

PARLIAMENT OF KENYA

THE SENATE

THE HANSARD

Friday, 5th August, 2016

Special Sitting

*(Convened via Kenya Gazette Notice
No. 5987 of 2nd August, 2016)*

*The House met at the Senate Chamber,
Parliament Buildings, at 9.30 a.m.*

[The Speaker (Hon. Ethuro) in the Chair]

PRAYERS

COMMUNICATION FROM THE CHAIR

CONVENING OF SPECIAL SITTING TO CONSIDER THE COUNTY GOVERNMENTS CASH DISBURSEMENT SCHEDULE AND OTHER BUSINESS

The Speaker (Hon. Ethuro): Honourable Senators, I wish to welcome you back a few days after the commencement of our August recess and thank you for finding time to attend this Special Sitting of the Senate. I am certain that each one of you has a loaded schedule of events at your respective counties. I am sure it is because of the value you attach to the business of the Senate, especially the consideration of key business such as the County Governments Cash Disbursement Schedule, that you have created time to be here to dispose of today.

Honourable Senators, the County Governments Cash Disbursement Schedule for the Financial Year 2016/2017 was sent to us by the national Treasury and received at the Senate on Friday, 29th July, 2016, after we had already adjourned for the August recess. Consequently, Hon. Senators, considering the need to approve the Schedule, to enable disbursement of the much needed financial resources to the county governments and the need to conclude consideration of Bills awaiting Divisions at various stages, the Majority Leader, pursuant to Standing Order No.29(1) of the Senate Standing Orders, requested the Speaker to appoint a day for a Special Sitting of the Senate to consider the County Governments Cash Disbursement Schedule for the Financial Year 2016/2017 and other urgent business pending before the House. The request which was made *vide* Letter Ref.

SML/GEN./CORR/VOL.1 (204), dated 2nd August, 2016, was supported by at least 15 Senators.

Honourable Senators, you may wish to note that urgent business currently pending before the Senate includes the three Mediation Committee Reports on very crucial Bills, two of which are subject to the August 27, 2016 constitutional timeline and several Bills pending Division either at the Second Reading stage or at the Committee of the Whole.

Honourable Senators, following consideration of the request by the Senate Majority Leader, I was satisfied that it met the requirements of Standing Order No.29(2). It is in this respect that I convened this Special Sitting of the Senate, by Gazette Notice No. 5987 dated 2nd August, 2016, which was carried in a Special Issue of the Gazette of 3rd August, 2016.

Honourable Senators, as required by Standing Order No.29(5), the Notice specified the business to be transacted at this sitting and it is the business scheduled in today's Order Paper. Indeed, as specified in the Gazette Notice and in accordance with Standing Order No.29(5) of the Senate Standing Orders, the business specified in the Notice shall be the only business before the Senate during this Special Sitting, following which the Senate shall stand adjourned until Tuesday, 13th September, 2016, at 2:30 p.m. in accordance with the Senate Calendar.

Honourable Senators, it is noteworthy, and I wish to emphasize that in accordance with Article 123 of the Constitution and Standing Order No.71, for the Senate to approve business scheduled at Order Nos. 4 to 10 and 12 to 18, a majority of delegations – that is 24 delegations – are required to vote. Further, Order No.11, which relates to a constitutional amendment, requires a special majority of two thirds of all Senators to pass, pursuant to Article 256(1)(d) of the Constitution. I therefore urge you all to remain in the Chamber for the transaction of this important business as scheduled in the Order Paper.

I thank you.

Sen. (Dr.) Machage: On a point of order, Mr. Speaker, Sir. Thank you for your communication. As per our Standing Order No. 29, it is clear that this kind of request can be made by either the Majority Leader or the Minority Leader. It is not written that they must both agree on that kind of request. I raise this because the Coalition for Reforms and Democracy (CORD) fraternity is unhappy and we have received messages from the leadership that the Majority Leader did not consult the Minority Leader on the calling for this Special Sitting. However, looking at all factors, it would be prudent and important that the convener should have been in the House with his 15 Member supporters.

Mr. Speaker, Sir, evidently, you can see that the Leader of Majority is not in the House and the Majority side has only two Members. I raise this concern because I think there is a game that must not be accepted in this House by the leadership of the political parties.

The Speaker (Hon. Ethuro): Order, Members! I have nothing more useful to add to what Sen. (Dr.) Machage has said. Those sentiments are very clear and I agree. But we are here, we will proceed.

Next Order!

MESSAGE FROM THE NATIONAL ASSEMBLY**REJECTION OF SOME SENATE AMENDMENTS TO BILLS AND APPOINTMENT OF
MEDIATION COMMITTEE**

The Speaker (Hon. Ethuro): Order Senators! I wish to report to the Senate that pursuant to Standing Order No. 40 (3) and (4), I have received the following message from the Speaker of the National Assembly regarding the decision of the National Assembly on Senate amendments to The Natural Resources (Classes of Transactions Subject to Ratification Bill) (National Assembly Bill No. 54 of 2015) and the Forest Conservation and Management Bill (National Assembly Bill No. 49 of 2015).

Pursuant to the provisions of Standing Order Nos. 41 and 142 of the National Assembly Standing Orders, I hereby convey the following message from the National Assembly:-

WHEREAS, the Natural Resources (Classes of Transactions Subject to Ratification Bill) (National Assembly Bill No. 54 of 2015) was published via the Kenya Gazette Supplement No. 139 of 18th August, 2015 to give effect to the provisions of Article 71 of the Constitution by providing for classes of transactions subject to ratification;

WHEREAS, the Forest Conservation and Management Bill (National Assembly Bill No. 49 of 2015) was published via the Kenya Gazette No. 133 of 11th August, 2015 to give effect to the provisions of Article 69 of the Constitution with regard to conservation and management of forest resources and to repeal the Forest Act of 2005;

WHEREAS, the two Bills were passed by the National Assembly on Wednesday, 9th March, 2016 and Thursday, 17th March, 2016 respectively and referred to the Senate for concurrence;

WHEREAS, the Senate amendments to the said Bills were received on Tuesday, 19th July, 2016 and considered on Tuesday, 2nd August, 2016 and Wednesday, 3rd August, 2016;

FURTHER WHEREAS, the National Assembly agreed with the Senate's amendments to several clauses of the Bills save for the amendments to the New Clause 9 (a) of The Natural Resources (Classes of Transactions Subject to Ratification Bill) (National Assembly Bill No. 54 of 2015) and Clauses 9, 72, 75, 77 and the Third Schedule of The Forest Conservation and Management Bill (National Assembly Bill No. 49 of 2015);

NOW THEREFORE, in accordance with the Provisions of Article 112 of the Constitution and Standing Order No. 149 of the National Assembly Standing Orders, I hereby convey the said decision of the National Assembly to the Senate and seek the appointment of Senators to the Mediation Committee in respect of the said Bills.

Honorable Senators, Article 112 (1) of the Constitution provides that if one House passes an ordinary Bill concerning counties and the second House passes the Bill in an amended form, they shall be referred back to the originating House for reconsideration. Further, Article 112 (2) (b) of the Constitution provides that if after the originating House has reconsidered a Bill referred back to it under Clause 1 (b), that House rejects the Bill as amended, the Bill shall be referred to a Mediation Committee under Article 113.

Honorable Senators, in the circumstances, I concur with the Speaker of the National Assembly to form a Mediation Committee in accordance with Article 112 (2) (b) and Article 113 of the Constitution. In this regard, I have received communication from the National Assembly that the Speaker of the National Assembly has appointed the following Members to represent the National Assembly in the Mediation Committee that will attempt to develop a version of the Bills that both Houses will pass:-

1. Hon. Halima Abdalla, MP,
2. Hon. Joyce Emanikor, MP, and
3. Hon. (Dr.) Wilberforce Ottichilo, MP.

Similarly, honorable Senators, I hereby nominate the following Senators to represent the Senate in the Mediation Committee:-

1. Sen. Lenny Kivuti, MP,
2. Sen. George Khaniri, MP, and
3. Lisa Chelule, MP.

Thank you.

PAPER LAID

THE COUNTY GOVERNMENT'S CASH DISBURSEMENT SCHEDULE FOR FY 2016/2017

Sen. (Dr.) Machage: Mr. Speaker, Sir, I beg to lay the following Paper on the table of the House today, 5th August, 2016:-

The County Government's Cash Disbursement Schedule for the Financial Year 2016/2017, for the period July, 2016 to June, 2017.

Thank you Mr. Speaker, Sir.

(Sen. (Dr.) Machage laid the document on the Table)

The Speaker (Hon. Ethuro): Next Order!

MOTION

APPROVAL OF THE COUNTY GOVERNMENT'S CASH DISBURSEMENT SCHEDULE FOR FY 2016/2017

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

THAT, pursuant to Section 17 of the Public Finance Management Act No. 18 of 2012, the Senate approves the County Government's Cash Disbursement Schedule for the Financial Year 2016/2017 for the period July, 2016 to June, 2017 laid on the table of the Senate today, 5th August, 2016.

Thank you Mr. Speaker, Sir.

Sen. Mwakulegwa seconded.

(Question proposed)

The Speaker (Hon. Ethuro): Sen. (Dr.) Machage.

Sen. (Dr.) Machage: Mr. Speaker, Sir, pursuant to the Public Finance Management Act of 2012, the National Treasury in consultation with the Budget Committee of the Inter-governmental Budget and the Economic Council (IBEC) has finalised the preparation of the schedule for cash disbursement to county governments for the Financial Year 2016/2017. The purpose of this schedule is to allocate monies to the different counties, so that they can have---

The Speaker (Hon. Ethuro): Order, Sen. (Dr.) Machage. What are you doing?

Sen. (Dr.) Machage: Mr. Speaker, Sir, I am moving.

The Speaker (Hon. Ethuro): You finished that and it was seconded by Sen. Mwazo. Since I proposed the Question we are now looking for other contributors. Your last chance will be to reply.

Sen. (Dr.) Machage: Since nobody stood up I was replying.

(Laughter)

The Speaker (Hon. Ethuro): Sen. Elachi.

Sen. Elachi: Thank you, Mr. Speaker, Sir. First, I want to thank the Senator for bringing the Motion. Indeed, this Motion will ensure that we disburse funds to the counties. The Schedule will for the time inform the counties and guide the Senators regarding how the National Treasury will disburse monies every month. Whenever there is a delay in disbursement of monies to any county, the respective Senator will be able to follow up.

Having said that, it is worrying that while we are disbursing all these monies to the counties, we do not see a lot of impact. I want to challenge the Chairman of the Commission on Revenue Allocation, Mr. Cheserem, that when we will be reviewing the sharing formula, we should not use per capita but percentage. When we use 'per capita' some counties are assumed to be doing well yet that is not true on the ground. If the formula is based on percentage, we will review the allocation to many other counties.

Mr. Speaker, Sir, when devolution started we had a lot of teething problems in terms of procurement and supplies. A number of suppliers have not been paid up to date. I would recommend that that we should have a meeting with the Auditor General, the Controller of Budget, the National Treasury and the procurement team before we go for the elections. This is because procurement in the counties was not done right. In some cases the Controller of Budget has receipts showing that procurement was done, but that is not the case on the ground. We also need to agree on how the suppliers will be paid.

The schedule that was sent by the Treasury shows that we have Kshs32 billion still lying at the Treasury. The Treasury, therefore, needs to explain why this is the case. Were the counties unable to get their monies by the close of the last financial year because of the challenges of procurement? I know that the Committee that deals with

allocation to counties has done a good job in terms of assessing what the counties have done and questioning the utilization and mismanagement of the resources allocated. However, it is also important for us, as a House, to move beyond that conversation. Besides interrogation we need to help the counties to grow in terms of getting better systems and structures. If there are cases, during interrogation by the Committees, where some people have to face the law, let it happen. This is because we need to ensure that the counties grow.

Now that we are heading towards the general elections, this House needs to ensure that the projects undertaken by the county governments, especially the governors, are within a reasonable cost. I will give an example of a certain county in this country where a standard classroom was built at a cost of Kshs6 million. That is immoral and this House must question that expenditure and the leader behind it. The rate given by Public Works is Kshs1.2 million. The Senate needs to ensure that those who build classrooms beyond the acceptable rates are surcharged. It may be an unpopular decision, but most Kenyans will appreciate it.

Mr. Speaker, Sir, the Senate has done a tremendous job. It has stood firm to ensure that an equitable share from the national level goes to the counties. It is time to reflect on the best way forward in dealing with matters in the counties. If we cannot communicate with the Governor there are many other structures in the county that we can deal with. Those are the structures that are working. This will ensure that when you go to Turkana, for example, you will feel proud of the billions of shillings that the Senate has sent there.

Mr. Speaker, Sir, I am also grateful for the ratio that we have brought in on the figures in medical care. In the newspapers today, it is now clear what one is supposed to pay in a private or public hospital. I think the Senate should even go further so that we create a clear procurement structure. We can come up with a Bill that will put standards that you cannot go beyond. I hope that this financial year, Senators will get the money that we requested for oversight to enable us have a conversation with the people in order for them to understand. For the last four years, the Senate has sent Kshs39 billion to counties. We should be able to tell our constituents and citizens in general that we allocated that money, have a conversation with them and find out whether the monies that we allocated them from the national Government and the local revenue from the county has helped in expansion, improvement or access to affordable healthcare.

For example, if your county is receiving Kshs7 billion and you have seven constituencies, if you are a good governor, you will allocate Kshs1 billion to current expenditure. The rest of the money can be shared among the constituencies in a manner that every constituency can feel that their governor is working for them.

There are some counties where we would like to see a lot of development in progress but we are worried. In the disbursement sheet, there is a county whose balance is only Kshs10 million. I do not know if it will be for salaries. You cannot even tell what that money can do. On the other hand, you will find a county with Kshs3 billion. The question is: Is it that you have collected enough local revenue and so you are saving your money or what is happening? Those are some of the things that each Member of this House should interrogate when you look at your disbursement sheet. If you find your

county with Kshs1 billion, it should worry you so much. You do not need to question much because you will assume it is money meant to pay suppliers. It could also mean that all debts have been cleared and, therefore, the money is a surplus. However, if your county is in debt with suppliers and there are billions in the bank, then there must be a challenge in management.

As I finalise, I thank the Committee on Finance, Commerce and Budget for pushing for different proposals. I hope this House will appreciate the same proposals. We have also asked the Treasury to assist us by giving us a quarterly report after every monthly disbursement to counties. The report will show the times that the money was disbursed so that counties do not complain of delays of disbursement of resources. If that is tabled in this House every month, then we can interrogate more and better. There will also be more transparency and the *mwanaanchi* will also be able to interrogate what is there.

With those few remarks, I beg to support.

Sen. Kembi-Gitura: Mr. Speaker, Sir, thank you very much for the opportunity to contribute to this very important Motion. Right from the outset, let me start by expressing my surprise at what was said by my colleague, Sen. Dr. Machage, about receiving text messages for a certain section of this Senate not to come today, because, apparently, there was no consultation between the leadership in the House. I know Sen. (Dr.) Machage to be a man of honour. Coming from him, I can say without fear of contradiction that, yes, that kind of direction must have come. I commend him and all those from the Minority side who have come to finalise the business of this House. It is not a small thing that you have called us from recess which we had just commenced by a gazette notice, to come this morning and transact this very important business.

I have read Standing Order No.29 and it is quite clear that either the Senate Majority or the Minority Leader can requisition you for a special sitting to transact important business of the House. So, I must say that I feel very disturbed by this turn of events. If we cannot pass this important Motion, then it means – this has to be a vote by county delegations – that disbursement to counties will delay further and affect the conduct of business in counties.

Sometimes we understand some of the problems that could be there. Those of us who support devolution so much are a lot of times frustrated by seeing the amount of work that we do in the Senate. We work out the formula for the division of revenue that goes to the counties. When the money goes there, we do not seem to see exactly what it does on the ground. Many times, we are told that the money is insufficient because most of the money goes to recurrent expenditure and very little to development. However, many counties including the one that I represent, even if it is only 40 per cent left for development, it is not visible on the ground. You cannot see exactly what that money has done in the counties.

One of the reasons is that the Senate passed the County Development Boards Act which was duly assented to but the governors took the matter to court where it is still pending. Devolution is not and cannot be a finished product; it is always work in progress. That is why, we in the Senate in our wisdom, believed that in these early stages of devolution, it would have been good for the counties, devoid of egos, for people who are elected, to sit together and come out with what is best for each of the counties,

because the needs are different across the 47 counties. We passed the Act in good faith. However, we were misunderstood deliberately because some people said that we were passing the Bill so that we could supervise governors, which was not the truth. The wisdom of that Act was for us to oversight more properly the money that goes to counties for it to address the actual needs of counties and not end up in people's pockets.

My worry this morning is that reading from the County Allocation of Revenue Act Section 4 (2), the Senate passed the amendment requiring that we should pass a Motion, like today's, so that the money can be released to the counties. This morning, we are the same people who might frustrate the need for the money to go to the counties. It is true that a lot of the money has been misused in the counties, but devolution is not failing because there is something wrong with it. Devolution can only fail because of the misuse and the amount of corruption in the counties. That is why we cannot frustrate the money going to the counties by not coming to vote for it. We should use more specifically the power and authority that we have under the Constitution to oversight and make sure that the money going to the counties is properly utilized.

We have been pursuing the avenue of having an oversight fund, so that Senators can correctly oversight the funding that goes to the counties, instead of being morticians or doing postmortems. Right now we just deal with the Auditor-General's reports. Since we were frustrated in our efforts to get funds for oversight, our work is difficult. It will be difficult for the Senate to be seen as an institution that will bring more equitable development to this nation faster. If devolution fails, a lot that we all stood for when we passed the new Constitution will be for nothing.

I want to give another challenge to the Senate. We will be going to elections in exactly one year and two days from today. One of the biggest problems that we have in the counties is that many times the people that we represent keep asking what our role is as Senators. They keep asking what we have done in the last four years that will make them to elect us, going forward. This is worrying. The reason this question is asked is that after we have voted so much money to be allocated to the county governments, a lot of it is used on propaganda against Senators, because many governors fear that Senators will contest against them. In my view this is extremely myopic.

What are we doing, as a Senate, to make the people that we represent appreciate our roles as Senators? If the oversight fund had been passed, we would have used it on civic education, to make the people understand exactly the different roles that we play in the set up of things under the new Constitution. Unless we try to educate our people, as individual Senators, on the different roles each of the elected leader plays under the new Constitution, it makes it difficult for us. It is true that a normal person in the county - the person popularly known as *Wanjiku* - knows that an elected person is a representative and they are supposed to bring development to the people they represent. They expect us to give money in form of the Constituencies Development Fund (CDF), bursaries, Women Enterprise Development Fund, *Uwezo* Fund and all the other funds, but the money is not there. We do not have that kind of fund, which is correct under the Constitution, because our role is that of oversight. We need to tell the people the truth about the different roles.

It is time that the Senate, as an institution, starts an outreach system to the counties to help educate the people on the exact role of the Senator, by way of civic

education in the easiest and simplest way possible, so that we are able to make devolution work. As the Senator for Murang'a County, I am expected to make the rural roads accessible, connect piped water to schools and build classrooms, just the way I used to do when I was the Member for Kiharu Constituency. It is important for them to understand the county allocation of revenue, Article 96 of the Constitution and appreciate how much time it takes for us to create a formula that makes it possible for counties to get money. They need to understand that without the Senate, no money can go to the counties, as it might be apparent today if this Motion is not passed. Without the devolved system of Government, there cannot be the county government. Without the Senate there cannot be the county assemblies. If the Senate is not there, in due course, we shall have to go back to the centralized system of Government, which people fought so hard and for so long to move away from.

This morning, I want to challenge my colleagues that the Senate as an institution has the duty, not just to the individual Senators, but to this nation, to help in civic education to Kenyans, so that they exactly understand what it is that we are trying to do. The fact that the money we are supposed to vote for this morning will be used in the counties and we may not know how it is used, in my view, is not enough reason to frustrate it. I know of some counties that are working hard towards helping their people. We know that there are a lot of outstanding bills that have not been paid and a lot of commitments have been made by county governments outside the budget process of the county assemblies. We also know that since the governors are the ones holding the purse, a lot of populist projects will be done and resources will be wasted. As I said in the beginning, devolution is work in progress and not a finished project. We must support it to the hilt and at the same time work as hard as we can to make our oversight role come true.

I support this Motion and hope that we will pass it. I also believe that the institutions of devolution, which are the National Assembly, the Senate, county assemblies and county governments, will find reason to come together and work towards making devolution work. This is because devolution is a dream that will come true and which Kenyans will not allow to be frustrated by people with shortsighted views towards their own personal interests.

I support.

Sen. Mwakulegwa: Bw. Spika, nashukuru kwa kunipa nafasi hii ili niunge mkono Hoja hii. Kabla sijazungumzia Hoja hii, leo nina huzuni sana kwa sababu tumeitwa hapa ili tuzungumzie mada hii ili tusaidie kaunti zetu zipate pesa za kufanya maendeleo na kujenga uchumi. Lakini leo asubuhi tulipata ujumbe kwamba Maseneta wa Coalition for Reforms and Democracy (CORD) wasije hapa kwa sababu uongozi wa Seneti haukukubaliana kuwe na kikao siku ya leo. Kwa niaba yangu na ya watu wa Taita-Taveta, niliamua kuja hapa kwa sababu katika Kipengele 96 cha Katiba, kazi kubwa ya Seneti ni kutetea serikali za ugatuji na ugatuji wenyewe.

Kwa hiyo, nimekuja hapa kutetea Kaunti yangu ya Taita-Taveta. Tunapozungumza sasa, wafanya kazi wa Kaunti ya Taita-Taveta wameandikiwa barua na serikali ya kaunti kwamba hawatalipwa mishahara ya mwezi wa Julai mpaka tarehe 25.

Kama hatutapitisha Hoja hii leo, inawezekana kwamba katika mwezi wa Agosti hawatapata mshahara wao.

Nimekuja hapa kuunga mkono Hoja hii kwa sababu lazima tutunze na tukuze ugatuzi. Hata kama kuna shida ya kutosikizana katika hali ya uongozi, tugekuja hapa tulumbane kwa maneno na tusikizane ili tupitishe Hoja hii.

Bw. Spika, ninaunga mkono Hoja hii kwa sababu pesa zitatumika vizuri. Kuna kaunti zingine ambazo zinatumia pesa hizi vibaya. Kilicho muhimu ni tukutane kwa haraka - kama itawezekana leo - na tupige kura ili pesa zitumwe kwenye kaunti. Huu ni mwaka wa mwisho kabla uchaguzi na naomba magavana watumie pesa kwa maendeleo. Huwa nawaambia wananchi kila wakati kwamba kuna sababu Katiba ilibadilishwa mwaka wa 2010. Katiba ilibadilishwa kwa sababu Wakenya walikuwa wamelalamika kwamba hakukuwa na maendeleo katika pembe zote za nchi.

Hivyo, Wakenya wakaamua kuwe na ugatuzi ili kila kaunti iwe na serikali yake. Lakini, serikali si kufuja pesa ila ni maendeleo mashinani. Kwa hivyo, tusiharibu ugatuzi kwa sababu ya ufasidi. Ugatuzi uliletwa kwa sababu kila sehemu ya Kenya lazima ipate maendeleo. Kaunti ya Taita Taveta haikuwa imepata zaidi ya Kshs1 bilioni kwa mwaka mmoja kwa miaka hamsini zilizopita. Lakini tangu tuwe na ugatuzi, kila mwaka tunapata zaidi ya Kshs3.5 bilioni. Hizi ni pesa ambazo hatujawahi kupata kutoka mwaka wa 1963 hadi mwaka wa 2013. Hii ni karibu miaka 50.

Bw. Spika, ombi langu ni kwamba, pesa hizi zikifika, zitumiwe kulipa mishahara kama asilimia 25 na 75 zitumike kwa maendeleo. Tukifanya hivyo, lengo la ugatuzi litatimia; na Wakenya wote wataunga mkono ugatuzi. Lakini, kwa sasa, kuna shida. Seneta akiwa katika kaunti yake, analinganishwa na mwakilishi wa eneo la Bunge, gavana na hata na mwakilishi wa wadi. Sababu ni kwamba, gavana, mwakilishi wa wadi na mwakilishi wa eneo la bunge akienda kutembelea wananchi, huwa wanapeana cheki. Sisi tukiitwa hata kwa mazishi, huwa tunakaribishwa ili washuhudie tulichonacho. Ukweli ni kwamba, mshahara ninayopata haitoshi nifanyie maendeleo. Kwa hivyo, tunaomba kwamba Seneta lazima apewe pesa za kufanya kazi ya usimamizi. Usimamizi si kutumia pesa ya maendeleo ila kama Seneta, nipate nafasi ya kuzungumza na wananchi na tufanye *social audit*.

Wananchi wenyewe waende kukaguwa miradi ambayo pesa zao zinatumiwa. Wakiambiwa shule fulani imejengwa na kiasi fulani cha pesa, wataamua kama ni ukweli au la. Lakini kwa sasa, hatuna uwezo huo. Siwezi nikaenda na kutumia mshahara wangu na kufanya kazi nayo. Itakuwa vizuri kama Bunge la kitaifa litatoa pesa ili tufanye kazi zetu na tuelimishe wananchi ili wajue kazi ya Seneta ni nini. Bila kuelelisha Wakenya, wale watakaogombea nafasi za useneta mwaka ujao, itakuwa ngumu kwa sababu tutaaulizwa yale tumefanya.

Bw. Spika, ni kama kupanda mti na kutingiza ili matunda yaanguke halafu wengine wanakula na mimi ndiye nilipanda mti. Kwa hivyo, tutaumia na ni vizuri kama mwaka huu - hata kama hatutapata pesa - tueleze wananchi ili wajue kazi ya Seneta ni nini. Lazima wajue kwamba kazi zetu ni kutetea kaunti na kuangalia kwamba pesa zinazopewa kaunti zimetumiwa vizuri. Pesa hizo zikitumiwa vibaya, tuwe na uwezo wa kuwashtaki wanaotumia pesa za wananchi vibaya. Kwa sasa hatuna uwezo huo. Pia hatuna wafanyikazi na watu wa kutuwezesha kukagua miradi ila tunaletewa malalamishi.

Tunaomba kwamba tunapopitisha miswada hii, pia pesa za Seneti za kufanya *oversight*, zilipwe.

Pesa tunazopitisha leo ni za 2016/2017. Tunaomba zifanye kazi ili ifikapo mwezi wa Juni 2016, wanakandarasi wote walipwe. Si bora kubebesha magavana watakaoteuliwa mizigo ambayo si yao. Ninatumaini kwamba katika kamati husika zitahakikisha kwamba pesa zinazopitishwa leo zitaweza kutumiwa kulipa wanakandarasi wote wa 2016/2017. Pili, magavana lazima wawe na mbinu ili ikifika mwezi wa Juni kila mwaka, pesa hazitangoja hadi mwezi wa saba. Ikiwezekana, wanaweza kuongea na benki ambazo zinaweza kuwakabidhi pesa ili walipe wafanyikazi mishahara. Tunavyozungummza hivi sasa, tatizo ni kwamba wasipolipwa mishahara wa mwezi wa saba, watagoma. Mgomo utaathiri sekta za afya, maji na kuleta shida zingine.

Bw. Spika, ugatuzi ni lazima ulindwe. Mwaka wa 1966, ugatuzi haukufaulu kwa sababu wananchi waliambiwa kwamba maseneta hawana kazi ya kufanya. Vile vile tumesikia watu wameanza kuimba tena. Wengi wamesema Bunge la Seneti linaweza kuvunjwa na Bunge la Taifa linaweza kufanya kazi ya maseneta. Ukweli ni kwamba, kama hakuna Bunge la Seneti, hakutakuwa na ugatuzi. Ni lazima tushikilie ugatuzi na tuwaambie Wakenya kwamba kila kitu kikianzishwa, huwa na shida zake.

Hili ni Bunge la Seneti la kwanza kwa Katiba mpya. Limekuwa na changamoto mengi. Kwanza, ni chnagamoto la utekelezaji na la pili ni kutosikilizana na wenzetu wa Bunge la Taifa. Tatu, wananchi wa Kenya hawajazoea kupiga kura, kama hatuna pesa za kuwapa. Ni vizuri waelezwe mambo hayo kabla uchaguzi kuu lijalo. Laizma waelewe kwamba Seneta ana kazi ya kushughulikia pesa ziletwe kaunti. Kwa hivyo, hana nafasi ya kutembelea kila sehemu ya kaunti kuangalia kama pesa zimetumika vizuri.

Bw. Spika, naomba wale Seneta ambao hawako hapa leo, waje haraka ili tupitische Hoja hili. Kipenge 96 la Katiba linatupa uwezo wa kulinda na kutetea kaunti zetu. Tukipitisha Hoja hili, pesa zitakuwa serikali za kaunti.

Asante.

Sen. Kagwe: Mr. Speaker, Sir, from the onset, I wish to support this Motion. Like Sen. Mwakulegwa said, it is unfortunate that a serious issue can be subjected to the kind of egotism that some of us have displayed. On a national matter of critical importance to our counties, one would imagine that you would humble yourself to the people who have brought us here and employed us.

Mr. Speaker, Sir, in addition, you would imagine that people of national stature or who claim to have national status in terms of leadership would have the humility to say to themselves, “never mind what else might have happened, this is such a critical issue. We must pass this Motion.” However, going by the rumours, some people have even gone further and advised others not to come to the House today to pass a Bill that is so critical to their counties. To say that my county should not be paid or the employees of my county should not be paid as a result of my ego, is a situation where one believes that the hat he or she is wearing is more important than the head it is being worn on.

Therefore, I beg my colleagues if they are listening, to shed away this feeling of great importance, come to the House and we deal with this matter that is of critical importance to the employees of the counties and the wellbeing of Kenyans.

Mr. Speaker, Sir, the report talks about a substantial amount of money that have been divided into 12 disbursements going directly into the counties. It is important for the county managers to note that these disbursements are not equal. There are those who believe that they will divide the Kshs280 billion equitable share equally into 12 months. This is not the case. It is important for managers, especially those who are managing the finances; the finance officers and County Executive Committee members (CECs) responsible for finance to take note of the fact that the disbursements are made in accordance with the revenue collections by the national Government. Therefore, they will not be exactly equal. This is important because of cash flow management in the counties where some counties are spending more money that they are supposed to have spent on a particular month thinking that equal amounts would come in the next one month.

It is also important for us to note that the conditional share from the national Government is basically the amount comprising of the Kshs4.5 billion, that is leasing of health care equipment. This money will not go directly into the counties.

Further, the Kshs4.31 billion is related to road levy maintenance. This amount will not be divided equally into the months. Kshs4 billion has been allocated to Level 5 hospitals. This will be divided equally. Let us also not forget that this year we allocated some Kshs200 million that is supposed to be a grant to support Lamu and Tana River counties specifically to deal with insecurity.

One of the observations of the disbursements of 2014/2015 Financial Year was that there is some amount of about Kshs32.89 billion that is still lying in the National Treasury, having not been spent. This amount, in the context of our development, is a huge amount of money. The opportunity cost forgone because of not using that money is substantial. There is need for the National Treasury to advise us as a Committee on Finance, Commerce and Budget why this money is still lying there. Part of it in my view, has to do with the method of procurement. Procurement laws are clear. You cannot advertise or process a procurement of anything unless the money is already there. So, the time to advertise and procure takes so long that sometimes that money is lying in the National Treasury especially if there is objection and the procurement authority does not clear any question in adequate time.

Mr. Speaker, Sir, pending bills have been in existence for the last two or three years. We continue to accumulate them. We have an interesting situation where in 2013/2014; some contractors were contracted without due process. In other words, the county government continues with the habit of local governments; they simply told some contractors to go ahead and start building murram roads without following the procurement process. So, in some instances, for example, in Nyeri County, we have situations where some people were contracted but have not been paid since 2013/2014. The reason is; they have no documentations to show that they finished the construction. Members of County Assembly (MCAs) know very well that the roads were given to these contractors. We have a situation where we are using some roads that were built by an individual company but it cannot get paid.

Therefore, the question is from a moral stand point. Can we deny that a road was built yet it was built irrespective of whether the procedure was followed or not? In our recommendations, we have said that there is need for the Public Procurement Oversight

Authority (PPOA), the Auditor-General, the National Treasury and the Controller of Budget to sit together and determine whether it is true that such roads were constructed.

The Speaker (Hon. Ethuro): What is it, Sen. Murkomen?

Sen. Murkomen: On a point of order, Mr. Speaker, Sir. I did not want to interrupt the Senator for Nyeri. This has nothing to do with him. Have you seen the Senator for Garissa, our senior, *Mzee* Yusuf Haji walk in? Although everything is correct in terms of dressing; considering that jacket, do you think he is properly dressed?

(Laughter)

Sen. Haji: Mr. Speaker, Sir, I am surprised that my colleague, the Deputy Senate Majority Leader, seems to have no business other than looking at other people's dress.

(Laughter)

This is the second time he has picked on my dress. I did not make this jacket. It was made by those who tailored it. I think I am properly dressed on a Friday.

The Speaker (Hon. Ethuro): Order, hon. Senators. I am satisfied that Sen. Haji is appropriately dressed.

What is it, Sen. Omondi?

Sen. Omondi: On a point of order, Mr. Speaker, Sir. I do not know if it is only me who has a problem with the document. The font of the schedule of disbursement is very tiny. I request that I get a document that we can read.

The Speaker (Hon. Ethuro): Order, hon. Senators. The document is being enlarged so that you can look at it better.

Proceed, Sen. Kagwe.

Sen. Kagwe: Mr. Speaker, Sir, I hope they are holding my time.

The Speaker (Hon. Ethuro): The time used on points of order should not be used against Sen. Kagwe's time.

Sen. Kagwe: Mr. Speaker, Sir, we must execute justice as we observe clearly that mistakes were made, particularly in 2013/2014 during the transition period.

We observed, for example, as we discussed this matter in the Standing Committee on Finance, Commerce and Budget, that the Treasury ought to be giving us reports on the disbursements to confirm them at the end of every month. We understand that it is advertised, but this Committee and the House should not be reading reports from the Treasury in the dailies. They ought to be laid on the Table of this House by the Chairperson so that we are able to tell whether what we pass here is what is done by the Treasury.

In addition, the Committee observed that the pending Bills is a matter that is affecting operations of very many companies across the counties and the country. Therefore, there is need for us to clear this matter of pending Bills once and for all.

Mr. Speaker, Sir, in addition to the monthly publication of actual transfers to county governments as provided in the County Allocation of Revenue Act, 2016, the National Treasury ought to provide the Senate with quarterly reports on the status of

cash disbursements as per the approved Schedule in addition to whatever they are publishing at the end of every month. Based on submissions from the National Treasury, some county accounts at the Central Bank reflect huge unspent balances. As at the 8th of July, 2016, we had Kshs32 billion that was unspent. It is critical for us that this be addressed promptly so that this money is not held, leading to the multiplier process in the counties.

The National Treasury, in conjunction with the respective county treasuries ought to pursue evidence-based reporting on some of the programmes that we are passing today, especially the free maternity health care and the policy guiding the framework for forgone user fees at the county health facilities. This is because we need to know whether we are actually reimbursing the forgone user fee correctly and whether there is a mechanism in place to ensure that that is what is happening.

This will, among other things, evaluate the impact of the allocated resources and determine the true cost of implementing these programmes and associated functions and thus guide subsequent allocations. We have the Equalization Fund that is supposed to have been already disbursed to the counties and which we continue to hear long stories about. It is time to finalize the matter of the Equalization Fund once and for all.

Mr. Speaker, Sir, the enemies of devolution made it clear that they do not wish this House to be effective on the ground. The role of civic education and who is to tell *wananchi* about the job of the Senator is not necessarily the duty of this House but of the national Government. It should ensure that part and parcel of the implementation of the Constitution was to educate people about it. That is why there is a Ministry of Devolution whose part mandate is civic education. They should, for example, tell people what a Member of the County Assembly (MCA) is.

Even if we were to elect another five Senators under the current knowledge level, each will go through the same problem as those who are sitting here today. The question will always be what the role of the Senator is. As much as we have a responsibility to go out there and carry out civic education, we cannot do so with empty hands.

The other individuals who represent a county are the governor, who now has the money we are passing today and the County Woman Representative. We can recall that Parliament passed a substantial amount of money for the women representatives in order for them to educate their counties on her role and carry out development plans of her own so that the country can understand what the role of a Woman Representative is.

It is ironic that the only person who is getting no money for civic education and the responsibility we are given in Article 96 is the Senator. We must ask ourselves why that is the case, what the mischief is, who is doing this and how it is being done. This is so that we are able to address the matter, not through giving in but demanding what is rightfully ours as Senators. This is because the role of the first Senate in the country is not just to exist but to ensure that future Senates are given the respect they deserve. This is because there are those who would wish the Senate is removed in a referendum or otherwise. In addition to everything else, the risk is that if you do not have this House, there will be parliamentary dictatorship.

Mr. Speaker, Sir, the other day a Cabinet Secretary (CS) told us that he had never understood the role of the Senate until the Access to Information Bill was referred to this

House with grave mistakes. Had there not been this House to correct the mistakes that were made in the other House, it would have been detrimental to the concerned Ministry.

It is so important for civic education to be carried out in our country. Those who are fighting us today because they want to be Senators tomorrow have gone round saying that the role of the Senators is simply to sit here and bark at the governor and that we are completely useless besides attacking the governor. In fact, they say that if you do not attack your governor, then you went to sleep. If that is all we are here to do, there would be no need for this House since even county assemblies can bark at governors.

The Committee on Devolution can engage the Ministry of Devolution and come up with a solution as to how we can carry out intensive civic education programmes to support this Senate and future ones.

I beg to support.

The Speaker (Hon. Ethuro): Let us have Sen. Sang.

Sen. Sang: Mr. Speaker, Sir, I rise to support this very important Motion. The role of the Senate as captured in the Constitution is to protect devolution and to serve the interests of counties. It is sad that today, whereas any other responsibility given to this House in terms of legislation and oversight has been challenged, nobody has challenged the responsibility of this House in ensuring that counties have resources. This is one of those responsibilities that everybody in the country appreciates. It is unfortunate that when we are faced with this specific mandate, we start raising sideshows.

It is saddening to hear that certain Members of this House have failed to avail themselves to pass this important responsibility of ensuring that our counties get the necessary resources. I did not come to the Senate this morning because I was invited by the Senator for Tharaka-Nithi. In fact, I did not receive an SMS from him and neither was I consulted about this Special Sitting. I came here because of the Gazette Notice from the Speaker. We, as leaders, must be serious. If we support devolution, how else do we show our support if we can avoid such an important sitting? I want to be on record as having said that Kenyans will know the leaders in this House who support devolution and those who do not. On several occasions, we have had issues and differences but none of those differences have stood in the way between us and serving our counties.

It pains you when you go to the counties and realize that the governors and the Members of County Assemblies (MCAs) are complaining. The staff are unable to get their salaries while some of the contractors who have done work in our counties have not been paid. We now have an opportunity to pass this Schedule that will allow counties to move on. Instead of doing that, we are giving excuses of having not been consulted. This takes us back to where we were five years ago when we had the *nusu mkate* Government. Somebody would keep on saying that he was not consulted and that portfolio balance was not achieved on every other decision that was made. As a Senate, we cannot go back there. The Speaker gazetted the date for this sitting and we came here as Senators.

I want to encourage my fellow colleagues who I believe are watching the proceedings of this House somewhere, it will be such a sad day if we will adjourn having not passed this Schedule. I want to persuade my brothers that I am here because I am the Senator for Nandi County. If the Senator for Tharaka-Nithi or the Senator for Bungoma are not comfortable with this, I am here in my own capacity as the Senator for Nandi

County. This is because I have the responsibility and direct mandate of ensuring that my county receives the resources. I want to persuade my colleagues, who have been persuaded by the SMS sent around, that they are directly elected by their counties and that their mandate of ensuring that their specific counties have resources depends on the passage of this Schedule.

I know the proceedings of this House are being aired live. If the Senate Minority and Majority Leaders have sent contrary SMSs, I want to call on Kenyans to SMS their Senators and ask them to come to this House so that we are able to pass this important Motion, so that our counties are able to get the resources that are required.

As I speak to this particular Motion, it is important to note that the coming financial year is an electioneering period. For the last three years, we have had issues with the manner in which counties are using resources. When you go to the counties, you will hear a governor being asked every other time why he has not released bursary money yet the county budgeted for it. They always claim that resources have not been disbursed from Nairobi. If you ask them why they have not paid contractors who have done their work, they keep on complaining that money has not been transferred to the counties.

I want to call upon the county governments and let them know that they now have the Schedule way ahead of time. They know the amount of resources they will be getting on a monthly basis. A proper county government must sit down and plan their activities appreciating the fact that the disbursement will be made on a monthly basis. They should be able to plan so as not to have situations where they have allocated money to some activities like building maternity wings in various health centers only to realise that it has not been done and people are complaining that the money was not released.

I want to call upon the county governments that as the Senate ensures that these resources are provided to the counties, it is important for those county governments to ensure that these resources are used in the right manner. One of the major challenges we have faced in our counties for the last four years is lack of priorities. I am giving this specific example because of my own county. A sum of Kshs. 5.2billion is being sent to the county. I expect that, in this financial year, the county government will prioritize and ensure that the projects that are being implemented are those that have a direct and positive impact on the lives of the citizens.

I want to thank the National Treasury and ask them to be faithful in disbursement of these resources as captured within the Schedule. It will not make sense for us to sit for a Special Sitting to discuss and approve the Schedule only to realize tomorrow that the National Treasury has not followed the disbursement as captured within the Schedule. We want to call upon the Cabinet Secretary to ensure that once we approve this Schedule, these transfers must be made to the counties in accordance with this Schedule because that helps the counties in planning.

This being the year towards elections, there will be temptation by county governments to divert the development resources into projects of a political nature. I call upon county governments, led by the governors, that they must ensure that in the running of government, it does not matter whether it is an electioneering period or not, the citizens of this country should get the services as expected. Therefore, we do not expect any change in the manner in which projects are being implemented.

I come from an interesting county. One senior county official went to a local FM station the other day and said he does not understand the role of the Senate and their Senator. I have visited the Governor's office in Nandi County and he has a television. As I speak, I hope that he is not watching cartoons. I hope he is watching the proceedings of this House so that he gets to know that the responsibility of a Senator is what I am doing here. I want to offer him free civic education. The responsibility of a Senator is to ensure that the county receives resources as approved in the County Allocation of Revenue Bill and the Division of Revenue Bill.

It is embarrassing when you have a leader of the caliber of a governor going to a national media house to say that he does not understand what a Senator or the Senate does. I have no problem with the governor not understanding my job. He is allowed to do so. I hope that as he watches television, he will get to know that the responsibility of the Senator is to ensure that resources go to the counties. What is more shocking is having a governor who does not understand his job. It is forgivable if he does not understand the job of a Senator, Women Representative or Members of Parliament but it is unforgivable for someone not to understand his own job.

For the last three years, we have seen no major development in Nandi County. I hope that this budget will go into redeeming the image of our county and ensuring that our residents receive the facilities, resources and the support that they need from the county. I hope that before the end of this month, the many children from Nandi County who are at home because they are unable to pay school fees, will get bursary from the County Government. This is because those resources were allocated and we had Kshs90 million in the last financial year and Kshs 60 million in this financial year. However, none of those resources have been disbursed to the various schools. I hope that my governor will move quickly and ensure that these students from needy backgrounds receive their bursary.

I want to call upon my brothers in the county assemblies across the country to know that the responsibility of county assemblies is oversight and they are the primary institution of accountability and oversight at the county. If a budget or a schedule has been passed in the county like we will pass today, it is the responsibility of the county assembly to ensure that each and every project that was anticipated and resources allocated, has been implemented before the end of the financial year so that we should not have carry-overs.

In the counties, today, some of the projects being completed today are projects that were allocated in the first financial year. How possible is it that a project that was allocated resources in the 2013/14 financial year is being completed today? Every financial year has to be accompanied by development projects that were allocated within that financial year. I, therefore, call upon our brothers and sisters in the county assemblies to be extra vigilant in this last financial year. The temptation to use county resources along the lines of political expediency will be very high.

Finally, as a member of the Jubilee fraternity, we support devolution. That is why we are here irrespective of whether there was miscommunication or lack of communication. Today, the citizens of this country can tell who believes in devolution. This House is respected because we have some leaders who are presidential aspirants and

others are running mates. This is a House that believes in devolution and every Senator has to ensure that that particular mandate of the Senate is executed. We can compete and disagree on other things but when it comes to supporting county governments, it is our mandate and responsibility.

(Sen. Murkomen stood in his place)

With those very many remarks, I ask my colleagues to turn out, support this Bill and ensure our counties have the resources they need to move forward.

The Speaker (Hon. Ethuro): Sen. Murkomen!

Sen. Murkomen, I hope you realize you were standing between the Speaker and the Member who was contributing.

Sen. Murkomen: Mr. Speaker, Sir, I stand guided. We are here for a crucial responsibility bestowed upon us by the people of Kenya under the Constitution - Articles 94, 95 and 96 - as Parliament. Parliament is here to exercise the sovereign power of the people and on behalf of the people in the Constitution. We passed the County Allocation of Revenue Bill (2016). In that Bill, Section 4(2), we provided that the county governments' allocation shall be transferred to the county revenue fund in accordance with a payment schedule approved by the Senate and gazetted by the Cabinet Secretary for National Treasury.

As we speak, we already passed the County Allocation of Revenue Bill and the Division of Revenue Bill. What is remaining to complete this chain is the passing of this Schedule, a responsibility that we gave ourselves; to ensure a clear schedule of payments to our counties. This responsibility is for this House and every Senator as an individual. We have done a very good job in regard to the Schedule before us.

I am very proud of myself, representing this county called Elgeyo-Marakwet County. I was part and parcel of the Senators who negotiated the change of allocation of revenue formula. If we had used the old formula, it would not have been possible for Elgeyo-Marakwet to get Kshs3.5 billion. However, because I was part and parcel of the Senators who negotiated with those counties that were getting more money, and they thankfully allowed the tweaking of that formula, Elgeyo-Marakwet got an extra Kshs200 million.

As we sit here, some people say that we only sit in Nairobi, like Sang was saying, and money would reach counties without the Senator. Money will go nowhere if today we do not vote for this Law. That is why my commitment to come to the Senate on a Friday at a time when there is a recess is a service to that county. It could never have been done by a Senator, who perhaps is pursuing business interests or loves the big-man syndrome; who would have gone around to say; that he is so and so, a presidential candidate, has not been consulted and will not go to the Senate. That kind of commitment could not have been achieved if Elgeyo-Marakwet does not have a Senator like Kipchumba Murkomen.

I am, therefore, proud of myself this Friday to be here on behalf of my county first. I am not here on behalf of Jubilee or counties as a whole but to perform my responsibilities as the Senator for Elgeyo-Marakwet County. I urge the Minority Leader,

Sen. Wetangula, wherever he may be, that this is the day that he does not perform his responsibility as a principal of CORD or as the Senate Minority Leader. This is the day he should perform his responsibility on behalf of the people of Bungoma who are watching us right now and waiting to hear what their Senator will say about the disbursement to the county and what message he has to his governor and county government on how that money is to be used.

There are days that we come here with Motions that are partisan or Bills that only have sectarian interests, perhaps, and have to lobby people everybody to convince them that our regions require those particular Bills. However, today, we are here on behalf of our counties, individually and also as a whole. This is the time that leadership is shown. I cannot fault the Majority Leader for leading in the process of ensuring that we come here today.

Standing Order No.29 provides that the Majority or the Minority Leaders, with the support of at least 15 Senators can call for a Special Sitting. This is not the first time we are having a Special Sitting. The last time we had the Security Laws and the Minority Leader, without consulting me or the Majority Leader, called us here with the support of 15 Senators who were purely CORD Senators. However, we came here, debated and came to a conclusion on the Security Laws.

I thank Sen. (Dr.) Machage, Sen. Mwakulegwa and Sen. Godliver Omondi. They have come here in their responsibility as Senators for their counties. When the chips are down, one will have to explain themselves as a Senator of their county. Our counties are waiting for resources to be devolved and disbursement done so that services can be rendered to our people.

Having said that, I have a message for our counties; Elgeyo-Marakwet started with Kshs2.8 billion being allocated to that county. Now we have reached Kshs3.5 billion. There has been a complaint when I go to the county that the governor says that most of the money goes to recurrent expenditure. When I ask what the recurrent expenditure is, they say they are hiring more people and paying salaries which is amounting to over Kshs1 billion. I say that is okay if the salaries are for the workers working in Elgeyo-Marakwet County. However, 80 percent of those workers supposedly, are residents of Elgeyo-Marakwet born, brought up and voting in Elgeyo-Marakwet.

However, there is a fallacy to this argument. For the past few months, I visited five wards. Sometimes, I just go for a public *baraza* to listen to the concerns of the *mwananchi*. Surprisingly, everywhere I go, people say that they have no single person employed in Elgeyo-Marakwet County Government and I keep wondering whether I am the one consuming recurrent expenditure of over Kshs1 billion. It would be excusable to say that we have a high recurrent expenditure but demonstrate to the voters that there is well-spread employment across the county.

Mr. Speaker, Sir, there is a concern in my county and I think it is also a concern in many counties that employment and distribution of resources is not equitable. I hope that with the Kshs3.5 billion that will be sent to my county, there will be equitable distribution across all the wards in Elgeyo-Marakwet County. It is only then that we can say that even if it goes to recurrent expenditure and employment opportunities have been spread or given to everybody across the county, then you can tell people that money is

spend on hiring the children of this family, that village and that location so that the people can appreciate what recurrent expenditure does.

Mr. Speaker, Sir, secondly, this is an election period and we are moving towards an election year. We have only 12 months to the next elections. The greatest worry people have is that in an election year, there is a possibility that their money will be used for campaigns. This is because perhaps people believe that they may never be County Executive Committee (CEC) members or Chief Officers (COs) in future and this could be their last time working for the county. If the county assemblies are not going to carry out proper oversight, there is a genuine fear that resources will be misused. Therefore, it gives us reason, as a Senate, to continue emphasising that there is need for facilitation of Senators.

Sen. Kagwe who is now consulting loudly had said earlier that it is a paradox that all the elected officers are facilitated to carry out their responsibilities except this House. The Women Representative of Elgeyo-Marakwet County has two vehicles at her disposal any time she wants to reach any corner of the county. She has enough resources to organise for sports activities for affirmative action functions to support women.

Mr. Speaker, Sir, a friend of mine who is a Women Representative of a neighbouring county of Sen. Sang mobilised people and gave out bursaries to over 300 children from Nandi County. When we go to the counties, people tell us that women representatives are giving bursaries. If a women representative who does not preside over allocation of such amount of money to go to the county gives can give out bursaries, what is your role as a Senator? They even ask why you do not have officers around who can attend functions and explain some of the responsibilities. They also wonder why we cannot even organise a public sitting for them to tell us their problems. You do not have resources to even put up a tent and seats so that people can come and sit with you and listen to the things that we do for this country and for our counties.

Mr. Speaker, Sir, there is a genuine concern for facilitation of the Office of the Senator to carry out oversight responsibilities and representation. Representation is not just coming to speak in this House or in public platforms but being able to do meaningful representation, backed up by listening to the concerns of the people. Going forward, if we want to strengthen the institution of the Senate to carry out the oversight and representation roles and proper legislation that is informed by the concerns of the locals, we must facilitate this House to be able to reach to the ground.

Mr. Speaker, Sir, this is an election period. The Political Parties Act and the Elections Act say that six months before elections, all elected leaders or those vying for offices must not directly influence how resources are being allocated. This House must provide the mechanism within which the executive at the county level will continue running seamlessly without unnecessary influence of candidates who are aspiring to be elected, such as a CEC who is aspiring to be an MP or a governor who is aspiring to be a Senator or defend his seat. We must shield the locals from issues of resources or the offence of treating voters using county resources to influence a skewed allocation of county resources to areas you think you will get votes. We must be vigilant on that as House in our oversight responsibility, to ensure that equity and equitable distribution of resources goes on.

Mr. Speaker, Sir, I am very proud to be here this morning and I thank all the Senators who are here. I know the Senate Majority Leader is on the way here. He has informed me as much and I believe that in a short while, we should be able to vote for all the Bills that we agreed to come and vote on. I would like to urge the Senators of the CORD to follow the example of Sen. (Dr.) Machage, Sen. Mwakulegwa and Sen. Omondi and, with all great humility, avail themselves in this very great House, so that they can carry out a responsibility that is not for Members of the Jubilee Coalition or the CORD but a national responsibility on behalf of their counties and the people of Kenya because there will be nothing else that we will say we have done if we cannot do that which the Constitution demands of us.

Mr. Speaker, Sir, I thank you and beg to support.

Sen. Adan: Mr. Speaker, Sir, I thank you for giving me this opportunity. It is very sad this morning that some of our colleagues have absconded from participating in this particular Motion which is very important and touching on the lives of Kenyans in this country. I do not believe that the reason given by those who are not in this House is genuine because we are punishing innocent people who do not know about issues of bureaucracy. This is very sad and Kenyans who are watching live proceedings of the Senate should hold their Senators accountable, especially those who are not here. They need to answer why they are not in this House today.

Mr. Speaker, Sir, devolution has a purpose which is to make sure that service delivery is taken closer to people. The reason for us being here today is to make sure that the objective of devolution is achieved. For example, Isiolo County staffers have not received salary and this is simply because we do not plan early enough. This is our fourth year in this House but unfortunately, we do not plan early or prioritise our budget. I would like to urge county governments, especially the executives and county assemblies, to plan early and make sure that the budget is in place as early as possible.

[The Speaker (Hon. Ethuro) left the Chair]

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

Mr. Deputy Speaker, Sir, the other area I want to speak to is the issue of public participation in the budget preparation. This is an area that is still very weak because members of the public are not involved at all and when they are involved, they do not know how the budget is arrived and how it is being utilised. This is very serious because public participation is a constitutional provision. It is a right that is enshrined in the Constitution. We need to strengthen this particular provision as a Senate.

Secondly, there is the issue of pending bills. There are very many pending bills in the county governments yet there is a Government Policy which says that you cannot use money if it is not available in your budget. I wonder why county governments keep on having pending bills. This House should look into why county governments have pending bills year in year out. This is very critical because this is a loophole where money is lost.

Mr. Deputy Speaker, Sir, the other area I want to talk about is the area of development. For example, Isiolo County is the second lowest in the allocation. The

county government is prioritizing on the recurrent expenditure but, unfortunately, development is not taking place. Roads and institutions are in a pathetic situation. I think our focus in the fourth year should be in the area of development because a lot of money is spent on recurrent expenditure.

Mr. Deputy Speaker, Sir, another area that I wanted to comment about is on the health care. In as much as we have taken the service delivery closer to the people, our health care is in a pathetic situation. This is not because the budget allocated is not enough but the way the money is spent and the way the priorities are given to certain areas is poor. For example, in Isiolo County, we have a Level Four Hospital but it is not adequate enough to take care of the needs of the people in Isiolo County, especially maternal rate which is very high.

Mr. Deputy Speaker, Sir, I am convinced that we are doing well in terms of devolution but this House needs to pull up its socks to make sure that we have held the county governments accountable. Right now as a Senate, we are looking at the Auditor-General's Report of 2013/2014 and we are going to leave this House before we deliberate on 2014/ 2015, 2015/2016 and 2016/2017. This is sad because if money is spent and we are not able to ensure the Auditor-General's Reports are looked into, it means we have failed as a Senate to deliver on our mandates.

I support this Motion.

Sen. Karaba: Thank you very much, Mr. Deputy Speaker, Sir, for allowing me to contribute towards this Motion. I support it. As I look at the other side of the House, that tells you that there is a conspiracy and a well planned game to have some of the Government's policies and Motions fail.

Mr. Deputy Speaker, Sir, we were here yesterday, courtesy of Sen. Adan, who had told us that the Inspector general (IG) was to be here and we were invited through the Speaker that we come and listen. Being a Thursday and that we are on recess, people came. We were quite a number including those who are not here now. I could over- hear the Chief Whip, Sen. Elachi, reminding us that today was going to be a crucial day and we were to come and discuss issues pertaining to what we are doing now. It was well understood and well taken, only to find that some people have decided not to come and discuss issues affecting our counties.

(Sen. Karaba gestured towards the Opposition side)

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

Sen. (Dr.) Machage: On a point of order Mr. Deputy Speaker, Sir. Did you notice that Sen. Karaba was pointing to the opposition benches that some people have decided not to come? Is he in order when over three quarters of the Majority Members have no people?

Sen. Karaba: Much as I withdraw about the pointing, I cannot withdraw saying that some people have not come. Reasons given for coming are what is wanting; going by the fact that by yesterday, the House was almost full and they were coming to listen to the IG. Today being a Friday and a signal was given last week that there was a possibility of

having a meeting today, half of the House is not there. I think we can compare the two days; yesterday and today, and the subject matter to be discussed for the two days, the subject matter for today is very significant. That is the reason why I find difficulties to come up with an explanation as to why some people can fail to come, contribute and listen to the budgetary allocations, commitment and financing some of our functions. To me, it is difficult to understand because some people have just decided not to. I can call that a deliberate move to snub the business of this House.

Mr. Deputy Speaker, Sir, it is also important for us to take precautions. When we travel out – and I have stated this many times – we go and compare Kenya with other countries that we visit. If you go to Korea and when you are in Isiolo taking tea with some Koreans, ask yourself why we are not on the same level with Korea. If you go to Malaysia, the same thing happens when you see the Twin Towers of Kuala Lumpur. When you get to other countries, you find that Kenya should have been advanced to the present levels but the quarrel and the reason is that we are not preaching what we read. We do not take what is in the bottle but rather, we are taking different substance. In this case, we are not serious about what we are professing and what we are representing our people for.

Mr. Deputy Speaker, Sir, we were all elected as Senators to protect devolution. This is why you will find most of us here because we are getting services closer to our people in our counties. This confirms that this House has followed activities from the moment they are passed here up to the counties.

As the Chairman of Committee on Education, I have confirmed that what is in the counties particularly in the education sector--- there is a lot of development on Early Childhood Development Education (ECDE). This is an area which is devolved to the counties. There is a lot of commitment to the county level. We have ECDE rooms constructed, we have a lot of commitments coming from the governors and the Members of the County Assemblies (MCAs) and there are a lot of developments taking place in the counties like water, agriculture, roads and many others. For the first time, some people are confessing that they are seeing tarmacked roads for the first time.

Mr. Deputy Speaker, Sir, I was in Maralal County when I took my committee there and people were amazed to see tarmac roads. So, they are seeing it for the first time. This is as a result of devolution. If this is going to happen – it has happened and it continues to happen through the Senate which is supposed to oversight devolution – then we should be able to thank ourselves and say it is because of this House. I appreciate that the House has done well and that is why we are here to continue contributing towards development.

Mr. Deputy Speaker, Sir, there are so many things which happen in the counties which if we negate them, then we will be accused by our own voters for having abandoned the strategies which are supposed to be seen like it is development. In Kirinyaga, for example, we have a very important rice irrigation scheme called Mwea-Tebere Irrigation Scheme. Here, we produce more than 80 per cent of the national rice. The Government through devolution has given us a substantial amount of money but we still require more than what we receive. We need water from our rivers flowing through. It is a pity seeing our rivers flowing with water brown as they are, indicating that they

have a lot of silt deposition in them; and they take all that silt to the Indian Ocean. Elsewhere, you will find that it is difficult for big rivers to let water flow to the oceans. Most of that water should be used particularly in counties where the rivers flow through.

Mr. Deputy Speaker, Sir, in this case, therefore, we expect that county governments have enough money to construct dams. That way, the water can be used for irrigation during the dry season. In this case, we will make sure that we grow enough food crops that can be used as subsistence before we even think of exporting it. That is why a country like China is capable of producing and feeding its population of 1.5 billion people. This, to me, is one of the wonders of the modern world. How can a country with that huge population afford to grow food to feed its people and still have surplus for export to earn the rare foreign exchange? With this kind of exposure, we can borrow their ideas and see whether it is possible to have the same here in Kenya. In the process of doing that, we would share some revenue and ideas which we were to pass today. The revenue would go to counties where we would see some development.

It is also important to note that most of our citizens out there are suffering from adjustment due to lack of proper medical care. We have noted that the Government has given out some equipment to hospitals but they are not enough. We will need to make sure that our people have and continue to live in good care. Of course, this is the care that you see any other time that somebody is sick, we fundraise and spend a lot of money to fly these people to India for treatment. We take India as a health destination. However, we should not be thinking of India or any other country every other time. We also need to come up with a solution which can address this problem by upgrading our health facilities and giving them adequate and relevant equipment so that we treat our people locally. This is being noted in the Great Rift after what the Government did last time when every other county was given money or equipment to have two hospitals equipped in order to handle calamities.

It is also important to note that the people who are handling money in our counties seem not to be very well equipped. I suggest that part of this money is used to train the relevant personnel particularly in monetary issues. We should have people who are trained to handle the money prudently. Quite often, we read the Auditor-General's report that some counties have misused money either in construction of buildings or other things. We heard that in some counties, a gate was put up at a cost of Kshs7 million and a bed bought at Kshs1 million. There are even places where dogs are fed on Kshs2 million annually. This is coming from county governors. Had we cautioned these people through the oversight motions, I am sure they would not have made the mistakes that they are making now.

Mr. Deputy Speaker, Sir, it is important that this money which is being discussed today and the money that has been released by the Treasury should be spent well. The Senate should oversight that money and the oversight should not be seen as a useless process. It is a process that we have to make sure that it is undertaken thoroughly so that money disbursed to counties is properly spent. The purpose of today's discussion was meant to ensure that the money disbursed is well spent and even caution governors who might use this money without due process that the money should be used prudently.

We should also be seen like we can provide an oversight. This is the oversight that we are wondering whether we are capable to do it or just talking about it. We cannot do that without the necessary funds. I believe once the time comes, it will be passed and we will do the necessary oversight.

I support.

Sen. Omondi: Mr. Deputy Speaker, Sir, thank you for giving me the opportunity. I support this Motion because I, as a Senator representing Persons with Disabilities (PWDs), it touches on matters disability. As I support, I remind county governments that we are now coming to the end of the Eleventh Parliament but nothing tangible is coming out of county governments in terms of programmes for PWDs. I may be required to seek legal advice on discrimination among PWDs in budget allocation.

As we sit here and discuss issues of allocation of money to counties, it is not coming out clearly how devolution is delivering quality services to the people. This is simply because the people who are interested or given the authority by Government to hold public funds have just refused to do what is right and give quality services. They are creating a big gap between the poor and the rich. As we discuss this Motion, let county governments be reminded that it is all about Kenyans and service delivery. It is not about, we, leaders.

Today, let me go on record that I, as a Senator representing PWDs, represents 47 counties, as we speak, there is an outcry from PWDs that there is total discrimination in terms of allocation and service delivery by counties. My fellow leaders in county assemblies are sending PWDs to me as a Senator, that I am their representative, knowing very well that I do not have any budgetary allocation to give services to the people that I represent. We have disabled people who are representatives of PWDs in these counties. I am supposed to hold them accountable on what they have done within those counties. It is unfortunate that I cannot do so. It is because county assemblies have refused to allocate resources to them that will help to also run projects for PWD.

Let me remind county governments and governors that it is high time that they think about disability, budget allocation, programmes and service delivery. I wonder why somebody should be referred to as Senator knowing very well that a Senator does not have any budget allocation. That is running away from the role that we have been given under the Constitution. It is time to hold the leaders in the county governments accountable for the raw deal that they are giving Kenyans. We must not run away from our oversight role that is provided for in the Constitution. Carrying out the oversight role is not witch-hunting. However, in this country oversight is seen as witch-hunt. That is why we do not appreciate one another. At the end of the day, we need to complement each other for us to achieve devolution.

Mr. Deputy Speaker, Sir, as I end my contribution to this Motion, it will be proper if this money is allocated to groups and persons with disabilities to cover what they have lost in the previous years. I want to remind Kenyans that they have a right to petition the Senate on issues pertaining to service delivery by the leaders they elected. I will be happy if we will get the quorum to enable us to vote and pass this Motion today, so that funds can go to the county governments. I want to remind the Members of County Assemblies (MCAs) and governors that as we vote and allocate them the money, they should not tell

us that they can get money without us. We have left everything else so as to be here today to discuss issues that are important to this country that touch on matters of development and lives of Kenyans.

Mr. Deputy Speaker, Sir, with those remarks, I support.

Sen. Leshore: Thank you, Mr. Deputy Speaker, Sir. I am here as the elected Senator for Samburu, representing the interests of Samburu County and its people. First, I would like to thank the leadership of this House because for the last three years, we have done a good job for Kenyans. We have come out strongly to defend counties and make sure that development is initiated in the counties. I would also like to thank the national Government and the National Treasury for supporting devolution. About four years ago devolution was new to this country, but now I can proudly state that it has reached the local people. The leadership of this House, from the Speaker, the secretariat and all of us from both sides of the House, has done well. I would like to urge all Senators from both sides of the House to work together when it comes to issues like this one because Kenyans are watching and they want to see the service we are giving them.

For the last three years, I have noted that so many things have happened between us and the county assemblies. I am proud to say that most MCAs are on the right track. I would like to urge most of them to be on the look out to make sure that governors put the funds that we are sending to them into proper use. Most of the MCAs have no knowledge of what oversight is. I would like to urge the Senate and the county governments to provide MCAs with facilities, so that they can oversight what is happening in the counties. For example, Early Childhood Development Education (ECDE) falls under the county governments. However, most counties just construct classrooms and nothing else. They do not even buy desks, construct toilets or build kitchens for the nursery school pupils.

As a Senate and as a country, we need to make sure that ECDE is properly implemented. Children must be given the right facilities. We cannot compare a nursery school in Nairobi and one in Baragoi. We need to have standard nursery schools for all our children. Whether they are born in Nairobi or North Horr, they must be given the right facilities to enable them grow together.

Mr. Deputy Speaker, Sir, I would also like to touch on the issue of the bursaries. We are giving our county governments a lot of money for bursaries. I have heard that Members of Parliament and governors are giving out bursaries, but there are still many Kenyan children who are unable to access education because of lack of money. I want to urge county governments to ensure that all the needy school-going children are given the bursaries.

I would also like to talk about healthcare. The national Government and the county governments are allocating money towards healthcare. Development partners like the World Bank, the Danish International Development Agency (DANIDA) and other donors also allocate money. I urge the county governments to utilize these funds properly. I would also like to urge mothers to attend clinics. Most mothers in areas like my county, Turkana and counties in the north eastern region do not go for clinics. I urge leaders, brothers and sisters, to persuade mothers to attend clinics monthly because the necessary facilities are there.

I would like to thank the national Government for providing the equipment to Level Four and Level Five county hospitals. The county governments should recruit and employ nurses in each dispensary and health centers. This is because most of the facilities that were built during the time I was serving as a Member for my constituency are underutilized. The county governments should employ and retain enough staff in our dispensaries, health centers and hospitals.

Mr. Deputy, Speaker, Sir, I thank the county governments because they have done some good job. However, most of the contractors have not been paid. I do not see the reason why because we always allocate them money yet they do not pay the contractors.

Lastly, I would like the Senate to give Senators the facilities to oversight. I know we have done our part and Sen. Murungi's Committee has done its part. Therefore, we must start the oversight role from this month. The money is available and the Chair should give us the direction on how to go about it. Once we start the oversight, I will urge the Members of County Assemblies (MCAs) to participate in this oversight role. They are supposed to do that at the county level. We may not always be there but they should assist us so that the money sent to the governors is utilised in the right manner.

Thank you.

Sen. Gwendu: Thank you, Mr. Deputy Speaker, Sir. I support this important Motion. I would like to reiterate what the Senators have talked about with regard to devolution and the role of the Senate. Our Constitution stipulates that the role of the Senate is to safeguard devolution. The only way to safeguard it is when we discuss these matters to ensure that people in the counties receive what is theirs.

We all know that devolution was not meant for a day. It is not an event but a process. In this process, each person has a role. The Senate carries out the oversight and ensures that funds are distributed and the governors ensure that the funds are used correctly.

Mr. Deputy Speaker, Sir, we are here to look at this Schedule of distribution. It is a surprise that most of our Senators are absent. However, we urge them to come so that we debate the Motions and pass them. This will ensure that whatever our governors will do with these monies is strictly development in order to change the lives of the people. It is important for a leader to know that it is vital to change the lives of people. Before devolution, there were counties that did not even have toilets and water sources. Our mothers at home believe that the definition of devolution is to ensure that they all taste the cake from the national Government. How do they taste the cake? It is when we come to the House and debate how the cake is distributed evenly.

The process of devolution is one where each and every person is supposed to play a role, right from the MCA to the Senator. I once attended a funeral at home and an MCA stood up and praised the governor for having built several roads with the county funds. Fortunately, I spoke after him. I told the people that without the Senate, the governor would not receive such monies. As the county residents, they have the right to demand what the governor did with the money. The MCA stood and praised the murram roads and when you look at the monies that are allocated, one wonders if that was the best they could do.

Mr. Deputy Speaker, Sir, if we discuss in the House and put into practice our oversight roles, that is when we shall not have repeat cases of purchase of wheelbarrows worth thousands of shillings and governors spending millions in the hotels. I support this Motion because we need to change the lives of our people. That is why we established devolution. There was devolution before but the defunct provinces did not get the monies from the national Government. Even if they had, it was in small portions that did not change the lives of citizens. Today we have devolution but we need to play our role to ensure that this process becomes a success so that one day we will sit and acknowledge it.

A Senator who spoke before me asked why our people always seek treatment outside Kenya. There are funds that can be used to equip our hospitals.

I support.

Sen. Mungai: Thank you Mr. Deputy Speaker, Sir, for this opportunity. I am happy to be present in the House today to deliberate on the disbursement of funds to our counties. If possible, we should approve the Schedule so that the money can be transferred to our counties.

Currently, there are serious issues whereby many county staff are threatening to strike because of non-payment of salaries. The suppliers are now complaining because of late payments. Therefore, it would have been important for all the Senators to be present - after the message was circulated - to pass this Motion.

Mr. Deputy Speaker, Sir, the Deputy President is visiting my county. However, I decided to skip his visit and to be in the House so that I pass the Bill. For anybody else to fail to attend this important activity - because it forms the backbone of our work - is totally unacceptable. I take this opportunity to thank the Government. In the last Budget, my county had been allocated Kshs3 billion. As per this schedule, my county has been allocated Kshs9.5 billion. I thank the Government because I have seen a gradual improvement. In the first year, my county received Kshs5.9 billion. We will receive Ksh9.5 billion this year. This is almost double the amount that Nakuru County received in 2013/2014.

Mr. Deputy Speaker, Sir, this House has done its best. We have fought to ensure that enough money is allocated to our counties. That is why devolution was mooted. It is unfortunate that despite so much money going to the counties; there are still serious challenges that *wananchi* face. For example, in Nakuru County, there are 11 constituencies and a population of 2.5million people. There is little happening on the ground despite the fact that after we pass this Motion, Kshs35 billion would have been remitted to my county by the Government. I would like to challenge my county assembly. The role of the county assembly is to ensure that they pass the budget of the executive and oversight on the funds that they have approved in that budget.

Mr. Deputy Speaker, Sir, in Nakuru County, the Members of the County Assembly (MCAs) do not understand that for each and every shilling that has been allocated to Nakuru County, first of all, they are mandated to approve its usage, and secondly, oversight it. Majority of the people in my county think that oversight is done by the governor or the Senator. It is therefore, difficult for people to understand that the governor and the county assembly are supposed to ensure that the funds that are remitted and approved by this House are used prudently.

We have been having serious challenges even going round our counties because of funding; a matter that would hopefully be sorted out this year. Therefore, it is important for people to understand that the fact that a governor is constructing a road does not mean that Senator cannot also make a road. The funds that the governor is using to construct that road have been fought for by the Senator. They are supposed to be oversighted by the MCAs through the county assembly.

Mr. Deputy Speaker, Sir, there is also the issue of county budgets. The public participation element is wanting. In my county, the common *mwanaanchi* does not understand that budget making and approval is supposed to go to the 11 sub counties. This is so because awareness is not done in the right way. Currently, there is a stalemate between the executive and the county assembly. It is my wish and prayer that as we struggle to ensure that this money is disbursed to the counties, this stalemate would have been sorted out. If it continues, the implementation of the budget would be in jeopardy.

It is also worth noting that recently, there were scandals in my county touching on some departments, specifically on employment. This should not be the case. The county assembly brought it to our attention this year yet it happened last year. This is totally unacceptable.

Regarding the Auditor-General's reports, it is the opinion of my people in Nakuru County that these reports are not conclusive. We request that the Auditor-General's office ensures that auditing is in-depth so that *mwanaanchi* does not see it as an office that is covering up corruption being perpetuated in the county. It is in the same vein that I talk about the availability of the audited reports. Accessing them is a challenge. I cannot talk to my people if I do not have the reports. It is vital that accessibility of those reports is made is easy.

Mr. Deputy Speaker, Sir, let me mention something that affects majority of Senators. Most Fridays when Senators are going home especially the ones that normally go through Nakuru, there is normally a very long queue at the Gilgil weighbridge. The traffic jam has made people complain.

I have made a request that the old Maai-Mahiu road that was running from Naivasha to Nakuru be rehabilitated so that it can ease movement of vehicles. This is because if we are to wait for the time the road will be expanded, the inconvenience will continue. I have made that request and I hope that when it is approved, traffic will ease.

I beg to support.

The Deputy Speaker (Sen. Kembi-Gitura): Let us have Sen. (Dr.) Machage reply.

Sen. (Dr.) Machage: Mr. Deputy Speaker, Sir, I have listened carefully to all Members' comments and statements. Today's Motion was to approve the cash disbursement Schedule as put to us by the Cabinet Secretary(CS) Finance for monthly allocations to the counties for the Financial Year 2016-2017 as per the Public Finance Act, 2014.

This was a noble exercise that was to be done by Senators without fail since that is the gist of being a Senator, in response to Article 96 of the Constitution, especially Part 3 and Article 217. They describe and prescribe the role of the Senate, especially on matters of financing of county governments.

We are currently having an upheaval in many county governments especially on matters of health. You know what is going on in Machakos, Nandi, Migori and everywhere else because of non-payment of workers. This was a duty for the Senate to make sure the funds are disbursed to the counties, within a limited period.

There were messages sent to some Members of this House including the Coalition for Reforms and Democracy (CORD) Members. Sen. (Dr.) Machage is not a switch that can be switched on and off at somebody's will. Never! When it comes to representing my county, I stand tall and say "no".

(Applause)

We could as well have passed this important Motion and then refused to go to the next orders.

I have come to understand that some governors do not as yet understand the role of the Senate as per the Constitution. I fail to understand how governors who are supposed to have been graduates cannot understand basic English as put in the Constitution in Articles 96 on the roles of the Senators. I call upon the Commission for University Education (CUE) to question the authenticity of their certificates.

Even a primary school student can understand that English. The unfortunate position that the Senate finds itself in, is that, it has not been facilitated on its very important role of oversight. The sibling wars between the Senate and the National Assembly should be checked. I have also come to note that there are sibling wars between the leadership of this House which is the Senate Majority Leader and the Senate Minority Leader; that could have led to the situation that we are in today. They serve us no purpose.

I would like to remind this House of a few facts; the cash disbursement schedule is based on revenue performance trends at the national Government level. The cash disbursement Schedule allocation includes conditional allocation to Level Five hospitals, free maternal health care, compensation for foregone user fee, allocations from the Fuel Levy Fund as well as conditional allocation for health facilities as grants of development from development partners especially the World Bank and the Danish Development Agency (DANIDA).

The National Treasury will be responsible for equitable share of revenue and Level five conditional grants as well as special purpose grants whereas the Accounting officer responsible for health will be responsible, provided that the national Treasury has received written instructions from Treasury authorizing the transfer of the grants.

I also want you to note that the Kenya Roads Board will be responsible for transfer of the Fuel Levy Fund to the respective county revenue fund. I believe everybody is convinced that this schedule is important to be passed by this House.

Mr. Deputy Speaker, Sir in case we are unable to pass the Schedule today, my request is that another attempt at the earliest possible is made for this House to reconvene and pass it since it is of extreme importance to the disbursement of funds to the county governments. I appeal to all Members that when that is done, it should be "all systems go" and we should all respond to our primary responsibility.

I beg to reply.

As per Standing Order No.54 (3), I beg that you defer calling for Division since we have no numbers.

The Deputy Speaker (Sen. Kembi-Gitura): It is so ordered.

(Putting of the Question on the Motion deferred)

Hon. Senators, you note that we are done with Order No.4. Just like the Speaker communicated from the Chair, Orders No.5 to10, 12 to18 all require the threshold of 24 for a Division. Order No.11 is a constitutional amendment which requires two-thirds majority vote for it to pass.

Therefore, Hon. Senators, I would have to re-organize the Order Paper so that having finished with Order No.4, it is obvious that we do not have a threshold to deal with any of other Orders in the Order Paper. Consequently, I have to adjourn the House.

MOTIONS

ADOPTION OF THE MEDIATION COMMITTEE REPORT ON THE COMMUNITY LAND BILL

THAT, the Senate adopts the Report of the Mediation Committee on the Community Land Bill (National Assembly Bills No.45 of 2015) laid on the Table of the Senate on Wednesday, 27th July, 2016 and pursuant to Article 113 of the Constitution and Standing Order No.155(3) of the Senate Standing Orders, approves the mediated version of the Bill.

ADOPTION OF THE MEDIATION COMMITTEE REPORT ON THE LAND LAWS (AMENDMENT) BILL

THAT, the Senate adopts the Report of the Mediation Committee on the Land Laws (Amendment) Bill (National Assembly Bill No.55 of 2015) laid on the Table of the Senate on Wednesday, 27th July, 2016 and pursuant to Article 113 of the Constitution and Standing Order 155 (3) of the Senate Standing Orders, approves the mediated version of the Bill.

ADOPTION OF THE MEDIATION COMMITTEE REPORT ON THE WATER BILL

THAT the Senate adopts Report of the Mediation Committee on the Water Bill (National Assembly Bill No.7 of 2014) laid on the Table of the Senate on Wednesday, 27th July, 2016 and pursuant to Article 113 of the Constitution and Standing Order No. 115 (3) of the Senate Standing Orders, approves the mediated version of the Bill.

(Motions Deferred)

BILLS

Second Readings

THE PHYSICAL PLANNING BILL
(NATIONAL ASSEMBLY BILL NO. 46 OF 2015)

THE COUNTY GOVERNMENTS (AMENDMENT) BILL
(SENATE BILL NO.21 OF 2015)

THE NATIONAL HOSPITAL INSURANCE FUND (AMENDMENT)
BILL (SENATE BILL NO.9 OF 2015)

THE CONSTITUTION OF KENYA (AMENDMENT) BILL
(SENATE BILL NO.16 OF 2015)

THE KENYA MEDICAL SUPPLIES AUTHORITY
(AMENDMENT) BILL (SENATE BILL NO.4 OF 2014)

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

THE COUNTY GOVERNMENTS (AMENDMENT) BILL
(SENATE BILL NO.4 OF 2016)

(Bills Deferred)

COMMITTEE OF THE WHOLE

THE REPRODUCTIVE HEALTH CARE BILL
(SENATE BILL NO.17 OF 2014)

THE COUNTY OUTDOOR ADVERTISING CONTROL BILL
(SENATE BILL NO.11 OF 2015)

THE EMPLOYMENT (AMENDMENT) BILL
(SENATE BILL NO.1 OF 2015)

THE COUNTY LIBRARY SERVICES BILL
(SENATE BILL NO.6 OF 2015)

(Committee of the Whole Deferred)

ADJOURNMENT

The Deputy Speaker (Sen. Kembi-Gitura): Hon. Senators, now that there is no other business to be transacted in the House today, the House stands Adjourned until Tuesday, 13th September. 2016.

The Senate rose at 12.15 p.m.