

PARLIAMENT OF KENYA

THE SENATE

THE HANSARD

Thursday, 3rd December, 2015

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

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

PAPERS LAID

The Temporary Speaker (Sen. (Dr.) Machage): Hon. Senators, there are several Papers to be laid.

Proceed, Sen. (Eng.) Muriuki.

REPORT OF THE *AD HOC* SELECT COMMITTEE ON COUNTY HEADQUARTERS.

Sen. (Eng.) Muriuki: Mr. Temporary Speaker, Sir, I beg to lay the following Paper on the Table of the Senate today, Thursday, 3rd December, 2015:-
Report of the *Ad Hoc* Select Committee on County Headquarters.

(Sen. (Eng.) Muriuki laid the document on the Table)

REPORTS ON VISITS TO VARIOUS COUNTIES

Sen. Sang: Mr. Temporary Speaker, Sir, I beg to lay the following Papers on the Table of the Senate today, Thursday, 3rd December, 2015:-

Report on the meetings with counterpart committees of the county assemblies of Kwale, Siaya, Elgeyo Marakwet, Turkana, Wajir, West Pokot, Nyamira, Vihiga, Kilifi, Bungoma, Embu, Meru and Tharaka Nithi.

Report of the county visits to Lamu and Kilifi.

Report on county visits to Embu, Meru and Tharaka-Nithi.

(Sen. Sang laid the documents on the Table)

NOTICES OF MOTIONS

ADOPTION OF REPORT OF THE *AD HOC* SELECT COMMITTEE ON COUNTY HEADQUARTERS

Sen. (Eng.) Muriuki: Mr. Temporary Speaker, Sir, I beg to give notice of the following Motion:-

THAT, this House adopts the Report of the *ad hoc* Select Committee on County Headquarters laid on the Floor of the House today, Thursday, 3rd December, 2015.

ESTABLISHMENT OF REHABILITATION CENTRES IN COUNTIES

Sen. Mbuvi: Mr. Temporary Speaker, Sir, I beg to give notice of the following Motion to the Ministry of Interior and Co-ordination of National Government:-

AWARE that consumption of illicit brew has ruined the lives of many Kenyans; that there is a very high number of such persons and that a very high number of such persons, most of whom are youth, require rehabilitation;

DEEPLY CONCERNED about the devastating effects of drug and alcohol abuse which include among others; increase in crime, victims becoming impotent, break up of families and transmission of diseases among victims;

APPRECIATING Government efforts to address the challenges through crackdown on illicit brewers;

DESIRIOUS of the need to enhance Government efforts to address the challenges and come up with sustainable means of addressing it;

COGNIZANT that the National Authority for Campaign Against Drug and Alcohol Abuse (NACADA) is mandated by the National Authority for Campaign Against Alcohol and Drug Abuse Act, 2012 to collaborate with other lead agencies to provide and facilitate the development and operation of rehabilitation facilities, programmes and standards for persons with substance use disorders;

NOW THEREFORE, the Senate calls upon NACADA, in collaboration with county governments, to establish at least one rehabilitation centre in each county for purposes of rehabilitating victims of alcohol and drug abuse, including persons affected by withdrawal symptoms and to offer support to families and care givers of the victims.

STATEMENTS

The Temporary Speaker (Sen. (Dr.) Machage): Hon. Senators, we will have exactly one hour for this Order. I would like the Clerks-at-the-Table to record this. I should be told when the one hour lapses. Let us be careful on how we use our time because we have a lot of work to transact today.

Leader of the Majority, if you may proceed.

BUSINESS FOR THE WEEK COMMENCING
TUESDAY, 8TH DECEMBER, 2015

The Senate Majority Leader (Sen. (Prof.) Kindiki): Mr. Temporary Speaker, Sir, I will be very brief because this is a routine statement on the business of the week.

As colleague Senators are aware, we are scheduled to proceed for the Christmas Recess in accordance with our calendar. It is in that connection that I support what you have just said; we try and be brief on all the business because we have a lot of work.

Secondly, I am grateful to the Senators for the cooperation and the support they have given to the business of this House. On behalf of the Rules and Business Committee and on my own behalf, I am grateful that this Session which begun on 10th February, 2015, this House has passed 23 Bills. Over and above the Bills, we have adopted numerous Motions in addition to close to 160 statements, which have been raised in this Senate in the same period.

All these important legislative and oversight issues have been done because the hon. Senators have taken their work seriously. I hope that during the festive season, we will reconnect with our constituents and renew our energy so that come 2016, we take our counties and our people to the next level of prosperity through improved governance. I do not want to belabor this because we will also be moving a Motion of adjournment later. I would rather reserve my comments for that time.

I, therefore, lay this statement on the Table even as I wish hon. Senators a happy festive period once we adjourn later today.

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

Sen. (Dr.) Khalwale: On a point of order, Mr. Temporary Speaker, Sir. Whereas the statement refers to the activities in this Chamber, I would like to draw the attention of the Leader of the Majority to the fact that there are Sessional Committees, and I Chair one such Committee. If the end of the Session will mean the end for the Committees today, we will then find it difficult to continue sitting in the balance of the days we have this month and also when we come back from the end of year holidays. We need that it be made clear that the Sessional Committees will still remain in force until the beginning of the new session so that there is a budget for us to continue looking at the accounts of the other counties. We are having a serious backlog. I would beg that he bends backwards and accommodates this request.

The Senate Majority Leader (Sen. (Prof.) Kindiki): Mr. Temporary Speaker, Sir, I want to thank Sen. (Dr.) Khalwale for that timely and important observation that he has made. I have felt that there is need for us to relook at the whole issue of Sessional Committees. I have informally raised this issue with the Clerk for interpretation purposes.

Mr. Temporary Speaker, Sir, you will guide this House because according to the Standing Orders, the mandate of the Sessional Committees ends at the end of the calendar year. Technically this means they end today. I am not sure whether or not there is within the Standing Orders an allowance for extension of time, neither were the views of the Clerk final because I just ambushed him. I thought that is a matter you can direct this

House on. I would strongly support the extension of the work of Sessional Committees during this period between now and when we come back for the Fourth Session, either by a way of a resolution later this afternoon or some other mechanism, subject to the guidance of the Speaker on whether or not the Standing Orders allow.

The Temporary Speaker (Sen. (Dr.) Machage): The Leader of the Majority has clearly stated the procedure and regulations as per our Standing Orders. If the Chairpersons of the said committees were aware of this rule, I expect that they should have brought a Motion with the desire to extend the legality of the committees past the end of the year. I may suggest and waive the time required for you to submit that kind of Motion and approve on the Chair. Otherwise we will be time barred. That is the truth.

The Senate Majority Leader (Sen. (Prof) Kindiki): That is a wise and helpful ruling. Thank you for exercising your discretion to give time for that kind of Motion. Other than that, I request a clarification on whether, as the responsible persons do that, the Motion can be done as an omnibus for all Committees that are sessional or it should come from each Committee. If it is omnibus, then it has to come from the Senate Majority Leader, for all the sessional Committees, but if it is specific, it is the Chairpersons of the various sessional Committees to do individual Motions.

Sen. Hassan: Mr. Temporary Speaker, Sir, I sit in two sessional Committees including the Committee on Devolved Government. I am aware that we had planned county visits within the next week. I would ask the Senate Majority Leader to move a Motion that applies to all sessional Committees, so that it is an omnibus Motion for all the sessional Committees. That would be a better way to look at it. In case other sessional Committees have any incidental issues, they must dispense them off before the recess ends. They can also convene on account of that Motion.

The Temporary Speaker (Sen. (Dr.) Machage): The Senate Majority Leader and the Senate Minority Leader should have looked at this and come up with the way forward, according to their own thinking. But I have only received a request from Sen. (Dr.) Khalwale on the Floor of the House. Therefore, my order only affects the said Committee. We will be setting a bad precedent of sessional Committees extending their time with the hope that they will always be given an omnibus ruling. I do not accept that.

Sen. Sang: Mr. Temporary Speaker, Sir, while appreciating the direction you have just given, I have just tabled some documents before this House. I am the Chairperson of the Committee on Delegated Legislation, which is also a sessional Committee. In our Committee, we have also lined up activities for the next two weeks before we close for recess. I plead with you to allow us to do an omnibus extension, since we are talking about three Committees only; the Sessional Committee on Delegated Legislation, the County Public Accounts and Investments Committee (CPAIC) and the Committee on Devolved Government.

The Temporary Speaker (Sen. (Dr.) Machage): If you listened carefully, I have already ruled on that. I have given that mandate to the Senate Majority Leader and the Senate Minority Leader to consult and see whether that is necessary. I will be advised by the same.

Very well, we will skip Statement (b).

Chairperson Committee on National Security and Foreign Relations, you have a Statement.

CIRCUMSTANCES SURROUNDING THE DEATH
OF MR. COSMAS MUTUNGA AT KNH

Sen. Adan: Mr. Temporary Speaker, Sir, unfortunately, I do not have this Statement because the time given was very short. I have tried to push for it, but it is not ready. We have discussed the same with Sen. (Dr.) Khalwale and agreed that if we get the Statement even when we are on recess, we will share it with him, so that he can advise the relevant people that he is representing.

Sen. (Dr.) Khalwale: Mr. Temporary Speaker, Sir, the Vice Chairperson has mentioned that to me. I agreed with her because I am helpless. I cannot blame her because she is relying on being fed that information. I will bear with her and hope that during the holidays, she will share the information with me through email, so that I can pass it over to the respective families.

The Temporary Speaker (Sen. (Dr.) Machage): Very well. All the same you have agreed. Do as prayed for, and it will be appreciated by the House.

(Sen. Billow walked into the Chamber)

Let us go to Statement (d). Chairperson of the Committee on Finance, Commerce and Budget, you have a Statement to issue, as requested by Sen. Hargura. Do you want us to give you time to rest?

Sen. Billow: Mr. Temporary Speaker, Sir, give me a minute.

The Temporary Speaker (Sen. (Dr.) Machage): I will give you ten minutes. Chairperson or any Member of the Committee on Labour and Social Welfare.

DELAYED TRAVEL OF THE NATIONAL SOCCER TEAM
FOR THE RETURN LEG OF THE 2018 FIFA WORLD
CUP QUALIFIER MATCH AGAINST CAPE VERDE

Sen. Hassan: Bw. Spika wa Muda, wiki iliyopita niliuliza taarifa hii kwa sababu hili ni jambo nyeti. Watu wengi wako na hamu ya kujua matokeo ya safari ya Harambee Stars kwenda Cape Verde. Pia, tuliona matokeo mabaya kule Ethiopia. Ulitoa amri kwamba taarifa hii iletwe Jumanne. Taarifa hiyo ilipokosekana Jumanne, uliamuru iletwe Jumatano. Leo ni Alhamisi na Mwenyekiti hayuko na Kamati haina jibu. Tukienda likizo na kurudi baada ya miezi miwili, jambo hili litakuwa limesahaulika. Pia, kuna uchaguzi katika Shirika la Soka nchini. Ni lazima tujadili swala hili kwa urefu na upana.

Sen. Mbuvi: On a point of order, Mr. Temporary Speaker, Sir. This is a matter of public importance and there is public outcry. My brother, Sen. Omar, should have brought this matter before the Floor of the House through a Motion for Adjournment, under Standing Order No. 33 (2). Yesterday, we were with the Chair of Committee on Labour and Social Welfare.

The Temporary Speaker (Sen. (Dr.) Machage): Order, Sen. Mbuvi! I cannot deal with wishful thinking. That is what you wish should have been done, but I am acting on the reality of the Standing Orders. Please, let us use our time meaningfully.

Sen. Mbuvi: Mr. Temporary Speaker, Sir, in connection to that and pursuant to Article 25 of the Constitution and Standing Order No.195, could we summon the Football Kenya Federation (FKF) and all the officers of FKF, Cabinet Secretary for Sports, Culture and Arts to come before this House or the Standing Committee on Labour and Social Welfare to explain the rampant corruption in FKF, which is killing the performance of our national team; the Harambee Stars? Our memories are very fresh on the suffering that our national team underwent when they flew to Cape Verde and the poor performance in the World Cup qualifier matches.

The Temporary Speaker (Sen. (Dr.) Machage): Order, Sen. Mbuvi. Let me give you some guidance. You stood on a point of order. Just tell me what is not in order and I will appreciate.

Sen. Mbuvi: Mr. Temporary Speaker, Sir, I wonder why the Ministry of Sports, Culture and Arts and the Chairperson of the Committee on Labour and Social Welfare are reluctant to bring this Statement to this honourable House for prosecution.

The Senate Minority Leader (Sen. Wetangula): Mr. Temporary Speaker, Sir, I share the sentiments of Sen. Hassan. This matter is so important that I would expect that, even without any Senator requesting for a Statement, the Majority Leader on behalf of Government to rise and make a statement on the disastrous debacles that have bedeviled our Harambee Stars team. It is scandalous for a team to be beaten by Cape Verde. We have also been beaten by Somalia and other teams that you cannot even mention. We would want the Government to show the enthusiasm they always show when our athletes who, without any encouragement or involvement by Government, are always staring out there and wherever they come back home, they are received and hugged as if the Government did anything for them to run and win. We would want to see what the Government is doing to make football in this country---

The Temporary Speaker (Sen. (Dr.) Machage): You have made your point.

(Laughter)

Sen. Oremo: Mr. Temporary Speaker, Sir, would I be in order to request the Chair, and this is one of the incidences where Standing Order No.1 can be applicable, I know the Chair can seize the opportunity to apply Standing Order No.1 where the circumstance dictates that there is no other way forward.

Since we are likely to go on recess, will I be in order that you direct the Committee to hold sessions even from tomorrow and they summon the responsible officers including Minister for Sports, Culture and the Arts, to look into this affair thoroughly and we get a report. It is looking like soccer is going to the dogs. I excused the comments about going to the dogs, but now that we are going to recess, I think the only alternative is through the courtesy of Sen. Omar, that this matter now be properly placed before the Committee and the Minister be the first to appear to explain what has gone wrong.

Mr. Temporary Speaker, Sir, even in Ethiopia, in Addis Ababa, some of the team members were being barricaded in hotels, they could not leave the hotels in Addis Ababa. This is a great shame to a country which has got a Kshs2 trillion budget; that you cannot afford to take your team overseas. I stand guided by your ruling.

The Temporary Speaker (Sen. (Dr.) Machage): I see a lot of interest on this, but as I said, there is only one way for us. Let us agree to wait a little while, assuming that the Chair of the Committee might walk in. But, let me give him the benefit of doubt. I will make that ruling at the end of the statement.

Let us go back to Statement (b) Committee of Finance, Commerce and Budget. Sen. Billow, you have two Statements. We have gone back to (b). Are you ready?

ALLOCATION OF UWEZO AND YOUTH FUND TO MARSABIT
AND THE NEIGHBOURING COUNTIES

Sen. Billow: Thank you, Mr. Temporary Speaker, Sir. Sen. Hargura's request for a Statement on *Uwezo* and Youth Fund is due from the Ministry of Devolution and Planning which has been in the news in the last few weeks. We have not been able to get information. As we speak now, both the Principal Secretary (Ps) and the Cabinet Secretary (Cs) are not in office. They have a challenge getting somebody who can authoritatively sign a response. We tried yesterday and last week, we were unable to get someone to sign the Statement because of the changes that have been made before that and because of the issues that have been there regarding those officers.

The Temporary Speaker (Sen. (Dr.) Machage): Sen. Hargura, what do you say?

Sen. Hargura: Mr. Temporary Speaker sir, we are just at the end of the Session and my understanding is that if I do not get a reply, then it will elapse. So, what happens?

The Temporary Speaker (Sen. (Dr.) Machage): Well, you can either make a special request for extension or you again request for another statement in another session.

Sen. Hargura: Mr. Temporary Speaker, Sir, I would like to make a request for extension; that the statement does not elapse; and then revisit it again.

The Temporary Speaker (Sen. (Dr.) Machage): This is a House of records, and all requests are done in writing. Can you do that before the end of the day because when you make your request, I have also to document that I have approved or disapproved? That is how the House works, but I give you the leeway to do.

Sen. Hargura: Thank you, Mr. Temporary Speaker, Sir. I stand guided. I will put it in writing.

The Temporary Speaker (Sen. (Dr.) Machage): Very well. Let us go to Statement No. (b)

SUSPENSION OF NEW COMMERCIAL BANKS LICENSING
BY THE CBK GOVERNOR

Sen. Billow: I do not have an answer yet for the statement sought.

The Senate Minority Leader (Sen. Wetangula): Mr. Temporary Speaker, Sir, the answer to this Statement was directed by the Chair to be delivered last week. However, we did not manage to get it. On one of the days, the Chairman was not here, another day, I came slightly late. It is a question of such critical importance that I request the Chair to direct the Chairman to give the answer because he has been telling me in committees that he was coming to give the answer to my statement, I am surprised that he has no answer.

Sen. Billow: Mr. Temporary Speaker, Sir, the hon. Member is a Member of my Committee, we have not received answers yet, but I want to seek his indulgence that we can still pursue this matter, even within the recess, to ask the Governor to appear before the Committee and respond to the issues. I would ask my colleagues to accept that.

The Senate Minority Leader (Sen. Wetangula): On a point of order, Mr. Temporary Speaker, Sir. The importance of this statement is to the effect that after I requested for the statement here and my colleagues who follow the news can bear me out, the Governor of Central Bank went ahead to say that his ban on incorporation and licensing of new banks will not affect foreign banks. Are we a country serving foreigners or serving Kenyans? If a group of Kenyans blessed with immense wealth like our colleague from Nyeri decided to open a bank, why should they be blocked in favour of foreigners? This is something that the Chairman of the Committee should be able, at least, to make some interim policy statement on the Floor, because, we cannot have a country of double standards.

Sen. Kagwe: Mr. Temporary Speaker, Sir, With all due respect to Sen. Wetangula, I did hear him say that there might be people with immense wealth like our colleague from Nyeri. Could he substantiate, whether he means a Serjeant-at-Arms who is in this House, or who he is referring to as our colleague from Nyeri, because it is certainly not me?

The Temporary Speaker (Sen. (Dr.) Machage): Senator, the term colleague means from within and without. Why do you think you should be the victim? I will not accept your request because you were not mentioned.

Sen. Billow: Mr. Temporary Speaker, Sir, I agree with the Senator for Bungoma County. The Central Bank has lately been issuing this kind of orders. Recently, they attempted to increase their minimum share capital to Kshs5 billion and now they are issuing another order to suspend licensing of new banks without going through the appropriate procedures which requires *inter alia*, constitutionally, that they must involve public participation. In my view, I do not think that the Governor of Central Bank has powers to stop licensing of new banks. If anyone applies and meets all the basic minimum requirements provided for in the Central Bank of Kenya Act, he or she must be licensed.

However, I urge the Central Bank to desist from taking such actions without involving public participation. In this case, they should hold off such measures until we conclusively discuss it. I seek the indulgence of the House to wait until we get the Governor to appear before the Committee.

The Senate Minority Leader (Sen. Wetangula): Mr. Temporary Speaker, Sir, I thank the Chairperson for that candid interim Statement. I implore the Chair that he does not let the request lapse; that we carry it over to next session so that we get a

comprehensive answer on these unsolicited contradictory policy statements from the Central Bank of Kenya, from time to time.

Sen. Hassan: Mr. Temporary Speaker, Sir, I heard the Chairman say that some of these orders are in contravention of some of the constitutional principles. Whatever averments we make in this Senate, these orders are in force. Rather than wait for the Statement, the Committee on Finance, Commerce and Budget has the mandate to seize this opportunity to interrogate this matter and where possible make public pronouncements that speak to the illegality or constitutionality of some of these orders. This is because it is unfair and oppressive for any of those averments to be made in a manner that prejudices Kenyan business people.

The Temporary Speaker (Sen. (Dr.) Machage): The Chair is advised. Do you wish to comment on the advice?

Sen. Billow: Mr. Temporary Speaker, Sir, I have made it clear that as the Chair of the Committee on Finance, Commerce and Budget, we are directing the Central Bank of Kenya as Senate to stay their order to suspend licensing of new commercial banks until we meet and discuss and we are properly apprised of the matter. We will invite the Governor and make sure that the directive from this august House is complied with.

(Sen. Wetangula interjected)

The Temporary Speaker (Sen. (Dr.) Machage): Order! The Senate Minority Leader has no mandate in the election of the Senate Majority Leader. Not to the best of my knowledge.

Sen. (Dr.) Khalwale: Mr. Temporary Speaker, Sir, the House will remember that we passed a resolution about the stoppage of funds to four counties that had transgressed the provisions of the Constitution. When we applaud and feel happy that the comment by the Chairperson of the Committee on Finance, Commerce and Budget will be binding on the Governor of the Central Bank, are we sure that we are maintaining the cardinal principle that Parliament shall never speak in vain. The Chair needs to rule so that we are sure that those licences shall be respected as expected by the Chairperson.

The Temporary Speaker (Sen. (Dr.) Machage): Sen. (Dr.) Khalwale, you did not see me smile; neither did I laugh, but instead the Senate Minority Leader was so happy that he suggested that the Chair of the Committee on Finance, Commerce and Budget should be elevated to be the Senate Majority Leader. Do you still need me to answer for the Senate Minority Leader? I do not know what is in his mind. Stay put because I will not answer that.

INSECURITY ALONG THE MERU-ISIOLO BORDER

Sen. Adan: Mr. Temporary Speaker, Sir, Sen. Murungi requested for a Statement on the recent banditry attack at Kithiriome, Meru County which was presented before the House on Wednesday, 4th November, 2015. However, the Member requested for supplementary information on the following issues:-

1. The number of Borana cattle rustlers arrested since the attacks began on 21st November, 2015.

2. The members of the border resolution team chaired by the Eastern Regional Coordinator.

3. When the disarmament of all persons in possession of illegal weapons will be done.

4. How the Government is engaging the local communities with an aim of finding lasting peace.

5. The number of police reservists in Meru and Isiolo counties.

Mr. Temporary Speaker, Sir, since the commencement of the operation, the following Borana suspects have been arrested due to the cattle rustling menace and consequently charged before the courts. The cases are pending before the courts. They are:-

1. Jaldesa Habite Bonaya
2. Mohammed Borte Bora
3. Hadija Salesa Tuye
4. Dawi Duba
5. Mohammed Bante Jaldesa

The police are pursuing some suspects and once arrested, they will be arraigned before a court of law.

Mr. Temporary Speaker, Sir, the members of the joint Isiolo-Meru boundary dispute committee include:-

- | | | |
|-----------------------|---|--|
| 1. Clare Omollo | - | Regional Coordinator Eastern-Chairperson |
| 2. Wilfred Nyagwanga | - | County Commissioner, Meru |
| 3. George Natembeya | - | County Commissioner, Isiolo |
| 4. Martin Bikuri | - | County Executive Committee Member Lands and Planning Meru County |
| 5. Daniel Kamanja | - | Lands Registrar, Meru |
| 6. Alexander Njagi | - | Land Surveyor, Imenti North/Buuri |
| 7. John Wanyoike | - | Chief Valuer, Meru |
| 8. Harrisson Musumiah | - | Land Registrar, Meru Central |
| 9. Patriarch Munyalo | - | District Lands and Settlement Officer, Igembe |
| 10. Philip Mengi | - | Lands Registrar, Isiolo |
| 11. Stephen Njuguna | - | Surveyor, Isiolo |
| 12. Kimathi Kaberia | - | Land Surveyor, Maua |
| 13. Ahmed Shome | - | County Executive Committee Member Lands and Planning Isiolo County |
| 13. Beverly Opwora | - | Personal Assistant to Regional Coordinator |

Mr. Temporary Speaker, Sir, plans are underway to carry out disarmament of persons in possession of illegal firearms which will target all the communities residing in the area and the neighbouring communities.

Mr. Temporary Speaker, Sir, to ensure peace is restored, respective county commissioners have presided over public barazas and reconciliation meetings. The most recent peace meeting was held on 6th November, 2015. It involved the county security committees from both Meru and Isiolo counties at Ndumuru Police Station where the Turkana Community members handed over 11 head of cattle and 147 goats which had previously been stolen from Meru County. Other meetings have been held at Archers Post in Samburu East Sub-County, Ngaremara in Isiolo sub-County and Gambella in Tigania East sub-County.

Mr. Temporary Speaker, Sir, the following is the current strength of distribution of police reservists in Meru County:

Igembe North Division has 18, Tigania East Division has 20, Tigania West Division has 8 and Buuri Division has 31. Plans are also underway to vet and enlist additional reservists.

There are 253 reservists in Isiolo County though most of them are based in community conservancies. The distribution is as follows:

Nakuprat-Gotu has 14, Biliqo Bulesa has 21, Mpus Kutuk has 17, Narare Narapu has 14, Nasuuru has 15, Ngaremara Location has 13, Leparua has 25, West Location has 26, Garbatula sub-County has 22 and County Government Rangers are 84.

I thank you, Mr. Temporary Speaker, Sir.

(Sen. Adan laid the document on the Table)

Sen. Murungi: Mr. Temporary Speaker, Sir, I would like to thank Sen. Adan, the Vice Chairperson of the Committee on National Security and Foreign Relations, for this answer. I also take this opportunity to thank the Cabinet Secretary (CS) of the Ministry of Interior and Coordination of National Government, Mr. Nkaissery, for making very strenuous efforts to restore peace in the border area between Meru and Isiolo. I also thank the Government for appointing the Joint Meru-Isiolo Boundary Dispute Committee, which includes the membership which the hon. Senator has just read. However, we are worried about two issues. First---

(Sen. Mbuvi consulted loudly)

Mr. Temporary Speaker, Sir, could you protect me from the Senator for Nairobi?

The Temporary Speaker (Sen. (Dr.) Machage): Order, Sen. Mbuvi! You either consult in low tones or just keep your peace and allow Sen. Murungi to be heard.

(Sen. Mbuvi stood up in his place)

I did not allow you to talk, please, resume your seat?

(Sen. Mbuvi resumed his seat)

Thank you very much.

Sen. Murungi: Thank you, Mr. Temporary Speaker, Sir.

We are concerned about two issues. First, the Joint Meru-Isiolo Boundary Dispute Committee has already finished marking the boundary between Meru and Isiolo. However, we have heard very dangerous statements from the leadership of Isiolo, including the Governor for Isiolo, stating that they will not respect the boundary which has been fixed by the Committee. That constitutes inciting the public against the Government. I would like the Chairperson of the Committee to confirm to this House whether, indeed, that is the case or they were misreported in the media.

Secondly, as we are speaking, 15 people from the Meru community were charged in Isiolo Court as a result of a demonstration which was held in Isiolo against insecurity. Despite promises, among other things in resolving these conflicts, that the case would be withdrawn, it appears that the police still continue to harass the young men, some of whom were completely innocent. Could the Vice Chairperson also consider that matter and inform this House whether those cases are being proceeded with or whether they have been withdrawn, as promised, in an attempt to have the matter amicably resolved between the two communities? Otherwise, I thank the Government for the effort taken so far. We believe that the disarmament effort which has been promised will be carried out. When we come from recess, I will request for another statement to find out the number of illegal guns that would have been collected from those carrying out acts of banditry in the area.

Mr. Temporary Speaker, Sir, I thank the Chairperson of the Committee---

The Temporary Speaker (Sen. (Dr.) Machage): Hon. Senator, your intervention is too long. Could you, please, punctuate it?

Sen. Murungi: Mr. Temporary Speaker, Sir, in a summary, I have just requested for three issues only for the Vice Chairperson to assure this House about. First, she should tell us whether the boundary that has been fixed by the Committee will be respected by leaders of Isiolo.

Secondly, she should assure us that the cases that have been filed against the youth in Isiolo will be withdrawn in the spirit of reconciliation which the Government is talking about. Thirdly, that the disarmament effort is being undertaken in a serious manner and, come next year, we will be told about the number of illegal guns that would have been collected from that area. It is just those three issues.

I thank you, Mr. Temporary Speaker, Sir.

The Temporary Speaker (Sen. (Dr.) Machage): Vice Chairperson.

Sen. Adan: Mr. Temporary Speaker, Sir, let me confirm to Sen. Murungi that the Government is committed in terms of fulfilling what was agreed upon, and I am sure he has confirmed the same. Regarding the request that he has made, we will have to share with the relevant Ministry and give feedback as soon as it is available.

The Temporary Speaker (Sen. (Dr.) Machage): Very well.

Because I can see that either the Questioners or Chairpersons of other Committees are not around, let us go back to Statement (e).

DELAYED TRAVEL OF THE NATIONAL SOCCER TEAM FOR
THE RETURN LEG OF THE 2018 FIFA WORLD CUP QUALIFIER
MATCH AGAINST CAPE VERDE

The Temporary Speaker (Sen. (Dr.) Machage): Does the Chairperson of the Committee on Labour and Social Welfare have the answers to this?

Sen. Wangari: Mr. Temporary Speaker, Sir, from the outset, I want to confirm to the Senate that we are taking up this matter very seriously. What happened to the Harambee Stars was a shame to us, as a country, for the manner in which they travelled and arrived just a few hours before the match. It is sad that they did not even have time to freshen up. We have made deliberate efforts to get the statement from the Ministry. We were supposed to meet the Football Kenya Federation (FKF) officials today were it not for the extra sitting and we had to postpone the meeting. The Chairperson and our Committee Clerk have called the Ministry the whole of today morning, but we still do not have a response. However, I want to confirm that we are taking up the matter very seriously. We have not adjourned the Committee sittings. We will make even more effort to get an answer to this issue because it is of national importance. It actually touches on the pride of this country.

Sen. Kagwe: On a point of order, Mr. Temporary Speaker, Sir. I am just wondering whether we are talking about a horse that has already bolted. It is my considered opinion that football in Kenya is dead.

(Loud consultation)

Anybody trying to tell me otherwise, I would repeat what Hon. Shikuku and Hon. Seroney did, to say that there is no point of substantiating the obvious.

Has the Committee, for instance, met Harambee Stars themselves? They should ask the players themselves so that they can explain to them exactly what transpired. The issue of football in Kenya is such a serious issue that I think we have two choices; either we stop any expenditure in football completely or we fund them substantially in order for them to operate like a real football club. Quite frankly, it is a waste of time. This team is going nowhere, they will not succeed in doing anything and there is no point of us spending time even discussing them.

The Temporary Speaker (Sen. (Dr.) Machage): Order, Sen. Kagwe. Your thinking cannot be planted into other Senators. They also have issues that they consider important. It may not be important to you, but to Sen. Mbuvi, it is.

Sen. Mbuvi: Mr. Temporary Speaker, Sir, since this Statement has not been delivered by the Ministry through the Chairperson of the Committee on Labour and Social Welfare and since the Vice Chairperson is here, in addition to the Statement which they will deliver, I want the Chairperson, through the Ministry, to give a clarification on the three dossiers from members of the public, which I have here with me.

Dossier number one is on the agreement between FKF and MP & Silva, a company based in Monaco, whereby FKF received millions of dollars for the Kenya

Premier League (KPL). I will hand over the dossier to the Vice Chairperson so that she clarifies ---

The Temporary Speaker (Sen. (Dr.) Machage): No, let me see the documents first, whether they are worth tabling on the Floor of this House.

Sen. Mbuvi: Mr. Temporary Speaker, Sir, okay. Let me finish and then I table the documents because they are three. The first batch is an agreement between FKF and MP & Silva, a company incorporated in Monaco, France. It was agreed that MP & Silva sponsors the KPL clubs participating in our Premier League tournaments, where each of the clubs in the country was to receive Kshs1million on monthly basis during the period of the KPL. The money was wired to the FKF account. I have the FKF Statement here with me that the money was withdrawn in cash by Mr. Nyamweya, the FKF President and his deputies and misappropriated. The matter was forwarded to the Director of Criminal Investigation Department (CID) vide a letter dated 23rd June, 2015 but up to now, no action has been taken. What is the Ministry's position on this allegation?

I wish to lay the documents on the Table of the House.

(Sen. Mbuvi laid the document on the Table)

The Temporary Speaker (Sen. (Dr.) Machage): Let me look at the Statement.

Sen. (Eng.) Muriuki: Mr. Temporary Speaker, Sir, first of all, let me start by thinking that Sen. Kagwe is totally out of order for killing Harambee Stars before they are, in fact, dead. Well, hear me out. The point is, Harambee Stars and the players themselves could be quite in order but the people who are running the affairs of the club could be the ones with the problem. Even the money which the distinguished Senator for Nairobi is talking about is welcome. However, we were treated to a circus where they could not even travel despite the fact that the Government actually gave the team money in the morning to fly out to Cape Verde. They waited until night. We even hear that by the time they got where they were going, they had no money for hotel accommodation and so on.

May I request the House to give the Committee on Labour and Social Welfare where Sen. Wangari is the Vice Chairperson and, I, a member, time to look at this matter? As she rightly said, Harambee Stars themselves were to meet the Committee this morning and they were coming. It is only because we had a morning sitting that they did not. Perhaps we will have looked at all those matters including the papers laid by Sen. Mbuvi, then maybe we can give the House a proper answer.

The Temporary Speaker (Sen. (Dr.) Machage): Very well. Sen. Mbuvi, let me look at the other two documents. Just come to the Chair with the two documents.

(Sen. Mbuvi walked to the Dispatch Box)

That is the dispatch box. Come to the Chair.

Sen. Mbuvi: Mr. Temporary Speaker, Sir, I would like to table the documents. Do I give them to you first?

The Temporary Speaker (Sen. (Dr.) Machage): Let me look at them first.

(Sen. Mbuvi walked to the Chair and handed the documents to the Chair)

Open the page with the signatures, that is all I want. This is okay. We do not accept photocopies.

Sen. (Dr.) Khalwale: On a point of order, Mr. Temporary Speaker, Sir. With due respect, I think by way of procedure, what Sen. Mbuvi was attempting to do is the right thing. He is supposed to table and after he has done so, it is the clerk who is supposed to confirm to you that they are authentic or not---

The Temporary Speaker (Sen. (Dr.) Machage): Order, Sen. (Dr.) Khalwale!

Sen. (Dr.) Khalwale: Mr. Temporary Speaker, Sir, may I make my point ---

The Temporary Speaker (Sen. (Dr.) Machage): No. I will rule you out of order. Let me look at those documents because I want to allow him to table them. That is exactly what I am doing.

Sen. (Dr.) Khalwale: Mr. Temporary Speaker, Sir, with due respect, after he has tabled is when the clerks are in possession of the documents. It is only after the clerks have it that they can pass it over to you. Documents cannot come to the Chair directly from the Member on the Floor--

The Temporary Speaker (Sen. (Dr.) Machage): Order! That is your procedure. Mine is different today. The reason I am doing this is because I want this matter to be disseminated very fast to the Committee. The two documents he has given to me are in order.

Sen. Mbuvi, is that one in order? Do you have the same?

Sen. Mbuvi: This is the Statement on FIFA on the money that they have remitted and they have done the ---

(Loud consultations)

The Temporary Speaker (Sen. (Dr.) Machage): Order! Allow Sen. Mbuvi to table the documents. I order that these documents be delivered to the Committee to look at the information in the documents and make certain decisions that they cannot make now.

Secondly, I would request that Sen. Mbuvi and all interested Senators to present their views to the Committee. We may not turn this session to be of utmost importance or give you that sort of time that you may need to discuss those documents. It is so ordered.

The Senate Minority Leader (Sen. Wetangula): On a point of order, Mr. Temporary Speaker, Sir. What is unfolding is very critical. I would encourage the Chair to designate some timeline that the Committee, the recess notwithstanding, be given two weeks to summon all involved parties including the Cabinet Secretary (CS) for Sports, Culture and the Arts, the KFF leadership and any other people with important information to appear before the Committee including the distinguished Senator for

Nairobi and the information that he has and the causation of the matter, the distinguished Senator for Mombasa.

Then, because of the critical importance of the state of football in this country, we would want to encourage the Chair that when the report is ready, we are ready to come for a special sitting to deal with this matter. Those who are culpable must be made to feel the full force of the law. We cannot allow profiteers to infiltrate our sporting activities in the country and destroy the future and lives of young people who have talent that they can use to earn a living.

Sen. Obure: Mr. Temporary Speaker, Sir, I am concerned that we may be sending the wrong message from this House. As a former player of Harambee Stars, I am concerned about the statement made by the Senator for Nyeri, that Harambee Stars and the Kenyan football are dead. If that is allowed to go on the records of this House, we will be conveying a very wrong message to the country. We accept that football in the country has challenges. The ruling you have made this afternoon is probably the correct way to go. However, I want to be on record challenging the statement that football and Harambee Stars are dead. Indeed, football and Harambee Stars are not dead. It is only that we have challenges. That is what this Committee will tackle.

Sen. Orenge: On a point of order, Mr. Temporary Speaker, Sir. In view of your ruling of committing this matter to the Committee – the statement that was requested is limited to the Cape Verde incident only. Because of the interest the House has on this matter and because it is a matter of national interest, could the Committee extend its mandate and terms of reference to include management of Harambee Stars as a whole and not just limited to the trip to Cape Verde?

In view of the documents which the Senator for Nairobi has tabled, this requires a more in-depth inquiry. At the end of it, a report should be tabled and not just a statement being issued. We require a report from the Committee which will be debated.

Sen. (Prof.) Lesan: On a point of order, Mr. Temporary Speaker, in view of what Sen. Orenge has said, football or soccer is international. The Fédération Internationale de Football Association (FIFA), the international body in charge of football goes out of its way most of the time to assist several federations in various countries to improve their football. Would we ask the Committee as well to look at the regulations governing football in the country and align them to the requests of the body that governs football in the country so that this assistance from FIFA would be useful to the country?

Sen. Karaba: On a point of order, Mr. Temporary Speaker, Sir. As it has been stated, we are ashamed of the performance of Harambee Stars'. Kenya is known for very good performance in athletics and other sports; we need to find out what is ailing Harambee Stars and come up with a probe like the one which was led by Sen. (Prof.) Anyang'-Nyong'o regarding Kenya Airways; to find out exactly what is wrong. There are many things besides administration even in the recruitment of players, which leave a lot to be desired. So, can we think of coming up with a committee to probe this?

Sen. (Dr.) Khalwale: On a point of order, Mr. Temporary Speaker, Sir. I suggest that we take as a way forward the proposal by the Senate Minority Leader. This matter is so serious that we have reached a point whereby there is need to do a forensic audit on all the monies that Kenya Football Kenya Federation (KFF) has been handling. I say this

knowing that previously, FIFA has been stopping country governments from interfering with FIFA and its affiliated bodies' issues yet at the headquarters in Zurich, all the bosses have been suspended, including, Mr. Sepp Blatter. Therefore, the veil of this little bush that Mr. Sam Nyamweya has been hiding in should be removed and a forensic audit done so that if anything, he is found not fit to run for re-election at the forthcoming FKF election.

Sen. Hassan: On a point of order, Mr. Temporary Speaker, Sir. Part of my real intent of seeking the statement last week is because I was conscious of the last point that Sen. (Dr.) Khalwale made, particularly the FKF elections that are to be held next week. Therefore, that is why I had wanted, hopefully, to build on a consensus in this House where we can direct, as FIFA and other governments have directed, thorough investigations of FKF. Nothing stops our Criminal Investigations Directorate (CID). I had asked of the progress in terms of prosecution of Mr. Nyamweya over the botched Harambee Stars visit to Cape Verde and the circumstances surrounding the monies remitted by FIFA.

I am a bit anxious that this very team might be re-elected in the next election. Is there a way this Committee can make every frantic effort possible in the next day or two, to ensure that those elections are suspended until outstanding matters are investigated and culpability, whether criminal or otherwise, is allocated so that we can have a fresh start in soccer? If these elections proceed tomorrow or the day after and the same people are re-elected, they are likely to frustrate any further interventions we can make in the field of soccer.

Sen. Muthama: On a point of order, Mr. Temporary Speaker, Sir. Administration of football needs to be dealt with, not the players. Whoever is coming with suggestions that the team is dead is not telling the truth.

The most important premier league in the world is the Barclays Premier League in the United Kingdom (UK). It draws players from here; the best number six player all over the UK is Mr. Victor Wanyama who comes from Kenya. The best number 11 player who plays for Liverpool is Mr. Origi who also comes from Kenya. So, the problem is stealing money. Stealing! Stealing! Stealing and stealing! Deal with the stealing and the problem will be finished in this country. Thieves!

(Laughter)

Sen. Mbuvi: Mr. Temporary Speaker, Sir, I concur with Sen. Muthama. As leaders, to restore the Kenyan soccer to its lost glory, corruption at FKF must be dealt with. I do not know what powers the Senate has. The FKF elections will be held in the next few days. The FKF is in operation illegally contrary to Section 48 of the Sports Act. It is supposed to be registered under the Ministry of Sports, Culture and Arts, they have not done that.

Again, in view of your earlier ruling and pursuant to Article 125 of the Constitution and Standing Order No.195, we have the powers to summon the captains and the owners of the aircraft which was hired to transport our players to Cape Verde. There are allegations that the players flew in an aircraft carrying *miraa*. This is the same

airline that was involved in several air crashes. Three captains perished through aircraft owned by this airline.

Also, our players were not comfortable. They were not served meals or water for the 18 hours they were travelling. Before that, the FKF Chairman, presented an invoice of Kshs17 million to the Government. There was an invoice from Air Mauritius which was charging Ksh7.7 million for a return air ticket.

The Temporary Speaker (Sen. (Dr.) Machage): Pease, serve those details to the Committee, because I am about to rule on that.

Sen. Mbuvi: Much obliged, Mr. Temporary Speaker, Sir.

The Temporary Speaker (Sen. (Dr.) Machage): The definition of a dead Homosapien is when you have no pulse and the pupils are dilated and fixed. The definition of a dead football club is as varied as your own thinking, but every dark cloud has a silver lining. Maybe, a few Members of this House are looking at Harambee Stars as a dead club. It would good to resuscitate them. In resuscitating a dead person, sometimes we even use electric shocks. Maybe that is an electric shock, with some reasonable force.

I, therefore, rule that the Committee should include, in their investigations and report, all the issues that have been raised on the Floor of this House today. They should also study keenly the reports and documents tabled on the Floor of this House by Sen. Mbuvi. The urgency of the report is of paramount importance. I do not know whether two weeks are enough, but the important issue is not the short period of investigations. This is a chronic illness that has hit our football industry. The Committee should prepare a thorough report and table it within two months.

(Applause)

Sen. Orendo: On a point of order, Mr. Temporary Speaker, Sir. I do not know whether through the Senate Majority Leader we can impress upon the Government to take direct action. The Committee may come out with a beautiful report and nothing will really happen at the end of the day, although we will have known what is ailing our soccer. I know, as a matter of fact, that funds which come to our football federation from FIFA are in millions of dollars. That is why people are fighting over it. Indeed, in the coming election, the fight is over the dollars coming from FIFA. The connection between FIFA and our local football management is there to be seen. You can even see how we voted in Geneva. Could I impress upon the Senate Majority Leader to ask the Government to take some decisive action? With the documents that Sen. Mbuvi has presented before this House, if the Government can take quick action, maybe we will start dealing with the problem now rather than waiting until the report is out. There is an element of criminality in all this.

Sen. Mbuvi: On a point of order, Mr. Temporary Speaker, Sir.

The Temporary Speaker (Sen. (Dr.) Machage): Order, Sen. Mbuvi! I have tolerated Sen. Orendo's remarks. I made my ruling and did not intend to allow the opening of a debate. The mandate of the Committee extends to calling the Government, getting proper information and giving them proper instructions. I would not want us to spend the whole afternoon over this issue.

What is it, Sen. Wetangula? Is it on the same issue?

The Senate Minority Leader (Sen. Wetangula): On what Sen. Orengo has said.

The Temporary Speaker (Sen. (Dr.) Machage): I will not allow that. Let us move on.

The Committee on Finance, Commerce and Budget had some reports to be tabled.

(Sen. Murungi stood in his place)

Is it on the same issue?

Sen. Murungi: Mr. Temporary Speaker, Sir, I have a request for a Statement.

The Temporary Speaker (Sen. (Dr.) Machage): I remember that. Can we have a few requests for statements?

RELEASE OF DEVELOPMENT FUNDS TO
MERU COUNTY BY THE NATIONAL TREASURY

Mr. Murungi: Mr. Temporary Speaker, Sir, I rise to request for a Statement from the Chairman of the Standing Committee on Finance, Commerce and Budget. We are facing a very serious situation in Meru County, which needs very urgent intervention by this House.

Out of the 47 counties, Meru County is the only county which has not received any money for development this financial year. The Statement should address the following:-

(1) Is the Cabinet Secretary aware that it is only Meru County, out of 47 counties that has not received any cent from the funds for development, according to the press release by the Principal Secretary, National Treasury, dated 30th November, 2015?

(2) Why has the Cabinet Secretary to the Treasury not released any funds at all into the development account of Meru County from the Equitable Share of the national revenue to the county governments this financial year?

(3) What urgent steps is the National Treasury and the Controller of Budget taking to ensure that Meru County development funds are released with immediate effect, so as not to permanently and negatively impact and undermine the development in Meru through the budget system?

The Temporary Speaker (Sen. (Dr.) Machage): Very well. About two weeks ago, a Member of this House rose on a point of order regarding a situation where some counties were not receiving their money. Sen. (Dr.) Khalwale also rose on a point of order and, indeed, that Member was gagged for having said that some counties were not receiving their money. I would have been very happy to hear that point of order again today, but it has not been raised.

Where is the Chairperson of the Committee on Finance, Commerce and Budget?

Sen. Billow: Mr. Temporary Speaker, Sir, I want to give some brief information before I indicate when we can respond. I want to advise the Members, including the Senator for Meru, that every budget that has been approved by the county assemblies and

submitted to the Controller of Budget for 2015/2016 has a provision for development and recurrent budgets, which meets the requirement of the Public Finance Management Act.

Secondly, it is up to the counties, when they are requisitioning funds through the Controller of Budget, to clearly specify on the relevant application forms, whether they want the money for development or recurrent. What the Controller of Budget approves and is released by the Paymaster General in the Treasury actually depends on what you request. There are counties that for one reason or the other – maybe they are still planning their programmes – are not able to apply.

Even as we look at that matter urgently, I want to seek the indulgence of the Senator that he should take a few minutes to visit the Office of the Controller of Budget and examine the specific requisitions made by his county in the last quarter, to actually confirm whether or not they applied for development money.

Sen. Murungi: Mr. Temporary Speaker, Sir, it is our duty, as Senators, to protect the interests of the counties. I am aware that there are some budget issues in the county. Is there not something that the national Government can do to assist counties that have those problems, so that people do not suffer as a result of a deadlock between the governor and county assembly as far as the budget process is concerned?

The Temporary Speaker (Sen. (Dr.) Machage): Very well. The Chair of the Committee has listened and clearly heard your last question. I believe that he will include that in his reply.

KILLING OF ITALIAN INVESTORS IN MALINDI

Sen. Mbuvi: (*Words expunged at the order of the Temporary Speaker*)

The Temporary Speaker (Sen. (Dr.) Machage): Order, Sen. Mbuvi! Whereas what you are raising may sound juicy and so sad, I am not privy to your request for that Statement. Therefore, you are totally out of order. Can you follow the procedure for raising such issues?

The Senate Minority Leader (Sen. Wetangula): On a point of order, Mr. Temporary Speaker, Sir. While the distinguished Senator for Nairobi may be making very valid points – and I concur with you – all of us without exceptions, to make requests for statements, we normally submit them to the Clerk's Office. The requests are then passed on to the Speaker to determine some of the issues that may not be palatable to say on the Floor of the House, especially if we end up not substantiating them. When we request for statements, they must have degree of decorum. I am not saying that there is lack of decorum from the distinguished Senator for Nairobi. In fact, he is at liberty to say what he has said, but the tone we are hearing is one of debate other than demanding for a statement.

The Temporary Speaker (Sen. (Dr.) Machage): I have been advised that he has submitted that Statement to the Clerk but it is still being moderated. So, I request that you hold your horses until when it is brought back for the final signing.

Sen. Mbuvi: Much obliged, Mr. Temporary Speaker, Sir.

The Temporary Speaker (Sen. (Dr.) Machage): Very good. Now, I will order that everything on the subject that was said by Sen. Mbuvi is expunged.

MEASURES TO MITIGATE AGAINST THE
EFFECTS OF FLOODS IN ISIOLO COUNTY

Sen. Adan: Thank you Mr. Temporary Speaker, Sir. I rise to seek a Statement from the Ministry of Devolution and Planning through the Chair of the Committee.

Sen. Adan: Mr. Temporary Speaker, Sir, as I am standing here, Isiolo County is affected with floods and thousands of people are affected especially in the areas of Modogashe and Gubatu. These people have lost their houses and all the property they had. As we speak, all the pit latrines that they are using are flooded. Soon, these people are going to be affected with cholera and other diseases.

What is the Government doing as an urgent intervention to help these people to deal with the problem of floods? Again, I want to know if there is any measure that they are going to urgently put in place in terms of medication and food supply.

This is a very serious problem because up to now, nothing has happened and yet this has been going on since the rains started.

Thank you.

The Temporary Speaker (Sen. (Dr.) Machage): Devolution and Planning Committee Chair.

Sen. Lesuuda: Thank you Mr. Temporary Speaker, Sir. I do undertake that the Committee will look into this matter and report back when we are back in session.

The Temporary Speaker (Sen. (Dr.) Machage): It has to be either the first or the second week.

Sen. Lesuuda: First week, Mr. Temporary Speaker, Sir.

The Temporary Speaker (Sen. (Dr.) Machage): First week when the House is back in session.

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

Sen. Adan: Mr. Temporary Speaker, Sir, this is a very urgent matter and it involves people's lives. It cannot wait until we come. Can the Ministry do something?

The Temporary Speaker (Sen. (Dr.) Machage): Order, Sen. Adan. Once we go into recess, you know the procedure of recalling this House back to session during recess on an issue that you think is important. If you think it is so important, can you start the procedure by looking for at least 15 names of Senators that will apply for reconvening of the Senate during the recess period which will be then looked at by the Speaker. So, there is a process. We cannot just say we are extending the time tomorrow.

I had ruled that we were going to look at Statements for only one hour. We have exceeded that by nearly 30 minutes. I have other issues that I want done because they were skipped at the level of laying of Papers and I want that to be revisited. What is it Sen Lesuuda?

Sen. Lesuuda: On a point of order, Mr. Temporary Speaker, Sir. Since as a Committee we had once dealt with such a Statement to do with floods, we had to sent most of the Statements to the Ministry of Water and Irrigation, especially with regard to *El-Nino* because we know there are programmes that they have had---

(Loud Consultations)

The Temporary Speaker (Sen. (Dr.) Machage): Order Members. Let us have some decorum. She is on a point of order.

Sen. Lesuuda: Mr. Temporary Speaker, Sir, I wanted to bring to the attention of the Senator that some of the issues she has raised, the Ministry of Water and Irrigation could also be in a position to answer those questions.

The Temporary Speaker (Sen. (Dr.) Machage): The Committee also has the mandate to continue with its work during the recess although we are not encouraging any committee work in December. But if it is a matter of urgency, the Committee has that mandate. Even before presenting your report to this House, you have the mandate to give instructions to the Ministry concerned and action will be taken. Sen. Muthama, do you want to speak on the same issue?

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

The Temporary Speaker (Sen. (Dr.) Machage): Sen. Muthama, everybody has his own madness and that is mine. How do you give a rider to the Speaker's ruling?

Sen. Muthama: Mr. Temporary Speaker, Sir, I just want to touch on people's lives and not on the ruling of the Chair. The matter being raised concerns people's lives. In two week's time, *El-Nino* will not be there but people will have died. My kind request through the Chair is that the Committee should ensure this work is done now. It should ask the Minister to take immediate action with the current situation.

The Temporary Speaker (Sen. (Dr.) Machage): I am sure what we are discussing is on record and this Chair is also requesting the Minister to take action. Can we now have these Papers laid? Where is the Mediation Committee on Drought Management Authority Bill? Who has this Report? Joint Committees on Land and Natural Resources and National Security on Conflicts in Isiolo County. You have that report? Can you Table it?

PAPERS LAID

REPORT OF THE JOINT COMMITTEE ON FACT FINDING MISSION ON HUMAN-WILDLIFE CONFLICT IN ISIOLO COUNTY

Sen. Obure: Mr. Temporary Speaker, Sir, on behalf of the Chairpersons of the Senate Standing Committees on Land and Natural Resources and National Security and Foreign Relations, I wish to lay on the Table of this House today, 3rd December, 2015, the following Paper:-

Report on the fact finding mission on the human-wildlife conflicts affecting members of the Kina community in Isiolo County.

(Sen. Obure laid the document on the Table)

The Temporary Speaker (Sen. (Dr.) Machage): Very well. Now, we have some Petitions. Where is the Chairperson of the Committee on Finance, Commerce and Budget?

REPORT OF THE PETITION ON PASSAGE OF THE KIAMBU
COUNTY SUPPLEMENTARY APPROPRIATION BILL

Sen. Billow: Thank you Mr. Temporary Speaker, Sir. I beg to lay the following Report on the Table of the House today, 3rd December, 2015:-

Report of the Senate Standing Committee on Finance, Commerce and Budget on the Petition by some members of the Kiambu County Assembly, concerning the passage of the Kiambu County Supplementary Appropriation Bill (Bill No. 3 of 2015) with respect to funds for purchase of vehicles by the Kiambu County Government

Thank you.

(Sen. Billow laid the documents on the Table)

REPORT OF THE PETITION ON THE NEED
TO REDUCE THE NUMBER OF DEVOLVED UNITS

Sen. Lesuuda: Thank you Mr. Temporary Speaker, Sir. I beg to lay a Report on the Petition for the need to reduce the number of devolved units in Kenya by Major (Rtd.) Joel Kiprono Rop.

REPORT OF THE IPU GLOBAL CONFERENCE FOR
YOUNG PARLIAMENTARIANS

Report of the IPU Global Conference for young Parliamentarians held in Tokyo on the 27th to 29th May, 2015.

(Sen. Lesuuda laid the documents on the Table)

The Temporary Speaker (Sen. (Dr.) Machage): Very well. Sen. Adan.

REPORT OF THE MEDIATION COMMITTEE
ON THE NATIONAL DROUGHT MANAGEMENT AUTHORITY
BILL (NATIONAL ASSEMBLY BILL NO. 42 OF 2014)

Sen. Adan: Thank you Mr. Temporary Speaker, Sir. I wish to lay the Report of the Mediation Committee on the National Drought Management Authority Bill (National Assembly Bill No. 42 of 2014)

Thank you.

(Sen. Adan laid the documents on the Table)

Sen. Orengo: Mr. Temporary Speaker, Sir, I am worried by your direction that every time that somebody should go to the Dispatch Box, but I want to draw your attention to the fact that there is no Dispatch Box. We have a Table. In the National Assembly, there is a Dispatch Box. In the tradition of the House of Commons, the Lord Chancellor of the Treasury used the Dispatch Box for reading the Budget and so on.

The Temporary Speaker (Sen. (Dr.) Machage): Very well. I believe it is on a light touch. We are used to calling that Table a Dispatch Box, although there is no box here. It is the practice. We are using the Westminster system, and probably, we should have a Dispatch Box here. I get your nice joke.

I want to rule—

POINT OF ORDER

EXCLUSION OF SEN. WAMATANGI FROM PROCEEDINGS ON A PETITION FROM KIAMBU COUNTY

Sen. Wamatangi: Mr. Temporary Speaker, Sir, I rise to raise a point of order and also seek your indulgence. A report has just been tabled concerning a Petition regarding the purchase of motor vehicles in Kiambu County. In this particular matter, I was the petitioner on behalf of the Members of the County Assembly (MCAs) of Kiambu.

Although I had absolute faith in the Chairperson and the Committee on Finance, Commerce and Budget, I want your indulgence on how this process has been conducted, the investigation carried out by the Committee and a report tabled to this House without my involvement. I am the one who raised the issues in this House.

Mr. Temporary Speaker, Sir, how did the Committee proceed to conclude the report without even calling me for a meeting? I went to the meeting once. However, the process was concluded and a report tabled in this House without involving me. I do not have any record of one single time as the petitioner, when I have been invited by the Committee to either participate or be privy to what has been going on.

The Temporary Speaker (Sen. (Dr.) Machage): Very well, point taken.

Chairperson of the Committee on Finance, Commerce and Budget?

Sen. Billow: Mr. Temporary Speaker, Sir, the provision in the Standing Orders is that when a Committee concludes a Petition, it forwards its report through the Clerk's Office which will then forward the report to the petitioners and a copy of the report is tabled here in the Senate. That is what I have just done. The actual petitioners will receive copies through the Clerk's Office. I am surprised he has not received it. They normally dispatch copies to petitioners and give us a copy to table in the House after such a report has been approved by the Speaker.

However, we, as a Committee did provide an opportunity to the Senator and his colleagues and the petitioner to appear before the Committee and we listened to them. We also gave an opportunity to the MCAs to be present. Based on the evidence that we had, the Committee went ahead to finalize its report.

I agree with him that we did not involve him in the writing, the conclusion or recommendations of the report. However, as a Committee, our position was that once

they have received the presentation from the Senator of the county and the other petitioners, we went ahead and finalized our report which has been forwarded to the members. If he has not got a copy, I will check the Clerk's Office to ensure that he gets a copy of the same.

The Temporary Speaker (Sen. (Dr.) Machage): Order! I want you to look at Standing Order No. 227(2). I believe that the Chairperson of the Committee on Finance, Commerce and Budget was relying on that. Therefore, the process was in order, except for one thing, that the Chairperson has promised to submit the report as per our Standing Orders to the petitioner.

If it is true the petitioner and his other cohorts were invited, then he is quite in order. Make sure that the petitioner gets the report. The petitioner is also a Member of this House although the Standing Orders do not allow any discussion of that report. There are many ways of re-opening up the matter. Follow that route and you will be home and dry.

An issue was raised at the start of this House over sessional Committees whose reports were not ready. I have been looking at the tradition of what has been going on. I found out that the practice of Parliament has been that the lives of sessional Committees stand extended until the commencement of the new session, so, you have enough time. The Committees will stand extended up to 9th February, 2015.

Next Order!

Sen. Wamantagi: On a point of order, Mr. Temporary Speaker, Sir.

The Temporary Speaker (Sen. (Dr.) Machage): Sen. Wamatangi, is it on the same issue? I will be badly scratched because once I have made a ruling, the subject remains closed.

Next Order!

BILL

Second Reading

THE WATER BILL (NATIONAL ASSEMBLY BILL NO.7 OF 2014)

(Sen. (Prof.) Kindiki on 1.12.2015)

(Resumption of Debate interrupted on 2.12.2015)

(The Division Bell was rung)

The Temporary Speaker (Sen. (Dr.) Machage): We are on Order No.8 on your Order Paper. Can the secretariat ascertain the numbers? I have been advised that we have the numbers. Can we have the Bar closed and we are going to execute Order Nos.8, 9 and 11 respectively. Nobody will draw back the Bars without my permission. Can you log in? Mine is not working but I will be assisted.

DIVISION**ELECTRONIC VOTING**

(Question, that the Water Bill (National Assembly Bill No.7 of 201) be read a Second Time put, and the Senate proceeded to vote by County Delegations)

AYES: Sen. Adan, Isiolo County; Sen. Billow, Mandera County; Sen. Bule, Tana River County; Sen. Chiaba, Lamu County; Sen. Hassan, Mombasa County; Sen. G.G. Kariuki, Laikipia County; Sen. Karaba, Kirinyaga County; Sen. (Dr.) Khalwale, Kakamega County; Sen. (Prof.) Kindiki, Tharaka-Nithi County; Sen. Kittony, Baringo County; Sen. (Prof.) Lesan, Bomet County; Sen. Lesuada, Samburu County; Sen. M. Kajwang, Homa Bay County; Sen. (Dr.) Machage, Migori County; Sen. Mbuvi, Nairobi County; Sen. Mohamud, Wajir County; Sen. Mungai, Nakuru County; Sen. (Eng.) Muriuki, Nyandarua County; Sen. Muthama, Machakos County; Sen. Obure, Kisii County; Sen. Orengo, Siaya County; Sen. Sang, Nandi County; Sen. Wamatangi, Kiambu County; and, Sen. Wetangula, Bungoma County.

NOES: Nil

The Temporary Speaker (Sen. (Dr.) Machage): Hon. Senators, the results are as follows:-

AYES: 24

NOES: Nil

ABSTENTIONS: Nil

(Question carried by 24 votes to nil)

(The Bill was read a Second Time and committed to a Committee of the Whole today)

COMMITTEE OF THE WHOLE

(Order for the Committee read)

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

IN THE COMMITTEE

[The Temporary Chairperson (Sen. Ongoro) took the Chair]

THE WATER BILL (NATIONAL ASSEMBLY BILL NO.7 OF 2014)

The Temporary Chairperson (Sen. Ongoro): What is not in order the Senate Minority Leader? We have barely started.

Disclaimer: *The electronic version of the Senate Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Hansard Editor, Senate.*

The Senate Minority Leader (Sen. Wetangula): On a point of order Madam Chair. I have consulted with the Senate Majority Leader and the Bill that we are taking to the Committee of the Whole as currently constituted has a lot of flaws. I have talked to the Senate Majority Leader and he gave me an assurance that the Committee had prepared far reaching amendments to the Bill. Neither is the Chairperson of the Committee nor his Vice Chair present.

The amendments listed on the Order Paper are purely editorial and they do not touch on the fundamentals of the Bill. We cannot, in this day and age be creating close to 15 parastatals in one single Ministry when we are talking about cutting down costs of managing public affairs.

Madam Chair, I have consulted with my brother the Senate Majority Leader and we are of a joint opinion that we give the Committee an opportunity to look at the Bill properly. We are different from the other House and I expect that we do much better than that. Once we agree, we can have a Special Sitting if the Bill is that urgent to go through the Committee at a near date. As it is, I am afraid that our team will not lend a vote to the Bill as currently constituted because it is not good. However, it can be improved on and made acceptable.

The Temporary Chairperson (Sen. Ongoro): The point you are raising is valid and I have just taken over the Chair of the Committee of the Whole and by good luck, the Mover, the Senate Majority Leader, is also in the House. I need his response before giving a ruling.

The Senate Majority Leader (Sen. (Prof.) Kindiki): Madam Chair, it is true that the Senate Minority Leader raised a number of concerns and we have consulted. It is also true that I got assured by the Committee and I speak in respect of the Chair of the Committee, Sen. Kivuti and the Vice Chair, Sen. Khaniri. The assurance they gave me was that they had not only gone through the Bill and made substantive amendments, but also that they had tabled those amendments and therefore they were before this House.

I went ahead yesterday to counter-check with the Clerk whether it is true. The Clerk confirmed that it was true that the amendments had been tabled. That is the information I shared with the Senate Minority Leader. However, what I do not want to go on record and to be challenged on is the innuendo created by the Senate Minority Leader that I gave him assurances on the quality of amendments because that is not my role.

Madam Temporary Chairperson, I moved this Bill during the Second Reading and as per the requirements of the Standing Orders and practice, the Committee did their work. My responsibility as the Mover and sponsor of this Motion was to get assured that the Committee, as the experts, has examined the Bill which I got. Secondly, that they have made those amendments available by tabling it, which assurance I got.

In fact, I had to push through the Rules and Business Committee (RBC) and the Senate Minority Leader is aware about this. At one point, I demanded that the RBC makes a resolution that the Bill be brought with or without the input of the Committee because the Standing Orders allow that when a Committee cannot bring amendments or a Report within 30 days, the House is at liberty to proceed.

I am concerned because sometime earlier in this Session, this Senate was totally united in criticizing those who wanted to undermine this House by either hoarding or

refusing to submit the Bills to us. In the same breath, I find it a contradiction that when those Bills come to us, they take forever. When Committees report, sometimes the reports are not satisfactory, as the Senate Minority Leader has said. Therefore, time has come for this Senate to decide. You cannot have your cake and eat it at the same time. It is either you have the cake or you eat it. I am torn between what the Senate Minority Leader has said, which I am sympathetic to because we have to do justice and quality work.

I am willing, subject to the directions of Chair, to consider a proposal, as requested by the Senate Minority Leader, to give the Committee not more than five days to sit down and simply do their job and submit a report so that the Senate can be recalled, possibly before Christmas because this Bill is urgent. The President has been on my case almost on a weekly basis concerning The Climate Change Bill.

However, the damage has already been done, because by the time The Climate Change Bill was passed by this House two days ago, COP21 was already gone and the President of Kenya had already addressed the Assembly of State Parties. So, whatever the benefits this country would have got from our delegation reporting that we have complied with the requirement under the United Nations Framework Convention on Climate Change, in terms of even accessing carbon credits trade, were forgone. Last night I briefed the President and our Cabinet Secretary (CS) in Paris was instructed to give that update, because we did not want the President to give an inadequate or incomplete update.

I painfully agree with my brother, but require the Chair to be strong in terms of the Committee. You should allow them, over the weekend or early next week, to give a proper review of the Bill and substantive amendments. Then, we could consult in the usual way and, perhaps, arrange for a Special Sitting, because this is an urgent Bill and it is has been here for a long time. It does not look good on the record for the Senate to keep Bills forever.

The Temporary Chairperson (Sen. Ongoro): Thank you. Before we proceed, let me give my opinion on this. As I said earlier, the Senate Minority Leader raised a very valid concern pertaining to this Bill. I have also listened to the Senate Majority Leader, who has also given a very convincing, substantive and elaborate response.

I have just asked for details about this Bill and what is emerging is that at the Second Reading stage, apart from the Mover and the Seconder, only one other Senator contributed to this very important Bill and they did not even finish their contributions because of constraints of time. In view of that, I will---

An hon. Senator: On a point of order, Madam Temporary Speaker.

The Temporary Chairperson (Sen. Ongoro): I do not see anything out of order with my response. Could I finish first?

In view of all these matters arising, I am compelled to agree that we should give this Bill more time. The Water Bill has no time limit, but it is a very important Bill. In view of the fact that both the Chairperson and the Vice Chairperson are not in the House, but Sen. Obure who is a Member of the Committee is here, before we proceed, I request that we give him time to give us an undertaking on behalf of the Committee and request for one or two weeks or whatever number of days, to go and do a proper review and give us substantive amendments. This is because what we have here actually lacks in

substance. I agree with the points of both the Senate Majority Leader and the Senate Minority Leader.

Having said that, I will allow the Senate Majority Leader, the Senate Minority Leader and finally the Member of the Committee to make their contributions.

The Senate Majority Leader (Sen. (Prof.) Kindiki): Madam Temporary Chairperson, this is a House of record. I agree with what you have said 100 per cent. However, allow me to say two things. First, in terms of how many people debated, I do not think the lack of debate on the Bill can be visited on any particular person, except the absence of Members. The Bill was in the Order Paper and the seconder was well aware. In fact, I made a lot of effort to ensure that Sen. Wetangula was informed that it was the first Order in the morning, at 9.00 a.m. He assured me that he was on his way, but got caught up in traffic. We were only three Senators here and the Senate cannot wait for Senators.

I can see that you want to hurry me up, but I want to make it clear that I have no interest in the Bill. I have already said the position of the Government. But since I am a Member of this Senate, procedure must be followed, but also truth must be told. If Members are not present during debate, you cannot blame the Senate Majority Leader or the Government. You should actually blame those Members. Why should they get an advantage simply because they never showed up when there was a Sitting for debate?

Secondly, the issue of the work of the Committee is a matter that we have discussed extensively in the Rules and Business Committee (RBC). The Senate Minority Leader and I have anguished. With great respect to our Committees, especially the relevant Committee here – I can see Sen. Obure, a very distinguished and seasoned parliamentarian – I am dissatisfied with the pace, generally, the quality and the importance some of our Committees give to legislative agenda.

For us to come here and look bad, as if we rushing a Bill and yet the Committee had a lot of time to do the work. If it is my Bill, it means that if it passes the way it is, technically, I would be satisfied. However, as a Senator, I will stand to benefit if the Committee does quality work as experts, and through their work, we are able to debate exhaustively.

Madam Temporary Chairperson, I would like you to also consider the fact that the debate was truncated and it is not connivance. All of us have water issues.

The Temporary Chairperson (Sen. Ongoro): Senator, could you bring your contribution to a close?

The Senate Majority Leader (Sen. (Prof.) Kindiki): I am concluding, Madam Temporary Chairperson.

The Temporary Chairperson (Sen. Ongoro): You are now contradicting yourself.

The Senate Majority Leader (Sen. (Prof.) Kindiki): I am not contradicting myself. I would be happy even if we came for a Special Sitting on this matter. However, I would like the Committee appropriately reprimanded for taking too long on a Bill which had even forced me to write to the President, as the Senate Majority Leader, which is unusual. These are issues that my colleague should not take for granted. It is unusual for

the Senate Majority Leader to address the President on a letter indicating that we are not getting Bills. Then, when he asks me why Bills get stuck in our House, I look like a fool.

The Temporary Chairperson (Sen. Ongoro): Let us allow the Senate Minority Leader to make his contribution.

The Senate Minority Leader (Sen. Wetangula): Thank you, Madam Temporary Chairperson for the direction you have taken. Let us put the record right. When this matter came on the Floor and debate started, it was stepped down at the end of time. The reason we agreed to sit this morning, from 9.00 a.m. to 1.00 p.m., was to deal with two issues; the Kenya Airways Motion and one Motion from the County Public Accounts and Investments Committee (CPAIC). It is mysterious how this Bill found its way on the Order Paper. Then, it comes in the morning at 9.00 a.m. when Members were coming to debate the Kenya Airways Motion and it was then – to use the Senate Majority Leader’s word – truncated.

(Sen. Bule walked to the door)

The Temporary Chairperson (Sen. Ongoro): Senator, the Bars have been drawn and you cannot leave the Chamber using any exit. Take your seat.

(Loud consultations)

The Senate Minority Leader (Sen. Wetangula): Madam Temporary Chairperson, before I say how many days, let me bring to the attention of Members because some of us may not have paid adequate attention to this Bill or had time to read it. Under the Fourth Schedule, water is a shared responsibility between county governments that we represent here and the national Government.

In the entire Bill, county governments are completely excluded from any participation in matters water. I do not know any Senator here who would be comfortable with that situation. That is why I was appealing to my brother and he had no difficulty with that; that we need serious amendments to this Bill including the possibility of the Committee – I share your frustrations – even inviting experts to assist them to align the Bill to devolution.

So, I agree. Use your discretion and give us an opportunity and time where if the Chair feels necessary, we can recall the House to pass the Bill and then move to other businesses. More importantly, we should not feel self-pity, sorry or indictment about this Bill. We have 23 Bills from this House, passed, sent to the National Assembly but they have never found their way even to the House Business Committee.

Madam Temporary Chairperson, this House has done very well in passing Bills coming from the National Assembly. This is just one of them. The only Bill that the National Assembly has ever dealt with and passed is the Bill by Sen. Sang which was eventually challenged by governors and put in the cooler by the courts. None of our Bill has seen the light of day in that House.

As my brother continues engaging the Executive and others, we urge you to talk to your “endless talking” counterpart in the “Lower House” to see that there is need also

to deal with Bills from this House. I am reliably informed by my Members in the House Business Committee that he swears that he does not want to see anything from the Senate in that Committee. Those are honourable Members and they cannot be telling me a non-truth because I am their leader. I ask them where our Bills are and they say that the Majority Leader who determines what goes there swears – not says, swears – that he does not want to see any matter from the Senate.

So, we urge you to also use your offices. If you can write to the President, you can also write to him to make him understand that this is a bicameral system. There are two Houses of Parliament and not one. It will never change. We must live up to this reality.

The Temporary Chairperson (Sen. Ongoro): Thank you. I will give one intervention to Sen. (Dr.) Khalwale and then we conclude with Sen. Obure. I think we have already generally agreed on the way forward.

Sen. (Dr.) Khalwale: Madam Temporary Chairperson, I just want to be on record. When the rules of this House are being broken and we are silent, it might be deemed to mean that we do not know them. In my many years in this House, I have never seen debate take place when the Bars are drawn. Bars are only drawn during Division. That you have drawn Bars, up to and including now, it means that you have set the rules of this House aside.

Sen. Hassan: Confinement!

Sen.(Dr.) Khalwale: I dissociate myself with that breach and insist that we will not start changing rules because a different person is in the Chair. We will go by the rules according to the traditions of this House and the provisions of the Standing Orders.

The Temporary Chairperson (Sen. Ongoro): Thank you for your intervention, Sen. (Dr.) Khalwale, and your very valid observation. I took the Chair after the Bars were drawn and there was a general and unanimous agreement by all Senators that that should be the position, so that we dispense of the business before us. That was my reading of the body language and comments before I took the Chair. However, we need to bring this to a close.

Can we hear from a Member of this Committee, Sen. Obure? In one minute, stick to what I requested you to do earlier.

Sen. Obure: Madam Temporary Chairperson, I agree that the Senate Minority Leader has raised important issues relating to the quality of the amendments which are being proposed. However, let me also say that this Bill has been subjected to all the processes stipulated in law making. We have had wide consultations with stakeholders. I am also aware that this Bill was subjected to public participation. In addition, all the existing water institutions have been to workshops with the Committee as a result of which some of the amendments proposed were made. We have had consultations with the Council of Governors (CoG) which has the mandate to administer the function of water.

The Temporary Chairperson (Sen. Ongoro): Order, Sen. Obure. We did not ask you to take us through all that. Your responsibility is to agree with us on the position that has been taken by the House and on behalf of the Committee, request for a specific duration during which you will interrogate as earlier agreed.

Sen. Obure: Madam Temporary Chairperson, I think I have a responsibility to try and explain the processes. My Leader has made a general accusation ---

The Senate Minority Leader (Sen. Wetangula): Who? Me?

Sen. Obure: Yes. My Leader has made a general accusation about the Committee failing to do its work. I am not convinced that this accusation is justified; that it has a basis. This is because right now, I am not even exactly sure what specific amendments my Leader has in mind. I am not aware of the specific amendments.

The Temporary Chairperson (Sen. Ongoro): Please, conclude.

Sen. Obure: Madam Temporary Chairperson, the Committee has been prepared all along to receive input from the Senate Minority Leader or any member of the public. If we will meet again, I will invite any member of the public and specifically the Senate Minority Leader, to make his input to these amendments.

However, I think it is grossly unfair to the Committee because we have taken all these time trying to get views from members of the public as a result of which these amendments have been proposed. Therefore, my point is that I feel a little hurt. Being a Member of that Committee, I know how hard we have worked and it is not just fair that this allegation should be made against the Committee.

Sen. Orengo: On a point of order, Madam Temporary Chairperson. It has never happened in ---

(Loud consultations)

The Temporary Chairperson (Sen. Ongoro): I gave my ruling.

Sen. Orengo: Madam Temporary Chairperson, you know the Bars are still drawn. You cannot have this process going on when the Bars are drawn because we are even debating as if we are imprisoned. I mean, during this process---

For the Senate Minority Leader and the Senate Majority Leader to argue before us in the manner that they have done when they have possibilities of dealing with matters – including why this matter is in the Order Paper – it is something that they would have dealt with a little bit differently. However, I am more concerned about being kept a prisoner here for this amount of time, we are debating and there is no conclusion to this debate.

The Temporary Chairperson (Sen. Ongoro): Hon. Senators, we have to bring this to a close. However, Sen. Obure, you did not come out clearly on how many weeks you requested. Therefore, I will make a ruling.

Before, I proceed, I ask all Senators that having made these observations, the general agreement is that the interventions that we were to deal with were not substantive. Therefore, any Senator with proposed amendments - I heard occasion to listen to the Senate Minority Leader, if only you could concretize those proposed amendments that you had and put them in writing, so that we have them before the Committee of the Whole when we proceed with this.

In conclusion, Senate Majority Leader, before you proceed, you took us through a long analogy of who should be blamed. This House has leadership and in case any Committee is under-performing, the buck stops with the leadership of the House. From where I sit, it is not upon the Chair to reprimand anybody. We have a leadership in this Senate. It is upon you to undertake and know how your committees are performing and

why they are under-performing. Having said that, you are supposed to tell us how much time we should give you.

The Senate Majority Leader (Sen. (Prof.) Kindiki): Madam Temporary Chairperson, I accept your statement and direction. I have only one issue to clarify, which is, having listened to a member of that Committee – and for your information after consulting the Chairperson and the Vice Chairperson, I was asked to deal directly with Sen. Obure as the representative of that Committee.

Madam Temporary Chairperson, I beg for your attention. The Committee delegated Sen. Obure to speak on its behalf. He has just told us that they did their job. Therefore, the question we are dealing with is not whether they did their job or not because they did. The question is whether their job was good enough or not. That is a different matter altogether.

*(The Temporary Speaker (Sen. Ogoro)
Spoke off the record)*

Madam Temporary Chairperson, why are you gagging me? Not unless you have a personal interest in this Bill. It is my Bill. My counterpart stood here and made very damaging remarks about my motives.

The Temporary Chairperson (Sen. Ogoro): I will not take that kindly. I do not have any interest in this. All I said is that this House has leadership and the buck stops with it. From the way you are contributing, it is as if I am supposed to reprimand your Committees.

The Senate Majority Leader (Sen. (Prof.) Kindiki): You are the Temporary Chairperson. You are presiding over the Committee of the Whole.

The Temporary Chairperson (Sen. Ogoro): Even if I reprimand them at this stage, it cannot change the content of this report.

The Senate Majority Leader (Sen. (Prof.) Kindiki): No, no, no. Why do I not conclude?

The Temporary Chairperson (Sen. Ogoro): Allow us. The buck stops with you. Ask for the number of weeks that you want--

The Senate Majority Leader (Sen. (Prof.) Kindiki): No! They have talked to everybody.

The Temporary Chairperson (Sen. Ogoro): Now, we are considering the contributions of Sen. Orengo and Sen. (Dr.) Khalwale. I now order that the Bars should be open.

The Senate Majority Leader (Sen. (Prof.) Kindiki): Which time? What for? I am changing my mind because---

The Temporary Chairperson (Sen. Ogoro): Open the Bars!

The Senate Majority Leader (Sen. (Prof.) Kindiki): No!

The Temporary Chairperson (Sen. Ogoro): Open the Bars!

The Senate Majority Leader (Sen. (Prof.) Kindiki): I am changing my mind because the concession in---

The Temporary Chairperson (Sen. Ongoro): Open the Bars! We do not have any reason to continue in this scenario.

Senate Majority Leader, ask for the specific number of weeks for your Committees so that they bring a substantive report to this House.

The Senate Majority Leader (Sen. (Prof.) Kindiki): One day to interview the Senate Minority Leader then we come for a Special Sitting.

The Temporary Chairperson (Sen. Ongoro): No problem. When do you want to interview him? How many weeks? We are giving you the first week after we report. Bring us your substantive report.

Next Order!

Sorry, we are reporting progress then we move to the next order.

Sen. (Dr.) Machage, take the Chair to report progress.

Senator Majority Leader, you have one minute to report progress.

(Loud consultations)

Order, Senators! Can we allow the Senate Minority Leader to undertake his responsibility in silence?

According to the procedure of the House, we cannot proceed. Progress must be reported.

(An hon Senator spoke off record)

The Temporary Chairperson (Sen. Ongoro): Then tell us there is no progress!

The Senate Majority Leader (Sen. (Prof.) Kindiki): No, Madam Temporary Chairperson. I was overwhelmed with the uproar before I concluded my point. Having listened to Sen. Obure, as far as the Committee is concerned, they talked to all stakeholders and invited them to bring amendments. To the best of my understanding, if the Committee has conducted public participation, if any other Senator wants to bring amendments, they can bring them now, in which case, I find no reason why we should not proceed. I am beginning to suspect that my brother tricked me into a consensus while his aim all along was just to sabotage Government legislation for nebulous reasons.

As a way of consensus, I would only concede if the Committee is given two days to get the Senate Minority Leader's proposals then they issue a report and the House can now consult on when to sit.

(Loud consultations)

The Temporary Chairperson (Sen. Ongoro): Please let us listen to the Senate Majority Leader.

The Senate Majority Leader (Sen. (Prof.) Kindiki): Thank you, Madam Temporary Chairperson. You have protected me after a long time. I appreciate. I request that the Committee be directed to spend two days to interview anybody else they have not interviewed and get the recommendations of the Senate Minority Leader and after the

two days, this Senate in the normal process should be open to a Special Sitting to pass this Bill.

The Senate Minority Leader (Sen. Wetangula): Madam Temporary Chairperson, I have listened to the Senate Majority Leader very carefully. The process of legislation is not about bravado, it is about consensus building. We are here to legislate good laws.

First, this is not one of the Bills that has a constitutional deadline.

Secondly, if we wanted to knock down this Bill, we would have voted against it in the previous vote that we took before we came to Committee. We were only 24 and all of us voted to pass it. So, I find it out of tune for my distinguished learned junior to say that.

Madam Temporary Chairperson, I sit in this House much longer than my brother does as a commitment to legislation. I sit here for long hours and we are not as a House – I am speaking with the greatest humility and respect to you – we are not here to legislate at any rate, in any event. We must give the country good laws. When I was debating this, Sen. G.G. Kariuki was here, and after my debate which I did not finish, he came to me and said that he should also join me to look at those amendments. This is because we cannot pass a law – I have looked at the amendments – that somebody sitting in Nairobi has to go to Laikipia County to form a Committee to manage a wetland when we have county governments.

Madam Temporary Chairperson, I have a contribution to make and many Members have contributions to also make. If my brother insists that we go on and defeat the Bill, what will we achieve? We want laws to run the country. We also want a consensual approach with dignity and with respect to each other. What interest and business do I have to trick you into consent? I talk to you as a distinguished colleague, a fellow lawyer, a professor of law, a Leader of the Majority and a person who has exhibited limitless patience. I do not know why he has lost his cool today. He has been very patient in this House and he will do a lot more that way.

Madam Temporary Chairperson, we are opposition and we carry no responsibility to cause anybody. But you as Government have a duty to cause us to get legislation through. We can be disruptive and say nothing will go through. I want us to work as a team if we have to help this country. If we are agreed that we put off the matter, let us also agree on when we will deal with it. If it is his Bill and he insists it goes on, let it move on and meet its fate. I do not think that is the way we want to go.

The Temporary Chairperson (Sen. Ongoro): I will take the interventions. But honestly Senators, from where I sit, the two leaders of this House are now confusing us. I listened to the Leader of Minority and to the response by the Leader of Majority and they were generally in agreement that the substance of this Bill was wanting and we proceeded based on that agreement. The other interventions that you are now having are confusing this House even further. Can I take an intervention from Sen. Orengo.

PROGRESS REPORTED

THE WATER BILL (NATIONAL ASSEMBLY BILL NO. 7 OF 2014)

Sen. Orengo: Madam Temporary Chairperson, I respectfully beg to move under Standing Order No. 139 that in view of the nature of the conversation and debate that has gone on for the last one hour, that however much time you will give to the contending parties, we will continue sitting here until 6.30 p.m., without resolution. In fact, as we debate on this issue, we cannot decide either way. You can choose to believe that the Majority Leader or the Minority Leader but then, what is the House to do?

Madam Temporary Chairperson, I beg to move that this Committee of the Whole moves to report progress and that the substantive Chair resumes the Chair so that we can report progress. If there is need to sit again, then the plenary can give directions whether we can sit again as a Committee or as a whole House. But I will want to echo the words of the Chair that there are matters which if there is consultation, then we do not need to involve the Chair in the acrimony that is generated between the two leaderships of the House and they should make up their minds on where they want us to go.

I think we have been on this long enough and we must bring it to an end. The bars have been drawn and whatever we say now on the Committee is of no consequence. The only consequence will be by reporting to the House.

I beg to move.

The Temporary Chairperson (Sen. Ongoro): Thank you Sen. Orengo. You do realize that it was under that same Standing Order that we were requesting the Leader of Majority to report progress because we are not able to move without that mandate being executed. However, it is also in order for a Senator to raise it.

I will now under that provision put the Question.

(Question put and agreed to)

(The House resumed)

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

The Temporary Speaker (Sen. (Dr.) Machage): Can the Chairperson report progress.

REPORT

THE WATER BILL (NATIONAL ASSEMBLY BILL NO. 7 OF 2014)

Sen. Ongoro: Mr. Temporary Speaker, Sir, I beg to report progress that the Committee of the Whole has considered the Water Bill (National Assembly Bill No. 7 of 2014) and seeks leave to sit again tomorrow.

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

Disclaimer: *The electronic version of the Senate Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Hansard Editor, Senate.*

The Senate Majority Leader (Sen. (Prof.) Kindiki): Mr. Temporary Speaker, Sir, I beg to move that the House do agree with the Committee on the said Report.

The Temporary Speaker (Sen. (Dr.) Machage): Who is seconding?

The Senate Majority Leader (Sen. (Prof.) Kindiki): The seconder is Senator Obure. It cannot be Sen. Wetangula.

Sen. Obure seconded.

(Laughter)

The Temporary Speaker (Sen. (Dr.) Machage): Order. We should also thank Sen Orengo to have wanted to second. I now propose the question.

(Question proposed)

(Question put and agreed to)

The Temporary Speaker (Sen. (Dr.) Machage): Next Order.

MOTION

ADOPTION OF REPORT OF THE MEDIATION COMMITTEE ON THE COUNTY GOVERNMENTS (AMENDMENT) BILL (SENATE BILL NO.1 OF 2014)

Sen. (Dr.) Khalwale: Mr. Temporary Speaker, Sir, I beg to move the following Motion:-

THAT, this House adopts the report of the Mediation Committee on the County Governments (Amendment) Bill (Senate Bill No.1 of 2014) laid on the Table of the House on Wednesday, 18th November, 2015.

Hon. Members will recall that the Mediation Committee on County Governments (Amendment) Bill (Senate Bill No.1 of 2014) was appointed by the Speakers of the two Houses of Parliament pursuant to Article 112(2) (b) of the Constitution following the rejection of the Bill on 6th, August, 2015 by the National Assembly at the stage of Second Reading. Subsequently, four Members were appointed to the Committee from each House with a view to attempt to develop a version of the Bill that both Houses will pass. In my report, which is before Members on page 3, it shows the composition of the Mediation Committee and the details are as shown.

On page 4, it refers to the election of the leadership at which I was elected the Chairperson of the Committee, and hon. Wanjiku Muhia was elected as my deputy. On pages 5, 6 and 7 is simply procedural issues. Allow me to go to paragraph 1.53 which is the issues that my Committee identified as being important to address which are found on page 7.

The first issue was:-

(a) Whether the legislation is against the spirit of devolution as provided for under Article 174 of the Constitution.

Members observed that the County Governments (Amendment) Bill (Senate Bill No.1 of 2014) has not violated Article 174 of the Constitution.

(b) Definition of urban areas.

Members concurred that the definition of urban area should have a meaning assigned to it under the Urban Areas and Cities Act. This is because the term “urban area” is already provided for in an existing legislation (Urban Areas and Cities Act).

The last thing which we considered is Clause 3 of the Bill. Having considered Clause 3 of the Bill, we were able to successfully introduce a new clause which created consensus that led to the Act which is now the agreed version as per the findings of this Committee.

I now want to invite the House to go straight on to the report on the agreed version of the Bill, which included the insertion of a new clause that we called Clause 6(a), where the principal Act is being amended by inserting the following new Section immediately after Section 6.

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

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

Clause 6 (a) (1) states that:-

“Each of the county governments shall be located in the respective physical locations set out in the Third Schedule”.

Clause 6(a) (2) states that:-

“A county assembly may by a resolution supported by at least two-thirds of the Members of the county assembly with the approval of Parliament transfer the headquarters of county government from the physical location specified in the Third Schedule to such other physical location as it may consider appropriate.”

This brought the Committee together because in the original Bill, we had only given this responsibility of concurrence to the Senate, so when we brought it, both Houses of Parliament agreed and the acrimony was killed.

Clause 6(a)(3) states that:-

“A county assembly should before passing a resolution under sub-section 2 facilitate public participation.”

This is an area that had been opposed by the Committee on Implementation of the Constitution (CIC) and when we brought it in, the acrimony died.

Clause 6(a)(4) states that:-

“The county governor shall confer the status of an urban area to the seat of the physical location of county government in accordance with the provisions set out in the Urban Areas and Cities Act.”

Finally, we had the insertion of a new Schedule where by the principal Act is amended by inserting the following new Schedule immediately after the Second Schedule.

In conclusion, allow me to put on HANSARD the contents of the new Schedule. This is now the agreed physical location of the seat of government in the county governments.

County Government

Mombasa County
 Kwale County
 Kilifi County
 Tana River County
 Lamu County
 Taita Taveta County
 Garissa County
 Wajir County
 Mandera County
 Marsabit County
 Isiolo County
 Meru County
 Tharaka-Nithi County
 Embu County
 Kitui County
 Machakos County
 Makueni County
 Nyandarua County
 Nyeri County
 Kirinyaga County
 Muranga County
 Kiambu County
 Turkana County
 West Pokot County
 Samburu County
 Trans Nzoia County
 Uasin Gishu County
 Elgeyo-Marakwet County
 Nandi County
 Baringo County
 Laikipia County
 Nakuru County
 Narok County
 Kajiado County
 Kericho County
 Bomet County
 Kakamega County
 Vihiga County
 Bungoma County
 Busia County

Physical Seat

Mombasa City
 Kwale Urban Area
 Kilifi Urban Area
 Hola Urban Area
 Lamu Urban Area
 Wundanyi Urban Area
 Garissa Urban Area
 Wajir Urban Area
 Mandera Urban Area
 Marsabit Urban Area
 Isiolo Urban Area
 Meru Urban Area
 Kathuana Urban Area
 Embu Urban Area
 Kitui Urban Area
 Machakos Urban Area
 Makueni Urban Area
 Ol Kalou Urban Area
 Nyeri Urban Area
 Kerugoya Urban Area
 Muranga Urban Area
 Kiambu Urban Area
 Lodwar Urban Area
 Kapenguria Urban Area
 Maralal Urban Area
 Kitale Urban Area
 Eldoret Urban Area
 Iten Urban Area
 Kapsabet Urban Area
 Kabarnet Urban Area
 Rumuruti Urban Area
 Nakuru Urban Area
 Narok Urban Area
 Kajiado Urban Area
 Kericho Urban Area
 Bomet Urban Area
 Kakamega Urban Area
 Vihiga Urban Area
 Bungoma Urban Area
 Busia Urban Area

Siaya County
Kisumu County
Homa Bay County
Migori County
Kisii County
Nyamira County
Nairobi County

Siaya Urban Area
Kisumu City
Homa Bay Urban Area
Migori Urban Area
Kisii Urban Area
Nyamira Urban Area
Nairobi City

Madam Temporary Speaker, with those remarks, I want to thank you and move that the mediated version of this Bill be adopted. I want to request Sen. (Prof.) Kindiki, the Senate Majority Leader to second.

Sen. (Prof.) Anyang'-Nyong'o: On a point of order, Mr. Temporary Speaker, Sir.

The Temporary Speaker (Sen. Ongoro): Senator, it has not been seconded, is it about procedure?

Sen. (Prof.) Anyang'-Nyong'o: Madam Temporary Speaker, yesterday, I raised the matter of our workers in our offices and I was told to move a Motion of Adjournment to discuss that issue today and it is not on today's Order Paper. I have sought explanation from the Clerk and he tells me that the issue has been resolved and that the Parliamentary Service Commission (PSC) will be paying our workers by tomorrow.

I would like that issue to be officially stated from that Chair, so that when we leave, we are not leaving on the basis of speculation. If my Motion will not be debated, we need an official communication from the Chair explaining to us why the Motion of Adjournment is not on the Order Paper.

The Temporary Speaker (Sen. Ongoro): It is noted. Kindly let us proceed with the seconding of the Motion that was on the Floor. I will give an undertaking later.

The Senate Majority Leader (Sen. Kindiki): Thank you, Madam Temporary Speaker. I will be very brief. I rise to second this Motion.

I thank Sen. (Dr.) Khalwale and the rest of our colleagues who participated in the mediation on the amendments to the County Governments Act. The culture of mediation in a bicameral Parliament where there are differences between the two Houses is a very healthy culture for democracy. I, therefore, want to applaud all the Members of this House and the Members of the National Assembly who took part in the mediation for reaching a consensus and promoting the spirit of a bicameral Parliament.

Secondly, Madam Temporary Speaker, I want to emphasize how important this Bill is. In many counties, there have been a lot of push and pull over county headquarters. Therefore, what this Bill does is to settle the issue of county headquarters in law. Our people in our counties can now move to the next level which is to develop the counties. There have been a lot of time and political energy wasted, for example, in Kiambu County. I know in many other counties across the country where the issue of headquarters has raised a lot of tension and wasted valuable development time.

I commend the sponsor, the Mediation Committee, and I once again, say that this is an important legislation. I represent Tharaka-Nithi County in this House. It is now official our county headquarters is in Katwana Town. This will be a big thing for Kenya because we are starting from scratch.

With those few remarks, I second.

(Question Proposed)

The Temporary Speaker (Sen. Ongoro): The Floor is open for any contribution.

Sen. Wamatangi: Thank you, Madam Temporary Speaker. I want also to voice my support and congratulate the Senator for Kakamega and the Committee that mediated this legislation. Kiambu County is one of the great beneficiaries of the efforts of Sen. (Dr.) Khalwale and the new legislation that he has introduced in this House. For the last two and half years, in Kiambu, we have antagonized, hustled and haggled until this time when I believe that using this legislation, we can affirm that the headquarters of Kiambu county will be in Kiambu Town.

For the last three years now, the residents of Kiambu County have undergone tremendous suffering because of the dispute over location of headquarters. Kiambu County stretches from Lari as one proceeds to Nakuru, which is at the boundary of Kiambu with Nakuru County. So, you can imagine residents of Lari going to Thika to seek essential services. They had been using three vehicles to get there.

Old women and men, young mothers carrying their children and the rest of us have been going all the way to Thika to seek these essential services. It has been a challenge. Imagine pastors seeking approval of church buildings, they had to troop for such a long distance and waiting endlessly for services. Now we can put this to rest because the headquarters is now in a central location; that is, Kiambu Town. Every citizen who lives in the county can now conveniently access services.

One thing that should not pass without being pointed out, especially in my county, we have wasted a lot of public resources. The first thing the Governor of Kiambu did when he was elected was to spend millions of shillings to relocate the headquarters to Thika Town. He set up the headquarters in Thika Town at the cost of the mwananchi. He used taxpayers' money to refurbish offices in Thika Town. When the calls intensified that the headquarters is supposed to be in Kiambu Town, the Governor again spent more money to do another model of headquarters in Kiambu Town only to look for political assuage. We have had a case of double loss. That is one of the matters queried by the Auditor-General. How much money was hived hurriedly and supposedly used to construct a model of what was supposed to look like headquarters for the county?

I want to commend the effort put by this Committee because it has been a long fight, struggle for this Bill to have finally found its day in this House and passed. For the other counties, we also want to laud the efforts on behalf of other counties like Tharaka-Nithi, and Nyandarua, where my friend and colleague, Sen. Karue, comes from. They have said for a long time in this House that their counties do not have headquarters. The Senate Majority Leader was telling us a few minutes ago that the new headquarters of Tharaka-Nithi will now be in a small town with a population of about 1,500 people, but it will grow to become a big town.

In conclusion, I support and laud the efforts of (Sen. (Dr.) Khalwale.

The Temporary Speaker (Sen. Ongoro): Hon. Senators, bearing in mind that we need to move the adjournment Motion before 6.00 p.m. the other speakers will contribute for four minutes each.

Sen. (Prof.) Anyang –Nyong’o: Madam Temporary Speaker, I stand to applaud the results of this Mediation Committee and the able reporting by Senator for Kakamega, Sen. (Dr.) Khalwale. This Mediation Committee outcome will finally lay to rest rather unfortunate trivial conflicts that have been happening in counties over where the seat of county government is and therefore, wasting a lot of time in county governance.

Once the headquarters is established, the counties must realize that the Constitution also allows them to hold meetings anywhere within the county. In fact, the governor can have cabinet meetings in any of the towns and markets within the county. The county assembly can hold its sittings anywhere within the county. So, it is the question of the various parts of the county feeling, included in the proceeds of governance. Having a seat of government in one particular place does not stop either the county executive or the county legislature from moving around and being felt by other parts of the county.

Secondly, it is important to note that the outcome of this particular mediation underscores the issue that we were discussing earlier; that Parliament has the enormous responsibility of passing many Bills regarding county governments. The Constitution envisaged that when the legislations in Schedule 5, are finished there are still others that need to be passed by Parliament; that is, the National Assembly and the Senate, to make county governments effective.

Madam Temporary Speaker, I propose that we have appropriate Committees in this House, including the Committee on Legal Affairs and Human Rights, Committee on Implementation and various Sessional Committees which I hope, having listened to Sen. Wako saying that 18 more laws are still to be passed for us to finish our work---. I propose that we do a thorough assessment of the Constitution and ensure that we are not left wanting by the end of this session of Parliament. I believe that the Bills that are being held in the National Assembly should receive expeditious attention as we come back from Christmas holidays. Therefore, I propose that the leadership in both Houses, including the Speakers, should have a joint meeting to ensure that there is smooth movement of Bills from one House to the other.

Madam Temporary Speaker, the Senate is doing well. We have managed to clear nearly all Bills from the National Assembly. The fact that Senate Bills do get clogged in the National Assembly does not speak well of the responsibility of that House. This can be ironed out through dialogue and through discussions in both Houses. I hope too that this decision by the Mediation Committee will be communicated to the county assemblies as part and parcel of the law making process and understanding of what is going on.

I support.

Sen. Orengo: Madam Temporary Speaker, I commend the work of the Committee and particularly Sen. (Dr.) Khalwale who has been on this matter ever since the inception of this Parliament. The fact that we are designating specific areas to be county headquarters may not be important as we speak today, but when we look at the problems that emerge historically in many countries, a debate about where the capital or boundary is can be quite acrimonious.

It is for that reason that in our Constitution under Article 6, the country is divided into counties which are specified in a Schedule. If that is not done, we will end up in

many problems. For instance, we have had a constant problem regarding the island of Migingo. This is because it was not specifically defined. Uganda has defined its territory in the Constitution, but Kenya's Constitution provides general definition of Kenya territory.

As I speak today, that territory is not defined under the Constitution or any other written law. Sometimes we have been having border problems, particularly on international boundaries. There is no reference point, except the colonial old maps and literature. Having gotten here, it is important for those who manage these county headquarters to know that a county headquarters is not just a seat of government. The fact that Kakamega is the seat of government to Kakamega County is not only for political and civic importance, but also historical.

Madam Temporary Speaker, when you visit a capital, you will assess the way a county is managed. I hope that those who manage counties, knowing that Siaya is the headquarters of Siaya County or that Kakamega is the headquarters of Kakamega County, begin to do proper planning because the headquarters of a county is not just any ordinary market place in a county. There is no good impression when one visits some of the county headquarters because there is no intention to plan, build and develop the headquarters.

I hope that part of this mediation process was to ensure that Article 110(3) is operational and that the National Assembly should continue to do this so that the two Houses work together.

I support.

The Temporary Speaker (Sen. Ongoro): Hon. Senators, there is a Communication from the Chair and because it is regarding the same matter on the Floor of the House, on the Mediation Committee, it is proper that I communicate before we proceed.

MESSAGE FROM THE NATIONAL ASSEMBLY

APPROVAL OF REPORT ON THE MEDIATED VERSION OF THE COUNTY GOVERNMENTS (AMENDMENT) BILL (SENATE BILL NO. 1 OF 2014)

Hon. Senators, today 3rd December, 2015, and pursuant to Senate Standing Order No. 40(3)(4), I have received the following Message from the Speaker of the National Assembly regarding the approval of the Report of the Mediation Committee on the County Governments' Amendment Bill (Senate Bill No.1 of 2014). Pursuant to the provisions of Standing Orders No.41 and 142 of the National Assembly, I hereby convey the following Message from the National Assembly.

WHEREAS the County Governments' Amendment Bill (Senate Bill No.1 of 2014), which seeks to designate physical headquarters for county governments, was referred to a Mediation Committee pursuant to the provisions of Article 112 of the Constitution and Standing Order No. 57(1) of the National Assembly;

AND WHEREAS the National Assembly by way of resolution passed on Tuesday, 1st December, 2015 considered the Report of the Mediation Committee and approved the mediated version of the said Bill in the form developed by the Mediation Committee;

NOW THEREFORE in accordance with the provisions of Article 113 of the Constitution and Standing Order No.150(4)(b) of the National Assembly, I hereby convey the said decision of the National Assembly to the Senate.

Hon. Senators, you are aware that this is the same Report that we are debating. Thank you.

Sen. Elachi: Thank you, Madam Temporary Speaker. I also thank the team and, especially the Chair of the Mediation Committee, knowing that he was the Mover of the amendments to this Bill. This House can help counties that have not defined their county headquarters. Therefore, we expect that the governors will enjoy the fruits of the Constitution, particularly on the issue of delimitation of boundaries. Kiambu County, for example, had a problem until this Senate had to intervene.

Therefore, we appreciate the thinking of Sen. (Dr.) Khalwale to ensure counties boundary's sanity. The governors should not look at this as if it is under their prerogative to decide where their offices should be, but to appreciate the administrative boundaries.

I support.

The Temporary Speaker (Sen. Ongoro): I call upon the Mover to reply.

Sen. (Dr.) Khalwale: Madam Temporary Speaker, a lot of thanks to all the Senators who have spoken in support. I hope that support will continue into the voting.

Madam Temporary Speaker, the people of Laikipia wrote to me, through their County Assembly and Senator, about the need for us to support the headquarters in Rumuruti. Now, they can rest pretty, assured that that is the case. The same applies to the people of Kirinyaga because they were worried about the competition between Kerugoya and Kutus. That has been settled and the headquarters is now in Kerugoya.

You have heard the emotional presentation by the Senator for Kiambu. Let the people of Kiambu sit pretty. The people of Tharaka-Nithi had a big challenge because their intended headquarters is Kathwana, where they are literally starting from scratch. Since their son is one of the favourite politicians in the eyes of the President, we hope that he will use those connections to cause the President of Jubilee Government to send money for construction of the headquarters in Kathwana.

Madam Temporary Speaker, there has been anxiety in sections of Bungoma about the possibility of somebody moving the headquarters to Webuye and that is gone. Similar anxiety had been in Kakamega, about some intentions that the headquarters should move to Mumias. That is sorted out and there will be peace in all the 47 counties.

Madam Temporary Speaker, I beg to move.

The Temporary Speaker (Sen. Ongoro): Senator, you realise that this matter affects counties and, therefore, we cannot take a vote. However, you did not make that request.

Sen. (Dr.) Khalwale: On a point of order, Madam Temporary Speaker.

The Temporary Speaker (Sen. Ongoro): Proceed.

Sen. (Dr.) Khalwale: Madam Temporary Speaker, I rise under Standing Order No.54(3) to request that you defer the putting of the question on this Motion to another convenient date.

Thank you, Madam Temporary Speaker.

(Putting of the question deferred)

The Temporary Speaker (Sen. Ongoro): We will defer all other matters and move to Order No.16.

APPOINTMENT OF SENATORS AS MEMBERS OF THE SELECT
COMMITTEE TO SPEARHEAD THE PROCESSING OF THE
GENERAL SUGGESTION FOR THE DRAFT CONSTITUTION
OF KENYA (AMENDMENT) BILL, 2015

AWARE that pursuant to Article 124(1) of the Constitution and the Standing Orders of the Senate, at a Special Sitting of the Senate held on Monday, 15th June, 2015, the Senate resolved, to establish a Select Committee on Constitutional and Legal Review to inquire into legal issues arising following the re-allocation by the National Assembly of monies intended for key constitutional organs and institutions, including the Judiciary, the Salaries and Remuneration Commission and the Senate.

FURTHER AWARE that on 23rd June, 2015, the Senate approved the names of Senators to serve in the said Select Committee whose terms of reference were as follows-

(a) inquire into the design of the Legislature and in particular, the institutions set out in the Constitution with a view to protecting the interests of the counties and their governments and securing and safeguarding the system of devolved government established in the Constitution;

(b) inquire into the role of the Senate as set out under the Constitution and make recommendations on the appropriate role to be played by the Senate in-

(i) the budget making process and revenue allocation;

(ii) the legislative process;

(iii) oversight over the National Government; and

(iv) oversight over the County Governments;

(c) examine and make recommendations on the appropriate role to be played by the Senate in the approval of nominees for appointment to State office;

(d) examine and make recommendations on the appropriate inter linkage and interplay between-

(i) the Senate and the National Government;

(ii) the Senate and the National Assembly;

(iii) the Senate and the County Governments; and

(iv) the Senate and other constitutional offices and Commissions.

(e) recommend to the Senate such constitutional and legislative interventions as may be necessary to secure and safeguard the system of devolved government in the

Constitution, including measures necessary to ensure the effective discharge by the Senate, of its legislative and oversight role under the Constitution; and

(f) examine and make recommendations on any other matter connected with or incidental to the foregoing.

COGNIZANT OF THE FACT that the Committee tabled its report on 23rd September, 2015 which report was adopted by the Senate on 21st October, 2015;

NOTING that one of the recommendations in the report was that-
The Senate approves the appointment of a Select Committee to spearhead the processing of the General Suggestion for the Draft Constitution of Kenya (Amendment) Bill, 2015 through popular initiative in terms of Article 257 of the Constitution.

NOW THEREFORE, pursuant to the resolution of the Senate during the Sitting held on 21st October, 2015, the Senate approves the appointment of the following Senators to the Select Committee to spearhead the processing of the General Suggestion for the Draft Constitution of Kenya (Amendment) Bill, 2015 through popular initiative in terms of Article 257 of the Constitution-

1. Sen. Kipchumba Murkomen
2. Sen. Kiraitu Murungi
3. Sen. Naisula Lesuuda
4. Sen. (Eng.) Muriuki Karue
5. Sen. Billow Kerrow
6. Sen. James Orengo
7. Sen. (Dr.) Boni Khalwale
8. Sen. Mutula Kilonzo Junior, and
9. Sen. Halima Abdille

And that the committee reports back to the Senate within six months.

(Motion deferred)

ADOPTION OF REPORT OF THE ROADS COMMITTEE
ON VISIT TO LAMU AND NAKURU COUNTIES

THAT, this House adopts the Report of the Standing Committee on Roads and Transportation on visits to Lamu and Nakuru Counties, laid on the table of the House on Wednesday, 29th July, 2015.

(Motion deferred)

ESTABLISHMENT TASK FORCE TO SURVEY, MARK AND
FIX BEACONS FOR ALL THE COUNTY BOUNDARIES

GIVEN the clear provisions of Article 6 (1) and the First Schedule which establishes the 47 counties of the Republic of Kenya;

CONSIDERING the clear provisions of the Districts and Provinces Act (Cap 105 A) of 1992 which specifically delineates the geographical boundaries of each county;

NOTING the provisions of Article 188 of the Constitution, which clearly state that the boundaries of a county may be altered only by a resolution of an Independent Commission set up for that purpose by Parliament and with the support of at least two-thirds members of the National Assembly and two-thirds of the county delegations in the Senate;

FURTHER NOTING that the boundaries in counties have not been surveyed and no beacons have been fixed;

CONCERNED that failure by the National Government to mark and fix the county boundaries has led to endless and sometimes violent conflicts, in which innocent Kenyans have been killed and their property destroyed, and is generally perpetuating poverty and underdevelopment in counties;

THIS HOUSE urges the Office of the President and the Ministry of Land, Housing and Urban Development to urgently establish a Task Force to survey, mark and fix beacons for all the county boundaries and to submit a report of the said Task Force to this House on or before 31st March, 2016.

(Motion deferred)

ISSUANCE OF IDENTITY CARDS TO ORPHANS AND
VULNERABLE CHILDREN ON ATTAINING 18 YEARS OF AGE

THAT, cognizant that Article 12 of the Constitution guarantees a right to citizenship; noting that it is the right of every Kenyan attaining 18 years to register and be issued with a National Identity Card; further noting that the National Identity Card is at the core in determining the extent to which an individual enjoys his or her fundamental rights and freedoms; concerned that Orphans and Vulnerable Children attaining the age of 18 years in children's homes have difficulties obtaining the National Identity Cards, the Senate urges the National Government to take remedial, policy, administrative and legislative measures to improve and expedite the process of registration for National Identity Cards especially for the Orphans and Vulnerable Children who live in children's homes and have attained 18 years of age.

(Motion deferred)

ADOPTION OF REPORT OF THE IMPLEMENTATION COMMITTEE
ON THE VISIT TO MOMBASA, KILIFI AND KWALE

THAT, this House adopts the report of the Sessional Committee on Implementation on its visit to Mombasa, Kilifi and Kwale Counties to follow up on the resolution of the House to support the coconut industry, undertaken

between 25th and 28th April, 2015 laid on the Table of the House on Wednesday, 29th July, 2015

(Motion deferred)

MOTION FOR ADJOURNMENT

ADJOURNMENT OF THE HOUSE IN ACCORDANCE WITH THE APPROVED CALENDAR FOR THE 2015 SESSION

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

THAT, pursuant to Standing Order Nos.27 and 28(3), the Senate do now adjourn until Tuesday, 9th February, 2016.

As I said in my earlier statements during the day, we have come to the end of this session. This Motion is just a routine Motion because, normally, the calendar of this House is approved ahead of time. At the beginning of the session, the calendar is agreed upon and decided by this House.

Madam Temporary Speaker, once again, allow me to say how happy I am with what we have done during this session. The Third Session of this Senate has been one of the most productive sessions. We have two more sessions to go before our terms ends and what excites me most is the number of legislations we have passed between February and today. Just by way of applauding and congratulating ourselves, we have passed The National Flags, Emblems and Names (Amendment) Bill; The Parliamentary Service (Amendment) Bill; The Potato Produce and Marketing Bill; The Fertilisers and Animal Foodstuffs (Amendment) Bill; The Food Security Bill; The Persons with Disabilities (Amendment) Bill; The Statutes Law (Miscellaneous Amendments) Bill (No.2) of 2013; The National Youth Service (Amendment) Bill; The Public Fundraising Appeals Bill; The National Police Service (Amendment) Bill; The National Government Coordination (Amendment) Bill; The Natural Resources Benefit Sharing Bill; The Mining Bill; The Drought Management Bill; The Public Service Values and Principles Bill; The Environmental Management and Coordination (Amendment) Bill; The Division of Revenue Bill, 2015; The County Allocation of Revenue Bill, 2015; The Public Audit Bill, 2014; The Public Procurement and Asset Disposal Bill; The Fair Administrative Action Bill; The Climate Change Bill; and, The County Early Childhood Education Bill. It is no mean task for us to pass 23 Bills in one session.

Over and above that, we have also passed numerous Motions and not less than 160 statements have been raised before this House during this session. Therefore, I am very excited for that and all of us have earned this recess.

I hope we will use this recess to refresh a bit and reconnect with our families, especially during the end of year festivities. Sometimes, we get very much immersed into serving the people that have elected us, which is very good. However, we forget that we also have another constituency called families. We are also responsible to the nation in terms of being there and ensuring that our family units are functional and successful.

I wish every Senator the very best, good health and the blessings of God. As we go through the end of year, I hope it will be a time to reflect, not only on our performance as politicians, but also on our duties as citizens of this country. This recess comes at a time when the country still faces tremendous challenges of national unity. I, therefore, pray that this season will help us to reflect on how best we can improve on putting our country together and promoting the values of national unity and cohesion. I look forward to all of us meeting here again, God willing, on 9th February, 2016, for the Fourth Session as scheduled.

With those few remarks, I beg to move and request Sen. Abdirahman, who is also the Deputy Minority Leader, to second this Motion.

Sen. Abdirahman: Madam Temporary Speaker, I stand to second the Motion of Adjournment as moved by the Senate Majority Leader. I join him in congratulating the Senators for the efforts they made during the Third Session. This is a well deserved break. I also appreciate efforts of the various Senators who have contributed to the 23 Bills. Quite a number of Motions were passed. I hope using our Committee on Implementation we will track and check the progress. I am sure that Committees will be meeting over the recess. It will be very important to track how those Motions are actually being implemented by the various Departments of Government.

Madam Temporary Speaker, I want to make a small comment on the issue of statements, generally. A number of committees were not able to effectively get statements from the line Ministries. There was failure to get responses from a number of them, including the Ministry of Health, the Ministry of Interior and Coordination of National Government, in some instances and a few others. Many a time, what worked best for us was when we called the Cabinet Secretaries to come and explain or clarify points which we thought were not sufficiently addressed during the statements which Members sought.

Madam Temporary Speaker, quite a number of challenges exist in this country. Corruption is the number one disease in this country. In fact, it is endemic. From one Ministry to the other, new things unfolded. We called the EACC to act tough and very fast where serious issues of fraud had been noticed. Any case that may have been taken to court must be moved to conclusion. It is a big issue for us and that is why we are unable to make any meaningful development in this country.

Other challenges that existed during this same period included insecurity. Though improved in certain areas, the challenge still exists.

Madam Temporary Speaker, let me point out the issue of teacher shortage in north eastern where the Jubilee Government has pledged to recruit 800 teachers through the boards of management in schools. Let me tell Kenyans today that the pledge that was made four months has not materialized. Heads of schools were asked to recruit teachers, but payments have not been made to date.

Let me also bring out the issue of failing to fund projects both at the national and county level. The flow of funding has been a challenge. Where did this money go? Has it left the national coffers for places that we do not understand? It is a big challenge. Money has not been given and you heard Sen. (Prof.) Anyang'-Nyong'o raise yesterday that even our own workers were not paid. Unless the situation improves, both operational cost and

funds for development will not be available in our counties if things persist the way we see.

The other challenge that we are experiencing as Senators is the inability to move around and hold governors to account because funds have not been allocated to individual Senators. I remember that there is a Committee that I convened with Sen. Murungi and we have had several proposals. We ask the Parliamentary Service Commission (PSC) to avail funds to Senators. The best time to do this would be the recess so that we can align what has been planned for counties with actual delivery for services that have been decentralized or given to counties.

Madam Temporary Speaker, with the ongoing rains quite a number of our counties are completely cut off. Roads are impassable and health services are becoming unavailable and hunger is increasing. Interestingly, I hear of the National Disaster Operation Centre (NDOC). Does it really exist? Which is this national operation centre for disaster? Where is it domiciled? We know disaster management is also a county function. However, when counties do not even have the funds and each of these Ministries at national level were talking about planning for *El Nino*, were these funds only put on paper? I do not understand. You can prepare something on paper, but if you do not provide the requisite funding, then you will have failed.

The Government is unprepared to forestall impending disaster in many of counties. It is about time that they wake up. There are quite a number of donors, if mobilised, would have come to the aid of these communities. It is high time that governors woke up and took charge. The national Government seems to be failing in this area.

Finally, now that we are breaking for the recess today and may not reconvene until 9th February, 2016, as proposed, I wish all my colleagues and Kenyans in general a Happy Christmas and New Year.

Thank you for according me the opportunity.

(Question proposed)

The Temporary Speaker (Sen. Ongoro): Sen. Muriuki, you may take the Floor.

Sen. (Eng.) Muriuki: Thank you, Madam Temporary Speaker. I stand to support the Motion. I also wish to suggest that when we come back on 9th February, 2016, we should maybe start with a *Kamukunji*. This is because by the look of things, there seem to be too many loose things in the way we handle business in the Senate at the moment.

We have had, for example, a lot of business which has taken far too long and sometimes Bills stay on the Order Paper, sitting after sitting, because Members did not come for one reason or another. Sometimes voting is suspended for endless days and also other small things like, for example, when a Mover moves a Motion, he or she should be held here to hear what Members say. If you move a Motion and then walk out like the Senate Majority Leader did, then he will have no idea what Members talked about. As much as this particular Motion has no reply, nonetheless, he should listen to what Members say.

Having said that, my observation is that we need to do more. For example, I did not agree with the Senate Majority Leader that we have done very well. I do not think so. It is because there are a number of Bills, a case in point is The County Industrial Development Bill which was read the First Time way back in March, 2014. It is now exactly one year and nine months since then and next year, we will be talking of two years. That is just an example and I think there are a few others. When you look at why it has taken so long, it is because of the procedures. Sometimes you find the Committee of the Whole takes too long. Sometimes we do not respect the stipulated timelines; that after the First Reading, the number of days given before the Committee brings the Report and then we wait for it endlessly.

Madam Temporary Speaker, we should also observe that sometimes we indulge in a lot of non-core business. Statements are important, but we sometimes go on endlessly from 2.30 p.m. until 5.00 p.m. This House needs to sit and soberly decide that this is the way that we want to do business.

Last but not least, I join the Seconder who has left the House, on the sincere hope that the PSC will see the rationale in Senators having the oversight kitty so that we can do part of our work; our work being making laws - like we are doing - representation and oversight. On the oversight bit, we are not effective. It is like we are not there. We hope that this will happen while we are away.

With those few remarks, I wish all Members a Happy Christmas and a prosperous new year.

The Temporary Speaker (Sen. Ongoro): Hon. Senators, we have just about 20 minutes to conclude and I have about nine requests. So, it will be in order if I limit debate to three minutes each to give everybody a fair chance at contributing.

Sen. (Prof.) Anyang'-Nyong'o: Madam Temporary Speaker, I also rise to support this Motion of adjournment. I request that when we are adjourned, let us be given the whole month of December without any senatorial responsibilities because we need to rest.

Second, I know that in January, there will be Committees meetings. Again, I request that those meetings are not too crowded because we should also take time to spend some time in our counties. This particular session was very busy with Members criss-crossing from one Committee to the other and I think people are a little exhausted.

Madam Temporary Speaker, having said that, I would like to congratulate fellow colleagues for the good work done, having passed so many Bills, Motions, Statements, and so on. However, when these statements are issued in the House, given that we have a new dispensation where the legislature is separated from the Executive; that the Executive takes the words that they deliver to this House seriously with implementation.

I would like to join my colleague Sen. (Eng.) Muriuki to add my voice to the need for an in-house re-evaluation of how we work. I do not take it kindly that I moved a Motion yesterday to be discussed today as a Motion of Adjournment and the least that the Speaker's Panel and the Clerk could do was to issue an official statement in this House to assure our support to our workers. I take exception to treating our workers so casually. They make us do our work. If they have not been paid for three months and we are going

for Christmas, a statement should be made categorically in this House that they will be paid tomorrow.

We, as representatives of the people, must begin by representing the people who work for us effectively. When a Senator moves a Motion like that in this House, it should not be treated casually. Just passing word to me as a person, it is not my Motion; it belongs to this Senate. I hope that before we conclude, there will be a communication from the Chair on this issue, so that it goes to the HANSARD.

(Interruption of debate on Motion)

The Temporary Speaker (Sen. Ongoro): Thank you very much Senator. I undertook earlier to give a communication when you raised that.

On behalf of the Senate Leadership, the Speaker's Panel, the Speaker's Office and the Clerk, that oversight should not happen again.

Having said that, immediately you raised it, I undertook and from the Chair communicated to the Clerk who is currently attending a PSC meeting and because of the weight of that matter, he has assured us that, is one of the matters that he is concluding at the PSC meeting. I undertake that has been dealt with and I am hopeful that by the end of today, they will have dispatched payments.

]

MESSAGE FROM THE NATIONAL ASSEMBLY

CONCURRENCE OF THE NATIONAL ASSEMBLY ON THE GOVERNMENT PROCEEDINGS (AMENDMENT) BILL (SENATE BILL NO.10 OF 2014)

Hon. Senators, before we proceed, there is another communication from the Chair. This is a Message from the National Assembly on the Government Proceedings (Amendment) Bill (Senate Bill No.10 of 2014).

Hon. Senators, I wish to report to the Senate that today, 3rd December, 2015 and pursuant to Standing Order No.40(3) and (4), I have received the following Message from the Speaker of the National Assembly regarding the Government Proceedings (Amendment) Bill (Senate Bill No.10 of 2014).

PURSUANT to the provisions of Standing Order No.41 of the National Assembly, I hereby convey the following Message from the National Assembly.

WHEREAS the Government Proceedings (Amendment) Bill (Senate Bill No.10 of 2014), a Bill proposing to amend Section 21 of the Government Proceedings Act, Cap 40 to extend its application to county governments was referred to the National Assembly for consideration and having been passed by the Senate;

AND WHEREAS the National Assembly on diverse dates considered the said Bill and in accordance with its Standing Orders; and further having agreed to and passed the Bill today, 3rd December, 2015, without amendments.

NOW THEREFORE, in accordance with the provisions of Standing Order No.41 and Standing Order No.144 of the National Assembly, I hereby convey the said decision of the National Assembly to the Senate.

Thank you.

(Resumption of debate on Motion)

Sen. Hassan: Madam Temporary Speaker, thank you, for this opportunity. As you said, we are coming to the close of our Third Session which effectively for some us is our third year in active politics.

First and foremost, I join Sen. (Prof.) Anyang'-Nyong'o and re-associate with your comments for the speedy resolution of the plight of our workers. One thing I must give as a reflection as we wind up; I have been in politics for three years and I am yet to identify with a certain narrative of any institution of this country, whether Parliament, the Jubilee Coalition or even sometimes critically my coalition. I have not seen the progressive Bills that are supposed to make our people better off. I am just seeing a Government or an Opposition just amending little things here and there, looking for Government Amendment Acts to identify County headquarters and a few other things. That progressive agenda that I had hoped would be ushered in by this Constitution through its internalization has been extremely deficit in terms of our transaction.

We have been pulled and pushed into a war with the National Assembly, coming with a few Bills here and there that are intended to implement a couple of things here and there. When we come back next year, we want to associate with Sen. (Eng.) Muriuki. We need to have a narrative of this Senate as a defender of devolution, the weak, social justice and other constitutional values, principles and doctrines that are so ingrained in our Constitution. It has just been mathematics here, an amendment here to a small Bill and an amendment there. The Constitution is so diverse and has opportunity to create a new regime of law and jurisprudence that will inform our generations to come.

The Senate has just been a House in itself that has to a certain extent mirrored the just general practice of assemblies or Houses of this nature. We need to start redefining the narrative of this Senate, so that people can know what to expect of this Senate in terms of the greater constitutional values and the principles that inform our citizenry. That must be cross cutting, be it in the opposition, minority or majority sides.

Madam Temporary Speaker, on the overall it has been a learning curve for many of us. I hope we will get time to go to our constituents. We need to start to empower. When we sit here the kinds of messages that come – a group of people have a narrative out there in our constituencies that whenever you have a problem, the first thing is to text or call your Member of Parliament (MP) to give you some money to assist you in your private quarters. That was informed by a “lootocracy” that preceded us – a group of people who looted the country and the economy, then spread the spoils of war to a certain extent to sustain their privilege in power.

We need to start being focused in public education, empower in terms of the new Constitution. However, the county governments are not doing much.

The Temporary Speaker (Sen. Ongoro): Thank you, Senator. Your time is up! Proceed, Sen. Elachi.

Sen. Elachi: Madam Temporary Speaker, I also thank all the Members of the Senate. We close the year knowing that the Supreme Court spoke on the issue of the two-

thirds gender rule. As we go on recess, it is an issue that we had thought the National Assembly would have also fast-tracked the Bill and see to it that it comes to the Second Reading. This has not happened.

As young people look up to us and have hope that one day they will also sit in this Senate, they will appreciate that it was a House where its Members understood the country, had wisdom and understood why 50 years on, Kenya had to get a new dispensation of devolution.

We also go on recess having disposed of all private Bills. All Senators deserve congratulations. This House has stood firm because of individual Senators doing research and coming up with different amendments that we have done. They have also sponsored various Bills. We hope that the National Assembly will fast-track these Bills so that when we come back next year, 2016, which is the only year that we have to show the country that this Senate is here to stay.

Madam Temporary Speaker, we do not even need the constitutional amendments that we are thinking about. It is time the Senate just picks its niche, get out of this thinking of the way the National Assembly conducts its business and conducts its business differently. Let us go out there and listen to Kenyans. At one point, Kenyans thought that Parliament will reach out to the people so that they can see how parliamentarians debate and present their issues. When I came to the Senate, I thought it would ensure, at least, in the five years we have had the Senate sitting in any county in the country. I hope this will happen.

Madam Temporary Speaker, I hope you will give time to the Sessional Committees. There is work that is pending. For instance, most of the reports have not been tabled yet this is a third year. There is need to fast track them. I hope that the request made this morning will go through to ensure that before the next Sessional Committees are constituted, the current ones will have concluded their work. The reports involve public funds and the necessary persons should be summoned to account for them. Members of public will be happy to hear that their financial reports were tabled in the Senate.

Finally, I wish everyone and especially those who gave us the opportunity to serve under this august House a Merry Christmas. I hope that Members will serve their respective electorate the same way the Pope encouraged us to serve the poor.

I support.

Sen. M. Kajwang: Madam Temporary Speaker, I support this Motion. I joined this House on 18th February, 2015 and I have the distinction of being the newest Member of this House. On that day, as I worked, I was fairly intimidated by the personalities that I found here. However, I have been a keen learner and agitating for the people of Homa Bay County. I thank all the Members who have contributed to my quick settling in and those who contributed to my coming here.

One year ago, I was still not sure I wanted to be a Senator. My skepticism of politics has now been dispelled. When I came to this House, I found men and women committed and passionate about this country. Many people outside this House - you have seen the cartoons and caricatures in the media - depict Parliament as a House of prostitution and a House of all sorts of vices. I can confirm one year down the line that I

have found distinguished men and women in this Senate. I have confidence that if we harness our collective passion, leadership and intelligence, this country can be great.

Madam Temporary Speaker, I look forward to next year and I hope that the Senate will rise to the occasion. When people are fighting for party positions, the Senator is called to reconcile the warring parties. I hope the Senate will rise to the occasion because the nation expects that this House will pacify, unify and provide direction to the nation.

One aspect that this House can take leadership on is the many referendum initiatives, for instance, the *Okoa Kenya*, *Pesa Mashinani*, *Boresha Katiba* and *Punda Amechoka*. I hope that this Senate will be in a position to bring together all these initiatives and have a new form of Inter- Parties Parliamentary Group (IPPG) caucus. I am glad that I am serving with Members who were part of IPPG back in the years. We can use their experience to consolidate all the initiatives.

I also hope that in the new year, this Senate will also help to find ways of healing this nation. The International Criminal Court (ICC) matter is still with us. I hope the Members are ready for the next elections so that we can have elections where lives are not lost while others are displaced.

Finally, I wish Members of this House a Merry Christmas and a happy new year to all Kenyans and the people of Homa Bay County. I wish the Senate had an end of year party, but again I wonder what Magufuli would do. I think Magufuli will go to children's homes. I wish we do philanthropy work as we usher in a new year.

Sen. Orengo: Thank you, Madam Chairperson. I also support this Motion of Adjournment. I begin by repeating what Sen. (Prof.) Anyang'-Nyong'o said before. Under the Constitution on Article 127(6) the PSC is supposed to look into the welfare of its staff and not only those of Members of Parliament. This is a matter that I am glad to hear from the Chair that some action is being taken.

On the issue of Senate being part of the legislature, the Senate has scored below 5 per cent. That is the honest truth. If we are part of the legislative arm, our performance in that area should have been 80 to 90 per cent, but we all know where the problem is.

Madam Chairperson, we continue to tell our friends in the Jubilee to take the Senate seriously. Any Bill that does not pass through the Senate is, probably, because of an oversight. In doing oversight and coming up with problems that confront the counties, it can only be cured by legislation. These Motions that we pass are normal resolutions, but they lack a binding effect. The most powerful weapon that any Parliament has is the legislative power. The fact that there is no law that passes through the Senate and gets successfully assented to leaves a gap. If we were to be asked the question whether or not the Senate has performed its constitutional functions, my answer would be; "no".

The Senate is a State organ and the Supreme Court has pronounced itself on it. It is high time that this House was given that recognition as part of the legislature. The more worrying trend that I have seen, particularly on laws coming from the National Assembly is that, there is a new attempt to unmake the Constitution. The laws that are going through like the Security (Amendment) Law Act whose sections were rendered unconstitutional by the courts.

Madam Temporary Chairperson, it is not only Parliament that is committing the errors, but I learnt today that the Supreme Court said that the question of giving out of title deeds is a function of the Executive. This is part of the ongoing process of unmaking the Constitution. We are not realising the promises of the Constitution because the laws that we should be making should be building on this great document that was enacted in 2010. Therefore, I appeal to all of us that we should look at the kind of legislation that passes through the National Assembly. If you look at the various laws after the first Parliament came into being in 1963, a lot of them involved unmaking the Constitution of the day. They ended up by making Kenya a *de jure* one party State and thereafter having the tenure of the office like that of the Attorney-General and the judges among others, removed. If I were to give a catalogue of the many laws that have gone against the grain and spirit of this Constitution, they would be a myriad.

The fact that some of these laws are being challenged in court is an indication that we are not adhering to the spirit of the new Constitution. However, I agree with the Senate Majority Whip that one of the greatest promises of this Constitution is in the area of gender. Three years down the line, it has not been realised. We should come back with a new commitment that we should not go to the next elections without realising these great dreams.

If we could do that and having served with gracious ladies among them the Chair and the Senate Majority Whip, among many, including Chelagat Mutai who were there before, women as citizens of this country have a special role. Next year, I will be in the front line in resolving this gender rule problem.

I support.

ADJOURNMENT

The Temporary Speaker (Sen. Ongoro): Hon. Senators, on my own behalf and that of the Speaker's Panel, we wish you all a Merry Christmas. It is now 6.30 p.m. - time to interrupt the Business of the House. Therefore, the House stands adjourned until Tuesday, 9th February, 2016 at 2.30 p.m.

The Senate rose at 6.30 p.m.