legislation.”

I was looking at this and I think there is a blank here. This is because in case there is no relevant national legislation, then there is a vacuum. So this is an aspect that needs to be addressed among these laws that we are debating at the moment.

There was also an important aspect I that I really wanted to put across----

The Temporary Deputy Speaker (Mr. Imanyara): You can do that at the Committee Stage if you cannot find it so that we can allow somebody else to have a go.

Mr. Chanzu: Mr. Temporary Deputy Speaker, Sir, it is on deputizing where we are saying that the first meeting--- There are several amendments here which I will bring at the Committee Stage. However, what is important here is the framework that has been laid out for the functioning of the county assemblies.

With those few remarks, I beg to support.

Mr. Njuguna: Mr. Temporary Deputy Speaker, Sir, thank you for the opportunity to input on this very important Bill. Let me, first of all, start by thanking the Deputy Prime Minister and Minister for Local Government for a job well done. I also extend my appreciation to all the stakeholders who participated in this process. I cannot also forget the good work done by Mutakha Kangu's Taskforce and the Kenya Land Alliance.

Clause 3 is talking mainly about consultation between County Governments. It is important that stronger emphasis is paid on this clause. Real harmony must be maintained between County Governments if this Government will realize any social and economic growth. Peaceful coexistence must be the responsibility of the county Government. We should not forget that recently we had sour relationships when Migingo Island was taken by our hostile neighbour. Therefore, it is important for peaceful coexistence to be maintained between the County Governments.

Border incursion is another area that needs to be addressed by these newly created County Governments. We have seen the pastoralists moving from one area of this country to the other. However, they have been facing some hurdles when they are moving with their livestock. The County Government must address some of these problems with a human face. It will also be very important for county boundaries to be marked clearly before the creation of these County Governments. Beacons must be fixed so that even our children in our counties will know the boundaries of their individual counties. Even maps must be sent to schools, so that the teachers will handle this education well in advance.

Another key component in this clause is sharing of resources. We know that forests are expansive in some regions of this country. If enough consultation and engagements are not done, these counties will trigger some problems. We know that some counties are richer than others. Therefore, fruitful engagement is important so that those richer counties can afford grants and loans to the less endowed counties.

The road and rail network transport can also trigger some problems if not well addressed between these counties. These two cannot be confined in one given area.

Given counties must address the issue of drought with sobriety, so that unnecessary flare-ups are avoided.

On the national County Government, this will be a key component in the inter-government relations. Therefore, the summit is a very important body. The summit must be able to evaluate the performance of the young county government. The period stipulated in the Bill of three times in a year is not sufficient because these young counties will have numerous problems to be addressed. Therefore, I would propose quarterly meetings in a year, so that all the disputes developing will be addressed.

On the council of county governments, I would suggest that it is important to note that ladies in this country will be competing for the governorship positions. When they win, they should be considered to take leadership in the council of county governments. Gender balance should be taken into consideration when we fill various positions in the county governments.

When looking at the Bill, it does not say where the seat of the county government will be. I propose that this council meeting must be done on rotational basis in our cities in the country. Initially, we must have the first one in Nairobi. The other meetings can be held in other cities and towns.

Concerning the dispute mechanisms, it will be important to know how to settle various disputes that may arise in a county. They must be addressed immediately to avoid in any infighting. We have seen on the discovery of oil in certain African countries like Niger and Nigeria fights have flared up. Therefore, the 21 days given will be like settling a dispute within a very long period. I would propose that we reduce it to 14 days, so that if there are real fights or serious concerns that are likely to affect the lives of the people, be addressed within that period. By so doing, a single life will not be lost.

Mr. Temporary Deputy Speaker, Sir, I have not seen in this Bill how the removal of an ineffective chairman will be done. Therefore, a mechanism must be developed on how a non-performing chair must be kicked out immediately to allow the council to perform as expected.

With those few remarks, I beg to support.

The Temporary Deputy Speaker (Mr. Imanyara): Noting that there are three hon. Members wishing to speak and the Chair of the Committee, and given the uniformity of the views, I propose with hon. Members agreeing, that we conclude this Order by 12.30 p.m. If that is the agreement, I propose to call the hon. Members who are on their feet now, followed by the Chair of the Committee and then, the Minister to close at 12.30 p.m.

Mr. Mbadi, you will be the first one!

Mr. Mbadi: Thank you, Mr. Temporary Deputy Speaker, Sir. I support the Bill.

Mr. Temporary Deputy Speaker, Sir, I would like to start by congratulating the Minister and the taskforce headed by Mr. Mutakha Kangu for doing a good job on the three Bills that are before this House so far. First of all, it is important that the Ministry has recognized that as we move towards the devolved system of Government, there are bound to be conflicts, especially in the first few years, when we are just taking off and that there would be a requirement to try to look for mechanisms of harmonizing the powers, functions and even competencies of the various bodies involved. The Bill is so detailed that I would not go into the specifics. I would probably go to areas which I think require some improvement.

Mr. Temporary Deputy Speaker, Sir, first of all, Article VII which sets out the Summit, which is the apex or highest body in terms of Inter-governmental relations, talks about the membership being the President or his Deputy and the 47 Governors. I would propose that we also include, as a permanent member of this Summit, the Cabinet Secretary in charge of Inter-governmental relations. This is because I think there will be need to have some information. This Ministry will be put specifically to work towards harmonizing the workings of the various county governments. So, I recommend that we probably include the Cabinet Secretary in charge of Inter-governmental relations.

Mr. Temporary Deputy Speaker, Sir, on the secretariats, and this even touches on the issue of the county secretary, which we debated earlier, I think we need to be specific on the qualifications. This is because these are very key positions in the county. We need to be very sure of what qualifications even the secretary responsible for the technical committee needs to have.

Mr. Temporary Deputy Speaker, Sir, there is a point that hon. Mungatana made, which I think needs to be re-emphasized and probably, put into the right perspective. Even as we create bodies to harmonize the various relationships amongst the counties and with the national

government, we need to be careful lest we put a lot of strain and crowd out development at the county level, and have a lot of recurrent expenditure. When you talk of the technical committee or council being given the powers to create county working groups or committees, we need to control this. We need to have in our rules and regulations how this needs to be done, so that we do not leave it at the whims of these bodies to create unnecessarily too large bureaucratic system.

Mr. Temporary Deputy Speaker, Sir, Article 26 talks about the transfer of power and functions from the national Government to the county government and vice-versa. If you are transferring powers from the national Government to county governments, you need not only to notify the National Assembly, but also include the Senate. This is because the Senate's role is to guard and protect the interests of the counties. Therefore, any recommendation of transfer of powers and functions, either from the national Government to county governments or vice-versa, you need to notify the Senate as well.

Mr. Temporary Deputy Speaker, Sir, on the issue of dispute resolution, the Bill has identified two types of conflicts. One, a dispute may arise between the national Government and county governments. Also, disputes may arise among the county governments themselves. We need to be clear that if there are disputes between the national Government and county governments, then that should go to the Summit if we are going to retain the two bodies. But if it is between the county governments, then that needs to go to the council. This needs to be very clear in the Bill so as to avoid ambiguity.

Mr. Temporary Deputy Speaker, Sir, I want to again re-emphasize that, if possible, I would support hon. Mungatana's view that we need to reduce the number of these bodies. This is because if you look at their functions, truly they can be harmonized and collapsed.

Mr. Temporary Deputy Speaker, Sir, finally, because of time, I want to ask the Government and probably, Members of Parliament, to propose an amendment to be very clear on what is to be done to the provincial administration. I think, as a country, we need to stop this cat and mouse game that we are playing with the provincial administration. It is either we have them or we do not have them. If you look at the Constitution, it is very clear that we have executive powers at two levels of Government; the national Government and county government. This, therefore, means that the county Governor has the executive powers. We cannot again have a parallel Executive authority in the county, that is answerable to some other office outside the county. We need to be very clear on what we are going to do with the provincial administration. If we require them we should say so and if we do not require them, we need to find a mechanism of doing away with them, without hurting the personnel which is there, because they are Kenyans. We should look for a safe landing ground for them, but we must send a message out there that this is how this country is going to be governed in terms of Executive authority.

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

Dr. Nuh: Mr. Temporary Deputy Speaker, Sir, I also want to thank you for giving me the opportunity to voice my support and a few concerns here and there on the Bill.

Mr. Temporary Deputy Speaker, Sir, from the outset, I want to thank the Minister and his team for having put together a well-thought-out document. The few areas that we think need refining is the reason we are standing to contribute.

Mr. Temporary Deputy Speaker, Sir, I want to, first, reiterate the comments by the previous speakers; that the realization by the Ministry to forestall any sort of bad blood or incoherence that might arise from the 47 counties within themselves and even between them and the national Government is good. The fact that we need a body that would try and regulate in

some of form coherence, to see how the efforts of the county governments within themselves and between the county governments and the national Government, can be geared towards one of mutual understanding, respect and puts the interest of the public ahead of everything.

Mr. Temporary Deputy Speaker, I want to go to the few clauses that I might have issues with. I want to begin with Clause 10. There is a provision that the National Assembly, Senate or county assemblies may upon receiving the annual report, under sub-section 1, make such recommendations to the Summit as they may consider necessary. I would want the Minister to listen very keenly on this. When a report is submitted to the county assemblies, National Assembly or Senate, it is not a report that will just come and be tabled in the House and lie dormant. It is a report that would be deliberated upon and have recommendations tied to it by the National Assembly and maybe the Senate. One thing that is lacking in the Bill is what happens to such recommendations that are forwarded to the Summit. Are they mere recommendations that the Summit would upon reading, decide whether to incorporate into their action plan or decide to ignore or they are recommendations that would have some binding effects on the Summit and its decisions? I think if this is not clearly spelt out, then we would be ruining the time of the National Assembly and Senate to discuss and deliberate upon reports from the Summit; that upon making recommendations, those recommendations then would not be adhered to or considered by the Summit. So, I think the Bill has to clearly stipulate what happens to such recommendations when they are submitted to the Summit.

Mr. Temporary Deputy Speaker, Sir, I would also like to talk about Clause 11, which is on inter-governmental relations technical committee. Here is a technical committee comprising of members that will be recruited competitively by the summit. This is the body that carries out the functions of the summit. It is the functional arm of the summit upon the summit making recommendations, and upon the summit making decisions that should be carried out.

I would want to request that although appointments to the membership to such a committee can be done by the summit, let such a committee, upon appointments made by the summit get the approval of the Senate, or let us have the appointments done by the Public Service Commission, and have the approval done by the summit. That would give more legitimacy to the technical committee for them to be able to carry out many of its functions without any fear of intimidation.

Mr. Temporary Deputy Speaker, Sir, under Clause 12, we have a technical committee that will be established as soon as the county governments come into being. We also have a transitional authority that will be established before the county governments come into place. We have some of the functions of the technical committee being carrying out the residual functions of the transition entity established under the law relating to transition to devolved governments after the dissolution of such an entity.

It would also be very important to outline in this Bill what the relationship between this technical committee and the transitional authority will be when both entities come into place. If you expect the technical committee to carry on the functions of the transitional authority after it is dead, there has to be such relationship so as to ensure that there will be continuity of institutional memory.

Mr. Temporary Deputy Speaker, Sir, that also goes hand in hand with Clauses 24, 25 and 26, which also reiterate the issues of transfer and delegation of powers and functions, and competencies between the county governments and the national Government. So, at least, the technical committee has to have some way of its relationship with the transitional authority outlined when both bodies are in place.

I would also want to make recommendations on Clause 19. Whereas we have outlined that the summit will include the President and, in his absence, the Deputy President, we have not made similar allowance regarding when the governors are absent that the deputy governors can deputise, or sit in place of, the governors. Therefore, Clause 19 has to incorporate a sub-clause to provide that when a governor is absent, the deputy governor of that county can sit in the council on behalf of the governor.

Mr. Temporary Deputy Speaker, Sir, in Clause 22, and in many other clauses, the council is required by the Bill that it shall submit annual reports, and that three months after the financial year, those reports will be deliberated upon by the Senate and the National Assembly, which will make recommendations – which recommendations I asked whether they will be binding or not. It should also be clear when these annual reports should be made.

The Bill should state whether these should be annual reports that should be made in December, or should be annual reports that should coincide with the calendar years of the assemblies, or should be annual reports that will coincide with the financial year of the Government. That has to be clearly stipulated in the Bill.

Mr. Temporary Deputy Speaker, Sir, on the issue of voting versus consensus when it comes to decision-making by the summit and the council, it should be appreciated that this is a body that should harmonise relationships within counties and between the National Government and counties. I would also go by the Bill's recommendation that most of the decisions, if not all, should be by consensus.

I do not think we need to create an ivory tower in everything. Even in consultative forum like this one that are supposed to hold the country together, if we go by the way of trying to see where power is, and say that we should have a voting entity every matter, we will be making very wrong decisions.

Let us say, for example, there is an issue of concern to both the counties and the National Government. Here, we would have the summit voting, with the President's one vote, taking care of the national interest and 47 governors ganging up to take care of the interests of the counties. How would such decision be taken when we would have 47 governors voting on one side? Maybe, there is a plan to rip off something, or there is an issue of so much concern to the county governments, and here is a Head of State with only one vote, saying: think you are taking a wrong decision. So, not all issues should be subjected to voting. Consensus should be best suited to trying to harmonise issues.

Mr. Temporary Deputy Speaker, Sir, this is the more reason why all the reports and all the deliberations and decisions that shall be made by the summit should be submitted to the National Assembly, the Senate and the county assemblies for them to review such decisions. Where they are dissatisfied with summit recommendations and decisions, they should also be able to convey such dissatisfaction in the form of recommendations to the summit.

When we were, as Kenyans, asking that we should have county governments, it was the feeling that we create executive county officers who would exercise as much power as we as our previous presidents had. I would, therefore, want to appeal to my colleagues in this Assembly who are aspiring to be governors to tone down a little, because some of the recommendations we put in the Bill whose debate we have just concluded were such that we would create ivory towers for governors in county governments.

Mr. Temporary Deputy Speaker, Sir, some hon. Members were proposing that the threshold of a third of the county assembly membership provided as sufficient to propose a motion of censure or a motion of removal of a governor from office was too low. I would want to

appeal to hon. Members to see the sense that if we fix the threshold too high – at a half or two-thirds of the membership of a county assembly – for them to think of impeaching a governor or moving a Motion against him, we will be setting a standard that would see no governor removed from office, irrespective of the crime that such a governor may have committed.

Even the Constitution fixes a threshold of only one third of the membership of the National Assembly for an impeachment of the President. A governor is not bigger than the President of this nation. So, a third of the membership of the county assembly, or even a lower threshold, should be allowed to move a censure Motion if a governor behaves in a manner that impedes the efforts of a county government to develop.

Mr. Temporary Deputy Speaker, Sir, even though debate on the previous Bill has been concluded, I would like to urge the Minister in charge to specifically look at that provision, because the process of removing a governor from office on grounds of incompetence or health is not the same as when you remove a governor for bad habits. One case needs some input from the medical field.

With those many remarks, I beg to support the Bill.

Dr. Khalwale: Mr. Temporary Deputy Speaker, Sir, I rise to support this Bill and ask the Minister to join me in addressing four points. The first point is on the structures established under this Bill. The second one is the question of funding. The third one is the question of oversight. The last one is the fate of the Provincial Administration.

Mr. Temporary Deputy Speaker, Sir, when you look at the structures established under this Bill we contemplate a Summit, a technical committee and a council of governors. I want to request the Minister to pay great attention on the issues raised by Mr. Mungatana. Just like Mr. Mungatana said, I have also served the Government as an Assistant Minister in the East African Community in the Ninth Parliament.

We used to move business from consultations of high level of senior officers in the five partner States then you go to the council of secretaries; you go to the council of Ministers and, eventually, you go to the summit. The reason why we must refuse the existence of the third structure of the county governor's council is because I suspect we are being informed by that practice which also as Mr. Mungatana said, takes place at the Ministry of Foreign Affairs.

A summit on the line of what applies in the East African Community cannot apply here. Here it would be superfluous. Why it is necessary in the East African Community structure is because after the Council of Ministers have agreed, we want the Presidents of the Partner States to come together and also compare notes and agree with what their respective Ministers agreed with the rest of the partner States. But in the case of the Summit of Kenya, there is only one President. So, who are these other Presidents that he wants to sit with during the day of summit to agree with?

The Minister for Education (Prof. Ongeru): Governors!

Dr. Khalwale: I know English. I know the difference between a Governor and a summit. Prof. Ongeru, you will have your bit. I want to advance this. It is very serious.

The Temporary Deputy Speaker (Mr. Imanyara): Dr. Khalwale, address the House and not the Minister for Education.

Dr. Khalwale: Mr. Speaker, Sir, I will connect this point to my second point of funding. Since the President during the day of the summit has no other Kenyan President who he wants to consult with, he is only sitting with the Governors of the County Governments, it makes sense for us to collapse the roles and convening of the two organs, so that it is only one organ.

The wisdom of this is partly in the fact that we are now providing a cure for the trouble you are finding yourself in, in Clause 37. In Clause 37 - and I would like the Governors-in-waiting to listen to me carefully - there is trouble. The Minister does not know whether to charge from the County Government, the national Government or both. That is why you see in that particular Clause the Minister in Clause 37(a) wants to charge the national Government. In (b), he wants to charge the County Assembly. In (c), he wants to charge both and so on and so forth.

Mr. Temporary Deputy Speaker, Sir, I would like the Minister to consider after accepting to collapse the two organs together that that charge be to the national Government alone. This is because if the national Government does not like the council to meet, the national Government will starve it of funds. If it does not succeed in dictating that, it will provide for revenue during estimates in such a manner that the money is not enough to do comprehensive meetings.

Mr. Temporary Deputy Speaker, Sir, I want to beg my colleagues who will be running for Governor - I will be running for Senator - that when we were contemplating the new Constitution, at that time, most of us did not know that one day we would become governors and maybe become senators. So, there was a feeling in Naivasha even during the consultations we had at the Kenya Institute of Administration that power was being taken away from Members of Parliament. So, there was an element of resistance. This is the time for us to give every Kenyan, wherever he will be performing, a role to play; that role to be a role that will be effective both in terms of performance and in terms of cutting costs.

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

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

Mr. Temporary Deputy Speaker, Sir, having talked about the issue of funding and structures, allow me to mention something about oversight. This is found in Clause 10. In this clause, there is an attempt to suggest how oversight will be done. You are trying to incorporate the National Assembly and, at the same time, you are trying to incorporate the senate and the county assembly. This is all very well. However, what does the Constitution say? The Constitution of Kenya says that the Member of Parliament will represent the constituents of his constituency. The senator under the Constitution will represent the County Government. Therefore, it goes without saying that if the senate represents the County Government then the oversight over the County Government should be done squarely by the senate.

Mr. Temporary Deputy Speaker, Sir, it is important so that we check a situation whereby governors want to become rogue, so that the powerful President we had in Nairobi arrives in Kakamega in the name of the Governor of Kakamega County.

We would like these governors forever to know that the senate is there 24 hours, watching and prepared to remove them in quick speed the way we have disciplined some Ministers in this House. This is a matter which cannot be over-emphasized.

Let me now address myself to dispute resolution. In this Bill, the Minister says that dispute resolution be done in the way he has provided. It cannot fly. If the governor is at dispute with another governor, the person to resolve that dispute is the representative of this county which is at dispute with this other county, but the matter being brought in the senate, so that the senators can sit and arbitrate that particular dispute. In the absence of that then, the only other

organ that will make sense would be a court process. But we do not want our County Governments to take each other to court. So, the Senate is there. It should be the one to preside over this business. How do you go about it? I believe that we will, in the Standing Orders provide for a special standing committee within the summit that will be specifically for dispute resolution.

Dr. Nuh: On a point of information, Mr. Temporary Deputy Speaker, Sir.

The Temporary Deputy Speaker (Mr. Ethuro): Do you want to be informed, Dr. Khalwale?

Dr. Khalwale: Yes. A great mind accepts to be informed by another great mind!

Dr. Nuh: Mr. Temporary Deputy Speaker, Sir, I want to thank him for the compliment. I also want to inform him that even currently the registrar of political parties upon parties going to register their agreements with the registrar, the dispute resolution mechanism would be as per that. When counties go into agreements, they can deposit their agreements with the senate and the Standing Committee can then upon acting on such agreements resolve the dispute without having gone to court.

Dr. Khalwale: Mr. Temporary Deputy Speaker, Sir, I could not agree more with what the hon. Member has said. One last point about the senate is in respect of the decisions of the summit. The Minister provides expressly in this Bill that those decisions must receive approval of the senate. If a decision of the summit where the only representative of the county was the governor and maybe because this governor comes from a small state, he was overrun by the so-called majority within that summit, then when the resolution is brought before the senate, the senate will be able to put into consideration some of the minority views that might have been overrun during the meeting of the summit.

Mr. Temporary Deputy Speaker, Sir, one last little thing on the structure; and I want to request the Minister to go to Clause 7 of this Bill. In Clause 7 you are saying that the summit shall comprise of those people. I want to propose that the summit comprises of the President who shall be the chairperson. Delete, “or Deputy President’ and then Governors of the 47 counties.

On sub-section (3) delete the words, “Chairperson of the council elected under section 19” because we have advised and requested you that you delete the council of county governance and, therefore, subsection (3) is out.

I want to suggest that you put subsection (3) to read, “The Deputy President who shall be the vice-person of the summit”. Why do I say so? This is because under the new Constitution, we do not contemplate a situation whereby the Deputy President is the assistant of the President only to be going there to be representing the President. The Deputy President under the Constitution enjoys Executive powers to the extent that if the President was to collapse and die or was to resign or was to be declared bankrupt, the Deputy President immediately assumes office for the balance of the term. Now, imagine a situation whereby the Deputy President has never had an opportunity to sit in the summit because the President was always attending and then the President vacates office, the Deputy President takes over, he goes there and he is a completely new man. We want the Deputy President to be there all the time for purposes of institutional memory and continuity in the event of the worst happening; in other words, the President leaving office.

Mr. Temporary Deputy Speaker, Sir, finally, I want to speak on the provincial administration. The new Constitution provides that the Government will restructure the provincial administration so that it is brought into alignment with the devolved government. Now, if we are now providing for legislation for the county government and we do not use this

opportunity to realign the provincial administration when do we want to do it? Do we want to do it through a Private Member's Bill? Do we want to do it through a strike by Assistant Chiefs and Chiefs across the country because they feel they are not being listened to? The time to do it is now! How do we do it? We must accept that creating parallel government will create, as my brother Munya said, the possibility of collision. Time has come for us to say that the provincial administration in its current form is no longer tenable with the new Constitution. Therefore, I propose that Minister goes back and provides that Assistant Chiefs, Chiefs and DOs in charge of division be given a different name exist but under the county Governor. Period!

The President should sit up there, *huko juu, akae huko. Tutakutana naye hapa.*

I am sorry, Mr. Temporary Deputy Speaker, Sir, to have used two languages at the same time. I apologize.

We can do this in this law by looking at clause 8 which provides for the functions of the summit. Where you say, "consultation and cooperation between the National and County Governments" you can add another proviso that, "The summit can be dealing with matters and performing duties that were hitherto performed and dealt with by the provincial administration with a view of abolishing the provincial administration as contemplated by the new Constitution".

Mr. Temporary Deputy Speaker, Sir, I cannot sit down before once again begging the Deputy Prime Minister that if you will bring on board some of the suggestions I am making about the provincial administration do it in the realm of the reality on the ground. If you are going to yield to some of the demands of some Members of Parliament that we completely remove the provincial administration so that we leave matters of security to the police, that sounds very American and very European like. However, in the situation in Kakamega when a cow of Regina Khaswaha crosses and eats two storks of maize in the neighbouring farm if you bring in the police, he will take this matter to court and it will take five years to be resolved.

When you have the village elder, he provides an immediate solution; they are fined one head of chicken, it is paid and the families come together. That is how we live. Those are the village courts. We would like you to recognize our village elders and provide that our village elders be paid a salary. Because I will not speak on this again, I want to urge the Deputy Prime Minister and Minister for Local Government to prevail over the Minister for Planning, National Development and Vision 2030 and prevail over the Government that the village elders who counted people during the census have not been paid up to now.

I want the Minister for Planning, National Development and Vision 2030 who wants to be the Governor of Kakamega, to come and pronounce in Kakamega that he is not only paying the village elders in Kakamega but also all the village elders in the whole country. We cannot have a situation whereby we live good lives driving four-wheel drives; I own a Mercedes Benz and yet the people who enable us to earn the money that enables us to buy these things, we steal from them.

Mr. Oparanya, the Deputy Prime Minister and your Government, you must pay our village elders a salary and remember their earnings during the census.

With these remarks, I beg to support.

The Temporary Deputy Speaker (Mr. Ethuro): Order, Members! As we had agreed, we are bringing this Bill to a conclusion. I would take the Chair of the Committee who will have 15 minutes then the remainder of the 15 minutes will taken by the Minister who is the responder.

Proceed, Mr. Ngugi.

Mr. Ngugi: Thank you Mr. Temporary Deputy Speaker, Sir, for giving me this chance to say a few things in support of this Motion. As I do so, I will thank the Minister for the extensive consultations that have gone into developing this Bill together with the other three which are the key to devolution. Those are the County Government Bill, the Transition to Devolved Government Bill and the Public Finance Bill.

These are the four Bills that are the legal framework for actualizing the devolution and the county aspect.

Mr. Temporary Deputy Speaker, Sir, as I thank him let me also say that as we propose amendments; let us just remember that we voted for two governments; the National Government and the County Government. None should emasculate the other. At the same time a unitary State. We are not Federal States. With those realizations and once we read the four Bills together then we will come to the realization that these are Bills that have been very well thought out. These are Bills that have been very well crafted except whatever a human being does there is always room for improvement. As a result, my Committee has looked at them and there are a few amendments that we will be proposing at the Committee Stage.

Mr. Temporary Deputy Speaker, Sir, in this Bill, we have provided for a Summit and this is where the county governments meet with the national Government. I do not understand why people are creating a fuss when we have this body where the President and the governors meet to look at national values, national objectives and all the things that have been stated would be done by the Summit. We have also provided for a Council of Governors. The governors themselves need to meet; they need to exchange ideas; they need to borrow from each other; they need to compare notes; they need to isolate matters that they can take to the Summit and resolve. So, the two bodies are critical and they should exist because they have different roles to perform.

If it was the issue of cost, then we would be saying: "Remove all these Commissions that we have formed – Commission for this, Commission for that in the Constitution." We cannot look at these very critical devolution aspects and start restricting the bodies that could enable them to perform their job properly.

Having said that, this Bill misses only one critical area. A Government comprises of three units. In this aspect the Executive, which is the Governor and the Governor's Council and the Executive, which is the President meeting with the Governors at the Summit. However, this Bill – and we will be proposing – misses the Speaker's Panel. We should have the Speakers Forum where the speakers of the 47 county assemblies will also meet, because those are the ones that represent the Legislature. Once we have the Governors Forum and the Speakers Forum. Once we go to the Summit, the Speaker, the Speakers Forum, the Council or whatever you call it could even become the Vice-chair to the President, if not, the Speaker in the Senate. That way, we will not be missing out the county assemblies. But as the Bill is now, the county assemblies – and we realized this was an oversight – was left out.

Mr. Temporary Deputy Speaker, Sir, there are a few things in this Bill, like limiting the number of times that the Summit should meet or limiting the number of times that the Governors Council should meet. There should not be a limit because that should be dictated by the business on the table. What we can say is that the Summit will meet, at least, twice a year. That leaves room for it to meet even three or four times if the business dictates so. Similarly, even for the Governors Council, you cannot say that it will only meet three times a year or twice a year and not more than four times. What about if the business dictates that they meet four or five times? Then you are creating an illegality. So, we will be proposing amendments to delete these restrictions so that the business of the day dictates the number of times they meet.

Mr. Temporary Deputy Speaker, Sir, there is this technical committee which people do not seem sometimes to understand. The technical committee is the implementing organ of both the Summit and the Governors Council. Whatever decisions are made there will be implemented by the technical committee. The technical committee also is the Secretariat for both the Summit and the Governors Council. So, being the Secretariat and the implementing organ, we will be proposing that it does quarterly reports both to the Summit and the Governors Council so that its work is followed.

On the issue of the term of the governors, one year is nothing for somebody to be a chair of the Governors Council. We will propose that he will be eligible for a further one-year-term only so that if he is proved to be a good chairman of the Governor's Council, he can have a chance of going for two years. If he has not been able to impress his fellow governors, then they can elect somebody else.

Mr. Temporary Deputy Speaker, Sir, that will cure the issue of somebody being there for so many years or not performing well. The issue of reports to the National Assembly and the Senate has been raised. The recommendations would come thereafter. This can only be advisory. It cannot be binding on the counties because you will be interfering with work of the counties. The reports can be made to the Senate and the National Assembly from the Summit or the Council of Governors. However, whatever recommendation that will be made can only be advisory.

There is the emotive issue of the provincial administration. I have said before that in other devolved countries there is no provincial administration. It is not there in Brazil, South Africa, Germany, France and even the United Kingdom which imposed it on us. This is a colonial relic. For us to think that we cannot exist without provincial administration is like the hen whose leg was tied as it was being taken to the market. Once it reached the market and it was let free, it could not take off because it felt that it was still tied. We can do without provincial administration. However, as I have said before, no Kenyan should lose his or her job on account of changing or reforming the provincial administration. The provincial administrators like the DCs, DOs and Chiefs should become development co-ordinators in their units. They should be under the Governor. They are part of the civil service staff that the Governor has. They cannot be part of another Government and yet they are not really professional staff under the Governor.

I know that the Minister, at some point may have to address this and say that provincial administrators can play a different role as development or peace co-ordinators depending on the county. The issue of loading over people cannot continue.

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

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

Madam Temporary Deputy Speaker, the issue of assets, water, forests and parks will need to be discussed. These are the issues that might form disputes. So, that is why the dispute resolution mechanism in this Bill is so important. When disputes arise over the sharing of resources such as assets, forests, game parks and so on, then counties could register their disputes through the dispute resolution mechanism that has been provided under this Bill.

Madam Temporary Deputy Speaker, we support this Bill just as we supported the County Government Bill. I would be supporting the Transition to Devolved Governments Bill.

However, we will be bringing several amendments in order to improve on these several Bills so that they can serve this country better.

With those few remarks, I beg to support.

The Temporary Deputy Speaker (Dr. Laboso): I call upon the Minister to respond.

The Deputy Prime Minister and Minister for Local Government (Mr. Mudavadi): Madam Temporary Deputy Speaker, at the very outset, I want to thank the Members, once again, for their invaluable contribution to the Inter-Governmental Relations Bill. I would really request them, as we look at the HANSARD, if they can also draft some proposed amendments which we can share with the Committee when we are looking at the other proposals that they have also said that they are initiating.

Madam Temporary Deputy Speaker, once again, I just want to highlight a few things. As you look at this Bill, we must remember that we are looking at Inter-Governmental Relations. I say so, with all the due respect to the Chairman of the Committee, because when bring in the Speaker's Committee, here, or the Speaker's forum, then I think we will be moving away from an Inter-Governmental Relation. Those are legislative bodies. So, we may want to think through that very carefully so that we are not creating an institution that is different from what this Bill intended to provide. It might then change the complete structure and even the naming of the Bill, if we are to bring in the Speaker's Forum in a situation like this for the County Assemblies. But nevertheless, it might be interesting to figure out how the Speakers of these County Assemblies can also be given an opportunity to interact and to be able to exchange ideas.

Madam Temporary Deputy Speaker, on the issue of the Provincial Administration, very important points have been made. I would strongly invite the House that as we look at the amendments to the previous Bill, the County Government Bill, especially, when we talk of decentralized units in that area. I think we can take on board some of the issues that have been raised with regard to the Provincial Administration and bring some clarity in that Bill rather than bringing it here. I think that is the more operative Bill. What is coming very clearly, Members are saying that once the County Government Bill is in place, and structures are in place, you cannot have a parallel system running side by side. I think that is an explicit provision that can be made in the County Government Bill, so that it clearly the ambiguity on this matter.

Madam Temporary Deputy Speaker, issue of the qualification of the technical Committee, I think those are important. Indeed, we did provide only qualifications for the Secretary for the Technical Committee. However, we did not say anything about the other members of that Committee. Bearing in mind that this is going to be a very important body which will eventually also take over the functions of the transitional authority, we cannot afford to leave that hanging, because these are going to be very important decisions. We need people who have the necessary experience and knowledge to be able to deal with. So, I fully support that aspect to be taken into account.

Madam Temporary Deputy Speaker, on the senator candidate, hon. Khalwale has made a very passionate plea for us to look a little more seriously at how the role of the Senate can be better defined in this Bill. I know the role of the Senate is in the Constitution, but there are some aspects, or areas, which can be brought here, as they are not consistent with the Constitution; we need help in dealing with this. I agree that in some areas of dispute resolution--- Even if they were to go to a judicial process--- I think we should always try and explore all other mechanisms that can help us without people going to litigation; I believe the Senate can also play a useful role in this area.

Madam Temporary Deputy Speaker, I would like to plead with the hon. Members that they should not quite dismiss the council of county governors. It may look like it is a body that is perhaps duplicating certain roles, but we can craft it and look at this clause carefully; as we move on, there will be need to share experiences and make sure that these guys will be consulting. When you look at the functions, there will also be aspects of cities and urban areas, which these people will be dealing with. Some of them maybe almost like the metropolitan area, where a city, or an urban area, transcends two counties and so forth. There are going to be a lot of detail that you cannot subject to the national summit; the national summit will be where the President will sit with the governors; the President will have other national duties. So, we cannot get him to start micro-managing aspects of the county governments. That is why I would really want to plead with the hon. Members that the forum for the county governors to be able to deal with other issues and disputes should remain at that level; the presidential consultation with the governors should be as we are proposing here.

Madam Temporary Deputy Speaker, if you look at Clause 9 on the summit, we have said that they can meet at least twice a year, and that means that the summit can also meet more than twice. In Clause 21, we talk of the council of governors meeting at least twice a year, and then we say that in any case not more than four times. I agree with the Chair that we can just leave it at, at least twice a year, and then there is room for them to meet as and when it is necessary. So, we can delete some portions of that particular clause.

Madam Temporary Deputy Speaker, I agree that we could also provide that in the absence of the governor to chair the meetings of the council of county governors, the deputy governor can represent the respective county government in those meetings. There were other proposals which also bring in the Cabinet Secretary in charge of inter-governmental relations to be recognized fully as a member of the summit. I personally feel that, that is an important suggestion. We could gladly take it on board; I hope the committee will also be looking at that.

Madam Temporary Deputy Speaker, the other area that we will look at is that of financing; hon. Khalwale mentioned some issues. We will reflect on that as we consult with the committee on the issue of the financing of these particular entities. We could, perhaps, make it better. When we were looking at this, we were also looking at the fact that these are two governments. They are independent but also interrelated, and will have to co-operate; the question was: Where is the moral authority to put the charge on purely one government in some of these areas? However, it is a debatable issue, which we can discuss further with the committee and, perhaps, agree on some suggestions that we can bring forward to try and narrow the differences here.

The Deputy Prime Minister and Minister for Local Government (Mr. Mudavadi): Madam Temporary Deputy Speaker, in a nutshell, without belabouring the issues that have been brought out, and through the HANSARD, we will revisit some of the areas, consult and by the time we come to the Committee Stage, I am sure that the Committee, the Ministry and any other consultations, we should have captured a great portion of what Members were saying and what they thought can be incorporated to make this Bill even better.

With those remarks, I beg to reply. If Members, once again, can quickly make their suggestions in writing, that will help us to move faster on these amendments.

I beg to reply.

(Question put and agreed to)

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

THE TRANSITION TO DEVOLVED GOVERNMENTS BILL

The Deputy Prime Minister and Minister for Local Government (Mr. Mudavadi): Thank you, Madam Temporary Deputy Speaker. I beg to move that The Transition to Devolved Governments Bill of 2012 be now read a Second Time.

This is the Fourth Bill on matters relating to Devolved Governments that this House will be looking at. The first one was The Urban Areas and Cities Bill which has now become an Act. The second one has been the County Governments Bill and we have now looked at The Intergovernmental Relations Bill. The Transition to Devolved Governments Bill of 2012 is the fourth one.

This is an Act of Parliament to provide a framework for the transition to Devolved Governments pursuant to Section 15 of the Sixth Schedule of the Constitution and for connected purposes. This is a very important Bill and it is also a technical Bill that Members are being asked to look at and make suggestions on how we will transit from the current regime that we have in an orderly and structured fashion to the Devolved Governments set up.

What is proposed in this Bill, first of all, under Part I is just definitions of what will appear in the main frame of the Bill. Under Part II, and this is where I will start my discussion on, is the issue of the transitional mechanism to Devolved Governments. We propose under Clause 4 on page 118 that we establish an authority which will be a body corporate with perpetual succession and a common seal and shall in its corporate name be capable of carrying out all the functions that are listed there. The functions or composition of the Authority is under Clause 5(1) where it is chaired by a Chairperson appointed by the President and eight other Members in consultation with the Prime Minister. Why are we talking about a Chairperson and eight other persons? We must remember that we are migrating from a situation of eight provinces in this country. So, we wanted to make sure that in the transition process, there is acceptance and broad consultation across the main frame. So, we want to have a Chairperson and, at least, a representative who can be identified, of course, with the necessary qualifications as having his residence or heritage in any of the eight provinces. This is important for bringing harmony because transition will involve a lot of things.

Under Article 5 (c), (d), (e) and (f) we are involving the principal secretaries who shall have a very central role in the issue of transition. This includes the Principal Secretary in the Office of the President and Secretary to the Cabinet, the Principal Secretary in the State Department responsible for matters relating to devolution, the Principal Secretary in the State Department responsible for Public Service because of the human resource element, the Principal Secretary in the State Department responsible for finance because a lot of financial issues are involved in this transition, the Principal Secretary in the State Department Responsible for Planning. Planning is going to be a very core aspect, the Principal Secretary in the State Department responsible for justice because a lot of legislation and other issues are going to be part of this. Then the Attorney-General who is an ex-officio member and indeed the secretary appointed as an ex-officio member.

I would like to highlight to hon. Members that the chairperson and the eight members who shall be serving in this Authority are the ones who shall serve on a permanent or full-time basis. The Government officials are basically there as and when certain issues relating to the

Government aspect will be discussed. This is very important in my view that we have people who will be committed and who shall dedicate their time to look at the aspects of transition. It cannot be a part-time assignment particularly for the first three years that we are moving into transition. When one looks at the end of this Bill they will see the schedule and the aspects that have to be fulfilled either in phase one and phase two of this transitional arrangements which will require a lot of work like auditing, looking at the dates and assets of local authorities and of the national government to make sure that they are protected and establishing the values. So, it is a major undertaking.

This Authority is essential because immediately after elections the summit and the structures that we set under Intergovernmental relations will take some time before they crystallize because those will be where the governors come in. They will not be ready to pursue issues of transition effectively. So, we are providing a mechanism which is still representative to allow them to do that. I also want to highlight one thing that in this Authority, I am seeking Parliament to note that it is structured differently from other entities. Since we would like this Authority to be in place within a month or so after enactment of this Bill, you will notice that it is different because we are not proposing that the people here come for Parliamentary approval. It is different because it is a transitional Authority. It is supposed to serve a specific mandate. Therefore, I am seeking the indulgence of the House to take note of that so that we are not demanding that all these people come here for approval. If we do that then they will not be there on time and again that would unnecessarily politicize that process and yet it is a very limited process. It is like one of the other permanent commission. So, there is a very clear distinction. It is not a constitutional commission which is where members' ratification become essential. So, there is that distinction that members should appreciate.

ADJOURNMENT

The Temporary Deputy Speaker (Dr. Laboso): Hon. Members, it is now time for us to adjourn the House, and the House is, therefore adjourned until today Tuesday, 21st February, 2012 at 2.30 p.m.

The House rose at 12.30 p.m.