

PARLIAMENT OF KENYA

THE SENATE

THE HANSARD

Thursday, 6th April, 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

PAPERS LAID

REPORTS TO VARIOUS PETITIONS

Sen. Sijeny: Mr. Deputy Speaker, Sir, I beg to lay the following Papers on the Table of the Senate today, Thursday, 6th April, 2017:

(1) Petition of Ms. Wanjiru Gikonyo on repeal of the National Government Coordination Act, 2013;

(2) Petition by the Institute of Social Accountability (TISA) on procedure and timelines for advertisements and receipt of issues on Bills and other matters under consideration by the Senate;

(3) Petition by Maj. (Rtd.) Joel K. Rop regarding the need to amalgamate existing proposals for constitutional amendment to produce a hybrid draft for a national referendum;

(4) Petition by Mr. Tony Watima on the need to address instances of conflict of interest in the Public Service;

(5) Petition by Mr. Gibson Machanga Mareko for amendment of various provisions of the Constitution.

I table the reports on behalf of the Committee on Legal Affairs and Human Rights.

(Sen. Sijeny laid the documents on the Table)

The Deputy Speaker (Sen. Kembi-Gitura): Hon. Senators, I want to put you on notice. I explained that there would be some petitions and therefore, we may have to go back on the Order Paper to Order No. 4. I also expect that there will be a Notice of Motion. We will therefore have to go back to Order No. 6 as well. I also hope that you realize that there is a Supplementary Order Paper on which we are proceeding. There are several statements that have been sought. We shall therefore proceed with the statements

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for now but I may have to suspend them at one point to deal with Orders No. 4 and 6 on the Order Paper.

Are there any Senators seeking statements?

STATEMENTS

PARTICIPATION OF CSS AND PSS IN POLITICAL PARTY ACTIVITIES

Sen. (Prof.) Lonyangapuo: Mr. Deputy Speaker, Sir, I rise pursuant to Standing Order No.45(2)(b) to seek a Statement from the Chairperson of the Standing Committee on Legal Affairs and Human Rights regarding participation of Cabinet and Principal Secretaries in political party activities.

In the Statement, the Chairperson should:

(a) Explain why Cabinet and Principal Secretaries continue to involve themselves in political party activities in contravention of the principle set out in Chapter Six of the Constitution and in blatant violation of the Public Officers Ethics Act and the Leadership and Integrity Act;

(b) Cite instances where the above violation has been reported;

(c) State the steps being taken so as to ensure that these incidences cease and neutrality and public confidence in the respective offices is restored.

The Deputy Speaker (Sen. Kembi-Gitura): Is the Chairperson of the Committee on Legal Affairs and Human Rights in the Chamber?

Can Sen. Sijeny respond to the Statement?

Sen. Sijeny: Mr. Deputy Speaker, Sir, we request for two weeks.

The Deputy Speaker (Sen. Kembi-Gitura): I am sure that you are aware of the calendar of the Senate.

Sen. (Prof.) Lonyangapuo: Mr. Deputy Speaker, Sir, now that you have reminded the Committee Member of the calendar of the Senate, I request that you reduce it to one week after we open.

The Deputy Speaker (Sen. Kembi-Gitura): Two weeks it is. However, it will be delivered on the first Tuesday after we resume.

Is there any other Senator seeking a Statement? If there is none, let us proceed to Statements to be issued.

DOUBLE TAXATION BY COUNTY GOVERNMENTS VIA COLLECTION OF CESS ON AGRICULTURAL PRODUCE

The Deputy Speaker (Sen. Kembi-Gitura): Let us start with Statement No. (a) which was sought by Sen. (Prof.) Lonyangapuo from the Committee on Finance, Commerce and Budget on the double taxation by collection of cess on agricultural produce by county governments. The Chairperson is not here. Let us move to the next.

INSECURITY IN BARINGO COUNTY

The Deputy Speaker (Sen. Kembi-Gitura): The Statement was sought by Sen. Khaniri. I can see the Chairperson of the Committee on National Security and Foreign Affairs.

(Sen. Haji spoke off the microphone)

Sen. Haji, can you look at the Appendix on your Order Paper. You will see that there is a Statement that was sought by Sen. Khaniri. Is it ready?

Sen. (Prof.) Lonyangapuo: On a point of order, Mr. Deputy Speaker, Sir. I thought you said that we will use the Supplementary Order Paper instead of the other one.

If you follow the Supplementary Order Paper, the Statement that I sought is supposed to come later.

The Deputy Speaker (Sen. Kembi-Gitura): Why will it come later?

Sen. (Prof.) Lonyangapuo: Mr. Deputy Speaker, Sir, it is indicated as Statement No.

(j)

The Deputy Speaker (Sen. Kembi-Gitura): What are you talking about?

Sen. (Prof.) Lonyangapuo: Mr. Deputy Speaker, Sir, I am sorry. I had sought for two Statements. I now see what you meant.

The Deputy Speaker (Sen. Kembi-Gitura): Of course, you must see what I meant. We have already moved on.

Sen. Haji, is the Statement that was sought ready?

(Sen. Haji consulted loudly)

Hon. Senators, you all have an Order Paper in front of you. If you look at the Appendix, you will see that there are several statements sought. The second one is by Sen. Khaniri. Is it ready?

I can see Sen. Adan is on her feet.

Sen. Adan: Mr. Deputy Speaker, Sir, unfortunately, I do not have the answer with me today. I, therefore, request Sen. Khaniri to give me more time.

Sen. Khaniri: Mr. Deputy Speaker, Sir, you can see the casual way in which the Vice Chairperson is responding to this issue. This is a matter to do with security of Kenyans. Matters to do with security take precedence. This is a case where the rights of Kenyans are being violated. I thought that this Statement should have been given priority. It has been on the Order Paper for the last two weeks since we resumed and every time it comes up, they ask for more time. I need your guidance because this matter should be handled before we break for recess, and that is due today.

The Deputy Speaker (Sen. Kembi-Gitura): Sen. Adan, why do you not have an answer? I do not think that it is enough for you to stand up in your place and say that it is not ready.

Sen. Adan: Mr. Deputy Speaker, Sir, I personally went to follow up on this. There are about two or three statements that are urgent for today. I personally went to the

Office of the President (OP) this morning and they requested to be given more time because they are working on it. That is the position.

Sen. (Dr.) Machage: On a point of order, Mr. Deputy Speaker, Sir. The order to shoot and kill stills stands because it has not been retracted. It was announced by a person with the title "President." It could be a decree and we do not know under which law but all the same it was an executive order. Therefore, no litigation, complaint or even reason is supposed to be given before that order. Here we are being told by the Vice Chair that no answer is available. Would I therefore be in order to demand that the Chair, using all means, gives us the answer before the end of today because this is a serious matter?

The Deputy Speaker (Sen. Kembi-Gitura): Sen. Adan, sometimes I appreciate the difficulty the Chairs of the various committees go through. Sen. (Dr.) Machage here chairs the Committee on Health. I appreciate that very much but on the other hand, statements are sought so that answers can be given and citizens know what is happening on each and every issue because there is no Senator who would seek a statement for the sake of it.

Last week, Sen. Khaniri reminded us about the old Constitution where we had statements by private notice which were to be answered within 48 hours. So, I cannot accept that the Ministries are so busy that they are not able to issue statements when they are supposed to issue them, or that they do not take the Chairs of various committees seriously enough to give the statements when they are sought.

It does not look correct when Senators continue standing on their feet and raising issues about statements which have been on the Order Paper for long. All of us know that they have been on the Order Paper because we sit in this House. So, something is quite clearly not right. That is the reason you hear me asking you to tell us the reason.

To be honest with Sen. Adan who is the Vice Chair of the committee, it is not enough to tell us that you were at the OP this morning because yesterday and the day before you did not tell us you were there. If you went this morning, then it was too late because you knew the statement was to be delivered today.

Sen. Haji: Mr. Deputy Speaker, Sir, as I was coming, I tried to find out from the clerk of the Committee why some of the statements were not ready. According to him, the statement sought arrived at Harambee House very late and that is why they could not make available the statement.

It is very unfortunate that we Chairmen are being vilified here for mistakes which are not ours. So, the best we could do---

The Deputy Speaker (Sen. Kembi-Gitura): Sen. Haji, nobody is vilifying you. I started by saying that sometimes I appreciate the difficulties Chairpersons go through. Nobody is vilifying you but the hon. Senators who seek statements must be satisfied that effort has been made and that is the point I am making.

Sen. Haji: Mr. Deputy Speaker, Sir, it is not you but Members who ask for statements who demand for things that are impossible for us do. Our work is to follow them up. The Clerk himself admitted that most of the statements were delayed here in the House. So, it is not our fault.

Sen. (Prof.) Lonyangapuo: On a point of order, Mr. Deputy Speaker, Sir. You have always directed that statements that reappear several times and especially those ones that are urgent must be responded to. This is not an ordinary statement where the shoot to

kill order is being used hopelessly and carelessly. Thousands of cows and people in Laikipia are being killed, courtesy of the order.

The Deputy Speaker (Sen. Kembi-Gitura): Order, Sen. (Prof.) Lonyangapuo. I will not allow you or any Senator to go into a debate on the merits and demerits because the statement has not been issued. Once the statement is issued, then there shall be open debate on the matter. What you are doing now is to pre-empt the situation. We must wait until we get the statement.

Sen. Madzayo: Point of order!

The Deputy Speaker (Sen. Kembi-Gitura): Order! Why do you call for a point of order when I am already addressing an issue and I have not finished? Sen. Madzayo, your name is on the screen for a point of order and I will deal with it.

Sen. (Prof.) Lonyangapuo, I will not allow us this afternoon to go to the merits and demerits. Let us get the statement, interrogate it and see whether such an order was made. If so, we need to know the effect and how to deal with it which is what we are now trying to do. You are entering into a debate *via* a point of order which I will not allow.

Sen. Madzayo, what is your point of order?

Sen. Madzayo: Bw. Naibu Spika, umekata kauli kabla sijachangia.

The Deputy Speaker (Sen. Kembi-Gitura): Nimekata kaulil gani?

Sen. Madzayo: Ya kusema kwamba tungojee.

The Deputy Speaker (Sen. Kembi-Gitura): I do not understand.

Sen. Madzayo: Tukiyaacha hayo---

The Deputy Speaker (Sen. Kembi-Gitura): Order Sen. Madzayo! When you raise a statement, you take responsibility for it. How have I made a decision? *Ama kukata kauli ni kufanya nini?*

An hon. Senator: To make a ruling.

The Deputy Speaker (Sen. Kembi-Gitura): What ruling have I made? I just said we will not go into the merits and demerits of the statement. If that is what you are referring to, yes I made a decision on that. If it is something else, you can raise the point of order.

Sen. Madzayo: Bw. Naibu Spika, nilimaanisha kwamba ulikuwa tayari kwenda katika jambo jingine kwenye *Order Paper* ilhali sikuwa nimechangia.

The Deputy Speaker (Sen. Kembi-Gitura): For the record, I have not said that at all.

Sen. Madzayo: Kama bado hujakata kauli, basi nami nina hoja ya nidhamu. Si Mkenya mmoja wala wawili wanaopoteza maisha. Sasa hivi tunashuhudia matukio ya polisi kupiga risasi raia wanaotakikana kuwalinda. Seneta anayehusika anatakikana kujibu swala hili na ni sharti aliweke wazi hapi. Hafai kulichukulia kirahisi na kutuambia bado hajapata jibu.

Kuna familia ambazo zina maiti ndani ya nyumba zinazongoja kuzikwa ama zimezikwa. Pia kuna watu ambao familia zao zimekosa wazazi. Hili ni swala muhimu sana kwa Wakenya. Kwa hivyo, swala hili linafaa kuangaziwa sana. Je, ni sawa kusimama na kusema kwamba huna jibu na kwa hivyo utajibu wakati mwingine?

The Deputy Speaker (Sen. Kembi-Gitura): Sen. Madzayo, on that one I am on all fours with you and that is the point I was making. You and I are saying exactly the same thing; that not just this statement but every statement sought in this House must be

given due priority because there is no Senator who will raise an issue unless they have thought about it and it is an important issue not for themselves but for the nation. That is the point I was making. So, on that one, you and I are saying the same thing but differently; that statements must be taken very seriously.

Having said that, this matter is closed.

Sen. (Dr.) Machage: On a point of order, Mr. Deputy Speaker, Sir. Would I be in order to seek guidance on two issues? First, is the Deputy President protected under Standing Order No.90 of our Standing Orders on the need of a substantive Motion to discuss his conduct?

Secondly, if not so, would I therefore be in order to demand that although we may proceed on recess, a specific date is picked for a *Kamukunji* of the whole Senate to be addressed by the Minister in charge of internal security and the Deputy President over this matter?

The Deputy Speaker (Sen. Kembi-Gitura): I think the issue here is a little different. First of all, this statement was approved by the Speaker. So, it is properly before the House and an answer is expected.

Secondly, Standing Order No.90 that you are referring to talks about personal conduct of the President, the Speaker of any judge. However, if you look at the statement being sought, it is on a directive allegedly issued. So, we want to know whether such a statement was issued in the first instance. Again, it is not personal to the Deputy President at all. So, I do not think Standing Order No.90 applies in this case.

Sen. Billow: Point of order!

The Deputy Speaker (Sen. Kembi-Gitura): Sen. Billow, is your point of order on the same matter? What is your point of order?

Sen. Billow: Mr. Deputy Speaker, Sir, this is a matter of life and death. This House has a mandate to exercise oversight over the Executive. Even without demanding for the statement, this House has a mandate to condemn any order that authorises extrajudicial killings in this country.

Even without the prompting of the House, could the Committee on National Security and Foreign Relations find it urgent and necessary, in the interest of saving the lives of Kenyans, give a response on this matter and condemn these actions? This order has been issued twice in public forums by the same person.

Sen. Mutula Kilonzo Jr.: Mr. Deputy Speaker, Sir, I want to add my voice to this. Recently, we watched a very strange incident where the police took the lives of two young men in front of television cameras, for whatever reason they did it. The right to life is a fundamental right under Article 26. I do not know anything that is more urgent than a statement that seeks to end the life of a Kenyan and is issued by an officer, public or otherwise. The urgency of this matter needs not be stated.

I join those who say that the excuses given are very mundane. We are being taken for a ride. I agree with Sen. Billow to the extent that irrespective of who issued the statement, any person who takes away or issues a directive of that nature should be condemned. It is actually a Rome Statute issue.

The Deputy Speaker (Sen. Kembi-Gitura): Order, Sen. Mutula Kilonzo Jr. You were here when I made my earlier ruling on the issue. You shall have a full day to make the statement you now want to make, without contravening our Standing Orders, when

the statement comes before the House. The Chairman of the Committee has heard all of us on the urgency of the matter. I hope that the matter will be dealt with as such.

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

The Deputy Speaker (Sen. Kembi-Gitura): Sen. Dullo, I do not see your request here.

(Sen. Adan spoke off record)

Then sit somewhere else. In the meantime, can you raise your point of order?

Sen. Adan: Mr. Deputy Speaker, Sir, I have heard what my colleagues have said. According to the Committee this matter is very serious. It is, therefore, unfair for my colleagues to stand here and say that we have neglected our responsibility. Let me correct the situation.

I was in the Office of the President yesterday to follow up on several statements that were requested for in this House. When a Ministry requests to be given more time to work on a statement, we need to understand. I appreciate that this matter is very serious, but it will be useless for us to stand here and read a substandard statement that does not answer what the Senators requested for. We are taking up our responsibility as a Committee. Since we do not have the answers, we push the Ministry to provide the information. Kindly bear with us, but we have tried our best as a Committee.

Thank you.

The Deputy Speaker (Sen. Kembi-Gitura): Sen. Obure, is it on the same issue? I want to close this matter now. You will be the last person to speak on this matter.

Sen. Obure: Mr. Deputy Speaker, Sir, I am aware of the efforts that the Chairperson and the Vice Chairperson make to ensure that we get statements relating to security issues. However, I want to know if there is an established mechanism between the Office of the Clerk to ensure that we get these statements. I have heard her just talk about going to the Office of the President to pursue responses. Should we not have a mechanism that does that without necessarily having the Chairperson or Vice Chairperson going to these offices for something that they ought to do automatically?

The Deputy Speaker (Sen. Kembi-Gitura): I hear what Sen. Obure has said. The difference is that in the older days, during the old constitution, Ministers sat and answered questions in the House. The trouble is that now we do not have Ministers sitting in the Houses, because we changed the Constitution. I hear you because even to me it does not look correct that Chairpersons and Vice Chairpersons of Committees, for example Sen. Haji and Sen. Dullo, should go around chasing for statements. There needs to be a system that works.

When a Statement is sought and the Clerk's Office sends that request to the relevant Ministry, an answer should come without prodding from the relevant Chairperson of Committees. We will look into this issue in the Speaker's Office to find out how best it can be dealt with to smoothen the process. I do not agree that Chairpersons of Committees should be moving around following statements.

Hon. Senators, we will now go back to the Order Paper, so that I can allow matters that we bypassed. But before I do that I wish to make a short Communication.

COMMUNICATION FROM THE CHAIR**VISITING DELEGATION OF STUDENTS AND TEACHERS
FROM GITHONGO BOYS HIGH SCHOOL, MERU COUNTY**

Hon. Senators, I wish to recognize the presence, in the Public Gallery, of visiting students and teachers from Githongo Boys High School in Meru County. In our usual tradition of receiving and welcoming visitors to Parliament, I extend a warm welcome to them.

On behalf of the Senate, and my own behalf, I wish them a fruitful visit. For the benefit of the teachers and students, may I add that as a procedure we do not normally recognize people in the Public Gallery. However, every time that students and teachers come, we do it because that is a special category. They come here to learn and we want to encourage them. That is the reason we take time to recognize students and teachers in the Gallery.

I wish them well for the time they will be here.

Thank you.

(Applause)

Hon. Senators, let us now go back to Order No.4 on Petitions.

PETITIONS**PAYMENTS OWED TO JEMILY CONSTRUCTION LIMITED
BY MACHAKOS COUNTY GOVERNMENT**

The Deputy Speaker (Sen. Kembi-Gitura): Hon. Senators, I have two Petitions that I want to deliver to you. One is a Petition by Emily Chemutai and Jenifer Chepkurui regarding payments owed to Jemily Construction Limited by the County Government of Machakos.

Hon. Senators, pursuant to Standing Orders 221 (a) and 225 (2) (b), I hereby report to the Senate that a petition has been submitted, through the Clerk, by Ms. Emily Chemutai and Ms. Jenifer Chepkurui regarding payments allegedly owed to Jemily Construction Company Limited by Machakos County Government.

In the Petition the Petitioners state:

(a) That, Jemily Construction Company Limited is registered as a company eligible for award of tenders set aside for disadvantaged groups, under the category of women.

(b) That, in 2014 the company bid for and was awarded a tender by the Machakos County Government to carry out construction of barriers across Kithoni River in Katani Ward, Yatta Sub County in Machakos County. The value of the tender was Kshs974,350.

(c) That, the company carried out the work to satisfaction and was issued with a completion and taking over certificate by the Machakos County Government in June,

2014. Since then, the company is yet to be paid by Machakos County Government for the work done despite making the best efforts to have payments due to the company settled.

Hon. Senators, pursuant to Standing Order 226, I shall now allow comments, observations or clarifications in relation to the Petition, for not more than 30 minutes. I will allow you not more than two minutes each.

Sen. M. Kajwang.

Sen. M. Kajwang: Thank you, Mr. Deputy Speaker, Sir. I wish to thank the Petitioner for exercising his right to petition this House. Considering that this House is coming to the end of its tenure, we must ask ourselves if the County Public Accounts and Investments Committee (CPAIC) looked at the issue of pending bills across all counties. If this House had more time, we would have received 1,000 similar petitions. This is because thousands and thousands of youth and women who were given contracts like this one that cost Kshs900,000 and the job was completed in June 2014, have not been paid. It is a pity some of them have been auctioned.

We, as a House, have not done a favour to contractors, particularly the youth and women who are being frustrated by the county governments. I do hope that there will be solid recommendation out of this and that it will not only be restricted to this particular case, but many similar cases across the country. I do pray that CPAIC will bring to this House their report. We need to understand the pending bills across the counties, particularly those owed to women and youth.

This may be the final contribution that we will make to the hundreds and thousands of youth who are currently suffering in our counties.

The Deputy Speaker (Sen. Kembi-Gitura): Thank you, Senator.

Sen. (Prof.) Lonyangapuo, you have two minutes.

Sen. (Prof.) Lonyangapuo: Mr. Deputy Speaker, Sir, it is a pity these contractors chose to bring a petition of Kshs974,000 to the Senate. We have seen an array of expenditure when the governor of that county is launching his new political party.

That notwithstanding, Ms. Jemutai and Ms. Chepkurui must have borrowed money from a bank. I do not know if they still do their business or they have already been auctioned. This has been replicated everywhere. In my county, for example, some contractors have come to a standstill. Some of them are now walking to their business premises because their vehicles were auctioned. It is sad that the county government has refused to pay them.

We are told the payment is pegged on how much you give back to the fellows who gave you the job. This is a terrible thing. Those who obey and do these things are made to be chief campaigners of the same governors.

I ask the Committee that was tasked with this to bring it here. The county assemblies that are supposed to be over-sighting some of these things are dead asleep. They should also wake up and take their responsibility.

Sen. Mutula Kilonzo Jnr.: Thank you, Mr. Deputy Speaker, Sir. Most likely this petition will be committed to the Committee led by Sen. Billow. However, we will not be here for the next 60 days. It will be a futile attempt. Nothing much will happen.

I am disappointed that we are now being turned into a debt collection centre. This is an actionable claim. It is debt collection. We are a House of oversight. I am not sure what constitute a threshold of a petition. However, I think we have lowered the threshold

of what should be a petition. I am one of the people who should protest. If you allow this petition to proceed, we will have 1001 petitions of a higher or a lower figure.

These persons should be advised that they sue the county government for recovery. All we can do is say that the money is owed. We cannot enforce the claim neither can we issue a decree or attach the assets of Machakos County Government. It is almost an exercise in futility.

While we admit a lot of these petitions, we also have an obligation to advise them to take the other routes that will help them get this money quickly. This petition will not be solved by this Senate. We must condemn these governors.

I am disappointed that we will not pass the Assumption to Office Bill by Sen. Wamatangi. That Bill would have cured these problems. Our colleagues who want to be governors will inherit a lot of debts. I forewarn you because you will pay them. I feel very sad.

Sen. Billow: Thank you, Mr. Deputy Speaker, Sir. I want to support what the Senator for Makueni has said with regards to this petition.

I do not know the threshold of this particular petition because it sounds like a civil lawsuit. Under Article 225(3)(a), Treasury has a mandate to suspend transfers to county governments if there is material breach of financial regulations. Failure to pay contractors is a material breach of the Public Finance Management (PFM) Act and its regulations.

I have advised Kenyans who are owed by county governments and they are not willing to pay them to formally write to Treasury. That will kick in an investigation to be done by the Controller of Budget within seven days. She is mandated by law to submit the report to Treasury, which will then have no choice, but to suspend transfers to county governments.

Unless we start seeing some of that action, engaging in this exercise will be futile. We did a similar thing and made a recommendation to Treasury, but they did not act on it. I want to advise other Kenyans who have similar issues to forward their requests for payments with all the documents to Treasury's Permanent Secretary (PS) who must then order the Controller of Budget to do an investigation within seven days and report to him. That breach of financial regulation will lead to suspension of money being transferred to county government. There is no other way of punishing county governments who are making Kenyans poorer by the day.

The Deputy Speaker (Sen. Kembi-Gitura): I notice that there are a lot of requests on this. Although this has been approved, to me, it is also obvious more or less of a civil debt than anything else. As Sen. Mutula Kilonzo Jnr. has said, the Senate Committee can make findings, but it cannot order payment.

I do not know how you want us to go about it. If you will agree with me, we can end the debate at this point and proceed to the next order.

Sen. Murkomen, do you want to contribute? It is your right to contribute, but this is more or less like a civil debt---

Sen. Murkomen: Mr. Deputy Speaker, Sir, I will be very "quick". While I agree with Sen. Mutula Kilonzo Jnr. and you that this is a civil debt, there lies a bigger public policy argument. The PFM Act is very clear. You are not supposed to procure when there is no money for the service that is to be rendered.

There is an illegality that has been committed, not only by the county governments, but also by the National Government institutions because there are people who are suffering as a result of this action. They carry debts because they were doing business. However, they can no longer do it due to lack of payment.

It is important for this petition to be considered by the Committee. They should table a report of what needs to be done to implement the provision of the PFM Act. We need to address the bigger public policy decision on why the county governments should procure when they do not have the money to pay when the law says that you can only procure when you have the money. Is that not a violation of the law? Can the Public Procurement Oversight Authority (PPOA) do something about such situations?

There are people who have been told to proceed to the courts and judgments have been made. Sen. Mutula Kilonzo Jnr. has said that those people should go to court. We have situations where people carry judgments around in the street. They have the judgment, but they cannot enforce it for they are being told that it cannot be paid and it will not be paid. Attaching Government property also becomes a problem for they do not even know which property to attach.

We need that Committee to have this petition and come back to this Senate with the bigger policy decision on what is going to be done. It is should not just be for the two ladies, but it should be a public policy decision.

The Deputy Speaker (Sen. Kembi-Gitura): You were not as quick as you said you will be.

Sen. Obure: Mr. Deputy Speaker, Sir, I think that this petition is important. This is because it brings into focus the plight of entrepreneurs who have conducted business with county governments, but have had their businesses collapse because of non-payment on the part of the county governments.

This case is replicated all over the country. In this particular case, imagine a young company which has completed its part of the contract, in fact, they have obtained a completion certificate, but they have not been paid a whopping amount of Kshs900 million. Their property could possibly be---

The Deputy Speaker (Sen. Kembi-Gitura): It is Ksh974, 000 not million.

Sen. Obure: Mr. Deputy Speaker, Sir even that is a huge amount of money. I am of the view that this matter should be exhaustively examined by the relevant Committee so that they can look at this whole scenario and make recommendations as to what ought to be done, going forward. It is possible also that this people cannot afford the cost of litigation and something ought to be done to help them.

The Deputy Speaker (Sen. Kembi-Gitura): Sen. Lesuuda.

Sen. Lesuuda: Mr. Deputy Speaker, Sir, even when you were reading the Petition, we shared with my colleagues here that probably the petitioners need to go to court and that is what you and others here have also said. However, it is important that this petition comes to the Senate and even goes to that Committee because it is a reflection not just of Machakos County but something that is happening in all our counties on issues to do with procurement, delayed payment of contractors. It is very unfortunate when it involves women and youth, when we say we have allocated 30 per cent to them and then delay in paying them.

We probably do not know but the petitioner could even have contemplated going to court, but if your Ksh974,000 is being held somewhere, we know litigation is not a cheap affair. Maybe that is why they sought to bring it to the Senate. I therefore, think it is important for the Committee to look into it and give directions of policy and even the law and how it can protect contractors, especially the youth and women in our counties.

The Deputy Speaker (Sen. Kembi-Gitura): Sen. Okong'o.

Sen. Okong'o: Mr. Deputy Speaker, Sir, as far as I sympathise with the petitioner, he has a constitutional right to petition the Senate. However, the hopelessness and despondency among Kenyans contracted to work in counties and the national Government is alarming.

The Governor of Machakos has been running around the country with a party with a funny name but he has a pending bill of Ksh4billion---

The Deputy Speaker (Sen. Kembi-Gitura): Sen. Okong'o, on what basis can you call a political party duly registered as having a funny name?

Sen. Okong'o: Mr Deputy Speaker, Sir, to me, it is funny---

The Deputy Speaker (Sen. Kembi-Gitura): Yes, but you must respect---

Sen. Okong'o: Mr Deputy Speaker, Sir, I withdraw and apologise. Allow me to continue. The same Governor of Machakos---

The Deputy Speaker (Sen. Kembi-Gitura): Order, Sen. Okong'o. I am not going to allow you to be so casual about this thing. I have not even asked you to withdraw and apologise. However, I think with the greatest respect, it is important that we respect other people and what they are doing and trying to achieve. If you are talking about a debt owed by Machakos County Government, if you must bring in the name of the governor, at least do not bring in extraneous issues.

Sen. Okong'o: Mr. Deputy Speaker, Sir, there is a lot of relevance to run a party and run around the country for a governor who wants Ksh1.6million. I am bringing an analogy in the sense that this governor who owes contractors Ksh4billion and has come up with a party of --- with all due respect I apologise. The name of the party has escaped me. He cannot even pay a small contractor Ksh700,000.

Secondly, yesterday, we were interrogating a very big issue concerning petitions. The Bungoma County owes Kshs2billion. The Governor of Bungoma transferred Ksh314million to a private account.

The petition took almost a year to be finalised by the Committee on Finance, Commerce and Budget. It is important that Kenyans know that these governors who have been given huge mandates are dealing with matters of life and death to Kenyans and they need to be dealt with at the ballot on August 8th.

The Deputy Speaker (Sen. Kembi-Gitura): Sen. Billow, you have spoken on this matter. Have you not?

Sen. Billow: I have, Mr. Deputy Speaker, Sir.

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 Committee on Finance, Commerce and Budget.

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

ALLEGED MISAPPROPRIATION AND DIVERSION OF
PUBLIC FUNDS BY CHEMELIL SUGAR COMPANY

Hon. Senators, I have another Petition by Mr. Henry Nyabuto Ondieki on alleged misappropriation and diversion of public funds at Chemelil Sugar Company Limited.

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. Henry Nyabuto Ondieki, a resident of Kisii County, regarding alleged misappropriation and diversion of funds at Chemelil Sugar Company Limited.

In the Petition, the petitioner states:

(a) That the management team of Chemelil Sugar Company Limited, with the knowledge and participation of the Board, have misappropriated over Ksh265million being funds sourced from the National Government towards refurbishment and maintenance works at the factory.

(b) That further, the factory has internally borrowed from the sugar farmers a sum of Ksh180million which has resulted in farmers not being paid for cane delivered to the factory from the year 2014 to date.

(c) That the said funds have not been utilised towards the stated purpose for which they were obtained and the Management has failed to account for the same.

(d) That there are also cases of conflict of interest and abuse of office at the factory whereby senior offices trade with the Company through proxies and without disclosing such conflict of interest.

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

Sen. (Prof.) Lonyangapuo: Mr. Deputy Speaker, Sir, this is a very serious case. No wonder sugar is almost now very rare in the supermarket shelves and if you get it, some of it comes from foreign lands; yet, there are many industries that were processing sugar, Chemelil being one of them.

The last time Chemelil was the envy of everyone was when the Managing Director (MD) was Aaron Tuikong. We are witnessing this mess after they were hauled out of office. Mr. Ondieki has done the right thing to bring this Petition so that the Senate in its wisdom can interrogate it.

Mr. Deputy Speaker, Sir, Ksh265million is not a small amount of money. This must be recovered from whoever has taken it to the extent that now we have made the poor farmers poorer by borrowing further or refusing to pay them their Ksh180 million owed from 2014. These people are supposed to send their kids to school, pay fees, and continue with their farming. Who does not know how Chemelil region is? No wonder, I recently passed there and there is poor farming activity going on. Little do we know that it is as a result of this mess in the factory.

Mr. Deputy Speaker, Sir, there was a very good academy in that company that was doing quite well but it has nowadays disappeared from the map.

It is indeed right that this must be investigated and people who are in authority should carry their cross.

Sen. (Dr.) Machage: Mr. Deputy Speaker, Sir, the notoriety in which sugar companies in this country have embezzled farmers' finances seems to be the norm.

Mumias Sugar Factory and Sony Sugar Company are a few examples. That the common factor amongst all the so-mentioned sugar factories, is that the senior managers are actually recorded as who is who in terms of resource acquisition or in the list of billionaires in this country, unashamedly.

In fact, some of the directors of these companies have climbed the political ladder of this country to hold very lucrative positions in Government yet we are supposed to have systems of surveillance in the Government on how people get property. It is a shame that this kind of money is embezzled from poor farmers to the detriment of their daily livelihoods.

I support this Petition fully.

The Deputy Speaker (Sen. Kembi-Gitura): Order Senators. Pursuant to Standing Order No.227 (1), the Petition stands committed to the Standing Committee on Agriculture.

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

COMMUNICATION FROM THE CHAIR

VISITING DELEGATION OF PHD STUDENTS FROM JKUAT

Hon. Senators, before I proceed to the next order I wish to recognise the presence of visiting Doctor of Philosophy (PhD) students from Jomo Kenyatta University of Science and Technology (JKUAT), with their team leader, Dr. Susan Were, Chairperson of the Department of Entrepreneurship and Supplies at the university. They are seated in the Speaker's Gallery.

In our usual tradition of receiving and welcoming visitors to Parliament, I extend a warm welcome to them. On behalf of the Senate and on my own behalf, I wish them a fruitful visit.

(Applause)

Sen. Mutula Kilonzo Jnr.: Mr. Deputy Speaker, Sir, on a point of order. Our tradition is that when you have guests in the Speaker's Gallery, you recognise them by name, then you acknowledge - they stand and we acknowledge them. These are Phd students and not ordinary students.

Thank you, for agreeing.

The Deputy Speaker (Sen. Kembi-Gitura): Sen. Mutula Kilonzo Jnr., I gave the communication which was at hand and I gave it the way it was. There is no Standing Order that requires that the names must be read out. It is sufficient that we have recognized them. They appreciate very much that they are in the Speaker's Gallery and that they have come to learn a few things. I hear you but I have given my communication.

Sen. (Prof.) Lonyangapuo, proceed.

Sen. (Prof.) Lonyangapuo: Mr. Deputy Speaker, Sir, we have special visitors as you have noted. “Phd students” means they are about to earn their doctorate very soon. These are my colleagues. JKUAT is unique because of the research going on for specialised seeds of bananas which is better than what is found in Kisii County.

I want to give them credit and recognition under the leadership of Prof. Mabel Imbuka, although I am not sure whether she is still the Vice Chancellor. The entrepreneurship course they have is important at this time. I recognize them and we ask them to continue interacting with the Senate and the National Assembly. In case they need any law that needs to be considered so as to make Kenya the hub of the best products, we are ready to assist.

The Deputy Speaker (Sen. Kembi-Gitura): Thank you, Sen. (Prof.) Lonyangapuo.

I should also add that although there are several Phds in this House, you are the only one present this afternoon, just for the sake of good order.

Sen. M. Kajwang: Mr. Deputy Speaker, Sir, I also wish to join my colleagues in welcoming the visitors who are up there. If by chance I do not come back to this House I will join them as a PhD student. I hope they will welcome me even though it is very unlikely that I will not be coming back to this House. I want to challenge the PhD students that this is a conversation I had in my county on the County Education Day.

The Deputy Speaker (Sen. Kembi-Gitura): Sen. M. Kajwang, being in this House and doing a Phd are not mutually exclusive, are they? There is nothing to stop you from doing both.

Sen. M. Kajwang: Mr. Deputy Speaker, Sir, I do agree. It is just that a politician and a Phd seem to be two different animals but sometimes there is point of convergence.

The challenge with the Phd students is the inverse relationship between literacy levels and poverty levels. I do want to encourage the students and the intellectuals seated up there that we must translate what we learn and the research that we are doing into prosperity for our people. That is my challenge and I do hope that we will be seeing ground breaking research from JKUAT.

I do wish you well and I do hope you will join Sen. (Prof.) Lonyangapuo as a full professor when in this House.

Sen. Obure: Mr. Deputy Speaker, Sir, on a point of information. I know that my colleague, Sen. M. Kajwang, is relatively young in politics. I want to remind him that in politics we do not contemplate losing. Therefore, he should think positively because I am confident that he will win the Homa Bay County seat.

The Deputy Speaker (Sen. Kembi-Gitura): Maybe he also needs to be informed that Sen. G. G. Kariuki completed his PhD while still sitting here.

Sen. Sijeny: Mr. Deputy Speaker, Sir, on a point of order. I also wish to join you in welcoming the students. They are doing the right thing as Kenya needs more intellectuals. We know there was a time when there was an exodus of professionals from this country but we are glad there are more coming up. I am excited because I can see so many ladies there. I encourage you to continue with the spirit that what a man can do a woman can do better. So, continue working hard and God bless you.

Sen. Okong'o: Mr. Deputy Speaker, Sir, let me take this opportunity to welcome the doctorate students and inform Sen. (Prof.) Lonyangapuo that the research done on bananas is just about hybrids. The Kisii bananas are natural in terms of quality.

The Deputy Speaker (Sen. Kembi-Gitura): Proceed, Sen. Mutula Kilonzo Jnr. you have one minute.

Sen. Mutula Kilonzo Jnr.: Mr. Deputy Speaker, Sir, I join you in welcoming the PhD students. Two years ago, JKUAT showcased a laptop that they were making. At the time, I was hoping that the Jubilee Government would purchase their laptops from JKUAT. I was disappointed that they went outside while JKUAT is producing laptops. I congratulate JKUAT for entrepreneurship skills. We hope that this can translate to improving this economy and producing better entrepreneurs and not "tenderpreneurs."

The Deputy Speaker (Sen. Kembi-Gitura): Finally, let us have Sen. Omondi.

Sen. Omondi: Thank you Mr. Deputy Speaker, Sir, for allowing me to join you in welcoming the visiting students from JKUAT. I appreciate their effort. I urge them to come up with a programme in entrepreneurship. They should come up with a mentorship programme that can mentor young Kenyans who are future leaders. That will empower young people. They should also come up with a programme that will empower the marginalised groups of people in this country. Otherwise I wish them a fruitful stay as they continue learning.

The Deputy Speaker (Sen. Kembi-Gitura): Thank you very much, Senator. Next order!

PAPERS LAID

REPORT ON REVIEW OF THE PROCEDURE AND RULES FOR ELECTION OF EALA MEMBERS

Sen. Murkomen: Mr. Deputy Speaker, Sir, I beg to lay the following Paper on the Table of the Senate today Thursday, 6th April, 2017:-

Report of the Joint Parliamentary Select Committee to review the Procedure and Rules for election of Members of the East African Legislative Assembly (EALA).

(Sen. Murkomen laid the document on the Table)

Sen. Billow: Mr. Deputy Speaker, Sir, I beg to lay the following Papers on the Table of the Senate today Thursday, 6th April, 2017:-

REPORT ON PETITION: ON ALLEGED MISUSE OF PUBLIC FUNDS BY VIHIGA COUNTY GOVERNMENT

Report on the Petition by Mr. Julius Masiva Obuga on alleged misuse and diversion of public funds by Vihiga County Government.

REPORT ON PETITION: ENACTMENT OF THE LICENSING ACT

Report on the Petition by Mr. Humphrey Kaunga on enactment of the Licensing Act.

REPORT ON PETITION: BREACH OF THE CONSTITUTION
AND OTHER LAWS BY NAIROBI COUNTY EXECUTIVE

Report on the Petition by Mr. Richard Kavemba Mutinda concerning breach of the Constitution and other laws by the Nairobi City County Executive.

REPORT ON THE PROPOSED AMENDMENT OF THE
COUNTY ALLOCATION OF REVENUE ACT, 2016

Report on the proposed amendment of the County Allocation of Revenue Act, 2016.

(Sen. Billow laid the documents on the Table)

Sen. Murkomen: Mr. Deputy Speaker, Sir, allow me to provide the statement of the Senate Majority Leader on the Business---

The Deputy Speaker (Sen. Kembi-Gitura): Sen. Murkomen, that would come at statements.

Next order

Sen. Adan, are you supposed to lay Papers on the Table of the Senate.

REPORT ON OVERSIGHT OF RAILWAY INFRASTRUCTURE
DEVELOPMENT IN THE EAST AFRICAN REGION

Sen. Adan: Mr. Deputy Speaker, Sir, I beg the following Petition report on the Table of the Senate Today, Thursday 6th April, 2017:-

Report of the Committee on Communication, Trade and Investment on the Oversight of Railway Infrastructure Development in East African Region

(Sen. Adan laid the document on the Table)

NOTICE OF MOTIONADOPTION OF REPORT ON REVIEW OF THE PROCEDURE
AND RULES FOR ELECTION OF EALA MEMBERS

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

THAT, the Senate adopts the Report of the Joint Parliamentary Select Committee to review the Procedure and Rules for election of

Members of the East African Legislative Assembly (EALA) laid on the Table of the House today, Thursday, 6th April, 2017, and pursuant to section 12 of the East African Legislative Assembly Elections Act, 2011 and Article 50 of the Treaty for the establishment of the East African Community, approves the East African Legislative Assembly (Election of Members of the Assembly) Rules, 2017.

The Deputy Speaker (Sen. Kembi-Gitura): Next order! We were on statements when I went back to the Order Paper. We had dealt with (a) and (b). We are now on statement (c). Let us deal with the petitions. I want to deal with the Petitions quickly.

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

Sen. (Dr.) Machage: On a point of order, Mr. Deputy Speaker, Sir. We moved back to the orders that had been read, courtesy of Sen. Murkomen coming to the House late. Would it not have been appropriate and respectable to this House that Sen. Murkomen apologizes for coming to the House late? He could have done so before tabling the Papers and giving a Notice of Motion.

(An hon. Senator spoke off record)

The Deputy Speaker (Sen. Kembi-Gitura): Sen. (Dr.) Machage is right. The only difference is that he made the point of order after you had sat done which means it was late but he is right in the generality of his point of order. That you came late and if you had not come late, we could have dealt with the Notice of Motion when it was called early. Now that is water under the bridge.

Sen. Billow, what is your point of order?

Sen. Billow: On a point of order, Mr. Deputy Speaker, Sir. I rise pursuant to Standing Order No.154 where last week the Speaker set up a Mediation Committee----

The Deputy Speaker (Sen. Kembi-Gitura): Sen. Billow, because you had given me notice of your coming up with that point of order, may I request that we finish Order No.7, and you raise it just before we go to Order No.8, because it might bring out some debate.

STATEMENTS

KILLING OF STANISLAUS NAMAI MUKOMA AT SHIBALE IN MUMIAS, KAKAMEGA COUNTY

The Deputy Speaker (Sen. Kembi-Gitura): With the statements, let us see. Sen. (Dr.) Khalwale is not here, so, statement (c) falls.

(Statement deferred)

THE PLIGHT OF FARMERS IN MWEA RICE IRRIGATION SCHEME

The Deputy Speaker (Sen. Kembi-Gitura): Sen. Karaba is not here, so statement (d) falls.

(Statement deferred)

ALLEGED REGISTRATION OF VOTERS USING NYS
IDENTIFICATION KITS

The Deputy Speaker (Sen. Kembi-Gitura): Sen. Mutula Kilonzo Jnr. is not here but because I think he is around we suspend statement (e) for a little while. Sen. Sijeny, is the Committee on Legal Affairs and Human Rights ready to give the statement?

Sen. Sijeny: Mr. Deputy Speaker, Sir, I am not aware. You could give him more time.

The Deputy Speaker (Sen. Kembi-Gitura): For now we suspend it.

(Statement deferred)

COLLAPSE OF A SECTION OF BUKHUNGU STADIUM
IN KAKAMEGA COUNTY

The Deputy Speaker (Sen. Kembi-Gitura): On statement (f), Sen. (Dr.) Khalwale is not here.

(Statement deferred)

The Deputy Speaker (Sen. Kembi-Gitura): Regarding statement (g), Sen. Fatuma Dullo sought a statement from the Committee on Roads and Transportation? Are you ready to give the statement? Is it ready?

An hon. Senator: It is ready.

The Deputy Speaker (Sen. Kembi-Gitura): Sen. Dullo, do you insist that you get the statement today or can we suspect it?

Sen. Adan: Mr. Deputy Speaker, Sir, I want it today.

The Deputy Speaker (Sen. Kembi-Gitura): Sen. Sijeny, proceed.

CHANGE OF LAPSSET CORRIDOR ROUTE AND RELOCATION OF
THE PROPOSED ISIOLO RESORT CITY

Sen. Sijeny: Mr. Deputy Speaker, Sir, Sen. Dullo sought a Statement on the reported change of Lamu Port-South Sudan- Ethiopia Transport (LAPSSET) Corridor route and relocation of the proposed Isiolo Resort City. The response is as follows:

With regard to whether the Government intends to change the LAPSSET Corridor route, the answer is that the initial LAPSSET Corridor study, which was undertaken by Japan Port Consultants (JPC) in 2011, proposed that the road from Isiolo should pass through Nginyang. However, the feasibility and detailed designs study currently ongoing, which was commissioned by the Kenya National Highways Authority (KeNHA) has cited difficult terrain and environmental concerns as crucial factors necessitating new alignments.

Accordingly, following consultations with the KeNHA, which is the implementing arm of the Government for the highways components of the LAPSSET Corridor Programme, the original route from Isiolo to Lokichar via Nginyang has been proposed for change and the final route will be determined on completion of the ongoing study, but preliminarily, the road will traverse through Isiolo, Lerata, Maralal, Baragoi and Lokichar. To address the concerns raised on the change of the alignment for this section, the LAPSSET Corridor Development Authority (LCDA) Board has proposed an access road to be constructed to serve the Isiolo-Nginyang section to facilitate service provision.

As to whether the Government intends to relocate the site for Isiolo Resort City the response is as follows:

The Resort City at Isiolo is one of the three resort cities that were proposed in the JPC study to bolster economic activities along the LAPSSET Corridor. The other two resort cities are in Turkana and Lamu. For Isiolo Resort City three sites were considered; Kipsing Gap, Archers Post and Kulamawe, where they were ranked 1st, 2nd and 3rd respectively.

In compliance with statutory obligations, the LCDA commissioned a Strategic Environmental Assessment (SEA) study for the entire LAPSSET Corridor Program. The consultants, REPCON Associates, submitted a draft final report, which flagged Kipsing Gap as having a fragile ecosystem and also a wild animals' migratory corridor and, therefore, the need for the ecosystem at Kipsing Gap to be preserved, resulting in the proposed alternative location. The draft final report was submitted to the National Environment Management Authority (NEMA) and the public invited to submit comments.

The draft final report is, therefore, under review to incorporate the proposals submitted by the public and will next be subjected to a validation workshop before finalization of the study. It is the recommendations, as validated in the final report, that will determine the final outcome of the Isiolo Resort City location.

Primarily, the nature of the development of the proposed Resort City will need to take into account the concerns raised on the Kipsing Gap, being a migratory corridor for wild animals. Accordingly, it is proposed that the Resort City facilities be developed in Kipsing Gap, but only to a limited extent, which can be accommodated by a wildlife conservancy as is the case with Maasai Mara and Amboseli, among other integrated wildlife conservancies.

In addition, it was the demand by the local leaders of Isiolo County during one of the stakeholders' meeting for the Isiolo Resort City to be relocated from Kipsing Gap and they proposed Kulamawe. However, the actual location of the Resort City, either at Kipsing Gap or Kulamawe, will be known after finalization of the SEA Report approval by NEMA.

The Senator also wanted an explanation on the rationale for the above proposed changes. The rationale for relocating the Isiolo Resort City is informed by the following:

- (1) The Kipsing Gap is a heavily migratory corridor for elephants and wild animals in Isiolo, Samburu and Turkana
- (2) The change of location to Kulamawe site was as a result of a request from leaders and was also envisaged in the initial JPC study.

(3) The SEA study has flagged the environmental concerns and, therefore, the proposal for only light development conforms to SEA and environmental concerns that preserve wildlife migratory route.

All measures on the proposed relocation of the Resort City shall be guided and informed by the SEA Report and carried out to mitigate social environmental concerns that are identified in the study.

The Senator also wanted an explanation as to why stakeholders were not consulted on the proposed changes. The LCDA has conducted several stakeholders' consultative meetings in Isiolo and other LAPSSET Corridor Counties. These meetings have discussed all the components of the LAPSSET Corridor Programme, including the Resort Cities. Further to this, SEA Consultants carried out extensive consultations during the SEA scoping stage and undertook a validation workshop where various key organizations from Isiolo were invited to participate in the Isiolo leg of the said engagements.

The Senator also wanted an explanation on the Government's plan to compensate those who have already invested in the Kipsing Gap in anticipation of the Isiolo Resort City. The Ministry recognizes that individuals and entities may have invested in the areas earmarked for the LAPSSET Corridor Projects, in anticipation of upcoming developments. Our proposition is that these investments are still worth since the site offers one of the tourist attraction phenomenon being an animal migratory route.

Accordingly, the investments can be nurtured in collaboration with the Ministry of Tourism and the County Government to harness the potential. The Government, therefore, may not undertake active compensation for an area that it does not identify for location of the Resort City.

The Member also wanted to know whether the Government wanted to move the Isiolo Resort City to Igembe due to political considerations. The LAPSSET Corridor Programme is a Vision 2030 project and was conceptualized to provide a development paradigm shift for the country. The considerations made on the realignment of the LAPSSET Corridor or any other component is only on sound technical grounds and consultations with stakeholders.

The originally proposed routing and location of project components was made based on the JPC feasibility study done in 2011. The feasibility and detailed design studies have to affirm the route based on actual ground condition when the projects mature into the development stage. Accordingly, political considerations are not an influencing factor for either location or alignment of the project components.

Thank you, Mr. Deputy Speaker, Sir.

Sen. Adan: Thank you, Mr. Deputy Speaker, Sir. I thank the Vice Chairperson for the extensive answer that she has given though most of it is noncommittal. They are playing around with words as they answer the questions in this House.

The first clarification I want to seek is on compensation. I know very well that Lamu corridor has been compensated. Unfortunately, for Isiolo, it looks like the route is changing from one place to the other. Could she explain what is happening? The statement says political consideration is not an influencing factor in terms of changing the route. Could she confirm whether the Igembe route will change or not?

Finally, there is no proper consultation on the ground. Could LAPSSET Corridor Development Authority consider involving the local communities and their leadership in the decision making process? We would like to know what is happening on that route. Currently, there is no proper consultation that has taken place as indicated in the report.

The Deputy Speaker (Sen. Kembi-Gitura): Sen. Billow, be very brief.

Sen. Billow: Thank you Mr. Deputy Speaker, Sir. I listened very carefully to the Vice Chairperson. The LAPSSET like most other mega projects in this country is a conduit for people to make money on speculation of the land. When the LAPSSET was conceived, Garissa, Wajir and Moyale counties were included. Now, year in, year out, we are told some consultants are conducting a study. They are giving this or that advice. However, consultants are acting at the whims of those who pay them.

From what she says, Isiolo also risks being excluded from this project. The consultations are being done in such a way that they will only benefit people who have bought land for speculation purposes. This is a conduit for making money. Could she clarify why they allow these things to happen without involving local communities and their leadership? How do you tell us that it is the consultants who will design where it will pass? Who are these consultants? In Lamu, for example, the actual land owners have not been compensated. It is the speculators who have been paid. The owners have been complaining and protesting.

Sen. (Dr.) Machage: Mr. Deputy Speaker, Sir, could the Vice Chairperson clarify that indeed an initial route for the construction of the LAPSSET corridor had been designed? If so, the population around that route had stopped any plans they had on investment of those areas. Could she, therefore, confirm that the time wasted for the people before the change of the design will be considered and paid for in full?

Sen. (Prof.) Lonyangapuo: Mr. Deputy Speaker, Sir, I am surprised with the way the Vice Chairperson is responding to concerns raised by hon. Senators here. How can a project rated as the best flagship project and where millions of money has been spent is at the verge of collapsing? This project was conceived when the Grand Coalition Government was in power. We are told the reason for changing the old route is because it is blocking animals from migrating. Where have these animals come from? Why is it that they were not seen earlier?

If this LAPSSET project had been finalized earlier, the troubles that we have in Baringo, Samburu and Laikipia counties would not be there. This is because it would have opened that region all the way to West Pokot and Turkana counties. Could she clarify why it has to be changed to mutilate what had already been done by Kenyans and the experts who came from as far as Singapore? What ulterior motives have been noticed that were not there at the time of conceiving this project?

Sen. Lesuuda: Mr. Deputy Speaker, Sir, with regard to the LAPSSET and its route, I am aware the Samburu leadership gave their suggestions of how the route could be changed for the benefit of the people. However, our views were disregarded. I want to know whose views were included in designing the route of this mega project. They could be views of consultants only. They did not take into consideration the views of local communities and their leadership. If they did, they would not have changed that route.

The second issue is about the LAPSSET opening up these areas as Sen. (Prof.) Lonyangapuo said. When will it reach those counties for our people to benefit? I have

nothing against Meru County, but when will it reach Samburu, Laikipia, Turkana and other counties along that route? We thought it would be completed within the timeline. Where are we at the moment?

Sen. Sijeny: Thank you, Mr. Deputy Speaker, Sir. I wish to reiterate there is no final decision on the route that has been made so far. There is a report pending with the Government. As I said, it will be made public. I am glad Sen. Lesuuda has confirmed that there were some consultations with the leadership of Samburu County. Therefore, it is not true to say we are done with the route. The final decision will be made once the report is made public.

With regard to the issue of original design sought by Sen. (Dr.) Machage, as I said the route will only be known after wide consultations with all stakeholders, including the local communities are completed. That is all I can say for now.

We, as a Committee, have written to the Cabinet Secretary (CS), Ministry of Transport and Infrastructure. We have invited him to appear before our Committee next week on Wednesday, 12th April, 2017. I am sure this issue of route and other issues will be discussed in that meeting. I would urge anybody who needs further clarification to attend this very important Committee meeting.

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

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

Sen. Billow: Mr. Deputy Speaker, Sir, you heard the Vice Chairperson say that it is not finalized because they are still consulting. As a nation, we spent hundreds of millions when the initial feasibility was done by experts. All the environmental assessments were done.

What is it that has changed today for her to tell us that the environment has changed and that some other consultants have to be engaged? Is this not an exercise to try and divert this thing to include politically correct locations? Why not say so? I am sure the party you represent will be happy if you speak that way.

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

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

Sen. M. Kajwang: Mr. Deputy Speaker, Sir, considering that this was one of the grand projects that the current administration promised, and considering that the Chairperson says that a decision has not been made, and there are still feasibility studies being undertaken, which means execution has not started; would the Chairperson then just confirm to us that this is a failed project under the current administration?

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

The Deputy Speaker (Sen. Kembi-Gitura): Sen. Lesuuda, you have already had a bite at it. Do you have a new point?

Sen. Lesuuda: Mr. Deputy Speaker, Sir, it is a point of order. The Vice Chairperson of the Committee should take this matter very seriously. She says that it has not been completed.

When they meet with The Lamu Port-South Sudan-Ethiopia-Transport (LAPSSET) Chair, board and everybody else that they will sit with, please take in to consideration the views that have been raised in this Senate seriously. Since you are the

Chair, you talk on behalf of the representatives of those people in those counties that we need these things addressed. Even though they consulted us as leaders, we were told categorically that it could not be changed.

The Deputy Speaker(Sen. Kembi-Gitura): Do you have anything to add?

Sen. Sijeny: Mr. Deputy Speaker, Sir, I have noted and taken everything in to consideration. I will also look at the HANSARD and ensure that I follow up accordingly.

The Deputy Speaker (Sen. Kembi-Gitura): Can I get you correctly, Sen. Sijeny?. You are saying that you have looked at the HANSARD. Are you saying that you have not finished the answer?

Sen. Sijeny: Mr. Deputy Speaker, Sir, I have given the response as best as we can in the circumstances. However, I have told them that should they feel that there are other concerns they want to raise, the Cabinet Secretary (CS) will be appearing before us on Wednesday next week. If there are further issues---

The Deputy Speaker (Sen. Kembi-Gitura): I do not understand. Nobody has asked you for a further Statement. Are you suggesting that you are not satisfied with your answer?

Sen. Sijeny: Mr. Deputy Speaker, Sir, I am satisfied. I have given the answer accordingly. I am just announcing that we are still going to meet the CS next week. That is all I would say.

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

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

Sen. Adan: Mr. Deputy Speaker, Sir, with all due respect to my colleague and Vice Chairperson of the Committee, it looks like she is running away from all the questions. These routes were marked and that is why the project was implemented. However, we are being told that the routes are changed with the consultant's report being waited for. Calling the CS here will not solve the problem. Can that the Ministry go back to the ground and consult the communities on why those routes were changed? This is because I believe the issues of environment and all that should have been considered before the implementation of the project. As my colleagues have said, this are political gimmicks and there is a lot of interference taking place. Kindly consider going back to the drawing board and consult the affected communities.

Sen. Billow: Mr. Deputy Speaker, Sir, because of the importance of this matter, I want to advice the Chairperson to take the HANSARD and note all the issues we raised and, pleas, come back to this House with the full answer and exercise the authority of this House for heaven's sake. Say no route will be changed without the authority of this House. Can you stop being an appendage of the Executive and exercise the authority of this House? Tell them there will be no change in the route unless it is approved by these leaders. We do not represent trees but people.

The Deputy Speaker (Sen. Kembi-Gitura): Sen. Lesuuda, you still want the Floor again?

Sen. Lesuuda: No, Mr. Deputy Speaker, Sir.

The Deputy Speaker (Sen. Kembi-Gitura): Sen. Sijeny, what would you say about all these issues that have been raised?

Sen. Sijeny: Mr. Deputy Speaker, Sir, let us wait for the report. There have been proposals and there is a Committee dealing with it. There is the Strategic Environment Assessment (SEA) study and a lot being done on it. The CS has said that once the report is there, there was a proposal to change the routes. At this stage, we cannot say that it has been decided. However, should an issue come up; they are under duty to listen to the people. They have listened, gone round and asked the stakeholders and so we wait for a report to be done.

The Deputy Speaker (Sen. Kembi-Gitura): This matter must come to a close. Sen. Dullo, what do you have to finally say?

Sen. Adan: Mr. Deputy Speaker, Sir, I think Sen. Sijeny should be serious. This is because the report that is currently being done, there is no consultation taking place. Communities are not involved. For heaven's sake, can you involve the communities in doing this report? This is serious. She is telling us what is not on the ground.

The Deputy Speaker (Sen. Kembi-Gitura): I want to understand you, Sen. Sijeny. You have heard what your colleagues have to say on this issue. Do you want to go back and come back with a more comprehensive answer or what you have given is final? What are you telling us?

Sen. Sijeny: Mr. Deputy Speaker, Sir, it is in order to further give this further clarification sought for and since it is not closed, we are still going to have another meeting with the CS. We could address all these concerns. I also invite my colleagues who are here and want to seek further clarification. Within two weeks, I could come and give the position.

The Deputy Speaker (Sen. Kembi-Gitura): We will be on recess. Do you undertake to give the answer during the first sitting the day after we resume to the several new issues that have been raised by the Senators? Is that okay?

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

The Deputy Speaker (Sen. Kembi-Gitura): I think that is it. Let us go to the next Statement (h)

COLLAPSE OF A SECTION OF BUKHUNGU STADIUM
IN KAKAMEGA COUNTY

The Deputy Speaker (Sen. Kembi-Gitura): Sen. (Dr.) Khalwale is not in so we defer it.

(Statement deferred)

The next one was sought by Sen. Lesuuda from the Committee on National Security and Foreign Relations. Sen. Adan, do you have an answer for her?

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

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

KILLING OF LIVESTOCK IN LAIKIPIA COUNTY
BY SECURITY PERSONNEL

Sen. Adan: Mr. Temporary Speaker, Sir, as I said earlier, this Statement is not ready and the Ministry has requested for more time because they are working on having a comprehensive answer.

The Temporary Speaker (Sen. (Dr.) Machage): Sen. Lesuuda.

Sen. Lesuuda: Mr. Temporary Speaker, Sir, when I sought this Statement last week, all of us, including the speaker, and even the Vice-chairperson of this Committee agreed that this is a matter that needs urgent intervention and we need answers on what is going on in Laikipia. Even if there is an operation going on, why are cows, the only source of livelihood for those pastoralists, being shot and trodden upon by Government vehicles?

I also sought to know why their makeshift homes are being burnt and everything is being taken away. On Tuesday, we were told the response will be issued on Wednesday, but it was not issued as promised. Yesterday, I rose and said probably there could even be some conspiracy because we are going on recess so that we continue to delay this while the people want to know why this is happening. It has never happened in the history of Kenya that livestock can be shot.

Since the House is going on recess, I would like to rise on a point of order pursuant to Standing Order No. 45 (2) (a) so that we can further deliberate on this issue. I also have some photos I want to table in this House so that I can also help the Ministry officials if they are having a problem finding out whether this is true or not. We can help them with the evidence on what is going on in Laikipia.

The Temporary Speaker (Sen. (Dr.) Machage): I will respond to that.

To rise on Standing Order as proposed by you requires a certain procedure which will be guided by the Standing Orders. At least one hour notification to the Speaker's office and other issues adopted are written requests so that it is assessed and accepted on 9th.

However, erroneously or unknowingly, chairpersons of committees think they can only give Statements that have been drafted and written by the Cabinet Ministers and Principle Secretaries. That is not what our Standing Orders envisage. I have severally rejected Statements that have been tabled in this House without a signature of ownership by the Chair. The Statements we require here are supposed to be Statements by the chairpersons.

A Statement from the Chairperson, Committee on National Security and Foreign Relations with all the powers that are bestowed on you and with a salary that goes by it, you cannot even stand and condemn such a heinous exercise being done in Samburu.

Sen. Billow: Mr. Temporary Speaker, Sir, what is clearly happening is the policy by the Government to dispossess the pastoralist communities of Baringo, Samburu and other areas of their economic livelihoods and render them destitute.

This is a policy that was used in the former North East Province in 1963 during the *Shifita* War when hundreds of thousands of animals were wiped out. We have seen on national television that these people are not only losing their livestock and lives but their voting cards and identity cards are being collected and destroyed. Furthermore, their food

is being poisoned. Why has nobody commented on this in Government or even condemned this issue? I want the Vice Chairperson to respond to what is going on in Samburu where poor women are complaining they cannot trace their kids. A woman was saying that she could not trace any of her six children. Another woman said that her food has been poisoned. What is happening? It is like pre-meditation to genocide. It is true the Government can use intelligence to fight banditry but you cannot collectively punish an entire community. What happens in that pastoralist area cannot happen in Kiambu, Homa Bay or Kilifi. Why is this happening? Coincidentally, the Vice Chairperson comes from that region. It is very painful to see a Government engaging in extermination of its own people and their livelihood.

It is painful that you are not able to respond or issue a Statement. Additionally, no Government official has stood up to deny what has been reported in the media in the last few days with regard to what is happening in that part of the world.

Sen. (Prof.) Lonyangapuo: Mr. Temporary Speaker, Sir, I do not know how you will explain where the Chairpersons have been given directives by yourself. Yesterday you were magnanimous and informed them to respond today but they have ignored. They have to come and respond to this grave issue that has wiped out communities and nobody is reporting anything in the media.

I have read the history and I have never come across anywhere where Government officers kill livestock especially when there is drought like now. This is the reason why these animals came to Laikipia and would not have left their homes in Samburu or Baringo, they came because of drought. This means that they are starving to death and then you kill their livelihood.

In 1992 and 1994 there were operations in Pokot and Turkana and several other operations in other parts of the country. However, we have never seen such an operation. You cannot believe the images you see. Which country on earth can eliminate their people the way we are seeing it here? It is not the first time we are having drought in Kenya. How was it being done before? The same communities used to go to Laikipia and their leaders are here.

We need to know what is really happening. If the Chairperson is unable to give a Statement, let us see her take a bold step to resign from the Committee as the Chairperson. As the Speaker has said, you cannot even condemn this barbaric behavior. They are also destroying the voting cards yet we have just four months to elections. We need to know what is happening. It seems like there is a systematic plan to delay this Statement so that when we go on recess, this issue is forgotten. What type of a prayer is this?

Mr. Temporary Speaker, Sir, the Senate Majority Leader is here and he should listen to this. He is also affected in Tharaka-Nithi County because they also have pastrolists and do not only farm. This is a serious matter and I want to hear him condemning this as this is inhuman.

The Temporary Speaker (Sen. (Dr.) Machage): May I refer the House to Standing Order No.45 (2) (b). I want the Chairperson, Committee on National Security and Foreign Relations to listen carefully.

“A Senator may request for a Statement from a Committee Chairperson relating to matters under the mandate of the Committee and

the Speaker may appoint a day for the Statement to be made or direct that the Statement be issued on the same day.”

Our Standing Orders do not say the Statement must come from the Ministry or from anywhere else. You can get and source that information from anywhere. You can also blame the Ministry concerned if you think they have destructed your efforts to get that kind of information to give to this House. As a Chairperson, you are not a Minister or pro-government; you are a Chairperson for this House.

I will read the request by Sen. Lesuuda.

“The Chairperson, Standing Committee on National Security and Foreign Relations to issue a Statement on the killing of livestock in Laikipia County by the security personnel.”

It is evident we know what you are going through trying to get information from the Ministry of Interior and Coordination of National Government. The House knows how active and dedicated you are in getting answers to questions raised on the Floor of the House. However, in your capacity as the Chairperson please say something on this. It will be important for the country. Say something or even condemn or praise if you so want.

Sen. Karaba: On a point of information, Mr. Temporary Speaker, Sir.

The Temporary Speaker (Sen. (Dr.) Machage): Do you want to be informed?

Sen. Adan: Yes, Mr. Temporary Speaker, Sir.

Sen. Karaba: Mr. Temporary Speaker, Sir, sometimes the Chairpersons of Committees face a lot of frustrations in the course of their duties. We are putting our colleague Senator in a very awkward position. Answers have not been forthcoming; maybe she has been there for a long time, waiting for it.

The Temporary Speaker (Sen. (Dr.) Machage): I thought you were informing the Senator, not me.

Sen. Karaba: Mr. Temporary Speaker, Sir, I am informing the Senator. I am sympathizing with her position. Sometimes it is a bit difficult.

The Temporary Speaker (Sen. (Dr.) Machage): Unfortunately we do not have point of sympathy.

Proceed, Sen. Dullo. What do you have to say?

Sen. Adan: Mr. Temporary Speaker, Sir, you are putting me in an awkward position. First, for the period that I have been in this House, the tradition has been that we do not generate statements as Chairpersons of Committees. On several occasions various Chairpersons were challenged whether they are giving their opinion or official position of the relevant ministries.

In my opinion, what is happening in Laikipia is wrong. I am a human rights defender, a pastoralist and I cannot wish that to happen anywhere. However, my predicament is, if I am required to issue a statement in this House, I must issue statements based on the facts that I have got from the ground. Of course, Sen. Lesuuda comes from Laikipia, the area where those activities are happening. What we are seeing is what we get from the media. I really sympathize with the communities that are affected but I request the House to give me time to get a proper, comprehensive answer. We can dedicate a date when we can give that answer.

The Temporary Speaker (Sen. (Dr.) Machage): What is it, Sen. Billow?

Sen. Billow: On a point of order, Mr. Temporary Speaker, Sir. Is the Vice Chairperson of a very important Committee in order to mislead this House that Committees or their Chairpersons have absolutely no power when in fact a Committee can pronounce itself on any matter in exercise of their oversight mandate? Without even being prompted, you can, as the Chairperson or Committee, pronounce yourself on a matter. By now the gravity of that matter is so much that we expected the Committee on National Security and Foreign Relations to have moved to site to investigate what is going on. We expected them, to say the least, to have condemned it. We are making this House irrelevant. If we continue saying we are waiting for a Cabinet Secretary to give us the document, what is this House for? For heaven's sake we are supposed to exercise oversight.

Mr. Temporary Speaker, Sir, you must give appropriate direction that this Committee must move to site immediately to investigate the atrocities that are going on in Laikipia.

The Temporary Speaker (Sen. (Dr.) Machage): What is it, Sen. Karue?

Sen. (Eng.) Muriuki: Mr. Temporary Speaker, Sir, first of all, confirm that the intervention button still works. I tried several times yet you did not see my request. However, my substantive point is that I stand to condemn what is happening in Laikipia. I do not like to go the way my colleague, the Senator for Mandera is; taking the position that the Government is out to exterminate a community in that area as it were. We are now at the mercy of the media in the absence of an official Government position. I sympathize with Sen. Adan on the fact that the Government is not coming up with any statement. It would mean that the information I have – and I am not a Member of that Committee – would very well be the same information, a Member of that Committee, the Chairperson notwithstanding, would have.

It is unfortunate that we have information only from the media. I take interest in these things. It is like two sides of a coin which are very severe. First of all, we are made to understand that there are armed communities in those areas, not necessarily in Laikipia, but taking their war as it were into Laikipia. At the same time, we are also given stories of local leaders who are using bandits to drive out owners of land. Some of them could very well be foreign owners but they hold the land legally.

Mr. Temporary Speaker, Sir, therefore, it is very important for us to get an official position from the Government. This is why the Chairperson was hesitant to give an opinion. What is in the media is that there is some reason why the Government is not taking full action against some of the atrocities which are happening in Laikipia. At the same time, whether or not the Government has an intention to do what the Senator for Mandera said. We need to get an official position. With that, I urge the Senate Majority Leader, in moving the Motion of Adjournment under Order No.25, that perhaps we do not adjourn until June so that we have time after the nominations are over to look at some of these issues because there may be no other forum under which the nation can know precisely what is happening in Laikipia.

The Temporary Speaker (Sen. (Dr.) Machage): First, Sen. Karue, not only do I have good eye sight but it is enhanced to make it better. Just because I did not give you time to speak when you pressed does not mean I did not see your request. Please have a

seat. However, I gave you an opportunity. So, you should have started with the first phrase; thank you Mr. Temporary Speaker, Sir, for the opportunity.

(Sen. (Eng.) Muriuki spoke off record)

What is it, Sen. Lesuuda?

Sen. Lesuuda: On a point of order, Mr. Temporary Speaker, Sir. The reason we are raising concerns is because official communication that I had sought from the Government is not forthcoming. We are told it would have been issued on Tuesday, then Wednesday and today is Thursday. We are going on recess and the atrocities continue. So, which other forum do I have? As we said earlier, we represent people. When they have concerns we raise them. It is not just that we rely on the media. We are relying on a statement that I have requested. It is not just what is in the media. There are specific questions that I would like the Committee Chairperson to get an official communication. We want to understand why such atrocities are happening. The questions are very specific.

Further, as Sen. Karue said, yes, there are issues. If we got the answer from the Government, then, we would interrogate it. Definitely issues have been raised; there are people who have gone to private ranches. That is why we are also giving the other voice. Is there no better way of handling the problem that we have in Laikipia other than killing cattle? This is something we have never seen before in the history of this country. If anything, it makes the conflict more complex. People are committing suicide after losing their investments. Some pastoralists have evidence that they are paying for pasture and they have agreements with the land owners to graze.

Mr. Temporary Speaker, Sir, as I conclude, pastoralists are saying, "Please let it rain. We are not the ones who brought drought." I agree that it could be politically motivated because we are going into an election period.

It is ironical to declare drought an emergency yet we wipe out the cattle of the people who are facing drought. That is their only source of livelihood. I would like to table these photos so that it is on record in this House.

The Temporary Speaker (Sen. (Dr.) Machage): Go ahead and table them.

(Sen. Lesuuda laid photos on the Table)

The Temporary Speaker (Sen. (Dr.) Machage): Let us limit ourselves. We have a lot to do this afternoon.

Sen. (Prof.) Lonyangapuo: On a point of order, Mr. Temporary Speaker,

The Temporary Speaker (Sen. (Dr.) Machage): What is it, Sen. (Prof.) Lonyangapuo? If it is on the same issue, I will stop you using Standing Order No.109 on irrelevance and repetition.

Sen. (Prof.) Lonyangapuo: Mr. Temporary Speaker, Sir, I have not talked yet for you to know whether it is repetitive or not.

I would like to add that last week, we saw that the police officers arresting some boys in Eastleigh and shot them dead. I did not see the police officers---

The Temporary Speaker (Sen. (Dr.) Machage): Order, Sen. (Prof.) Lonyangapuo! That was a different statement that was sought. It was dealt with earlier by the answers given by the substantive Chairperson who was in the House at that time. This is a different subject. We are dealing with a different area and matter. Therefore, I will not allow you to revisit that matter unless you rephrase what you want to say. Remember that we are still guided by Standing Order No.109.

Sen. (Prof.) Lonyangapuo: Mr. Temporary Speaker, Sir, if the target is to smoke out the bandits there, then the same procedure that was used to identify bandits there should also be applied in Laikipia County. Right now, they are treating cattle, women and newborn babies as bandits. Kindly direct the Committee to visit the area because they are unable to get response from the relevant authority. When they go there, they will be able to assess for themselves and seek a solution for the way forward.

The Temporary Speaker (Sen. (Dr.) Machage): We earlier condemned the shoot to kill orders by the Deputy President yet right now a Senator wants to condone it. It amuses even God when it rains too much, Kenyans complain and when we do not receive rain, we also complain. The fact that there is drought in Laikipia does not entitle other people to invade people's farms. That is the law. The Committee has been requested thrice to utilize the recess period and visit the area concerned, of course, their security notwithstanding.

What does the Vice Chairperson have to say?

Sen. Adan: Mr. Temporary Speaker, Sir, the Committee will make a visit to the area.

The Temporary Speaker (Sen. (Dr.) Machage): That is acceptable. When will you make the visit?

Sen. Adan: Mr. Temporary Speaker, Sir, we will make the visit during the recess period and give a report once we resume.

Sen. Lesuuda: Mr. Temporary Speaker, Sir, we should get a report on the day of resumption. We cannot leave it hanging. Since the Committee has taken up the matter, I agree. As soon as we come back, they can issue the report. The Committee can also involve some of us who have an interest in the matter as they organise the visit.

The Temporary Speaker (Sen. (Dr.) Machage): The Committee should inform all the Senators when they plan to visit so that they can also visit as friends of the Committee. I also order that the statement is given on the Floor of this House on the first day when we resume from recess. I expect that to be part of the statement to be issued to the House on 13th June 2017. The Senate Majority Leader will give us more information on that.

The Senate Majority Leader (Sen. (Prof.) Kindiki): Mr. Temporary Speaker, Sir, I agree with the Members and you as the Chair with regards to the urgency of this matter.

I would like to say two things which I hope will be helpful. One, it is true that we will go on recess up to 13th of June 2017 which is far away given the urgency of the matter in question. The matter is grave and urgent.

My suggestion is that, since we are likely to come back for special sitting to deal with the Report of the Mediation Committee on the Division of Revenue Bill and the County Allocation of Revenue Bill within May, it is proposed, you could, perhaps, help

the Houses by reducing the time by which the Committee should visit and be ready with the ministerial answer. In fact, they can do both time by which the Committee should visit and be ready with the ministerial answer. In fact, they can do both. They can get the ministerial response and visit the place.

They can be given two to three weeks so that they are ready by the time we have the special sitting. That can then be included as part of the special agenda when we have the special sitting. That way, when the Senate Minority Leader or I, will be requesting for the special sitting, we can include that as part of the special sitting agenda later this month or in early May. Those are the proposals that I have.

The Temporary Speaker (Sen. (Dr.) Machage): That is even better. That means that the Chairperson has to liaise with the Senate Majority Leader to get the right dates. I do not know whether the 15 signatures have been sought to have the special sitting. All in all, the Chairperson should be included in the decision of date so that she is not ambushed.

The Senate Majority Leader, make sure that the gazette is also properly done because as per our Standing Orders which state that it has to be one particular agenda for a particular gazette. Therefore, if there will be a subject of discussion, you must make sure that the framing and wording of that gazette notice also includes this matter as an agenda for that particular day.

Matters raised by Sen. Lesuuda to be answered by the Chairperson of the Committee on National Security and Foreign Relations so that we are not ambushed again as it has happened before. It is so ordered.

We had so many statements which I may not go through because either the questioner or the provider of the answer is not around.

Next Order!

Sen. Billow: On a point of order, Mr. Temporary Speaker, Sir. There is a matter I wanted to raise in relation to Standing Order No.154 on Mediation Committee and the Speaker had requested that I raise it immediately after we finish with the statements.

*(The Temporary Speaker (Sen. (Dr.) Machage)
consulted with Clerk-at-the-Table)*

The Temporary Speaker (Sen. (Dr.) Machage): Very well. Before I close the Statements, you will have the Floor immediately the Senate Majority Leader finishes issuing the statement.

BUSINESS FOR THE WEEK COMMENCING
TUESDAY, 11TH APRIL, 2017

The Senate Majority Leader (Sen. (Prof.) Kindiki): Mr. Temporary Speaker, Sir, thank you for giving me this chance.

Mr. Temporary Speaker, Sir, I beg to read the Statement of the Business of the Senate for the coming week. As hon. Senators are aware, in accordance with our Calendar as approved, we will move an Adjournment Motion this evening to adjourn for a few weeks and resume for our final sitting of three days between 13th and 15th June,

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2017. In the three days, the focus of the Senate will be to clear the most important Bills which would not have been cleared by that time. Of urgent importance is the Division of Revenue Bill.

The disagreement between the two Houses has led to a mediation report which must be approved by both Houses in accordance with the law. This is a very important legislation because if it is not passed, it can paralyze the country's operations. Other than that, our counties require money to run the few months before and even after elections for those who will be re-elected and for the new governors. So, we need to pass the County Allocation of Revenue Bill among other Bills.

Mr. Temporary Speaker, Sir, on 13th, 14th and 15th, June, 2017 these are the Bills that will be of critical importance as well as passing the final reports of the County Public Accounts and Investments Committee (CPAIC) some of which have been tabled, so that at least before this term ends, we dispense with consideration of one year of audit reports. The next Senate will push and try to remove the backlog from where the current CPAIC would have left.

There will be a Senate Business Committee (SBC) meeting on Tuesday, 13th June, 2017, to schedule the business of the Senate. Among the things that will be given priority are Bills that I have already identified.

Mr. Temporary Speaker, Sir, given the urgency of some of the legislation that are pending, we might be compelled to hold one or two special sittings at the end of this month, hopefully after the primaries, to come and dispense with the most urgent legislation and maybe one more time on a needs basis before the final resumption of our sittings on 13th June, 2017.

I take this opportunity to wish all colleagues all the best in the political party primaries. I know it is a very taxing process in many ways because Kenyan election is one of the most vigorous and energetic elections in the world. I wish all colleagues and all political parties well. Let democracy prevail and let the best person get the ticket to defend their party. For those who will not get the tickets I am sure they can still serve this country in other capacities. I pray for peace in our country and that elections will not put our country on a path that our children might regret.

Mr. Temporary Speaker, Sir, with those few remarks, I now beg to table this Statement on the Table of this Senate. I thank you for listening to me.

(Sen. (Prof.) Kindiki laid the document on the Table)

The Temporary Speaker (Sen. (Dr.) Machage): Senate Minority Leader, thank you and we also wish you well. We also wish that you visit shops that sell shoes made in Kenya so that it does not appear that you wear substandard shoes from Korea.

(Laughter)

The Senate Majority Leader (Sen. (Prof.) Kindiki): Mr. Temporary Speaker, Sir, you have reminded me. I should have thanked colleagues and the rest of Kenyans for the sympathies and support that they showed a few weeks ago. In the heat of the campaigns and the rough terrains of Tharaka-Nithi, components of my shoes decided to

disagree. I got a lot of support from all over including across the political divide. One of the Senators who called me very early was George Khaniri, the Senator for Vihiga County. He told me that he understands these things. He said that he has been in the game for over 20 years and knows what it means and wished me all the best.

So, I am grateful for the support and sympathies. In fact, I have received a lot of offers for shoes, some from very high places while others from ordinary places. Up to now, I have counted 44 pairs of shoes from well-wishers. I will donate those shoes to Kenyans and maybe start Senator Kithure Kindiki's Shoe Initiative.

(Laughter)

The Temporary Speaker (Sen. (Dr.) Machage): I can see several points of order but I will gag you because I think that is enough on the subject on our Senate Majority Leader.

(Sen. Mutula Kilonzo Jnr. spoke off record)

Very well, do not revisit the issue of Sen. (Prof.) Kindiki's shoes.

Sen. Mutula Kilonzo Jnr.: I would have introduced him to cobbler from Makueni.

The Temporary Speaker (Sen. (Dr.) Machage): Now you are doing it.

Sen. Mutula Kilonzo Jnr.: I mean we have *mikalias*. He would survive with our shoes.

Mr. Temporary Speaker, Sir, from the reading of his statement, it appears therefore that we only have a maximum of four sittings of the Senate. If I was to be asked, the Senate Majority Leader would issue what could be called a State of the Senate Address which would include and not limited to stating the fate of the Bills that have emanated from this House. Otherwise, the Senate Majority Leader has not discharged his role as the Leader of this House.

Mr. Temporary Speaker, Sir, when he comes back, other than being offered *mikalias* from Makueni, he should give us that state. If the Bills have lapsed, he should inform us that there is nothing we can do because they have lapsed and reintroduce them when we are elected. That address is important for Members of this House who spend a lot of time drafting Bills, arguing them here and presenting them before this Senate.

Mr. Temporary Speaker, Sir, I beg your indulgence. I thank you.

The Temporary Speaker (Sen. (Dr.) Machage): Let me dispose of that. The unfortunate situation, unless you want to amend the Standing Orders, is that the Standing Orders do not give him that opportunity to make a 'state of the Senate' address. It can only be the prerogative of the Speaker, if he so wishes, to address the Senate. Maybe we can ask the Senate Majority Leader to implore or request the Speaker, in his remarks as the Senate will be adjourning *Sine Die*, to include some of the issues that you have raised. That will be quite in order.

Sen. (Prof.) Lonyangapuo.

Sen. (Prof.) Lonyangapuo: Mr. Temporary Speaker, Sir, I want to comment on the Statement that the Senate Majority Leader has issued. We are supposed to come back

in June. That means that between now and then, the business that has been piling up here, unless we are miracle workers---

The Temporary Speaker (Sen. (Dr.) Machage): Order! The Senate Majority Leader just commented that we may be adjourning. You are now anticipating debate.

(Sen. (Prof.) Lonyangapuo spoke off record)

He was responding to the possibility of us coming back on 13th June, 2017 and was giving a way forward in addressing Sen. Lesuuda's issue.

Yes, Sen. (Eng.) Muriuki.

Sen. (Eng.) Muriuki: Mr. Temporary Speaker, Sir, allow me to echo the sentiments of my colleagues. What is bothering us is that we have a lot of business which for one reason or another is left undone. It, therefore, gives a very bad image of the Senate. I know that we can be recalled for special sittings and nothing prevents us from sitting for a week or even two weeks in a row, so long as the gazette notice specifies the days and matters to be considered. Jesus said that the laws of Moses were made to help the people and not vice versa. We made Standing Orders in good faith, but now we are caught up in a situation where we have very little to show Kenyans.

Some of the Bills that are pending are very important. By considering them we will show that the Senate serves some purpose. We are always bashed and asked to justify the existence of the Senate. This matter is, therefore, worth considering by the Senate Majority Leader.

I would suggest that we adjourn until 13th May, 2017 instead of 13th June, 2017 because the primaries will be over by then, so that a serious attempt is made by this House to conclude some of the pending business.

The Temporary Speaker (Sen. (Dr.) Machage): Your request and suggestion is quite in order, but I will amend. It is not only the Senate Majority Leader who is allowed to call for a special sitting. Any Member, so long as you have the support of at least 15 Members, can actually apply for a special sitting of the Senate. That is what the Standing Orders say.

Sen. Billow: On a point of order, Mr. Temporary Speaker, Sir. It is the leadership of the House or the Senate Business Committee that sets the calendar. That is what the Senate Majority Leader has just read. The concern by some of us is that we have had far too many recesses in the past few months. The National Assembly is adjourning today and resuming on 13th May, 2017. We have a lot of business pending and 13th June, 2017 will be a few days before the general elections.

The Temporary Speaker (Sen. (Dr.) Machage): Why do I not stop you from discussing that, because it is coming as a Motion? You can actually prosecute the matter of the date when the right time comes. I request that you go straight to your issue, because we have that as a substantive Motion.

Proceed to your earlier request.

POINT OF ORDERSTATUS OF THE MEDIATION PROCESS ON THE
DIVISION OF REVENUE BILL

Sen. Billow: Mr. Temporary Speaker, Sir, in relation to the Mediation Committee on the Division on Revenue Bill that was communicated to the House last week by the Speaker, I had sought to advise the Members that the mediation process faces a serious challenge that the House needs to know.

The essence of the Division of Revenue Bill is that it is money allocated between the national and county levels of the Government. The National Assembly has gone ahead and already approved the Estimates of the Government. As I speak, they are also on the Third Reading of the Appropriation Bill. In effect it means that the amount of money that had been provided in the Estimates by the National Assembly of Kshs291 billion is what has gone to the Appropriation Bill, which will probably be signed into law by tomorrow, if it is passed today.

The whole exercise of going through mediation to make amendments to the Division of Revenue Bill, if any, would be futile. The earliest that anything can happen is after the elections, when the next House can amend the Appropriation Act, if at all they agree to that. We have a situation where the National Assembly has completely neglected the Division of Revenue Bill, which is a core component of their mandate, as well as ours, in the Constitution. So, we have a situation where counties will not have money approved in the Budget this month, when all of them are hoping to approve their budgets.

Without the Division of Revenue Bill we cannot prepare the County Allocation of Revenue Bill. Without that law counties cannot budget. In effect, there will be no budgets for the county governments until after the general elections. The interest of 47 governments was thrown out of the window by the Executive and the National Assembly. Only the interest of the national Government was taken care of by approving the Estimates and Appropriation Bill.

This Bill originates from the National Assembly and they know that it is pending. This House has been rendered completely impotent or irrelevant in the sense that they have gone ahead to pass the amount they provided in the Estimates. The question that then begs is: What is the role of this House if we cannot have our input in the Division of Revenue Bill? We went to court in 2013 and there was an advisory opinion that the Senate must be involved. To ignore this Bill is in effect to say that is what we have provided in our Estimates and the counties can take that amount, law or no law. We are in a predicament and need guidance of the House. The counties will have no county budgets this financial year.

In the two mediation committee meetings we have had, we have tried to prevail upon the Members from the National Assembly to talk to their House leadership to stop the process of enacting the Appropriation Bill, so that we can conclude this matter, but it has been brushed aside completely. They have gone ahead to finalize their matter. We, therefore, have a situation where a Mediation Committee was set up, but it has no role.

I thought it wise to raise this matter.

Sen. Mutula Kilonzo Jr.: It is now obvious that the role of the Members that you appointed, including myself, to sit in that Mediation Committee has now become untenable. We are staring at both a violation of the Constitution and impunity. When I sometimes sit in committees like this one, Mediation Committee, I sometimes hope that I am not dreaming. The excuses given by our colleagues in National Assembly is that there was expediency at the national level where they needed to appropriate money, thus there was need to pass that Bill quickly. They do that on the assumption, the words used is, assumption that the Senate will agree with the National Assembly.

We are staring at a situation where we are going to be or are irrelevant. This is a crisis. What they have done and we cannot approve is a situation where they have now given an excuse under Article 223, that the Appropriation Act can be amended after all. This may look very academic but to allow this precedent, and I say precedent, because it is not an excuse that we are having an election in August. Everybody was aware that we are going to have an election. It is a wrong precedent to the extent that the National Assembly is going to side step its own Bill irrespective of our exercise of mandate under Article 96 to pass an Appropriation Act before the Division of Revenue Bill is passed by both Houses.

I am surprised that the Senate Majority Leader can even suggest that he is going to call a Special Sitting to discuss the report of the Mediation Committee. He is not aware that the Mediation Committee that they have proposed, that includes the Senate Majority and Minority leaders, is so severely handicapped. At least on my part, I do not know why I should sit on that Committee listening to a lecture from hon. Mutava Musyimi and the rest of the Members.

We are back to 2013 but it is even worse. What they want to do tomorrow, which I must tell you and disclose is that the National Assembly Committee has agreed that they would go through the process of amending of the Appropriation Act. They have mobilized and they are going to come tomorrow and propose that in the Committee and vote.

Meanwhile, the Members of this Committee are supposed to sit and wait for them to vote. I want to disclose that I will not attend that meeting. This is because I will not sit in a meeting where people are violating the Constitution with impunity. What surprises me most about this process is that the leadership is Jubilee, the leadership of that Committee is Jubilee and the others are Members of Jubilee yet they do not agree and they do not talk.

We should seek authority from this House that sent us to that Committee. It should allow us to precipitate a national crisis by not sitting to allow and acquiesce to the violation of the Constitution and the process of the division of revenue. Once we do so, then they will understand that they cannot use us as a rubberstamp for their own decisions. There is no expediency in the national Government that does not exist in the counties.

I have made my disclosure. I will not sit in that Committee to allow this impunity by Members of the National Assembly at the behest of the Executive.

Sen. (Prof.) Lonyangapuo: Mr. Temporary Speaker, Sir, what we have heard here is not very good news. This House was formed by the same Constitution that established the National Assembly to form the Parliament of Kenya. We were supposed

to deal with the Division of Revenue Bill for counties to receive their monies. From what we have heard, it is now upon us to call a spade a spade.

This is an electioneering year in Kenya. We should tell Kenyans that their problems lie squarely on the Floor of the National Assembly where we have 290 elected Members and those who are nominated. The total comes to about 350. They should do us a favor. We are also going to face the same elections but before they examine the Senate and county assemblies, they should remove them first.

This is not the Constitution we voted for and was promulgated on 27th August, 2010 at 10.27 a.m. The Constitution was not promulgated for people to just walk by and pick it as if it is their property. It is the people of Kenya who need to do the needful. They should start with the leadership of that House. It is a pity. Our own Speaker, the Senate Majority and Minority leaders have all been admired when it comes to---

(Sen. (Prof.) Kindiki withdrew from the Chamber)

The Temporary Speaker (Sen. (Dr.) Machage): Just pause a little bit.

Senate Majority Leader, I will make a pronouncement. I will need your presence here. You are, therefore, ordered back.

(Sen. (Prof.) Kindiki returned to the Chamber)

Sen. (Prof) Lonyangapuo: Mr. Temporary Speaker, Sir, he has obeyed you. Our Senate Majority and Minority Leaders have done a lot. They have called meetings so as to sit together with our colleagues in order to move this country forward. They want to disable the Senate. If they have their own issues with the Senate based on the competition that they seem to have, this is not the right forum.

I ask my colleagues to be vigilant. If there is anything that we need to do, we should do it. We went to court in 2013. There is no harm in repeating it again. But the best weapon is to start with the primaries. There are primaries in some parties next week. Some of them in the National Assembly are going to offer their candidature in their respective parties. Assist us by deleting them in advance.

The Temporary Speaker (Sen. (Dr.) Machage): The matters raised by the Chairperson of the Committee on Finance, Commerce and Budget and discussed by other Members including Sen. Mutula Kilonzo Jnr., Sen. (Prof.) Lonyangapuo and Sen. (Eng.) Muriuki are of grave importance to the existence and the meaning of the Senate in this country.

The ridicule with which the Senate is being driven into by the National Assembly on matters of division of revenue as expressed by the Chairperson is likely to end tomorrow as an abuse that this Chair may not want to listen to as music. That is why I have requested the Senate Majority Leader who essentially represents the Government in this House to sit and listen to this.

First, is Article 113 of our own Constitution that governs matters of mediation of committees not applicable to division of revenue? If it is, then go through all the sections of Article 113 but I want you to comment more on Article 113(4) which says:

“If the mediation committee fails to agree on a version of the Bill within 30 days, or if a version proposed by the Committee is rejected by either House, the Bill is defeated.”

How on earth then, will there be conclusion of the Division of Revenue Bill tomorrow by the “Lower House”? If that is what is anticipated, then this Chair orders that the Senate goes to court first thing in the morning and raises an injunction using Article 113 of the Constitution. What have you to say the Senate Majority Leader?

The Senate Majority Leader (Sen.(Prof.)Kindiki): Mr. Temporary Speaker, Sir, I join you and colleagues who have spoken to condemn the unconstitutional and unlawful behaviour by our colleagues from the National Assembly who are representing that House in the Mediation Committee.

This is not the first time we have had this kind of situation. This is where we started in 2013 and we are ending our term on the same note. The interpretation of the Supreme Court on matters Division of Revenue which have now been supported by the practice of the last three years is that both Houses must agree on the Division of Revenue.

That agreement has to go all the way to mediation. As you have correctly put it, if either House does not agree with the mediation Report or if after 30 days there is no agreement, that Bill is defeated and the implication is that any budget that is drawn with a Division of Revenue Bill that does not exist or has collapsed is an unlawful budget. The implication is that this will put the country into a constitutional crisis of untold magnitude.

Mr. Temporary Speaker, Sir, as the Senate Majority Leader in this House, I have always stood in support of this House even sometimes under very difficult circumstances. I want to assure colleagues that this time is no exemption. By saying that this time round there is no exemption, I am saying that as far as this House is concerned, my view is that there is no Division of Revenue Bill and for that reason there can be no County Allocation of Revenue Bill and the Appropriation Act of the National Assembly to appropriate monies to be used by the national Government. That would be unlawful, illegal and unconstitutional legislation.

I am willing to stand to be counted in private or public to make sure that this Senate is not indignified by misguided fellows who have tried unsuccessfully for the last four or five years to indignify this dignified House. The only thing I want to point out is that we should resist the temptation to politicise along party lines this crude, uncouth and illegal behaviour.

I represent the Jubilee side proudly and I believe it is a good Government. However, I do not accept the behaviour of the Members of the Jubilee Administration in the National Assembly who are involved in perpetuating this behaviour. Likewise, I have no evidence whatsoever that our friends in the Opposition have supported the constitutional position on this matter in the National Assembly and have been defeated because of numbers. There is nothing on record. If anything, this is the one issue where the National Assembly is bipartisan when it comes to trying to humiliate the Senate, of course, unsuccessfully. As I have always said, it will take a referendum to achieve some of the things they are trying to achieve.

Mr. Temporary Speaker, Sir, my view is that it is a grave matter, but also simple in the sense that what is happening in that “Lower House” has no legal or constitutional

effect. They can proceed with it and take the Bill wherever they want. They can take it for the President to sign but it will be an illegal Bill.

I know the people of Kenya will stand with the Senate and the Constitution. It is a simple and straightforward matter. I see nothing partisan about this because if the opposition was so sympathetic to the Constitution on this matter, by now they should even be going to court or they should have called a Parliamentary Group (PG) meeting and instructed their Members in the “Lower House” to behave themselves. However, some of the most harsh, nasty and crude saboteurs of the Constitution on this matter are actually from the minority side. I am not trying exempt the majority side.

Mr. Temporary Speaker, Sir, I beg Members to retain sobriety and engage with this matter as we have done before. As far as I am concerned, from where I stand, the so-called Appropriation Bill and the thinking that that Appropriation Bill is being prepared on the assumption that the Senate will approve the mediation report, are illegal because the Constitution does not anticipate the outcome that the two Houses will agree and the mediation report will be approved.

Without belabouring the point, the Constitution and the Judiciary which interprets our laws and the people of Kenya are on the side of the Senate. So, if a crisis has been generated by the “Lower House” through this uncouth behaviour, so be it. However, the Senate cannot relent or bend the procedures and protocols that must be followed to make the law and to make sure that the Budget and the resources of this country are allocated between the two levels of Government. That cannot be said of this Senate; that we will bend the law to please anyone.

It is a straightforward matter. This House can even call a Special Sitting once that illegal process which is ongoing there materializes and we take a position. You can count on the Senate Majority Leader to lead from the front.

The Temporary Speaker(Sen. (Dr.) Machage): Before I get to the point of order, maybe it would be appropriate to reply to part of what I want to say. I see two points of orders. I will also give the Senate Minority Leader a chance to say something. I do not know whether he has been following it from his office.

Sen. Mutula Kilonzo Jnr, not that I want you to speak immediately because you are our representative in that Committee. This Speaker requests you to change your position and attend lest you allow the National Assembly Members to pass it---. How many are you in the committee?

Sen. Mutula Kilonzo Jnr: Mr. Temporary Speaker, Sir, it is on fifty, fifty basis.

The Temporary Speaker(Sen. (Dr.) Machage): So, if for any reason, you actually carry out your wish, then you will have given the National Assembly a free ticket to legalise their move. I do not know whether you have listened to me carefully.

Sen. Mutula Kilonzo Jnr: Yes, I know, Mr. Temporary Speaker, Sir.

The Temporary Speaker (Sen. (Dr.) Machage): I do not know whether you listened to me carefully. I talk about this as an older brother and as your Temporary Speaker. I am now giving you the opportunity.

Sen. Mutula Kilonzo Jnr.: Mr. Temporary Speaker, Sir, if we attend the meeting where some of our colleagues have not and do not have a brief, the minute we constitute a quorum and vote, we would be voting on the process that the National Assembly want to undertake. That is where we lose. So, you must understand your

attendance is to deny a quorum for purposes of a meeting to proceed. In fact, the better option for the Senate Majority Leader is you have suggested that an injunction be issued. The court will say the injunction cannot be issued until the Bill is signed into law.

The better option would be for him to exercise some of the powers he has together with his deputy, to ensure the Appropriation Bill is not signed because the 30 day period that is proposed in Article 113 has not lapsed.

To me, to sit in a room so that I constitute quorum so that they vote and we are defeated is what they used to call the *kichinjio* which I will not participate.

The Temporary Speaker (Sen. (Dr.) Machage): You understand more matters of law. The quorum must be on both sides. I see your point.

Sen. Njoroge, be brief and to point as we have a lot of matters to debate.

Sen. Njoroge: Mr. Temporary Speaker, Sir, I concur with the Senate Majority Leader. It is long since I saw that colour of a shirt he is putting on because it resembles one of the shirts that I normally put on.

In saving this matter it is the President who has a final signature. It is the right time he sides with Kenyans towards this matter.

The Temporary Speaker (Sen. (Dr.) Machage): Order, Sen. Njoroge! You listened to what the hon. Senator commented. I ruled him out of order because we cannot refuse to legislate waiting for the President to act. These are different levels of Government and we are a part of the three arms. So, be careful and continue.

Sen. Njoroge: Mr. Temporary Speaker, Sir, the National Assembly has a bad habit of bypassing Bills which go direct to the President for assent. I am only requesting the President to monitor this one very keenly because it has to be in an agreement from both Houses. This is a norm from the National Assembly whereby they have come up with a bad habit of disrespecting this House and taking it for granted.

That is why I mentioned the President because finally if this Bill bypasses or the entire document bypasses and goes to the President for assent, he needs to have some follow-up of what is happening.

The Temporary Speaker (Sen. (Dr.) Machage): Let me say this before I allow your point of order.

We have very limited time left because we have two issues; one Motion and an important Motion of Adjournment. Therefore, I am requesting apart from the Senate Minority Leader who I will give ten minutes----

(Loud consultations)

Order! The Leader of Majority took all his time.

I will give nobody else an opportunity to comment on this issue apart from the Senate Majority Leader. You have ten minutes. If he can save some time on that I will appreciate so that we can move on the next Motion.

The Senate Minority Leader (Sen. Wetangula): Thank you, Mr. Temporary Speaker, Sir. I followed the debate when I was on my way here. I thank the Chairman of the Committee on Finance, Commerce and Budget for raising the matter, a matter of grave concern. I also enjoin my brother the Senate Majority Leader in the comments he has made that are spot on.

The CRA was not set up in the Constitution in the abstract. It is a critical organ of the Constitution for helping the country to share revenue. Appropriations will follow after the division has been done.

The National Assembly did pass the Division of Revenue Bill and forwarded it to this House. This House guided by the Committee on Finance, Commerce and Budget ably led by the distinguished Senator for Mandera, had an opinion and rightly so, that counties needed to get a little more money than they were given because there was justification to do so. Having amended the Bill that was passed by this House unanimously, then there was as is required mediation.

You may recall - and I believe the Senate Majority Leader did hear this - the Chairman of the National Assembly Committee on Budget, Hon. Mutava Musyimi who used to be a Right Reverend, but these days, I call him the Wrong Reverend - he went to the media chastised the Senate and Senators for being childish, irresponsible, lacking in knowledge on how finances are managed and unilaterally increasing money allocated to the counties. I do not know if my brother heard and read what Hon. Musyimi said. Those were his words. They were published in the media that we are childish and irresponsible.

Mr. Temporary Speaker, Sir, what is left after the National Assembly has unilaterally passed the Appropriation Bill before mediation is an administrative and constitutional responsibility of the President. I urge the Senate Majority Leader to advise, because he has a duty to do so, the President that this matter was before mediation. The Mediation Committee was in place. It was premature and, therefore, unprocedural for the National Assembly to table and pass the Appropriation Bill. This Bill is not founded on the fundamental of revenue allocation passed by both Houses as is required by the law.

Consequently, the President should on that and that point alone, return the Bill if it is sent to him and point out that mediation was pending. There is also an amendment that the Senate passed and the mediation report must inform the content of the Appropriation Bill. That way, we shall also hail the President for observing and upholding constitutionalism in the management of the affairs of the country.

You may recall two years ago in Brazil, a very charming lady President called Dilma Rousseff was impeached and dismissed not because she stole any money, but because she let a Bill go through Parliament appropriating funds that were not there. She was accused and prosecuted of presenting erroneous financial statements to Parliament as a government. She did not do it, her ministers did that. She took responsibility and she was impeached and she is now at home. I do not want us to go that way. We are going to the elections in any event.

When such things happen, I want to ask my brother the Senate Majority Leader that it invokes new soul searching on what exactly must we do to make this Senate a real Senate. We do not have abstract politicians like hon. Mutava Musyimi calling us childish and irresponsible on matters that we have discharged our constitutional responsibility on. We protect and defend counties and their governments. It is in everybody's interest that the frauds, theft and corruption governors are perpetuating notwithstanding, we collectively believe that counties need more resources for development. Once we are through with jailing all these stealing governors, money will be put to good use and

counties will develop. I cannot imagine my brother, Sen. Njoroge when he becomes the Governor for Nakuru, wielding a gun in his left hand tolerating any thieves around him and his government.

So, a new crop of governors are coming. I cannot imagine Sen. (Dr.) Khalwale fiddling with public funds. We have people who are coming. If Sen. (Eng.) Muriuki who is the father of the Constituencies Development Fund (CDF) wins, it will be fine. He brought CDF because he knew what is required to develop rural areas. Therefore, he will be there to implement something more novel and important than CDF.

Mr. Temporary Speaker, Sir, finally, our Committee which we named to go to mediation should not attend any meeting on mediation. The Mediation Committee carries equal numbers from each House. One House cannot constitute quorum. Our Members should not go to that Committee and provide *fait accompli* and therefore, rubberstamp an affront to this House. They should keep away. So, there is no mediation but records of mediation and the passage of the Bill from this House should be dutifully presented to the President and be advised that the National Assembly has, for reasons unknown to the Senate, done what they have done but it can be embodied in the language of hon. Musyimi when he was attacking the Senate.

The Temporary Speaker (Sen. (Dr.) Machage): Next order!

MOTION

ADOPTION OF REPORT ON REVIEW OF THE PROCEDURE AND RULES FOR ELECTION OF EALA MEMBERS

The Temporary Speaker (Sen. (Dr.) Machage): As you move the Motion, I seek your indulgence that you take the 20 minutes you are allowed or less so that Members can contribute.

Sen. Murkomen: Mr. Temporary Speaker, Sir, I beg to move:-

THAT, the Senate adopts the Report of the Joint Parliamentary Select Committee to review the Procedure and Rules for election of Members of the East African Legislative Assembly (EALA) laid on the Table of the House today, Thursday, 6th April, 2017, and pursuant to section 12 of the East African Legislative Assembly Elections Act, 2011 and Article 50 of the Treaty for the establishment of the East African Community, approves the East African Legislative Assembly (Election of Members of the Assembly) Rules, 2017.

Mr. Temporary Speaker, Sir, this is a very important exercise in the history of this House. For the first time, we are participating in a very important exercise of electing Members who will represent the country in the East African Legislative Assembly (EALA).

First of all, I thank the Speaker and the Senate Business Committee (SBC) for considering that I would be worth to serve in this Committee. Subsequently, I was elected to be a co-chair of this very important inaugural Committee under the bicameral legislature which will deal with matters of electing Members who will represent the country in the EALA

I thank my colleagues, Sen. Wamatangi, Sen. Mositet, Sen. Kisasa, Sen. Mutula Kilonzo Jr., Sen. Ongoro and Sen. Ndiema for their great participation and my colleagues from the National Assembly led by hon. Katoo ole Metito for the time they created for us to go through this very important regulation. The most important thing to note from these regulations is that it is incorporating the bicameral nature of our Parliament so that the Senate will play a role in the election of all the Members who will represent in the EALA.

Mr. Temporary Speaker, Sir, the uptake of it in very simple terms is that during the elections, there are certain important issues. One is that there will be public participation. Kenyans will have a chance to apply to serve in the EALA through their political parties and in the formula already provided for in the regulations in so far as the number of representation based on party strength. This formula was arrived at by adding all the Members of Parliament of the Senate and the National Assembly and doing the necessary mathematics in terms of division and multiplication until the figure is arrived at; for instance, which coalition will provide which number of people.

Secondly, members of the public are then allowed to apply through their political parties and if they wish to apply as independent candidates, apply direct to the Clerks of the National Assembly and the Senate so that they can serve as independent Members. Unfortunately, the calculation of who might get a chance to serve or be elected as part of independent candidature is pegged on the number of independent MPs who are about five. The Senate does not have a single independent candidate. We thought this was important because members of the public were saying that people who are not in the persuasion of the existing political class or parties, wanted to have an opportunity to serve without being proposed by any political party. In future, we have agreed as a Committee, that we might continue fine tuning this area so that it can be clear how we will deal with it in so far as lack of representation of independent candidates in the House. That would give room to those who are independently seeking representation in the EALA to have a chance because the quota allocation is based on the representation of independent members; bearing in mind that every independent member in this House is independent of the other. You can even have 20 independent candidates from one constituency but for purposes of these regulations, we put together all independent candidates as a measure for getting the mathematical formula for representation. In the rules again, we have come ---

The Temporary Speaker (Sen. (Dr.) Machage): What is it, Sen. (Dr.) Khalwale?

Sen. (Dr.) Khalwale: On a point of order, Mr. Temporary Speaker, Sir. I request that the Deputy Majority Leader substantiates the point he has made. It is very thought provoking. It looks like his thoughts are trying to break fresh grounds.

If we allow for independent candidates, chances are 5,000 Kenyans will apply. Can you just stimulate my mind by telling me how would you whittle down that list of 5,000 applicants?

The Temporary Speaker (Sen. (Dr.) Machage): As you endeavour, I may allow it but I request Sen. (Dr.) Khalwale to read the Motion. The Motion does not allow that kind of intervention.

Sen. Murkomen: Mr. Temporary Speaker, Sir, first, we deliberated on this issue for a long time. I understand where Sen. (Dr.) Khalwale is coming from. I was also of his

view but the rule is there. For the independent applicants to achieve that opportunity, the Committee must first determine whether there is a qualification of any person who will be appointed as independent pegged on the number of independent MPs. For this year just as a way of example, it would be impossible to get an independent person because when you do the mathematics, you will come to the conclusion that independent MPs are not as many as possible to enable any member of the public to also get an opportunity to apply as independent persons for now. But in future, assuming we will have 100 independent MPs there will be room for Kenyans based on the calculations to have an allocation of two or three people who will be elected using the caucus of independence as a calculative measure to enable them to access the EALA but for this year it may not work. That is why I said that this has been allowed because of the technicality of the law. If we did not allow, we would possibly have Kenyans going to court and saying there is a category of Kenyans who will not be considered. However, providing for it in the regulations, we insulate the process from the kind of challenges we had last time when we had protracted court cases that delayed the process of appointing MPs. So, we wanted to confine ourselves within the permissible standards and parameters of the law.

Mr. Temporary Speaker, Sir, the first part of the argument is that Kenyans will serve in the EALA based on the quota allocated to their political parties. If you have an independent applicant, it should be based on the quota allocated to independent MPs who serve in Parliament.

Secondly, for lack of better words, you will have two polling stations. The first polling station will be the “Upper House” which is the Senate and the other polling station will be the National Assembly. I am using the analogy of a polling station because the Speakers will be the returning officers and the Clerks will be the presiding officers in both Houses. We will have results from both Houses that will be announced and tallied in the usual manner of communication between the two Houses on the number of votes from each. However, Members must be very keen.

As we speak now, the Coalition for Reforms and Democracy (CORD) has been allocated four Members who will join EALA while Jubilee will have five. Members must understand that the list that will be provided will have part one and two. In part one with five Members to be elected, 15 Members will be proposed. Members will have to tick against five names in part one. Part two will have 12 Members and voters will tick against four names in that category. This is very important because we will have a ballot paper to vote for nine people. For the nine people to be voted for, you will have to tick the requisite number in the category that you will be required to do. Otherwise, the ballot paper will be spoilt.

Since we will do the exercise in less than two months, it is very important that before the exercise begins, Members will have to be taken through the process so that they do not go to category “A” which could be for Jubilee and tick nine people. If you do that, you will have spoilt the ballot paper because you will have to tick against five names or less. In the CORD category, you will have to tick against four names or less. These are processes that Members must be taken through with speed so that they understand the requirements that will be put.

We will have to retain the independence and integrity of the two Houses and the independence and integrity of bicameral legislature. We have made it clear that there will

be separate voting in each House and the voice of each Member in each House will have a say.

There are required timelines that we must abide by. By June, we must have the final Members serving in the EALA. Again, the Committee still stands to vet applicants. We will oversight the process until the final day when we will have results in place.

Mr. Temporary Speaker, Sir, I had the able representation of Sen. Mutula Kilonzo Jnr. in the House. I do not want to belabour the point so that he can also make two or three statements regarding the same rules.

In cognizant of the time, I would like to talk about how I served this Senate in many committees. I am greatly honoured to have served in many select committees on impeachment and proposed amendments to the Constitution among others. In most cases we were with Sen. Mutula Kilonzo Jnr. I am privileged to have been selected to serve in the Committee. I do not take it for granted or that it is a right.

I appreciate the House and especially the leadership of this House for believing in my abilities to serve particularly in the EALA committee that is asserting the position of the Senate. I am saying this in the context of the debate we have just had in so far as how Bills have been moving from the National Assembly to the Senate and the constitutionality of Bills that are being ignored from the House like the Appropriation Bill. My suggestion is that those of us in the leadership including me must employ more of political persuasion and engagement to ensure the strength of the House is maintained and to avoid a lot of antagonism and processes of courts that would delay service delivery at the local level.

As a leader in this House and on Jubilee side, I promise you that I will employ whatever political persuasions I have to ensure that we take the easiest route which is dialogue to solve the impasse in so far as the Division of Revenue Bill is concerned, so that all of us walk in the track and continue pursuing our political agendas that are very important for the public. In the next Senate, I will be greatly honoured to serve in various committees. On this one, I am more than happy to have done the work I have done. I have no doubt that I will be back here in August to continue serving.

Mr. Temporary Speaker, Sir, I would like to invite Sen. Mutula Kilonzo Jnr. to second this important Motion. I thank you.

The Temporary Speaker (Sen. (Dr.) Machage): I will be glad if you exercise summary and do it the shortest way possible so that we go to another very important Motion.

Sen. Mutula Kilonzo Jnr.: Mr. Temporary Speaker, Sir, you have known me not to violate Standing Order No.109.

Mr. Temporary Speaker, Sir, from the outset, I rise to second this Motion. I have about four points to make. First, Sen. Murkomen mentioned one of the terms that gave us tremendous problems in the Rules. The East African Treaty talks about accommodating all shades of opinion that gave us a lot of grey area. Therefore, in accommodating independent candidates, it was an attempt to have those shades of opinions represented by independent candidates accommodated in the Rules. However, those shades of opinion from independent candidates are subject to the formula which is $\frac{x}{416} \times 9$. If you get above 0.5, you get an individual. Therefore, independent candidates in Parliament do not cross the threshold of a person in that formula. That is how you arrive at it.

Secondly, believe it or not, it was a task to explain to our colleagues of the National Assembly the importance of having separate voting. They did not appreciate it from the perspective that the independence of both Houses will not change the vote because the numbers in the National Assembly would be more than the numbers in the Senate at any given time. However, in terms of decision making in the Constitution, we managed to persuade our colleagues from the National Assembly that the independence of decision of the National Assembly and the Senate cannot only be achieved through separate voting hence the two stations.

Thirdly, following that decision to have two centres of voting, what we did not say but we must say here is that since the representatives will represent both the Senate and the National Assembly, it will be a requirement that they will be reporting to both the National Assembly and the Senate.

Fourthly is to maintain the sanctity of treaties and the fact that treaties under the new Constitution must be approved by both Houses. I am disappointed that we have not managed to get an amendment to The Ratification of Treaties Act where the National Assembly removed our role. I was hoping that by the time we break, we will have amended that section.

Mr. Temporary Speaker, Sir, finally, I appreciate the roles I have been given as the Senator for Makueni County to sit in some of the important committees. I pledge to discharge my duties in the next Senate in the same manner as I have discharged my duties in this Senate because I believe the people of Makueni will return a yes vote. I thank you.

(Question proposed)

(The Temporary Speaker (Sen. (Dr.) Machage) left the Chair and went to the consultation room)

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

The Temporary Speaker (Sen. (Dr.) Machage): I see no more interest in this matter. I therefore call the Mover to reply.

Sen. Mutula Kilonzo Jnr.: Mr. Temporary Speaker, Sir, I beg to reply.

The Temporary Speaker (Sen. (Dr.) Machage): There is a big anomaly. However, let Sen. (Dr.) Khalwale raise it.

Sen. (Dr.) Khalwale: On a point of order, Mr. Temporary Speaker, Sir. I heard you clearly call upon the Mover to reply. The Mover of this Motion is not the distinguished Senator for Makueni County. The Mover of this Motion was the Senator for Elgeyo-Marakwet County. It is therefore completely against the Standing Orders and traditions of this House for a seconder of a Motion to purport to be the Mover of the Motion. Is Sen. Mutula Kilonzo Jnr. in order?

The Temporary Speaker (Sen. (Dr.) Machage): He is indeed out of order. However, since it is a Motion that was moved by a Member of the Majority, I will use Standing Order No.1 to allow the Senate Majority Leader to reply.

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

The Temporary Speaker (Sen. (Dr.) Machage): Very Well. This is not a county matter. I will put the question.

(Question put and agreed to)

The Temporary Speaker (Sen. (Dr.) Machage): In view of the time we are left with, I defer Order Nos. 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23 and 24. Next Order.

COMMITTEE OF THE WHOLE

THE NATIONAL CEREALS AND PRODUCE BOARD (AMENDMENT) BILL
(SENATE BILL NO.15 OF 2015)

THE COUNTY STATUTORY INSTRUMENTS BILL
(SENATE BILL NO. 10 OF 2015)

THE PRESERVATION OF HUMAN DIGNITY AND
ENFORCEMENT OF ECONOMIC AND SOCIAL RIGHTS BILL
(SENATE BILL NO. 8 OF 2015)

THE COUNTY EARLY CHILDHOOD EDUCATION BILL
(SENATE BILL NO.32 OF 2014)

THE BASIC EDUCATION (AMENDMENT) BILL
(NATIONAL ASSEMBLY BILL NO. 35 OF 2014)

THE PARLIAMENTARY POWERS AND PRIVILEGES BILL
(NATIONAL ASSEMBLY BILL NO. 35 OF 2014)

THE ASSUMPTION OF OFFICE OF GOVERNOR BILL
(SENATE BILL NO.10 OF 2016)

THE MEDICAL PRACTITIONERS AND DENTISTS
(AMENDMENT) BILL (SENATE BILL NO.2 OF 2016)

THE COUNTY GOVERNMENTS (AMENDMENT) (NO.2)
BILL (SENATE BILL NO.7 OF 2016)

THE TREATY MAKING AND RATIFICATION (AMENDMENT)
BILL (SENATE BILL NO. 5 OF 2016)

(Committee of the Whole deferred)

MOTIONADOPTION OF REPORT OF CPAIC ON FINANCIAL
OPERATIONS OF VARIOUS COUNTIES FOR FY 2013/2014

THAT, the Senate adopts the Report of the Sessional Committee on County Public Accounts and Investments on the inquiry into the financial operations of Kiambu, Busia, Tana River, Trans Nzoia, Nyandarua, Migori, Kwale, Kisumu, Samburu and Kericho County Executives for the Financial year 2013/2014 (1st July, 2013 to 30th June, 2014) laid on the Table of the Senate on Thursday, 23rd February, 2017.

(Sen. (Prof.) Anyang'-Nyong'o on 29.3.2017)

(Resumption of debate interrupted on 4.4. 2017)

(Motion deferred)

BILLS*Second Readings*

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

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

(Bills deferred)

MOTIONS

ADOPTION OF EALA REPORTS AND RESOLUTIONS

THAT, the Senate notes the Report of the Standing Committee on National Security and Foreign Relations on the EALA Reports and Resolutions pursuant to Standing Order No.235 laid on the Table of the House on Tuesday, 19th April, 2016.

ADOPTION OF REPORT ON STUDY VISIT TO RUSSIA

THAT, this House adopts the Report of the Standing Committee on National Security and Foreign Relations on the study visit to Russia laid on the Table of the House on Tuesday, 15th March, 2016.

(Motions deferred)

ADJOURNMENT OF THE SENATE PURSUANT TO THE
APPROVED CALENDAR FOR THE 2017 SESSION

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

THAT, pursuant to Standing Order 28 (3), the Senate do adjourn until Tuesday, 13th June, 2017.

Sen. (Dr.) Khalwale: On a point of order, Mr. Temporary Speaker, Sir. Allow me to congratulate the Senate Majority Leader for having finally made it to the House this afternoon. There has been a continuous drought of his presence and the rest of the Members on that side.

The Temporary Speaker (Sen. (Dr.) Machage: Order! Order! I know that you are a very vibrant Member and discussant in this House, but mischief cannot be accepted. Proceed, Leader of the Majority.

The Senate Majority Leader (Sen. (Prof.) Kindiki): Thank you, Mr. Temporary Speaker, Sir. This House will miss Sen. (Dr.) Khalwale, but I am sure he will transfer this to the Council of Governors. I wish him well.

Allow me to take this opportunity to say a few things. First, we adopted a Calendar that allowed us to go on recess today, the main issue being to allow Members of this House, who are seeking various elective positions, to participate in political parties' primaries. I have noted that a good number of Senators are defending their seats and I wish each of them well. I hope they also wish me well. I also know that there other Senators who will be seeking other positions, not necessarily in this House. I also wish them well. The coming one month or so will be very critical and that is why we thought that we need a bit of time. When we were preparing the Calendar part of the justification that was approved by this was that even after the nominations, the law allows a window for dispute resolution, through the political parties' disputes mechanisms. That means that the whole of April and May will be taken up by this. In fact, we can only expect a bit of stability between 28th and 31st May, 2017 when candidates will present their nomination papers to the Independent Electoral and Boundaries Commission (IEBC).

I know that we have a lot of business and might need special sittings to consider some of the Bills that we need to pass before we adjourn *Sine Die*. These Bills are critical to the economy of the country and running of the Government at both levels. However, the reality is that from this Friday some of the political parties will start their primaries; others will do it in a week or so. You do not expect stability in terms of availability. That is why we felt that we should give the Senators that leeway, but I am sure that Senators can sacrifice their own welfare in terms of campaigns when there are pressing matters of national importance. We felt that should be done.

Once the presentation of credentials to the Independent Electoral and Boundaries Commission (IEBC) is over, which is around 2nd June, 2017, then you can expect Members to have some availability. It will still be tough because the campaigns will follow.

Mr. Temporary Speaker, Sir, I have watched Kenya's last four or five elections. I can tell you that you do not have two or three countries with such rigor and energy that

we expend in elections. It is good for our democracy. It is a good thing and it is normally very protracted. I know that even as we resume in June, we are likely to have some casualties. Not necessarily “casualties”, I withdraw the word casualties. It will be a bit difficult for the Members who will not have succeeded in the primaries to feel comfortable availing themselves.

However, the saving grace, although by default, the most restricting laws which we passed here in a bipartisan way, was the clause on party hopping. Once the nomination period is over and the outcome has been gazetted, people cannot change parties. Fortunately for those who may want to hop from one party to another, the court suspended that clause.

We are looking at the next two months as a very intensive period. This is because of the intensity of Kenyan politics and the availability of options that people can move from one party to another until as close as possible to elections.

That was the rationale that was used in the proposals by the Senate Business Committee (SBC) which was approved by this House later on. I believe that we are up to the task. We shall be available when duty calls. As you rightly guided this House, the request for a special sitting does not have to come from the Senate Majority or Minority Leaders. Of late my distinguished brother, the Senate Minority Leader and I have been trying to do a co-signed requisition for a special sitting to promote bipartisanship.

However, any Senator with the support of 15 Members can request for that special sitting. I want to wish everybody well. I hope that those of us who look forward to coming to this House will come back in one peace. I have enjoyed myself. I know that we will have an opportunity on the 16th June, 2017 before we adjourn *sine die* to say some of the things that we have to say about our term here. I do not want to belabor much more than I have done.

I beg to move and request Sen. (Dr.) Khalwale, the Senator for Kakamega County to second this Motion.

Sen. (Dr.) Khalwale: Mr. Temporary Speaker, Sir, the reasons advanced by the Senate Majority Leader are plausible and for this reason, I rise to strongly second this Motion.

The issue of Members of this House being given an opportunity to participate in political parties primaries might very well be the most important thing if indeed we want to preserve the quality of leadership that the first Senate attracted. It will count for nothing for Sen. Mutula Kilonzo Jnr., the Professor and Sen. Njoroge to sit here trying to impress that they are committed to the Senate only to go back and lose in the primaries thus fail to come back.

I only have one concern. The Senate Majority Leader, you are the owner of the Motion, you can amend it without notice. There is something we need to think about. We are saying that we are coming back on 16th June, 2017. Look at the quality and quantity of business that the Speaker has had to defer. This business is very critical. Amongst others, is the County Pension Scheme Bill (Senate Bill No.20 of 2016). This Bill is so important to this country. I am so proud of where God allowed me to come from, because the majority of the people who contribute to this scheme, share the same DNA with me. I would like propose that we come back a bit earlier than June so that we thrash this very important business, among others.

We have reports that we, the County Public Accounts and Investments Committee (CPAIC), are currently preparing a report concerning performance of county governments during the 2014/2015 Financial Year. We would like at least to table a few and adopt them so that some of the governors can be judged by what they have done with the money in this financial year.

I, therefore, beg you to consider amending it by a Standing Order so that we change this date and give us at least the whole of June for us to debate the pending business before this House.

I support.

(Question Proposed)

Sen. Billow: Mr. Temporary Speaker, Sir, I rise to support this Motion. I also seek the indulgence of the Speaker on a proposal to amend the Motion as currently drafted.

Whilst it is important that we adjourn to allow Members to go for the party primaries, the resumption of the House on 13th June, 2017 is an inordinately long time given the volume of work before us. We also have the short time to complete many issues pending before we adjourn for the elections.

Mr. Temporary Speaker, Sir, there are many issues that are pending. At this time of elections, there are many critical issues that come up that will require Members to pronounce themselves on. It is a critical time when I am sure immediately after the primaries Members who will have gone through them would be willing to come and address the many issues that affect this country and that will come up, especially around the election issues.

These few weeks we have been here, my Committee has cleared all the pending petitions before it. For example, we have tabled not less than ten of the pending reports of the petitions.

It is important that we appreciate that the Senate has still got critical issues that are pending such as those around money for the county governments that we have discussed earlier. There are also issues to do with accountability and the accounts that have been published.

Mr. Temporary Speaker, Sir, I want to support but subject to the amendments I can now with your indulgence move. The specific amendment I want is to adjourn until Tuesday, 16th of May 2016.

The Temporary Speaker (Sen. (Dr.) Machage): Order! That is disallowed. I will refer you to Standing Order No.28 (3). Even if you proceed to read Standing Order No.29 (4), you need a resolution of the House to alter the calendar on the adjournment date which is not possible with where you want to move. I do not think even the Leader of the Majority has those powers to move any amendment today. However, there is some salvation. You can go to Standing Order No.29 (5) which gives you guidance notwithstanding what we have done today and alter the calendar. So, utilize Standing Order No.29 (5).

Sen. (Prof.) Lonyangapuo: Thank you, Mr. Temporary Speaker, Sir. I also rise to support this Motion. However, I have the same reservation as my neighbour Sen.

Billow. It is barely two weeks since we came from recess. Today, you dropped 13 Bills listed on the Order Paper meaning there are more that have not been finished. I do not think we should leave without finishing the work---

The Temporary Speaker (Sen. (Dr.) Machage): I wish you can go further and say why I had to drop 13 Bills today.

Sen. (Prof.) Lonyangapuo: Mr. Temporary Speaker, Sir, you went further because of the business of the today and there was no time. That is why you dropped those Bills.

The Temporary Speaker (Sen. (Dr.) Machage): No, if you can elucidate or give reasons why I dropped 13 Bills today.

Sen. (Prof.) Lonyangapuo: Mr. Temporary Speaker, Sir, what I mean is that we have a lot of work pending that requires the attention of this House. These Bills are touching on counties and the challenges they have today. One example is that governors are involved in the nomination exercise and they are using Government machinery including buying refreshments for their campaign. Sen. (Prof.) Kindiki, who is the Leader of the Majority, has no capacity to buy tea anywhere. These are the things that we need to pay attention to so that we move forward.

Indeed, it is true that although there is a calendar, we need to be proactive by knowing what business is ahead of us. This morning, the Leader of the Majority and the Leader of the Minority would have rectified this by getting the requisite number of Members; 15, so that we pay attention. We do not want to give room to our colleagues who have been messing with Senate business in the Lower House but now we are going for longer period than them and yet we have to look at critical issues where counties will not have money. We need to pay attention.

On the issue of the recess we know a lot is going on as the campaigns are there. We knew from the beginning there will be campaigns and this should not affect our calendar. When one was going for an elective position, you knew about the calendar as early as 2013 and should have prepared yourself for this for us to be ahead.

Mr. Temporary Speaker, Sir, I wish colleagues who will go to the party primaries next week well. I would like them to come to KANU, *Chama Cha Baba na Mama*, though they have not headed my call. However, we wish you well so that we can do our work well. The only emerging issue which we saw on television and in the newspapers is the mayhem, where people are fighting others because of the attention and desire to be elected. Our lives are more precious than the election season. Elections come and go. We need to condemn this hooliganism in the strongest terms possible. The worst one was in Migori, the county where our hon. Temporary Speaker comes from. A governor thinks that he owns everything in the entire county; trees, roads *et cetera*. It is only air that he cannot own. He asked, "Who is coming to my county without my permission?" We need to elect people who know that they are there for everybody. If he wants his meeting, he can do it on another day. No wonder they have shut out their Senators who are supposed to be their protectors and representatives here.

I have noted that a number of our colleagues are going to the grassroots to contest for the gubernatorial seats not because of what they desire but to put things in order and stabilize devolution.

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

Sen. Njoroge: Mr. Temporary Speaker, Sir, as I support this Motion of Adjournment, I emphasize that the timing is in order. At the same time, coming back in June will give us enough time to console our colleagues who will have lost and congratulate those who will have won, hoping that the Majority Leader of this House will be one of the leaders who will be celebrating as he approaches the month of August. I am also running for the gubernatorial seat, so I also need time to flex my muscles and consolidate votes. I am happy because I am in a friendly party which supports President Uhuru Muigai Kenyatta for the second term; KANU, and especially being in a friendly county, Nakuru. We will have ample time to celebrate in June as we perform our duties. I hope even those who will lose will have some appetite to continue working until 7th August, 2017 without any problem.

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

The Temporary Speaker (Sen. (Dr.) Machage): On behalf of the Speaker's Panel, I also wish every Member in this august House success in the party primaries that you are likely to encounter in the next two months. For those who have already made it, congratulations because you already have your tickets. The elections will be yet to be held when we come back on 13th June, 2017. So, we will not have time to congratulate those who would have won. God be with you as you endeavour to build your careers in politics.

ADJOURNMENT

The Temporary Speaker (Sen. (Dr.) Machage): It is now 6.30 p.m., time to adjourn the Senate. The Senate stands adjourned until Tuesday 13th June, 2017 at 2.30 p.m.

The Senate rose at 6.30 p.m.