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27 - 31 January 2014

NTLO YA DIKGOSI DEBATES



OFFICIAL REPORT - 14TH MEETING
OF THE 2ND NTLO YA DIKGOSI
27 - 31 January 2014



THE PROCEEDINGS

of the

14TH MEETING

of the

2ND NTLO YA DIKGOSI
(Official Report)

Sitting from
27 - 31 January 2014

NTLO YA DIKGOSI

CHAIRMAN

Kgosi Puso Gaborone

Batlokwa

DEPUTY CHAIRMAN

Kgosi T. F. Tshipe

Mahalapye Region

MEMBERS

Kgosi K. Boiditswe

Serowe Region

Kgosi I. Gaonwe

Letlhakeng Region

Kgosi B. Garebakwena

Molepolole Region

Kgosi M. Kahiko III

Ghanzi West

Kgosi S. H. Kgamane

Bangwato

Kgosi Kgari III

Bakwena

Kgosi K. Lempadi

Okavango Region

Kgosi Lotlamoreng II

Barolong

Kgosi O. Machilidza

Boteti Region

Kgosi M. Malema

Bobirwa Region

Kgosi Malope II

Bangwaketse

Kgosi T. M. Masunga

North East

Kgosi M. Mmualefhe

Chobe Region

Kgosi A. O. Monnaathebe

Thamaga

Kgosi P. K. Montshiwa

Kgalagadi North

Kgosi K. Moremi

Batawana

Kgosi S. Moroka

Tswapong

Kgosi J. Moseki

Ghanzi East

Kgosi T. B. Ndzonga

Tutume

Kgosi B. Ramokone

Kanye

Kgosi K. Ramokwena

Maun

Kgosi E. Potsoeng

Ngami Region

Kgosi M. Seboko

Balete

Kgosi P. Seeletso

Tonota Region

Kgosi P. Sekwenyane

Ngwaketse West

Kgosi K. Telekelo

Moshupa

Kgosi D.S.Toto II

Kgalagadi South

Kgosi S. Esterhuizen

Specially Elected

Kgosi M. Moeti II

Specially Elected

Kgosi M. Seemeko

Specially Elected

Kgosi M. M. Sinvula

Specially Elected

Kgosi T. Xiao

Specially Elected

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Monday 27th January, 2014

**THE HOUSE met at 10:00
a.m.**

**(THE CHAIRPERSON in the
Chair)**

PRAYERS

* * * *

**ELECTION OF THE
CHAIRMAN OF NTLO YA
DIKGOSI**

**SECRETARY OF NTLO YA
DIKGOSI (MS N. THEBE):** Good morning Honourable Members. The first item on the Order Paper this morning is the election of the Chairperson. In accordance with the Rules of Procedures, second schedule, any Member of Ntlo ya Dikgosi is free to stand or nominate any other Member to stand for the position of the Chairperson. The nominee must have a seconder and should agree to stand for elections. As it is the norm, we shall nominate the Chairperson, so I will now give you a chance to raise your hands and propose nominees for the Chairperson's post.

**KGOSI SEEMEKO
(SPECIALLY ELECTED):** Thank you Secretary, I nominate Kgosi Puso Gaborone as

Chairperson of Ntlo ya Dikgosi. Thank you.

SECRETARY: Kgosi Puso Gaborone is nominated by Kgosi Seemeko, any seconder?

**KGOSI LEMPADI
(OKAVANGO REGION):** ...
(Inaudible)...

SECRETARY: He is seconded by Kgosi Lempadi. Kgosi Puso, are you willing to stand for the election?

**KGOSI GABORONE
(BATLOKWA):** I do accept the nomination.

SECRETARY: Kgosi Puso has accepted the nomination. Shall we have another nominee?

**KGOSI MOETI II
(SPECIALLY ELECTED):** ...
(Inaudible)...

SECRETARY: Kgosi Masunga, any seconder?

HONOURABLE MEMBERS: ... (Silence)...

SECRETARY: We do not have any seconder for Kgosi Masunga's nomination, any other nomination?

**KGOSI BOIDITSWE
(SEROWE REGION):** Kgosi Tshipe Tshipe.

HONOURABLE MEMBERS:
... (Inaudible)

KGOSI BOIDITSWE: Oh, I thought we were done with the election of the Chairperson as he has been seconded.

SECRETARY: We are still on the election of the Chairperson, Kgosi.

KGOSI KAHIKO III (GHANZI WEST): Since there is no further nominee, Kgosi Puso Gaborone is unopposed, let us continue.

SECRETARY: If there is no other nominee for Chairperson, then according to our Rules of Procedure, if we have a nominated Member, who has been seconded, agreed to stand for the elections and is unopposed, then that Member will be the Chairperson of this House. Therefore Kgosi Puso Gaborone has been duly elected the Chairperson of this House this morning. Congratulations Kgosi!

HONOURABLE MEMBERS:
(Applause)

SECRETARY: We shall now take out the newly elected Chairperson to go out and robe so that he can conduct the elections of the Deputy Chairperson.

Thank you.

MR CHAIRMAN (KGOSI PUSO GABORONE): Your Honour the Vice President, Cabinet Ministers here present, our invited guests and Honourable Members, good morning. We shall now proceed to the election of the Deputy Chairman of this House as per the Second Schedule of our Rules of Procedure. As Members may be aware, we shall follow the same procedure in electing the Deputy Chairperson of this House. At this time I will take nominations for the Deputy Chairperson.

KGOSI TELEKELO (MOSHUPA REGION): Thank you Mr Chairman, I nominate Kgosi Tshipe Tshipe.

MR CHAIRMAN: Kgosi Tshipe has been nominated, any seconder?

KGOSI KAHIKO III: Seconded, Mr Chairman. Thank you.

MR CHAIRMAN: Thank you Kgosi Kahiko, Kgosi Tshipe's name has been seconded, Kgosi Tshipe; do you accept the nomination for position of the Deputy Chairperson?

KGOSI TSHIPE: I accept the nomination, Mr Chairman.

MR CHAIRMAN: Kgosi Tshipe has accepted the nomination. I will continue to take nominations, if any, for Deputy Chairperson.

KGOSI MACHILIDZA (BOTETI REGION): Thank you Mr Chairman, I do not want to nominate any Member but I would like to move that we unanimously elect Kgosi Tshipe as the Deputy Chairperson looking at the time that is left before the general elections, if the procedure allows Mr Chairman, thank you Mr Chairman.

MR CHAIRMAN: Kgosi Machilidza did not nominate any Member but instead he was proposing that we adopt Kgosi Tshipe as the Deputy Chairperson, considering the reasons he provided.

KGOSI LOTLAMORENG II: Mr Chairman, procedurally, every Member is free to nominate whoever they want but I do concur with the proposal made by Kgosi Machilidza.

MR CHAIRMAN: The proposal is that the House agrees with the proposal made by Kgosi Machilidza that Kgosi Tshipe's name be adopted.

KGOSI SEELETSO (TONOTA REGION): Mr

Chairman, I would like to move that we close the election and adopt Kgosi Tshipe's name. Thank you. Mr Chairman

MR CHAIRMAN: Thank you Kgosi Seeletso, the proposal is that we close the election. As many as are of that opinion say, 'Aye', and on the contrary say, 'No'.

Question put and **agreed to.**

MR CHAIRMAN: Kgosi Tshipe Tshipe has been duly elected the Deputy Chairperson of this House. Let me take this time to congratulate Kgosi Tshipe for being elected the Deputy Chairman, of this House and also thank Honourable Members for trusting us enough to let us run this House once more. Our re-election into this responsibility shows that Members trust our leadership and would like us to continue from last year. On behalf of Kgosi Tshipe who is not presiding right now, thank you once more. Your Honour the Vice President, welcome to the House and thank you for gracing this event. Honourable Ministers here present, your Excellencies High Commissioners, Members of the Diplomatic Community who are here with us this morning and all our invited guests, thank you for gracing

this occasion this morning. Civil servants, who are here with us, Parliament leadership and Tloga-Tloga Junior Secondary School students, welcome.

I would like to first of all thank Honourable Members for giving us a new mandate to lead this House and entrust us with the responsibility to be the captains of this ship in the year 2014. I believe that we will work well together in executing the mandate of this House as stipulated in the Constitution of this country. These are the last elections before the national elections. We should note what Section 82 of the Constitution says about dissolution of this House. This means that the House will turn five years between September and October following the 2009 general elections.

I would like to highlight the challenges and achievements of this House so far. Invited guests, in the past five years, this House trained Dikgosi on several courses. They have been trained on computers and this past week Members were on a week-long training at the Botswana National Productivity Centre (BNPC) where they were trained on strategic planning. We were able to actually come up with the Vision, the Mission,

the strategic objectives and themes as well as the strategic map for this Honourable House. This strategic map will enable us to be an advisory body to the National Assembly as well as to Government. It is our desire and our wish to actually raise the profile of this House so our institution can continue to be relevant in this time of modernization. We want to be relevant and continue performing the important role of being an advisory body to Government. I informed this Honourable House that we have submitted some proposals to His Honour the Vice President's office which are aimed at improving the efficiency and effectiveness of this House. These proposals are aimed at amending the Rules of Procedure of this Honourable House.

One of the major areas of concern has always been the election of the Chairman and Deputy Chairman of this House which is done annually. This is too short a period for one to come up with a plan, implement, monitor and even evaluate it, as such we have submitted to His Honour's office that at least the election or the term of office of Chairman and Deputy Chairman of this House be amended to be two and a half years. I strongly believe that

His Honour has noted this and that maybe in a few hours' time or in a week's time, he would have responded to our request. We trust that His Honour will do that. There is need to amend our rules of procedure to ensure that we continue to offer quality advice to government as well as to His Excellency the President. The ultimate goal is to eventually increase this term to five years as per the Constitution and the term of office of the Speaker or the life of Parliament.

Lastly, I wish to thank our various stakeholders, those who have always supported this House in its various activities and events, in particular, Orange Botswana, our sponsor for the annual Ntlo ya Dikgosi Culture Day. We have also entered into a Memorandum of Understanding with the Chinese Association for International Understanding. This is a demonstration that as a House we want to grow, we want to partner with different stakeholders in order to contribute towards the development of this nation. Honourable Members, I have said a lot, we will now adjourn for refreshments. When we come back, the business of this House will commence as per the Order paper. We will be considering

Bills which have been referred to this House by Parliament; the Constitutional Amendment Bill, 2013 and the Married Persons Property Bill from the Ministry of Labour and Home Affairs. We also have questions and motions to consider during this sitting. Let me thank His Honour the Vice President and all our invited guests for honouring our invitation and to be part of this whole process this morning, especially your Excellences. Let me also thank Tloga Tloga Junior Secondary school students for gracing this event and for attaining position three in the just released Junior Certificate Results. It goes on to show that our students are making an effort in the education sector.

HONOURABLE MEMBERS:
(Applause!)

MR CHAIRMAN: Thank you. I believe that someday you will be here as public officers or leaders of this nation. May you grow to be our future leaders. Lastly, to all our invited guests, you are invited to some refreshments outside, just on the right hand side of this Chamber. Have a good day!

**PROCEEDINGS
SUSPENDED FOR TEA**

MR CHAIRMAN: Good afternoon Honourable Members. Welcome back to this afternoon session. I believe you had time to rest as well as to interact with guests. This is going to be the case with every opening of this House, we will network and interact with stakeholders. Let us continue with today's Order paper.

BILL

**CONSTITUTIONAL
(AMENDMENT) BILL, 2013
(NO. 18 OF 2013)**

First Reading

MR CHAIRMAN: Honourable Members, we have the Constitutional (Amendment) Bill 2013, (No. 18 of 2013) before this House. As we all know, this Bill has been referred to this House by Parliament during their last sitting last year. Section 88 (2) of the Constitution of Botswana states that, "The National Assembly shall not proceed upon any Bill including any amendment to a Bill that in the opinion of the person presiding would if enacted, alter any of the provisions of the Constitution..." This Bill has been referred to this House to honour this provision, having been presented to the Parliament by Honourable

Member of Parliament Nehemiah Modubule. This is why the Bill is in today's Order paper. Section 39 (4), Rules of Procedure state that, "When the first reading of a Bill is taken, the Chairperson shall move that the Bill be read a first time, and a debate may then arise on the question, covering the general merits and principles of the Bill. At the conclusion of such debate no question shall be put and the question on the motion shall be deemed to have been agreed to." We move on to the first reading of the Constitutional (Amendment) Bill 2013, (No. 18 of 2013), I believe Members have a copy of the Bill. We will now look at the general Merits and principles of the Bill. It is only one clause which I believe Members have read. Constitutional (Amendment) Bill 2013, (Bill No. 18 of 2013), has a memorandum which says, "A draft of the above Bill, which is intended to be presented to the National Assembly is set out below". Then it goes on to say, "The object of the Bill is to amend Section 68 (1)(a) of the Constitution of Botswana to provide for the right of Members of Parliament to continue as Members of the National Assembly up to and including the last day preceding a general election, notwithstanding the

dissolution of Parliament.” With that, I do move that the Bill be read the first time.

KGOSI BOIDITSWE (SEROWE REGION): Thank you Mr Chairman, the Bill has been presented to us and we have to look at it and debate it. Should this Bill pass, it would be a great achievement for this country because we have to keep up with the times. This Bill outlines that upon dissolution of Parliament by the President, Cabinet Ministers and their Assistants together with Mayors and Councillors remain holding their offices. One would wonder how those Cabinet Ministers continue holding the office seeing that they are also Members of Parliament for a particular area, they do not just get appointed as Cabinet Ministers from nowhere. It is therefore confusing when the Parliament gets dissolved but the Cabinet remains. Do electorates know that after the dissolution of Parliament, their Member of Parliament holds the office as a Minister but is no longer a Parliamentarian? Constitutionally, when Parliament is dissolved, the same happens to Ntlo ya Dikgosi, this House is tied to the life of Parliament. This has to be rectified in this Bill.

What will happen if there is an emergency that needs the attention of Members of Parliament after the dissolution, will they be recalled or not? Are they always on standby? If they are recalled, will they be sworn in before taking up that assignment since they would not be Members of Parliament anymore? Mr Chairman, Members of Parliament should continue as Members of the National Assembly up to and including the last day preceding a general election. I therefore support the Bill presented before us this afternoon and that the case should be the same with Ntlo ya Dikgosi because the life of Ntlo ya Dikgosi is tied to that of Parliament. Thank you Mr Chairman.

MR CHAIRMAN: Thank you Kgosi Boiditswe.

KGOSI MOSADI (BALETE): Thank you Mr Chairman. Congratulations for retaining your seat this morning and for vowing to lead us for another year. We have never had a private Member’s Bill presented to this House, that is why we were confused initially. However, we all understand that all Bills which affect the Constitution of Botswana have to be referred to this House before being passed

as law because the Constitution is the mother of all laws. This is one of the things we should remain grateful for Mr Chairman. This Bill has been presented before us to consider and make a resolution to be presented to Parliament. Mr Chairman, there are other laws which contradict the Constitution of Botswana. My advice to Members of Parliament is that when they have Bills which affect Bogosi, like issues of land, they should refer them to Ntlo ya Dikgosi before passing them as a law. We appreciate the efforts made by the Member of Parliament for presenting this Bill before this House.

It would be great if the National Assembly would consider other stakeholders who are affected by this law, for example, Ntlo ya Dikgosi is also affected. We should also consider Section 88 of the Constitution of Botswana, which outlines that any matter amending the Constitution should be referred to Ntlo ya Dikgosi. I would like to remind Members that Parliament is tied to Ntlo ya Dikgosi and it should therefore be noted that if this Bill passes, Ntlo ya Dikgosi will be affected by this dissolution of Parliament. It should be clear that if Members of Parliament can be recalled to office any time after

it has been dissolved, the same could happen to Members of Ntlo ya Dikgosi since the two Houses are connected. Parliament cannot run without the assistance or advise from Ntlo ya Dikgosi. That is how far I would go, and just say that Parliament and Ntlo ya Dikgosi need each other and the two cannot be independent of each other. I support Honourable Modubule's Bill and I hope that when it passes, it shall also cover Ntlo ya Dikgosi. Thank you.

KGOSI MACHILIDZA (BOTETI REGION): Thank you Mr Chairman. I would like to comment on this Private Member's Bill here presented by Honourable Modubule. The economy of this country used to be very low, so certain laws were enacted based on that status. Currently, we have a middle income economy which permits us to do things appropriately. The Constitution of Botswana is the pillar of all laws. I believe that when Members of Parliament and Members of Ntlo ya Dikgosi assume office, they take an oath to honour and preserve the Constitution of Botswana. Just like the Cabinet, Members of Parliament and Ntlo ya Dikgosi should also be catered for. This matter is long overdue Mr Chairman; it should have been addressed a long time back.

The Honourable Member of Parliament said that countries such as Malawi, Namibia and South Africa lead in upholding their Constitutions, Botswana needs to up her procedures in upholding the Constitution. Let us try to rectify these situations before we fall off the pack and then lose our dignity as the shining democratic nation. There should be workshops to capacitate stakeholders on the Constitution.

If there is a war or any other emergency, the President will have to recall Members of Parliament to address whatever the situation may be. We have to prepare for these situations in advance instead of waiting for a crisis. I do share the same sentiments with other Members who wonder if Members will take an oath in order to address any matter of urgency that would have arisen after dissolution of Parliament. It is confusing. Mr Chairman, even though we are not at war with any country, we have to prepare well in time for anything. Ntlo ya Dikgosi and Parliament depend on each other, therefore when there is some form of an amendment to the conditions of Members of Parliament then Ntlo ya Dikgosi should be considered as well.

For now it appears like there is a separation between the two Houses even though they are linked. If only Members of Parliament were here attending this debate, they would understand where we are coming from. Just like the Honourable Member of Parliament Mr Modubule was explaining earlier on, Members of Ntlo ya Dikgosi do not have any power over a lot of things. For instance, the Chairman has the power to run this House lawfully but there are other Acts which empower other people to overrule him. Let us consider these things and rectify them.

As Dikgosi we have the responsibility of running the communities and we hold influential positions because we lead districts and regions which cover large areas, where one region could cover two constituencies. I support this Bill brought by Honourable Modubule, however, Members of Ntlo ya Dikgosi should also be included. Kgosi Mosadi Seboko addressed the issue of referring Bills, that some of the things happen due to our ignorance or maybe because we do not cause a commotion. I believe that Bills should be referred to Ntlo ya Dikgosi for consideration, I do not think our advisory role

should be limited such that Bills will be referred if the Minister finds it necessary. Mr Chairman, this House will be dissolved by the end of this year so, this Bill should be considered as a matter of urgency and that urgency certificate to include Members of Ntlo ya Dikgosi should be submitted so that our request can be part of the Bill when it is discussed in Parliament. Mr Chairman, in your welcome remarks, you talked about delivery and productivity, I do not really know whether this productivity is expected from the public officers only or even those within the political circle. We need to know who is responsible for some of these delays, especially with the issue of Rules of Procedure. This is one of our greatest concerns Mr Chairman. All we need is for the political leadership to respect this House. We should be treated with the seriousness we need and all our concerns should be addressed. Thank you Mr Chairman.

KGOSI LOTLAMORENG II (BAROLONG): Mr Chairman, thank you. I will be very brief as most of the Members who have debated have covered most of the issues I wanted to cover. Let me take this time to thank the mover of the Bill for referring this particular Bill to this House

for us to consider amending Section 68 of the Constitution of Botswana. I support this Bill Mr Chairman. Amending this section will put it in line with the current set up. Maybe the section was relevant then but as it is now, it needs to be reviewed and it is our role to advise the National Assembly to make such an amendment. Mr Chairman, if it is possible for Cabinet Ministers and the Speaker of the National Assembly to remain in office even after the dissolution of Parliament, then the same can be extended to Members of Parliament. Apart from being in Parliament in Gaborone, Members of Parliament have their constituencies to serve. We need to protect our country. We should not just recall Members of Parliament when there is a state of emergency. This Bill is long overdue and maybe it is because the law was working for Batswana therefore there was no need to review it. Mr Chairman, like other Members have rightly said, other nations have moved forward in terms of amending their Constitutions in order to be in line with developments, even those who got their independence recently. We need Members of Parliament daily Mr Chairman, we should not have a vacuum in our country where we do not

have Members of Parliament even if they could be re-called at any time. I therefore support this Bill presented by Honourable Nehemiah Modubule. Thank you Mr Chairman.

**KGOSI SEEMEKO
(SPECIALLY ELECTED):**

Good afternoon Mr Chairman. I believe as we are in 2014, we should be moving forward. We have debated this Bill at length and there is no one who is against it. For the sake of progress Mr Chairman, we should proceed since all Members have spoken in one voice and said the same thing and even those who have not debated are still going to say the same thing. I have always wondered why Councillors remain holding their positions upon the dissolution of Parliament whereas our understanding is that Councillors are the same as Members of Parliament. When Councillors remain, whom do they fall under when the Parliament has been dissolved? I thank the Honourable Member of Parliament as a visionary leader to bring this kind of a Bill before this House. It has never happened in the history of this country that a private Member's Bill is brought into this House, we thank him so much for that. Mr Chairman, I was wondering if this Bill affects us but when

I read section 82 (e) of the Constitution, it talks about the vacation of a Member of Ntlo ya Dikgosi upon the dissolution of Parliament. I therefore do not know why we do not want to include this aspect on our debate, is it automatic that we are covered? Our interpretation of the law differs. I take it that we are on the safe side because if the amendment is adopted, then this section will not be used. Mr Chairman, let us use section 31 of our Rules of Procedure, you can exercise your powers for the sake of time. Thank you so much.

MR CHAIRMAN: Thank you Kgosi Seemeko. There is an interest in section 82 (e). I would like to call upon the Parliamentary Counsel (PC) to give an interpretation of section 82 (e) that Kgosi Seemeko is referring to. As for section 31 (closure of debate), I believe that it can only happen if the Chairman feels that he does not violate other Members rights to debate. I would not want to assume what Members have in mind because I do not know what their thoughts are. I would rather let the debate continue.

**THE LEARNED
PARLIAMENTARY
COUNSEL (MR**

RAMOKHUA): Thank you Kgosi. Section 82 (e) of the Constitution is clear, a Member of Ntlo ya Dikgosi ceases to be such upon the dissolution of Parliament by the President following section 91 (5) of the Constitution of Botswana. Tenure of a Member of Ntlo ya Dikgosi comes to an end upon the dissolution of Parliament Mr Chairman. This section might have other supporting sections stating the period of membership to Ntlo ya Dikgosi but this does not stop the president from exercising section 91 (5) of the Constitution to dissolve the Parliament and by that the membership comes to an end. If the amendment of section 68 (1) (a) passes in Parliament, section 82 (2) will not change, the membership of Parliament is the one which will be affected by the dissolution. What members can do is to bring another Bill to amend section 82 to allow for Members of Ntlo ya Dikgosi to enjoy the same benefit as Members of Parliament. Thank you Mr Chairman.

**KGOSI LEMPADI
(OKAVANGO REGION):**

Thank you Mr Chairman, I would like to support the Bill with the reasons that will follow. For us to have the Parliament dissolved before the five year

period elapses is a violation of the rights of those Members of Parliament. The Constitution clearly states that members have a five year term which means by August when the Parliament is dissolved, the five years would not have elapsed yet. Even if the President has the right to dissolve the Parliament, Members should not be denied their right. They should remain in office until new Members of Parliament are elected into office. The amendment of section 68 comes at the right time, Members of Parliament should remain in office even when they campaign, they could vacate office a day before general elections. Thank you Mr Chairman.

KGOSI MASUNGA (NORTH EAST):

Thank you Mr Chairman, I support this Bill. I believe that our nation is continually changing. Different leaders will come with different visions but the question is that, as a nation what are we going to do to safeguard our interests? I think it is time to assert the role of Parliament as an oversight institution. I am one of the Members who have brought motions calling for reforms, not only in our electoral system but also in the administration. I remember one of the motions was that of the electoral reforms and

that of Freedom of Information Act, this is an argument outside this House. Let us assume that something happens when the Parliament has been dissolved, what is going to happen in the interim? I have also talked about the Electoral Reforms that for as long as we lack some aspects in our democratic setup, our Parliament will not function according to our expectations.

One of the things which bother me is the role of Parliamentary Caucus. This has created gaps which led Honourable Modubule to bring this Bill to this House. It is important to fill these gaps so that Parliament as the supreme body is strengthened. Let us also remember that the President and the Cabinet are Members of Parliament. When I compare this country with other nations, we have a problem, for as long as we do not renew our democracy we are going to have indicators that Botswana's democracy has some complications. One of the complications I mentioned last week at Botswana National Productivity Centre (BNPC) was that there is a school of thought which states that Botswana's democracy is practised by the people rather than structures, and institutions which have been designed to guarantee our liberties. I remember in 2008

Honourable Modubule, at the exchange of power, Section 35 of the Constitution but I am not sure of the subsection, there was a bit of uncertainty during exchange of power. There was a transition of the Former President handing power and there was a bit of uncertainty there. That uncertainty has never been clarified and Parliament has never asserted its role to tell us the true picture about Section 35. Think of a situation when Parliament is dissolved and a situation like that arises, what is going to happen then. This morning when we were debating, I am not sure if it was 2004 or 2003 as we were going for the elections, I remember a writ of election was passed and it left some people out. We talked about it in the morning that even at the end that issue became an out of court settlement which we never got to understand the scope or the contents of the issues discussed but the Attorney General was at loggerheads with the Executive. In conclusion, let us perfect our democracy. Democracy is a living thing and it is like a plant, but there is a general fear in this country. Whenever one talks about change there is that fear that if it is not broken, why must one fix it, generally it comes from the fact that Botswana are a very

conservative nation but we need to look into this issue. I therefore believe that when an amendment comes for the inclusion of Ntlo ya Dikgosi then there would be no conflict of interest then unlike now Mr Chairman. With those reasons I do thank the mover of this Bill for having noticed this critical missing component to fit in the main body. Thank you Mr Chairman.

KGOSI POTSOENG (NGAMI REGION): Thank you Mr Chairman. I support this Bill. Just like other Members, I will also provide my reasons for supporting this Bill. I have always wondered why councillors remain holding the office upon dissolution of Parliament. How do they continue making laws even though they are governed by the Constitution as well? The second question that I have is about the budget for both the Parliament and Ntlo ya Dikgosi, I believe it is for a five year period. What happens to the money which was on budget when the two Houses are dissolved before the budget period elapses? Thirdly, once Parliament has been dissolved, it would be wrong to recall them for an emergency because the House has been dissolved not suspended. Another question is

that, as Ntlo ya Dikgosi is not part of this amendment, what happens when there is a state of emergency which needs Members of Parliament to be recalled, and they need advice of Ntlo ya Dikgosi as they are mandated to do on issues of culture and other national matters. The other issue is that elections for Members of Ntlo ya Dikgosi do not run at the same time as that of Members of Parliament. For Members of Parliament, it is better because immediately after four days of elections they get sworn in to Parliament. I will list my questions in order to make Members aware, we are not even equal to members of the Village Development Committee (VDC), upon their dissolution, they hand over to the incoming committee. The first VDC meeting to be held is where handing over is done. Therefore what makes Parliament and Ntlo ya Dikgosi different from other organisations? Let us support this Bill. We are all aware that we might submit an affirmative resolution to Parliament but it is upon them to either take or leave the resolution. However, this might help the Government in the long run.

Upon dissolution of Parliament, the National Assembly remains,

the question is who makes the National Assembly? The National Assembly comprises of Members of Parliament, so when they are dissolved can we still say we have the National Assembly? This situation should be corrected by amending Section 68 and the Ntlo ya Dikgosi should be included as well because I believe that Parliament cannot operate without Ntlo ya Dikgosi. Members of Parliament should continue as Members of the National Assembly up to and including the last day preceding a general election, the same thing should apply to Members of Ntlo ya Dikgosi. The budget caters for 60 months, not two months less. Let us support this Bill. Thank you Mr Chairman.

MR CHAIRMAN: Thank you Kgosi Potsoeng. I want to believe that Kgosi Potsoeng was concluding the First reading of the Bill, where general merits and principles of the Bill were considered. The Rules of Procedure continue to state that, ‘at the conclusion of such debate, no question shall be put and the question on the motion shall be deemed to have been agreed to.’

We move on to the next stage of the Bill

**CONSTITUTIONAL
(AMENDMENT) BILL,
2013 (NO. 18 OF 2013)**

Second Reading

MR CHAIRMAN: At this stage the Rule states that, ‘when the second reading of a Bill is taken the Chairperson shall move that the Bill be read a second time and then call the number of each Clause or any groups of Clauses in succession. When each Clause or groups of Clauses have been so called, a debate may arise on the question covering the details of the Clause or Clauses called. Any schedules to a bill shall be dealt using the same manner as Clauses. At the conclusion of such debate, no question shall be put and the question on the motion shall be deemed to have been agreed to.’ With that Honourable Members, I would like to move that this Bill be read for the second time. We will now consider clause by clause where Members will be considering the details of every clause. I believe that Members have the Bill with them. On the first page, we have the title of the Bill, Constitutional (Amendment) Bill, 2013, (No 18 of 2013), then we move on to the Memorandum.

1. ‘A draft of the above Bill, which it is intended to be

presented to the National Assembly, is set out below.’

I believe it outlines the intention and that no one is against it.

2. ‘The object of the Bill is to amend section 68 (1) (a) of the Constitution of Botswana to provide for the right of Members of Parliament to continue as Members of the National Assembly up to and including the last day preceding a general election notwithstanding the dissolution of Parliament.’

That is the clause we will be debating considering the details outlined. I shall open the floor for members to debate. We are debating clause 68 (1) (a) of the Constitution of Botswana.

KGOSI BOIDITWE (SEROWE REGION): Mr Chairman, the Bill seeks to amend section 68 (1) (a) of the Constitution of Botswana so that Members of Parliament continue as Members of the National Assembly up to and including the last day preceding a general election. It is proper for Members of Parliament to continue as such until the last day preceding a general election because they took an oath to serve the nation for a period of five years, not

anything less. Those people make plans to be executed in five year term, so for the Parliament to be dissolved before that period elapses would mean that their plans are disrupted. Constituents will also get shocked to see their Member of Parliament desert the plans half way as a result of the dissolution of Parliament. The mover of this Bill has taken his time to do some research, he has gone to Namibia, South Africa, Malawi and others neighbouring countries and he has noted that those countries are already doing this, their Parliaments are not just dissolved.

In conclusion Mr Chairman, I support this Bill. Another thing that I nearly forgot is that of handing over, Mr Chairman, these Members of Parliament have constituency offices which they should hand over to the next Member of Parliament. When there is no handing over, resources like office equipment and laptops may get stolen as the incoming Member of Parliament may not know what should have been there.

MR CHAIRMAN (KGOSI PUSO GABORONE): Kgosi Moeti you have your hand up, I do not know on which point you are rising...

KGOSI MOETI II: Thank you Mr Chairman, on a point of elucidation. Kgosi mentioned that Members of Parliament make plans which are not personal. They execute these plans with the assistance of the community until the end of their term. I believe that these programmes are started with the understanding that they should run until Parliament dissolves. I believe they already know that their plans should run until such a time when Parliament dissolves. Maybe if Kgosi could give at least two examples of such projects or plans which went beyond dissolution we would understand. Thank you.

KGOSI BOIDITSWE: The Constitution says there will be elections after five years and the Members of Parliament would have completed his/her term. In our area, our Members of Parliament inform us about their plans and they update us on the progress. For example, we are expecting water from other dams so we have been getting update so that we prepare ourselves. That is what I was referring to Mr Chairman. Chances are that there might be delays along the way in a particular project and then it could run behind schedule; that is understandable but it is unfair when the project

cannot be completed because Parliament was dissolved before the scheduled time. Right now there is no one who knows when Parliament will be dissolved but one thing I know is that the Parliament could be dissolved anytime even before projects are complete. That is how far I can go in terms of clarity Mr Chairman. I support this clause Mr Chairman.

KGOSI KGARI SECHELE II (BAKWENA): Thank you Mr Chairman. Mr Chairman, I think this is a brief matter because we are dealing with only one clause, where we remove the sentence, ‘upon dissolution of Parliament’ and replace it with, ‘on the day immediately preceding the general elections’ Reasons for supporting the amendment have already been stated in detail. This Bill is well written, so I support the clause 2 that amends Section 68(1) (a). Thank you.

KGOSI TSHIPE (MAHALAPYE REGION): Thank you Mr Chairman. Let me thank Honourable Members for voting me to be the Deputy Chairman of this House. Kgosi Kgari II has already covered what I wanted to say. This issue has been debated at length and I think everything has been covered. Thank you Mr Chairman.

KGOSI POTSOENG (NGAMI REGION): Thank you Mr Chairman. I do not have much to say, I do support clause 2, but I request that at the end of the clause we add, including Ntlo ya Dikgosi since it does not appear.

MR CHAIRMAN: No, it does not appear there Kgosi. We still have another stage of this Bill, the resolution stage, where we will be free to amend any clause. The House will then decide whether to adopt the amendment. I hope you will consider the advice we were given, to consider whether that amendment would be possible.

KGOSI MACHILIDZA (BOTETI REGION): Thank you Mr Chairman. According to the Constitution, there are issues which can be discussed by Parliament and decision will be made without consulting with our communities. There is no problem with such a development because we are here representing those communities.

We should always protect the dignity of our country. When Parliament is dissolved and something happens that needs the attention of both members of Ntlo ya Dikgosi and Members of Parliament and they are not available to assist, the dignity of

this country will be degraded. We have to correct these things for the future. We are all aware that we have our retired Presidents, when they retire having served the nation, they are entitled to 80 per cent of the salary they got when they were holding the office, there is that provision for Presidents to qualify for all different packages when they retire after at least one and half years of service. This is a way of appreciating them for the services they rendered while serving the nation. These are the things that are in place, I do not know if at all there would be anyone who could change this section, not even Parliament, but someone has to pick this and make it right as well. In this case we are just talking about a mere 2 months. Like other Members have rightfully said, Ntlo ya Dikgosi Constitutionally always come after Parliament. There should be a Minister responsible for Ntlo ya Dikgosi who will oversee the success of this House. This is not right, for Members of Parliament to come before us, all these should be considered. Our House sits in January, around the same time we vote the Chairperson of this House, therefore it means that in October, November and December, the House does not have a Chairperson...

MR CHAIRMAN: Kgosi Machilidza you are considering the details of this clause, right? It is like you are on the general merits and principles of the Bill.

KGOSI MACHILIDZA: This is Second Reading. Let it pass like that Mr Chairman. Other Members had proposed that Members of Ntlo ya Dikgosi should be included as well but we have been advised that a certificate of urgency will be issued to include Members of Ntlo ya Dikgosi that will be a quicker process. That is how far I will go Mr Chairman.

MR CHAIRMAN: Thank you Kgosi Machilidza. It is now 4 o'clock, time for us to adjourn. Let me advise you to prepare drafts for the resolution of this Bill. This Bill is a very short one, it is just one clause and the expectation from you Members is that you should be brief and focused. We need to come up with a resolution for this Bill. I believe we have concluded the second reading of this Bill.

Let me request Members to read and understand the Married Person's Property Bill because immediately after completing Honourable Modubule's Bill, we shall be going straight into it. Let us go through the Bill and

understand it, clause by clause. We shall adjourn, until tomorrow 9.30 a.m.

ADJOURNMENT

The House adjourned at 16:00 p.m. until Tuesday 28th January, 2014 at 9:30 a.m.

Tuesday 28th January, 2014

THE HOUSE met at 9.00 a.m.

**(THE CHAIRPERSON in the
Chair)**

P R A Y E R S

* * * *

MR CHAIRMAN (KGOSI PUSO GABORONE): Good morning Honourable Members. I believe we are all well and in high spirits more so that it was drizzling yesterday. I would like to take this time to recognise the presence of Honourable Minister Batshu together with his entourage from Ministry of Labour and Home Affairs, we welcome you this morning. We shall continue from where we stopped yesterday.

**CONSTITUTIONAL
(AMENDMENT) BILL, 2013
(NO. 18 OF 2013)**

Second Reading

(Resumed Debate)

MR CHAIRMAN: When we adjourned yesterday we were already on the Second Reading of the Constitutional (Amendment) Bill, 2013 (No. 18 of 2013). If my memory serves me well, most of the Honourable Members had already debated. If there is anyone who still wants to debate before we wrap up this stage, I will give them the opportunity to do so now. I know that when we adjourned yesterday, Kgosi Mosadi Seboko had shown interest to debate but could not because of time.

KGOSI MOSADI SEBOKO (BALETE): Thank you Mr Chairman. I have noted that we have some uncertainties on the issue of the dissolution of Parliament, whether it will affect us or not. The last part of the Bill reads thus, ‘the object of the Bill is to amend 68.1(a) of the Constitution of Botswana to provide for the right of Members of Parliament to continue as Members of the National Assembly up to and including the last day preceding a general election notwithstanding the dissolution of Parliament.’ I have understood it to mean that indeed Parliament is going to be dissolved by the President guided by Section 91(1) of the Constitution. However that

does not mean there will be no Members of Parliament. This is why the tabling of this motion proposes that they should hold office until the last day of the elections. I pointed out earlier on that it is important that when any amendment is made on the Constitution, they should consider other laws like the ones that govern Ntlo Ya Dikgosi. I support this proposed amendment on Section 2 as it is and would like to urge Members of Parliament to also assist us to amend Section 82 of the Bogosi Act. I believe that we shall include that as part of our resolution when we are at that stage. I thank you Mr Chairman.

MR CHAIRMAN: Thank you Kgosi Mosadi Seboko. I want to believe that Honourable Members will indeed agree with me that we have done justice to the Second Reading of this Bill. We can now move on to the last stage of the Bill. The Rules of Procedure state that ‘at the conclusion of the debate no question shall be put and the question on the motion shall be deemed to have been agreed to’.

**CONSTITUTIONAL
(AMENDMENT) BILL, 2013
(NO. 18 OF 2013)**

Resolution

MR CHAIRMAN: As I have already mentioned, we are on the Third Reading of the Bill which is the Resolution. As is the procedure, the Rules state that Members may bring a draft resolution on the Bill for consideration of this House. After stating the draft resolutions, we then go through each one and adopt the ones we wish to submit to Parliament as part of the Resolution of the House. For us to do that effectively and efficiently, I am going to request that we take a break so that we can have time to draft our resolutions. They will be submitted to me and we will go through all of them and adopt those we agree on. Do we understand Honourable Members? Let me kindly remind Honourable Members that this Bill has only one clause therefore there is really not much to do. Let us utilize this time maximally. We will adjourn for fifteen minutes and come back to conclude this Bill so that we move on to the next Bill which is the Married Persons Property Bill. According to that clock, it is 10.40; we shall be guided by the siren to resume the debate.

**PROCEEDINGS
SUSPENDED FOR 15
MINUTES**

MR CHAIRMAN (KGOSI PUSO GABORONE): Welcome back! We shall continue from where we left off. Rule 39(6) states that, ‘when consideration of a resolution of the Ntlo ya Dikgosi on a Bill is taken any member may bring a draft resolution on the Bill for the consideration of the Ntlo ya Dikgosi and the draft shall be entered in full on the minutes of proceedings of the Ntlo ya Dikgosi. When all such drafts have been brought up the Chairperson shall move the drafts in order until one is accepted as a basis for discussion beginning with his or her own draft and proceeding with the remainder in the order in which they were brought up.’ At this juncture, I shall be waiting for the drafts from Honourable Members. There is only one draft submitted so far... I have four drafts submitted; we shall discuss them in their order. The first draft states that “Section 68 (1)(a) should be deleted and replaced by a new section that will allow Members of Parliament and Members of Ntlo ya Dikgosi to end their terms of office when new members are sworn in.” I believe that Honourable Members are paying attention to that and we shall adopt the ones that we want as the basis of our discussion.

The second one states that, “The Constitution is amended in Section 68 by substituting Sub Section 1(a) on the day immediately upon the swearing of new members of Parliament.” Our Parliamentary Counsel has requested me to read it again and it reads, “The Constitution is amended in Section 68 by substituting Sub Section 1(a) on the day immediately upon the swearing of new members of Parliament.”

**P A R L I A M E N T A R Y
C O U N S E L**

(MR RAMOKHUA): Thank you Mr Chairman. This one is totally different from the one we are referring to. In other words we are proposing that the membership should be cancelled upon the swearing in of new member. I think that will be a bit of a challenge. I would not think it will be a very competent resolution to propose in terms of an amendment. I thank you Mr Chairman.

MR CHAIRMAN: Thank you. We shall treat it as Draft 2 but being cognisant of the advice that we have just been given. Draft resolution three states that “The seat of an elected member or a specially elected member of the National Assembly shall become vacant on the day before

the day on which the election is to be held or up to the last day preceding the general election”. Then at the bottom it says, Section 82 (1) (part a, and e inclusive). Draft four says, “The Constitution (Amendment) Bill, No. 18 of 2013, be accepted as it is however, the Ntlo ya Dikgosi advises Parliament to consider on urgency, a consequential amendment of Section 82 (1) (e) of the Constitution. Draft five states that, “Section 68 (1) (a) of the Constitution should be amended to allow Members of Parliament to remain functional as Members of Parliament in their duties after the dissolution of Parliament by the President until a day before general elections”. In other words Members of Parliament should keep their mandate as Members of Parliament and earning their due salaries as usual.

So there are five drafts in front of us and I will request that we quickly go through them. Draft one states that, “Section 68 (1)(a) be deleted and replaced by a new section that will allow Members of Parliament and Members of Ntlo ya Dikgosi to end their term of office when new members are sworn”. Draft two states that, “The Constitution is amended in Section 68 by substituting Sub Section 1(a) on the day

immediately upon the swearing of new members of Parliament”. This is the one which the Parliamentary Counsel gave us advice on. Draft three says that, “The seat of an elected member or a specially elected member of the National Assembly shall become vacant on the day before the day on which the election is to be held or up to the last day preceding the general election”. I think it is more or less similar to the first one. Then it continues to state, “Section 82 (1) (a) and (e) inclusive).

Draft four states that, “The Constitution (Amendment) Bill, No. 18 of 2013, be accepted as it is, however, the Ntlo ya Dikgosi advises the Parliament to consider on urgency a consequential amendment of Section 82 (1) of the Constitution”.

The last draft states that “Section 68 (1) (a) of the Constitution should be amended to allow Members of Parliament to remain functional as Members of Parliament in their duties after the dissolution of Parliament by the President until a day before general elections”. We have five drafts here and I have been reading them in their order. We can now discuss them in order to adopt the ones we deem as the base for our discussion.

KGOSI BOIDITSWE (SEROWE REGION): Thank you Mr Chairman. I support the third one which states that the seat of an elected member or a specially elected Member of the National Assembly shall become vacant on the day before the day on which the election is to be held or up to the last day preceding the general election. I believe that leaving office before the set contractual period is not favourable even to the President and this also threatens the security of Batswana. There is a lot that could happen, not only wars, we could have natural disasters and the President cannot take decisions alone. In conclusion, there is a part on this paper which talks about recall. This means they can be re-called for any emergency and relieved upon resolving that emergency. This is not fair because they have to be on standby at all times, so I support this draft so that they can stay up to the last day before election or upon swearing in of a new member. I thank you.

MR CHAIRMAN: Thank you Kgosi Boiditswe. I have observed that this resolution originates from your table. Let us understand that draft three is more or less similar to draft four. This is because draft three states that it should be vacant on the

day before the day on which the election is to be held and this one states that it should be to the last day preceding elections, which is similar to the proposed Bill. Then it goes on to say Section 82 (1)(e) should be looked into.

P A R L I A M E N T A R Y COUNSEL: Thank you Mr Chairman. Even though these two drafts appear to be similar, there is a huge difference between them because the other clause says that Section 82 inclusive. That part is proposing that Parliament should amend the Constitution, which was not part of the amendment before Parliament. Therefore, this House should be careful on this one, if anything; they should pose it as an advice, not to ask Parliament to amend the Constitution. The resolution for an amendment inclusive of 82 would not be a competent resolution in my view. Thank you Mr Chairman.

MR CHAIRMAN: Let us try as much as we can to be productive because resolution three is basically the same as four and they are repeating what is on the Bill, the difference is only on the last part of draft four which says ‘Section 82 (1) (a) and (e) inclusive,’ whereas draft 4 advises Parliament to consider on urgency a consequential

amendment of Section 82 (1) (e) of the Constitution, it does not propose that it should be included but rather wish to advice.

KGOSI LOTLAMORENG II (BAROLONG): Thank you Mr Chairman. I am of the opinion that the proposal made on both draft 3 and 4 are the same. As Parliamentary Counsel has already stated, all we can do is advise Parliament to consider Section 82 (e) along with other sections under consideration because if we are to amend it right now, we would be out of order. I have some reservations concerning draft five because this Bill is not about the salaries for Members of Parliament so with all due respect Mr Chairman, may I request that we put it aside as it has the potential to send the wrong message to Members of Parliament. Thank you Mr Chairman.

KGOSI SEEMEKO (SPECIALLY ELECTED): Mr Chairman, I stand here to support Kgosi Lotlamoreng II .if we are going to introduce new matters, we would not be doing the mover of the Bill any justice. As per the advice given by the Parliamentary Counsel, we should just adopt draft 4 as it is the right one. I thank you.

KGOSI TSHIPE (MAHALAPYE REGION): Thank you Mr Chairman. I do not wish to be long, mine is just to advise Honourable members that draft four is basically proposing what we discussed yesterday. If we are to adopt number four I do not think we would have derailed from what transpired yesterday and we would not be against the advice that we have just been given by the Parliamentary Counsel. With those words Mr Chairman, I too support adoption of draft four.

MR CHAIRMAN (KGOSI GABORONE): Thank you, I think that a lot of us have settled for draft four. Draft one is proposing something which is new altogether and we have been advised against that. I think draft two is proposing something which is not in this Bill as well. As for draft three, it is similar to the Bill; the only difference is on the last part which talks about the inclusiveness of Section 82. Draft Five is about salaries for Members of Parliament. Honourable Members I believe we share the same sentiments that we should adopt draft four as it is and we should advise Parliament to consider consequential amendments of Section 82:1 (e) of the Constitution. My

assumption is that it would have included all the issues that we have raised here.

KGOSI MASUNGA (NORTH EAST REGION): Thank you Mr Chairman. I believe that the sole reason for referring this Bill to this House is for us to advise where possible. When looking at draft one together with the advice that was given by Honourable Modubule, there is a part where he mentioned the Danish model in Denmark under section 32 sub section 4. Through your permission Mr Chairman, I would like to quote, “no seat shall be vacated until a new election has been held.” My assumption is that it means they should be deemed as Members until the swearing in of new Members. The point that I am trying to drive home is that I do not think there would be anything wrong with draft one because what the draft is proposing is achievable. It happens in many countries. We are making laws for the future because in every generation there are always different leaders.

It is not a guarantee that Botswana shall forever remain in peace and tranquillity. Yesterday I gave an example of the mistake that was made with the 60 000 voters roll of non-existent voters. These are the mistakes that

trigger a wakeup call that one cannot just simply rely on the Constitution. The Constitution is the supreme law of the country. I therefore think we need proper structures that will guarantee that every decision which we take is embedded in the Constitution. In conclusion, I would like to point out that I support the first draft if at all the law will allow that. Maybe the Parliamentary Counsel could give clarification on this issue that I touched on yesterday. Section 43 allows Ministers and Assistant Ministers to continue being in office. Is this not ambiguous in the sense that Ministers draw their legitimacy from the main Parliament? This is unlike in United States of America where Ministers are elected, one does not necessarily have to be a member of parliament. Is there no contradiction to dissolve other members while others are immune to the dissolution when they have come through the same manner of voting? I thank you Mr Chairman.

MR CHAIRMAN: I do not want to derail and go back to the First Reading of the Bill because that is where all the clarifications are done. I had thought that Honourable Members have adopted draft four but if we keep going back to the previous stages and touching

on issues that will not change the adopted resolution then we will not yield the desired results. Let me conclude by saying that we have agreed to adopt resolution number four and give the floor to our Parliamentary Counsel to clarify Kgosi Masunga's query.

**P A R L I A M E N T A R Y
COUNSEL** (MR

RAMOKHUA): Thank you Mr Chairman. I would like to point out that what Kgosi Masunga is saying is totally different because after the general elections, it takes a while for new Members of Parliament to be sworn in. I think we will be creating a problem if they maintain their membership until new members are sworn in. it would be unfair if two members compete while the other is still holding office. I think it does not reflect well for flawless constitutional transition of governance. I believe there will be no constitutional crisis created by lack of leadership as hinted because the President is there to take care of everything. I thank you Mr Chairman.

MR CHAIRMAN: Thank you. Honourable Members, we have gone through the draft resolutions and I will therefore request that we go to the next level after this consideration of the draft resolutions.

KGOSI MOETI II (SPECIALLY ELECTED): Thank you Mr Chairman. Maybe we should take heed of the points mentioned by the Parliamentary Counsel and Kgosi Masunga. If we are saying Members of Parliament should hold office until the elections, what will happen should there be any crisis which will compel the President to recall Members of Parliament during the period after elections but before the swearing in. The Parliamentary Counsel has pointed out that it takes a while for Members to be sworn in. Who will be called to address a crisis between the new Member of Parliament who has not been sworn in and the outgoing Member? This will create confusion and maybe we should at least increase the window period to the time of taking oath because we have created a gap which Kgosi Masunga has just talked about.

KGOSI GAREBAKWENA (MOLEPOLOLE REGION): Mr Chairman, this issue is simple. We go for elections to nominate a person who will replace the outgoing member. The person who wins the election is the one who will be recognised as the leader. We should not be worried about taking an oath.

MR CHAIRMAN: Parliamentary Counsel, what will legally close that gap?

P A R L I M E N T A R Y COUNSEL: I thank you Mr Chairman. I propose that we should use the Section 91.5 of the Constitution for guidance. It states that the President has the power to recall Members of Parliament to address an emergency. If the President does not dissolve that Parliament thereafter, it shall be dissolved on the last day preceding the general elections. It is one of the entrenched provisions of the Constitution that there shall be a new Parliament after the general elections. The new Parliament has the power to disengage the interim Parliament that was recalled for issues of emergency. The Constitution is clear on this and I do not see any Constitutional vacuum or a Constitutional crisis. We are talking about a few hours of transition which is just normal under most democracies. Thank you, Mr Chairman.

MR CHAIRMAN: Thank you. May I request that we conclude this issue concerning the Constitutional Amendment? Rule 39.9 states that, ‘when consideration of a draft resolution, paragraph by

Reading

paragraph is concluded and when all motions relating to new paragraphs have been disposed-off, the Chairperson shall put the question that the resolution be the resolution of the Ntlo ya Dikgosi.’

This means majority of Members have agreed to adopt draft four which agrees with the proposed Bill and says that Parliament should consider Section 82.1. If that is correct, it means I should put the question that the resolution be the resolution of the Ntlo ya Dikgosi. Honourable Members do we adopt this resolution as the resolution of the Ntlo ya Dikgosi.

Question put and **agreed to.**

MR CHAIRMAN: This is the resolution of Ntlo ya Dikgosi for the Constitutional (Amendment) Bill, 2013 (No. 18 of 2013).

The resolution reads thus, “the Constitutional (Amendment) Bill, 2013 (No. 18 of 2013) be accepted as tabled by the mover of the Bill Honourable Member of Parliament Modubule,” but it continues to state, “however, the Ntlo ya Dikgosi advises the House of Parliament to consider on urgency, a consequential amendment of Section 82.1 (e) of the Constitution.” This shall

be submitted as the resolution of Ntlo ya Dikgosi. The Rules continue to state that, “the Secretary shall forward a copy of every such resolution certified under his or her hand and the hand of the Chairperson as a true copy thereof to the Clerk of the National Assembly.” The resolution shall be written in its official format then signed by the Secretary and the Chairman and then this would be forwarded to the Clerk of the National Assembly. On that note, we have concluded the Constitutional Amendment Bill. We shall now adjourn for tea and come at 11:00 a.m.

**PROCEEDINGS
SUSPENDED FOR TEA**

MR CHAIRMAN: Welcome back Honourable Members. I believe we have concluded what we were doing and we shall continue with what is stipulated on the Order Paper.

**MARRIED PERSONS
PROPERTY BILL, 2013 (NO.
22 OF 2013)**

First Reading

MR CHAIRMAN: We have another Bill which reads as follows, Married Persons Property Bill, 2013 (No. 22 of 2013). This is a Bill that has been

referred from Parliament to Ntlo Ya Dikgosi for consideration. At this juncture, I shall now give the floor to the responsible Minister Honourable Batshu to table this Bill from his Ministry.

**MINISTER OF LABOUR
AND HOME AFFAIRS**

(HON BATSHU): Thank you Mr Chairman and Honourable Members. I would like to take this time to table the Bill before this Honourable House which is titled Married Persons Property Bill, 2013 (No. 22 of 2013), in other words, it is a law that regulates the property of married persons. Currently, the law which regulates married persons property is under Cap 29:03 of the laws of Botswana, it was passed by Parliament in 1970. The sole purpose for the passing of the law was so that married persons could have a lawful way of regulating their property.

Ever since this law was passed by Parliament in 1970, it has never been amended and therefore it is overtaken by quite a lot of developments in our country. We have therefore deemed it proper for this law to be amended so as to be at par with the new developments and also cater for the dynamic livelihoods of Botswana. The main reason for amendment of this law is for

simplification of the language. It should be written from a layman's understanding to eliminate all the confusion that we have encountered with the old one. This amendment has brought along with it a bit of changes in some sections. I must point out however that this will not affect how customary marriages properties are regulated because they are controlled by the Customary Law.

Honourable Members, as I have already mentioned, this proposed amendment has been written in the most simple language for better comprehension by all. Nonetheless, Section 7 of the Customary Law will be affected because the Customary Law, the Act does not provide for a form for out of community of property. This is so because it was interpreted that the presumption for out of community of property prevails, and only proof will be required to show that one has opted against the presumption. We have realized that there are some couples whom along the way wish to use the married persons' law to regulate their property when they are married under Customary Law. As we go on with the Bill, I will touch on how we plan to cater for such. I would like to take this time to explain the proposed

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amendments. There is what we call property regime; this means a marital regime which can either be in community of property or out of community of property. This law was designed in such a way that if the couple is not married in community of property, they are assumed to be out of community of property. This proposed amendment will introduce the concept of change of property regime. Another proposed amendment here is that there will be an introduction of forms as proof for both an out of community of property marriage and in community of property marriage. This is mainly because initially when spouses filled up the forms for in community of property, those who did not fill them were automatically assumed to be under the other regime. We then realized that there is a need to have both of them to eliminate the assumptions because they create problems when applying the law.

Furthermore, the Bill proposes that the number of days for registration of instruments with the Deeds Registry be increased from 90 days to 180 days. It was clear that the 90 days specified was insufficient and as a result some instruments were not registered within the stipulated

period. It was especially that way in areas where communication is a challenge. Some of the documents were registered late at the Registrar of Deeds. It would then appear like the concerned spouses were married out of community of property when in fact they had filled the forms well on time.

That is why there is a need to increase the 90 days standard to 180 days with the hope that it will be sufficient to cover any delays that may be encountered. Furthermore, the Bill proposes that there should be provision for correction of errors on instruments because the old law does not have that provision. Some of the mistakes include witnesses signing where they are not supposed to and that will mean the mistake cannot be rectified. Therefore this has called for our attention to rectify it. In addition, this Bill proposes that it should be the responsibility of the Registrar of Marriages to submit the forms which indicate whether the couple has been married in or out of community of property, to the Registrar of Deeds.

The current law did not clearly specify who was responsible for submitting the completed forms to the Registrar of Deeds.

Clause 1 is just an explanation of what this Bill entails as already highlighted on the Order Paper. Then **Clause 2** has explanations of the terms used in the Bill. For example phrases like ‘community of property’, ‘property regime’, ‘Registrar’ and ‘repealed Act’ have been defined in this clause. Those are the four terms in the ‘Interpretations Clause’. Clause 3 is similar to section 9 of the law which we wish to amend. The proposal on this clause is that the forms filled by married couple entailing their goods should be submitted to the Registrar of Deeds without being referred to a lawyer first as has been the case in the current law. Clause 4 is similar to clause 3. It proposes that all marriages solemnized under the Marriage Act should fill forms for property whether they marry in community of property or out of community of property. Clause 5 is the one that I have just talked about that where there were mistakes, they should be rectified. Clause 6 provides that the number of days for registration of instruments with the Deeds Registry should be increased from 90 to 180 days because the initial duration had proved to be insufficient. Clause 8 provides for correction of errors on instruments. Clause 9 is a replica of section 6 of the repealed

Act. Clause 10 is a provision that will enable registration of the instruments and validation of these instruments with the Deeds Registry. It has been shown that a number of instruments have not been registered with the Deeds Registry. I have noted here that there are 405 instruments that have not been registered with Deeds Registry because they were submitted late. The spouses submit their forms indicating their property regime but their papers are never submitted due to the fact that it is not clear who is supposed to submit them.

So, this proposed amendment will cater for such cases because spouses just assume that they are registered in community of property when in actual fact they are not. After this Bill has been passed by Parliament, the Registrar of Marriages will have the responsibility to register all the property instruments and submit them to the Registrar of Deeds within 12 months.

Clause 12 gives the Minister the power to make regulations under the Act.

Clause 13 provides for repeal and savings provisions. On that note Mr Chairman and this Honourable House, I request that this Bill for Married Persons

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Property Bill, 2013 (No. 22 of 2013) be read for the first time. I move accordingly, Mr Chairman.

MR CHAIRMAN (KGOSI GABORONE): Thank you Honourable Minister for the presentation of the Bill. The question before this Honourable House is that the Married Persons Property Bill, 2013 (No. 22 of 2013) be read a first time. I believe that Honourable Members have understood the presentation of the Bill that has been referred to this House.

According to Rules of Procedure, as the Minister has requested that the Bill be read for the first time, this entails the debates on the Bill that may arise on the question covering general merits and principles of the Bill. In other words, this is solely dependent on the level of understanding of the Bill by Honourable Members. I want to emphasise on this point so as to differentiate it from the Second Reading stage. On that note, we shall go into that stage.

KGOSI LEMPADI (OKAVANGO REGION): Thank you Mr Chairman. I stand here to support this Bill. Some of the things that will be advantageous include the filling of forms by all spouses from either of the property regimes

because the old Act could only allow those who married in community of property to sign the forms. This only brought nothing but confusion and challenges but implementation of the proposed amendment will address that. Nevertheless, I have some reservations on one of the proposals that have been tabled on this Bill where it includes the customary marriages. It is still not clear as to how this inclusion will be done or what it entails. Again, I heard the Honourable Minister saying that Registrar of Marriages will be...

MR CHAIRMAN: Pardon Kgosi Lempadi, I know that you are capable of speaking audibly, so when you see everyone showing a sign that they are struggling to hear you; it means you need to speak louder.

KGOSI LEMPADI: When the Honourable Minister mentioned marriage Commissioners, he only mentioned pastors and District Commissioners without including Dikgosi but there is a clause which touches on customary marriages which are conducted by Dikgosi. I have some reservations on this because I did not quite get the explanation well. Nonetheless, I support the Bill presented before us. I thank you Mr Chairman.

KGOSI BOIDITSWE (SEROWE REGION): Thank you Mr Chairman. We have been listening attentively to the Minister's presentation on the Bill put before us. Indeed it shows that it is high time we amended it because some of the issues highlighted are overtaken by events. I support this Bill but I have some reservations on issues of customary marriages. People should be free to marry through their cultural practices; however, they should be protected by the law. Customary marriages do not indicate the property that the spouses have when they get married. They only mention children in instances where the other partner brings children into the marriage. When the marriage fails to work, the family of the husband assumes that all the property acquired during the marriage belongs to their child only. So this should be looked into, there should be a clause that caters for such so that what the spouses bring into marriage can be registered. Nowadays the trend is that our children have special marriages without the consent of their parents. They do not engage any of the relatives in the negotiations before getting married. When they face problems in their marriage, it becomes difficult for parents to

intervene. Honourable Minister, I did not hear you mention this type of marriage, but it does exist and it causes a lot of problems when it comes to property.

The other issue is with regards to property during the time of separation? Who is given the responsibility to take care of the property during this time? Most of the time, the property remains with the husband and if they had cattle, the husband may change the brand into his relatives' brands so that they will not be part of the divorce process. Last but not least, I would like to point out that marriage is a good thing but on the other hand we have tribes that practice polygamy. A man may marry three or fifteen wives depending on the number which satisfies him. In this type of marriage, if divorce ever comes into the picture, how is property divided among the concerned because they normally marry through customary law. Do these women ever get the chance to be told of the property that is there or they are just kept in the dark? Sometimes some of these women are just being used when the husband knows very well that there is the main wife. Most of the time when these women get divorced, they go empty handed. Even though

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I support it, there are still some issues that surround divorce that need to be addressed. The issue of divorce covers a vast array of things so the Bill needs to be amended in such a way that it will cater for some of the issues that arise during divorce. I thank you Mr Chairman.

MR CHAIRMAN: Thank you Kgosi Boiditswe. I want to believe that the Honourable Minister is noting some of the issues raised by Members because we shall give him the floor to clarify them.

KGOSI MACHILIDZA (BOTETI REGION): Thank you Mr Chairman and the Honourable Minister for referring the Bill to this Honourable House for consideration. The Honourable Minister has pointed out that he has tried to simplify this Bill for better understanding by Honourable Members. He further pointed out that he has the power to make regulations under this Act. We are very much aware that by the powers vested upon you as a Minister, you can change these Acts. We should however also bear in mind that this House is a custodian of culture. If some of the amendments are made without the consent of this House, it will be problematic since we

represent the cultural identity of our communities.

Mr Chairman, the Honourable Minister talked about property in marriage. Property is wealth and we need to understand how that property was accumulated. Mr Chairman, this issue is about married and mature people not children. In our Kalanga culture, we used to marry women who were younger than us by age and they did not have any property. We would engage in farming as a couple. I must confess that this is a new development, in a real marriage, a couple starts acquiring property together from the scratch. We need to set the record straight here; if a man gets married to a woman who has already acquired property, it should clearly be stated that this man is entitled to part of that property. Traditionally if a man who has already acquired property gets married to a woman, automatically that woman becomes entitled to part of the property. Traditionally we know that the spouses have equal share to the property acquired, even when they divorce, Kgosi ensures that no partner goes empty handed. The educated people are the ones who have a problem; we do not understand how they operate.

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Another issue of concern is that we have our own setup as Africans or as Batswana. There is what we call male domicile, where the married woman has to officially be handed over to the in-laws. However, we find that nowadays women do not want to do that. Some are of the view that they can just have a wedding in their parents' village and not go to their in-laws village. These are some of the issues that steer unnecessary confusion and problems. As a country, we must have our own image because some of these behavioural changes are influenced and copied from the internet and social media like Facebook. Kgosi Boiditswe has already mentioned that our children have derailed from our culture and now they just marry without the knowledge and involvement of their parents. This is very disturbing to us as elders and eventually it creates problems between the in-laws. Honourable Minister, we should bear in mind that some of the issues need the intervention of a Traditional House like this one. In order to empower this House, it should be accorded that opportunity to go around the country consulting with Batswana because we are their leaders. We know that we are part of the global village, we

have to accommodate certain changes from other cultures but it looks like Africans or Batswana are only adopting foreign cultures while those foreign nations adopt nothing from us. The other issue that needs to be looked into is that marriage these days is very expensive that is why it is almost impossible to do it.

Sometimes it may happen that a man inherits his parent's estate and then gets married. When they divorce, that estate has to be split between the two partners. These are the assets that the woman did not work for. One thing that I would like to share with you is that men are very generous to the extent of sharing their hard earned assets with a woman they just married. That is not an issue to them. As for women, they do not work hard, they just get married to be with their husbands; they do not assist at the fields or even at the cattle post and they never understand how hard their husbands work to have what they have. Honourable Minister, we do not have the powers to stop what is currently happening. We need to introspect as Batswana and see why women behave like this in marriage. There are so many issues that people need to be educated on concerning marriage. Before people get married, they are counselled.

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Of late, this counselling is done by young people and all they would be saying is to tell the couple to love and respect each other. This shows that when women get married, they only marry their husbands and not his family. These are the things that are happening and if they happen now, what more of the generations to come. We should equally share the responsibilities as parents; men should nurture the boy child while women nurture the girl child and teach them about marriage. We are well vested in what marriage entails.

The Bill is proposing that the days of registering of instruments be increased from 90 to 180 days. Is the Honourable Minister implying that Civil Marriages are more in number than Traditional Marriages so much that now there is a need to increase the period for registration? I do not think Civil Marriages are too many such that they surpass our Traditional Marriages. I therefore have some reservations about this proposed 180 days but it is still fine because the buck stops with those in charge, they know better.

You have stated that this proposed law will now allow for those who married under

Customary Marriage to register their property. Most people prefer the Civil Marriage these days. Honourable Members we must know that property is something that needs to be handled in a certain manner because when a husband dies, the wife excludes the family of the husband but that property is for their child whom they educated. It always appears like the wife is the only one who is educated because even the bride price can be affected by her education whereas men are also educated. The other day I was sharing with some lady, telling her that the bride price should be abolished because there is equality these days and it should apply everywhere. She was of a different opinion; she said that the bride price is just a polite way of thanking the wife's parents for giving them a daughter. It is not fair because only the wife's parents get something while from the husband there is absolutely nothing. These are some of the issues that put us in a predicament; we do not know how we should handle them.

One issue that impressed me is that lawyers will not be involved anymore when it comes to instruments made under Deeds Registry Act. I support that because a wedding is costly. People cannot afford to engage

lawyers after paying for the expenses incurred during their wedding. Maybe it is high time we hold seminars to sensitize people on the unnecessary spending on weddings which also derail them from our cultural practices. In our Kalanga culture, a wedding is not expensive because there is less to do. In other cultures, after celebrating, the wife has to be officially taken to her in-laws, but we do not do that in our culture; the husband instead takes the wife to his house at night. We should all be encouraged to practice our culture so that we can reduce unnecessary costs.

Honourable Minister, I do support this Bill even though it is not inclusive of everyone, it should represent us all because we have diverse cultures. Another issue is just an appeal to women that they should bear more children for their husbands because those who are married under these property regimes, they have one or two children. I was talking with Kgosi Kgamane earlier on and we were saying that these days women can only go up to two children. We were saying that, they should now give their husbands the liberty to practice polygamy because they cannot bear them enough children.

HONOURABLE MEMBERS:
(Laughter!)

MR CHAIRMAN: We are going to hear all sorts of stories today and this Bill will reveal a lot that has been swept under the carpet.

KGOSI RAMOKWENA (MAUN REGION): Thank you Mr Chairman and let me also thank the Honourable Minister for bringing this Bill to this Honourable House for consideration, we do support and embrace the changes that this Bill is proposing. Some of the aspects of this Act were tailor made to suit the lifestyle of people back in the days because by then things were still under control. People could easily trust each other because they feared God. They did not need written evidence; it was just done by word of mouth. Nowadays things have changed. Everything has to be put in writing because people are not trustworthy.

I would like to touch on the clause that focuses on marriage officials; we know that there is the District Commissioner, Pastors and Dikgosi. In most cases, you will find that marriage officials only know how to ensure that the couple takes an oath and append their signatures

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to the documents. The part where the couple has to be counselled and informed about advantages and challenges of the marriage institution normally proves to be problematic because spouses get into an agreement which they do not fully understand. Therefore, my proposal is that marriage officiators should be people who fully understand the marriage Act or better still, they should be oriented on the Act so that they are in a better position to explain it in detail.

I am reminded of one incident in which I was solemnizing the marriage of a white couple. When I explained the details of the Act, the man requested to be given some time to re-consider what he is about to get into. I granted him that and he went to his car and came back after some time, I realised that he was not aware of some issues that this Act covers. Ever since that incident, I came to realise that indeed marriage officiators need to be oriented on this Act because one of the contributing factors to escalating divorce may be lack of knowledge and understanding of this Act. Some people are old enough to get married but they do not do it because they do not understand a lot of things about marriage. This is simply

because they have heard from their friends what marriage entails and because of that they have reservations on the issue. It is important to understand the legal implications of what you are getting into.

There are so many marriages that are happening these days but people marry for wrong reasons like for material things, these are the same things that cause divorce. Culturally, when a wife or husband passes on, whatever property they had during that marriage belongs to the children. The other spouse would move out and start afresh with their new partner should they re-marry. Things have changed these days, you will find that the new partner chases the children out of their home. Sometimes it becomes worse when the new partner comes with her children, they take control of everything while the rightful heirs are beggars in their own home. These are some of the weaknesses that men continue to portray and this has been there dating from way back, even in the Bible. Samson whom God gave the powers was deceived by Delilah by cutting his hair. This shows that sometimes men are weak in decision making.

The law should be clear on these issues to eliminate any confusion or problem that may arise should any of the parents pass on. Other than that, if it happens that the wife passes on when the husband is already old, the husband should seek permission from the children to stay and use their property if he wishes to re-marry. There should be proper consultation between the children and their father with elders within the ward as witnesses.

I support Kgosi Boiditswe's statement that when spouses are going through separation, there should be clarity on who takes care of their property before it is shared between them. He asked because men have a tendency to conceal some of the property like livestock so that they do not become part of the divorce process. This is one issue that needs to be looked into very closely to avoid situations where one partner will leave the marriage empty handed. Culturally, when a woman brings property of livestock into her marriage, they are handed over to the husband and put under his brand. At times the wife finds the husband with no livestock at all, so, it becomes unfortunate when they divorce and the husband still manages to

hide that kind of property. If they are protected by the law, such issues will not happen. Marriage is holy and created by God, but unfortunately people have turned it evil because there is a lot of cheating and even murder under this institution. People have chosen not to do things right. I thank you Mr Chairman.

MR CHAIRMAN: Thank you Kgosi Ramokwena. Before we go any further, I would like to give the Honourable Minister time to explain a few issues that have been raised on the floor by Honourable Members.

MINISTER OF LABOUR AND HOME AFFAIRS (HON BATSHU): Thank you Mr Chairman and Honourable Members. This Bill is basically an Act that regulates the property of married persons. We also have the Marriage Act, however, I would like to point out that there are plans on the pipeline to discuss it because it also has some challenges that Honourable Members have already highlighted. There are issues like marriage of convenience among others. So let us not derail from this Bill and dwell on Marriage Act because issues that touch on marriage officers fall under that Act.

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I have explained that the intention is not to amend the Customary Law; it remains intact and if there is a need to amend it, I believe the responsible Minister shall act accordingly. I just mentioned that there is a provision in this law that allows for spouses who have married under the Customary Law to register their property under either of the property regimes. This will be an advantage to them when it comes to loan applications. I appreciate all the feedback I have received so far; it will help me in the amendment of the Marriage Act. Kgosi Lempadi had asked how customary marriages will fit into this Bill and I have already touched on the answer to this question. Kgosi Lempadi had also mentioned that Dikgosi have been excluded from this law as marriage officers and I would like to respond by saying Dikgosi are guided by the Customary Law. Kgosi Boiditswe has further mentioned that the Customary Law needs to be amended and I would like to point out that I agree with him but it falls under the Ministry of Local Government and Rural Development. He mentioned that there are special marriages which are done without the consent of parents; that issue falls under the Marriage Act. Another pertinent

issue that he talked about is that when spouses are going through separation pending divorce, property acquired during marriage tends to disappear and that is basically deceitfulness. These are some of the issues that we need to sensitize the nation on and even those who are married should have the full knowledge of all the things they possess. I think we can discuss this one in detail when we talk about Customary Law but it is very relevant because issues like these lead to murder.

He also mentioned the issue of polygamy. The Marriage Act, Section 13 Subsection 2 states, “No person who has previously contracted a marriage in accordance with any Customary, Muslim, or Hindu, or other religious rights with a person still living may contract a marriage under this Act unless the previous marriage has been dissolved or annulled in accordance with the applicable law.”

When you practise polygamy, all the women belong to the husband and they have an equal share, the law does not allow for the husband to change the marriage regime only to one woman without the consent of others. There is a protection clause that does not allow for that to happen.

Kgosi Machilidza has requested that Dikgosi should be consulted on all these amendments and I believe that is in order and it is a very valid point. Issues of high costs of marriage and amendment of the Customary Law and Marriage Act can be discussed at the appropriate time as well as standardised lobola price. I had the opportunity to work under Customary Court of Appeal and I had the privilege to study various cultures and their marriage procedures including lobola. I realised that we need to have a standardised manual that will guide us and this is something that we can do when amending the Marriage Act.

The reason why we increased the number of days for registration of instruments from 90 days to 180 days was not because there were so many marriages but rather the communication channels and the processes that were used to register were long. After signing these documents, it was not even clear as to who exactly is supposed to submit the documents at the Registrar of Deeds for registration. These processes indeed proved that the 90 days is not enough and as the leadership of the country, we have to ensure that the laws of our country do not inconvenience its citizens.

Kgosi also talked about other issues that are not related to this Bill but connected to marriage. He mentioned the issue of having just one child by a married couple. Our old Population policy had some restrictions concerning the number of children each person should have, but the revised policy has eliminated those restrictions. I think issues like this can be addressed better by couples themselves; they are the ones who know better the number of children they can afford. The issue of children protection falls under the Marriage Act. If one spouse passes on, and the other one wants to remarry, they take into consideration the rights of the children from the first marriage. That law exists and it is practised. I dealt with a similar case recently, children requested that their father should iron out a few issues before remarrying. Mr Chairman, that is all that I wanted to say and let me reiterate on these points that we are not debating Marriage Act or Customary Law amendment but rather Married Persons Property Act.

MR CHAIRMAN (KGOSI GABORONE):

Thank you Honourable Minister. Honourable Members it is clear that we have derailed from the Bill because the Bill is not about

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the Marriage Act, but about Married Persons' Property. Secondly, we are supposed to look at the merits and de-merits of this Bill.

KGOSI SEELETSO (TONOTA REGION): Thank you Mr Chairman. Firstly, I would like to thank the Honourable Minister for bringing this Bill to this Honourable House. I do appreciate that now this Bill advocates for registering of property for married persons because we are faced with a huge challenge in our respective Dikgotla. For those who cohabit, when the other partner passes on, conflicts arise between the parents of both partners because of property. If there could be a provision that allows for registration of their property before marriage, it will really save people from all the problems they are subjected to when death occurs.

Mr Chairman, I wanted to ask about the forms that appear on the last pages. We do conduct marriages in our respective Dikgotla but in these forms we only have Administrator, Commissioner of Oaths and Justice of Peace as witnesses, there is no inclusion of Dikgosi or are they classified under these people aforementioned? Even

though the Honourable Minister has mentioned that customary marriages do not fall under this Bill, I am requesting that these forms should be used by Customary Law so that couples can also register their property to indicate the type of regime they would like to use.

The Honourable Minister has indicated that children's protection is under the Marriage Act. My question is if a man re-marries after a divorce what happens to the property he acquired on the first marriage? Which office is responsible for dividing this property, is it the High Court or us? These issues affect us because when we take a decision to give the first wife and her children the house, it appears like we are denying the second wife the privilege to own her husband's property. I believe this Bill is crucial because we normally come across cases of partners passing on while they were cohabiting; there is no evidence to qualify the items that they acquired together.

In some cases you will find that the boyfriend is given everything while they had accumulated the property together with the girlfriend even though they were not married. So registering of instruments will be helpful.

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Clause 10 is an eye opener Mr Chairman, for some of us who got married way back around 1971, we are not certain if our documents have been submitted to the Deeds Registry. This new Act provides for couples to ensure that they are registered within a certain period of time. I really appreciate it Mr Chairman. I thank you.

MR CHAIRMAN: Thank you let us be careful not to include the issues of cohabitation on this Bill because here we are dealing with legalised marriages only and their property. Let us try to differentiate the two for the purposes of focusing on this Bill only.

KGOSI MALOPE II (BANGWAKETSE): Thank you Mr Chairman. I need clarification here, the new Act states that couples can be married in community of property and along the way they may change to ‘out of community of property’ or the other way round. It is written here that, “there should be sound reasons for the proposed change,” I would like to understand what could be those sound reasons that qualify them because they apply to High Court. I thank you.

MR CHAIRMAN: I believe that this question will need clarification; Honourable Minister will note it and respond to it later.

KGOSI MASUNGA (NORTH EAST REGION): Thank you Mr Chairman. I stand here to thank the Honourable Minister for this Bill. I have a particular interest on certain issues that deal with the rights of women. I have noted that this Act will have such a big impact on the rights of women and children. Lack of such instrument has always been one of the greatest challenges to the rights and the privileges of women especially the African Women. Furthermore, Batswana are beginning to flourish and take various business risks. If I want to pursue a business agenda or I want whatever interest together with my spouse, this law will give us a provision to manoeuvre.

Honourable Minister, my request is that Batswana should be consulted on this Bill before it is passed in Parliament. Take their opinions so that they have an opportunity to share their challenges with your Ministry. Mr Chairman, before I came here, I had a staff meeting with Tribal Administration officers to brief them about this Bill. They showed a lot of interest

especially women. This really showed me that indeed we need a family law in this country. The Honourable Minister has stated that the Customary Law and the Marriage Act do not fall under his ministry and this is a clear indication that we need a comprehensive family package which will regulate and simplify a lot of things. This family law will have the power to determine the current and future leadership, that is to say the decisions they make concerning families, if they be able to nurture and keep their families when they are married or not.

One of the pertinent issues that I would like to touch on is that every nation must be progressive and even Customary Law must be progressive. I heard Kgosi Machilidza talking about issues of polygamy and I want to state that those things have been overtaken by events. They have no place in our society anymore. As a nation we need to be thorough and outline all the things we wish to achieve.

I therefore believe a lot of people will commend the Honourable Minister for this Act because it came at the right time. Currently, people's properties are being repossessed, some have lost their business and everything when

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funding agencies like Citizen Entrepreneurial Development Agency (CEDA) repossess...I thank you Mr Chairman.

MR CHAIRMAN: Thank you Kgosi Masunga, it is 12:30 p.m. I believe that you were not done with your debate and you shall continue where you left off at 2:30 p.m. We shall now adjourn for lunch.

PROCEEDINGS SUSPENDED FOR LUNCH

MR CHAIRMAN (KGOSI GABORONE): Afternoon Honourable Members, Honourable Minister and the officials present here. Welcome back to this afternoon session. We shall continue with this Bill still looking at the merits and principles of the Bill. When we adjourned, Kgosi Masunga was on the floor talking about Citizen Entrepreneurial Development Agency (CEDA).

KGOSI MASUNGA (NORTH EAST): Thank you Mr Chairman. When we adjourned, I was saying that in most cases, CEDA repossesses property of people whose businesses are not doing well, this affects a lot of marriages. The other aspect that I really appreciate about this Bill is that all those who married

through the Customary Law now have the chance to register their property as well. Mr Chairman I have been lobbying for people to draw up their wills, it is something that I really encourage in my office and I have enquired about it at the High Court. Some have taken that step to draw up their wills because I have observed that I deal more with cases of polygamy in my region because polygamy was very popular. I am from a polygamous family too because Maruje III had four wives. In most cases if spouses marry under Customary Law and there is no will, the parents and relatives determine the distribution of the goods. Sometimes the spouse gets a lesser share of their own property while relatives get more. In some severe cases, relatives go to an extent of taking over the entire estate and chase away the wife. As I conclude Mr Chairman, I support this Bill and I believe as this Bill has been referred to this Honourable House, it shall also be extended to the public for consultation. I thank you Mr Chairman.

**KGOSI TSHIPE
(MAHALAPYE REGION):**

Thank you Mr Chairman and Honourable Minister. I will try to be as brief as I can. Firstly, I would like to point out that I

support most of the proposed amendments, even though some need to be reconsidered. Clause 8 (2) talks about the 28 days for change of property regime. I want to understand the criterion that was used to determine those days because they are short. I propose that they should be extended to 30 days.

Clause 10 (2) states that there will be a provision to enable registration of instruments up to a period of 12 months. I think this period should rather be extended to 18 months taking into consideration the fact that the processes themselves are long. Some spouses who thought they are registered while they were not date as far back as 1971. Another clause that I really appreciate is the one that will allow those who married under the Customary Law to register their property if they wish to do so.

The other issue that I would like to touch on even though I am not sure if it falls under this is that it takes long after divorce has been finalised for property to be divided between the two. If it happens that the other spouse passes on while property has not been shared between this two, what will happen? Should we not have a law that provides a

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specification of time that should be taken after finalising divorce to share the property? That is all that I wanted to say Mr Chairman. I thank you

**KGOSI TOTO II
(KGALAGADI SOUTH):**

Thank you Mr Chairman. I would also like to thank the Honourable Minister for referring this Bill to this Honourable House; it is indeed a welcomed development considering that it has been in use since 1970 without any amendment. Mr Chairman, married people are highly respected in our societies and it is imperative to ensure that their instruments are registered. As presiding officers, we believe this will be of great help in addressing challenges that exist in marriages. Some of these challenges include being denied the right to have property acquired with a deceased spouse by relatives. Normally if there is no evidence to validate the ownership of goods, it becomes difficult.

I would advise that if people get married at a young age, at that stage they do not have much that they have accumulated, they should be urged to keep on updating their property registration to eliminate issues of dishonesty. Furthermore,

marriage officers should be given the responsibility to submit the forms at the Registrar of Deeds and this office should not just be relaxed with the registration just because the days have been increased. If this happens, the forms will keep piling in their office and ultimately will get lost. I thank you Mr Chairman.

**KGOSI GAREBAKWENA
(MOLEPOLOLE REGION):**

Thank you Mr Chairman. I would like to commend the Honourable Minister for referring this Bill to this Honourable House. This is an indication that indeed life is dynamic. Marriage plays a pivotal role in the society because a healthy marriage equals a healthy nation; the only issue that breeds challenges in marriage is property. This issue of property in marriages often causes a lot of instability if not handled properly because there are no sections in the law that are fit enough to address them. This issue cuts across all types of classes in the society because we all have our shortfalls. If it is fully explained, it will be beneficial more especially to the illiterate.

When people get married, mostly they get to discover the other side of their spouses after some time and end up having second

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thoughts about their marriage. Sometimes they get this notion that maybe they should have married out of community of property. Therefore, this provision will allow them to change the regime. Most importantly, I appreciate the clause that talks about Customary Law because now it allows for married persons to register their property. We appreciate the fact that our Government was able to identify that loop hole and addressed it.

There is provision for stipulation of officers who will be responsible for registering these instruments at the Deeds Registry. Most couples only access these offices when the District Commissioner solemnises their marriage and never get to know if their forms were ever submitted. Kgosi Seeletso has just stated that he never knew if his were submitted or not. This is very common among couples who were married long time ago. I think this will be the opportunity to seek for clarification. I thank you Mr Chairman.

MR CHAIRMAN: Thank you Kgosi Garebakwena. Kgosi Potsoeng will be the last to comment because the next stage accords us that opportunity to debate clause by clause.

KGOSI POTSOENG (NGAMI REGION): Thank you Mr Chairman and Honourable Minister. I support this Bill but I have few proposals. I am not sure whether this Act will entail registering every property in detail, if that is the case, I will propose that there should be an update every five years to register what has been accumulated at that stage. This is because the property may keep increasing over the years. Another question is what happens to property accumulated during the period of separation before divorce is finalised. These two people will lead separate lives and along the way they acquire some property. Lastly, all those who married long time ago and not registered, they should be urged to register once this Act is passed. I thank you Mr Chairman.

MR CHAIRMAN: Thank you Kgosi Potsoeng. Before we go to the Second Reading, there are few issues that need clarification from the Honourable Minister. If my memory serves me well, Kgosi Malope has sought clarification about the 'sound reasons' that are stated here. The other issue is about separation which was mentioned by Kgosi Boiditswe and Kgosi Potsoeng.

**MINISTER OF LABOUR
AND HOME AFFAIRS**

(HON BATSHU): Thank you Mr Chairman and Honourable Members. First and foremost, I would like to thank all the 11 Honourable members who have already debated for their support on this Bill.

One of the Members, Kgosi Seeletso has mentioned the issue of cohabitation. This issue has posed a serious challenge even in crime and if we get the chance to amend the Customary Law, we shall try to address it. Kgosi Seeletso has asked if the forms used for registration will ever be used at Customary Courts. These forms are used under Common Law not Customary Law and because Dikgosi are guided by the Customary Law, they will never be used under it. He further asked what happens to property of spouses who divorce and marry again. When divorce has been finalised, all property must be spilt before any of the partners can remarry. I believe that before divorced couples could marry again, they settle everything lawfully. The only challenge would be that if it took time for divorce to be finalised, this will create a lot of dishonesty and some of the property being concealed. The

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intention is to eliminate the long processes involved in divorce so that things could be settled within a short period of time to eliminate any discrepancies that may occur. I have mentioned that there are 405 papers that have not been registered and we do not know of any other. The only way that people can know if they have been registered is for them to enquire at the Deeds Registry. The proper procedure is that there are two copies provided; the other one is submitted at the Registry and the other copy is for the spouses' filing. To eliminate uncertainty and confusion, people should be urged to cross check with the Deeds Registry if they have been registered or not.

Kgosi Malope asked about the sole reasons for change of regime. Kgosi Masunga has done very well to explain it. We have had cases where people had second thoughts about their marriages because they were clouded by excitement for the wedding and forgot to prepare for marriage. As Kgosi Garebakwena has already stated, people get carried away by preparing for the wedding and forget all about the other side of the bridge. Sometimes when a couple is married in community of property, when they have a business together, when it fails,

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their property is repossessed. Now if they choose to get married out of community of property, it will be beneficial because it involves only one signature from one partner. If the business fails, they will repossess from only one side. Kgosi Masunga has proposed that there should be a family law. I believe that as we look into the future, we need visionary leadership in which we will have strategic policies that will be convenient to the end users. I believe these are advices that should not just end with Ntlo Ya Dikgosi. I want to assume that the issue of wills was just a comment. The last one was that Batswana should be consulted on this issues and I believe that we shall do that. The Deputy Chairman stated that the stipulated 28 days is not enough and proposed that it should rather be 30 days and 18 months not 12 months. I think Honourable Members will agree with me that there is really no difference between 28 and 30 days. The other one is why 12 and not 18, we had assumed that a whole year will be enough to complete the whole process. I believe we shall look into it, if the stipulated 12 months is not workable, we shall consider increasing the duration.

The advice that I really appreciate most is the one which says the period within which property has to be divided after the divorce should be stipulated. This however, may be addressed under a different Act, not this one. It has been discovered that most conflicts that normally end up in killings are caused by these prolonged processes. I want to believe that Kgosi Toto and Kgosi Garebakwena were just commenting in support of this Bill. On the issue raised by Kgosi Potsoeng, the truth is that when spouses fill up the form for in community of property, there is no provision where it allows them to list that property because the assumption is that the owners know what they have. When divorce comes into the picture, that will be the time to list all the property acquired, maybe that explains why it takes long for divorce to be finalised. This is the time when dishonesty creeps in and some of the items will be hidden. So Kgosi Potsoeng was proposing that there should be a provision where these items can be listed. The truth is whatever property is accumulated in that marriage belong to the married people and it will not be good for us to look at it with the perception that the other spouse who has brought a lot has lost

after divorce. This Act is looking at the bigger picture but I would like to believe Kgosi was just citing problems which exist in our society. This Act is focused on the issue that community of property means profit and loss.

Divorce proceedings take too long, I cannot agree more, and sometimes couples end up committing passion killings while waiting for the finalisation. We shall continue to advise the High Court to try and speed up the processes as much as they can. Date of commencement should include marriages that were conducted way back and if any mistake was done, this Act will allow for rectification of such within a period of 12 months. All those who wish to verify could do so. I thank you Mr Chairman.

MR CHAIRMAN: Thank you Honourable Minister. With that being said, we have come to the end of the First Reading of the Bill, this means we move to the next stage.

**MARRIED PERSONS
PROPERTY BILL, 2013 (NO.
22 OF 2013)**

Second Reading

MR CHAIRMAN: We have now come to the Second Reading

of the Bill as it has been read. Under this stage, we shall focus on the details of every Clause or group of Clauses. I propose that we skip the first page because it just explains the reason for tabling this Bill and Honourable Minister explained the reasons this morning. Page 204 is the same as the first page; it is just a continuation from the first page. Page 205 is the arrangement of sections. I believe that it is the contents of the Bill.

Then there is ‘A Bill-entitled-.’ I do not think there is a problem there. We can start with **Clause 1**. It is about the short title and commencement. Does anyone wish to comment on this one that talks about the title; it only explains what this Bill is about, should we pass it Honourable Members?

HONOURABLE MEMBERS:
Yes.

MR CHAIRMAN: **Clause 2**, interpretation, it explains the terms that have been used in this Bill. Anyone who wish to comment on it?

HONOURABLE MEMBERS:
No.

MR CHAIRMAN: We shall proceed. **Clause 3?** No Member shall be allowed to refer on a

clause that has already been called out. Kgosi Machilidza are you referring to the previous clause?

KGOSI MACHILIDZA: I wanted to understand something on Clause 2, Mr Chairman. It states that, 'in this Act unless the context otherwise requires, community of property means the community of property, profit and loss, what does the word loss mean here?

MR CHAIRMAN: Honourable Minister, Kgosi Machilidza is asking about the definition of community of property, because it states that community of property; profit and loss. When it talks about loss, is it referring to that situation when one divorces and gets something smaller than what they brought into the marriage, will that not be a loss?

HONOURABLE BATSHU: Thank you Mr Chairman. This simply means that if the couple manages to increase whatever they had initially when they got married, that will be a profit and they both benefit. If it also happens that whatever was accumulated is lost like losing cattle through drought, they both lose. They both share the profit and loss. I thank you.

MR CHAIRMAN: So they share profits and losses.

Clause 3- Exclusion of Section 16 of CAB 3302. 4. Community of property excluded.

KGOSI MOSADI (BALETE): Thank you Mr Chairman. Section 4 Subsection 1, says that subject to Subsection 3, marriage solemnised under the Marriage Act where one of the spouses is domiciled in Botswana is presumed to be out of community of property. It continues to state that if one is domiciled in Botswana and the other outside, now they can marry in community of property. I need clarification here, I want to understand what happens if the other spouse has property outside Botswana, how will it be verified that they do? If it happens that the marriage does not work when they are married in community of property, as presiding officers, how will we verify if they have or do not have anything outside the country?

HONOURABLE BATSHU: The whole intention of this clause is to protect Batswana that is why it states that if one of the spouses is domiciled outside Botswana, it shall be assumed that they are married out of community of property. Furthermore, it allows

spouses to choose for themselves if they want to be married in or out of community of property. Along the way, they may choose to change the arrangement they are free to do so. I thank you Mr Chairman.

MR CHAIRMAN: Thank you.

**KGOSI BOIDITSWE
(SEROWE REGION):**

Honourable Minister, it looks like children have been excluded in this Bill. Children should also be consulted about their parents' decision because they will also be affected by that decision. They also suffer when divorce creeps in, they do not know where to go. This law is more focused on the spouses but when they divorce children remain under the custody of one of their parents and their home may be sold. So I think clause four has omitted these important family members. I thank you Mr Chairman.

MR CHAIRMAN: Honourable Minister why are these important members omitted in this law?

HONOURABLE BATSHU: This law is mainly for married people who are mature enough to make their own decisions. The expectation is that when the spouses decide to get married, they consult with their family

members but the law is silent about this. I am of the view that the way it has been crafted is fine because we believe a decision is made after some consultations. I have noted that Honourable Members had some reservations because it has been evident that when divorce happens, children are normally affected. As I have already stated, there are sections under the Marriage Act that protect these children. Some of the instances that were cited by Kgosi are covered under this Act; issues like selling of property. We cannot cover that under this Bill. This Act is for people who are getting married who have to think things through before choosing the property regime they want. I thank you Mr Chairman.

MR CHAIRMAN: Thank you. Kgosi Machilidza, you had your hand up?

KGOSI MACHILIDZA: I think the Honourable Minister has touched on it already. We have the Children's Act which protects the rights of children.

MR CHAIRMAN: Thank you Kgosi Machilidza.

KGOSI MOETI II: Thank you Mr Chairman. I appreciate what Kgosi Boiditswe has said and even though the Minister

has responded well, it appears like there's confusion. This Act covers marriage only, when they divorce, this law is no longer useful; there is rather another law that regulates that. Maybe it is high time we considered combining laws that have common grounds. I have been wondering why there is no clause that touches on issues of separation; re-marriage; death and divorce. I am of the opinion that it will be much more convenient and simpler if all the laws that cover these issues could be in one package instead of making reference to different documents. One Honourable Member has proposed that there should be a family law and I think that will work as well. I thank you.

MR CHAIRMAN: Thank you Kgosi Moeti. May I remind Honourable Members that as we keep on debating this Bill, let us bear in mind that whatever suggestions we have; we can submit them at a later stage as our resolution which shall then be presented to Parliament. If there are any proposals that Honourable Members have, let us keep them until resolution stage. The Honourable Minister may not respond to other questions or comments because they are just suggestions.

Clause 5, Proprietary consequences of marriages of persons subject to Customary Law. Honourable Members have been referring to Customary Law here is a clause that talks about consequences of marriages of persons subject to Customary Law. I believe that when we deal with stage three we will not experience questions which were supposed to be addressed now.

Clause 6, Registration of instrument with Deeds Registry and the days have been increased from 90 days to 180.

KGOSI MOSADI (BALETE):

Thank you Mr Chairman. I want to know how the Honourable Minister intends to eliminate issues of delay and ensure that they never repeat themselves since the period has been increased to 180 days. Another issue was that some districts are far and it takes long for some marriages to be registered at the Deeds Registry. Will we not reach a point whereby we will end up increasing the days again to 360 days due to the fact that we still cannot meet the set standards? I thank you Mr Chairman.

KGOSI MACHILIDZA (BOTETI REGION): Thank you Mr Chairman. I would like to add on to what Kgosi Mosadi has

already said. I want to point out that marriage is something that we are all privileged to enjoy and a law has been made to regulate that. I would like to enquire from the Minister how long it takes for these documents to be submitted based on the past experience. In addition to that there are Pastors who are marriage officers, why can they not be empowered to ease the congestion that District Commissioners experience. I thank you.

KGOSI BOIDITSWE (SEROWE REGION): What happens in instances where one of the spouses had a business which he shares with other partners, are they supposed to register it under the list of their property or is it possible to register only their shares? What happens when the owner of the shares passes on? Normally when the spouse dies, the siblings have a tendency of thinking that they are entitled to their brother's share of property and the wife is not. If it is inheritance like boreholes, it cannot be split in percentages, it can only be inherited by the wife to continue being a shareholder in that kind of business. When looking at these clauses, there are some things that should be added but there is a challenge on how they will be represented. I thank you Mr Chairman.

MINISTER OF LABOUR AND HOME AFFAIRS (HON BATSHU): Thank you Mr Chairman. Kgosi Mosadi has asked how we are going to ensure that these mistakes are not repeated. In our Ministry, we have realised that we have challenges which affect the lives of Batswana. That is why we ensure that all registered documents are sent to the Director of Civil and National Registration, and there are returns to ascertain whether there were no omissions. The whole intention is to eliminate chances for those mistakes. Kgosi Machilidza has also asked what causes so many delays. We realised that this law had so many loop holes because it was not clear as to who is specifically responsible for registering this at Deeds Registry. Now this one clearly states the office which will be in charge of registering and monitoring to ensure that indeed they have been registered. The reason why some were not registered on time was because of this confusion, not knowing who is supposed to register marriages that have been endorsed by the District Commissioners and Pastors. The other challenge was that there are only two Deeds Registry offices; in Gaborone and Francistown. The work load was too much.

As a result some forms were misplaced. Concerning Kgosi Boiditswe's question, if a spouse is in a business syndicate, they still have to register that business because they are married in community of property. If the owner of the shares dies, the other one will know that they have shares somewhere as an inheritance. The law assumes that the spouses will be faithful enough to declare their assets. I thank you.

KGOSI MASUNGA (NORTH EAST REGION): Thank you Mr Chairman. My question is on Section 6, sub section 1. We are in a dual system whereby the customary provisions and civil law overlap. In the Customary Court Act, everything is fine, even the parents are represented. The problem starts with the signing of the instrument for property regime. You will find that it is only the partners who know about this document, the parents are not aware of it. That is why they end up taking some of the assets because they never understood the whole thing. When one spouse dies, like Kgosi Boiditswe was saying, you will find that the relatives have already sold some of the assets. Now my question is, will it be possible to have a provision that will allow all the parents

to witness the handing over of those forms signed by their children. This is something that has troubled me. With Pension Fund, there is a provision that allows officers to meet with the parents in the presence of Kgosi to show them what their child has written in their forms, and after that they go back to the office to prepare the package. This one is for only two people and should any of the spouses die, everything will be left with the surviving spouse but you will find that parents interfere in this and sell some of the assets. Lastly, have you consulted with advocacy groups to get advice on how the property regime chosen can be shared with the parents? These are very critical issues that parents need to be sensitised on. I thank you Mr Chairman.

KGOSI MOETI II (SPECIALLY ELECTED): Thank you Mr Chairman. Is it an obligation to declare property? I am saying this because there are other properties that belong to the family, not an individual, for example, the royal house. If I get married and I die, 'God forbid', and my wife may decide to sell the property that we acquired together. The challenge is, even the royal house may be sold to strangers? That is why I want to know whether some of the

property may not be declared for purposes of protecting the family legacy.

HONOURABLE BATSHU:

Thank you Mr Chairman. Let me start off by responding to Kgosi Moeti's question. When a law is made, it is done with vision. This law has two parts; the couples either choose to marry in or out of community of property. Whatever is accumulated during their marriage is theirs together. On the other side, couples may choose to marry out of community of property depending on their circumstances. Honourable Members have earlier on suggested that signing of the papers should be done after the wedding. The law states that this form should be signed before the wedding in the presence of parents so that during the wedding it is clear that the couple is married in or out of community of property. Kgosi Masunga's concern is understandable because in most cases, parents witness their children's weddings but they do not even understand the depth of what their children are doing because they would be busy celebrating. So, this is a critical point that needs to be assessed to see how it can be improved. Maybe after signing, they could make an announcement in front

of everyone to explain but I do not want to dispute that might not be enough I thank you.

**KGOSI MOETI II
(SPECIALLY ELECTED):**

Thank you Mr Chairman. I will be as brief as I can. I forgot to mention something that would have beefed up my argument. I wanted to ask if there is a room for those who wish to marry in community of property not to declare everything. I am saying this because some believe that if they are not married in community of property it appears like there is no trust there, like they are expecting to divorce at some point. I thank you.

**KGOSI LEMPADI
(OKAVANGO REGION):**

Thank you Mr Chairman. I just wanted to help the Honourable Minister on some of these questions. When spouses marry in community of property, that means whatever they have is theirs together. If the wife happens to have cattle back at home and they have not yet been handed to them officially, they cannot be declared as part of their assets. Even District Commissioners always say that if the assets have not yet been handed over to the couple officially, they are not theirs until that happens.

KGOSI MMUALEFHE (CHOBE REGION): Thank you Mr Chairman. I anticipate exploitation on people who marry out of community of property. If they divorce after 20 years of marriage, the one who was not well off gets out of the marriage empty handed. I strongly believe something must be done concerning this type of marriage. Form A should either include a Will or a clause that binds the other party to give the other one a certain percentage of what has been accumulated. That will show that this person has been contributing in their marriage. I do not have any problem with form B because it really shows that indeed the couple was married regardless of whether the other has been a hard worker or not and no one will come out empty handed. I thank you.

KGOSI BOIDITSWE (SEROWE REGION): I wish to make a correction. If I understood Kgosi Moeti well, I think he was talking about the royal residence. He was talking about a situation where a Kgosi is married in community of Property but does not what the royal residence to be part of that property because if Kgosi dies, the wife may decide to sell the

royal residence and return to her maiden home. I thank you Mr Chairman.

KGOSI MACHILIDZA (BOTETI REGION): Thank you Mr Chairman. The whole intention here is to amend this law. Kgosi Lempadi has mentioned that there are some instances where a wife may have cattle that have not been brought to her husband's house officially, so they will not be part of the shared property. We need to understand that married partners are equal and even if those cattle have not been officially handed over, they are still part of the property that should be shared.

The other issue was mentioned by Kgosi Mmualefhe. He was saying that what if it happens that the wife does not earn anything, will she go empty handed. I wanted to point out that all partners make a contribution in the marriage, she may help the husband accumulate the wealth supporting him emotionally and even bearing children for him, that should count. I thank you Mr Chairman.

HONOURABLE BATSHU: Thank you Mr Chairman. Kgosi Moeti is really troubled by the fact that there is no allowance that gives the spouses a chance not to

declare everything. The law is straight, it is either they marry in or out of community of property looking at what is beneficial for them. If Kgosi marries and thinks that if he dies the wife will relocate back to her home village, the foundation is not right. A royal wife will always be a royal wife no matter what happens. She will have the respect for the royal assets. There is no room to allow for reservations not to declare everything; it is either the couple gets married in or out of community of property. I thought we needed to pay close attention to this issue in order to address the current challenges that we have so that we avoid anything that might force us to amend again.

If along the journey of your marriage, a spouse feels that they are not safe in their marriage in terms of property accumulation, they can opt to change the regime. If there is proper consultations, then that is fine.

I would like to put more emphasis on what Kgosi Mmualefhe has just said about the issue of 'Will', this is something that should be encouraged. That is why in this Bill on page 5 on 5.2, which reads, through your permission Mr Chairman, "subject to provisions of this section and

of the dissolution of marriages of persons subject to Customary Law, that is disposal of Property Act, the property of spouses who are subject to Customary Law shall be held, disposed-off and devolve according to Customary Law unless disposed of by Will." That is why I was impressed by what Kgosi Masunga said that he encourages his people to write down their 'Wills' because it overrides everything. It can even protect royal assets which we have been talking about. We had thought that the form is just fine; it is only that it is general and if at all there are some amendments that need to be made in some clauses, it can be done from time to time. That is why there is a provision that allows the Minister to make regulations or policy. I think Kgosi Boiditswe was reiterating what Kgosi Moeti was saying. Kgosi Machilidza has highlighted that there is no how a spouse can be in a marriage without any contribution and I want to point out that when spouses marry in community of property, they equally share what is accumulated. I thank you.

MR CHAIRMAN: Thank you, shall we move to Clause 7, correction of errors on instrument.

Clause 8 – change of property regime

KGOSI LOTLAMORENG II (BAROLONG): Thank you Mr Chairman. Under Clause 8 (4), the time within which the Registrar of Marriages should submit the instruments should be specified. It should not just say within reasonable time. Thank you.

MR CHAIRMAN: Thank you Kgosi Lotlamoreng.

KGOSI KGARI II (BAKWENA): Thank you Mr Chairman. Sub-section 3 – states that ‘A property regime change under this section shall not be made more than twice...’ Does that mean if I am married in community of property and along the way decide to change the regime, will that be counted as the first change and I would still stand another chance to change?

MR CHAIRMAN: Thank you Kgosi Kgari. Honourable Minister, is it possible to change several times?

HONOURABLE BATSHU: Thank you Mr Chairman. I will start off by responding to Kgosi Kgari’s question; this change refers to a particular marriage. A couple may start in community

of property then along the way change the regime. If it happens that a spouse dies and the other one remarries, that also gives them the chance to change the regime again because that will be a new marriage. Even though Kgosi Lotlamoreng did not specify period on the issue of ‘reasonable time’, it does not favour us too even though it is the terminology that is commonly used. The use of it is more prevalent in our laws and this depends on the time the notification was made to decide if it was reasonable or not looking at the reasons that were given. I thank you.

KGOSI SEEMEKO (SPECIALLY ELECTED): Thank you Mr Chairman. I am not sure if I am the only one who did not understand the response given concerning the issue that was raised by Kgosi. The Honourable Minister has talked about the second marriage but if I remember correctly, Kgosi was talking about the first marriage. Is it possible that one can change several times in the first marriage?

MR CHAIRMAN: I thought the Honourable Minister has explained that and he even gave an example that if a spouse dies, and the surviving one remarries,

they have that chance to change again because that will be a new marriage.

Clause 9 – Registration of instrument or notarial deed.

Clause 10 – Validation of certain instruments; I do not know if this silence implies Honourable Members are still thinking.

Clause 11 – Power of Minister to amend Schedule;

Clause 12 – Regulations, meaning that the Minister may make regulations.

Clause 13 – Repeal of Cap.29:03?

KGOSI MACHILIDZA (BOTETI REGION): Thank you Mr Chairman. It is not like we are taking long to respond, the challenge is the language that is used in this Bill; it is a bit difficult for us.

MR CHAIRMAN: We are at Clause 13, Repeal of Cap.29:03.

Clause 14 – Savings provision, right. First Schedule, Form A and Form B? I do not see any hand and that will bring us to the end of the Second Schedule; Form A, Form B?

KGOSI MASUNGA: I wanted to quickly ask the Minister about ‘inclusion’ but it is fine.

KGOSI GAREBAKWENA: What does the statement ‘We, the undersigned, A. B. of...’, and ‘sign A. B. and C. D’ mean?

MR CHAIRMAN: Thank you. Honourable Minister, A. B. and C. D, Kgosi wants to know whom it refers to under this schedule?

HONOURABLE BATSHU: I am not sure if I understood the question very well but A and B refers to the couple themselves, their place of residence and their witnesses.

KGOSI GAREBAKWENA: A. B. does it refer to the couples?

MR CHAIRMAN: Honourable Minister do you mean you do not understand Kgosi Garebakwena? What is the difference between A. B. and C. D – Does it mean, we the undersigned A. B. and C. D?

HONOURABLE BATSHU: I would like to enquire more about it but A. B. refers to the married couples C. D. of their address.

MR CHAIRMAN: Thank you. I will request that we stop here because we are already beyond time. We have stopped with the Honourable Minister requesting to go and seek more clarity on A. B. and C. D. I want to believe that C. D. does not refer

to address because it states that A. B. (and) C. D. of. We need more clarification what they are referring to. We shall continue tomorrow with where we left off today. After that we shall be moving on to the third and last schedule, which is resolution. All the suggestions that we have been making, they might end up as our resolution. Let us go and draft them so that we can submit tomorrow. May I also remind Honourable Members that tomorrow we will meet at half past two (14.30pm) and the Deputy Chairman shall make an announcement as soon as I leave here concerning tomorrow's arrangement. This House is now adjourned.

ADJOURNMENT

The House adjourned at 3.58 p.m. until Wednesday 29th January, 2014 at 2.30 p.m.

Wednesday 29th January, 2014

THE HOUSE met at 2.23 p.m.

**(THE CHAIRPERSON in the
Chair)**

PRAYERS

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**MR CHAIRMAN (KGOSI
GABORONE):** Good afternoon Honourable Members. I am

pleased to see you and I believe that you are all well rested to continue with today's program.

**MARRIED PERSONS
PROPERTY BILL, 2013 (NO.
22 OF 2013)**

Second Reading

(Resumed Debate)

MR CHAIRMAN: Thank you. When we dispersed yesterday we were about to conclude the Second Reading of the Married Person's Property Bill. The outstanding issue however was that we had asked the Minister to explain the legal use of the alphabets in the Bill.

**MINISTER OF LABOUR
AND HOME AFFAIRS (HON
BATSHU):**

Thank you Mr Chairman. When we adjourned yesterday there were questions that had been asked regarding the forms. I did explain when I presented this Bill that the reason for bringing it here is to get advice and amend where possible. When the question regarding the forms was posed, we also realised that we should simplify them for better understanding. We have decided that the alphabets included in those forms will instead be replaced by numbers just to avoid any potential

confusion. I should mention that I am grateful to the Members for that observation. Thank you.

MR CHAIRMAN: Thank you Honourable Minister. The Minister has given his response regarding the use of alphabets; he acknowledged that they also found it necessary to simplify them. Does anyone wish to comment regarding this issue?

KGOSI MACHILIDZA (BOTETI REGION): Thank you Mr Chairman. The minister mentioned that they are going to simplify the form. I therefore wanted to know if we are going to get a chance to see it before the Bill is passed on to Parliament.

HONOURABLE BATSHU: The Bill has been brought to this House and from here it will be considered by Parliament. It will be better if the Members could mention in their resolution how they want the forms to be simplified. We have however noted how we can simplify the forms. I can give the Secretary a copy to pass on to the Chairman.

MR CHAIRMAN: Thank you Honourable Minister for that explanation regarding the forms. I would like to remind the Members that when a Bill has been brought to this House

it means that we should provide feedback where necessary. That is the resolution stage where we state how we prefer certain things to be.

KGOSI BOIDITSWE (SEROWE REGION): Thank you Mr Chairman. I do not mean to take you back however at the bottom of that form there is a part which states that “One witness must be an administrative officer, a justice of the peace or a commissioner of oaths. “Who is this individual referred to as justice of peace?”

HONOURABLE BATSHU: Perhaps the Parliamentary Counsel could assist with a clarification. The Interpretations Act explains the position of Justice of Peace and that of Commissioner of Oaths.

**P A R L I A M E N T A R Y
COUNSEL (MR
RAMOKHUA):** Thank you. The positions of the Justice of Peace and that of the Commissioner of Oaths are prescribed by law. It is not just anybody who can hold that position. That is the one explanation I can give Mr Chairman.

MR CHAIRMAN: Thank you Parliamentary Counsel (PC). I can see that Kgosi Boiditswe

does not understand, I think he wanted you to give specific examples of people holding those positions. That however should not stop us from continuing since the Interpretation Act can always be consulted. We have now come to the end of the Second Reading of this Bill. I believe that the clarifications that the Minister made as we went through the Bill have shed light on some of the points that we did not understand. We shall now get to the resolution stage.

**MARRIED PERSONS
PROPERTY BILL, 2013 (NO.
22 OF 2013)
RESOLUTION**

MR CHAIRMAN: Thank you. I believe that the Honourable Members are aware of what we normally do when we get to this stage of the Bill. We are at a stage where we have to inform the Minister about what we have resolved to be the opinion of this House as he shall be taking the Bill to the National Assembly for consideration. All those who have drafts they wish to propose are encouraged to note them on a piece of paper which shall then be handed to the Chairman. All the proposals will be discussed and those that represent the opinion of the majority of the Members

shall then be taken as part of the resolution. I suggest that the House should adjourn and the Members should remain to look at the drafts in groups such that in the morning when the House meets we will be looking at them one by one. I would like to know whether Members agree with this proposal.

**KGOSI MONNATHEBE
(THAMAGA REGION):** Thank you Mr Chairman. We agree with the proposal.

MR CHAIRMAN: Thank you very much. I believe we share the same opinion, this plan has proven to work very well for us. We have come to the end of today's session; we will meet tomorrow at 9.30 a.m. I understand the Honourable Minister has a trip to undertake, I therefore release him. I applaud him for bringing this Bill to us, we are grateful for the usual consultation and clarifications that you offered throughout the whole discussion of the Bill. I believe that tomorrow we shall be with the Permanent Secretary who will note all that the Members have proposed. Thank you.

ADJOURNMENT

The House adjourned at 14:38 p.m. until Thursday 30th January, 2014 at 9:30 a.m.

Thursday 30th January, 2014

THE HOUSE met at 9.30 a.m.

(THE CHAIRPERSON in the
Chair)

P R A Y E R S

* * * *

**CHAIRMAN'S OPENING
REMARKS**

**MR CHAIRMAN (KGOSI
PUSO GABORONE):** Good
morning Honourable Members,
I hope you are well today.
When we adjourned yesterday,
we were about to conclude our
programme, I suggest we get on
with it right away.

**MARRIED PERSONS
PROPERTY BILL, 2013 (NO.
22 OF 2013)**

RESOLUTION

MR CHAIRMAN: Thank you,
we are on the resolution stage
of the Bill. I believe we gave
ourselves time to discuss the
drafts yesterday. We shall go
through these drafts one by one
and accept those we want to be
part of our resolution. The first
one states thus, 'that the period
of 12 months at clause 10:2 to
be substituted by a period of 18
months'.

HONOURABLE MEMBERS:

...inaudible...

MR CHAIRMAN: If that is
the case, those who want the
amendment to be part of the
resolution please indicate by
saying 'aye' and those who do
not want it should say 'no.'

Question put and **agreed to.**

MR CHAIRMAN: This
amendment is therefore part of
the Ntlo Ya Dikgosi resolution.
The second draft reads as
follows, 'that consideration be
made for stipulating the period of
time after the demise of a spouse
to a marriage either one or both,
when the distribution and the
dissolution to a marital property
must be made to the beneficiaries
in a period not less than 12
months'. This draft is simply
calling for sharing of the property
amongst dependents after death
so as to avoid situations where
the goods to be distributed end
up disappearing into thin air.

**KGOSI BOIDITSWE
(SEROWE REGION):**

Even though we agreed to the
submission of this draft, you
will find that regardless of
how long it takes to share the
property, it may still disappear.
I am worried because the assets
are usually left in the custody
of people who end up misusing

them. We had agreed that they should be distributed before the 12 months elapse but I feel that if someone has intentions of taking those goods they can do so even before three months elapse. That is my reservation regarding the amendment. Thank you Mr Chairman.

MR CHAIRMAN: I would like to remind the Honourable Members that according to rule 39.8, even if we are already going through each draft, it is still permissible for one to introduce additional drafts. Therefore if you have anything you want to submit, you can do so.

KGOSI MACHILIDZA (BOTETI REGION): Thank you Mr Chairman. I do not think I understand what Kgosi Boiditswe just said. My confusion is with regards to the people he mentioned as those who will distribute the property. I did not hear anything mentioned regarding the relatives of these beneficiaries yet they are the ones who normally take care of the estate. Are we implying that they will no longer be involved? Are they the ones who are responsible for the disappearing of the property after the funeral? It appears like relatives are being cast aside in this new marriage amendment Bill, who will assist

the children in the event of the death of their parents? My recommendation would be for us to consider mentioning the role of relatives in this clause. Thank you.

KGOSI KAHIKO III (GHANZI WEST REGION):

Good morning Mr Chairman. I have been listening to what the Honourable Members have been saying and my understanding is that when a spouse passes away, the property remains with the living partner. The only time there will be a challenge would be in the event both partners die. I therefore suggest that we should not confuse the two scenarios. Where a couple is married in community of property, when a husband passes away, the wife inherits the property and she may share that property with the children. Even when it is a marriage out of community of property, when a husband dies, the wife will get the property and manage it for the children. I just wanted to highlight that so as to avoid situations where we confuse things.

KGOSI TELEKELO (MOSHUPA REGION):

Thank you. I wanted to highlight that I think the draft is fine as it is because it is our custom that when both parents have passed

away, the estate is distributed amongst the children. Normally, that is done after a year. As family members reside in different places, it is common that the estate can be shared a few days after the funeral. I therefore feel that the time frame set in the draft is well within the standards that have always been practised.

KGOSI RAMOKWENA (MAUN REGION): Thank you Mr Chairman. I think we are delving too deep into this matter. It seems we want to prescribe how families should conduct the sharing of the estate. The way the draft has been crafted is fine because all that is important is for a time frame to be set for distribution of assets in the event of death. Just as Kgosi Telekelo has stated, we have a customary procedure for dealing with the estate. The elders in the family know who to trust, they cannot deliberately entrust the estate to someone who has no sense responsibility.

KGOSI MONNAATHEBE (THAMAGA REGION): Thank you Mr Chairman. The reason why we decided on 12 months was because of tradition. The mourning period that Batswana have always observed is a year. If a situation arises where both partners die then the

assets are put under the care of someone. Should there be any mismanagement of those assets, then the necessary steps would be taken against the responsible person. It can happen that if along the way the family feels that waiting for 12 months would be too long, then when the six months have elapsed, they can decide to distribute the assets amongst the beneficiaries. I therefore feel that the 12 months that we have set is appropriate.

KGOSI MALOPE II (BANGWAKETSE): Thank you Mr Chairman. Could you please read the draft again? I want to be clear whether we stated that it should be in less than or more than 12 months.

MR CHAIRMAN: It reads thus, ‘that consideration be made for stipulating the period of time after the demise of a spouse to a marriage, either one or both when the distribution and dissolution of the marital property must be made to beneficiaries in a period not more than 12 months.’ Honourable Minister, I have noted your advice however, Dikgosi normally like to think about how some of these things can turn out in future. I hope you will take that into account as well and I certainly believe it explains why the phrase “consideration”

was used in this amendment. Honourable Members, the reason why I am saying this is because the Minister reminded us that the issue of distribution of property is not governed by this proposed Act. Let us continue with the Bill, should this draft form part of the resolution or not?

KGOSI MOSADI (BALETE):

Thank you Mr Chairman. I am concerned because I am wondering if at all we have forgotten that there is an Act concerned with the issue of inheritance that clearly stipulates how things should be done. I feel that we are derailing because we are supposed to be discussing the Married Persons Property Act. It is clear that when one spouse passes away the remaining partner automatically inherits those assets. Even in cases where they are not in community of property, the remaining partner is entitled to a share in those assets. My suggestion is that we should leave those for now and they shall be dealt with when the appropriate law is amended. Thank you.

KGOSI BOIDITSWE (SEROWE REGION):

Thank you Mr Chairman. I agree with Kgosi Mosadi. The challenge is that it is common to find that the relatives from the man's side are

the ones who start such issues. These are the issues that we deal with at our Dikgotla. As soon as their son passes away they begin all kinds of accusations aimed at the woman. They will even go to an extent of denying her the inheritance. I therefore wanted to highlight those problems so that even though we agree that it should pass we should bear in mind that such problems will arise.

MR CHAIRMAN: Please let us consider this draft carefully; it looks like we are talking about dealing with the estate in a situation whereby one of the spouses is still alive. The issue here is that there are other laws that deal with property or estate. In light of those highlighted points, do we still want to include this draft as part of the resolution of this House?

Question put and **negated**.

MR CHAIRMAN: Draft No. 3, express provision be made for the protection of children affected by the proprietary consequences attending to the estates of married persons.

KGOSI GAREBAKWENA (MOLEPOLOLE REGION):

Thank you Mr Chairman. I feel that this one is slightly similar

to the one we have just been discussing. We are still referring to the issues of inheritance which can be better taken care of by the relevant Acts.

KGOSI TOTO II (KGALAGADI SOUTH REGION): Thank you Mr Chairman. I do not understand this draft very well and perhaps those who came up with it should explain to us what they meant by it. At times people get married before having children, so I do not understand whether we are saying provisions should be made prior to the children being born so that they will be automatically covered. I do not think we should include this draft though because we were advised that when we include children in this Bill, it now appears like we are causing confusion. Thank you.

MR CHAIRMAN: Honourable Members, what are we saying regarding this draft? Others are saying that it is the same as the one we have just gone through whilst Kgosi Toto is saying that we are jumping the gun. I will state my opinion after Kgosi Monnaathebe's comment.

KGOSI MONNAATHEBE: When we make laws, we should cater for different scenarios. If

it happens that a married couple winds up without children there is always someone in the family who will be earmarked to get the inheritance in the event of death. I agree with Kgosi Garebakwena that this draft is similar the one that we have just negated.

KGOSI MOSADI: Thank you Mr Chairman. I agree with those who say that when we talk about the issues of children and inheritance it would be similar to the draft that we just dealt with. Let us remember that at times a parent may pass away before he or she marries. In that case, the Act regarding inheritance will cover that aspect. That is why I have been saying that culturally we have always known that the children are the ones entitled to their parents' assets. The Act clearly stipulates who the rightful owner is therefore even those who might have evil intentions regarding those children's inheritance will not manage because the law is there. We at times receive complaints at our Dikgotla when children who have acquired some inheritance end up misusing it. It therefore worries me that if we are to say that after the death of one parent the children should be given their inheritance we would be calling for situations where children would begin to abuse the living

parent demanding inheritance. I therefore suggest that we should rather focus on the Married Persons Property Bill.

MR CHAIRMAN (KGOSI GABORONE): Thank you very much. I had said that I will say a few words after Kgosi Monnaathebe's comment, let me do so now. When we began debating this Bill, we derailed and focused on discussing marriage in general. As we went on, we started talking about the married person's property, which is the original topic. The debate was on point until yesterday, today I can see that we are derailing from the topic again. We should note what we say as we debate because subsequently we have to submit something that is in line with our debates. There has to be that correlation. Let us vote on this draft.

HONOURABLE MEMBER:
(Demonstrates).

MR CHAIRMAN: Kgosi Moeti I really hope you are going to be as brief as you demonstrate so that we can finish what is before us.

KGOSI MOETI II (SPECIALLY ELECTED): I will be brief Mr Chairman. Let me just highlight that it is common to try and protect children and

also to put measures in place that will favour them during the distribution of inheritance.

The Bill that we are discussing today first became a law in 1971 if I am not mistaken. Recently the Minister saw it fit to amend it looking at the changing circumstances, we receive so many complaints regarding these issues in our Dikgotla. Whilst we are at it, we should remember that there are different types of marriages in this country. There is civil marriage, customary marriage and there are also cases where a man can have more than one ex-wife. This Bill also forces us to consider all those who have the right to that inheritance besides the children. One example that I can cite is that my father married another woman and he made a Will whilst still alive that I should be given his house. If that had not happened, it was possible that it could go to the second wife. I am therefore speaking from experience that we should protect those who are vulnerable. We are aware that there is an Act which focuses mainly on inheritance since there are situations where a woman can get married whilst in possession of the children's inheritance from the first marriage. Kgosi Monnaathebe mentioned that

we should prepare for some of these things in advance and not take it for granted that things will always work out right. Thank you.

KGOSI SEEMEKO (SPECIALLY ELECTED): Thank you Mr Chairman. This issue is going to take us the whole day if we dwell on it, therefore my suggestion is that we should vote.

MR CHAIRMAN: Please let us bear in mind that there are different laws designed to address different situations. What we are talking about at the moment is not in line with this Bill. I suggest that we move please.

Question put and **negated**.

It therefore means that this is not going to be part of the resolution of this House, it is not accepted. The next draft is about Clause 4 (2) and it reads thus, 'In pursuance of subsection (1), spouses shall each sign an instrument in Form A set out on the First Schedule, in the presence of their two witnesses to be attested before the administration officers, the Justice of Peace or Commissioner of Oath, who shall sign in that instrument in his/her capacity.'

HONOURABLE MEMBER: Murmurs.

MR CHAIRMAN: In the Bill, Clause 4(2) states that 'In pursuance of subsection (1), spouses shall each sign an instrument in form A set out in the first schedule in the presence of two persons of two persons, one of whom shall be – administrative officer, justice of the peace and commissioner of Oath who shall sign in that instrument as witnesses.' The proposal is that we should also include in the presence of two witnesses in addition to those two other people.

KGOSI TSHIPE (MAHALAPYE REGION): Thank you Mr Chairman. I agree with it. The Bill states that there will be one witness and the additional witness can be the District Commissioner. In the draft, the proposal is that there should be two witnesses as is the norm; one for the man and one for the woman. They should take that oath in front of the District Commissioner.

MR CHAIRMAN: I suspect that this was motivated by the fact that at our Dikgotla we insist that there should be two witnesses.

KGOSI MOSADI: Thank you Mr Chairman. I would like to clarify that when registering for a marriage, there are two witnesses required from each partner. This means that deciding on whether the couple marries in community of property or not is done before the actual solemnising of the marriage itself. Those are the two witnesses who shall append their signatures in front of the District Commissioner.

**KGOSI LEMPADI
(OKAVANGO REGION):**

Thank you Mr Chairman. I think that as we do these laws we should think about the future. We should bear in mind that it can happen that people fail to get married just because one does not have a witness. Why do we continue to request two witnesses when we know very well that people have lost most of their relatives? My suggestion is that it should be such that even if there is only one witness, they should be allowed to get married.

MR CHAIRMAN: Kgosi Lempadi is enquiring where people are going to get two witnesses from.

**KGOSI MACHILIDZA
(BOTETI REGION):** Thank you Mr Chairman. I do not want to dismiss what Kgosi Lempadi

has just said however, I think we should remember that when we talk about marriage, we are talking about a consultative process. We are talking about partners bringing their relatives as witnesses. Even if most relatives have passed on, there are other people who can assist.

**KGOSI BOIDITSWE
(SEROWE REGION):**

Thank you. My contention is that although we keep saying community of property, that property however is never listed. It should be clear as to who brings what into the marriage.

**KGOSI MASUNGA (NORTH
EAST REGION):**

Thank you Mr Chairman. Yesterday when I stood to debate, I pointed out that I had the opportunity to read the South African Marriage and Matrimonial Property Law. I also looked at the Matrimonial Property Act 88 of 1984, they are very elaborate contracts. I am saying this in line with what Kgosi Boiditswe has just suggested. The way those documents are written it is such that they protect the rights and the privileges of each spouse. Just like Kgosi Boiditswe, I also wonder whether there is any law which clearly elaborates the rights of each spouse. In the South African Matrimonial Property

Act, in the out of community of property marriage, there is what is termed joint household processes. They simply explain that although the couple is married out of community of property, at the same time there are things that they will eventually do together. What can or cannot be done jointly will then be stated clearly. I think that is why the Honourable Members initially asked whether the Minister should not have started with amending the Marriage Act. I have fears that we will be confronted by a lot of complications since we have a dual marriage system here where the types of marriages tend to overlap.

I think when we do these laws we should also bear in mind that those who formulate laws in our country are mostly men because our Parliament and Councils are male dominated. This may compromise the outcome of a law. It may also compromise the rights and the privileges of women. We are aware that the Customary Law has got a lot of gaps in that regard. In future, I suggest that when we have Bills like this one, related Acts should also be part of the package so that we can compare.

KGOSI KGARI II (BAKWENA): Thank you Mr Chairman. You read the draft resolution on Clause 4 and therefore I request Dikgosi not to rehash the debates at this juncture. If we feel that a draft should be written in a certain way then by all means let us suggest that. It now appears as if we have gone back to the debates and that is delaying the whole process.

MR CHAIRMAN: In doing so we should also remember what we were saying during the debates and some of the clarifications we were given at that stage. We should not be requesting clarifications at the resolution stage and I shall only allow Kgosi Tshiphe to have a word and then close the debate.

KGOSI TSHIPE (MAHALAPYE REGION): Thank you Mr Chairman. Just like Kgosi Kgari mentioned it seems like we are derailing. Section 4 (2) is about witnesses and yet we are now discussing property under it. Therefore even though we might have wanted to correct the draft in some way, this is not what is needed as a correction. Let us pay attention to what the section is about before we stand to debate.

MR CHAIRMAN: Fine, Section 4 (2) says, ‘in pursuance of Sub-section 1, spouses shall each sign an instrument in form A.’ It is amended that it should include two witnesses. Those who agree that it should form part of the resolution say ‘aye’ and those who do not agree say ‘no.’

Question put and **agreed to.**

MR CHAIRMAN: Section 4 (3) also states that ‘Notwithstanding subsection (1), spouses who wish their property regime to be in community of property, shall each sign an instrument in form B set out in the first schedule, in the presence of two persons one of whom shall be an administrative officer, a justice of peace, or a commissioner of oaths.’ The draft proposes the inclusion of two witnesses. Should it stand as part of the resolution?

Question put and **agreed to.**

MR CHAIRMAN: We now move on to the next Clause that talks about forms. We will follow them by their order and if there is anything that I have omitted you will let me know. It reads thus, ‘that the forms under Schedule 1 and 2 be simplified so that they are more user friendly to the administrators of the forms. It

also mentions that the first and the second schedule forms (a) and (b) need to be simplified by indicating the spaces for full names and identification numbers of spouses and witnesses, signatures and the dates for signing.’ Basically the proposal is that the forms should be simplified without omitting necessary information. Honourable Members were of the opinion that the alphabets that were used in the forms could confuse people hence the proposal that the forms should be amended.

KGOSI BOIDITSWE (SEROWE REGION): It should pass although I did not get clarity on who the justice of peace is. The Parliamentary Counsel had promised to look it up however, it looks like it will pass before I get my answer. I had thought it will be a Kgosi but it appears I was wrong.

MR CHAIRMAN: I believe that what the Parliamentary Counsel was basically saying is that there is an Act where these roles are outlined. I will inform you once we adjourn what we discussed about the role of the Justice of Peace.

KGOSI MACHILIDZA (BOTETI REGION): Thank you Mr Chairman. I agree with what Kgosi Boiditswe has been saying. We should not just accept some of the things as they are because from here we have to go and explain to people. We are all aware of who the District Commissioner is, however we do not know whom we are referring to when we talk about the justice of peace. These things should be clearly packaged such that we all know what is meant by some of these terms.

MR CHAIRMAN: I just wanted to clarify that there are laws that stipulate who those people are and their roles as well. The same applies to the role of justice

of peace; some lawyers can play that role as well as the Police. It is different with each law and therefore it will depend on the kind of law being dealt with at the time. It was rather unfortunate that the Parliamentary Counsel could not find the Act yesterday to read it for the House however the law explains who the Justice of Peace is. Basically they do more or less what the Commissioner of Oath does. Let us get back to the resolution and those who agree that this draft should be part of the resolution of the House say 'aye' and those against it say 'no.'

Question put and agreed to.

MR CHAIRMAN: This draft will form part of the resolution of Ntlo ya Dikgosi.

The following draft reads thus 'that Clause 8 (1) (a) be amended by its deletion as this would present an undue impediment to the process of the application of the property regime'. This is the one which was asked by Kgosi Malope about sound reasons.

KGOSI MACHILIDZA: I am not comfortable with the Clause being removed Mr Chairman, because we would be preventing those who may want to lodge a complaint to do so. Thank you.

MR CHAIRMAN: Kgosi Machilidza says that the Clause should not be removed.

KGOSI GAREBAKWENA: Mr Chairman the Clause states that there should be sound reasons for the proposed change. I therefore do not believe that one can opt out of the initial agreement without any valid reasons. I feel that it is fine.

MR CHAIRMAN: What is fine?

KGOSI GAREBAKWENA: Mr Chairman it is fine that 'sound reasons should be given' for the proposed change.

KGOSI POTSOENG: I believe that it should be deleted because the reasons that we require might just serve to delay the process and have possible economic implications on the partners, despite the fact that they would have agreed to make that change. I agree with the part which states that the change under this section shall not be made more than twice during the existence of a marriage.

MR CHAIRMAN: Please let us suspend the proceedings for now and go for tea. We shall continue after tea break.

PROCEEDINGS SUSPENDED FOR TEA

MR CHAIRMAN (KGOSI PUSO GABORONE): Welcome back. We were still on Clause 8 (1a). It reads thus, ‘that Clause 8(1a) be amended by its deletion as this would present an undue impediment to the process of the application of the property regime.’

KGOSI TSHIPE (MAHALAPYE REGION): Thank you Mr Chairman. I agree with those who were suggesting that we should leave the clause as it is. When you read it carefully you will notice that there is a correlation between Clause 8(1a

up to f). If we remove some of the elements in it then we are going to be ruining the whole arrangement.

KGOSI KAHIKO III: Thank you Mr Chairman. I support those who said it should be left as it is. There is a provision in the law that there should be consent between partners or those who are affected before a certain action is taken. For example, when drafting a Will, it should be a good one. In a situation where a married couple is divorcing or separating, one has a right to apply for change of ownership of property but if the other partner does not agree then the matter can go to the High Court. I therefore feel that the clause is fine since it gives both parties a chance to see whether the decision to change is what they both wanted.

MR CHAIRMAN: My understanding is that the Honourable Members are saying the clause should be left as it is. If that is what we are saying then we should look at the proposed draft and decide on it. It reads thus, ‘that clause 8(1a) be deleted as it presents an undue impediment to the process of the application of the property regime.’ Those who feel that it should form part of the resolution of the House say ‘aye’ and those who do not agree say ‘no.’

Question put and **negated**.

This is not going to be part of the resolution of Ntlo ya Dikgosi.

I believe that we have gone through all the proposed drafts. We now have to fulfil the requirement of Rule 39(7) that says, “We shall go through the draft resolution paragraph by paragraph and when each paragraph is reached the Chairperson shall move ‘that the paragraph...stand part of the resolution.’ When all paragraphs of the draft resolution have been disposed of in this way any Member may move without notice to add any new paragraph to the draft.” If there is anything that we could have left out we can say it now.

KGOSI MOSADI (BALETE):

Thank you Mr Chairman. Let me start off by apologising for not cautioning you beforehand that we did not include Clause 5 in the drafts. We had said that it can be just the same as Clause 4(2, 3), that there should be additional two witnesses.

MR CHAIRMAN: Thank you Kgosi Mosadi Seboko. I had thought that I covered it because this other draft also covers the issue of witnesses. In any case, the addition is that clause 5(3)

should have an amendment that adds the two witnesses as it is the case on clause 4 (2) and (3). Those who agree that it should be included say ‘aye’ and those who do not agree say ‘no.’

Question and **agreed to**.

Kgosi Mosadi Seboko’s draft was seeking to add a new paragraph on clause 5, similar to the one we added on clauses 4 (2) and (3). If there is no other correction we shall now go to the next stage and our rules read thus, ‘when consideration of a draft resolution paragraph by paragraph is concluded and when all motions relating to new paragraphs have been disposed of, the Chairperson shall put the question that the resolution be the resolution of the Ntlo ya Dikgosi.’ I shall now read each resolution and we shall adopt them collectively at the end. Basically what Ntlo Ya Dikgosi advises in terms of the Married Persons Property Bill, 2013 (No. 22 of 2013) is that, “the period of 12 months at clause 10(2) be substituted by a period of 18 months.” This clause was adopted as it is. It also adopted the resolution that clause 4(2) must read, “in pursuance of Sub-Section 1, spouses shall each sign an instrument in form A set out on the first schedule in the

presence of the two witnesses to be attested before the administrative officers, Justice of Peace or Commissioner of Oath who shall sign in that instrument in his or her capacity.”

The House agreed that the forms in schedule 1 and 2 should be simplified so that they become more user friendly to the administrators of the forms. The Members also added that the forms should have spaces for full names and identification numbers of spouses and witnesses signatures and the dates for signing. The resolution was adopted as is.

The House also suggested that just like in clause 4 (2) we should also make an addition of two witnesses in clause 4 (3). The House also suggested that clause 5 (3) should also have an addition of two witnesses just like in clauses 4 (2) and (3).

These are the clauses that the Members have suggested should be looked into. What I have to do next is to ask whether we agree with these draft resolutions and if they should be the resolution of Ntlo ya Dikgosi. With those words I ask that we...

KGOSI TSHIPE: I do not mean to disturb you Mr Chairman. I did not hear you reading out the

resolution regarding the term the divorced couple should stay before...

MR CHAIRMAN: I was reading the draft resolutions that we had agreed to as the House. I did not read the ones that were rejected on the basis of the clarification given and other existing laws. Let us now conclude Honourable Members and state if at all we agree that the drafts stated should be the resolution of Ntlo ya Dikgosi on the Married Persons Property Bill, 2013 (No.22 of 2013).

Question put and **agreed to**

Rule 39 (10) stipulates that, “the Secretary shall forward a copy of every such resolution certified under his or her hand and the hand of the Chairperson as a true copy thereof to the Clerk of the National Assembly.” This therefore means that our job regarding this Bill is done and all that has to follow will be done according to the Rules of procedure. We thank you all for being with us and even though the Minister is not here we are grateful that he spent two days with us whilst we were discussing this Bill. We hope that eventually a law will come out that will serve Batswana and close the existing gaps in the current law of 1971.

You should also make it a habit as a Ministry, to show appreciation for the contribution made by Dikgosi. We have assisted as it is and now we can see that the forms are no longer going to be as complicated as they initially were. As the debates continued I trust that you heard from Dikgosi that there are so many issues regarding marriages. I therefore believe that from here you are going back to the existing marital laws and see how you can improve them. Even though some were not related to the Married Persons Property Bill, I believe that you have managed to grasp something regarding the other challenges that are there. According to the Order paper, we have come to the end of business today and we shall meet tomorrow at 9.30 a.m. to consider the questions and motions. Honourable Members, I want to make a few announcements once the visitors have left.

ADJOURNMENT

The House adjourned at 11:12 a.m. until Friday 31st January 2014 at 9:30 a.m.

Friday 31st January, 2014

THE HOUSE met at 9:30 a.m.
(THE CHAIRPERSON in the Chair)

P R A Y E R S

* * * *

CHAIRMAN'S OPENING REMARKS

CHAIRMAN (KGOSI PUSO GABORONE): Good morning Honourable Members and Ministers present on our last day of the business. Of the Ministers here, I have already seen and interacted with two. Compliments of the New Year Honourable Minister and I welcome you to this Honourable House. Without any further ado, we shall start today's business as it appears in the Order Paper.

QUESTIONS FOR ORAL ANSWERS

TARRING OF MOLEPOLOLE, LESILAKGOKONG, KUBUNG AND THAMAGA ROAD

KGOSI O. A.
M O N N A A T H E B E
(THAMAGA REGION):
asked the Minister of Transport and Communications when Molepolole, Lesilakgokong, Kubung and Thamaga road will be tarred.

ACTING MINISTER OF TRANSPORT AND COMMUNICATIONS (HON TSHIRELETSO): Thank you Mr Chairman. I would like to take this opportunity to congratulate you for being reinstated to the chairmanship together with your deputy because I did not get the chance to properly do so. I am here on behalf of Honourable Minister Molefhi. My Ministry has no plans to upgrade the above mentioned roads in neither the current nor the next financial year (2014/2015). These two roads were also not included in the current National Development Plan. However, Mr Chairman my Ministry has plans to grade these roads in order to improve their riding quality in the next financial year. I thank you Mr Chairman.

KGOSI MONNAATHEBE: Does the Honourable Minister understand that this road is in a very bad state?

H O N O U R A B L E TSHIRELETSO: We do understand this situation, which is why we have bought 21 new graders to help grade the road to be user friendly. I thank you.

KGOSI MONNATHEBE: Thank you Mr Chairman and Honourable Minister.

NUMBER OF TRAIN DRIVERS, THEIR POSITIONS AND GENDER

KGOSI K. BOIDITSWE (SEROWE REGION): asked the Minister of Transport and Communications to state the number of train drivers and their positions in terms of gender.

ACTING MINISTER OF TRANSPORT AND COMMUNICATIONS (HON TSHIRELETSO): Thank you Mr Chairman. Botswana Railways has a total of 57 train drivers who are on the same grade. Train drivers are all male. Thank you Mr Chairman.

KGOSI BOIDITSWE: The answer is not complete because I wanted to know whether there are any female drivers. I also wanted to know whether it is possible to accord women the opportunity to be trained as drivers. I thank you.

MR CHAIRMAN: I had thought that the last part of the Minister's response stated that they are all male. Kgosi Boiditswe, can you proceed with your supplementary question?

KGOSI BOIDITSWE: If women qualify to be train drivers, will they be accorded the chance to do so or even be mechanics?

H O N O U R A B L E TSHIRELETSO: Thank you Mr Chairman. The main question was enquiring about the number of train drivers, their positions and their gender, nevertheless I shall respond. Women are also welcome in this field. When these posts were advertised, only men showed interest but if it happens that there is another advertisement and women apply, they shall be allowed. I thank you Mr Chairman.

KGOSIMACHILIDZA: Thank you Mr Chairman. The question also enquired about their ranks and the Minister stated that they are 57, so I would like to know if they are all on the same rank.

MR CHAIRMAN: Maybe before the Honourable Minister responds I should urge Honourable Members to pay attention to the answers provided by the Ministers because in her response she stated that the ranks are similar. In any case, I shall give the Minister the floor to respond.

H O N O U R A B L E TSHIRELETSO: I also asked the same question and I was informed that their rank is grade 7. At Railways, their grade ceiling is 12, the Chief Executive Officer (CEO) is Grade 1 and the

drivers are on rank no 7. They are supervised by an engineer who has the expertise on trains but not trained as a train driver. Drivers are all in the same rank and they all get promoted at the same time because they are all Diploma holders. This was done to avoid any conflicts when it comes to who holds the highest position among them. I thank you.

KGOSI BOIDITSWE: Thank you Mr Chairman. I would really love to see women in this field or them applying for the post. I thank you.

**ESTABLISHMENT OF A
FUEL POINT AT GOOD
HOPE SUB DISTRICT**

KGOSI LOTLAMORENG II (BAROLONG): asked the Minister of Transport and Communications if he will establish a fuel point at Good Hope Sub District.

ACTING MINISTER OF TRANSPORT AND COMMUNICATIONS (HON TSHIRELETSO): My Ministry is currently working on the logistics of outsourcing the Central Transport Organisation (CTO) fuel depots as per the Presidential Directive Cab 9 (B)/2013 of 25 April 2013 and

a Transactional Advisor to be recruited for the project will advise on whether a fuel point can be set up at Goodhope Sub District or not after performing the necessary assessments. I thank you Mr Chairman.

**CONSIDERATION OF
USING IPELEGENG
PROGRAM TO BUILD
OFFICES FOR HEADMEN
OF ARBITRATION**

**KGOSI S. MOROKA
(TSWAPONG REGION):** asked the Minister of Local Government and Rural Development if he will consider using Ipelegeng program to build offices in village wards for Headmen of Arbitration.

**ASSISTANT MINISTER OF
LOCAL GOVERNMENT AND
RURAL DEVELOPMENT
(HON TSHIRELETSO):** Mr Chairman, the Ipelegeng Programme can be used to construct offices for Headmen of Arbitration in village wards provided such projects are priorities for the Village Development Committees (VDCs) of the respective wards and funds permitting. Mr Chairman, currently my Ministry is using Ipelegeng Programme to construct Kgotla offices in the country. Thank you, Mr Chairman.

KGOSI KAHIKO III: Thank you Mr Chairman. I want to know the office responsible for deciding whether offices can be constructed for Headmen of Arbitration through Ipelegeng Program at district level.

**H O N O U R A B L E
TSHIRELETSO:** Mr Chairman, can I repeat the first paragraph? I said the Ipelegeng Programme can be used to construct offices for Headmen of Arbitration in village wards provided such projects are priorities for the Village Development Committees (VDCs) of the respective wards and funds permitting. As we all know, VDC includes Village Extension Team (VET), Kgosi or Kgosana of that village. Each village leadership can decide for itself and prioritise the projects they want to do. Once the funds have been allocated to districts, we do not have a say on the projects that they do. I thank you.

KGOSI MASUNGA: Thank you Mr Chairman, Honourable Minister do you assist those who have already taken the initiative to build with office furniture as government?

**H O N O U R A B L E
TSHIRELETSO:** Mr
Chairman, we do not provide

furniture for the Headmen of Arbitration. They can ask for the old ones from Council stores. We have already given some of them chairs from schools in some areas but not new furniture. I thank you.

KGOSI BOIDITSWE: Has the Honourable Minister confirmed if what she is saying is still in practice? Indeed Headmen of Arbitration used to benefit from shelters built by VDCs, but that is no longer the case, is she aware of that? I thank you.

H O N O U R A B L E TSHIRELETSO: Mr Chairman this is not a thing of the past because as we speak Mookane and Pallaroad have just benefited from this program. It is just dependent on the leadership of each village; they can agree to use Ipelegeng to build the shelters. We have the main Kgotla in Mahalapye, about 16 wards and other offices which mostly have been built through Ipelegeng. For instance, Xhosa, Boseja-Flowertown, Tshikinyega and Tidimalo wards have been built through Ipelegeng. If people work together towards archiving the same goal, then I see no reason why that should not happen. Sometimes lack of proper consultation by the leadership paralyses the spirit of

working together and efficiency. I thank you Mr Chairman.

KGOSI MOROKA: Thank you Mr Chairman and Honourable Minister.

**DELAY IN FILLING POST
OF MOTHUSA KGOSI IN
GHANZI**

KGOSI J. MOSEKI (GHANZI EAST): asked the Minister of Local Government and Rural Development to explain why there is a delay in filling the post of Mothusa Kgosi following the promotion of the Kgosi in Ghanzi.

ASSISTANT MINISTER OF LOCAL GOVERNMENT AND RURAL DEVELOPMENT (HON TSHIRELETSO): Mr Chairman, the delay to fill the vacant post of Deputy Court President at Ghanzi was due to many applicants who responded to the advertisement and the shortlisting process took longer than anticipated. However, currently the exercise is complete and the next post will be filled by the end of February, 2014. I thank you.

KGOSI MOSEKI: Thank you Mr Chairman and Honourable Minister.

**UPDATE ON PLOT
SECURED FOR
MOGODITSHANE BUS AND
TAXI RANK**

**KGOSI K. GAREBAKWENA
(MOLEPOLOLE REGION):** asked the Minister of Local Government and Rural Development to state:-

- i) whether a plot has already been secured for the Mogoditshane Bus and Taxi rank; if so,
- ii) when the construction of this facility is expected to commence.

**ASSISTANT MINISTER OF
LOCAL GOVERNMENT AND
RURAL DEVELOPMENT
(HON TSHIRELETSO):** Mr Chairman, my Ministry through Kweneng District Council has secured a plot for the construction and development of a bus and taxi rank at Mogoditshane. The plot measures 6.0075 hectares. Mr Chairman, there is no budgetary provision for development of a plot during NDP 10. I thank you Mr Chairman.

KGOSI GAREBAKWENA: I thank you Mr Chairman.

**NON-PAYMENT
OF ALLOWANCE
FOR HEADMEN OF
ARBITRATION**

**KGOSI M. KAHIKO III
(GHANZI WEST):** asked the Minister of Local Government and Rural Development to explain why Headmen of Arbitration who are on allowance are not paid Relief Recession Allowance despite the fact that the Circular Savingram Ref DP 19/72 V (136) dated 19/02/13 stated that temporary employees should be paid this allowance.

**ASSISTANT MINISTER OF
LOCAL GOVERNMENT AND
RURAL DEVELOPMENT
(HON TSHIRELETSO):** Mr Chairman, Headmen of Arbitration earning allowance are not paid Temporary Relief Recession Allowance introduced in October, 2012 because they are not temporary employees. The allowance that they are paid monthly serves as a gesture of appreciation by Government for the services that they are rendering to the public. I thank you Mr Chairman.

KGOSI KAHIKO III: The last time this question was asked, the Minister stated that Headmen of Arbitration are not paid Recession Allowance because they are on temporary basis. I did my research and I discovered that there was a savingram that stated that all those employees on temporary basis should benefit from this allowance.

H O N O U R A B L E TSHIRELETSO: I did not quite get the part that states that I said something about Recession Allowance but I would like to point out that they are not employed on temporary basis. They are earning an allowance therefore, they cannot get two allowances. That is what I know but if there is someone who has said they are entitled to recession allowance, I do not know.

KGOSI TELEKELO: Thank you Mr Chairman. Is the Honourable Minister aware that there are Headmen of Arbitration who have been employed on permanent basis?

H O N O U R A B L E TSHIRELETSO: I am aware of that Mr Chairman.

KGOSI KAHIKO III: Still on this issue, I once asked this question and the response was that they are not paid Recession Allowance because they are temporary employees. I went to Directorate of Public Service Management (DPSM) which gave me a savingram that shows that everyone who is paid by the government is affected by recession and ought to be paid that allowance. Now my question is, are the answers provided by the Minister contradicting each other?

H O N O U R A B L E TSHIRELETSO: There is 100 per cent no contradiction. The last part of that Savingram states that ‘This allowance should also be paid to temporary employees’. Do we understand each other? The point that I am trying to drive home is that Headmen of Arbitration are not paid a salary, they get an allowance but they are not temporary. We have to differentiate these two, they are not temporary because they will be paid this money until they retire from duty. Now if it is a temporary employee like teachers they should benefit from this allowance. So, Headmen of Arbitration except for those who are on permanent basis as already mentioned by Kgosi Telekelo, do not get this allowance because they are paid allowance and that is all they get. I thank you.

KGOSI BOIDITSWE: Is the Honourable Minister aware that the system does not allow Headmen of Arbitration to be paid allowance, it should be salary? I thank you.

H O N O U R A B L E TSHIRELETSO: I am not aware that the computerised system does not allow that.

KGOSI KAHIKO III: Honourable Minister, there are

Headmen of Arbitration who are permanent and pensionable, so, how do you categorise Headmen of Arbitration who are on allowance?

H O N O U R A B L E TSHIRELETSO: Mr Chairman, if Kgosi wants to go back to the issue of including Headmen of arbitration in the structure, he should just do so and not advocate for benefits that are not due to them. You are currently talking about what we believe they should be getting as their benefits and I am explaining why they cannot benefit. In terms of categorising them, we explained that the 351 who have not been paid should be paid first and after that, we should make a plan for the rest. This is a request that was made by some Dikgosi and we adopted it as a department. Now the question is how do we differentiate them from the ones on allowance? There are Headmen who are on allowance and those who are on salary and in the structure. My response to the question was focused on allowance and nothing else. Other issues will be addressed at the right time. We admit that it is a challenge because they cannot benefit from certain programmes like getting a loan because they do not have a salary. We are on

the process of taking on board those who are not even getting an allowance. I thank you.

MR CHAIRMAN: Thank you Honourable Minister. Maybe I should request Kgosi Kahiko to take this issue of the savingram outside this Honourable House and discuss it in depth with the Honourable Minister.

KGOSI KAHIKO III: Mr Chairman, I brought this question so that this House can help me. I have one more question, if an employee is on allowance, are they not affected by recession, and where is it stated in the law so that we can look it up?

H O N O U R A B L E TSHIRELETSO: They are affected by recession that is why even the VDC, World War II heroes and pensioners benefitted from the 3 per cent increment. It is for the intended beneficiaries. I thank you.

MR CHAIRMAN: Thank you Honourable Minister. May we kindly proceed, if there is any further clarification that Kgosi Kahiko wants, he will discuss with the Honourable Minister outside.

**CONSTRUCTION OF
A POLICE STATION IN
LERALA**

KGOSI S. MOROKA (TSWAPONG REGION): asked the Minister of Defence, Justice and Security when he intends to construct a police station in Lerala as crime rate has increased and neighbouring stations seem not to cope.

ACTING MINISTER OF DEFENCE, JUSTICE AND SECURITY (HON M. E. MASISI): Thank you Mr Chairman and a very good morning to you Honourable Members. Firstly I would like to congratulate Mr Chairman and his Deputy for their reinstatement on their duties respectively. I am standing in for the Minister of Defence, Justice and Security.

Mr Chairman, there are no immediate plans to construct a police station in Lerala village. Lerala village has a police post which is currently manned by four (4) regular police officers and four (4) special constables. The Lerala Police Post is supervised and assisted by Maunatlala Police Station which is 30 kilometres away. It is also within the proximity of Martins Drift Police Station which is about 50 kilometres away. Mr Chairman, the crime rate increase is not such as to justify development of facilities as enquired by Kgosi Moroka. I thank you.

KGOSI MOROKA: Thank you Mr Chairman and Honourable Minister.

**UPDATE ON POLICE
OFFICERS NOT ALLOWED
TO CERTIFY SOME
DOCUMENTS**

KGOSI LOTLAMORENG II (BAROLONG): asked the Minister of Defence, Justice and Security whether it is true that police officers are not allowed to certify some documents such as Omang (identity card) and birth certificates.

ACTING MINISTER OF DEFENCE, JUSTICE AND SECURITY (HON M. E. MASISI): Mr Chairman, it is not true that police officers are not allowed to certify documents such as Omang and Birth Certificates.

I thank you.

KGOSI LOTLAMORENG II: Mr Chairman, can the Honourable Minister clarify when they started certifying because initially Police Officers were not allowed to certify such documents?

MINISTER FOR PRESIDENTIAL AFFAIRS AND PUBLIC ADMINISTRATION (HON M. E. MASISI): Thank you Mr Chairman. I cannot stand here

and clearly testify to what Kgosi has just said. What I have been informed about is that Police Officers are not allowed to authenticate documents which do not originate from the office of the Commissioner of Police. The authentication of documents that originate outside the office of the Commissioner of Police is done by the issuing departments in terms of the authentication of Documents Act. So what may have been happening is Police Officers were being required to authenticate documents that they were not originators of. So that is what may have been a challenge; it is the issuing departments that must authenticate those. I thank you.

KGOSI LOTLAMORENG II:

Thank you Mr Chairman. I think what the Honourable Minister has just said contradicts what he stated initially because right now he is saying that the documents must be authenticated by the issuing departments. Anyway thank you Mr Chairman.

MR CHAIRMAN: I have just been informed that Kgosi Mmualefhe is absent, so we can defer his question Honourable Minister. That goes to question 11 as well.

**NAMING THE THREE
AIRPORTS AFTER SOME
DIKGOSI**

**K G O S I
MMUALEFHE (CHOBE
DISTRICT):** To ask the Minister of Presidential Affairs and Public Administration if he will consider recognising Kgosi Nswazi, Kgosi Tshekedi and Kgosi Sekgoma by naming the following projects under their names;

- i) Francistown Airport to be Kgosi Nswazwi;
- ii) Botswana International University of Science and Technology (BIUST) to be Kgosi Tshekedi; and
- iii) Kasane International Airport to be Kgosi Sekgoma.

Question Deferred

**VACANT BOTSWANA
HOUSING CORPORATION
HOUSES IN KACHIKAU**

**K G O S I
MMUALEFHE (CHOBE
DISTRICT):** To ask the Minister of Lands and Housing to explain why Tribal Administration houses built by the Botswana Housing Corporation (BHC) in Kachikau in 2009 are still vacant.

Question **Deferred**

**LAND ALLOCATION
FOR DEVELOPMENT OF
WARDS**

KGOSI S. MOROKA (TSWAPONG REGION): asked the Minister of Lands and Housing if he is aware that Land Boards are giving Headmen of Arbitration a hard time in allocating them land thus hindering the development of the wards.

MINISTER OF LANDS AND HOUSING (HON MOKALAKE): Thank you Mr Chairman, I am not aware that land boards are giving Headmen of Arbitration a hard time in allocation of land thus hindering development of the wards. Allocation of land for Dikgotla has been and continues to be granted as proposed by Tribal Administration. It is however a practice that applications for land for Dikgotla should have the support of the area Kgosi. This is done to address concerns raised by Tribal Administration regarding the mushrooming of Dikgotla everywhere. I thank you.

KGOSI MASUNGA: Thank you Mr Chairman. Will it not be more convenient if there could be some special arrangements

to address what this question is seeking? Maybe Dikgosi should be the ones who allocate land for the wards.

H O N O U R A B L E MOKALAKE: Pardon me Mr Chairman, I did not quite understand the question, may I kindly ask the Honourable Member to repeat his question. I am not sure if he meant that we should do what the question sought because I was saying that land boards should not give you a hard time when requesting for land. If there are some difficulties that Dikgosi are experiencing from land board officers, they should let me know so that proper action will be taken against the concerned officers. We realised that some people are allocated land without the consent of Dikgosi and this may appear like some people are installing themselves as Dikgosi in wards without your knowledge. This has been the practice that we both agreed on and we have never received any complaints from Bogosi concerning this arrangement. I thank you.

MR CHAIRMAN: Kgosi Masunga, the Honourable Minister did not get your question clearly; he is not sure whether you concur with what he has just said.

KGOSI MASUNGA: I heard him very well Mr Chairman. I was saying that would it not be proper to have a provision where Kgosi can be allocated land without having to go through all these processes so that we do not appear like we are at the mercy of the land board. I thank you.

H O N O U R A B L E MOKALAKE: I thank you Mr Chairman. Maybe I did not understand what Kgosi is saying but I had thought that it is the normal procedure that is followed in all the land boards because we are always waiting for Bogosi so that we can assist them accordingly. If there are any problems experienced by Dikgosana, they can always seek guidance from Kgosi Kgolo. If the request is rejected, it will just be like the rest of the requests that are normally rejected. I thank you Mr Chairman.

KGOSI MOROKA: Thank you Mr Chairman and Honourable Minister.

**LAND TAKEN BY NGWATO
LAND BOARD BEING
FIELDS FROM LERALA
FARMERS**

**KGOSI S. MOROKA
(TSWAPONG REGION):** asked the Minister of Lands and Housing to state:-

- (i) whether he is aware that Ngwato Land Board took 216.84 hectares of land being fields from Lerala farmers with the intention to demarcate one thousand one hundred and forty five (1145) plots;
- (ii) the cost of surveying and demarcating the plots as well as compensation for farmers;
- (iii) if the Minister is aware that field owners have not yet received their compensation and that asking them to give up their land disadvantages them as ploughing is their only source of income.

**MINISTER OF LANDS
AND HOUSING (HON
MOKALAKE):** Thank you Mr Chairman.

- i. I am aware that Ngwato Land Board assessed 216.84 HA of ploughing fields in Lerala with the intention to demarcate 1145 plots.
- ii. The exercise was done in house and the cost of survey and demarcation of plots only relates to subsistence and overtime allowances amounting to P21 756.

iii. Mr Chairman, the field owners have not been compensated due to unavailability of funds. However, in recognition of the disadvantages that might be created as ploughing is the only source of income for the farmers, Ngwato Land Board held a Kgotla meeting with the affected people in October 2013 to allow them to continue to use their fields until funds become available for payment of compensation. I thank you.

KGOSI MACHILIDZA: Will this whole process not disturb their farming activities because they have to prepare the land for ploughing, like fencing these fields?

H O N O U R A B L E MOKALAKE: Thank you Mr Chairman. We are very much aware that these procedures cause a lot of delays. That is why we had to consult with the farmers in October before the ploughing season began. We wanted to reduce these inconveniences that may arise and also give them time to prepare. I thank you.

KGOSI LEMPADI: Thank you Mr Chairman. What will happen

if there are some developments made during the waiting period of compensation, will they be included in the compensation package?

H O N O U R A B L E MOKALAKE: Thank you Mr Chairman. As I have already mentioned, we really encourage the farmers not to make huge developments that will end up affecting the entire value that we initially had. I do not think they can start fencing the fields or building houses because we explained to them that we do not want the valuation to change as it will be costly to have a re-valuation. I thank you.

KGOSI RAMOKWENA: Will the Minister be able to increase these farmers' compensation due to the great inconvenience he has caused them when he took their land without being ready to take over? Was it really wise to decide to take over the land when the Ministry was not prepared and ready with the compensation? Why did the Minister tell these farmers to move out in the first place because this means they had to look for other fields elsewhere? It takes time to prepare fields and even the resources needed for that preparation keep on...

MR CHAIRMAN: Kgosi Ramokwena what is your question exactly?

KGOSI RAMOKWENA: Is the Minister prepared to increase these farmers' compensation?

H O N O U R A B L E MOKALAKE: We shall compensate as per the compensation policy guidelines, nothing beyond what has been recommended. The valuation is computerised, so we cannot exceed the compensation guidelines. We are not going to increase the money just because we took long to compensate them because generally change of land use takes long. Once the whole process is completed, sometimes the finances are not sufficient to pay the farmers. We had hoped that the money will be available so that we pay the farmers without any delays. We hope that they will be reasonable when making new developments. I thank you.

KGOSI MOETI II: Thank you Mr Chairman. I have two questions for the Honourable Minister; why land was taken from farmers when the Ministry was not yet ready to finance the take over? Do we have a policy that guides handing over of land and compensation so as to

avoid a situation like the one that happened in Lerala? I thank you.

H O N O U R A B L E MOKALAKE: The procedure is similar across the country. We do our plan to find out the size of land that we need in a particular year, if we do not have money to buy at that moment, we budget for the next year. It is not a guarantee that the exact amount we requested in our budget will be allocated, we might get less. That will mean reducing the number of intended plots to buy. In extreme cases, there could be no funds allocated for compensation at all because those are just estimates. We negotiate with the farmers before getting the funds. It might happen that at the time that we complete the negotiations, there are no funds to compensate the farmers and it may even take up to three years without getting enough funds. We cannot negotiate for plots only when we have sufficient funds because we have to justify why we need that amount of money. That is our biggest challenge. I thank you.

KGOSI MOROKA: Thank you Mr Chairman. Is the Honourable Minister aware that the concerned farmers have not been able to use the land again for farming because they have been

instructed not to develop what has been there before the take-over like mending the fences, houses and storage facilities?

H O N O U R A B L E MOKALAKE: Thank you Mr Chairman. I am not aware whether they were able to plough. Furthermore, I am not sure about the exact number of those who have been ploughing all along and those who were not. We are very much aware that they need their land to plough that is why we sent a delegation in October last year from my Ministry to inform the farmers that they can use the land. We assumed that the time was sufficient enough to allow them to prepare for the ploughing season because we had rains in December and January. I thank you.

KGOSI MOROKA: Thank you Mr Chairman. What does the Minister intend to do with those farmers who have already made some developments? Will the Minister do another valuation to see how much the land is worth after those developments?

MR CHAIRMAN: Before the Honourable Minister responds, let me request that we should not take too much time on this question. I believe the original question was asking the Minister

if he is aware that some farmers were ordered not to make any new developments on the land that was taken by Government and I believe Kgosi was mainly concerned with the fact that some developments cannot be ignored. So he wanted to ask whether the Minister is aware of that.

H O N O U R A B L E MOKALAKE: I have already explained that they should not do huge developments such that valuation will be highly affected. For example, if a farmer has a field of 10 hectares and has been using only 5 hectares of it, there will be a price for a de-bushed and non-de-bushed field. If that farmer continues to use the field he should not de-bushes the other part that was not de-bushed or even build a house or any structure that was not there before. We do re-value the land but we really encourage farmers not to do any robust developments because we request for funds basing on the valuation that we have done. So, we are trying to avoid a situation whereby they drift too far away from what we have done. This is the request that is normally made everywhere, even when we make property valuation we use it. I thank you.

**AUCTIONING OF
OBSOLETE STOCK IN
BOTSWANA EMBASSIES**

KGOSI K. BOIDITSWE (SEROWE REGION): asked the Minister of Foreign Affairs and International Cooperation to explain to this House whether obsolete stock in Botswana embassies are ever auctioned and what kind of goods they are.

ACTING MINISTER FOR FOREIGN AFFAIRS AND INTERNATIONAL COOPERATION (HON M. MASISI): Thank you Mr Chairman. Can I kindly ask for later date Mr Chairman because I was not content with the answer provided, I have asked them to do it again and they had not yet brought it here, I was hoping that they will bring it. I thank you.

MR CHAIRMAN: Kgosi Boiditswe Honourable Minister has requested to defer this question to a later date as he is not happy with the response given.

Question Deferred

**PROGRESS MADE
BY GOVERNMENT
REGARDING MARKET
(SALE) OF CATTLE IN
ANGOLA**

KGOSI K. MOREMI (BATAWANA): asked the Minister of Agriculture to apprise the House on the progress made by the Government regarding the market (sale) of cattle in Angola following a Kgotla meeting held by the Assistant Minister on the 27.10. 2011.

ACTING MINISTER OF AGRICULTURE (HON TSHIRELETSO): Thank you Mr Chairman. I am here on behalf of Minister of Agriculture, Hon. De-Graaff, the Assistant Minister is absent; he is on an official trip in India.

Mr Chairman, I will read it as it is written. It has not been possible to export cattle to Angola as was envisaged, the reason being that Angola turned against the importation of cattle from the red zones like Ngamiland in preference for the green zones, however Mr Chairman even when approval was given to import from the green zones as a drought mitigation measure, there were no importers who expressed interest to import cattle. Mr Chairman, Botswana Meat Commission managed to export over 6,281 live slaughter cattle from Ngamiland to Zimbabwe in 2012 and further 4,700 to Zimbabwe and 120 to the Democratic Republic of

Congo in 2013. This brings the total number of cattle exported from Ngamiland since 2012 to over 11,101. Mr Chairman, as a measure against the current drought, the dispensation to export live cattle was extended to green zones last years with farmers allowed to export slaughter stock, however the response from neighbouring countries has been disappointing owing to their stringent import requirements. Consequently only one farmer was able to export to the DRC as set above. I thank you.

KGOSI POTSOENG: Thank you Mr Chairman. I want to understand whether the Angolans have changed the initial agreement, I also want to understand the memorandum of agreement that was drawn between Botswana and Angola because we were informed in our Dikgotla that Government is negotiating livestock market for Ngamiland region in Angola.

H O N O U R A B L E TSHIRELETSO: It becomes a problem when people turn against their words. They were informed of the region they will be buying from, they knew that it is a red zone but they decided to change their decision. They also offered to pay peanuts for

other regions and Batswana were not interested in selling at that cheaper price. This means they could not even buy in Ngamiland because their offer was not attractive at all. I thank you.

KGOSI LEMPADI: Thank you Mr Chairman. Since Batswana were informed of this good initiative to sell cattle in Angola, why were they not consulted about the changes that occurred? Furthermore, why is the Minister continuing to issue out permits to companies to sell in Angola?

MR CHAIRMAN: Is that all? If so, thank me.

H O N O U R A B L E TSHIRELETSO: This is a very important question and indeed plans are still on going to hold Kgotla meetings to inform the public about this. Sometimes it is difficult to make a move while negotiations are still on-going because I believe this issue started on the 27th in 2011 and up to now nothing has been finalised. We know very well that we have not yet given the public any feedback but it will be done. I thank you.

KGOSI RAMOKWENA: Thank you Mr Chairman. Can the Honourable Minister inform this House about the unattractive prices that were offered because I

have information about the prices that I took from the Angolans, not second hand information?

H O N O U R A B L E TSHIRELETSO: When you consult as individuals, it opens doors for negotiating, but on our part, they did not even give us their price range, they just informed us that they cannot buy in Ngamiland. That left us with no room to negotiate because they have already declared they could not buy from us. So I cannot dispute what Kgosi has just said. The same happens with us, if Government offers to buy a piece of land with a certain amount and an individual offers more, we have to raise our offer in order to win. We really do not have any authority over negotiations made outside by individuals. I thank you.

KGOSI RAMOKWENA: I am not talking about individual price negotiations, I mean the Angolans who came to my farm with Botswana officials. They offered to buy a calf of six months at a price of P6, 800, nine months for P9, 000 and they were even of the view that they were cheap. I thank you Mr Chairman.

H O N O U R A B L E TSHIRELETSO: Just out of curiosity, I am more interested in

knowing if they bought any from you. My point is after they agreed to buy, they turned against their words. I cannot dispute what Kgosi has just said and he should have stated if ever they bought from him if at all they did, I will take it back to the Honourable Minister to respond. I thank you.

KGOSI KAHIKO III: I would like to enquire on the issue that Honourable Minister touched on; that people were issued with permits to sell outside due to drought. Is it advisable to give a farmer the permission to sell outside because of drought? How much profit will they make out of it?

H O N O U R A B L E TSHIRELETSO: We were trying to avoid a situation where they will die because of drought. At the time when we issued out those permits, there was no drought but we were anticipating that there could be drought in the following year. Again, when there is drought, some farmers opt to buy livestock and feed them. At this moment, this issue is just water under the bridge because farmers were not able to sell. It is not Botswana's fault that they could not sell, that is why Kgosi cannot stand here and tell me the number that was bought from him because nothing happened. I thank you.

KGOSI MOREMI: Thank you Mr Chairman and Honourable Minister.

**PROCEEDINGS
SUSPENDED FOR TEA**

MR CHAIRMAN: Good morning once again Honourable Members and Honourable Ministers, welcome back. Let us proceed from where we left off.

**PLANS IN PLACE TO
ASSIST THE FARMERS IN
NGAMILAND**

KGOSI K. MOREMI (BATAWANA): asked the Minister of Agriculture what plans are in place to assist the farmers in Ngamiland whose livestock perished during the recent drought.

ACTING MINISTER OF AGRICULTURE (HON TSHIRELETSO): Mr Chairman, the recent drought was countrywide. In anticipation of the possible difficulties that farmers could face, Government introduced a 50 per cent subsidy in selected feed items and some vaccines; these are drought pellets, calcium phosphate (DCP), salt, molasses meal, bran, botulism vaccine and vitamin ADE. This subsidy is still ongoing. In addition Government allowed farmers to export their

cattle to other countries as at the time the Botswana Meat Commission (BMC) could not cope with the number of cattle to be slaughtered. One hundred and twenty (120) cattle were exported by one farmer in Ngamiland to the Democratic Republic of Congo (DRC) under this dispensation. The dispensation was stopped on the 31st December 2013 after the rains started. I thank you Mr Chairman.

KGOSI MOREMI: Thank you Mr Chairman and Honourable Minister.

MR CHAIRMAN: Thank you Kgosi Moremi. We have come to the end of questions, we shall continue with today's business on the Order Paper.

**RESTRUCTURING OF
THE PUBLIC TRANSPORT
SECTOR**

Motion

KGOSI MASUNGA (NORTH EAST REGION): Thank you Mr Chairman. I have tabled a motion that reads thus, "That this Honourable House requests Government to consider restructuring the public transport sector by regulating the industry and setting quality standards to improve service delivery".

Mr Chairman, I found it fit to table such a motion because of various reasons which to some extent are personal and for the sake of national interest. Mr Chairman, transport sector is one of the critical pillars in any economy around the world.

MR CHAIRMAN: Pardon me Kgosi Masunga. Is the responsible Minister for this motion present?

H O N O U R A B L E TSHIRELETSO: Yes Mr Chairman, I am here on his behalf.

MR CHAIRMAN: Thank you.

KGOSI MASUNGA: Mr Chairman, as I have already highlighted, transport is a critical component in the development of any nation around the world. I will code switch Setswana and English so that we are all on the same page. It is very imperative that we appreciate the relevance of the transport sector to the economy of this nation. Transport is one of the drivers of the economy in developing countries like Botswana or in countries with developed economies. Developed countries like United States of America have diversified the portfolio of transport. I believe that as we all travel to different countries, we

see the importance of transport. There are two types of transport systems; the public transport and the private transport system. The public transport system includes taxis, buses, trains, aeroplanes while on the other hand private transport system includes transport at home. Mr Chairman, the sole reason for tabling this motion is to see a change, we should set up regulatory structures which will modify and produce quality and efficient service.

Mr Chairman, scholars have revealed that the prescription that can remedy this situation which is a responsive system rests on four principles and through your permission, I would like to outline those principles. These includes; a coherent policy and realistic objective as well as strategies to achieve them; an industrial structure that is capable of providing demand responsive service; a planning and regulatory framework capable of achieving the objectives and lastly, planning and regulatory institutions capable of administering regulatory framework.

I have read out these principles in English and maybe to translate them into Setswana will be a bit of challenge to me but I will

try. Basically, they mean that for the Transport Industry to be more effective and be a demand responsive public transport system, it should have all the afore-mentioned principles. I believe that we are all aware that Botswana Communications Regulatory Authority (BOCRA) which initially was Botswana Telecommunications Authority is responsible for regulating communications. Any complaint that is aligned to communication has to be routed to this regulatory authority. This is the very same regulatory framework which I am advocating for right now. The public transport industry should be regulated and there should be a policy in place to guide it. When a policy is in place, it will improve quality and service delivery. Furthermore, it creates a platform for customers to be aware of their rights. Mr Chairman, in other countries, transport policies are crafted because transport is one of the most important aspects in every nation, whether socially, politically, economically. Economically; one needs transport to be in business to transport their goods to the market. Socially; one needs transport to transport their families. Politically; one needs transport to deliver any form of

information or communication to various constituencies. Countries are coming up with policies because they have realised that the simplest way of running a public transport system cannot work as transport is one of the most complex and difficult issues which cannot be tackled by a simple rationale without proper coordinated systems.

One of the key objectives for coming up with the transport policy, is to enable a conducive environment which will meet the needs of every different customer. When we talk about the customers, there is what we call a market segmentation. When you do market segmentation, you are looking at different levels of customers, you look at their profiles; their buying patterns, their mobility, their geographical area, Then you cannot plan, you segment...

KGOSI BOIDITSWE:
On point of clarification Mr Chairman. Maybe I am the only one who is not following here, but the Honourable Member has mentioned that the public transport sector should be re-structured. He should outline the challenges that we currently have with the public transport which call for re-structuring. This confuses me because he does not

state the problems we have with the current set up. I thank you Mr Chairman.

MR CHAIRMAN: I just gave you the floor because I wanted to understand what you are up to. May I remind Honourable Members that when a Member is on the floor, it is solely dependent on that Member to decide to give you the opportunity to speak or not especially if it is clarification. Let us try to differentiate the two; that is why I was just looking at you because Point of Order and Clarification do not carry the same weight.

KGOSI MASUNGA: Thank you Mr Chairman. Just to reassure Kgosi Boiditswe, I believe I am on the right track. This motion is a policy issue and maybe it will be a bit complex but I will try to simplify it as much as I can so that we are on the same page. Mr Chairman, I was still talking about the market segmentation. There are combis, taxis, buses and airplanes, they all have different markets. The reason why we should have this structure in place is because we desire to have a reliable and efficient transport system that meets the demands of a responsive system. I believe we have all realised that we currently have a draft policy which will

soon be tabled in Parliament. There are some aspects that have been included in that policy which I would like to compare with what I have proposed in this motion because the policy is still at a draft stage.

Furthermore, we currently continue to see more of private investments in the industry. Business people are running their own taxis for profit, they are driven by self-interest but there are no regulations. Yes, there are certain provisions that run this industry like issuing of permits and others but we still have problems. There are buses which are worn out and they play very loud music. There are no stipulated times of departures and arrivals. Maybe one can get that information in buses that travel from Gaborone to Francistown or some of the busy routes. In rural areas, commuters can stay in a combi for more than an hour. Some of the buses are so old that their roofs leak and even windows and if one tries to raise a complaint it falls into deaf ears. Some buses do not have clearly stipulated routes to an extent that some villages do not have access to buses, combis and taxis. This proposal is aimed at developing an industry that will cater for all members of this nation. We are faced with a challenge of space

in bus or taxi ranks. Taxis and combis park just anyhow even though there is reserved parking for them. This is a clear example that space is poorly utilised so we want to come up with strategies that will allow us to have proper urban planning that will coordinate the right systems.

Mr Chairman, there are reasons that are behind our failure to have proper policy in place. Some of these reasons include; (1) resources constraints, (2) There may not be a general consensus on the issue of policy as to what should be the picture of how we want to regulate the transport industry. (3) Some may be fine with the current status because if there are no regulatory standards, there will be gaps and they will take advantage of that and benefit. There could be other reasons such as political influence; is there political will to want to see the industry changing. Yes, I believe that political will is there because the draft policy will soon be tabled in Parliament, and it will be able to be passed. Lastly, one of the reasons as to why the policy is not in place is because the public may not be aware of their own basic rights concerning the issues that could be raised to facilitate the process of change.

Mr Chairman, Botswana is a landlocked country, which has air transport, rail transport and road transport. When we look at the rail transport, it covers only 888 kilometres of railroad, I have the statistics right. Its usage is very low, especially after passenger train was stopped. The air and rail transport are both owned by the Government. Usually the air transport caters for international travellers, business and a few Batswana who can afford it because it is very expensive.

Now the critical one, (the road transport) which has 24,455 kilometres including tarred road, the ones without tar, access roads, secondary roads, and others. We have about 179,376 of vehicles utilising our roads including private vehicles. In 2004, transport and communication statistics indicated that there were about 8,228 public transport vehicles, but I believe the number has increased since then, we also have those who operate without licenses or permits. Mr Chairman, this is a clear indication that with a population of 2 million, we will still experience an increase of vehicles in our roads

The Draft Policy

The draft policy Mr Chairman, is a new document, a new vision

which clearly outlines what has to be done. Once implemented, it will go on to 2035, regulating the industry. This is a policy that will change the livelihood of the public and even the business itself because one of the reasons why there is still poverty is because of lack of mobility. For example, if people in Seronga do not have transport to go to the next destination and just stay in one place, they may live in poverty, not having the ability to change their lives, but availability of money, transport system and all these things gives them the opportunity to transform their lives.

Mr Chairman, I believe once this policy is tabled in Parliament and adopted, it will impact positively because it will be able to address the efficiency issues that we have been emphasising on at Botswana National Productivity Centre (BNPC). It will also allow us to come up with other supporting policies that will be promoted by its existence because the industry will now be able to measure its milestone achievements and plan for the future. The telecommunications industry once indicated that Botswana does not have the market penetration for cellular phones, but eventually the usage increased. Now Botswana is said

to be one of the countries that has the highest penetration of cell phone in the world. It is because of the regulatory frameworks that are in place, they are bringing efficiency and quality.

Mr Chairman, I believe that the private sector is at the fore front in running of transport system in Botswana. We will appreciate what other countries have done in terms of using transport and the transport industry to harness the growth of business; be it Small, Medium and Micro Enterprises (SMME), be it the rights of women, be it the mainstream economy or any business, transport has played a critical role. For example, South Africa has a very good transport system. As I conclude Mr Chairman, I would also like to cite South Korea as an example where there was a drastic change. They decided that the transport system could not be left in the hands of private sector. They came up with a law to deal with the bus system. This system addresses the route system; buses travel to many different places, different times, different stops, catering for different markets, while the private market is there. There is currently a change in these countries, there is a lower usage of private cars on their roads.

People arrive on time at their work places and there is no environment pollution.

Mr Chairman, I believe this motion is very critical to the economy of this country. I will just advise the Honourable Minister to expedite it as a draft because it will address the gaps that are there in the market. For example, if it happens that a bus catches fire, there is only one exit and these buses have no toilets. These are some of the key issues that will make the Ministry of Transport and Communications to grow and bring in new investments to the industry. I believe this draft will be tabled soon to bring that change. Mr Chairman, that is all I have to say on this motion, Pula! in the name of Jesus Christ.

MR CHAIRMAN: Thank you Kgosi Masunga. Kgosi Masunga has moved a motion that advocates for the restructuring of the public transport sector. I believe Honourable Members have heard and understood all the terms he has stated that support his motion. At this juncture, I shall now open the floor to Honourable Members to debate and I believe that you will not derail from what he has just said, our comments must be aligned to what he has said.

KGOSI MACHILIDZA (BOTETI REGION): Thank you Mr Chairman, let me also thank Kgosi Masunga for tabling this motion, it has come at the right time. He has highlighted that there is need to know that procedures are followed within the transport sector. I am concerned because the Minister responsible is not around to respond to this motion but since the Minister of Local Government and Rural Development is around and will be responding on behalf of the Minister of Transport and Communications, it is okay since she knows the problems we are faced with. This motion seeks to correct procedures. Kgosi outlined policies which control the transport sector. I believe that there is no law in place which regulates the transport sector especially the public transport. Mr Chairman, I would like to talk about buses which use the Gaborone –Maun route, they pass through Mahalapye, Palapye, Serowe, Letlhakane, Mopipi and Tsienyane. I once asked a question about these buses and the response I got was that their licenses clearly outlined that they should pass through the villages but there is no implementation of such Mr Chairman. Mr Chairman, the

public transport sector does not respect the customer, yet they are tax payers and their tax is used for developments. When they apply for loans to purchase buses, they claim that they want to assist Batswana but their service is not customer friendly. When customers are pressed and want to relieve themselves along the way, they are rushed. The bus driver will be blowing a horn to get them back into the bus. These drivers have to know that customers have different health challenges. There is no indication of how long each bus will take in a particular bus rank, so, customers are at the mercy of the drivers.

We have had a challenge in Mopipi where buses could not pass through a village using a road which has been gazetted but instead they would use a highway which passes outside the village Mr Chairman. The Station Commander for Orapa and transport officers tried to intervene but they failed. Residents of Xhumu, Kumaga and Moremaoto are experiencing the same challenge but they do pass through Tsienyane because of the position of the village. I do concur with Kgosi Masunga on the establishment of a Policy which will regulate the transport

sector Mr Chairman, to allow for the protection of the public who use public transport. The mover of the motion has presented it well and it is high time the public transport sector abided to the gazetted roads, rather than using highways. This motion came at the right time and I also request that this should be treated as a matter of urgency Mr Chairman so that we rectify the current situation. I do support this motion. Thank you Mr Chairman.

MR CHAIRMAN: Thank you Kgosi Machilidza. Let me advise Members that this is the last day of the week and as our aim is excellence and efficiency, let us consider the fact that we still have two motions at hand. I am not saying we should rush Kgosi Masunga's motion but we should be mindful of the time and the business before us today.

KGOSI LEMPADI (OKAVANGO REGION): Thank you Mr Chairman. I stand to support this motion. In my region, I am not sure if buses are tested for road worthiness because there are more buses on the side of the road which have breakdowns than those which are moving. Passengers are always left stranded by those buses for long hours. Those are some of

the things we come across Mr Chairman. We have cases where buses do not pass through certain villages, passengers alight from buses from Maun in Etsha 6 and Etsha 13 at around 9pm and such villages have dangerous animals such as elephants, something which puts the lives of passengers at a risk. I am one of those who have written a letter to the Ministry of Transport and Communication seeking clarity on why some of the buses do not pass through to Shakawe Senior School, which is on the outskirts of the village.

Moving on to the goods train Mr Chairman; I remain grateful that the goods train is still available to render its services. I still do not understand why the passenger train ceased to operate. It was the most convenient mode of transport ever. We still need the passenger train as a mode of transport Mr Chairman. We do not have proper policies in place and there is no regulatory body to govern taxi drivers. They drive dangerously and all of them have the same mentality, whether they are in Maun or Gaborone. Thank you Mr Chairman.

KGOSI BOIDITSWE (SEROWE REGION): Thank you Mr Chairman. I thank the mover of the motion. Mr

Chairman, I will be brief so that I give others a chance as well. What the mover of the motion is proposing is feasible. Some years back, a person was not allowed to bring alcohol and smoking in public transport, but a law regulating that came into place and that stopped. Everybody understood that alcohol consumption and smoking were prohibited in public transport. This policy has reduced the bad behaviour displayed by customers.

Mr Chairman, there is a concern regarding permits for certain buses, one might find that a particular route no longer has buses while the owner of the buses still has active permits and other bus owners cannot use those permits. The procedure to allocate permits should be reviewed as well in order to track those buses which are operating. The mover of the motion rightly said that we need this policy to set out standards to improve service delivery. For instance, the Gaborone bus and taxi rank cannot hold the capacity of the public transport, they are just too congested. For us to achieve service delivery the current fire station should be moved to a different place and the bus rank extended to where the fire station is. I believe that the fire station

should be in an open space and not be in a congested place for ease of access to roads in cases of emergency.

I move on to talk about ablution blocks. Mr Chairman, we are faced with a challenge within the public transport sector; it becomes a problem when passengers at the back of the bus are trying to stop the bus to answer the call of nature, they have to shout out to the driver and ask for the bus to be stopped and that is embarrassing. In this case I would recommend that we re-introduce the bells which could be pressed when there is an emergency. Mr Chairman, there are limited ablution blocks in some of the bus ranks around the country; I therefore call for the maintenance of the existing ablution blocks in all the bus ranks. It is only in the Gaborone bus ranks where we have such but in Francistown the ablution blocks are operated by private companies.

On another issue, Mr Chairman, the passenger train was stopped because the Government was operating at a loss since there was no policy regulating the prize tariffs. Mr Chairman, there are established people within the public transport sector, they should be given the opportunity

to run the passenger train, or maybe go into some form of a partnership with the Government. I support this motion as it will bring positive changes to the transport sector. Thank you Mr Chairman.

MR CHAIRMAN: I believe that by *Puso*, Kgosi is referring to the Government and not any person. We should correct that, that it is not me but the Government.

KGOSI POTSOENG (NGAMI REGION): Thank you Mr Chairman. I stand to support Kgosi Masunga's motion. I believe that there is no policy regulating the public transport sector. All our buses do not cater for people with disabilities, this shows that there is nothing guiding the public transport sector, but in any case all the Government offices are like that, there is no provision for disabled people. Mr Chairman, buses are boarded by different people. If at all there was a policy guiding the public transport, these provisions would be there. There would be toilets within buses to cater for people with different health challenges. The aeroplane has a toilet and this makes it very convenient. Mr Chairman, the government always increases transport fares but nothing is done on transport service

efficiency. The government and the transport sector fail to meet and agree on the document, which should regulate the public transport sector.

In Ngamiland, we tried talking to the government about the fact that there is no regulated time for the departure of buses but rather a bus departs when it is full. The operators of these buses do not want to reach an agreement that they will pick passengers along the way, they believe the bus should leave the bus rank on a full passenger mode therefore other passengers will not get space if they board in a village where there is no bus rank. One owner once said, 'if it was your bus, would you let it leave without passengers?' when confronted about this situation.

HONOURABLE MEMBERS:
...(Inaudible)...

KGOSI POTSOENG: No, from Maun to Shakawe, 'would you be happy if the bus leaves without passengers?' This was just a concern raised in a Kgotla meeting. In most cases, during a busy time, buses do not allow passengers from small villages to board the buses; they only allow those who go where the bus is destined. When this concern reached transport, all we could get

as a response was that the owner is only trying to make profit. At that time, the government was still subsidizing buses. The Minister should consider the request we are putting forth as the House. The Department of Road and Transport has escalated the licence tax by P30 and that money benefits the public transport owners the most because this tax is used to repair roads. I support the motion tabled by Kgosi Masunga. Thank you Mr Chairman.

**KGOSI SEEMEKO
(SPECIALLY ELECTED):**

Thank you Mr Chairman. Kgosi has covered what I wanted to say therefore I will be brief and to the point Mr Chairman. I support this motion. We have a huge challenge in our region where buses do not pass through Etsha 6 which is 200 kilometres from Maun. Maun is the only nearest place where we can get groceries but we have a challenge of transport since buses do not pass through our village. We only get to enjoy the buses mid-month when business is slow. I do concur with those Members who say that there is no law which regulates the public transport sector. Another thing Mr Chairman, the behaviour of conductors is not permissible,

they talk to the elderly in a rude manner and there is nowhere customers can lodge complaints. Reclaiming lost goods from a bus is a challenge, one only gets the goods back if the owner of the bus has the courtesy to listen and has proper customer service, otherwise it is not easy to reclaim the lost goods in a bus.

Mr Chairman, other people do not know what we are talking about since they have never used public transport, but I am not referring to you in this case. However, there are those who never use public transport as their home villages are nearer to the city. I request the Minister to take this motion seriously so that we assist those who use public transport as well as the bus operators because they too need to know about customer service. Mr Chairman, Etsha 6 is just less than five kilometres from the highway but in most cases buses do not pass though the village even though the area has dangerous animals. This is a very important motion and I request the Government to consider it. Thank you Mr Chairman.

**KGOSI MOETI II
(SPECIALLY ELECTED):**

Thank you Mr Chairman. Let me thank Kgosi Masunga for a motion well presented, today

he did not forget his documents in Masunga. All we need to do is to say few words to beef up his presentation. Honourable Members have touched on uncensored films and the noise in the buses. I will not touch on those issues but I also support the motion.

Botswana is a blessed nation; our economy is developed as compared to other Southern African countries. It is unfortunate that we do not have the regulatory measure that Kgosi Masunga is requesting. This is long overdue; those who got independence after us already have those instruments in place. Lack of such an instrument leads to lawlessness. For instance, rental prices differ significantly; landlords just hike prices as they please. Maybe the regulatory document is there, it is just that those who are supposed to implement it are not doing their job. The only thing I have noticed is that when fuel prices increase, the public transport fares also increase. Kgosi Boiditswe mentioned that alcohol consumption in public transport was allowed, the law, which was enacted to stop that practice, is from the Ministry of Health. Now, we need a tailor made policy which addresses transport as a whole.

On the issue of standards Mr Chairman; for one to have a transport permit, there should be some requirements, for example, airing of certain videos, provision for a backup transport during a breakdown among others. There has to be a provision for backup plan for passengers in case of a breakdown. There has to be a way for permit owners to regularly update the transport officers on whether they are still in business to avoid the office having to deny other people permits.

Mr Chairman, there should be standards. The population which has to be accommodated by a certain bus rank has to be established. If we had this instrument in place we would not be having a structure like the one we have in Maun Mr Chairman, that bus rank is not suitable for the region, considering the capacity of buses. The other issue is that buses also act as couriers but if this law could be enacted and implemented then we could control the goods that are carried by these buses. I am not saying that it is wrong to transport goods through buses but doorframes and other building material cannot be transported by buses, especially those buses which cross our borders. In the absence of this law, we will continue to have those gaps

within our laws where our police will continue letting the goods pass except where there is an overload of some goods. This has to be put in place to give the police ammunition to control and govern the speed as well as the goods carried by the buses. Mr Chairman, I request that this law should cover both the public and private transport for the betterment of our transport sector. Thank you.

MR CHAIRMAN: Thank you Kgosi Moeti II. I would like to give the Minister the floor to respond to the motion.

ACTING MINISTER OF TRANSPORT AND COMMUNICATIONS (HON TSHIRELETSO): Thank you Mr Chairman. Kgosi Masunga's motion has been presented well Mr Chairman and I am happy that he kept mentioning the Draft Transport Policy, it is being developed and it is at the final stage, after that it will be presented to Parliament for consideration. Currently, there are tenders for the broad restructuring and also there is a tender for the development of the transport master plan. When Kgosi presented his motion, he talked about transport in general, including aeroplanes and private transport; the master plan will

cover all transport aspects. Nonetheless, the public transport sector is currently being regulated using two pieces of legislations, being the Road Traffic Act and the Road Transport Permit Act. The Acts are very clear on the procedures and standards that the transporters are supposed to follow or adhere to when they operate public transport. Mr Chairman, going forward, my Ministry will during the second quarter of 2014, commission a study called a “Feasibility Study on Mass Transit Alternatives for Gaborone City.” The main objective of the project is:

To modernise public passenger transport in the city of Gaborone by improving both its efficiency and carrying capacity through the implementation of a viable and sustainable mass rapid transit system. It is also envisaged that the implementation of this mode of public transportation will enable the improvement of service quality as operators (envisaged to be the current public transport operations) will be issued concession contracts binding them to provide service of a certain standard.

This system of transport, in which large and modernized capacity vehicles will be introduced. It will also reduce

road traffic congestion and road traffic accidents in the city, and enable the reclaiming of road space as the number of trips per direction will be reduced as a smaller capacity vehicles will be gradually phased out on major/truck routes and assigned to operate a feeder system. Mr Chairman, Kgosi raised an issue of ablution blocks, I would like to assure this House that the master plan encompasses the inclusion of those toilets but as it is now we have to consider the environmental factors as well while we continue to request the buses to pull over for passengers to answer the call of nature. Mr Chairman, the conduct of some bus conductors is not permissible as one of the Members has already highlighted, but in this regard, the matter should be taken up with the bus owners. Thank you Mr Chairman.

MR CHAIRMAN: Thank you Honourable Minister

PROCEEDINGS SUSPENDED FOR LUNCH

MR CHAIRMAN: Good afternoon Honourable Members and Honourable Minister. Let us continue from where we left off. Kgosi Masunga, just one minute to sum up your motion.

KGOSI MASUNGA: Thank you Mr Chairman, let me thank the Honourable Minister, and the Honourable House. I do believe that all that that has been promised will be executed. Let me request that before the draft policy is passed to Parliament, that Members of this House be consulted, so that we appreciate its contents and have a say as well. Thank you Mr Chairman.

MR CHAIRMAN: Thank you Kgosi Masunga. With that we conclude Kgosi Masunga's motion.

Question put and **agreed to**

**ESTABLISHMENT OF FIRE
STATIONS IN DISTRICT
AND SUB DISTRICT
HEADQUARTERS**

Motion

KGOSI LOTLAMORENG II (BAROLONG): Thank you Mr Chairman. I would like to present this motion before this House, "That this Honourable House request Government to establish fire stations in District and Sub District headquarters". Mr Chairman, I will be as brief as possible in presenting this motion. I would like to request the Government to establish fire stations in District and Sub District headquarters. Mr

Chairman, I would like to believe that Members of this House understand the importance of fire stations, and Honourable Members can concur that we do not have fire stations in District and Sub district headquarters. Mr Chairman, the fire stations are not only mandated to fight fires but for assistance in road accidents as well. We also have natural disasters Mr Chairman; those employees could assist if something happens. Mr Chairman, districts and sub districts like Kanye, Good Hope, Mahalapye and Serowe do not have fire stations. Some of these areas are far from the next fire station such that it takes time to reach the place, which may lead to loss of property.

Mr Chairman, recently there was a fire outbreak in Mabule, this village is covered by Lobatse fire station which is very far. If there was a fire station in the Sub District, then it could have been easy to put out the fire. We are aware of the economic downturn and that there are financial constraints but this has to be considered Mr Chairman, thank you.

MR CHAIRMAN: Thank you Kgosi Lotlamoreng II. Before we continue with the debate, let me put emphasis on the fact that

today is the last day to conclude the House business, I do not mean that we should just rush over the business but Members should understand that we have time constraints. There is no need for Members to repeat what other Members have said, that is if we want to save time. That is my request.

KGOSI MONNAATHEBE (THAMAGAREGION): Thank you Mr Chairman, I support this motion tabled by Kgosi Lotlamoreng II. Our government advocates for taking services to the people. I am reminded of one incident when my shop was on fire in Molepolole. It took three hours to put out the fire because we had to wait for the fire fighters from Gaborone, it was only by luck that the whole building was not burnt down. I do not see anything wrong with this motion, it is a straight forward motion and I doubt if it will attract a huge debate. I agree that the fire stations be established in Sub District and District headquarters. Thank you Mr Chairman.

KGOSI TSHIPE (MAHALAPYE REGION): Thank you Mr Chairman. I will be brief as well. Let me thank Kgosi Lotlamoreng II for tabling this motion. Kgosi was brief but

he presented his reasons well. I would like to support this motion that indeed fire stations should be established in District headquarters and Sub Districts. Mahalapye as a sub district, does not have those fire stations and the nearest station is 71 kilometres away and the rest are as far as Francistown and Gaborone. Mahalapye has had so many cases of fire outbreaks and to this date no fire station has been established. Ellerines store was engulfed by fire and by the time the fire fighters arrived from Palapye, it had burnt to ashes. Villages such as Mahalapye should have the fire stations because it has five Junior Secondary schools, a Senior Secondary school and 18 Primary schools. I do not want to take long debating this motion; let me indicate that I support this motion. Thank you Mr Chairman.

KGOSI SEKWENYANE (NGWAKETSE WEST REGION): Thank you Mr Chairman. Indeed fire stations are needed especially in areas such as Molepolole and Kanye since they are large areas. It was once suggested that fire stations will be built within these districts but I do not know what happened to the notion. I

understand that constructing a fire station is expensive on its own Mr Chairman but there is what we call satellite fire station which uses dry powder. This could assist in the event of fire outbreaks to keep the fire down while awaiting the fire fighters who might be far at the time of a fire outbreak. In other instances standpipes could also be used to try and put off the fire while awaiting the fire engines. I therefore support this motion Mr Chairman. Thank you.

MR CHAIRMAN: Thank you Kgosi Sekwenyane. I understand that Kgosi wants to keep the fire down while awaiting the fire engines.

KGOSI KAHIKO III (GHANZI WEST REGION): Thank you Mr Chairman, I support this motion. We have debated this motion and we all agree that it is important; therefore, we cannot keep debating it further. All Districts and Sub districts need these fire stations, the mover of the motion has covered all the districts and it is upon the Government to decide where to start. Thank you Mr Chairman.

MR CHAIRMAN: Thank you Kgosi Kahiko III. I will give Kgosi Boiditswe the floor with

the hope that he will be saying something different from what other Members have said.

KGOSI BOIDITSWÉ (SEROWE REGION): Thank you Mr Chairman. Let me thank the mover of the motion as well as Kgosi Sekwenyane. Is it not possible for the Government to establish or procure vehicles with fire extinguishers and place them within the existing police stations? If at all construction of fire stations is expensive, why not procure those and maybe establish those fire extinguishers as Kgosi Sekwenyane is suggesting? If that is done, then it could reduce our concerns in this regard. Maybe police officers could be trained to assist in cases of fire. I support this motion. Thank you Mr Chairman.

ASSISTANT MINISTER OF LOCAL GOVERNMENT AND RURAL DEVELOPMENT (HON TSHIRELETSO): Thank you Mr Chairman. There are 11 fire stations in the country which fall under the Ministry of Local Government and Rural Development. They are in the following locations: Gaborone (2), Francistown (2), Maun, Kasane, Sowa, Jwaneng, Lobatse, Palapye and Mochudi. These 9 locations represent nine (9) out of 16 district headquarters.

Currently the Ministry is unable to establish fire stations in the remaining 7 Districts and 15 Sub District headquarters, due to financial constraints. The Ministry has taken a decision to utilise any available funding for the procurement of fire fighting equipment rather than construct the fire stations where the equipment would be housed. There is no how we can negate this particular motion as the mover of the motion has covered the entire country in his presentation of the motion. The Ministry has been thinking of adopting what Kgosi Sekwenyane has been proposing. Thank you Mr Chairman.

KGOSI LOTLAMORENG II (BAROLONG): Thank you Mr Chairman. Let me take this time to Thank Honourable Members for this debate, though all did not debate, I believe that we all agree to this motion. Let me also thank the Honourable Minister for the response, it shows that the Government has seen the importance of this motion despite the economic downturn. Funds permitting, let the Government consider this, especially the equipment that the Minister was referring to. Thank you Mr Chairman.

Question put and **agreed to.**

**INCREASE OF TRIBAL
ADMINISTRATION
BUDGET**

Motion

KGOSI LOTLAMORENG II (BAROLONG): Thank you, Mr Chairman. Let me request to present to this Honourable House the motion which reads thus, “that this Honourable House requests government to consider increasing budget for the Department of Tribal Administration.”

MR CHAIRMAN: Thank you. Request granted Kgosi Lotlamoreng.

KGOSI LOTLAMORENG II: Thank you Mr Chairman. I will try my level best to be brief. I would like to present to this House the above mentioned motion. We request the Government to consider increasing the budget for the Department of Tribal Administration. I believe that all of us know that Tribal Administration is the mother of all Ministries, it came before any other Ministry, but surprisingly, it is the poorest of all the departments. All I request is for the increment of the budget for this department. Mr Chairman, as it is now, all the finances are exhausted and

we cannot procure nor do any other activity involving money. We are expected to carry out official duties but due to financial constraints we cannot undertake such. We cannot even hear cases as a result of these budgetary constraints Mr Chairman. Everything has come to a standstill. I am not aware of any other Kgosi who still has funds to carry out any official duty among us. Mr Chairman, we are just told that we have been allocated funds but we never know what happens to the money because the finance is being distributed within the Tribal Administration headquarters in Gaborone and we do not get anything in our Regions. An example is the casual labour vote, we were told that we were allocated P4000 under the casual labour vote but when we engage a casual labourer to clean the Kgotla, we are supposed to write a letter to the headquarters requesting for funds to do that. This is something which could be decentralised to the regions and the respective Dikgotla could just use the votes as and when the need arises. The department is not given enough money to carry out official duties.

We cannot even procure refreshments for the office in Goodhope Mr Chairman, unless we request other departments

to assist. Currently, all official duties are on hold until the new financial year. This means before the end of the Financial year, the funds will have run out because we would have started on a backlog of duties from 2012/2013 financial year. Mr Chairman, like I have said earlier on, we have a backlog of cases as a result of financial constraints where we cannot travel because funds would not permit for such trips to be undertaken. At the end of the day, we end up not doing justice to some cases due to stale evidence or spoilt evidence. Some cases fail because either defendants or complainants lose their lives along the way while awaiting trial. Mr Chairman, we do not have flags, and this comes as a result of shortage of funds as well. I only saw a flag at Mokatako Kgotla when the President was there and I do not know if he is the one who brought it or not, the Kgotla did not have a flag Mr Chairman. This is my request to the government, that the budget should be increased, we might be facing an economic downturn but this seems to have affected Tribal Administration the most. Thank you Mr Chairman.

KGOSI MASUNGA (NORTH-EAST REGION): Thank you Mr Chairman. I support this motion Mr Chairman. I have had

the privilege to have a copy of the North East recurrent budget which I will use as an example. I was shocked when I realised that a budget for department within a council surpasses the budget for the whole district at Tribal Administration. This motion came at the right time Mr Chairman. The heritage of this nation was built by this department but when it comes to financial assistance, Tribal Administration and Bogosi are always in recession. This issue is beyond Tribal Administration officers, Mr Chairman; it should be brought before Cabinet. We need change at Tribal Administration and this change should be brought in by the Minister. The North East District has since requested for used vehicles from council but the request was turned down, the vehicles were auctioned. We cannot even get used material, do we have to live like that? I therefore believe that there should be change in 2013/2014 for they say that change is the only process that remains constant. At times people are forced to change by circumstances. We do not want to go on strike like people in the public service. We do not have to go that far Mr Chairman, where Dikgosi will be at loggerheads with the

government. It is high time the government realised that Dikgosi need to enjoy the privileges just like other ministries. Kgosi Lotlamoreng II is right when he said that Tribal Administration is the mother of all ministries, but when one looks at the vehicles the councils and land boards have, it is a shame. The government released a P16 million national maintenance budget and this made a huge difference for the entire nation. I do not know if this was released because we are heading for elections or not but I do expect the government to develop Kgosi in every way as a standard procedure. Thank you Mr Chairman.

KGOSI TELEKELO (MOSHUPA REGION): Thank you Mr Chairman. I will be very brief. Mr Chairman, I would like to make the Minister aware of the fact that as Dikgosi, we have turned into destitute persons in our own department. Our offices were constructed by Namola Leuba programme and we have to find a way to get office curtains. Mr Chairman, this situation degrades the leadership of this department. Honourable Minister, it is a pity because when ministers are due to address Kgotla meetings, preparations are made and better furniture is sought for the Kgotla but if we

could have impromptu visits by ministers, they would find worn out furniture in our Dikgotla. We therefore request the government to consider increasing the budget for the department of Tribal Administration. Thank you Mr Chairman.

**KGOSI TOTO II
(K GALAGADI SOUTH):**

Thank you Mr Chairman. I support the motion as well. Let me remind the Minister that at a workshop held at Maharaj Conference centre last year, the Minister of Local Government and Rural Administration promised this House that in the upcoming budget allocation, the department of Tribal Administration will be allocated a lion's share, therefore this motion is asking about that lion's share? This department needs that lion's share since everything seems to be going down within Tribal Administration. Thank you Mr Chairman.

**KGOSI GAREBAKWENA
(MOLEPOLOLE REGION):**

Thank you Mr Chairman. It is late afternoon, so we have to be brief Mr Chairman. Let me thank Kgosi for having brought this motion to this House. As Kgosi Toto said, the Minister of Local Government and Rural Development made an

undertaking in our last meeting. Let me emphasise that the budget goes hand in hand with the output or results of the department. If transport and furniture are poor and there is no proper staff establishment then there will be poor results as well. The truth of the matter is that this department is the mother of all departments, we therefore request for proper action to be taken to rectify this. Thank you Mr Chairman.

MR CHAIRMAN: Thank you Kgosi Garebakwena. Have we not said it all?

HONOURABLE MEMBERS:
We have, Mr Chairman.

**ASSISTANT MINISTER OF
LOCAL GOVERNMENT AND
RURAL DEVELOPMENT
(HON TSHIRELETSO):**

Thank you Mr Chairman. Let me thank Kgosi Lotlamoreng II for this motion. Mr Chairman, government through my Ministry is committed to providing all the necessary resources for the smooth running of the department of Tribal Administration. Such can be achieved through the provision of an adequate budget to meet the needs of the department.

My Ministry has therefore taken a decision to give Tribal

Administration a priority in budgeting. During the current financial year (2013/2014), a total of P15, 948,000.00 has been allocated to the department of Tribal Administration for maintenance of offices and staff houses. Furthermore, out of a total of seventy four (74) vehicles due for replacement this financial year, forty three (43) (58%) have been allocated to the department. These vehicles are currently being procured. An additional sixteen million (P16m) for major maintenance works for Kgotla offices is to be carried out by the department of Electrical and Building Engineering Services (DBES) this current financial year. My Ministry will continue to make deliberate efforts annually to address the needs of the department of Tribal Administration, resources permitting. Mr Chairman, some of the issues raised by Kgosi Lotlamoreng II come as a shock to my Ministry because accounting officers always give us false information. Regarding casual labourers, I was told that votes for casual labourers were not fully utilized at Districts and hence the headquarters took the money for other apparent issues- I will say this in his presence for him to note the communication gap that is within the department.

This is purely administrative Mr Chairman, and I therefore request the Director of Tribal Administration to address this internally. I am awaiting the Permanent Secretary to address the issue raised by Kgosi Masunga as they are at a retreat with His Excellency, the President of the Republic. It is not proper for another Ministry to have the vehicles while the department has a need to address. There has to be a logical explanation as to why the Masunga district declined the request by the Masunga Kgotla and opted to allocate the said vehicles to the Ministry of Environment, Wildlife and Tourism. Mr Chairman, there is a vote for flags which I was told was not utilised but I am surprised to hear in this House that most Dikgotla do not have flags, this is also an administrative matter which needs to be addressed as well. All these points have been noted to be addressed. Mr Chairman, we agree to the motion and we shall take proper action to address the issues that have been raised. Some Members have requested a meeting with the office but in the meantime as we await the meeting, the director of Tribal Administration will make a list of those votes which are not utilised in particular Regions and Districts. Thank you Mr Chairman.

MR CHAIRMAN: Thank you Honourable Minister, let me give Kgosi Lotlamoreng II the floor to conclude the motion and I will have my say upon his conclusion of the motion.

KGOSI LOTLAMORENG II (BAROLONG): Mr Chairman, thank you Sir. Let me request the Honourable Minister to monitor her administrative staff, it is evident that there is a gap within the department as we see them giving the Minister false information. Mr Chairman, all this happens in our regions and not within the Tribal Administration headquarters. I also request that when the Minister has a meeting with the staff, Dikgosi should be present in those meetings as well so that we raise our concerns and attest to or negate the information the officers give. We should not be writing to Tribal Administration headquarters for casual labour funds Mr Chairman. Let me take this opportunity to thank the Minister for the response she presented. I just want to emphasize to the Minister that she should explore, assess the staff at Tribal Administration headquarters. We should be able to access the money in the votes that have been allocated to Dikgotla, especially the one for

flags, one flag costs about P700 and the vote would be P4000, one district would have about 30 Dikgotla, how will this be fairly distributed amongst the Dikgotla Mr Chairman? I also request that we should be allowed to do a virement of money from other votes. We do not have the Government Accounting and Budgeting System (GABS) in our Dikgotla and for the claims to go through, an officer has to seek assistance from the office of the District Officer. Nonetheless, let me thank the Honourable Minister for having supported the motion. Thank you Mr Chairman.

MR CHAIRMAN: Thank you Kgosi Lotlamoreng II. As many as are of that opinion say ‘Aye’ and on the contrary say, ‘no’, the Ayes have it.

Question put and **agreed to.**

MR CHAIRMAN: Honourable Members, we have come to the end of our sitting. We have started well but we end it on a bitter note with the Department of Tribal Administration. We were in a good mood for the past four days. I wanted to conclude the motion procedurally and then continue to say a few words to the Honourable Minister. Let me request the Honourable Minister

to review the budget allocation, for example, a department cannot be allocated P3000 to be used in a period of 12 months. Another challenge is that when the votes have been exhausted and a P50 or P67 change remains, the department orders for those to be remitted at the headquarters. I can attest to that as I am one of those who wrote to the Ministry requesting for clarity on the remittance of such money, Honourable Minister. Normally we receive correspondence around October/November to submit the remaining funds in our votes but the financial year ends only in March and then we are being told that we do not utilise funds; that is not true at all. The other issue is in line with the P16 million maintenance budget. The maintenance is being carried out yes but we should bear in mind that this maintenance is carried out through the Ipelegeng Programme supervised by the Councils. I would like to point out that the Councils should not think they are doing Tribal Administration a favour when they do their maintenance, they do not do us any favour, we are using the money that has been allocated to us. The Councils overseeing those maintenance projects should make sure that we do not get a sub-standard job.

I will cite myself as an example, my office has been fitted with an air conditioner and it has been six months now since the installation and the only thing that is keeping it from operating is just a pipe to make a back to back connection. The pipe was procured six months after the project has been handed over. When we complain before the completion of the project, we are told of the retention period, something which the contractor may use to do a shady job. The last issue concerns correspondences. Correspondence within Tribal Administration is a disaster, correspondences are responded to late, I therefore request the department to make some introspection on the procedures. I had wanted the Director of Tribal Administration to be present instead of Mr Moitlobo, for him to get all our concerns first hand. With that we have come to the end of the 14th meeting of the Second Ntlo ya Dikgosi. We have covered all the business for this meeting except for only two questions. This shows growth and success in our mandate to reduce the overlap of business to the other meeting. I believe that we will see the results of what we did in this meeting with time. We need to run our business without frustration and stress with proper equipment and resources.

To all the Honourable Members, I believe that we will continue holding on to the spirit we cultivated at the Botswana National Productivity Centre (BNPC), to see a better Ntlo ya Dikgosi. We have outlined the emerging issues relating to Bogosi in general and the public should see us addressing them, as a House and in the process seeing our relevance. One thing that we also touched on is the fact that we want to bring quality and well researched questions and motions in this House, which will give proper and quality advice to the National Assembly. Let me request that we adhere to this objective. The last aspect is the one on addressing Bills. The Government should appreciate the role this House plays in terms of developments, and in terms of the policies and programmes set out to the nation. In conclusion, let me thank you Honourable Members for putting us in charge of this House for one more year. I would like to continue emphasising that we will lead according to your expectations and make sure that the House gets the respect it deserves, the profile it deserves, that is the commitment that we are putting forth as the leadership of this House in 2014.

Let us all bear in mind that this year we are going for elections and we should prepare ourselves for the general elections. I believe all of you Honourable Members understand what I am putting forth. I do not have to go into details of my statement but there should not be any surprises to any of us as Members, we should all be ready for any changes. Let us all keep our houses in order before the general elections; we have got about eight or nine months to do so. I would like Members to remain in the Chamber for further announcements after the adjournment of this House. With that the House is adjourned *Sine die*

ADJOURNMENT

The House accordingly adjourned at 3.35 p. m. **sine die.**