

PARLIAMENT OF KENYA

THE SENATE

THE HANSARD

Wednesday, 15th February, 2017

*The House met at the Senate Chamber,
Parliament Buildings, at 2.30 p.m.*

[The Deputy Speaker (Sen. Kembi-Gitura) in the Chair]

PRAYER

PETITIONS

ALLEGED BREACH OF THE CONSTITUTION AND OTHER LAWS BY THE NAIROBI CITY COUNTY EXECUTIVE

The Deputy Speaker (Sen. Kembi-Gitura): Hon. Senators, we have a Petition by Mr. Richard Kavemba Mutinda concerning the alleged breach of the Constitution and other laws by the Nairobi City County Executive.

In the Petition, the petitioner seeks that since 2013, the Nairobi City County Government has failed to bank locally collected revenue in the County Revenue Fund as required by Article 207 of the Constitution and Section 109 of the Public Finance Management Act No.18 of 2012.

The petitioner notes that the claim is supported by the Reports of the Controller of Budget and the Auditor-General for the Financial Years 2013/2014 and 2014/2015. The petitioner therefore prays that:-

- a) The Senate orders for a special audit to establish the status of revenue locally collected by the Nairobi City County Government and not banked in the county revenue fund since 2013
- b) Requests the Ethics and Anti-Corruption Commission (EACC) to investigate the matter and take appropriate action.

Hon. Senators, pursuant to Standing Order N0.226, I now allow comments, observations or clarification in relation to this petition for not more than 30 minutes. However for the sake of good order and because we have a lot of petitions, although the Standing Order says not more than 30 minutes, I shall not allow comments for more than 10 minutes because we need to deal with all the petitions that are before us.

Sen. Billow: Thank you, Mr. Deputy Speaker, Sir. That Petition is important because it is a concern that has been expressed in this House by the Auditor General, Controller of Budget and many other watchdog institutions in this country. Since devolution started in 2013, many of our county governments have not been able to

account for revenues that are collected locally in their respective counties. This to a large extent has been demonstrated by the fact that the amount of money that they are collecting is much lower than what the local authorities in that county were collecting before devolution.

However, the Auditor-General, in the last two audit reports, has made it clear in many of the counties that revenue is not only being under-collected but even where revenue has been collected; such revenue has not been, banked as required, into the county revenue fund or has been misused. The Nairobi City County Government was a classic example in the last audit report where billions of shillings were not accounted for. The National Treasury has written and copied a letter to our Committee to demand audit of the capacity of Nairobi County Government in terms of its revenue potential.

Mr. Deputy Speaker, Sir, what the petitioner is asking for is straight forward; a special audit by the Auditor General and it is important that we push for that so as to deal with the management of Nairobi City County Government. If there is any clear indication that money has been collected but has not been accounted for, that is a major concern by the residents of this county because services have not improved and to a large extent, this county has not changed a lot from what it was under the local authority despite the billions that are allocated to it.

The Deputy Speaker (Sen. Kembi-Gitura): Hon. Senators, please, try and be brief.

Sen. Karaba: Mr. Deputy Speaker, Sir, it seems that people out there have more powers to penetrate into the affairs of the devolved governments than us as the Senate. We are the people who have been entrusted and empowered to make sure that the oversight facilities and services are provided by us. However, going by what has been happening in the past, we are unable to interrogate what happens in the county governments.

Most county governments are misusing public funds. The other day, the Auditor-General singled out counties like Kirinyaga, Kakamega and many others where a lot of public funds have been misused. Since when did we give other people power to oversight and not the Senate? I wonder whether we still have the powers of oversight county governments. It seems like we are irrelevant because anytime these things happen, the people in the counties do not regard us as people who can oversight because we have no such powers. Can we be told whether we have the powers to oversight because we are going to have a lot of problems moving forward to oversight the counties? A lot of money has been misused and embezzled and we have no powers to penetrate those offices and find out what might have happened to such monies.

I beg to support the Petition.

Sen. (Dr.) Khalwale: Mr. Deputy Speaker, Sir, I applaud that petitioner and point out to the whole country that whatever he is quoting in respect of Nairobi City County is not limited to this county alone. This mess is in all our counties with the exception of Meru and Kiambu counties. It is in only those counties that we have confirmed in our Committee that the revenue that is being realised by Gov. Peter Munya is more than what the defunct local authorities were collecting. Similarly, Gov. Kabogo is performing better than what the local authorities were collecting. This matter must be addressed because it is outright theft.

In the case of Kakamega County, one of the reasons why the Governor of Kakamega has refused to appear before the County Public Accounts and Investments Committee (CPAIC) is because there is an audit query that says that he has ten accounts operated by signatories who are not employees of the County Government of Kakamega. It is that primitive.

We must be alive to the fact that the drafters of the Constitution also let us down in Article 96 because even our intervention, our entry point, in over sighting the revenue collected is by way of interpreting Article 96(1). Otherwise, Article 96(2) gives the impression that we are only supposed to oversight monies that come from the national Government. It is unfortunate that the drafters of the Constitution angled it in that particular way. I am cock-sure that in the coming days, we shall be amending this Constitution; these are some of the areas that we are supposed to make extremely clear if the Senate is going to play its role of protecting counties and county governments.

I beg to support the Petition.

Sen. Mutula Kilonzo (Jnr.): Mr. Deputy Speaker, Sir, this issue came before the Committee of Finance, Commerce and Budget sometime back. I am surprised that it has not been resolved because the amounts that we are talking about are in excess of Kshs10 billion. I agree with Sen. (Dr.) Khalwale that the matter of unbanked money does not only affect Nairobi City County. It is everywhere. It is in fact one of the issues that was before us in the Gov. Gachagua Petition.

Counties have incurred pending bills amounting to Kshs37 billion. It is no wonder that governors are attacking the Bill by Sen. Wamatangi which would ensure that there is a schedule of assets and liabilities before the new governors assume office. I am afraid that my friend, Sen. (Dr.) Khalwale, is stepping into a county when he is elected to inherit debts.

Mr. Deputy Speaker, Sir, unfortunately, now that we do not have a good history of clearing petitions, would there not be another method through the Committee on Finance, Commerce and Budget who are seized of this matter to interrogate this matter differently? We are going to end our sessions and this matter will not have been resolved under the normal procedures of the Senate.

Therefore, as you give your directions, the Committee on Finance, Commerce and Budget can find another method. Where is the Auditor-General and the Controller of Budget? Have these people abdicated their responsibilities? We, as the Senate, are called upon to save the counties not to have debts in excess of Kshs50 billion towards the next General Election.

Sen. Wangari: Mr. Deputy Speaker, Sir, I also support the petitioner. This issue has been canvassed before. In fact, the one reason that governors are very confident to show up in the CPAIC confidently is because the devil is not in the monies that we take to the counties. The real devil is in the revenues collected and spent at source. That has happened in Narok County as well as many other counties. It is therefore an issue that we must get a way of expediting because this is an election year and people's heads are focused in the campaigns. The investigation will, therefore, be frustrated just the way the audit of assets and liabilities with the Transition Authorities was frustrated.

We must get a clear answer from the Auditor-General because they have cited resources and minimum manpower. We must get a way of making sure that this happens

soon. The 60 days should be at the maximum. It should be expedited because the country is crying. The arrogance you see with the county governments is because there is nothing that we can do and our mandate is restricted to the money that is allocated to them by the national Government and not the revenue that they collect. We must also address this in terms of policy and constitutional review whenever we do it. It is an issue that we really need to take up.

Sen. (Dr.) Machage: Mr. Deputy Speaker, Sir, this petition could not have come at a better time. It is true that resources are being abused left and right. “The richer than thou” appearance that we see among governors is due to the use of monies collected at that level. It is alleged that forged receipts are used in some counties to collect resources and never remitted to the audit section of those counties hence that money is misused or taken by governors and their cronies. It is important that this petition is looked at in good time so that it can be a lesson to other counties.

The Senate Minority Leader (Sen. Wetangula): Mr. Deputy Speaker, Sir, I believe that this Petition will end up the Committee on Finance, Commerce and Budget, chaired by the Senator for Mandera County. As they look at this matter, it is important that the Committee causes the Auditor-General to look at the mismanagement of funds, especially, locally generated or collected revenue. In My County of Bungoma, the Governor and his government in their own projection indicated that they were going to collect Kshs1.470 billion. At the end of the year, they file a return that they have collected Kshs183 million when records show that they collected Kshs2 billion. So, the rest of the money is misappropriated, stolen and stashed away by people who are uncaring and do not provide services.

Therefore, I urge the Committee chaired by the Senator for Mandera to cause the Auditor-General to carry out some forensic audits on locally collected revenue and how it is utilised or where it is banked by governors.

The Deputy Speaker (Sen. Kembi-Gitura): Hon. Senators, pursuant to Standing Orders No.227(1) this Petition stands committed to the relevant standing committee. In this case, it is the Standing Committee on Finance, Commerce and Budget.

In terms of Standing Orders No.227(2), the Committee will be required, in not more than 60 days from the time of reading the prayer, to respond to the petitioner by way of a report addressed to the petitioner and laid on the Table of this Senate.

*(The Petition was referred to the Standing Committee
on Finance, Commerce and Budget)*

NEED TO ADDRESS INSTANCES OF CONFLICT
OF INTEREST IN PUBLIC SERVICE

The Deputy Speaker (Sen. Kembi-Gitura): Hon. Senators, I want to bring to your attention the Petition by Mr. Tony Watima on the need to address instances of conflict of interest in the Public Service.

Hon. Senators, pursuant to Standing Order No.221(a) and 225(2)(b), I hereby report to the Senate that a petition has been submitted through the Clerk by Mr. Tony Watima, a resident of Nairobi County on the need to comprehensively address the

instances of conflict of interest in the Public Service. In the petition, the petitioner states that there have been numerous incidences in Kenya where public officers make decisions on matters in which they either directly or indirectly have a personal interest, and that the existing legal framework has not adequately addressed this challenge which continues to persist, thus undermining the effort to tackle corruption and enhance service delivery in the public sector.

The petitioner therefore prays that the Senate investigates this matter and makes appropriate recommendation thereon. Among the proposals made by the petitioner is for Parliament to enact a law barring public officers from conducting any commercial activity, with the only exception being where such an officer establishes a blind trust revocable only once they leave office.

Hon. Senators, pursuant to Standing Order No.226(1), I will allow comments, observations and clarifications to this Petition for not more than 30 minutes. That means I will allow you 10 minutes and when they elapse, regardless of the number of requests on the screen, I will then commit the Petition to the relevant committee.

Sen. Haji: Mr. Deputy Speaker, Sir, I thank the gentleman who brought the Petition to this House. Now that we are approaching elections, I am happy to have read in the newspapers today – I do not know whether it will be applied or not – that under the integrity requirement, all the people who are being investigated by the Ethics and Anti-Corruption Commission (EACC) will not be allowed to present their nomination papers. This House being responsible for the welfare of counties should rethink and bring a Bill here to emphasise that all the governors facing investigations or whose cases are pending in court should not be allowed to present themselves for election.

Thank you Mr. Deputy Speaker, Sir.

The Senate Minority Leader (Sen. Wetangula): Mr. Deputy Speaker, Sir, this Petition is very important in the fight against corruption in the country. Since the misguided Ndegwa Commission findings of 1965 that allowed civil servant to dabble in business, this country has taken a completely wrong and dangerous turn in the management of public affairs.

If you look at the country, all the filthy rich people in this country, or at least about 90 per cent, are people who have worked in Government. They have been sitting in Government offices and working for themselves. The same is now happening in county governments. Within no time, junior officers who were appointed have a fleet of cars and all manner of possessions.

Mr. Deputy Speaker, Sir, we do not want to criminalize business but conflict of interest must be looked at and taken care of. So, I support the petitioner. Whichever committee that will look at this matter, I would like it not to superficially look at the petition as it comes to them but to go and look for the Ndegwa Commission Report of 1965 and see how a new legislation can be crafted to tame the conflict of interest that we see today.

Even Members of Parliament (MPs) are busy sneaking into Ministries and public offices and arm-twisting people to give them businesses but when they are found, they say “it was not me.” Then, they start putting up fictitious names and say it was so and so. This must be addressed.

Sen. Bule: Mr. Deputy Speaker, Sir, this is something I am happy with. The issue of corruption has grown roots to even our villages. I thank the petitioner for coming up with this petition. The issue of corruption has been addressed over the years. I have heard that there has been a commission since 1960s to curb corruption.

Mr. Deputy Speaker, Sir, while supporting the petitioner, what we need to do is to come up with a Motion banning all corrupt members of the public and in Parliament from vying for any position in this country. I thank you.

Sen. (Dr.) Khalwale: Mr. Deputy Speaker, Sir, as said by the Senate Minority Leader, the late President Kenyatta had a vision for the Public Service. However, when mandarins of Kiambu Mafia took advantage of his age and brought in the Ndegwa Commission which then allowed public servants to do business with Government; that is where the rain started beating us.

Mr. Deputy Speaker, Sir, we must support this particular Petition because there is a case in Nigeria---

Sen. Wangari: On a point of order, Mr. Deputy Speaker, Sir. Could the Senator explain to this House who he is referring to as Kiambu Mafia?

The Deputy Speaker (Sen. Kembi-Gitura): Sen. (Dr.) Khalwale, did you use the words "Kiambu Mafia?"

Sen. (Dr.) Khalwale: Mr. Deputy Speaker, Sir, I said the then Kiambu Mafia of 1963 to 1978. I did not have any intention of referring to any mafia in Kiambu as of now. I was very clear. I do not know if there is one.

The Deputy Speaker (Sen. Kembi-Gitura): Sen. Wangari, are you satisfied?

Sen. Wangari: No, Mr. Deputy Speaker, Sir. This is a House of records. If that information is in the public domain, could Sen. (Dr.) Khalwale take the trouble to tell this House and the country who is or was Kiambu Mafia?

The Deputy Speaker (Sen. Kembi-Gitura): Sen. (Dr.) Khalwale, I heard Sen. Wangari. You are referring to the Ndegwa Commission, for instance. That is a commission that is well documented and everybody knows about it. So, you can refer to that one because it will pass since it is a well-known commission. However, Sen. Wangari is asking you to tell her what Kiambu Mafia is or who it is.

Sen. (Dr.) Khalwale: Mr. Deputy Speaker, Sir, because of your age, I have to educate you on this one. The Kiambu Mafia of 1963 to 1978 was a clique of people sometimes referred to as "Members of the Kitchen Cabinet" or Members of---

The Deputy Speaker (Sen. Kembi-Gitura): Sen. (Dr.) Khalwale, you are going to withdraw that statement or substantiate it. The question that Sen. Wangari is asking you is to clarify to her who you referred to as the Kiambu mafia of 1963 to 1970. Do you have a list?

Sen. (Dr.) Khalwale: Mr. Deputy Speaker, Sir, this is a matter that is in the public domain. They included all the current members of the rich families of Kiambu. Consistent with the finding in all African governments, the richest African families are those that have either been in control of Government or have been in high places of Government. I cannot be expected to substantiate the obvious. If you do not want to waste the time of the House, go and read. This is a fact of history.

I conclude by saying that this matter must be taken seriously because in Nigeria there is a governor who hid his money in the United Kingdom (UK) ----

The Deputy Speaker (Sen. Kembi-Gitura): Your time is up.

Sen. (Dr.) Khalwale: Can I conclude?

The Deputy Speaker (Sen. Kembi-Gitura): Order, your time is up. Sen. Sijeny, proceed.

Sen. Sijeny: Mr. Deputy Speaker, Sir, I would like to commend the person who has brought this Petition. This is a nation that everybody must have a hand in developing. As they say, change begins with you. This Kenyan citizen has decided that in order to get Kenya back to where it was; a country of integrity, corruption-free and one with peace--- Kenya was never known for corruption as it is nowadays. We find the people in the civil service are the same people who are supposed to be protecting the money or the interests of Kenyans. They are also the ones who ensure that they get the maximum out of it. If this Petition is looked into properly, we will certainly yield the fruits of devolution because the resources will trickle down to Wanjiku instead of remaining in the pockets of a few people.

In the transport sector, for example, it is the police officers who control most of the public vehicles. They always ensure that Wanjiku suffers and is unable to do business because someone is protecting their interest.

I support.

The Deputy Speaker (Sen. Kembi-Gitura): Hon. Senators, pursuant to Standing Order No.227(1), the Petition stands committed to the relevant committee, in this case the Standing Committee on Legal Affairs and Human Rights.

In terms of Standing Order No.227(2), the Committee will be required in not more than 60 days from the time of reading this prayer to respond to the petitioner by way of a report addressed to the petitioner and laid on the Table of the Senate.

*(The Petition was referred to the Standing Committee on
Legal Affairs and Human Rights)*

ALLEGED MISUSE AND DIVERSION OF PUBLIC FUNDS
BY VIHIGA COUNTY GOVERNMENT

Hon. Senators, I wish to present a Petition by Mr. Julius Masiva Obuga concerning alleged misuse and diversion of public funds by the Vihiga County Government.

Pursuant to Standing Order No.221(a) and 225(2)(b) I hereby report to the Senate that a Petition has been submitted through the Clerk by Mr. Julius Masiva Obuga, a resident of Vihiga County, concerning alleged misuse and diversion of public funds by the Vihiga County Government.

In the Petition the Petitioner states:-

(a) That the County Government of Vihiga failed to account for how the sum of Kshs1.6 billion allocated toward development expenditure in the Financial Year 2014/2015 was utilized.

(b) That the County Government of Vihiga further redirected the sum of Kshs100 million allocated towards the Emergency Fund to other purposes.

(c) That some officials of the County Government of Vihiga have, contrary to the law, opened bank accounts into which monies received from hire of equipment and other revenues are deposited.

(d) That the County Government of Vihiga has frequently flouted procurement laws in the procurement and payment of goods and services rendered to the county government.

(e) That the County Government of Vihiga has allocated and spent numerous sums of money on projects not falling within the functions of the county government.

The Petitioner, therefore, prays:-

That the Senate investigates this matter and makes appropriate recommendations thereon.

Hon. Senators, before I allow comments on this Petition, it is noted that the issues raised herein are fairly similar to those contained in an earlier Petition made to this House by Members of the Vihiga County Assembly and presented by Sen. George Khaniri on 25th February, 2016. The said Petition was committed to the Standing Committee on Finance, Commerce and Budget for consideration.

Consequently, I direct that the present Petition be presented to the said Committee for consideration together with the earlier one as presented by Sen. Khaniri.

*(The Petition was referred to the Standing Committee on
Finance, Commerce and Budget)*

Hon. Senators, since this is a matter that has already been extensively ventilated, I shall allow comments, observations or clarifications in relation to the Petition for not more than ten minutes.

Sen. Obure: On a point of order, Mr. Deputy Speaker, Sir. I am now aware that the Petition you have read is similar to an earlier one presented by Sen. Khaniri. Is there any explanation why the earlier Petition has taken long to be presented to the House by the relevant Committee?

Sen. (Dr.) Machage: On a point of order, Mr. Deputy Speaker, Sir. Having noted that the Petition being presented to the House today is similar to a Petition that is already in Committee, is it in order that it should be allowed?

The Deputy Speaker (Sen. Kembi-Gitura): Sen. Abdirhaman, I see you have stood on a point of order.

Sen. Abdirahman: Mr. Deputy Speaker, Sir, while I agree that this may be similar to the Vihiga County Assembly Petition, there were similar ones from a number of counties that were concluded by the Committee and sent to state agencies. It is important for us to know why this has not been acted upon. The answer more or less lies with our Committee. Let them tell us what the position is.

The Deputy Speaker (Sen. Kembi-Gitura): Let me put it differently. The points of order that have been raised are relevant. I did not say that this Petition is the same as the one raised by Sen. Khaniri. I said it is fairly similar. I cannot stop any petitioner from bringing a petition on any matter. In any case, this Petitioner most likely has no knowledge that Sen. Khaniri brought a fairly similar Petition. That is why it has been committed to the same Committee and the reason I am allowing very little time for

comments on this one. Although the Committee can tell us why there has been a delay, that is not for now.

Sen. (Dr.) Khalwale: On a point of information, Mr. Deputy Speaker, Sir.

The Deputy Speaker (Sen. Kembi-Gitura): Who do you want to inform, Sen. (Dr.) Khalwale?

Sen. (Dr.) Khalwale: Mr. Deputy Speaker, Sir, I would like to inform Sen. Abdirahman Hassan and Sen. Obure on that point of order. It is true that this Petition has taken too long for two reasons; the first one is that Governor Akaranga took refuge in courts. He attempted to have the courts injunct us and we could not proceed. After that, the injunction was removed and therefore, we were able to move. Because of the seriousness of the monies that are involved, the Chairman of the Committee on Finance, Commerce and Budgeting is here and he could help us by telling the House why he has failed over these months to convene a sitting of the Members of the Committee because we are under a lot of pressure locally and the Chairman does not call us to deal with this matter.

The Deputy Speaker (Sen. Kembi-Gitura): Sen. (Dr.) Khalwale, I thought you rose to inform the House of something but now you are making demands. Can you resume your seat now?

Hon. Senators, I do not think that this is a matter that needs to be protracted. I think if you have any comment to make, I will allow not more than ten minutes and I can see a few requests.

Sen. Billow: Mr. Temporary Speaker, Sir, I want to thank the petitioners from Vihiga County. In fact, I want to thank the people of Vihiga because they have been very vigilant; they have brought to the Senate and the National Assembly several petitions regarding the management of their county.

On the previous Petition, the reason why we have not been able to execute it properly or on time is because there is still a court case. The Governor refused to come and the matter went all the way and eventually he went to court and has filed a petition in court and that case has not been determined. We are still waiting for that case to be determined so that he can appear before this Committee. There is nothing else we can do about that.

However, regarding the issues they have raised, particularly on the first part of the Petition; this is important. It refers to issue of the county leasing equipment and the money being banked in private accounts. I think this is really a matter of concern. We have seen this in the case of Bungoma and other counties where they have been banking money in personal accounts. Like Sen. Abdirahman Hassan has said, we have committed some of these cases to the Director of Public Prosecutions (DPP) for action.

As a matter of fact, while we were on recess I saw some progress in the case of Bungoma with regard to the purchase of wheel barrows where a few people have been taken to court and actually charged. I think the Implementation Committee of the House deals with the follow up on cases that we have referred to either the EACC or the DPP. I agree that many of these things are happening in counties and, on some of them, we have executed and recommended prosecution.

Sen. Okong'o: Mr. Deputy Speaker, Sir, first I would like to commend Vihiga County Assembly for this very well thought-out Petition. Secondly, for the many cases

we have had in court, there has been laxity in dealing with them either by the Senate legal team or the legal team for the Parliamentary Service Commission to expedite these cases.

There is rampant misuse of money by Governors, especially money being diverted to private accounts. For example, in Nyamira County, they send money to the mechanized division of the Department of Public Works in Nairobi where a lot of money has been looted whereas Governors have bought equipment which they should use. It is incumbent upon this House as we are winding up our session to expedite these matters; otherwise, history will judge us very harshly.

Sen. (Eng.) Muriuki: Mr. Deputy Speaker, Sir, irrespective of how many petitions may be raised with respect to the activities in Vihiga County, they are very important in this House. Those of us who are in the County Public Accounts and Investments Committee see a trend where the audit system is a sampling system. The Governors have crafted all manner of ways of embezzling funds and, somehow, they are able to compromise the auditors so that they look at one item and not another one.

Sometimes the Senate Committee may be spending a lot of time on cents and not shillings and pounds. So, if we have petitioners who are courageous enough to pick items which they know for sure, that there has been malfeasance, it is very important for this House to look at that petition.

Allow me to mention that this House came up with a County Development Board whose part of the agenda was that by the time the accounts for a particular County come before the Senate, a Member of the Senate from that County would have had an insight on items which may have been deliberately or inadvertently left out in the audit system.

This Audit is very important and we should request the relevant Committee to do its work expeditiously so that we can start unraveling the mess in that county.

Sen. M. Kajwang: Mr. Deputy Speaker, Sir, I also commend the member of the public who has brought this Petition. It is noteworthy that that Assembly escalated such issues to this House and I would not be surprised if Members of the Cabinet decide to petition this House. It just shows you the level of impunity that is there at the local level.

My concern is on our processing of the Auditor-General's reports as a Senate. It is not all the counties where the 2013/2014 reports have been adopted by this House. Even where the reports have been adopted, there are recommendations that have been made. For those of us who live in those counties we know that the recommendations have not been acted upon.

I wish to also call on the Committee looking into this matter to come up with clear recommendations on implementation and follow up. I would also want to recommend that we set up a liaison office between this office and the EACC because some of the recommendations touch on recovery or action that should be taken by the EACC.

When we recommend and nothing happens, when we go back to our counties, the corrupt laugh at us. They say; "You thought you got us but this time around we got a better way of going about it". Let me propose that we have a liaison office with the relevant bodies for expeditious implementation of our recommendations.

The Deputy Speaker (Sen. Kembi-Gitura): Hon. Senators, as earlier directed, the Petition stands committed to the relevant Committee, in this case the Standing Committee on Finance, Commerce and Budget.

In terms of Standing Order No.227 (2), the Committee will be required in not more than 60 days from the time of reading this prayer to respond to the petitioner by way of a report addressed to the petitioner and laid on the table of the Senate.

(The Petition was referred to the Standing Committee on Finance, Commerce and Budget)

DECRIMINALIZATION AND LEGALIZATION
OF THE *CANNABIS SATIVA* PLANT

Hon. Senators, I have a Petition by Mr. Gwanda Ogot seeking the decriminalization and legalization of the cannabis sativa plant.

Hon. Senators, pursuant to Standing Order No.221 (a) and 225 (2) (b), I hereby report to the Senate that the Petition has been submitted through the Clerk by Mr. Gwanda Ogot a resident of Siaya County calling for the decriminalization and legalization of *cannabis sativa* also known as *bang* in Kenya.

In the Petition, the Petitioner states:

(a) That the crime and controversy around *cannabis sativa* derives from its prohibition and not the plant itself or its uses or users;

(b) That the cannabis sativa plant has known documented medicinal or industrial uses and decriminalizing the plant would result in great social and economic benefits for the country and, as at December 2016 medical *marijuana* was legal in more than half of the United States, in addition to 25 other countries which had already decriminalized the cultivation and use of *cannabis sativa* for medicinal and industrial use.

The petitioner, therefore, prays that the Senate investigates this matter and makes appropriate recommendations thereon. Among the proposals made by the Petitioner is for the Senate to:-

(1) initiate legislation deleting cannabis sativa from the list of narcotic drugs listed in the First Schedule to the Narcotic Drugs and Psychotropic Substances Control Act, No.4 of 1994 as well as Section 3(2)(a) of the said Act which criminalizes possession of cannabis even for one's own consumption.

(2) Initiate legislation establishing a cannabis regulatory body to plan, operationalise and regulate the sector.

(3) Recommend an amnesty for all persons jailed for cultivation, transportation, possession, sale and usage of cannabis sativa.

Hon. Senators, pursuant to Standing Order No.226, I shall allow comments, observations or clarification in relation to the Petition for not more than – well, the interest seems to be very much out here on the screen – 20 minutes.

Sen. (Eng.) Muriuki: Mr. Deputy Speaker, Sir, this is a Petition. So, we cannot say we allow or we do not allow it. It has come. However, I would like to suggest that this Mr. Gwada Ogot is quite misguided. Maybe this person has not seen the way a person who has consumed cannabis sativa looks. They cannot tell where the car is or where the land is. They cannot know who to engage with and whom to fight with for no reason.

Therefore, the reason being given that cannabis sativa might have some other useful purpose; whereas that could be possible, our system has proved that we cannot trust it, for instance, the police, such narrow uses away from the destructive elements of this plant. When it comes, I would oppose any such legislation seeking to allow it.

The Senate Minority Leader (Sen. Wetangula): Mr. Deputy Speaker, Sir, since we have not had sight of the Petition, it will be interesting to know if Mr. Gwada Ogot confesses to be a consumer of this substance.

Any attempts to legalise the growth, transportation or consumption of cannabis sativa, commonly called bhang - in my area it is called *Omusala*. It is also called *Injaka*. It has all manner of names – is to take the country the wrong way.

Mr. Deputy Speaker, Sir, if you have had an opportunity to see a person who has abused this substance ---

(An hon Senator spoke off record)

I do not think people consume it. They abuse it. They look so dazed that a person would be looking at you, staring at you but cannot tell who you are and still demanding to be given some more substance to consume.

I believe this will go to the Committee on Health. I want to encourage this Committee to come out very clearly in reemphasizing the provisions of the Psychotropic Substances Act that was passed in the last Parliament. It criminalizes and outlaws the growth, transportation and consumption of any such substances. Legalizing the consumption of bhang is akin to legalizing prostitution, pimping and all manner of social vices.

The Deputy Speaker (Sen. Kembi-Gitura): The interest here is a bit too much. I do not know why there should be so much interest in cannabis sativa. I will allow not more than two minutes for any person who wants to contribute on this. Who is temporary 1? Who is using a temporary card? Okay, they do not know who they are.

Proceed, Sen. Billow.

Sen. Billow: Mr. Deputy Speaker, Sir, Uruguay was the first country to legalise the use of cannabis sativa in 2013. There are not many countries. In fact, even in the United States of America (USA), the debate is still on in many of the states. In Canada, they are likely to look at it this year. It is only Netherlands and a few countries.

The objective was that it would eliminate illegal trade in cannabis sativa. That has not happened. Even in those countries where they have allowed it for medicinal use, it has not, in any way reduced the illegal consumption. Certainly, we are a country where our youths are having crisis even with the basic tobacco so that Parliament has to legislate extensively on its use. Forget about many other problems we are having.

I agree with what my colleagues said earlier; that, the petitioner clearly seems to have some other agenda for pushing for this thing. It is not about medicinal use. We have not seen this even in the developed world. The USA is the most developed country and cancer kills over a quarter million people annually. If this thing was in fact, being used, they would not be outlawing it in many of the states.

Sen. Sijeny: Mr. Deputy Speaker, Sir, fortunately the gentleman is known to me. However, the Committee should deal with this matter very carefully. It is a very sensitive

issue. Decriminalization is not the right way because as Sen. Billow says; our youth and little children as young as 10 years old are being given this substance. It is destroying a whole generation.

As it has been said, it has to be done very carefully. I know of countries like India where it is legalized – when I was there, it was in the streets; the way you buy cigarettes. I did not see people misbehaving. So, I do not know what it can be. In Kenya we have to be very careful.

Sen. Okong’o here is saying that what Sen. (Eng.) Muriuki was saying is not true; that, when you take it – he is an expert, so, perhaps it is not that those who take are very useless. It is only if you abuse it.

However, I would like this issue to be dealt with very sensitively.

The Deputy Speaker (Sen. Kembi-Gitura): What is your point of order, Sen. Wetangula?

The Senate Minority Leader (Sen. Wetangula): On a point of order, Mr. Deputy Speaker, Sir. Did you hear Sen. Sijeny say that the distinguished Senator for Nyamira is an expert on cannabis sativa? Is he an expert as a consumer, a grower, a transporter or in any way associated with this illicit substance?

The Deputy Speaker (Sen. Kembi-Gitura): Order, Sen. Wetangula. I notice that the distinguished Senator for Nyamira is here and he did not raise a point of order. So, why do we not leave it at that?

Sen. (Prof.) Lonyangapuo: Mr. Deputy Speaker, Sir, he is a presidential candidate. So, he should relax.

I join my colleagues in recognizing that, although we have freedom of bringing petitions to be handled in the Senate, the National Assembly or any county assembly, there are some petitions which we should not even encourage. How can a Kenyan in the right state of mind think of encouraging this? This is in view of the damages that consumption of this has caused in Kenya.

The issue of drugs has been in the limelight recently. The President and his deputy were in Mombasa trying to destroy some of the drugs that have caused havoc in Kenya. Although it may generate money the way the petitioner is suggesting, it leads to destruction of lives and families and causes a lot of disorder.

I suggest that as the Committee handles this Petition, it should even propose more penalties for people who entertain this. They should look at the Act and enhance some of the penalties so that Kenyans would not think about this.

Sen. M. Kajwang: Mr. Deputy Speaker, Sir, I take a different view from my colleagues. I thank this particular petitioner, Mr. Ogot, for bringing this Petition.

Mr. Deputy Speaker, Sir, every dark cloud has a silver lining. We have seen the trend globally that marijuana is now being exploited for some benefits beyond the smoking and intoxication. We have seen the rise of medicinal cannabis and we have seen the use of other drugs for their industrial properties.

Mr. Deputy Speaker, Sir, I encourage the committee that will be looking at this to look at the matter with an open mind. In the rolling hills and valleys of Gwasi in Homa Bay County where I come from, this plant grows wild. I do not think anyone here went to Tonga High School. There is a school called Tonga High School where the plant grew as a weed and it was very difficult for teachers to control it. If our soil can support it, then

why do we not find a way of tapping into it for the right purposes such as medicinal and industrial use but not to allow people to smoke and peddle it around?

Mr. Deputy Speaker, Sir, I support the Petition.

Sen. Billow: On a point of order, Mr. Deputy Speaker, Sir. I may have heard it wrongly but is he in order to suggest that in the hills and valleys of Homa Bay, marijuana grows wildly? Is he suggesting that marijuana grows wildly and, consequently, is consumed by some people?

The Deputy Speaker (Sen. Kembi-Gitura): I did not hear him say that it is consumed freely. I understood him to say that it grows as a weed in the rolling hills of Gwasi in Homa Bay.

Sen. (Prof.) Lonyangapuo: On a point of order, Mr. Deputy Speaker, Sir. Did you hear Sen. M. Kajwang talk about a secondary school? Could he clarify in what context he mentioned the secondary school? Did he mention it in relation to this plant?

The Deputy Speaker (Sen. Kembi-Gitura): Sen. M. Kajwang, you mentioned Tonga High School. What was that in context to?

Sen. M. Kajwang: Mr. Deputy Speaker, Sir, Tonga High School lies in a place called Magunga. That is the centre of Gwasi which is an area where marijuana was not planted by human beings but it is a weed.

The Deputy Speaker (Sen. Kembi-Gitura): The question is, in what context is Tonga High School?

Sen. M. Kajwang: Mr. Deputy Speaker, Sir, I was giving an example of a situation where you have put in place all the controls and laws and rules but the plant just grows from the earth.

The Deputy Speaker (Sen. Kembi-Gitura): I think that is understood. Sen. Wangari.

(Loud consultations)

Order Senators! You must also respect any contrary view coming from other Senators. All of us do not have to take the same view on this issue.

Sen. Wangari: Mr. Deputy Speaker, Sir, there is a reason Sen. M. Kajwang asked whether there is anyone in this House who schooled in Tonga and there was none. Maybe he should tell us where those who schooled in Tonga High School ended up.

Mr. Deputy Speaker, Sir, as much as there is freedom to present any petition as has been granted by the Constitution, I also feel that, in some instances, this right is being abused. My view on the Petition is that as the investigation is done by the Committee, let us also investigate the bad effects of cannabis on communities. As we struggle with drug abuse and extradition to different countries on these issues, the Committee needs to investigate the bad effects to communities, young men who are unable to raise families due to consumption of bhang and our kids who have refused to go to school due to the consumption of cannabis sativa.

Mr. Deputy Speaker, Sir, I must say Sen. Okong'o is a public property since he will be running for presidency. So, he should tell the House why he is an expert on cannabis sativa.

The Deputy Speaker (Sen. Kembi-Gitura): Order! Are you through?

Sen. Wangari: Yes, Mr. Deputy Speaker, Sir.

The Deputy Speaker (Sen. Kembi-Gitura): I do not want you to bait your colleague Senators on the issue. Sen. (Dr.) Machage, you have two minutes.

Sen. (Dr.) Machage: Mr. Deputy Speaker, Sir, I am really sure this will be brought to the Committee on Health and it will be interesting to listen to the petitioner and the reasons and scientific information he may have on this.

I moved a Motion in this House about three years on declaring drug and substance abuse as a national disaster and it was passed by this very House although the Committee on Implementation has never picked up on it.

It is true that many countries have picked on some of these drugs and legalised their use. Chang'aa which is a locally brewed alcohol in Kenya, is not illegal in Tanzania. The Government there allows people to brew chang'aa but you do not sell to the people but to the Government. The Government buys it from the people and refines it to produce Konyagi, which is a very popular drink everywhere.

So, as at now, I will not have a negative view on the petitioner. Maybe I will agree that this petition is allowed and we listen to it carefully. In Tanzania, the same "weed" is grown. Most of it is found in Kenya and people are arrested in Kenya but not in Tanzania. Maybe, we will have to look at their laws. This is not abused in Tanzania. So, there are a lot of things to look at on this plant.

Sen. Hargura: Mr. Deputy Speaker, Sir, everything which is created could have its positive and negative aspects. We normally buy "all practices" to allow what has more benefits and reject what has more negative effects and this could be one reason.

So, I would like the petition to be submitted to the relevant committee to advise the individual as to why generally the plant has been outlawed and why we cannot insist on a small medicinal value and allow its abuse by the majority. I thank you.

The Deputy Speaker (Sen. Kembi-Gitura): Sen. Okong'o, you may now explain yourself if you choose.

Sen. Okong'o: Mr. Deputy Speaker, Sir, it is incumbent upon any Kenyan to bring a petition. Prima facie, I do not agree with my colleagues who dismissed that petitioner.

Secondly, I have heard statements when I was partly around. I do not say things that I do not understand. I grew up in an environment where cannabis sativa was rampant in use during my childhood. As a juvenile, I indulged heavily in that but it did not distract me anywhere I went.

(Laughter)

I happened to have my studies in India which is one of the largest democracies in the world where by virtue of my background it was available for me but I chose not to use it. The question is abuse. If we have strict regulations, then we can use them as a deterrent. It is rampantly abused in the country because of the laws which criminalize it. The question is abuse but has the Government managed to deal with the issues? If you regulate it strictly, then it will be a deterrent and that is what I am saying.

Sen. Kagwe: On a point of order, Mr. Deputy Speaker, Sir. Before we contribute to the debate, and given that Sen. Okong'o has said he knows this stuff and has used it,

could he explain to us exactly what transpires when you take it? Do you become a good or bad man? How does it work? This is so that the House is informed and Members can contribute from an informed perspective.

(Several Senators stood up on points of order)

The Deputy Speaker (Sen. Kembi-Gitura): Sen. Okong’o, there are many points of order and I suspect they are directed at you. Let us listen to all of them. You may be able to deal them at once.

Members, let us be brief.

Sen. Wangari, proceed.

Sen. Wangari: Mr. Deputy Speaker, Sir, you understand why that necessitated the explanation of the “expert”. However, I would like the Senator to explain whether he still partakes---

The Deputy Speaker (Sen. Kembi-Gitura): Can you call him an expert?

Sen. Wangari: He said he is an expert and he has used it. Could he tell us whether he is still using it today or it was those days when he was a juvenile?

Sen. Billow: On a point of order, Mr. Deputy Speaker, Sir. This is a serious matter. The hon. Senator has announced his intention to vie for the presidency of this Republic. Having confirmed in this House that he has indulged in using Marijuana, could he tell the country that if he, indeed, in the unlikely event he becomes the President, will it be part of his policy to legalise the use of marijuana in this country?

Sen. Sang: On a point of order, Mr. Deputy Speaker, Sir. This is very interesting and it might help us shed some light on some of the ambitions the Senator has.

When he declared that he was running for the presidency, against all odds we wondered what was happening to him. Could he confirm that he might have partaken of this particular obnoxious substance before he made the announcement and that this could have influenced his decision on the kind of ambition he seems to harbor?

The Deputy Speaker (Sen. Kembi-Gitura): Sen. Sang, that is not a fair point of order.

Sen. Haji.

Sen. Haji: Mr. Deputy Speaker, Sir, we should not be unfair to Sen. Okong’o for being honest in saying that when he was a young man he used to smoke these things. That should not stop him from being the President of this country because Bill Clinton also admitted to smoking and he was the most senior head of state in the world.

The only advice I will give to the Committee is that this gentleman should be invited and listened to *halafu apewe pili pili kali amezee ili imwashe kama anataka hivyo*.

The Deputy Speaker (Sen. Kembi-Gitura): Sen. Okong’o, do you have any response to this? Do not feel obliged, but if you want to comment on the points of order you can do so.

Sen. Okong’o: Mr. Deputy Speaker, Sir, to Sen. Billow, this is a substance I used a long time ago and it has never informed my decision to become the President of the Republic of Kenya.

The problem with Kenyans is that they are living in denial. That is why we are in all this mix. If you want a discussion on this, you require the Senate to hold a workshop.

This is not a question that we can delve into in wholesale. When we were growing up, seven out of ten youth indulged. When I went India, where it was available, I was already grown up and I never abused it.

To my junior lawyers, Sen. Sang, I spoke to him a few minutes ago while we were at the KICC. I told him I am the only better option for Kenya. The side he is sitting in has bankruptcy of leadership. That is why Kenya is bedeviled with the strikes we have. The side I am sitting is like conjoined siamese twins--- That is why I have offered myself as the best option for Kenya.

The Deputy Speaker (Sen. Kembi-Gitura): Finally, Sen. (Prof.) Lesan, on the main debate.

Sen. (Prof.) Lesan: Mr. Deputy Speaker, Sir, I also wish to make a brief comment on this. The Petition has asked that we decriminalize and legalize the plant. We must be aware that there are many varieties of this plant. There is a lot of research that is going on, on this. If we look at the regulations that deal with narcotic drugs in Kenya at the moment, the level of information that we are having on these drugs is extensive. It is important not only to legalise but to look at the entire regulations that guide all narcotic substances, particularly in view of the nature of the population that we have.

It is quite in order that this Petition is here. We will look at all its aspects in terms of regulations; whether we decriminalize or not. It is a question of how we look at the by-products of the plant. The Senator has said this is a weed that grows everywhere and, therefore, we do not need to decriminalize it. We are more concerned about the products of this plant when they have been processed. This is where regulations must be put in place, based on research which is emerging at the moment.

I support that this Petition is rightly here. Being a Member of the Committee on Health, we advise that we also be involved in looking at it.

The Deputy Speaker (Sen. Kembi-Gitura): Hon. Senators, pursuant to Standing Order No.227(1), the Petition stands committed to the relevant Standing Committee, in this case, the Standing Committee on Health.

In terms of Standing Order No.227(2), the Committee will be required, in not more than 60 days from the time of reading the prayer, to respond to the Petitioner by way of a report addressed to him and laid on the Table of the Senate.

(The Petition was referred to the Standing Committee on Health)

ALLEGED WRONGFUL RETIREMENT BY THE PSC OF GROBAC MAGARE OMAYO

Hon. Senators, I have the final Petition by Grobac Magare Omayo on alleged wrongful retirement by the Public Service Commission (PSC).

Hon. Senators, pursuant to Standing Order No.220(1)(a) and 225(2)(b), I hereby report to the Senate that a Petition has been submitted through the Clerk by Mr. Grobac Magare Omaye, a resident of Nyamira County on his alleged wrongful retirement by the PSC. In his Petition, the Petitioner states:-

(a) That he served as a Senior Livestock Production Assistant under the then Ministry of Livestock until October, 2009 when his employment was discontinued on the

basis that he had proceeded to undertake studies at Moi University without obtaining authority from the employer.

(b) That since then he has pursued the matter with the Ministry and the PSC which in May, 2016 arrived at a decision to retire the Petitioner in public interest.

(c) That since the said decision by the PSC, the Petitioner is yet to be served with a formal retirement notice by the Commission which will allow him to pursue employment opportunities elsewhere.

(d) That in addition to not receiving a salary since October, 2009, the Petitioner states that he has been subjected to an unfair and unjust treatment by the Commission.

(d) That further he has incurred numerous costs while pursuing resolution of his case with the Commission and various other Government agencies.

Consequently, the Petitioner prays that the Senate:-

(a) Investigates this matter and makes appropriate recommendations thereon to provide relief to the Petitioner.

Hon. Senators, pursuant to Standing Order No.226, I shall now allow comments, observations or clarifications in relation to the Petition for not more than ten minutes.

Proceed, Sen. Abdirahman.

Sen. Abdirahman: Mr. Deputy Speaker, Sir, I am aware of a similar case from Mandera County of the then Ministry of Agriculture and Livestock Development whose issue has not been resolved to date. It is important that the PSC takes into consideration matters that relate to staff development. An employee trying to pursue further studies is an important thing. They become an asset in terms of career development and providing better services. It is important for this case to be considered. I suppose it will be referred to the Committee on Labour and Social Welfare. It is important that we give it the due consideration that it deserves. There may be many other silent Kenyans out there who need to be considered.

The Deputy Speaker (Sen. Kembi-Gitura): Hon. Senators, pursuant to Standing Order No.227(1), the Petition stands committed to the relevant Standing Committee, in this case, the Standing Committee on Labour and Social Welfare.

In terms of Standing Order No.227 (2), the Committee will be required, in not more than 60 days from the time of reading the prayer, to respond to the petitioner by way of a report addressed to the petitioner and laid on the table of the Senate.

(The Petition was referred to the Standing Committee on Labour and Social Welfare)

Next Order!

NOTICES OF MOTIONS

VARIATION OF PERIOD FOR PRESENTATION OF REPORT ON THE REVIEW OF STANDING ORDERS

Sen. (Dr.) Machage: I beg to give notice of the following Motion:-

THAT, notwithstanding the provisions of standing order 249, the Senate resolves to vary the period within which the Procedure and Rules Committee should make its

report on the periodic review of Standing Orders to the Senate, from six months to three months before the end of the term.

ADOPTION OF REPORT ON VETTING OF NOMINEES
TO THE NATIONAL CLIMATE CHANGE COUNCIL

Sen. Kivuti: Mr. Speaker, Sir, I beg to give notice of the following Motion:-

THAT, pursuant to Section 7 of the Climate Change Act, 2016, Section 8 (1) of the Public Appointments (Parliamentary Approval) Act 2011 and the Senate Standing Order No.65, the Senate adopts the report of the Joint Sitting of the Senate Standing Committee on Land and Natural Resources and the National Assembly Departmental Committee on Environment and Natural Resources on the vetting of nominees for appointment to the National Climate Change Council, laid on the table of the Senate on Wednesday, December 28th 2016, and approves the recommendations of the committee as follows:-

- (1) Approves the nomination of Mr. Suresh Patel and Mr. John Kioli for the appointment to the National Climate Change Council;
- (2) Rejects the nomination of Ms. Cynthia Wechabe and Dr. Jane Mutheu for appointment to the National Climate Change Council;
- (3) Recommends that the appointing authority submits nominees of the female gender to represent the marginalized communities and the Commission for University Education as prescribed by the Public Appointments, (Parliamentary Approval) Act.

STATEMENT

THE PLIGHT OF FORMER COUNCILORS UNDER
KENYA'S DEFUNCT LOCAL AUTHORITIES

Sen. Sang: Mr. Speaker, Sir, I rise pursuant to Standing Order No.45 (2) (b) to seek a statement from the Chairperson of the Standing Committee on Devolved Government concerning the plight and welfare of former Councillors under Kenya's defunct local authorities.

In the Statement, the Chairperson should:

- (1) State whether the Ministry of Devolution and Planning is aware of the following recommendations of the Senate Committee on Labour and Social Welfare in response to the Petition by the Forum of the Former Councillors for Legislative interventions to address the plight and welfare of former councillors.
 - (a) The Payment of a one off honorarium of Kshs1.5 million per former councilor having served a minimum of one term since Independence.
 - (b) A monthly pension of at least Kshs30,000.
 - (c) Access to the premises and facilities of county assemblies including canteens and speakers' galleries.
 - (d) Exemption from paying parking fees, other rates and fees within the area they served.
- (2) The measures the Ministry has taken to implement the above recommendations.

- (3) What other measures the Ministry is taking to address the concerns and plight of the former councillors.

Sen. Lonyangapuo: On a point of order, Mr. Deputy Speaker, Sir. I want to ride on what Sen. Sang has said that we have the Senate Implementation Committee that has been mandated to always follow up what the Senate has resolved. What has this Committee done with regard to this urgent request from the former councilors? This request was unanimously approved by this Senate last year.

Could the Committee that you will assign this task to be able to inquire from the Cabinet Secretary for Devolution why he has not prioritized this resolution, given the nature of the question and the nature of the need of the said persons?

Sen. M. Kajwang: Mr. Deputy Speaker, Sir, I would also like to ride on the request for a Statement. There are counties that have set aside budgets to pay former councillors coming from those respective counties. An example is Siaya and Migori counties that have set aside substantial budgets because they appreciate the suffering of these former councillors who laid the foundation for the local authorities that eventually made up the counties that we have today.

I would like, in that statement, to find out whether making budgets for the former councillors is in line with the Public Finance Management Principles and requirements.

Mr. Kagwe: Mr. Deputy Speaker, Sir, in relation to the question that has been raised, in the statement, could the Cabinet Secretary also state the plight of healthcare and particularly allocation for NHIF and medical allowances for the councillors?

It is a fact that former councillors are suffering out there and if we who are in these Houses do not speak and take care of them, the same thing is going to happen to us when we are out of here.

The Deputy Speaker (Sen. Kembi-Gitura): Sen. Kagwe, are you planning to be out of here?

Now, Sen. Sang, I do not know how we are going to deal with this situation. It is a little bit complicated because I notice that Sen. (Prof.) Lonyangapuo had sought a statement related to the same issue sometimes in September 2015. He sought an answer on this issue and the Standing Committee on Labour and Social Welfare gave a report on 16th February, 2016.

A copy of the response was forwarded to the petitioners pursuant to Standing Order No. 228 in February 2016.

I am assuming that you are seeking a statement from the Ministry of Devolution, but in my view, the matter is substantially spent. Therefore, what we should be doing in my view is to ask the Implementation Committee to tell us how far it has reached as pertains to the implementation of what the committee resolved in the petition brought by Sen. (Prof.) Lonyangapuo. I think, essentially, that is what you are pursuing.

My direction would be that, even before I commit the request for a Statement from the Committee on Devolved Government, once the Implementation Committee is formed in the next week or so, they should come to this House and make a report pursuant to your request and also pursuant to what was decided when Sen. (Prof.) Lonyangapuo sought the Statement on how far it has gone in implementing what that Committee recommended. That should be the correct route to follow because if we go

back to the Committee on Devolved Government, they will come back with the same thing.

On Thursday next week, the Implementation Committee should report to this House on the progress made to date on the issue that you have raised and the issue that was raised by Sen. (Prof.) Lonyangapuo. I think that is fair and reasonable.

Sen. Sang: Mr. Deputy Speaker, Sir, that direction suffices. I hope that the Committee will realise the very urgent nature of this matter. As we speak, most of the county assemblies are discussing about the pension and gratuity of the Members of County Assembly (MCAs). It is important that we include this group of Kenyans, who as Sen. M. Kajwang said, set the foundation for our counties.

If the Committee can be given one week till Thursday, that would be important. However, I would request that you also direct, if that would be appropriate, the leader of Majority so that at the end of the day, whereas we are expecting a report from the Committee on Implementation which will have to find out from the Ministry, if we can also include the services of our Majority Leader to expedite that process of getting a response, it would be important.

The Deputy Speaker (Sen. Kembi-Gitura): I hear you. This is a Sessional Committee. So, as soon as the Sessional Committee is formed, on Tuesday I would like you to raise the issue again so that we set timelines when the Committee on Implementation will give that answer on the way forward.

So, I am putting it upon you to do that on Tuesday.

Sen. Wangari, what is your point of order? Is it on the same issue?

Sen. Wangari: On a point of order, Mr. Deputy Speaker, Sir. It is on the same, if you allow. It is just to back up your ruling. I sat in the Committee on Labour and Social Welfare that deliberated on this issue. We called the former councillors. We had many proper meetings. We need a report from the Committee on Implementation. Let them tell us how far the issue has been resolved. That would be the right way instead of redoing it again.

The Deputy Speaker (Sen. Kembi-Gitura): That is exactly what I have ruled.

Sen. Sang, are you not satisfied yet?

Sen. Sang: Mr. Deputy Speaker, Sir, that is fine. On Tuesday, I might be in the county campaigning. Would you allow Sen. (Prof.) Lonyangapuo to stand in for me?

The Deputy Speaker (Sen. Kembi-Gitura): Sen. Sang, I have made that direction; where you shall be, we shall be. What we shall be doing ---

Sen. Sang: Mr. Deputy Speaker, Sir, I was requesting to allow Sen. (Prof.) Lonyangapuo to stand in for me if I will not be around.

The Deputy Speaker (Sen. Kembi-Gitura): I have made a ruling on that. Who does it is neither here nor there.

What is your point of order, Sen. (Dr.) Machage?

Sen. (Dr.) Machage: On a point of order, Mr. Deputy Speaker, Sir. If Sen. Sang may listen, is he in order to declare on the Floor of this House that on Tuesday he will be in the constituency campaigning when the campaigning has not yet been declared by the Independent Electoral and Boundaries Commission (IEBC)?

The Deputy Speaker (Sen. Kembi-Gitura): He did not say he would be campaigning for what. Maybe it would be for a medical event or something else.

That brings us to the end of that.

Senator, are you temporary one? What is your point of order?

Sen. Chelule: On a point of order, Mr. Deputy Speaker, Sir. I heard Sen. M. Kajwang saying that some arrangements have been made at the county governments for some councillors to be paid. Is that procedural? If so, why can't other counties be paid?

The Deputy Speaker (Sen. Kembi-Gitura): Did he talk about councillors or MCAs?

Sen. Chelule: Mr. Deputy Speaker, Sir, he said councillors.

The Deputy Speaker (Sen. Kembi-Gitura): Let put it this way; we have a matter that has to do with the Senate in front of us. I have absolutely no control of what is happening in individual counties. That matter has not been brought to my attention. So, let me deal with what is in front of me which is the statement sought by Sen. Sang on which I have ruled.

Hon. Senators, before we go to the next order, I have two short messages from the National Assembly.

I have a Message from the National Assembly on the decision of the National Assembly on the Health Bill (National Assembly Bill No.14 of 2015) and the Public Fundraising Appeals Bill (Senate Bill No.28 of 2014)

MESSAGES FROM THE NATIONAL ASSEMBLY

REJECTION OF SENATE AMENDMENTS TO BILLS AND APPOINTMENT OF MEDIATION COMMITTEES

Hon. Senators, I wish to report to the Senate that pursuant to Standing Order No.40(3) and (4), I have received the following Message from the Speaker of the National Assembly regarding the decision of the Assembly on the Health Bill (National Assembly Bill No.14 of 2015) and the Public Fundraising Appeals Bill (Senate Bill No.28 of 2014).

Pursuant to the provisions of Standing Order No.41 and 142 of the National Assembly Standing Orders, I hereby convey the following Message from the National Assembly.

WHEREAS, the Health Bill (National Assembly Bill No.14 of 2015), was published vide *Kenya Gazette Supplement* No.44 of 17th August, 2015, to align health laws and policy to the provisions of the Fourth Schedule of the Constitution of Kenya, 2010 relating to the respective functions assigned to the national and county governments and to provide a framework for the coordination between the two levels of Government in provision of health services and management of health facilities;

AND WHEREAS the said Bill was passed on 30th March, 2016 and referred to the Senate for consideration and thereafter returned with amendments by the Senate;

WHEREAS, on 23rd and 24th of November, 2016, the National Assembly considered Senate amendments to the Health Bill and negatived the Senate's amendment to several clauses, save for the amendment to Clause 2, 7, 12, 27 and 49 of the Bill that were agreed upon;

AND WHEREAS, the Public Fundraising Appeals Bill (Senate Bill No.28 of 2014), published vide *Kenya Gazette Supplement* No.99 of 27th June, 2014 as a Bill originating in the Senate was passed by the Senate on Tuesday 12th May, 2015 and referred to the National Assembly for concurrence;

FURTHER, WHEREAS the Public Fundraising Appeals Bill (Senate Bill No.28 of 2014) was lost at the Second Reading on 5th October, 2016, thereby committing it to the Mediation Committee;

Now therefore, in accordance with the provisions of Article 112 of the Constitution and Standing Order No.149 of the National Assembly Standing Orders, I hereby convey the said decisions of the National Assembly to the Senate and seek the appointment of Senators to the Mediation Committee in respect to the two Bills.”

Hon. Senators, Article 112(1)(b) of the Constitution provides that if one House passes an ordinary Bill concerning counties and the second House passes the Bill in an amended form, it shall be referred back to the origination House for reconsideration.

Further, Article 112(2)(b) of the Constitution provides that if the originating House has reconsidered a Bill referred back to it under sub article 1(b), that House rejects the Bill as amended, the Bill shall be referred to a Mediation Committee under Article 113.

Further, Article 112(1)(a) of the Constitution provides that if one House passes an ordinary Bill concerning counties and the second House rejects the Bill, it shall be referred to a Mediation Committee appointed under Article 113.

Hon. Senators, in the circumstances, I concur with the Speaker of the National Assembly to form Mediation Committees in accordance with Articles 112(1)(a), 112(2)(b) and 113 of the Constitution.

I would like to inform the House that I have received communication from the National Assembly that the Speaker of the National Assembly has appointed the following Members to represent the Assembly in the respective Mediation Committees that would attempt to develop versions of the said Bills that both Houses would pass.

The Mediation Committee on the Health Bill (National Assembly Bill No. 14 of 2015):-

- (1) Hon. (Dr.) Rachel Nyamai, MP;
- (2) Hon. (Dr.) Robert Pukose, MP;
- (3) Hon. (Dr.) Naomi Shaban, MP;
- (4) Hon. (Dr.) James Nyikal, MP; and,
- (5) Hon. (Dr.) Enoch Kibunguchy, MP.

The Mediation Committee on the Public Fundraising Appeals Bill (Senate Bill No. 28 of 2014):-

- (1) Hon. Priscilla Nyokabi, MP;
- (1) Hon. T. J. Kajwang, MP; and,
- (2) Hon. Stephen Bitok, MP.

Likewise, Hon. Senators, I also appoint the following Senators to represent the Senate in the said mediation committees.

The Mediation Committee on the Health Bill (National Assembly Bill No. 14 of 2015):-

- (1) Sen. (Dr.) Wilfred Machage, MP;

- (2) Sen. (Prof.) Wilfred Lesan, MP;
- (3) Sen. Zipporah Kittony, MP;
- (4) Sen. (Eng.) Muriuki Karue, MP; and,
- (5) Sen. Mshenga Mvita, MP.

The Mediation Committee on the Public Fundraising Appeals Bill (Senate Bill No. 28 of 2014):-

- (1) Sen. (Prof.) Anyang'-Nyong'o, MP;
- (2) Sen. (Prof.) Lonyangapuo, MP; and,
- (3) Sen. Wangari, MP.

I urge the mediation committees to urgently deal with these important assignments and report back within the stipulated timelines.

I thank you.

PASSAGE OF THE DIVISION OF REVENUE BILL
(NATIONAL ASSEMBLY BILL NO.2 OF 2017)

The Deputy Speaker (Sen. Kembi-Gitura): Hon. Senators, the second message from the National Assembly is on the passage of Division of Revenue Bill (National Assembly Bill No.2 of 2017).

Hon. Senators, I wish to report to the Senate that pursuant to Standing Order No.40(3) and (4), I have received the following Message from the Speaker of the National Assembly regarding the passage by the National Assembly of the Division of Revenue Bill (National Assembly Bill No.2 of 2017). I will quote:-

“Pursuant to the provisions of Standing Orders No. 41 and 142 of the National Assembly Standing Orders, I hereby convey the following Message from the National Assembly.

WHEREAS, the Division of Revenue Bill (National Assembly Bill No.2 of 2017) was published by the Kenya Gazette Supplement No.2 of 6th January, 2017 to provide for equitable division of revenue raised between the national and county governments in the 2017/2018 Financial Year;

WHEREAS, on 9th and 14th February, 2017, the National Assembly considered and passed the said Bill without amendments and in the form attached hereto;

NOW THEREFORE, in accordance with the provisions of Article 110(4) of the Constitution and Standing Order No.41 of the National Assembly Standing Orders, I hereby refer the Bill to the Senate for consideration.”

Hon. Senators, pursuant to Standing Order No.148 which requires that a Bill which originates in the National Assembly be proceeded with by the Senate in the same manner as a Bill introduced in the Senate by way of first reading in accordance with Standing Order No.129, I now direct that the Division of Revenue Bill (National Assembly Bill No.2 of 2017) be listed for First Reading in the Order Paper of tomorrow, Thursday, 16th February, 2017.

I thank you. Next Order!

BILLS*First Readings*

THE COUNTY BOUNDARIES BILL
(SENATE BILL NO.16 OF 2016)

THE CARE AND PROTECTION OF CHILD AND
PARENTS BILL (SENATE BILL NO.14 OF 2016)

THE PUBLIC PARTICIPATION BILL
(SENATE BILL NO.15 OF 2016)

THE COCONUT INDUSTRY DEVELOPMENT
BILL (SENATE BILL NO.17 OF 2016)

THE COUNTY GOVERNMENTS (AMENDMENT)
(NO.3) BILL (SENATE BILL NO.18 OF 2016)

THE CONSTITUTION OF KENYA (AMENDMENT)
(NO.2) BILL (SENATE BILL NO.19 OF 2016)

*(Order for First Readings read – Read the First
Time and ordered to be referred to the relevant
Senate Committees)*

THE COUNTY PENSION SCHEME BILL
(SENATE BILL NO.20 OF 2016)

The Deputy Speaker (Sen. Kembi-Gitura): Hon. Senators I will re-organize the Order Paper so that Order No.14 is stood down for now, to be re-listed later.

(First reading of the Bill deferred)

POINT OF ORDER

RE-CONSIDERATION OF DECISION TO DEFER
THE COUNTY PENSION SCHEME BILL

Sen. Madzayo: On a point of order, Mr. Deputy Speaker, Sir. I am surprised that you have indicated that you want to stand down Item No.14 on the Order Paper which basically is the County Pension Scheme Bill (Senate Bill No.20 of 2016). I have not been consulted as the Chairperson. It was only a few minutes ago when the Senate Majority Leader walked to me and told me that he wanted this matter stood down. As the chairperson, this should have been brought to me in advance.

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This Bill has actually cost me almost my health. It has been a ping pong, moving up and down. If it is coming for First Reading now, I do not see the reason why we cannot do it. If there are any contributions to be done, they can either be done through public hearing or on the Second Reading. There is nothing wrong in this.

The Senate Majority Leader walked up to me and told me he had received a call from somebody somewhere I do not know in China or whatever it is. He said that this Bill should not be--- We cannot delay the legislative process.

Sen. Abdirahman: On a point of order, Mr. Deputy Speaker, Sir.

The Deputy Speaker (Sen. Kembi-Gitura): What is your point of order Sen. Abdirahman?

Sen. Abdirahman: Mr. Deputy Speaker, Sir, this particular Bill relates to the counties where we have a huge number of workers whose plight has not yet been considered and we know that we are coming to the end of our term.

I am a Member of the Committee on Labour and Social Welfare. A lot of time and energy has been spent developing this Bill and it is important to prioritize it. I am told that this time round, as we move to the next one or two months, priority is being given by the HBC to Bills that touch on counties. I am not saying that you should not stand it down. However, as pledged, with your kind consideration, let us have it tomorrow if it is stood down today.

Sen. (Eng.) Muriuki: Mr. Deputy Speaker, Sir, I join my Chairman, Sen. Madzayo, in urging the Chair to see the importance of this Bill and the enormous amount of work and consultation with every imaginable stakeholder and interest groups. Hearing that it is being stood down after about two years of extensive work, I urge the Chair to allow this Bill to go for the First Reading so that whatever other interests are concerned, they should come in a procedural way.

The Constitution has allowed that any of these views and interest groups are heard during public hearings or petitions as presented. Whatever reasons there are, the House, through the Committee on Labour and Social Welfare will look at them. The House has no obligation to accept the Bill, but it should be given the opportunity to follow procedures and the Bill to go through the First Reading which is purely procedural. The rest of the stages will follow in the normal manner.

I urge you to allow the First Reading to take place and issues from other interest groups to be brought during appropriate sessions of public hearings of the Bill.

The Deputy Speaker (Sen. Kembi-Gitura): These are points of order. Let us make them brief.

Sen. Wangari: Mr. Deputy Speaker, Sir, I will be brief. I do not rise to challenge you. However, I still do not feel convinced why we need to stand down the First Reading of this Bill.

The Deputy Speaker (Sen. Kembi-Gitura): What reasons were given, Sen. Wangari?

Sen. Wangari: Mr. Deputy Speaker, Sir, just what the Chairperson has presented to the House.

The Deputy Speaker (Sen. Kembi-Gitura): I am the one who said I am standing it down. What reasons did I give?

Sen. Wangari: Mr. Deputy Speaker, Sir, I hear you and I am well advised.

The Deputy Speaker (Sen. Kembi-Gitura): You should be.

Sen. Wangari: Moving forward, this Bill has gone through pre-publication consultations by the time it got here. It is an urgent Bill. As we approach elections, I do not know why we need to delay the First Reading and yet we have 30 days of interactions if anyone has any issue to raise on the Bill.

I urge that you reconsider that the First Reading be done. Let any other interactions be done during public participation.

Sen. Sang: Mr. Deputy Speaker, Sir, this will be the first time a Bill is being presented for First Reading and it is stood down. We have had one such Bill in this House. We have had very protracted discussions about pensions.

If you look at the importance of this Bill and the kind of suffering that county staff and workers are going through, the uncertainty with regard to which institution is handling their pension, future and fate, it would make sense if this Bill was to go through the First Reading and then, afterwards, any other concerns will be dealt with. We have a long legislative process; from the First Reading, Second Reading, Committee stage, Third Reading and also public participation. It does not present a very good picture if we delay a Bill even at First Reading.

I agree that even if the consultations were to take place and there is need to---

The Deputy Speaker (Sen. Kembi-Gitura): Sen. Sang, I have heard you. You have made your point.

Sen. Sang: Could I conclude, Mr. Deputy Speaker, Sir?

The Deputy Speaker (Sen. Kembi-Gitura): I have heard you.

Proceed, Sen. Elachi.

Sen. Elachi: Mr. Deputy Speaker, Sir, first, we should understand that this is a very sensitive matter. Last year when we were about to embark on this Bill, we had a lot of consultations with the Council of Governors and a lot of interruptions came in. If the Majority Leader has the Bill that he is talking about, he should meet with the Chairperson, sit and agree and then next week we move on without the interruptions we are having so that this Bill moves forward.

The Bill deals with the lives of those who are currently employed at the counties. Governors are political officers who are about to go to campaign. They will forget the remuneration and pensions of the staff at the counties. If we tackle this Bill, we will have helped the counties.

The Deputy Speaker (Sen. Kembi-Gitura): Sen. (Prof.) Kindiki, what do you have to say about this? I must bring the points of order to an end at one point or the other.

The Senate Majority Leader (Sen. (Prof.) Kindiki): I would like to bring to perspective three things. One, initially, I was the sponsor of an earlier version of this Bill. It did not go through Second Reading and the House committed the task to the Committee.

Secondly, thereafter, consultations have been going on, some spearheaded by the Committee but others by the IBEC which is the body established under the Inter Governmental Relations Act. It is chaired by the Deputy President and includes the Council of Governors, the Commission on Revenue Allocation and the National Treasury. I have attended two of the IBEC meetings around the same issue. I shared with the Chairperson of the Committee progress that---

Sen. Madzayo: On a point of order, Mr. Deputy Speaker, Sir.

The Deputy Speaker (Sen. Kembi-Gitura): Are you not on a point of order, Sen. (Prof.) Kindiki?

The Senate Majority Leader (Sen. (Prof.) Kindiki): Mr. Deputy Speaker, Sir, I was waiting for guidance. On the issue of IBEC---

The Deputy Speaker (Sen. Kembi-Gitura): Sen. Madzayo, what is your point of order?

(Sen. (Dr.) Khalwale entered chambered dressed in a T-Shirt)

Sen. Madzayo: Kwa jambo la nidhamu Bw. Naibu Spika. Ndani ya Bunge ya Seneti kuna mtu ameingia ambaye hatumfahamu ni mtu wa aina gani. Hatujui kama ni Seneta ama ni mtu wa kutoka nje. Ningetaka ifafanulie wazi kama huyu mtu ana haki ya kuketi hapa ndani ama atupwe nje.

The Deputy Speaker (Sen. Kembi-Gitura): I now do not understand what point we are dealing with now because we were on points of order.

What is it, Sen. (Dr.) Machage?

Sen. (Dr.) Machage: Mr. Deputy Speaker, Sir, as you consider Sen. Madzayo's point of order, consider the rules of this House on definition of proper dressing which simply means putting on a coat. They do not define what type of coat. It also means having a dress that covers your hands. It does not define what type of clothes to cover the hands. The neck must have a tie. It does not describe the type of tie.

The Deputy Speaker (Sen. Kembi-Gitura): What is your point of order, Sen. (Dr.) Machage?

Sen. (Dr.) Machage: On a point of order, Mr. Deputy Speaker, Sir. Is Sen. Madzayo in order to consider Sen. (Dr.) Khalwale badly dressed in the House?

The Deputy Speaker (Sen. Kembi-Gitura): Sen. (Dr.) Khalwale, an issue has been raised on your mode of dress. Are you properly dressed?

Sen. (Dr.) Khalwale: Mr. Deputy Speaker, Sir, I am wearing a long sleeved shirt, a tie and a trouser. On top of the shirt, I am covered in a white coat.

The Deputy Speaker (Sen. Kembi-Gitura) Take your seat, Sen. (Dr.) Khalwale. I want to refer you to the Speaker's Rules which are part of what guides us here and it talks about the conduct of Senators within the precincts of Parliament. Rule No.5 reads:

“Senators are not required to enter the Chamber, lounge or dining room without being properly dressed”.

This means that a Senator shall be dressed in a coat, collar, tie, long rousers, socks and shoes or service uniform or decent national uniform for men or an equivalent standard for women.

Sen. (Dr.) Khalwale, are you wearing a coat?

Sen. (Dr.) Khalwale: Mr. Deputy Speaker, Sir, I am sorry that the coat I am wearing has writings on it about the health crisis.

The Deputy Speaker (Sen. Kembi-Gitura): Sen. (Dr.) Khalwale, I will not be involved in an altercation. You know what a coat is and you were earlier on here in the House and you were properly dressed, at least in a coat and a tie, you have gone and

changed and you are not wearing a court. Therefore, you are outside the ambit of the Speaker's Rules on the mode of dress. That is my ruling.

The Senate Majority Leader (Sen. Wetangula): On a point of order, Mr. Deputy Speaker, Sir.

The Deputy Speaker (Sen. Kembi-Gitura): No. On this point, I have made a ruling.

The Senate Majority Leader (Sen. Wetangula): People have come here dressed like CJs and the Speaker has never thrown them out.

The Deputy Speaker (Sen. Kembi-Gitura): Order Sen. Wetangula. I am in control of the House right now, and on the mode of dress, I have made a ruling and I will for the final time say that Sen. (Dr.) Khalwale was in the House earlier on and in my view he was properly dressed and the issue was not raised. He has gone somewhere, changed, and come without a coat. So, I am ordering that Sen. (Dr.) Khalwale is not in proper attire for the Senate.

The Senate Majority Leader (Sen. Wetangula): On a point of order Mr. Deputy Speaker, Sir.

The Deputy Speaker (Sen. Kembi-Gitura): The matter of the dress is finished because as far as I am concerned, that for me is a clear case. It is an obvious situation.

Sen. (Dr.) Khalwale, you are one of the most experienced legislators in this House and you know that when that ruling is made, you have to withdraw from the House, go and get properly dressed and come back, if you wish to.

The Senate Majority Leader (Sen. Wetangula): On a point of order.

The Deputy Speaker (Sen. Kembi-Gitura): Hon. Senators, I have finished on the issue of dress and I am not going to revisit it.

Sen. (Dr.) Khalwale, I am ordering that you withdraw from the House to either go and dress properly and come back or stay out of the House. The choice is yours.

Sen. (Dr.) Khalwale: Mr. Deputy Speaker, Sir, it was because of the health crisis.

The Deputy Speaker (Sen. Kembi-Gitura): I have heard you but I am only saying that you are not properly dressed. That is the point I am making.

(Sen. (Dr.) Khalwale withdrew from the Chamber)

Hon. Senators, we were on a point of order on the issue of Order No.14 on the Order Paper and Sen. (Prof.) Kindiki was on his feet.

Sen. (Prof.) Kindiki: Mr. Deputy Speaker, Sir, I was explaining how IBEC which is the Intergovernmental, Budget and Economic Council has also been consulting. A sub committee was formed to liaise with all stakeholders chaired by the Cabinet Secretary and the Chairman of the Council of Governors.

I want to understand my brother's pain because this thing has taken a bit of time and it is true that there has been pull and push around it. What happened is that after that meeting of IBEC, it was decided that all stakeholders will come with one Bill which they have all approved. In December, I am told that that process was concluded and I have got a letter from the CS, Treasury saying that they have agreed on the version.

When I saw this Bill on the Order Paper, I thought it was the agreed version, but I got information from the CS, Treasury - I think that is the one the Chairman is calling a

strange person from China – saying that the Bill which is listed for today’s First Reading is a different Bill from what the stakeholders agreed. So, what I requested – I want to plead with the House for at least one day – is so that we get it right this time and we do not continue with a process that takes us to zero again because of resistance from stakeholders, that the Bill be stood down for today so that I can consult with the Chairman of the Council of Governors and the Treasury CS together with the Attorney-General, because the desire is for this Bill to be done with like yesterday.

So, I am just pleading that I be given a day so that we ensure that all those views are accommodated. The Cabinet Secretary and the Attorney General cannot come here to discuss legislation and that is why it came from me because my earlier Bill had been negated by the House and the work taken up by the Committee of Sen. Madzayo.

The Deputy Speaker (Sen. Kembi-Gitura): Let me make it easy for all of us because I have heard Sen. Madzayo and he had occasion to discuss it with me. Could I hear from Sen. Madzayo?

Sen. Madzayo: Mr. Deputy Speaker, Sir, it is extremely sad for me as the Chairman to hear that there is another body outside this Senate that discusses issues that are before this House and that those bodies are so powerful to an extent that an Order Paper can today be overruled because of certain issues. There must be substantive reasons given by anybody who wants to move that this Bill should actually not go through the First Reading. There are no substantive reasons which have been given.

The Senate Leader of Majority just came to me and went back there and said that we had discussed. I think this House should be serious. Anything that appears on the Order Paper should be given its due consideration. It is going to be in vain if this Committee will burn the midnight oil handling this matter and then it is just done away with in that manner.

Mr. Deputy Speaker, Sir, I beg you to listen to what I am saying. You do not seem to be.

The Deputy Speaker (Sen. Kembi-Gitura): Sen. Madzayo, I am listening to you.

Sen. Madzayo: Thank you, Mr. Deputy Speaker, Sir. We have gone through this Bill with the stakeholders page by page. We have looked at all of them. None has been left out; including the Council of Governors (CoG), the National Treasury, the Retirement Benefits Authority (RBA); everybody under the sun who is concerned with this Bill has been brought on board. Everybody has contributed to this.

Mr. Deputy Speaker, Sir, it will be a sad day today if you will accept or rule in his favour; for this matter to be removed from the Order Paper. You are a credible lawyer. You are one of the outstanding lawyers in this country and my senior in that profession.

Sen. (Prof.) Kindiki is my junior but all I am saying is that he is my leader in the business of this House but the way he has approached this matter is extremely wrong. I take serious objection to this. I have been indulging him in almost all aspects but in this one, he has gone a little bit too far. I do not think I am prepared to indulge this. This Bill should go through the due process of this House.

The Deputy Speaker (Sen. Kembi-Gitura): I would like to bring this matter to a close.

(Sen. Wetangula spoke off record)

Order, Sen. Wetangula!

It is not a matter that will – I have heard Sen. Madzayo and I have had occasions to speak to him on this issue but I would hear the Senate Minority Leader, and then, make a way forward on this issue.

The Senate Minority Leader (Sen. Wetangula): Mr. Deputy Speaker, Sir, Standing Order No.117 tells us how Bills are introduced in this House; those who introduce them and the process. Standing Order No.145 tells us how Bills can be withdrawn from the Floor of this House.

In those Standing Orders, the responsibility for introducing a Bill will lie with an individual Senator, a Chair of a Committee or the Majority or Minority Leader representing whichever side they are, depending on the sponsors of the Bill. Where a Bill is sponsored by a Committee through the Chairperson or by an individual Senator, then the responsibility of withdrawal of that Bill rests squarely with the Senator or the Chairperson of that Committee and nobody else.

Mr. Deputy Speaker, Sir, I am sorry I have not had the benefit to clearly hear the issues canvassed by my distinguished counterpart apart from the last explanations that he gave. If your memory serves you and me right, a Bill similar to this came to this House and was defeated, and then, the Committee embarked on remedying the situation because the former workers of the defunct local authorities and the current workers of the county government who are unionisable and pensionable, do not have proper legal cover currently.

I left the Senate Business Committee (SBC) earlier with your permission before this matter was discussed. That notwithstanding, Committees of the House are only agents of plenary. All decisions must be taken by plenary. So, even if the Senate Business Committee or any other Committee for that matter makes a decision, that decision is subject to the authority of the House. That is the fundamental procedure in Parliament.

I have heard Sen. Madzayo speak on the Floor and as his Leader in the House; he came and spoke to me and my deputy with a lot of agony. He feels that the Committee work that has been so painstakingly done, broadly consulted with all relevant stakeholders coming in with views, is being undermined on the Floor. It is not being given an opportunity to be prosecuted.

I would encourage my distinguished counterpart, in a situation such as this, if we really want to carry a bipartisan process forward, it is a give and take. We let the matter go to First Reading and as usual it would be committed to the Committee as a Bill. Once it goes to the Committee, my counterpart has an opportunity and the right to call in everybody he wants to come and give additional views; whether it is the Attorney General – we all know that at the office of the Attorney-General, we do not know whether it is the Attorney-General or the Solicitor-General because we have many situations where the Solicitor-General is countermanning directions and orders from the Attorney-General.

So, we do not even know whether it is the Attorney-General or the Solicitor General but be that as it may, whether it is the Cabinet Secretary for the National Treasury, the CoG, my brother or any other person, they have an opportunity to: One, Appear before the Committee, give their views and improve the Bill and, two;

particularly my distinguished counterpart, to bring any amendments to improve the Bill at Committee stage after we have debated it so that we can also be able as a House that is now enjoying a bad name of having passed so few Bills for no mistake of our own; our Bills are stuck in the National Assembly but those that our Committees and individual Senators have tried to make and bring here, we should not create any impediments, more particularly if those impediments are being engineered by unconcerned persons who are neither Senators nor responsible for what we are doing.

Mr. Deputy Speaker, Sir, you have been told that the CoG, the National Treasury and the Attorney General or his representative appeared before the Committee and gave their views.

So, what is it that we are trying to be wiser after the event? I urge that notwithstanding the decision that SBC may have taken, it is subject to the directions of plenary of the House. I request that the Bill be read for the First Time, be committed to the Committee and if there are any issues we need to deal with thereafter.

If I heard the Majority Leader right, he is not even saying that we step down the Bill and bring it back tomorrow but he is saying that he will talk to many people. This means we will require a republication of the Bill, lose time and so on. That is not the direction we want to go. We have an avenue through which we can improve Bills. We have always done so in a bipartisan manner. If I have misunderstood you, inform me.

The Deputy Speaker (Sen. Kembi-Gitura): Order, Senators! We might protract this matter for too long. At the end of the day, we will have only one way forward. The Bill has not been withdrawn. Let us first of all start by understanding that.

It was, at the request of the Senate Leader of Majority, stood down. As Sen. Wetangula has correctly said, it was a decision of the Senate Business Committee. The Senate Business Committee is the only committee of the House that can make a decision like that. It is done in consultation. It sat today and considered the request by the Senate Leader of Majority that it be stood down so that there can be further consultations.

Therefore, the Bill is not being withdrawn.

Sen. Wetangula, the Senate Minority Leader, knows only too well that the Speaker, who also sits in the Senate Business Committee, cannot for no good reason or unilaterally overrule the decision of the Senate Business Committee. If you wish, I can refer you to Standing Order No.176 (d) which gives the Senate Business Committee the right to make decisions and issue directives and guidelines to prioritize or postpone any business of the Senate in consultation with the Speaker as the case may be. Therefore, that is a decision that has been made.

What you are asking me to do now is to override unilaterally a decision of the Senate Business Committee (SBC). The point I want to make to you, with the greatest respect to Sen. Madzayo, you have to make consultations again, with the leadership of the House and at the correct time, the Bill will be on the Order Paper. You do not expect me to stand here and override the Senate Business Committee because that is a decision that was made at which both leaders of the House were present.

The Senate Minority Leader (Sen. Wetangula): Mr. Deputy Speaker, Sir, Standing Order No. 176, that you have referred us to---

The Deputy Speaker (Sen. Kembi-Gitura): Sen. Wetangula, I have made a ruling on the issue. We are going to protract the issue and yet you understand very well that it

will not be possible for me to override a decision that was made by the Senate Business Committee.

(Sen. Madzayo spoke off the record)

Order, Sen. Madzayo! I have heard you. I have listened to you the whole afternoon. It is not my decision. It could be a wrong decision. However, it is a decision. At the risk of repeating myself, it is the decision of the Senate Business Committee. Let me make this clear.

Sen. Madzayo: Mr. Deputy Speaker, Sir, what are the Standing Orders for?

Deputy Speaker (Sen. Kembi-Gitura): Order, Sen. Madzayo!

The Senate Minority Leader (Sen. Wetangula): Mr. Deputy Speaker, Sir, what I do not understand, for the first time in the history of my life in Parliament from 1993, I have never seen when a Member is on the Floor, somebody seeks to inform him and the Speaker stands to deliver a ruling. At the very least, I deserve some courtesy to be told that my time is over and it is time to make a ruling. I do not understand this.

I hate arguing with the Chair. I have a lot respect, not just for the Chair but for you personally as my senior in law. However, when strange things happen, I have a duty to point them out. The microphone was not even switched off; it was still on, meaning I was still on the Floor. The very least I would expect is the Chair to tell me that it is time for his ruling. I would have known that time is up. I am not asking for too much. I have been handled strangely.

The Deputy Speaker (Sen. Kembi-Gitura): Well, I have heard you all. I have heard the Minority Leader, the Majority Leader and Sen. Madzayo. That is the position I have taken. What you need to understand is that by standing down Order No.14 on the Order Paper, I was conveying the decision of the Senate Business Committee. It was a decision that I made from where I am sitting. I expect that there will be consultations between the leadership and the chairperson of the relevant committee when a decision like this is reached. That is what I expect.

It is pursuant to that, that I conveyed the decision of the Senate Business Committee faithfully. Therefore, even if you protract this matter further, it is a finished issue.

(Several Senators stood up in their places)

I will hear you all. However, let me put this clearly; I have made a decision which I will not rescind.

What is your point of order, Sen. (Dr.) Machage?

Sen. (Dr.) Machage: Mr. Deputy Speaker, Sir, I respect the Chair and do not want to antagonize your ruling as the Speaker of this afternoon's Session. It is just yesterday that we passed a list of new Members of the House Business Committee. That is hardly 20 hours ago. What has happened in the House today shows some discontent or "unco-operativeness" amongst the Members of that committee. What the Senate Majority Leader has expressed in this House is a show of no proper committal or vote of no

confidence in the House Business Committee which made sure that this Order is on the Order Paper today. Unless otherwise, correct my thinking.

Sen. Wangari: Mr. Deputy Speaker, Sir, I do not intend to argue with the Chair on the ruling. However, it is important that we be heard on this matter. First, it was better when you did not give any reason for stepping it down. The reason that the Majority Leader has given is even worse. That, because there is another Bill that is being developed, the work that the committee has put into this process is all in vain. These are people who are outside the legislative framework and who we have involved as stakeholders.

I am very compelled to think that this precedence will haunt us in future because it is not right. As a rider on your ruling, you can indicate on when we expect this back on the Order Paper so that we can plan for it. It is not fair to the process and the work put into this progress.

Sen. (Eng.) Muriuki: Mr. Deputy Speaker, Sir, the government has three arms. We are the legislators. There is the Executive and the Judiciary, in case we argue. The Legislature has done its work and very ably so. It is true that there is another Bill that had been brought to this house to deal with that aspect of pension to county government workers. However, I urge you to see that even if the Senate Business Committee was persuaded by some outside body, to kill what the Senate has developed after consulting with all these other interested bodies---

When the Senate Majority Leader quotes organs within the Executive which had been consulted by the Committee led by Sen. Madazyo, it can only mean that there must have been some other interests elsewhere. That way, I appreciate that you will not rescind your decision because as you have put it, you are merely conveying a decision by an organ of this House. However, as you go and sit in another organ, where also the Minority Leader sits, it is also important to read the mood of this House. If this Bill does not go on, it means there are other interested groups which do not want to see county government workers with a pension scheme; whatever reason they have.

We urge that through you, the SBC sees the wisdom of allowing the Senate of Kenya to work, unfettered. This session called public hearing is very important. The public views can be so overwhelming that the Committee decides to withdraw and rewrite. However, a matter should not be casually brought to the House without even the substance of what was discussed out there outside the system of the legislature.

Thank you for hearing me.

The Deputy Speaker (Sen. Kembi-Gitura): Sen. (Prof.) Lesan, have you sought the Floor?

Sen. (Prof.) Lesan: No.

The Deputy Speaker (Sen. Kembi-Gitura): Then switch it off.

Sen. Madzayo, have a last go at it.

Sen. Madzayo: Mr. Deputy Speaker, Sir, I take into consideration the plight of all those workers in the 47 county governments, all those pensioners and further taking into consideration the time spent by this very able Committee. I have always held and still hold that you are one of the most outstanding lawyers in this country. That position to me has never changed. When you sit on that Chair, we do not refer to you as any other

person other than the Speaker. You have been delegated those powers of the Speaker by the law and the Standing Orders of this Senate.

Mr. Deputy Speaker, Sir, allow me to say this; when Jesus Christ was going to be crucified he laid it bare to the king and the king asked him whether he goes out there to say that he is the king of Jews. Jesus replied, "You said it." Allow me to put it to you that you have said it loud and clear. You have washed your hands on this matter instead of making a decision that would be historic for this country. You would seize the opportunity to say that you will not agree and you will go according to the law. That, whichever person or powers outside this House that is trying to meddle with what is before this House should not be accepted, and it will be read the First Time and if anybody has any other point, it should come later.

I am not advising you. You are more highly qualified than me. However, as arguments require in law, submissions should be done by the parties before a decision is made by the court. However, surprisingly in this House, just a few minutes ago, you made a ruling before any submissions by the Senators had been done. It is shocking. It is not only embarrassing but very sad for this country.

I thank you for being Pontius Pilate.

The Deputy Speaker (Sen. Kembi-Gitura): Thank you, Sen. Madzayo for that. I will bring this matter to a close. You may refer to me as Pontius Pilate or that I have washed my hands or say all manner of things. It is possible to say all manner of things when you do not want to face the facts. I have said the facts. With the risk of repeating myself, I have not washed my hands. You have chosen to misunderstand what I said earlier.

I mentioned to you and Sen. Karue put it well; a lot of times we stand down Business. Normally, there is not so much altercation on an issue of standing down Business. The Speaker re-organizes the Order Paper every time, every day. In this specific situation, I made it clear to the House because it is incumbent on me to make it clear to the House, that I was conveying a decision of an organ of this senate that you have established; the Senate Business Committee at which the leadership of the Minority and the leadership of the minority sit. A decision was made by the Senate Business Committee to stand down that Order No.14. Sen. Wangari talked about the Order Paper.

For good order and so that you can understand how things operate, the Senate Business Committee sat today, not yesterday. Therefore, that is a decision that has been made and I have conveyed it to you. If because of that decision you want to refer to your Speaker as Pontius Pilate, so be it. It is not in my hands. I washed my hands off that statement by you. Make it clear that in my honest opinion, although I do not want to make an issue of it, it is an unfortunate statement devoid of fact and not informed by the statement I made to this House on that issue.

I believe that closes the matter and that the chairperson of the Committee will consult with the Majority leader. I also believe that the SBC is going to be better informed by the HANSARD of what has transpired in the House this afternoon.

That is the end of the mater. Thank you.

Next Order!

BILL*First Reading*

THE LAND VALUE INDEX LAWS (AMENDMENT) BILL
(NATIONAL ASSEMBLY BILL NO.40 OF 2016)

*(Order for the First Reading read – Read the First
Time and ordered to be referred to the relevant
Senate Committee)*

PROCEDURAL MOTIONS

LIMITATION OF DEBATE ON MOTIONS

The Senate Majority Leader (Sen. (Prof.) Kindiki): Mr. Deputy Speaker, Sir, I beg to move the following Procedural Motion:-

THAT, pursuant to Standing Order 100 (1), the Senate resolves that debate on a Motion not sponsored by the Majority or Minority Party or a Committee shall be limited in the following manner:-

A maximum of three hours with not more than 20 minutes for the Mover, 20 minutes for the Majority Party Official Responder, 20 minutes for the Minority Party Official Responder and 15 minutes for each other Senator speaking and that 15 minutes before the time expires, the Mover shall be called upon to reply.

Mr. Deputy Speaker, Sir, I do not want to speak a lot on this because it is a Procedural Motion that we pass every year on the limitation of time. There is no departure from what we have done in the past.

Therefore, without much ado, I beg to move. I beg Sen. Sijeny to second this Motion.

Sen. Sijeny: Mr. Deputy Speaker, Sir, I beg to second.

(Question proposed)

(Question put and agreed to)

[The Deputy Speaker (Sen. Kembi-Gitura) left the Chair]

[The Temporary Speaker (Sen. Sang) took the Chair]

LIMITATION OF DEBATE ON ADJOURNMENT MOTIONS

The Senate Majority Leader (Sen. (Prof.) Kindiki): Mr. Temporary Speaker, Sir, I beg to move the following Procedural Motion:-

THAT, notwithstanding the provisions of Standing Order 100 (4), the debate on any Motion for the adjournment of the Senate to a day other than the

next normal sitting day in accordance with the calendar of the Senate shall be limited to a maximum of two hours with not more than fifteen minutes for each Senator speaking after which the Senate shall adjourn without question put;

provided that when the period of recess proposed by any such Motion does not exceed nine calendar days, the debate shall be limited to a maximum of thirty (30) minutes, and shall be confined to the question of adjournment.

Mr. Temporary Speaker, Sir, just as the previous Motion, this is a Procedural Motion on the issue of adjournment. We normally pass the Motion every Session. I do not want to speak much on it because it is not a departure from what we have been doing in the past.

Therefore, I beg to move and request the Sen. Sijeny to second.

Sen. Sijeny: Mr. Temporary Speaker, Sir, I beg to second

(Question proposed)

(Question put and agreed to)

LIMITATION OF DEBATE ON MOTION ON THE PRESIDENTIAL ADDRESS

The Senate Majority Leader (Sen. (Prof.) Kindiki): Mr. Temporary Speaker, Sir, I beg to move the following Procedural Motion:-

THAT, pursuant to Standing Order 100 (1), the Senate resolves that the debate on the Motion on the Presidential Address shall be limited to a maximum of three sitting days with not more than fifteen minutes for each Senator speaking, excluding the Mover in moving and replying who shall be limited to thirty minutes in either case and that the Senate Majority Leader and the Senate Minority Leader shall be limited to thirty minutes each.

Mr. Temporary Speaker, Sir, this is with regard to limiting time whenever the Senate is discussing the Address by the President which normally happens every year or in special circumstances. Just as the previous Motion, this is a Procedural Motion and there is no departure from what we have had in the past.

Therefore, I beg to move and request the Sen. Sijeny to second.

Sen. Sijeny: Mr. Temporary Speaker, Sir, I beg to second

(Question proposed)

The Temporary Speaker (Sen. Sang): What is it, Sen. (Prof.) Anyang'-Nyongo?

Sen. (Prof.) Anyang'-Nyongo: Mr. Temporary Speaker, Sir, I waited to speak at the end of all these procedural motions because I would like to propose that the Senate Business Committee relooks at the time devoted to these procedural motions. If you look at the time that is allocated to the debate on the President's Address, it is three sitting days and not more than 15 minutes for each Senator speaking. However, looking at the Adjournment Motion, especially Motions of national importance where you are only

given half an hour, matters of national importance are as important as the President's speech. Sometimes, it may be a disaster somewhere that requires this House to spend time on it and there is an urgency to discuss it.

The House Business Committee should look at this issue of adjournment Motion. Quite often, the House finds that we are just involved in a procedural matter. When there is an important issue to be discussed, you are only given 30 minutes. Members always hardly have any time to develop their points. That way, issues are left unfinished.

Mr. Temporary Speaker, Sir, sometimes I find the three days we spent debating on the President's speeches useful but it should be balanced to other Adjournment Motions that we have in this House. It is provided that when the period proposed by such a Motion does not exceed nine calendar days, the debate shall be limited to a maximum of 30 minutes and shall be confined to the question of--- That does not make sense because what can a whole House say in 30 minutes? It means that if all the Senators want to speak, each of them will speak for a half a minute.

So, I think there is no rationale between this particular one as compared to the time given to the President's speech. Quite often when we debate on the President's speech, by the time we come to the third day, people repeat themselves and nobody can exhaust 15 minutes. So, why do we not take a balance there to Adjournment Motion?

That is something that the House Business Committee (HBC) should look into because all my life in Parliament, I have always been very dissatisfied with Adjournment Motions because Members may come to the House with a very important Motion and then it is just treated as a mere show.

Since the Senate Majority Leader is here, I hope he will take it to the HBC. Given the next Motion we will debate is about revision of Standing Orders by Sen. (Dr.) Machage, I hope that the Deputy Speaker and the Temporary Speaker, Sen. (Dr.) Machage, will take into account the revision of time given to Adjournment Motions by Members.

The Temporary Speaker (Sen. Sang): Sen. (Prof.) Anyang'-Nyong'o, in your contribution, you seem to have made reference to the Procedural Motion that we have just passed on Limitation of Debate on Adjournment Motion. You also seem to give an impression that that also relates to an Adjournment Motion pursuant to Standing Order No.33 on matters of urgent national importance which is not limited to 30 minutes. With regard to the timing, it provides that no Senator speaking on a matter under this Standing Order shall speak for more than five minutes without the leave of the Senate. That means you can still increase that except for the Mover who may speak for 10 minutes.

So, that is not the Adjournment Motion to discuss urgent issues of national importance. That is different from the Procedural Motion we have just passed. Nonetheless, your comments and points are well noted. As you pointed out, that matter might arise within the next Motion that this House will consider.

Hon. Senators, there being no other interest to contribute on the matter, I will now put the question. Hon. Senators, this is not a county matter. Therefore, we will vote by acclamation.

(Question put and agreed to)

Next Order!

MOTION

VARIATION OF PERIOD FOR PRESENTATION OF REPORT ON THE REVIEW OF THE STANDING ORDERS

Sen. (Dr.) Machage: Mr. Temporary Speaker, Sir, allow me to move:-

THAT, notwithstanding the provisions of standing order 249, the Senate resolves to vary the period within which the Procedure and Rules Committee should make its report on the periodic review of Standing Orders to the Senate, from six months to three months before the end of the term.

Mr. Temporary Speaker, Sir, the reasons are obvious, noting that this year, we are constitutionally mandated to have an election on 8th August, which is slightly less than six months as provided for by Standing Order No.249 which I will read. It states that:-

“At least once in every term of Parliament, not later than six months to the end of the term, the Rules and Business Committee shall review the Standing Orders and make a report to the Senate recommending the Standing Orders, if any, to be amended.”

Mr. Temporary Speaker, Sir, noting that time limitation, we cannot have the luxury of waiting for the six months which are not available. I therefore move that we reduce this period to three months so that within those three months, we can relook at the Standing Orders and make new recommendations and amendments, so that the next House of the Senate will have a more practical Standing Orders Book.

Mr. Temporary Speaker, Sir, I do not have much to add more than that but to request Sen. (Prof.) Kindiki to second.

The Senate Majority Leader (Sen. (Prof.) Kindiki): Mr. Temporary Speaker, Sir, I thank Sen. (Dr.) Machage for bringing this Motion.

I second.

The Temporary Speaker (Sen. Sang): Hon. Senators, I now wish to propose the question.

(Question proposed)

Sen. Obure: Mr. Temporary Speaker, Sir, just to make a very brief contribution, I want to say that this Motion, as it is, is only sensible and logical considering the period in this calendar year we are in. This will facilitate the conduct of business of this House. I support.

Sen. (Prof.) Anyang'-Nyong'o: Mr. Temporary Speaker, Sir, I am glad that Sen. (Dr.) Machage has moved this Motion which I was really looking forward to, to make my contribution.

First, reducing the time from six to three months makes sense because we are going to elections in August. This is now February and if we say we will do it in six months, we will be more or less time barred because by the time six months are over

almost all of us will be quitting to go to elections. So, it is very logical and it makes sense and I hope that we will do that expeditiously.

Secondly, this House, the Senate, is the Second Senate after the First Senate was dissolved in 1966. Many years have passed before we had another bi-cameral legislature. Kenyans will hardly remember how that Senate sat and what it did. Those of us who were in high school will obviously remember who the Senators were but we were not involved enough to know the culture and tradition of that Senate.

This Senate should use our experience to look at the Standing Orders and hand over to the third Senate a better culture which is enriched in these Standing Orders. This follows our experience. Obviously there are good ideas here, but there are always better ideas which could come from the Rules and Procedure Committee. Let me propose to this Committee that they should not sit somewhere and forward to us *ex cathedra*, a revision of these Standing Orders. We need to be involved; to have an input on the revised Standing Orders.

My proposal is, as a Rules and Procedure Committee, you first circulate to the Senators your proposals, what you think should be revised. That should be done from a communication from the Speaker. The Speaker should call a Kamkunji or even a retreat, because this is a serious matter. It is not something we should do in a light way. This retreat should be for a day or two where we go through the Standing Orders with a toothcomb; Standing Order by Standing Order so that what we leave for posterity is something that has the input of the 67 Senators who are the founder Members of the second Senate in the Republic of Kenya.

If the Rules and Procedure Committee does that, we will have a good output in terms of the new Standing Orders. I am quite sure that most of the Orders are standard; they may not receive much revision. There are others, like the one I was talking about which require a lot of reflection, maybe a comparative study of other legislatures and how they proceed. If we have time to have a comparative study of other legislatures, we will have rich and long lasting Standing Orders for the Senate in the future.

I thank my dear friend, Sen. (Dr.) Machage for his wisdom and foresight in bringing this Motion today to the floor of the House.

I support.

The Temporary Speaker (Sen. Sang): Very well. Let us hear Sen. Ong'era.

Sen. Ong'era: Thank you, Mr. Temporary Speaker, Sir, for giving me this opportunity. I support this Motion. I would like to commend Sen. (Dr.) Machage for bringing it up. Indeed, it is a reasonable request, bearing in mind that our term is almost coming to an end. We would like to leave a House that is well grounded on the rule of law with clear procedures and provisions that the future generations of the Senate proceedings will follow.

With those few remarks, I support.

Sen. Sijeny: Thank you, Mr. Temporary Speaker, Sir, for this opportunity. I commend Sen. (Dr.) Machage for coming up with this. It is quite timely and sensitive to the fact that this is a pioneer in all terms and conditions. We have learned through wide experience. I speak as a Member of this Committee. I would like to assure Sen. (Prof.) Anyang'-Nyong'o that we have had the privilege of benchmarking. We have gone to Canada, to the British Columbia Parliament and Australia. We have had several

meetings. We take into consideration the proposal that we have a Kamkunji and share the rich information and knowledge that we have acquired before tabling the Report.

We would like the next Senate to have a better atmosphere for legislating and protecting the interests of the counties and Wanjiku at large. I, therefore, beg to support.

The Temporary Speaker (Sen. Sang): Very well. Let us have Sen. (Dr.) Machage reply.

Sen. (Dr.) Machage: Mr. Temporary Speaker, Sir, as I reply, allow me to thank the Members for the sentiments they have expressed on this Motion. I take cognizance that they have been raised and promise that an avenue has been opened for Members to present their views on any of the Standing Orders they would want reviewed. To be more perfect, they are allowed to propose how they would want the reading to be.

Mr. Temporary Speaker, Sir, without much ado, I beg to move.

The Temporary Speaker (Sen. Sang): Let me now put the question.

(Question put and agreed to)

Next Order!

BILLS

Second Reading

THE INTERGOVERNMENTAL RELATIONS (AMENDMENT) BILL, (SENATE BILL NO. 9 OF 2014)

The Temporary Speaker (Sen. Sang): This Bill is dropped; let us proceed to the next Order.

(Bill dropped)

THE KENYA ROADS BILL (NATIONAL ASSEMBLY BILL NO. 26 OF 2015)

The Temporary Speaker (Sen. Sang): Senate Majority Leader, proceed on this one.

The Senate Majority Leader (Sen. (Prof.) Kindiki): Mr. Temporary Speaker, Sir, I beg to move that the Kenya Roads Bill (National Assembly Bill No.26 of 2015) be read a second time.

The new Constitution of August, 2010 brought a functional division between the national Government and county governments. According to the Constitution and particularly Schedule Four on the allocation of functions, the national Government retains the function of maintenance, rehabilitation and construction of national roads while county governments maintain the function of county roads.

[The Temporary Speaker (Sen. Sang) left the Chair]

[The Temporary Speaker (Sen. (Dr.) Machage took the Chair]

Mr. Temporary Speaker, Sir, because of Schedule Four, therefore, it has been rendered necessary to review the law relating to roads in our country. This Bill, therefore, as proposed in the Long Title, is supposed to be an Act of Parliament to provide for the classification, management, construction and maintenance of public roads to establish the Kenya National Highways Authority (KNHA), the Kenya National Urban Roads Authority (KNURA), the Kenya National Secondary Roads Authority (KNSRA) and to provide for the functions and powers and for connected purposes.

The Bill does two things; first, it classifies all roads in Kenya so as to give effect to the sharing of functions between the national Government and county governments. Roads have been classified before, but under the previous Constitution of this country it is only the national Government which had responsibilities of construction and management of roads.

To give effect to Schedule Four, therefore, this Bill has reclassified the road system in our country; all public roads and not private roads. That classification is found in Schedule One to this Bill.

The second thing this Bill does is to establish the agencies that would be responsible for maintenance and construction of roads as well as standard setting in the public roads sector. Therefore, very quickly if I can highlight some of the major provisions, first, I would like to point out Clause Six which establishes the Public Roads Standards Board as an overall norm setting agency of the national Government and county governments.

The composition is provided there, but I just want to highlight some of the functions of that Board. Its composition will have representation from county governments. The purpose of that Board is stipulated in Clause 8. It includes advising on standards for roads and bridge material, design, construction, maintenance and performance levels. It is mainly engineering standards for public roads.

Secondly, this Board is responsible for advising on standard contract forms for works and consultancy services. What kind of contracting needs to be done to ensure that public roads are constructed and maintained according to the required civil engineering standards?

Thirdly to advise on research and studies necessary for development and updating of public roads standards to ensure periodically, our public roads are cognizant of new engineering techniques and ideas in the world that is fast changing in the area of technology.

The other function of this Board would be to advise on the type, sizes and usage of vehicles on roads and maximum vehicle and axle load limit for purposes of protecting roads from damage. We have had a big problem with this issue of axle load and going forward, this is the body that is supposed to advise so that regulations are made to ensure that certain roads do not carry overweight vehicles which damage those roads faster than they would have served.

The next thing that the Board will do is to advise on development and training of human resources required for development, rehabilitation and maintenance of roads. How

do we train our engineers and other people that are used in roads construction? I think there is a big gap in this area. I have heard from stakeholders that most of our engineering graduates cannot do the real construction work. They can only supervise. We either review the curriculum or invest more in the tertiary level training for engineers. Those who get certificates and diplomas in engineering from our tertiary institutions which for a long time had died and which---- As Senators know, the Jubilee Government is doing everything possible to review and revive the technical institutes and middle level colleges to provide the backbone of our human resources not only in the roads sector but in all areas of science and technology

Mr. Temporary Speaker, Sir, the other thing that I wanted to point out is with regard to Clause 10 which provides: “A public road shall be classified in the manner contained in Schedule One” which I will refer to shortly. Other than that, if there is a new road in existence, the authority responsible, either the Kenya National Highways Authority or if it is a county road, the county government will submit a request for the classification of the road and that request shall lead to the assigning of the road a classification in accordance with the Schedule which provides for the classification of our roads.

Under Clause 11, the various Authorities; either the Kenya National Urban Roads Authority or the Kenya National Highways Authority or the county governments as the case may be is obliged to keep an inventory of all the public roads within their jurisdiction. They should keep the details including categorization and identity details as prescribed from time to time by law.

Clause 12 establishes the Kenya National Highways Authority. The Clauses that follow provide what classes of roads, KENHA in this new constitutional dispensation will handle. Those are Class S, A and B, which are normally defined in the Schedule as primary national trunk roads. That would be the preserve of KENHA going forward. The other clauses deal with the composition of the KENHA Board with representation of all stakeholders from the national Government and county governments.

Mr. Temporary Speaker, Sir, I also want to mention Clause 15 which creates another Authority, namely, the Kenya National Urban Roads Authority which is a modified form of the existing Kenya Urban Roads Authority (KURA). They have added the word “national” just to make sure that they do not encroach on roads which are within the mandate of county governments. The Kenya National Urban Roads Authority will be responsible, in accordance with Clause 16 of the Bill, for national primary trunk roads classes H and J. Then the other provisions are on the composition of the Board as well as the functions.

Clause 18 creates the Kenya National Secondary Roads Authority. It will be responsible for what the Bill defines as secondary national trunk roads. These are classes C and D in the Schedule. Other than that, there are administrative provisions on how this Bill will be administered. I also wanted to bring out two other things because I do not want to speak too much on this at the Second Reading Stage.

The area I wanted to highlight is Clause 100 which is on responsibilities of county governments. I think this should be of concern to this Senate. This Bill has come through the National Assembly, but it is only this House that has capacity to look at it with an eye

of aligning it to the constitutional dictates of devolution and the interests of counties and county governments.

Under Clause 100, each county government shall, within its own area of jurisdiction, be responsible for construction and maintenance of county roads in accordance with the provisions of Part 2 of the Fourth Schedule of the Constitution and Part B of this Bill.

Mr. Temporary Speaker, Sir, counties have been assigned roles according to the Schedule of this Bill which is aligned to Schedule Four of the Constitution.

Mr. Temporary Speaker, Sir, Clause 100 also provides that each county will undertake the following functions and duties with regard to roads within their jurisdiction:-

(a) Constructing, upgrading, rehabilitating and maintaining county roads.

(b) Managing reserves and facilitating access to roadside development with respect to county roads.

(c) Implementing road policies in relation to county roads.

(d) Ensuring adherence to the rules and guidelines on axle load control as prescribed in the Traffic Act and the Regulations made under this Act.

(e) Ensuring that the quality of county road works is in accordance with national standards issued by the Cabinet Secretary.

(f) Overseeing the management of traffic and road safety on county roads in collaboration with the county government.

(g) Collecting and collating all such data related to use of county roads as may be necessary for efficient planning under this Act; *et cetera*.

Mr. Temporary Speaker, Sir, let me just highlight one or two of these functions which I find critically important.

[The Temporary Speaker (Sen. (Dr.) Machage) left the Chair]

[The Temporary Speaker (Sen. Sang) took the Chair]

Through this Bill, county governments are being enjoined to make sure that they construct our roads. There has been a hue and cry that there is a lot of shoddy work happening in our counties. This Bill tries to cure that by providing, as part of the duties of county governments, the need to ensure that the quality of county road works is in accordance with national standards. We must have uniform standards so that we do not have road works of various standards simply because of devolution. Counties need to look at the standards.

Also, there is the issue of traffic which is important. Almost every other major town in this country is experiencing serious traffic problems. In places which looked like small towns before, because of devolution, there are a lot of investments, visitors and hence traffic has become a nightmare. I was in Meru Town the other day and I spent one and a half hours to cross the town from one end to another. I am sure the same is the case in Eldoret. I suspect the same is the case in Kisii and Kisumu. Therefore, this is an area where counties need to help us so that we can improve on traffic management.

Mr. Temporary Speaker, Sir, other than setting up the various bodies and classifying roads, this Bill does not do much more than that but allow me to quickly look at the First Schedule which deals with the classifications. Under the First Schedule, all public roads in Kenya are classified either as national trunk roads which are in Part A or county roads. That is in the Constitution already. What has been lacking is the definition of a national trunk road or a county road.

To explain how serious this issue has been, last year there was a court case; about 29 counties filed a suit in the High Court contesting some of the powers which were being exercised by the Kenya Rural Roads Authority (KeRRA), which according to the said county governments, KeRRA had advertised for a number of roads which according to the county governments were supposed to be county roads as opposed to national trunk roads which should be under the jurisdiction of the national Government.

So, in that case, the counties got a favourable ruling and froze a number of road construction tenders which had been advertised by KeRRA. That has stalled development of those roads since last year. It is only that not all counties were part of this suit. In the ruling, the judge was very clear that only counties which were parties to this suit could benefit from that freeze on road construction by KeRRA. So, the other counties which were not part of this suit are the ones where KeRRA is still working. Otherwise, KeRRA does not exist any longer now under this new Bill. There has been a lot of contest between KeRRA and county governments with regard to what amounts to a county road and what amounts to a national trunk road.

Mr. Temporary Speaker, Sir, according to this Schedule, there are a number of national trunk roads which fall under the national governments. The first one is Category S. These are highways connecting two or more cities meant to carry safely a large volume of traffic at the highest legal speed of operation; for example, the Mombasa-Nairobi-Kisumu Highway. In my view, that should be the best example of an existing Class S road, unless this or future Governments want to create other roads linking major cities.

Then we have Class A roads which are roads forming strategic routes and corridors, connecting international boundaries at identified immigration entry and exit points and international terminals such as international air or sea ports. Therefore, these would be roads leading out of the country like the road to the north towards Moyale to Addis Ababa. There is also the road to the south towards Namanga out of Kenya, the road towards Isebania or such roads that are leading to an exit from Kenya.

Mr. Temporary Speaker, Sir, the Kenya National Highways Authority (KeNHA) is only dealing with Class S, A and B roads. Class B roads are roads forming important national routes linking national trading or economic hubs, county headquarters and other national important centres to each other and to the national capital or to a Class A road. Any road that is linking county headquarters, for example, the road linking the headquarters of Uasin Gishu County, Eldoret to Kapsabet which is the county headquarters of Nandi would be a Class B road according to the definition here.

I am trying to make the debate as relevant as possible to the Senator for Nandi, not to the Speaker – and the Senator for Uasin Gishu, of course. Any road linking two headquarters of counties would fall under class B. this is a good improvement. This would mean therefore, the national government would help counties. Inter-county

connectivity should be retained by the national Government because then counties would have jurisdictional challenges of dealing with such roads.

Mr. Temporary Speaker, Sir, Class H roads are urban major arterial highways meant to carry through traffic and relatively long distance traffic between widely separated parts of the city or municipality. They are required to provide mobility within the urban areas as opposed to access. Those are major roads in urban centres.

With regard to county roads, we have Class E, which initially under the previous classification, was the lowest class of road. After that the rest were classified as Class R which were the rural access road. However, now because we have so many roads in the counties, the classification has been expanded so as to give counties as much leeway as possible to open up rural areas with public road transport. So, you have Class E which are major feeder roads linking important constituency centres within a constituency to each other and are meant to carry local traffic and channel it to Class D roads. They would feed into Class D roads.

Then, we have Class G which would link farms to markets. These are very important roads for the economic revival of this country. They link markets to farms where farm produce and other materials are produced.

Then you have class K which are urban major collector roads meant to collect traffic from the local roads and channel it to the major and minor roads. They are meant to provide for both mobility and accessibility; including bypasses in our towns which are missing. Class L includes urban minor collector roads, then Class M; main business and shopping streets in the urban areas.

Mr. Temporary Speaker, Sir, most of our urban areas are dirty, unkempt and the roads are not maintained. Instead of counties contesting for big roads with the national Government, and this is the proposal of this Bill, we want through devolution, a country where even in the most remote part of Kenya, a small village in a certain constituency in a certain ward, one can get good well-maintained and graded all weather roads; if possible even, tarmacked. That is what will make Kenya move to the next level of economic growth and development.

We then have Class L, M, N to P which link people's houses. This classification has been expanded tremendously to make sure that county governments which could not imagine that you can create roads from what is existing rather than competing with the existing kilometres of roads. This Bill is offering counties a wide range of selection through which to open up our country, link our farms to markets, link villages, shopping centres, wards and urban centres. A combined effort of county governments and the national Government in the public roads sector, under the new Bill would make Kenya a great country in the shortest time possible.

I do not want to speak more than that. I beg to Move and request Sen. Sijeny to second this Bill.

Temporary Speaker (Sen. Sang): Sen. Sijeny you are becoming a professional seconder of Government Bills today. Proceed.

Sen. Sijeny: Mr. Temporary Speaker, Sir, as the vice chairperson of the committee where this Bill was referred to, the Roads Committee, I wish to confirm that we really engaged all the stakeholders and it was really interesting that almost everyone concerned appeared. There was a lot of suspicion especially within the existing

authorities. Some believed that the Bill and the Senate would scrap their existence. There were very rich deliberations and the issue of classification of roads and especially the trunk and county roads was also very sensitive.

This Bill, as the Majority Leader illustrates, gives us a clear-cut definition and classification to avoid a lot of internal wrangles and suspicions. This Bill also tends to correct the issue that now we have a bi-cameral government system. County governments came in to place and we have to harmonize the law and recognize the role of the county governments.

The Council of Governors had a special interest in this Bill. They participated and cooperated every time. In fact as the Committee on Roads, we ended up performing the role as arbiters and allowing the stakeholders. At first, it was very heated. We gave them an opportunity to iron out their issues and differences. They came up with resolutions which by the end of the day were relatively agreeable to all. If there are only one or two issues which one side was not happy with, it will be ironed out and when we table our report it will be discussed before the Committee Stage and bring everyone on board.

Mr. Temporary Speaker, our brothers and sisters from the National Assembly also had a special interest in this Bill because they were given a classification of some roads which they will be in charge of. We have no problem because what we are really protecting is the county government and we do not want anyone to interfere with their space. If it is the role of the national Government, so be it.

Even though this Bill is coming a bit late, it is better late than never. These are things that we should have started from the word go. However, there were a lot of consultations and as usual when many stakeholders are interested, it takes a lot of time. I do not know why they started with the National Assembly. However, Kenya has a bi-cameral system, and it is okay; we still have a role to take care of counties.

There was also other contentious issue and that is funding. Everyone wanted to be given adequate funding and nobody wants to be incapacitated in any way so that they can exercise their responsibilities. By the end of the day, we had built consensus and any issue which remains can be dealt with. There were proposals of how to deal with any disputes between the county governments.

Kenya is really growing. There are some roads which are international, connecting one country to another. They are not only passing through the national highways and some are passing through county governments' roads. That classification may be in dispute on who is in charge. However, as we continue to collaborate with all stakeholders and exercise our role of oversight over counties, we will ensure harmonization of laws and the road network is clear.

With those few remarks, I beg to second.

(Question proposed)

The Temporary Speaker (Sen. Sang): Sen. Elachi!

Sen. Elachi: Mr. Temporary Speaker, Sir, I rise to support this Bill. It brings out one of the key functions that have been very contentious between the national and the county governments. It is a Bill that has been well elaborated but also that has key issues that as we continue debating on it, we will have to look at.

One of the key issues within this Bill is that we are now able to define and classify the different roads that were bringing conflict between governors and the national Government. The classifications have gone up to the small feeder roads. However, what Kenyans would want to see is a road that has been done in quality and can be used for 20 years or so. As much as we look at the different authorities in place in the transport sector, many of the roads are done and we do not have a road. We therefore, continue wasting taxpayers' money.

Those who do this business always say that we are better off doing a murrum road because they know it is just a matter of pouring the murrum and they make their profits. I wish in the Bill, that going forward that there would be a clear amendment that when you are constructing a road, you are given the responsibility to maintain that road before they hand over to either the county government or the national Government. That way, if anything happens within a stipulated period of time, they are able to take responsibility because it is them who did the road.

Mr. Temporary Speaker, Sir, they have talked about inter-governmental relationship. I hope the four authorities will be able to work hand in hand. We do not want to have any conflicts when there is a road on a highway that is passing thorough county A, B and C or in terms of compensation. One of the things killing our country is how we as politicians interfere in that compensation. Government pays a lot of money yet the road assist in terms of our economies and market. When we are dealing with land compensation in our country, it is so high that we do not understand why we lack a law to deal with it.

We have seen examples where buildings are marked with an 'X' because people build on the roads. We also need a law that cautions that if one builds a structure on the road knowing very well it was a road reserve, they do not deserve compensation but because sometimes we fear facing some of these things candidly, people have taken advantage.

As we bring in this law, we should support each other and ensure Kenyans have good roads and at the same time they understand that there is a law that says the authority has a responsibility to come and make guidelines. These guidelines should help county governments in deciding whether an approval of an authority will do.

At the same time, the national Government should understand there are county governments and therefore, when doing a trunk road, they have a responsibility to sit down together and agree. If that is done, we will have harmony and we will see better roads crossing in the regional counties. For instance, there are roads which have been done from one end of a county to the other. Another example is in Embu where a national road is being done by the governor. All this is because of lack of this legislation.

The other issue is the penalties put in place. Sometimes water runs through the road and the road is damaged. We need civic education so that we can know when there is a road passing by, what are the implications if we damage it? Also what are the implications on the contractor who was given the road if he damages the road yet the timeframe he was given has lapsed? It is really important so that Kenyans can know what is lawful and what is not in this.

In Clause 100, there are the responsibilities of county governments. The proposed law says that each county government shall within its Area of jurisdiction be responsible

for the construction and maintenance of county roads in accordance with the provisions of part two in this schedule. I hope in future, governors will be doing what is within their functions. One of the things that governors have done haphazardly is to take different functions which are not even theirs. They spend county monies that would have done something for their counties, on some things that they are supposed to. We should have a law that says that if county roads are Class 'E' as specified in this Bill, they should concentrate on that.

We also have roads that go through parks. How do county governments benefit from those roads because they are the ones who sometimes manage those parks? Some of those parks have private owners who also have a responsibility so that tourists coming in can go through. I hope that has been taken care of in the Bill. We should not have conflict between the county governments, the parks and the national Government.

The Bill proposes that each authority will look at ways of collecting revenue on roads. We need toll stations on different roads. A few key national roads should have tolls and that way we ease traffic on other roads. Kenyans who believe in time keeping and all that, will not mind having a toll where they pay and find that it is fast. At the same time, if I pay through a toll, we need a next road that has a toll that leads me straight into town so that you do not come so fast and get clogged in traffic in the next level of the road. Those are some of the proposals we need to think about, going forward.

As the Senate, we need to ask ourselves whether the classifications are again too many. Fine, we need A, B, H, and J because they are the key highways. C and D might go to the urban areas. However, classes G, K and L which have gone to urban would have been taken back to the county governments because they are for shopping streets in the urban areas. The county governments should work together with the national Government because we need better roads.

The budgets of these roads are also very critical. How much should we pay for a kilometre? It would have been important, that as they classify, to ensure that it does not matter whether it is a county or a national road; money allocated per kilometre would have been put at a standard level. This would ensure that quality and maintenance of that road is sustained for many years. This would avoid redoing the whole thing when for instance the road is being taken from one class to another. These are some of the things we should look at as a country.

As we move forward, let us build a country knowing we are building the country the way Europeans built their countries. That we cannot go back in years to change something. We should build knowing this is taxpayers' money. County roads will one time become a connection between different counties and therefore become highways. Therefore, as they classify and take the roads, they should look at how they feed in. If it is going into the next county or constituency, it should be done properly because you do not need to keep re-carpeting it.

For instance, looking at the Nakuru highway, there is new technology. They have talked about maintenance yes, but there are very good technologies today of re-carpeting a road and saving money. We re-carpet our roads with so many patches that one cannot even understand. Hopefully, we should get contractors who re-carpeted Thika Road before it was redone into a superhighway. One could not have known it was re-carpeted. We should learn from that and I can see we have brought in engineers.

The other concern might be, when one looks at all the authorities, the same institutions run across. It is good. However, they should look for different institutions and cluster and know whether the highway could be doing better than the urban. This would be as a result of the competition and different values in terms of their quality.

There are also those who believe in the value in terms of quality. You will find that the same institutions are located along highways in urban centres. That does not bring competition in institutions. If we do that to different institutions, we will have different results and be able to compare and contrast.

Mr. Temporary Speaker, Sir, having said that, I beg to support.

Sen. (Prof.) Anyang'-Nyong'o: Mr. Temporary Speaker, Sir, I will be very brief and I will not speak for more than five minutes. I want to say the following. First, I agree with Sen. Elachi that we have created too many authorities and boards in the road sector. We have four boards and four authorities and I do not understand the rationale.

We have two mischiefs in our management of roads. The first one is to distinguish between local and trunk roads; in other words, local and national roads. A road that goes from one county headquarters to another one is a national road. A road that meanders within the county from one market to another is a local road. So, if we had made a distinction between local roads and national roads, local roads would be under counties and national roads would be under the Kenya National Highways Authority (KeNHA).

The third category of roads is urban roads found in, for example, Nairobi, Kisumu, Nakuru, Mombasa and Thika; those are all urban centres and there should be a criterion for classifying urban roads as opposed to market centre roads. If we only had these three categories; national trunk roads, local roads and urban roads, *maneno kwisha*. However, we have four boards and four authorities and roads, as Sen. Elachi said, with all kinds of classification. This is an overkill and I hope that the Committee on Roads and Transportation will look at this carefully and make it simpler.

Mr. Temporary Speaker, Sir, secondly, we know that what has bedeviled Kenya Urban Roads Authority (KURA) and Kenya Rural Roads Authority (KeRRA) is the tendering for constructing roads. Bodies are established to control tenders for roads and to get kickbacks and therefore hand over to us substandard roads. This also happens in counties.

If you look at county budgets for the so-called development, you will see that it goes largely to roads infrastructure. All kinds of contractors have emerged, let loose in the counties and county officers are all kinds of relations with the contractors. If you go to county assemblies, you will find that all kinds of MCAs are themselves contractors using all kinds of companies to tender for roads in the counties. We know that the Constitution does not allow conflict of interest. After they have got the contracts, they have to give kickbacks to county officials.

Mr. Temporary Speaker, Sir, we have got poor roads in the counties yet a lot of money has been used. This is what the law should cure. What are we going to do to make sure that roads built in counties are standard roads? Are there some standards in this law that says that when you build a local road or a road connecting one city to the other, these are the standards for constructing the road?

We have talked about access roads and so on. In my county, you will find people driving eight-wheeled lorries going into the interior using local roads to go and collect sand along rivers. They leave those roads in tatters and pay nothing at all. These are the things we need to deal with because the county is in chaos. We need to know how the roads are controlled and used especially in counties because it is a total disgrace and our people are suffering.

When this Bill goes to committee, I am appealing to the Senate Majority Leader and the Deputy Majority Chief Whip to ensure it is looked at properly and appropriate amendments are made when it comes for Third Reading. That will ensure that good roads are constructed in this country by the national and county governments.

I beg to support.

The Temporary Speaker (Sen. Sang): Let me now call upon the Mover to reply.

The Senate Majority Leader (Sen. (Prof.) Kindiki): Mr. Temporary Speaker, Sir, I take this opportunity to thank Sen. Sijeny for seconding the Bill. I also thank Sen. Elachi and Sen. (Prof.) Anyang'-Nyong'o for supporting the Bill. I have listened to input from the three contributors. They have made very valid points. I hope the Committee on Roads and Transportation will take on board some of those concerns so that by the time the Bill comes for the Committee stage and final Third Reading, those concerns are addressed.

Mr. Temporary Speaker, Sir, I do not want to take more time.

I beg to move.

On the basis of Standing Order No.54(3), I beg that you defer the putting of the question to another day, as you may determine.

The Temporary Speaker (Sen. Sang): It is so granted. The putting of the question on the Bill is deferred to such a date as it will appear on the Order Paper.

(Putting of the Question on the Bill deferred)

ADJOURNMENT

The Temporary Speaker (Sen. Sang): Hon. Senators, it now 6.30 p.m., time to adjourn the Senate. The Senate stands adjourned until tomorrow, Thursday, 16th February, 2017 at 2.30 p.m.

The Senate rose at 6.30 p.m.