

PARLIAMENT OF KENYA

THE SENATE

THE HANSARD

Wednesday, 17th February, 2016

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

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

PRAYERS

STATEMENTS

ROLE OF THE SENATE AND ITS ENGAGEMENT WITH COUNTY GOVERNMENTS

Sen. (Dr.) Zani: Mr. Speaker, Sir, I stand to request for a Statement regarding intergovernmental relations, governance and management of county governments.

I rise pursuant to Standing Order No.45 (2)(b) to seek a Statement from the Chairperson of the Sessional Committee on Devolved Government regarding the role of the Senate and its engagement with county governments in view of the myriad challenges facing county governments which manifest themselves in the form of wrangles, mismanagement of county resources and conflicts between the county executive and county assemblies, among others.

In the Statement, the Chairperson should:-

(1) Explain the mechanisms that the Committee has put in place to engage with the county governments and enhance intergovernmental relations; and,

(2) State what the Committee is doing or plans to do in order to create a platform for all Senators to engage county governments to discuss the ever emerging issues of contention and impediments facing county governments with a view to coming up with modalities for addressing the challenges.

Mr. Speaker, Sir, that is the first Statement I wish to seek. I have another request. Should I proceed or wait for this to be prosecuted?

The Speaker (Hon. Ethuro): Proceed.

DEVELOPMENT AND REVIEW OF CURRICULA AND
SUPPORT MATERIALS FOR EARLY CHILDHOOD, PRE-PRIMARY,
PRIMARY AND SECONDARY EDUCATION

Mr. Speaker, Sir, I rise pursuant to Standing Order No.45(2)(b) to seek a Statement from the Chairperson of the Standing Committee on Education regarding the development and review of curricula and curriculum support materials for early childhood, pre-primary and secondary education.

In the Statement, the Chairperson should:-

(1) Explain the measures that the Government has undertaken to bring the early childhood, pre-primary and secondary education curriculum up to date with the current realities.

(2) State whether a needs assessment has been conducted by the Kenya Institute of Curriculum Development and, if so, what the assessment established to be societal needs to be addressed in the curriculum as well as the desired skills, suitable competencies, modes of testing, preferred topics, pedagogical approaches and learning experience;

(3) Explain the success indicators and challenges encountered in revamping the curriculum; and,

(4) State the specific phases in which the new curriculum will be implemented.

The Speaker (Hon. Ethuro): Where are the respective chairpersons?

Sen. Karaba.

Sen. Karaba: Mr. Speaker, Sir, I intend to issue a response to this very important Statement in two weeks time.

The Speaker (Hon. Ethuro): That is okay. I will give the Committee on Devolved Government the same time to respond to the initial Statement.

Sen. Obure, you may proceed.

DELAY BY THE NATIONAL TREASURY IN DISBURSEMENT
OF FUNDS TO COUNTY GOVERNMENTS

Sen. Obure: Mr. Speaker, Sir, I rise pursuant to Standing Order No.45(2)(b) to seek a Statement from the Chairperson of the Standing Committee on Finance, Commerce and Budget on the delay by the National Treasury in disbursement of funds to county governments.

In the Statement, the Chairperson should:-

(a) State whether he is aware that several county governments have complained that the National Treasury has been delaying disbursement of funds to county governments leading to default on statutory obligations, disrupted implementation of planned activities and programmes and activities and accumulation of bills by county governments.

(b) Table a schedule of disbursement of funds to county governments covering the period 1st July, 2014 to 31st January, 2016, showing the dates when the funds were due

for disbursement and the actual dates when the disbursements were done to various counties.

(c) Explain the reasons for the delay, if any; and,

(d) Explain the measures that the National Treasury has put in place to guarantee prompt disbursement of funds to county governments considering that the funds are critical and a prerequisite to performance at both levels of Government.

Mr. Speaker, Sir, may I proceed to the next request?

The Speaker (Hon. Ethuro): Proceed.

STATUS OF MOGONGA-KENYENYA-NYANSEMBE ROAD

Mr. Speaker, Sir, I also rise pursuant to the same Standing Order to seek a Statement from the Chairperson of the Standing Committee on Roads and Transportation regarding the Mogonga-Kenya-Nyansembe Road in Kisii County.

In the Statement, the Chairperson should:-

(1) State whether Mogonga-Kenya-Nyansembe Road, known as D204 and Kamagambo-Riosiri-Nyansembe Road known as D205 are the lifeline of the residents of Southern Kisii being the link to Narok, Migori, Homa Bay and other counties.

(2) Explain how the funds that were allocated in the Financial Year 2008/2009 for improvement of the said roads to bitumen standard were used and why the two contractors who won the tenders for improvement of the roads did not commence work at that time.

(3) State when the Ministry will avail funds for construction of Mogonga-Kenya-Nyansembe Road to provide relief to residents and the economy of the area which has suffered for a long time.

The Speaker (Hon. Ethuro): Are the chairpersons of the respective committees here?

Sen. Billow.

Sen. Billow: Mr. Speaker, Sir, I have listened to the request for the Statement regarding funding to counties. It is a very important question. A number of counties have, indeed, raised questions regarding this. We will discuss this matter substantively with the Cabinet Secretary before we bring the response.

Two weeks is our request. This being a budget making period, I will be busy.

The Speaker (Hon. Ethuro): Let us have the response in two weeks time.

Is the Chairperson, Vice Chairperson or a Member of the Committee on Roads and Transportation here to respond to the request?

Sen. Sijeny: Two weeks is okay, Mr. Speaker, Sir.

The Speaker (Hon. Ethuro): Senator, you have two weeks.

Sen. Sijeny: Most obliged, Mr. Speaker, Sir.

The Speaker (Hon. Ethuro): Sen. Nabwala, you may proceed.

STATUS OF THE YOUTH ENTERPRISE DEVELOPMENT FUND

Sen. Nabwala: Mr. Speaker, Sir, I rise pursuant to Standing Order No.45 (2)(b) to seek a Statement from the Chairperson of the Standing Committee on Labour and Social Welfare regarding the Youth Enterprise Development Fund.

In the Statement, the Chairperson should:-

(1) Explain the measures that the Government has put in place to ensure that youths with existing businesses access individual loans from the Youth Enterprise Development Fund for the expansion of their businesses.

(2) Provide per county statistics showing how successful it has been since inception and whether it is fulfilling its intended purpose.

(3) Explain whether the 30 per cent procurement for the marginalized (women, youth and persons with disabilities) has been achieved and provide statistics of the beneficiaries per county.

Mr. Speaker, Sir, my second request is as follows:-

ONGOING COUNTRYWIDE MASS VOTER
REGISTRATION EXERCISE

Mr. Speaker, Sir, I rise pursuant to Standing Order No.45(2)(b) to request a Statement from the Chairperson of the Standing Committee on Legal Affairs and Human Rights regarding the ongoing countrywide mass voter registration exercise. In the Statement, the Chairperson should:-

(1) Explain why the voter registration exercise has been given a limited time of one month. That is from 15th February to 15th March, 2016.

(2) State whether such a limited time is not likely to disenfranchise a section of the population, thereby denying them their constitutional right to register as voters and vote.

(3) State whether the voter registration exercise could be extended by two months.

Sen. Wangari: Mr. Speaker, Sir, I undertake on behalf of the chairperson of the Standing Committee on Labour and Social Welfare to give the Statement in two weeks..

The Speaker (Hon. Ethuro): So ordered.

Sen. Sijeny: Mr. Speaker, Sir, I also undertake on behalf of the chairperson of the Standing Committee on Legal Affairs and Human Rights to respond to the Statement in two weeks.

Sen. Khaniri: Mr. Speaker, Sir, I have two Statements to seek.

EXPENDITURE OF KSHS15 BILLION SET
ASIDE FOR *EL NINO*

Mr. Speaker, Sir, pursuant to the provisions of Standing Order No.45(2)(b), I rise to seek a Statement from the Chairperson of the Standing Committee on Finance, Commerce and Budget, concerning the expenditure of Kshs15 billion set aside for

addressing the effects of *El Nino* rains of 2015/2016. In the Statement, the Chairperson should:-

- (1) Explain how much money was used for the same in totality according to the National Disaster Operation Centre.
- (2) Give a breakdown on how the money allocated was used in different counties

THE ZIKA VIRUS EMERGENCY

Mr. Speaker, Sir, pursuant to the provisions of Standing Order No.45(2)(b), I rise to seek a Statement from the Chairperson of the Standing Committee on Health concerning the emergency of the Zika virus. Zika virus has been declared an international emergency by the World Health Organization (WHO). In the Statement, the Chairperson should explain:-

- (1) The danger posed to the Kenyan public by the virus.
- (2) The measures undertaken by the Ministry of Health to monitor and control the effects of the virus in the country given the fact that the virus mutates.
- (3) What plans have been undertaken to ensure that our athletes who will participate in the August, 2016 Olympics in Brazil are protected.

Sen. Billow: Mr. Speaker, Sir, the *El Nino* funds is a matter that is vexing me too. This is because a substantial amount had been set aside *for El Nino*. It is good that the Member has requested a Statement on how that money has been disbursed.

There have been questions regarding how money has been disbursed to some of the counties and how it has been used. I ask the clerks to expedite the sending of the requests so that we can get the answer in the next two weeks.

The Speaker (Hon. Ethuro): So ordered. The next one was directed to the Committee on Health.

Sen. Kittony: Mr. Speaker, Sir, the question should be re-read. I have just come in.

The Speaker (Hon. Ethuro): You are directed to respond in one week's time. You will get the details from the HANSARD.

Sen. Kittony: Thank you, Mr. Speaker, Sir.

THE DOPING MENACE IN KENYA

Sen. Okong'o: Mr. Speaker, Sir, pursuant to the provisions of Standing Order No.45(2)(b), I rise to seek a Statement from the Chairperson of the Standing Committee on Labour and Social Welfare regarding the doping menace in Kenya. In the Statement, the chairperson should explain:-

- (1) The steps that the Government has taken to implement the recommendations on anti-doping that were made to governments by the World Anti-Doping Agency (WADA) in South Africa.
- (2) Whether the Anti-Doping Agency in Kenya is operational, its composition and also the programmes it has put in place in the campaign on anti-doping.

(3) The steps that the Government has taken to facilitate the anti-doping Agency in Kenya to carry out its mandate.

(4) The actions that the Government has taken against institutions and individuals that aid and abet doping in Kenya.

The Speaker (Hon. Ethuro): Chairperson of the Standing Committee on Labour and Social Welfare.

Sen. Wangari: Mr. Speaker, Sir, I undertake to give a response in the next two weeks.

STATUS OF THE KENOL-MAKUTANO-MARUA ROAD

Sen. Karaba: Mr. Speaker, Sir, pursuant to the provisions of Standing Order No. 45(2)(b), I rise to seek a Statement from the Chairperson of the Standing Committee on Roads and Transportation concerning the Kenol-Makutano-Marua Road. In the Statement, the chairperson should address the following:-

(1) Is the chairperson aware that the road from Kenol to Marua is a vital trade link to Ethiopia and that it is the backbone of the economy of the Mount Kenya Region?

(2) Is the chairperson aware that this section of the road has experienced huge traffic build up to the extent that it now takes four hours to reach Nanyuki and three hours to reach Nyeri? The huge traffic volume has led to a lot of accidents.

(3) Is the chairperson aware that the Kenya National Highways Authority (KeNHA) had engaged a consultant to carry out the design for the upgrading of the road to a dual-carriage way to speed up trade and reduce travel time thereby encouraging business?

(4) Why has the Kenya National Highways Authority (KeNHA) advertised the dualing of Kenol-Sabasaba-Murang'a Road before embarking on the construction of the Kenol-Makutano-Marua section whose design is ready?

(5) When will the Government tender for the upgrading of the Kenol-Makutano-Marua section?

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

Sen. (Prof.) Lonyangapuo: Mr. Speaker, Sir, I want to ride on the Statement that my brother Sen. Karaba has raised. The most vicious road today is from Nairobi-Nakuru-Eldoret-Malaba.

The Speaker (Hon. Ethuro): Order, Sen. (Prof.) Lonyangapuo! It is Statement Time.

Sen. (Prof.) Lonyangapuo: Mr. Speaker, Sir, I was putting my rider to the Statement. As the answers are sought, could I also know when the Government will make this busy highway dual all the way to Busia?

Sen. Sijeny: Mr. Speaker, Sir, I will give the answer after two weeks.

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

Sen. Karaba: Mr. Speaker, Sir, the design is already there. It has only been changed to Murang'a Road. Therefore, it does not need two weeks to revert back to the original design. Two weeks is a very long time when people are anxiously waiting for the outcome of this Statement. They will close the road by Friday.

Sen. (Dr.) Zani: On a point of order, Mr. Speaker, Sir. Did you notice how the Senator for Tana River County majestically walked through without bowing as he entered the Chamber? Is he in order to do that?

Sen. Bule: Mr. Speaker, Sir, I walked in and bowed. She was not observant enough.

The Speaker (Hon. Ethuro): Order, Sen. Bule! You have to seek authority to make your intervention; just because you were mentioned does not mean that you had a right of reply. I did not notice the way you entered the Chamber, but I noticed how you spoke out of turn. I will assume that must have been the consistent behaviour. Can you go and do the needful?

(Sen. Bule matched to the Bar and bowed)

I suppose Sen. (Dr.) Zani was not questioning the majestic way in which you are walking.

(Laughter)

What is it, Sen. Kittony?

Sen. Kittony: Mr. Speaker, Sir, I wanted to save his situation because I saw him bow, but it is already too late.

The Speaker (Hon. Ethuro): There is no harm in him bowing twice.

Sen. Sijeny, do you have a response to Sen. Karaba's request to expedite the response?

Sen. Sijeny: Mr. Speaker, Sir, I request for two weeks, but if we get a response in a week's time we will report.

The Speaker (Hon. Ethuro): There is a specific request from Sen. Karaba. Kindly make an attempt to give response in one week's time because there is some sense of urgency in the whole matter.

Sen. Sijeny: Mr. Speaker, Sir, I am guided. I will try my best to give a response within one week.

The Speaker (Hon. Ethuro): What is it Sen. Kembi-Gitura?

Sen. Kembi-Gitura: Mr. Speaker, Sir, I apologize for coming late to the Chamber. I understand that you are discussing the road in Murang'a County. If that is so, my only request to Sen. Sijeny before she walks out, is that if any Statement will be issued, that all interested parties are called to the Committee and made to state their position. Therefore, I do not know if that one week is enough because I am sure that they may need to do much more serious research into the issue.

The Speaker (Hon. Ethuro): Order, Sen. Kembi-Gitura! You should know better. Even committees that deal with impeachment are given 10 days. This is just looking for information. What makes it impossible? You have put your request and I believe that the Committee will consider it if need be.

Next order!

BILLS*First Readings*

THE LEGAL AID BILL (SENATE BILL NO. 18 OF 2015)

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

*(Orders for the First Readings read, the First Time and ordered
to be referred to the relevant Departmental Committees)*

MOTION

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

The Speaker (Hon. Ethuro): Who is the Chairperson of the Mediation Committee? Sen. (Dr.) Zani, this matter must be of interest to you. Who was responsible?

Sen. (Dr.) Zani: Mr. Speaker, Sir, Sen. (Dr.) Khalwale was responsible.

The Speaker (Hon. Ethuro): Sen. (Dr.) Khalwale, you have a matter under Order No.10

Sen. (Dr.) Khalwale: Mr. Speaker, Sir, I was consulting the Deputy Speaker. He had ordered me to consult him. I did not know that the business on the Order Paper would move so fast.

Before we went on recess, I moved this Motion. Therefore, I would like to be guided on a point of order before I continue. I moved this Motion and it had been seconded. I think that a few people had even debated on it. Since I gave notice yesterday, at this stage, I do not know whether I am supposed to start as if it was never debated.

The Speaker (Hon. Ethuro): Sen. (Dr.) Khalwale, please proceed. You gave the notice. Therefore, you should move the Motion afresh. I made a communication last week that Motions and Statements lapse, but Bills continue. Kindly proceed.

Sen. (Dr.) Khalwale: Mr. Speaker, Sir, I am going to move this Motion shortly. However, I have not canvassed with colleagues to get somebody who will second me. Therefore, if you can allow me to consult as we deal with Order No.11 so that I get somebody to second the Motion which is very short.

The Speaker (Hon. Ethuro): I urge that you move the Motion because you have already made a request. I am sure that somebody will volunteer to second you before you conclude because seconding a Motion does not have to be verbal.

Sen. (Dr.) Khalwale: Mr. Speaker, Sir, I am guided.

Mr. Speaker, Sir, I beg to move that the House adopts the Report of the Mediation Committee on the County Governments (Amendment) Bill (Senate Bill No.1 of 2014).

This is a fairly straightforward Motion. Members will remember that we had a Bill once upon a time in the life of this Senate. In fact, it was our first Bill where we were requesting that the head of each county government be insulated in a piece of legislation. So, we then passed this Bill and agreed that the headquarters would be as per the Third Schedule on this Bill.

Mr. Speaker, Sir, however, when it went to the National Assembly, they then had reservations and this Committee was formed for purposes of unlocking those areas where the two Houses were not agreeing.

The points of departure were that:-

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

(b) There was need for us to define what an urban area is.

(c) It was found that in Clause 3, the Members had a few reservations.

Mr. Speaker, Sir, we then discussed extensively and made a recommendation that the Mediation Committee on County Governments Amendment Bill (Bill No.1 of 2014) be approved in terms of Article 113 (2) of the Constitution. Then arising from that, we then raised a properly amended Bill which has settled all issues and in that amended Bill, we have confirmed the following:-

County Government

Headquarters

Mombasa county	Mombasa City
Kwale county	Kwale Urban Area
Kilifi County	Kilifi Urban Area
Tana River County	Hola Urban Area
Lamu County	Lamu Urban Area
Taita-Taveta	Wundanyi Urban Area
Garissa County	Garissa Urban Area
Wajir County	Wajir Urban Area
Mandera County	Mandera Urban Area
Marsabit County	Marsabit Urban Area
Isiolo County	Isiolo Urban Area
Meru County	Meru Urban Area
Tharaka-Nithi County	Tharaka-Nithi Urban Area
Embu County	Embu Urban Area
Kitui County	Kitui Urban Area
Machakos County	Machakos Urban Area
Makueni County	Makueni Urban Area
Nyandarua County	Ol-Kalou Urban Area
Nyeri County	Nyeri Urban Area
Kirinyaga County	Kerugoya Urban Area
Murang'a County	Murang'a Urban Area
Kiambu County	Kiambu Urban Area
Turkana County	Lodwar Urban Area

West Pokot County
 Samburu County
 Trans Nzoia County
 Uasin Gishu County
 Elgeyo Marakwet
 Nandi County
 Baringo County
 Laikipia County
 Nakuru County
 Narok County
 Kajiado County
 Kericho County
 Bomet County
 Kakamega County
 Vihiga County
 Bungoma County
 Busia County
 Siaya County
 Kisumu County
 Homa Bay County
 Migori County
 Kisii County
 Nyamira County
 Nairobi County

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

Mr. Speaker, Sir, Laikipia is one area which had brought contention but it was settled through a letter that originated from the County Assembly of Laikipia which confirmed the concurrence of the county assembly that they preferred the seat of the government to be in Rumuruti.

With that Schedule, it then finally confirms the concurrence of both Houses that those should be the respective seats of the county governments. I now want to request the Deputy Minority Leader to second the Motion.

I move.

The Speaker (Hon. Ekwere Ethuro): Sen. Hassan.

Sen. Abdirahman: Thank you Mr. Speaker, Sir. I have given the opportunity to Sen. Billow who was a Member of the Mediation Committee to second.

Sen. Billow: Thank you Mr. Chairman, Sir. I rise to second this Motion---

The Speaker (Hon. Ekwere Ethuro): Order Sen. Billow. Where is the Chairman?

Sen. Billow: Mr. Speaker, Sir, you know we had a long morning. I rise to second this Motion which deals with a very important Bill especially for this House because it determines where the location of the headquarters of the county governments will be. The two important aspects coming out of this mediation, as my colleague mentioned, are that:-

(1) In the County Governments Bill, a sub-section has been included through the mediation that gives the governor powers to confer the status of an urban area to the seat of the physical location of the county government.

Mr. Speaker, Sir, this is also important in the sense that all the county headquarters except Nairobi city have the same status of an urban area. I think that is important. It used to be that some areas were municipalities and others were county council headquarters. The benefit of this is that all of them will be the same.

(2) It has been agreed that any amendment as contained in the original Bill by the Senator for Kakamega - any amendment in terms of moving the location to another physical location - has to be done with the approval of the two-thirds. That has been agreed upon and I think it is important.

Mr. Speaker, Sir, the Members have agreed because in essence, in the Bill itself, one of the issues that was raised was that the legislation is against the spirit of devolution. It has been agreed that it is not against the spirit of devolution. All it does is to create a specific physical location that will serve as the headquarters so that in the case of Mandera, it shall be known that Mandera Urban Area which comprises Mandera Town will be the headquarters of the county government of Mandera. Any attempt to move will then require two-third votes in the county assembly.

Mr. Speaker, Sir, I want to thank Members of both Houses who were in the Mediation Committee who supported this process and agreed on this mediated version.

I second.

(Question proposed)

Sen. (Dr.) Zani: Mr. Speaker, Sir, I rise to support this Motion. It is very encouraging that the mediation was successful and we have an outcome, as read by Sen. (Dr.) Khalwale. Indeed, this Committee met seven times and the attendance was very good. The seventh meeting was held on 14th November, 2015. I congratulate the Mediation Committee.

Initially there was a dispute on two counties - Kirinyaga and Meru – about where exactly the headquarters should be. Some things look very self-intuitive, but they can be complicated especially when a criteria has not been put into place to ascertain what will be considered to be an urban area and, therefore, worthy to be the headquarters. This Motion has come out with a schedule that is very key and specific for all the 47 counties.

This outcome will enhance public participation, because people will know where the headquarters are. Secondly, we will have continuity across all the counties. We will not have a dispute with regard to the headquarters. That is sorted out in a very structured and acceptable manner that can always be used in a specific place and time.

Initially, the Bill stated that if there will be any change it should be done by the county assemblies. The provision was not removed at mediation and the county assemblies still have an input in terms of actually making a decision. But that decision has been further enhanced by both the National Assembly and the Senate and any change will be made by a two-thirds majority. That is very critical. At the end of the day, the biggest concern was whether this law was against devolution. On the contrary, it was pro-devolution; to enhance the running of the counties. There is a Committee of this

House that is going round various counties to ascertain the level of engagement by county assemblies and the facilities available. Because of the mediated Bill this Committee knows exactly where to go to and how to prosecute business in a very specific manner.

The mediation process went well and I commend the Mediation Committee.

I beg to support.

Sen. (Prof.) Lonyangapuo: Thank you, Mr. Speaker, Sir. I rise to support this Motion. I note that the Bill was first introduced to the Senate in 2014 and that is why it is called “Senate Bill No.1 of 2014.” If you look at the dates, after it was introduced in this House it went to the National Assembly and was rejected on 6th August, 2015; more than a year later. It is now here today after mediation. After we have discussed the Bill it will go back to the National Assembly.

This critical Bill was supposed to be transacted in this House for us to know the headquarters of every county and for the planning of the county headquarters to commence. Today if you visit the counties you will see an array of buildings that do not befit the status of headquarters. In some counties the governor and his team decided, in their own wisdom, not to do the planning of the headquarters. Instead, they just started constructing buildings. In my own county, for example, the county government decided to build a storey building for every County Executive Committee Member. In essence we are going to have not less than ten buildings scattered all over the county headquarters. A town like Kapenguria, where the headquarters is supposed to be, they have very small plots of land. So, when you put up so many buildings, there will be no room for expansion, unless they are demolished.

This Bill together with other legislations was supposed to compel every county government to plan. Planning should not be a one-man-show. In most counties today everything is hinged on the governor. Some have almost named those buildings after themselves. Anything that is built is attributed to the governor. Nobody talks about county government buildings.

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

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

Mr. Deputy Speaker, Sir, I am worried about the rate at which we transact and deal with Bills. Our colleagues in the “Lower House” have mishandled some of the Bills. By the time they are enacted into law a lot of damage will have been done. I do not know what will happen in some county headquarters where, as I have said, all the space is occupied by buildings.

We now have 47 headquarters for the county governments. Ideally, these headquarters should be designated as cities. How long will it take us to upgrade these headquarters to cities? We should not just have Mombasa, Nairobi and Kisumu as the headquarters of the respective counties. We should plan to upgrade other county headquarters to cities. In Europe, for example, almost every town is a city. How long will it take us to achieve this? We should upgrade the county headquarters to cities. Kapenguria town, for example, should be upgraded to a city. When we do the Division of

Revenue, we should think of allocating conditional funds for upgrading the county headquarters to city status.

Lastly, the national Government should work together with the county governments and set up a team to plan for the upgrade of the county headquarters to city status. The funding should come from the national Government and cover every region. At the moment, there is exclusion. I do not know any Senator who has ever been called by the county executive to discuss where and how the headquarters will be designed. I was shocked to visit my county headquarters and find buildings everywhere. When the Senators are left out and they are the ones who create and pass laws, it means that something is wrong. We should discuss these things together as counties. I recall that this Senate came up with a Bill which was assented to. The Act was to compel all the elected leaders, present and past to sit together and think about the development of their respective counties. It was the famous “Sang Bill” that was rejected. The Bill will haunt us for long because it was to force all of us to sit together.

Some of the decisions that I am talking about would have been rejected outrightly and forced my governor to build a five or eight storey building that was going to accommodate everyone including the Senator’s office in the county. However, that is not the case currently. We need to look at this more than what we have and think about the future rather than the small names referred to as urban.

I support.

Sen. Abdirahman: Thank you Mr. Deputy Speaker, Sir. I join my colleagues in supporting this important Motion. Honestly, I feel that it is important to guide governors on where the county headquarters should be located. Many of us remember that what used to be called districts were being established by the Office of the President. It is used to generate heat and animosity between the communities without looking at the clearly laid down procedures for establishment which included population, service delivery and infrastructure availability, among others.

Therefore, it is important to guide governors and the county communities to understand where these headquarters should be located. If we leave it loose like what it has been in the past, it will give opportunity for unnecessary manipulation to the leaders of the county governments. I say so because looking at the way the leased equipments were being distributed, we are yet to receive them. However, some governors have identified referral facilities that were just next to each other. In vast counties like Wajir County, the main district hospital has been identified. In a radius of 50 kilometers, is another hospital which is yet to receive the equipment. I thank Sen. (Dr.) Khalwale and his Mediation Committee for having fully looked into the issue because it will neither give room for manipulation nor unilateral decisions.

I support the proposal as suggested. I am sure it will go a long way in helping our communities to live cohesively. Thank you.

Sen. (Eng.) Muriuki: Thank you Mr. Deputy Speaker, Sir. I support this Motion. After the promulgation of the new Constitution, we are building new institutions. Those which were there are being revised. I congratulate Sen. (Dr.) Khalwale who came up with the idea in the first place; that there should be designated county headquarters for each county. It is a wonderful idea because we have a group of governors who can do

anything. Unless there is a law that can regulate them, anything can happen. I also congratulate the Mediation Committee who managed to give and take until they got a position that we can now adopt.

However, I reinforce the suggestions raised by Sen. (Prof.) Lonyangapuo to designate urban areas as cities. It is not enough to call it a city but we should come up with certain minimum facilities which each of the proposed headquarters should have.

Mr. Deputy Speaker, Sir, you recall that recently, the Senator for Nyandarua County raised the issue of serious lack of facilities in the county headquarters. This House in its wisdom passed a Motion which I believe - since the Commission for Revenue Allocation has allocated some funds for those five counties - this House will support so that the counties will at least catch up with others.

Finally is the problem of Kirinyaga County. I wish the Mover in his reply will comment on this. Recently while going round looking at the county headquarters, we managed to visit Kirinyaga County. This county has Kerugoya and Kutus urban areas. Before, these two used to be one urban area. However, today, the place called Kerugoya is where the county assembly is located. In fact, the assembly is putting up an office block. Kutus is where the governor has decided to put up a big office block costing Kshs385million. It will be difficult to undo this. I do not know whether during the mediation committee meetings you invited the Senator for Kirinyaga County so that we are not confronted with another problem where the law says one thing and the reality on the ground is that it cannot be undone.

I support.

Sen. Okong'o: Thank you Mr. Deputy Speaker, Sir. I take this opportunity to thank the Mover of this Motion. From the many remarks from Senators, it is obvious we are moving in the right direction. This Senate must embark on looking for a way to having either a Bill or a Commission to deal with boundary disputes. We are talking about county headquarters but there are other towns which are affected whereby counties are at loggerheads with each other.

These are issues that I think Sen. (Dr.) Khalwale, Sen. (Eng.) Muriuki, Sen. Obure among others should come up with a way forward because they have been in public service for long. We should look for a way of solving these boundary disputes once and for all. We have had disputes in Tharaka Nithi, Isiolo, Nyamira and Kisii counties. Even though we sat as leaders and came up with ways of solving it, there are still problems affecting those areas.

I do not know whether this House should look at the issues of boundaries from pre-independence. Before we retire, we should come up with solutions which are in tandem with our mandate.

Sen. Ndiema: Thank you Mr. Deputy Speaker, Sir. I thank the Senator for Kakamega County for coming up with this Bill. It is now clear where county headquarters should be. The next step should be to facilitate these county headquarters to be what they should be. We know some are small townships while others are municipalities and others are cities.

What we should do is to ensure that we grow all of them to become what they should be. The Urban Areas and Cities Act should be relooked at because, ideally, all

these centres whether they are small or otherwise, should be classified as municipalities. We all know that failing to plan is planning to fail.

The population threshold for a municipality has been set too high. That means that a municipality would have to grow its population without any plan and end up with shanties and we will count the shanties as being part of the municipalities. We should plan all of them to be municipalities by virtue of the fact that they are headquarters of counties.

To be able to grow them, we need masterplans which provide adequate area, land size and other facilities that have been suggested that there must be bare minimum facilities, not immediately, but to be developed over time. Counties will not achieve that with the resources that they have. We should have a plan whereby counties will be given conditional grants or conditional allocations to carry out proper masterplans of the townships to municipality status and even construct certain facilities like tarmacking roads and so forth.

Mr. Deputy Speaker, Sir, a city like Abuja started from nowhere but because the national Government put money in it, it is now a city just as important as Lagos. That is the way we should move.

In some municipalities – because of growth in population and devolution – there is a lot of business going on. There are so many businesses and a lot of investors. Counties are inviting investors to invest but there is no land. It is important that the national Government takes its responsibility to support counties because the Constitution also provides that it should support counties by way of acquiring more land or expanding the land so that there is land for municipalities or counties to allocate to investors.

Mr. Deputy Speaker, Sir, there is no more land for a municipality like Kitale. With the resources that we get, there is no way we can get adequate land.

(Sen. Billow consulted loudly with Sen. (Dr.) Kuti)

Mr. Deputy Speaker, Sir, there is a lot of---

The Deputy Speaker (Sen. Kembi-Gitura): Order, Sen. Billow and Sen. (Dr.) Kuti. Your conversation is loud.

Sen. Ndiema: Thank you, Mr. Deputy Speaker, Sir.

For a municipality like Kitale, the land that was initially planned became too small. Traders are now doing business not even on the road reserve but on the road itself and the railway, yet there is land that could be planned. In fact, compulsory acquisition has been provided for in the issue of roads and land in urban areas.

Mr. Deputy Speaker, Sir, there is also need to have uniform facilities, for example, the county headquarters. If you go to various counties today, you will find that the designs and sizes are different. There should be a level of uniformity.

The office that we hold is important. There seems to be no plan at all as to where the office of the Senator in a county should be. While county governments – the county executives and county assemblies – are being facilitated to have offices, the office of the Senator at the county is not being facilitated. This is an issue that we should look at under the current budget so that under the development budget, some resources are allocated for

construction of the Senate offices. It may not be done uniformly across all counties at a time but we can do it gradually, maybe in five years beginning this or next year. After all, we are only 47 Senators and it will help.

With those few remarks, I think this is a start and we should pursue the idea of improving the centres. Thank you.

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

It appears there are no further requests from the Floor. Sen. (Dr.) Khalwale, are you ready to reply?

Sen. (Dr.) Khalwale: Yes, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker, Sir, I rise to respond. First of all, I want to assure this House that this very Mediation Committee Report went to the National Assembly as a Motion during the last Session and it has been approved. So, we are simply doing catch-up.

Secondly, the biggest concern that worried Members of the National Assembly – that is why they rejected this Bill in the first place – was that in the original Bill, we had left the exercise of a decision on changing the seat of government in the hands of the county assembly, the county executive and this Senate. So, we expanded the consultation level to include not just the county assembly and the county executive but also the Senate and the National Assembly and finally subjecting it to extensive public participation. So, this is an all-inclusive provision that should leave everybody resting easy.

I now wish to assure the people of Kirinyaga that this Bill has sorted out the original fears that were there between Kerugoya and Kutus Towns. We are aware that the governor had attempted to put up a structure at Kutus. This was part of the machinations; an attempt to force the people's wish to move away from Kerugoya to Kutus. Now that it is permanently this way, a building like the one the governor has put there is not offensive in any way. They can use it in the short-term or mid-term basis but in the long run, he will eventually put up a proper structure at Kerugoya.

By the time I was drafting this Bill, there was a lot of anxiety in Kiambu because there was an attempt to move the seat of government from Kiambu Town - the Town that we know - to Thika. This has been settled and today I am sure that the people of Kiambu will be very happy with this Senate.

Finally, it is about the people of Laikipia. The fears they had about Rumuruti and Nanyuki have been brought to rest. I hope that this House will find reason to support the amended version of the Bill after the mediation, so that we give His Excellency, President Uhuru Kenyatta an opportunity to assent it into law.

With those remarks, I move that the Report of the Mediation Committee on the County Government (Amendment) Bill (Senate Bill No.1 of 2014) be approved by this House. I thank you.

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

Sen. (Dr.) Khalwale, are you going to invoke Standing Order No.54, or do you want me to put it to the vote?

Sen. (Dr.) Khalwale: Mr. Deputy Speaker, Sir, if it is the ruling of the Chair that this Motion is a matter concerning counties, then---

The Deputy Speaker (Sen. Kembi-Gitura): Sen. (Dr.) Khalwale, if this does not affect counties, what affects counties?

Sen. (Dr.) Khalwale: Mr. Deputy Speaker, Sir, I am so directed.

The Deputy Speaker (Sen. Kembi-Gitura): Do you sincerely think this does not affect counties?

Sen. (Dr.) Khalwale: It does affect counties.

The Deputy Speaker (Sen. Kembi-Gitura): Then, are you going to invoke Standing Order No.54, or do you want me to put the matter to the vote?

Sen. (Dr.) Khalwale: Mr. Deputy Speaker, Sir, in view of the fact that the Chair has confirmed and asserted that this is a matter affecting counties and I agree, allow me, under Standing Order No.54, to request that the vote be taken on any other day to allow sufficient delegations to be in the House.

Thank you.

The Deputy Speaker (Sen. Kembi-Gitura): Thank you, Sen. (Dr.) Khalwale, it is so ordered.

Next Order.

*(The Deputy Speaker (Sen. Kembi-Gitura)
consulted with the Clerk-at-the-Table)*

The Deputy Speaker (Sen. Kembi-Gitura): Order, Senators! I will defer Orders No.11, 12 and 13 because we do not have numbers to go to Division and I do not want to have a futile Division. We will also defer Order No.14.

COMMITTEE OF THE WHOLE

THE CANCER PREVENTION AND CONTROL (AMENDMENT)
BILL (SENATE BILL NO.3 OF 2015)

THE PUBLIC APPOINTMENTS (COUNTY ASSEMBLY APPROVAL)
BILL (SENATE BILL NO.20 OF 2014)

THE HIV AND AIDS PREVENTION AND CONTROL (AMENDMENT)
BILL (SENATE BILL NO.4 OF 2015)

(Committee of the Whole deferred)

Hon. Senators, I will also defer Order No. 15 temporarily so that we can put the House in order.

THE COUNTY INDUSTRIAL DEVELOPMENT BILL
(SENATE BILL NO.7 OF 2014)

(Committee of the Whole deferred temporarily)

BILL*Second Reading*THE COUNTY OUTDOOR ADVERTISING CONTROL
BILL (SENATE BILL NO. 11 OF 2015)*(Sen. Mutula Kilonzo Jnr. on 16.02.2015)**(Resumption of Debate interrupted on 16.02.2015)*

The Deputy Speaker (Sen. Kembi-Gitura): Hon. Senators, this is resumed debate. Who was on the Floor?

Hon. Senators, I note that Sen. Mutula Kilonzo Jnr. who was in the process of moving the Motion is not here. So, we cannot deal with resumed debate on that. We have to go back to Order No. 15, Committee of the Whole.

*(Bill deferred)***COMMITTEE OF THE WHOLE***(Order for Committee read)**[The Deputy Speaker (Sen. Kembi-Gitura) left the Chair]***IN THE COMMITTEE***[The Temporary Chairperson (Sen. Ongoro) took the Chair]*THE COUNTY INDUSTRIAL DEVELOPMENT BILL
(SENATE BILL NO. 7 OF 2014)*Clause 3**(Question that Clause 3 be part of the Bill, proposed)*

The Temporary Chairperson (Sen. Ongoro): I defer the putting of all the questions towards the end so that we put the questions together.

Clause 4

Sen. (Eng.) Muriuki: Madam Temporary Chairperson, I beg to move:-
THAT, Clause 4 be amended –

(a) by deleting sub-clause (2) and substituting therefor the following new sub-clause—

(2) The Board shall be administered by a board of directors which shall consist of—

(a) a chairperson who shall be appointed by the Cabinet Secretary with the approval of the Senate;

(b) the Principal Secretary (PS) responsible for matters relating to industrialisation or a person designated by the principal secretary in writing;

(c) the Principal Secretary (PS) responsible for matters relating to finance or a person designated by the principal secretary in writing;

(d) four persons appointed by the Cabinet Secretary (CS) with the approval of the Senate;

(e) four persons, being two men and two women, not being a governor or deputy governor nominated by the Council of Governors and appointed by the Cabinet Secretary (CS); and

(f) the Chief Executive Officer appointed by the Board in accordance with section 7, who shall be an ex-officio member and the secretary to the board and who shall not be entitled to vote.

(b) by inserting the following new sub-clauses immediately after sub-clause (5) –

(5A) The Cabinet Secretary (CS) shall appoint the members of the board under sub-section (2)(d) and (e) in a staggered manner so that the respective expiry dates of their terms shall fall at different times and, for this purpose, shall not renew the appointment of the two persons first appointed under sub-section (1)(d) and (e) upon the commencement of this Act.

(5B) A person shall be qualified for appointment –

(a) in the case of a chairperson, if the person holds a degree from a university recognised in Kenya; and

(b) in the case of a member appointed under sub-section (2)(d), if the person holds a degree from a university recognised in Kenya and has knowledge and experience in any of the following fields and are members of their respective professional bodies –

(i) industrialization;

(ii) finance;

(iii) accounting;

(iv) economics;

(v) law; or

(vi) human resource; or such other qualifications as the Cabinet Secretary (CS) shall consider necessary for the conduct of the affairs of the Board.

Madam Temporary Chairperson, in the Bill, we have proposed a County Industrial Development Board and there are certain categories of members who are to be appointed. This amendment was not a major one. It was distribution of the persons so that you have persons nominated by the Council of Governors (CoG). That is the major amendment.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Ongoro): We had agreed that the Division will come at the end.

Sen. (Dr.) Khalwale, do you have an intervention? Okay you have removed your request.

Sen. (Dr.) Khalwale: Madam Temporary Chairperson, it was earlier.

The Temporary Chairperson (Sen. Ongoro): Okay.

Clause 5

Sen. (Eng.) Muriuki: I beg to move:-

THAT, Clause 5 be amended –

By inserting the following new sub-clauses immediately after sub-clause (2) – (3)
The board shall, in the performance of its functions under subsection (1) and (2), collect and maintain data on matters relating to industrial development in the counties.

(4) Each county government shall co-operate with, and submit to the Board, such data and information with regard to matters relating to industrialization in accordance with guidelines that may be prescribed by the Board.

Madam Temporary Chairperson, again, let me explain that that amendment came up in the Committee on Finance, Commerce and Budget to include the fact that this Board would also be the one to collect the data on industrialisation around the country.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Ongoro): Again, Division will be at the end.

Clause 6

(Question, that Clause 6 be part of the Bill, proposed)

Clause 7

Sen. (Eng.) Muriuki: Madam Temporary Chairperson, I beg to move:-

THAT, Clause 7 of the Bill be amended in sub-clause (7) by –

(a) inserting the words “the intended removal and” immediately after the words “writing of” appearing in paragraph (a);

(b) inserting the words “before the board” immediately after the words “put in a defence” appearing in paragraph (b).

There was something missing in the Bill; that the Chief Executive maybe removed without a hearing.

(Question of the amendment proposed)

Clauses 8 and 9

(Question, that Clauses 8 and 9 be part of the Bill, proposed)

Clause 10

Sen. (Eng.) Muriuki: Madam Temporary Chairperson, I beg to move:-

THAT the Bill be amended –

(a) by deleting the heading appearing immediately before clause 10 and substituting therefor the following new heading –

PART III – PUBLIC PARTICIPATION

(b) by deleting clause 10 and substituting therefor the following new clauses –
Public participation.

10. (1) The Ward Administrator in each ward shall, not later than twelve months from the date of the preceding general election, give an opportunity to the residents of a ward to submit their ideas and views regarding matters relating to industrialisation within the county and shall, for this purpose, convene a meeting of the residents of the county to receive such ideas and views.

(2) Despite subsection (1), the first meeting of the residents of a ward shall be convened within a period of eight months from the date of the commencement of this Act.

(3) A meeting convened under subsection (1) shall be chaired by the respective elected member of the county assembly.

(4) The residents of the respective ward may submit their views on issues relating to industrialization under subsection (1) to the Ward Administrator orally or in writing.

(5) A Ward Administrator may receive ideas and views regarding matters relating to industrialization within the respective county from persons who are not resident in the county.

(6) Each Ward Administrator shall compile and submit to the county industrial co-ordinator the ideas and views received under subsections (4) and (5) for consideration.

County industrial forum.

10B (1) Each county government shall convene a county industrial forum biennially consisting of –

(a) the Senators elected and nominated from the respective county under Article 98 of the Constitution;

(b) members of the National Assembly elected to represent the constituencies within the respective county and nominated from, or to represent the respective county under Article 97 of the Constitution;

(c) members of county executive committees in the respective county;

(d) members of the county assembly; and
(e) such other persons, including investors, with such knowledge and experience as the county government may consider relevant.

(2) The forum convened under subsection (1) shall undertake an appraisal of the industrial undertakings within the county and shall, for this purpose –

(a) review the status of industrial development in the county;
(b) deliberate on the progress made on public industrial initiatives within the county and for this purpose, the Governor shall submit a report on the implementation of initiatives and projects within the county;

(c) deliberate and make recommendations to the respective county government regarding the industrial development projects that are to be prioritised within the counties; and

(d) receive a report by the county government on ideas and views submitted by the residents of the wards within the respective county under section 10.

Madam Temporary Chairperson, as the sponsor of the Bill, I had proposed, a series of committees in the county from the ward, constituency and county which the wisdom of hon. Senators both in the Committee and the House thought it is not a good idea. So, the amendment is to remove those and again, the next several amendments are subsequent to the fact that those three committees were removed.

(Question of the amendment proposed)

Clause 11

Sen. (Eng.) Muriuki: Madam Temporary Chairperson, I beg to move:-
THAT the Bill be amended by deleting Clause 11.

(Question of the amendment proposed)

Clause 12

Sen. (Eng.) Muriuki: Madam Temporary Chairperson, I beg to move:-
THAT the Bill be amended by deleting Clause 12.

(Question of the amendment proposed)

Clause 13

Sen. (Eng.) Muriuki: Madam Temporary Chairperson, I beg to move:-
THAT the Bill be amended by deleting Clause 13.

(Question of the amendment proposed)

Clause 14

Sen. (Eng.) Muriuki): Madam Temporary Chairperson, I beg to move:-
THAT the Bill be amended by deleting Clause 14.

(Question of the amendment proposed)

Clause 15

Sen. (Eng.) Muriuki): Madam Temporary Chairperson, I beg to move:-
THAT the Bill be amended by deleting Clause 15.

(Question of the amendment proposed)

Clause 16

Sen. (Eng.) Muriuki): Madam Temporary Chairperson, I beg to move:-
THAT the Bill be amended by deleting Clause 16.

(Question of the amendment proposed)

Clause 17

Sen. (Eng.) Muriuki): Madam Temporary Chairperson, I beg to move:-
THAT, Clause 17 of the Bill be amended –

- (a) in sub-clause (2) by deleting the word “produce” appearing immediately after the words “improvement of existing” and substituting therefor the word “facilities”;
- (b) by deleting sub-clause (3);
- (c) in sub-clause (5) by deleting all the words appearing immediately after the words “established in the industrial park”.

(Question of the amendment proposed)

Clause 18

Sen. (Eng.) Muriuki): Madam Temporary Chairperson, I beg to move:-
THAT, Clause 18 of the Bill be amended –

- (a) in sub-clause (2) by deleting the words “industrial development committee” appearing immediately after the words “by the County” and substituting therefor the word “Assembly”;
- (b) in sub-clause (3) by deleting all the words appearing immediately after the words “value to a project”.

(Question of the amendment proposed)

Clause 19

(Question, that Clause 19 be part of the Bill, proposed)

Clause 20

Sen. (Eng.) Muriuki: Madam Temporary Chairperson, I beg to move:-
THAT, Clause 20 of the Bill be amended by –

- (a) deleting sub-clause (2);
- (b) in sub-clause (3) by deleting the words “industrial development committee” appearing immediately after the words “of the County” and substituting therefor the word “Assembly”.

(Question of the amendment proposed)

Clause 21

Sen. (Eng.) Muriuki: Madam Temporary Chairperson, I beg to move:-
THAT, Clause 21 be amended –

- (a) by deleting sub-clause (1) and substituting therefor the following new sub-clause–

(1) In order to ensure harmony, proper co-ordination and to avoid undue duplication, all projects, whether public or private, however funded and irrespective of ownership, shall be included in the report of the county government submitted to the county industrial forum under section 10.

- (b) by deleting sub-clause (2); and

(c) in sub-clause (3) by deleting the words “and approval” appearing immediately after the words “Board for information”.

(Question of the amendment proposed)

Clause 22

Sen. (Eng.) Muriuki: Madam Temporary Chairperson, I beg to move:-
THAT the Bill be amended by deleting clause 22.

(Question of the amendment proposed)

Clause 23

Sen. (Eng.) Muriuki: Madam Temporary Chairperson, I beg to move:-
THAT, Clause 23 of the Bill be amended by –

- (a) re-numbering the existing clause as sub-clause (1);

(b) inserting the following new sub-clause immediately after sub-clause (1) –
(2) The report submitted under subsection (1) shall contain information regarding industrial development within the county including a statistical abstract of the industrial activities in such format as shall be specified by the Board.

(Question of the amendment proposed)

Clause 24

Sen. (Eng.) Muriuki: Madam Temporary Chairperson, I beg to move:-
THAT, Clause 24 of the Bill be amended in sub-clause (2) by –
(a) inserting the following new paragraphs immediately after paragraph (d) –
(da) details relating to the nature and financing of the project;
(db) details relating to the sponsor, implementing agency and any other financiers of the project;
(b) deleting the words “County Industrial Development Committee” appearing immediately after the words “secretary to the” in paragraph (e) and substituting therefor the words “county industrial coordinator”;
(c) deleting paragraph (h).

(Question of the amendment proposed)

Clauses 25, 26, 27 and 28

(Question, that Clauses 25, 26, 27 and 28 be part of the Bill, proposed)

Clause 29

Sen. (Eng.) Muriuki: Madam Temporary Chairperson, I beg to move:-
THAT, Clause 29 of the Bill be amended by –
(a) deleting sub-clause (1);
(b) deleting the words “schedule of projects received under sub-section (1)” appearing immediately after the words “into account the” and substitute therefor the words “industrial development initiatives in the respective counties”.

(Question of the amendment proposed)

Clauses 30 and 31

(Question, that Clauses 30 and 31 be part of the Bill, proposed)

Clause 32

Sen. (Eng.) Muriuki: Madam Temporary Chairperson, I beg to move:-
THAT Clause 32 of the Bill be amended by deleting sub-clause (3).

(Question of the amendment proposed)

Clause 33

Sen. (Eng.) Muriuki: Madam Temporary Chairperson, I beg to move:-
THAT, Clause 33 of the Bill be amended in sub-clause (2) by inserting the word “county” immediately after the words “intended for”.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Ongoro): The Division will be at the end.

Clause 34

Sen. (Eng.) Muriuki: Madam Temporary Chairperson, I beg to move:-
THAT, Clause 34 of the Bill be amended by deleting the words “set out in the approval by the County Industrial Development Committee” and substituting therefor the words “specified in guidelines prescribed by the Board”.

(Question of the amendment proposed)

Clause 35

(Question, that Clause 35 be part of the Bill, proposed)

Clause 36

Sen. (Eng.) Muriuki: Madam Temporary Chairperson, I beg to move:-
THAT, Clause 36 of the Bill be amended –
(a) in sub-clause (1) by deleting the word “Board” appearing immediately after the words “approved by the” in paragraph (d) and substituting therefor the words “County Assembly”;
(b) in sub-clause (2) by deleting the words “but approval by the County Industrial Development Committee of the industrial undertaking shall be mandatory” appearing immediately after the words “from its own funds”;
(c) in sub-clause (4) by inserting the words “or private entity” immediately after the words “county corporation”;

(d) in sub-clause (6) by deleting the words “be divided equally by all the counties to be utilized in facilitating the industrialization process in the counties” and substituting therefor the words “be allocated to the County Industrial Development Fund”;

(e) by deleting sub-clause (7); and

(f) by deleting sub-clause (9).

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Ongoro): Hon Senators, nobody seems to be interested in any interventions at all.

Sen. (Eng.) Muriuki: Madam Temporary Chairperson, allow me to comment on that. Since this Bill has been before us for two years, there were comments in the Committee three times and during the Plenary.

The Temporary Chairperson (Sen. Ongoro): Okay. Let us proceed.

Clause 37

(Question, that Clause 37 be part of the Bill, proposed)

Clause 38

Sen. (Eng.) Muriuki: Madam Temporary Chairperson, I beg to move:-

THAT, Clause 38 of the Bill be amended in sub-clause (2) by deleting paragraph (a) and substituting therefor the following new paragraph –

(a) a quarterly report; and

(Question of the amendment proposed)

Clause 39

(Question, that Clause 39 be part of the Bill proposed)

Clause 40

Sen. (Eng.) Muriuki: Madam Temporary Chairperson, I beg to move:-

THAT, the Bill be amended by deleting Clause 40.

(Question of the amendment proposed)

Clause 41

(Question, that Clause 41 be part of the Bill proposed)

Clause 42

Sen. (Eng.) Muriuki: Madam Temporary Chairperson, I beg to move:-

THAT, Clause 42 of the Bill be amended in sub-clause (2) by deleting paragraph (d) and substituting therefor the following new paragraph –

(d) such monies as may accrue to the Fund pursuant to section 36(6);

(Question of the amendment proposed)

Clauses 43, 44, 45, 46, 47 and 48

*(Question, that Clauses 43, 44, 45, 46, 47
and 48 be part of the Bill, proposed)*

Clause 49

Sen. (Eng.) Muriuki: Madam Temporary Chairperson, I beg to move:-

THAT, Clause 49 of the Bill be amended –

(a) by deleting sub-clause (1) and substituting therefor the following new sub-clause–

(1) Each county government shall formulate such policies as may be necessary to promote industrialization in the respective county through public, private or public-private ventures.

(b) by deleting sub-clause (2) and substituting therefor the following new sub-clause–

(2) Each county governor shall appoint one county public officer to serve as the industrial coordination officer who shall coordinate the industrial development activities in the respective County.

(Question of the amendment proposed)

Clauses 50, 51 and 52

*(Question, that Clauses 50, 51 and
52 be part of the Bill, proposed)*

Schedule

*(Question, that the Schedule
be part of the Bill, proposed)*

Clause 2

Sen. (Eng.) Muriuki: Madam Temporary Chairperson, there is no amendment to Clause 2.

The Temporary Chairperson (Sen. Ongoro): Sen. (Eng.) Muriuki, there appears to be an amendment on Clause 2 in the Order Paper. There is an indication of an amendment. Do you have the Order Paper?

Sen. (Eng.) Muriuki: Madam Temporary Chairperson, let me tender my sincere apologies. There is an amendment on Clause 2.

I beg to move:-

THAT, Clause 2 of the Bill be amended by deleting the definition of the word “County Industrial Development Committee”.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Ongoro): The Division will be at the end.

The Title and Clause 1

*(Question, that the Title and Clause 1
be part of the Bill, proposed)*

The Temporary Chairperson (Sen. Ongoro): Since we cannot do the Division now because of the numbers, we shall report progress.

Sen. (Eng.) Muriuki: Madam Temporary Chairperson, pursuant to Standing Order No.139, I beg to move that the Committee of the Whole reports progress on its consideration of The County Industrial Development Bill (Senate Bill No.7 of 2014) and seeks leave to sit again tomorrow.

(Question Proposed)

(Question put and agreed)

(The House resumed)

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

PROGRESS REPORTED**THE COUNTY INDUSTRIAL DEVELOPMENT BILL
(SENATE BILL NO.7 OF 2014)**

Sen. Ongoro: Mr. Deputy Speaker, Sir, I beg to report that the Committee of the Whole has considered The County Industrial Development Bill (Senate Bill No.7 of 2014) and seeks leave to sit again tomorrow.

Sen. (Eng.) Muriuki: Mr. Deputy Speaker, Sir, I beg to move that the House do agree with the Committee in the said Report.

Sen. Mungai seconded.

(Question proposed)

The Deputy Speaker (Sen. Kembi-Gitura): Who is seeking the Floor? Is it Sen. ole Ntutu? He is not even here. Is somebody using his card?

In that case, I will put the Question.

(Question put and agreed to)

Next Order!

BILLS*Second Reading***THE COUNTY OUTDOOR ADVERTISING CONTROL BILL
(SENATE BILL NO. 11 OF 2015)**

(Sen. Mutula Kilonzo Jnr. on 16.02.2016)

(Resumption of Debate interrupted on 16.02.2016)

The Deputy Speaker (Sen. Kembi-Gitura): Sen. Mutula Kilonzo Jnr., my record shows that you have 57 minutes balance. You can take your 57 minutes.

In the meantime, whoever is using Sen. ole Ntutu's card to scramble it.

Sen. Mutula Kilonzo Jnr.: Mr. Deputy Speaker, Sir, this is a fairly straightforward Bill so I will take less time. I had already introduced the Bill, but for the avoidance of doubt and for the Senators who were not here, the Committee of ICT has proposed this Bill; I am moving it on their behalf.

The outdoor advertising sector, since time immemorial, has been unregulated and/or has only been regulated using legal notices and other methods. In this case, the Physical Planning Act has been used to regulate outdoor advertising. However, on the promulgation of the new Constitution under the Fourth Schedule, the outdoor advertising

was left as a matter concerning counties. Therefore, in proposing this legislation, I would like to say that the Bill is on all fours with the functions and the work of county governments.

Secondly, fortunately a pronouncement was made in the dispute by Hon. Justice Mumbi in between the Council of Governors and the roads authorities together with the Ministry of Infrastructure on the functions of roads as proposed by the Senate. The pronouncement in essence says that this is a matter that should be dealt with by counties. This was in respect of functions that should be devolved.

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

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

Madam Temporary Speaker, at the moment, county governments are licensing various persons to advertise in various outdoor places in the county, but a dispute has arisen between the Kenya National Highways Authority (KeNHA) as to who should pay for the billboards and how much should be paid. KeNHA is on record as having stated that the advertising fee should be paid to them while county governments think otherwise. Therefore, this Bill attempts to regulate this unregulated area so that we can have a process under which a person can apply. We can have a process as to where a billboard or any other form of advertisement can be erected.

In Clause 2, the Committee has come up with various definitions of what constitutes advertising, amenities, area, committee, county executive, hoarding, sponsorship, marketing plan and so on.

Clause 3 deals with how the application will be made, what will be displayed, what should not be displayed and where the billboards or any other form of advertisement should be. This is outlined in this clause in great detail. Yesterday, I stated that there have been proposals and we will bring them during the Third Reading by various stakeholders on what should be excluded. That is something for the Senators to consider.

Clause 4 addresses the issue of advertisement licence which is the bone of contention among stakeholders; the framework and the committee is set out in Clause 4(2) and (3) and the details as to who would sit in the committee. We have received proposals to increase the representation in this committee, including the people who do outdoor advertising and members of the private sector and the KeNHA. It is in the spirit of having coordination and co-operation between the national government and the county government entities as envisaged in Article 189 of the Constitution.

Clause 5 address the issue of who should apply, when to apply and what to give. You notice that in Clause 5(2c), an exception was given. You recall that when His Excellency the President gave out title deeds in Mombasa, there was an issue as to whether a certificate of lease is a title deed or not. Therefore, under the (c), it has been proposed that we expand the definition to include any other form or recognized ownership documents which include certificates of lease, title deeds, allotment letters and others not included here. It would then appear that Clause 5(c) excludes people who have

certificates of lease, which for all intents and purposes, is a title deed as envisioned under the Constitution.

It further outlines who should be allowed, what should not be advertised and so on. It is very important for Senators to note this because this is an area of concern. What should be advertised and what should not. Senators would recall a gentleman by the name Ezekiel Mutua banning billboards in the city because of what they had advertised. This is where the bone of contention would be.

In terms of the law and a person who has been denied a licence under Clause 7, the committee in Clause 4 would have to confirm that the person has not complied with any of the parameters set out under Section 6. The decision reached under Article 7 would be required to be in writing again in line with a Bill which we have passed here, called the Fair Administrative Action Act and Article 47 of the Constitution.

Clause 8 concerns consultations and coordination amongst various stakeholders, again, in the spirit of ensuring that nobody is left out.

In Clause 10, there is a condition set out as an attempt to deal with people who attempt to alter billboards or any other forms of outdoor advertisement. We have seen it before and there is a prohibition under this Clause.

Clause 11 is an avenue for renewal. This is for any person who would like to renew an advertisement. In Clause 12, the committee has power to revoke any approval they have given under Clause 5. There are conditions set out why approval given prior to can hitherto again be cancelled.

Clause 13 is very important in line with Article 47 of the Constitution. It is an avenue for appeal. It gives a person who is aggrieved by a decision of a public body an opportunity to appeal or review.

Clause 14 is on miscellaneous provisions. It highlights what the Committee found. The committee is of the view that public participation is very important in terms of Article 10 of the Constitution. That is the reason Clause 14 is worded in the way it is.

Under Clause 16 we have allowed the Committee in line with Article 40 of the Constitution to have an opportunity to do inspections. Again, it is fairly procedural and there is no need to belabour the point.

Clause 17 deals with people who have a habit of violating the law. Therefore, we have provided for a very stiff penalty to a person who has violated the law here. The fine is Kshs200,000 or imprisonment of six months or both. It is supposed to be punitive because if somebody violates the principles of morality or environment, we want to make it clear that it will be very painful for them. Therefore, the law has given with the left hand, but it can take it away with the right hand if there is violation in compliance with the law.

Under Clause 18, we have allowed the County Executive Committee in charge at the county level to prepare regulations. The reason is simple. For example, what Nakuru, Mombasa wants to do may differ from other counties. Therefore, we do not want to over-legislate on matters that would be fairly straight forward or procedural in terms of how the form would look like, where you will pay or what time the office opens, and many more. This will be dealt with by the county assemblies. However, the parameters are set

out as to what the regulations will require to have. In terms of the current existing structure, the law that is applicable now is the Physical Planning Act.

In Clause 19, we have ensured that those persons who are now advertising will not be prejudiced by virtue of this law. Therefore, in this clause, we have provided a transitional clause and a saving provision so that we do not affect negatively any substantive right of a person who has a licence currently in force.

Clause 20 might change in view of the new Bill that we have received from the National Assembly. In the event that we do not pass the Physical Planning Bill (2015) before this law, Clause 20 will change correspondingly. That is for Senators to put a small asterisks so that when that right time comes, we can make the appropriate amendment to conform with whichever law will be in force at that time.

This is one avenue that has been unregulated. It is our view that it would increase the revenue of counties. We know how much billboards would cost. Some Senators and Governors will want to advertise themselves on billboards. This is an avenue for county governments to make money. The idea here is to regulate the business and make sure people do not just erect billboards wherever they feel like, with too much flashing light or a hazard to the environment. We want to provide an avenue where this is not a prohibited practice. Alternatively, it does not become an exclusive jurisdiction of a cartel of a few people.

We want to make it possible for a spoon trader or small scale business people to advertise their business without necessarily subjecting themselves to the current cartel of outdoor advertisers.

With those few remarks, I would like to ask Sen. (Dr.) Zani to second this Bill.

Sen. (Dr.) Zani: Madam Temporary Speaker, I stand to second this Bill. In the last 40 years, we have witnessed a high level of economic liberalization in this country. The level of competitiveness has risen to greater heights in the last few years. For example, production of goods has gone up and more people are producing a lot of goods for our market. Therefore, for them to sell their goods, they must take them to the next level by convincing their consumers to buy those goods. One of the best ways to do so, is through advertising. The more high scale advertising they will do, the more customers they will get for their goods.

We need to see billboards erected in the right places. Sometimes we find billboards that have been erected in places that are not appropriate on the road and some distract drivers. Therefore, it is very important to balance the factors. We need to strike a balance between the interest of the consumers and those who have competing interests.

I congratulate Sen. Mutula Kilonzo Jnr. for tabling this Bill because it addresses key components of fairness; of equitable distribution, flexibility and responsibility in advertising which is very critical. As much as we have industrial growth, it should grow within a controlled environment. Without this Bill, people can do what they want to do at any time. This Bill will regulate and ensure that there is a level of public safety beyond which nobody should be able to go. At the end of the day, we want to see our people protected and doing their businesses in a conducive environment. For example, there have been cases where advertisements have been put in place for long, the paper has wasted away, moving into rivers and other public space creating quite an issue. It is a pity

that after elections, people forget about their campaign posters. This becomes hazardous. Posters are flown all over and create quite a problem in terms of environmental degradation.

This Bill addresses very key components. The section at the beginning covers the whole spectrum of the issues that are raised in this Bill. For example, issues like entertainment, the functional meetings or any other similar event, giving an exact provision for the context of this Bill. The Bill also moves to indicate that there are certain areas where it is okay to advertise. It gives provisions of that in Clause 3(1). It says:-

“This Act applies to all advertisements but does not apply to any advertising display used exclusively for any of the following purposes:

- (a) To provide directions to property for sale, lease, or exchange where the display is not visible from a highway
- (d) (iv) An advertisement displayed inside a building and not within one meter of any external door, window or other opening through which it is visible from outside the building.”

The Bill balances the various situations and contexts of where you can advertise safely and where you cannot advertise safely. However, it is always very critical when you have such a Bill, especially like this one that tends to control the way advertising is done or the way people do things. Then, you must have a mechanism in place to ensure it is done that way.

This Bill creates a committee, the County Outdoor Advertising Committee. It is a small committee of five members who are very well selected. One Member who is a County Executive Committee Member in charge of advertising and another Member is a County Executive Committee Member in charge of environment. This is because these two sectors intertwine very closely. Therefore, someone who has that background of what it means, how and what sort of adverts to put into place becomes very critical for this committee. We should also have someone who is aware about environmental issue so that they can see where there will be a negative impact in terms of environment and then they might advise on the same.

Madam Temporary Speaker, I can see that the business community's interest is taken care of. There is gender balance because we have a man and a woman. We also have one public officer. It is a concise Committee, but with a lot of work. One of the pieces of legislation and pieces of work that this committee needs to do is process a licence, all the way through application, considering and even revoking. This Bill does not mean that once you have been given a licence, you can do what you want for a particular period in excess of ten years. One is going to follow a process for that licence, but once they have it and things change, for instance, if the advertisement was not in a school compound and suddenly a school is erected, then that licence can be revoked. That is important so that it takes care of the dynamism and changing situations that might come as a result.

When that committee is in place, an application needs to be made, the time frame specified, consent has to be given, the locality and a planned position of what you want to display has to be well articulated. Going through all the provisions of Clause 5, they clearly indicate that, at the end of the day, this committee is very careful to contextualize

and make sure that by the time you are putting up a board to advertise, it is in the right place.

One of the other things that this committee will do is ensure that in any way your consideration of application should not affect certain scenic places like historical areas that have a particular aura to them. For example, Fort Jesus is one such place. You find people coming to put up posters on the building when it is meant to remain exactly as it is. This Bill then goes on to look at specific circumstances where you should not just advertise in any way; such general examples like archival aspects, landscapes and cultural characteristics are very critical for that.

Madam Temporary Speaker, another provision that is very important is to ensure that this advertisement does not hinder somebody from seeing important information. For example, if there is direction that has been given or traffic rules, and someone puts up a poster on them. Then they directly have an effect on the safety of people. We have seen a lot of such instances, but many at times, people do not come to complain that there was a warning somewhere which they missed because the warning had been covered. I think that sometimes our interests override the general public safety. You find somebody putting up a poster without thinking much about what the implication is. Some posters hide important information that creates a lot of problems.

Sometimes the posters just spoil the beauty of buildings. There are certain buildings that are very beautiful with nice walls yet somebody just erects an advertisement. The ability to control economic interest while allowing liberalization is critical; while on the other hand ensuring that consumers have a right to advertise, but within a safe space and operate within that space.

Madam Temporary Speaker, information on when the licence will be given, when and where application will be made is very clear. Consideration of the said application will be 14 days after receipt and the steps for processing that application are very clear. However, the licence does not last forever. It lapses six months after approval. Therefore, because we expect that there might be several changes within six months, one is given a provisional period of six months within which you must implement your advertising. After that, you need to seek a new licence and start the process all over again. The time process is critical so that at any one time, there is constant evaluation of the features of where you want to put up the advertisement and exactly what is happening. That should be timed and not left open ended.

The licence is not to be issued in an open ended manner. That licence can be revoked and Clause 12 is very specific; that the committee may revoke any approval given pursuant to Section 5 to amend, impose or change a particular condition. If the committee says that the situation for a particular advert will be detrimental to an area or a danger to somebody within that area, it needs to be taken into consideration.

When Sen. Mutula Kilonzo Jnr. moved this Bill, he made it clear that this Bill has been discussed and that there has been a lot of public participation. However, with devolution and counties becoming more interested in economic outputs and people getting more interested in what is happening in the counties, this critical area needs to be addressed. If it is not addressed, it will cause situations which otherwise we could have avoided in good time. Therefore, the preempting of this phenomenon tends to be seen

more in towns and not much in the county areas. However, it will happen in the counties after some time when population increases and when those who are born want to make economic break through that will be critical for them. One way or the other, the issue of advertising will eventually come out.

Madam Temporary Speaker, in this country we now have more and more affluent and speedy group of young people who want to achieve their goals and make an impact within a very short time. The whole idea of rules and regulations may not be palatable when you are dealing with somebody who feels that they are going to have an impact as a result of putting up a billboard or advertisement; they do not want to be stopped. Therefore, if you do not put in place the right legislation at the right time, you will find out that a certain pattern will take hold and it will be very difficult to change within the counties. I like the fact that this Bill is coming at the onset of devolution and that it will be applied across the counties by each of the committee that will do its work; license appropriately and follow up to ensure that we have order in advertising, not just for order's sake, but for safety and precaution to Kenyans.

I beg to second this Bill.

(Question proposed)

The Senate Minority Leader (Sen. Wetangula): Madam Temporary Speaker, thank you for this opportunity. This is an important Bill and I thank the distinguished Senator for Makueni County for bringing it.

If you look around the country, there are a lot of distortions or distorted images of outdoor advertising. There is lack of order and what one can call proper planning and very haphazard placements of advertisement. We know that outdoor advertisement is big business. In this country last year alone, outdoor advertisement raised close to KShs12.5 billion with the lions share going to Nairobi, Mombasa and the other big towns. However, even the small towns in the remotest parts of the counties can raise revenue. In so doing, one would want to see order as the Bill proposes.

One would also want to see that even the charges that are levied against those who advertise are not extortion charges, but those that are consistent with the weight and growth of the economy and the ability to help those who advertise grow. That is why I feel that this Bill is timely and important. It will regulate a sector that has been oscillating on its own.

I am quite sure that the Kshs12 billion raised last year from advertising in the country could be doubled if there were regulations and proper management because certain advertisement sites are out of reach from local authorities and levels of accountability. Haphazard charges make it difficult for citizens of each county to benefit from the revenue raised from these advertisements.

Madam Temporary Speaker, I want to speak briefly to some of the clauses in the Bill so that the sponsor of the Bill can, at the Committee Stage, be able to make it better if he finds my views acceptable. I want the distinguished Senator to look at Clause 3(1)(d)(2) where it is exempting advertising relating to religious, educational, cultural, recreational and medical institutions or institutions of similar character. These institutions

listed to be exempted are not charities. In fact, I am a Catholic. One of the richest institutions in the world is the Catholic Church. They control billions and, probably trillions of dollars.

You have seen that if you go to Ngong' town today, the Pentecostal Church of Eastern Africa (PCEA) has built a huge mall, the size of Nakumatt Junction. They are no longer custodians of our souls and our problems, but they are in business. Some churches own some of the best and most expensive schools in this country. These are businesses. We pay when we take children there. So, if they are going to compete with the ordinary citizen for advertisement space, to attract attention and business, they must pay for it. They should not be exempted.

Therefore, I want to encourage Sen. Mutula Kilonzo Jnr., that religious, educational, cultural and other institutions should be treated equally. However, if it is a mere signage showing that there is a Catholic Church around the corner or a Kingdom Hall of Jehovah's Witnesses or a Mosque, we should not ask them to pay. But if, for example, it is a church belonging to Kanyari or some of these people who have turned church into commercial enterprises, an evaluation should be done and they should be asked to pay.

Madam Temporary Speaker, if it is a signage of a school run by a church, they must pay. If it is a signage of a recreational centre like Bomas of Kenya - every time you go there, it is as expensive as going to Intercontinental Hotel - they must pay because they must generate revenue for the authorities to give them services. If it is a medical institution, if it is a signage to say that this is Kenyatta National Hospital, we can understand. But if it is Nairobi Hospital or these other hospitals where they make big money, they should not be exempted. I hope the sponsor of the Bill finds sense in what I am saying.

Clause 3 (e) says:-

“Notices or signs displayed on any premises in order to advertise the fact that a person, partnership or company is carrying out a profession, business or trade of those premises”.

Madam Temporary Speaker, this again depends on what we are talking about because if on a building you put a huge sign that you are running a house of comfort or a hotel where, like I have seen in some restaurants in town saying that they serve delicious meals and the answer is on the plate - if we have those kinds of advertisements, they are attracting business and they must pay for it. If you have written on the wall of your building that in your restaurant you serve delicious food and the answer is on the plate, they should pay for that and many other similar things.

I believe Sen. Mutula Kilonzo Jnr., being from the legal background is thinking that lawyers putting a small sign outside a building or writing on a building: “Attorneys at law, Mutula Kilonzo and Co. Advocates”, they should not pay, that is different. However, where people are carrying out cash business on a daily basis, they should pay.

Madam Temporary Speaker, again, you should find a qualification on who benefits from Clause 3(e). Clause 3(g) says:-

“To advertise products, goods or services sold by persons with premises of sports, cultural or social arena on a regular basis or to advertise any products,

goods or services marketed or promoted on the premises of an arena pursuant to sponsorship”.

I want to encourage the sponsor of the Bill to know that the biggest sponsors and advertisers of sports are beverage and alcohol manufacturers. If you go to the United Kingdom (UK), those who advertise Heineken beer in stadia pay heavily. If Tusker decides to put their signage at Nyayo Stadium, because I believe this is what we want to exempt, or Coca-cola puts their advertisement at Safaricom Kasarani, they must pay because advertisement is visibility for them to attract business.

The most captive crowd is found at a stadium where in one single sitting you find 60,000 people. Every direction they turn, they are looking at Tusker, Coca-cola or Summit lager, and they must pay. So, I want Sen. Mutula Kilonzo Jnr. to reconsider that as well because sources of revenue all over the world from sports come from this kind of advertisement.

Madam Temporary Speaker, in fact, to be allowed to put up an advert of a product in the stadia goes at a heavier premium and I want to encourage that this be done because if you go to an athletics stadium and you put there *Millo* and you say when you take *Millo*, you run as fast as Usain Bolt or Ben Johnson, who will not be tempted to go and take *Millo* to run like Usain Bolt? This is a major advertisement. I want to encourage the Senator to look at this.

Madam Temporary Speaker, a committee is set up under Clause 4 in the counties. To avoid double payments and misuse of public funds, I want to urge the Senator - I can see in both Clause 4 (a), (b) and (c), he has made it very small which is good and he has only brought in one non public service persons and not two under (c) which is alright – that when you go to 3 of 4, I want to encourage him to qualify that members of the committee who are not employees of the county government shall be paid such allowances as the county Executive Committee Member for finance may set.

Madam Temporary Speaker, I say this because if a CEC in charge of Finance is chairing the committee, that is part of his work. Why should we pay him? If a public officer in charge of environment in the county is a member of the committee, then that is part of his work. Why should we pay him? We should only pay the two members captured under Clause 4(c) because (d) is also a public officer serving in the county public service, appointment by the governor. That is an official of the county. So, those who are working for the county have a salary and going to sit in any committee on any working day is part of their daily routine duties and must not be paid.

Madam Temporary Speaker, in Clause 5 of the Bill, I want the distinguished Senator to look at 2(c). He is setting out the conditions for being granted a licence.

Clause 5 (2) (c) says:-

“A copy of the title deed or any other document evidencing ownership of the property”

This will visit a lot of difficulties if it is applied generally like that. Perhaps, what we should say is where it is applicable because there are areas like where Sen. (Dr.) Zani comes from; where people do not have title deeds. They do not even have any papers to show that they own land on which they were born.

Madam Temporary Speaker, if we say they must bring certificate of title, they will never get it. In fact, what will happen is that crooks will be forging letters from the lands office and giving to the committee and earning the income because most villagers do not know that if a billboard is erected on their pieces of land, they are entitled to earn some amount of money. The committee must also be responsible for advising the owners of the property, whether they have titles or not, that they are entitled to compensation as long as they can demonstrate that, that is their property. So, the issue of titles or documents should be where applicable, so that special cases on areas where land adjudication has not been done or someone bought land and has lived without a title or letters of administration have taken 20 years in court without determination, should be considered.

The Estate of Koinange, for example, which I said is obscene and Sen. Kembi-Gitura was angry at me, is an estate that I still ask questions about. Koinange was never known for any hard work. All he was known for was following the late President Kenyatta everywhere and within less than 10 years, he left an estate of more than Kshs 30 billion running from Coast to Rift valley and everywhere. This is a product of abuse of office. We have seen it over and over. These are people who are not endowed with better brains than ordinary Kenyans. Hon. Senators here like Sen. Mungai and Sen. (Prof.) Lonyangapuo among other professors, if you ask them what they own, they cannot even count because they do not have anything. Here is somebody whose duty was to sit next to the President every morning to evening and it turns up that he left an estate of Kshs 30 billion which the family quarreled over for 20 years to share. If there is a case like that and other cases of ordinary Kenyans, then we cannot expect them to bring documents.

Clause (e) is good because it obligates the advertiser to bring this kind of drawing so that it is orderly. However, where it requires that every building to show the line and servitude on the side, sometimes I do not know how you want to treat cases where there are these mud and grass thatched houses and are used for advertisements? They have neither plans nor documents, but they generate revenue. Where applicable, these stringent conditions may be put but not in all cases.

Madam Temporary Speaker, advertisement should be made easy; make it generate revenue. A person who owns a huge rock along the road and another comes to advertise on it, the former must be paid so that they can earn a living.

Clause 6 is on considerations of the applications. This where the crux of your Bill is because advertisements have run amok completely. They are placed in any manner they want. I have seen some erected across the road. If a high body truck passes, it will go with it. I have seen others which are obstructing other advertisements. If I have paid revenue to the county government and I have been given an opportunity to put up an advertisement for Sen. Wetangula for President 2017, and somebody comes after me and puts up another advert that *Sungura Mjanja* for president 2017 to block mine, what value do I get for my advertisement?

(Laughter)

Madam Temporary Speaker, there must be strict rules that no advertisement should be placed in a manner that it blocks other advertisements. Whoever is advertising should get value for money paid. Otherwise, there are those with small, but effective adverts and those with obscenities of huge things and want to put them like murals and they block all the small ones, then the latter will not be seen.

Yesterday, I was laughing when I remembered the words of the distinguished Sen. Elachi on this Floor when we said former Cabinet Secretary Waiguru was corrupt and she said she was a whistleblower. I do not know what she will say today, but that is besides the point.

(Laughter)

In this country, those who shout on top of the buildings sometimes should never be believed. I encourage that there must be a distinction when advertisements are along the road and railway reserves, there should be a clause that provides for the sharing of revenue between the county governments and the railway or the highway that owns the road reserves on which most of these billboards are put.

If you look at Mombasa Road, the 120 metre way-leave is distorted with all manner of billboards. That money cannot be the county's, exclusively. It must also be shared with the highway authorities as a generation of revenue for the maintenance of the shoulders of the highways which are damaged when the advertisers come with huge trucks to erect their billboards. Therefore, we should have a clause that will give some percentage of income to the roads or the railways as the case may be.

Madam Temporary Speaker, a portion of the revenue collected from the advertisements made in the stadia, should be left with the management of stadia as the county governments take most of the monies for giving services to *wananchi* who use those facilities. So, we need serious order. In fact, I encourage the rest of the Senators who speak to this to give thought to how we can organise and control this kind of advertisements.

Sometimes you go in to a junction of a small town and you see about hundreds of billboards that one cannot notice which is which. Such advertisements should be regulated; that one billboard should be 2 metres away from the other, then they can start erecting; that from 500 metres away is the turning to *chakula mzuri* hotel, 10 metres away is the turning to beer port and five metres away is the turning to Pokot enterprise. This will allow everybody an opportunity to be seen because the whole purpose of advertisement is to be seen repeatedly and regularly.

On clause 7, I encourage the sponsor to provide; although in law you do not have to provide in any legislation for aggrieved parties to go to court because seeking court redress is a right under the Constitution, but it is always neater to indicate that those who are aggrieved may seek the court's redress. There are those who when they read the law, they do not know that such a law is based on the Constitution. It is good to indicate that if they are unreasonably denied a licence to advertise, they have recourse to a court of law to challenge the administrative decision under the writs of *certiorari* and *mandamus* against the committee that has been set in place.

Madam Temporary Speaker, Clause 11 talks about renewal of sites and that is okay. However, I do not know what Sen. Mutula Kilonzo Jnr. would want to do with the people out there who have erected concrete platforms on public land and call them their sites. When you want to put your billboard there to say that the Kenya African National Union (KANU) will win in Kericho, you do not pay the local authority but the man who erected the concrete slab when he does not own the land. I would like to see how the sponsor of the Bill would deal with such situations because there are people who own no land or nothing but have their hands in the pocket collecting money from everybody, claiming that the sites are theirs. If it is public land, then, it is held by the county government in trust for the people of the county. So, any income generated out that land must benefit the people of the county and not individuals. I do not know how you would frame that but I think it is something worth looking at.

Madam Temporary Speaker, the maintenance of sites is very important. You have seen some advertisement billboards skewed as if somebody is ready to take off for a sprint and they remain like that forever. They are an eyesore to look at. There must be a penalty, not just that you must maintain a site. If you put up a billboard that becomes an eyesore to the public and you become a public nuisance, then you must face some legal penalty apart from being asked to remove your billboard.

Madam Temporary Speaker, there used to be a billboard – if you ever used the road – to western Kenya, after Lord Delamere Farm in Naivasha, Sen. (Dr.) Khalwale would know---. There is an old man with a big hat walking slowly. The billboard says; “Believe me you, you will get there,” warning speeding drivers. I always stopped to look at that beautiful billboard because it was so good. The old man seems to be 80 years old and he walks slowly like a Pokot herder and he says; “Believe me you, you will get there.” The billboard was left to fade until it was a horrible thing to look at.

(Laughter)

From a very beautiful thing, it became a horrible thing to look at. A sponsor of such an ad leaving it to degenerate to that level must also be sanctioned by law, because the purpose of an ad is to capture public imagination and acceptability on the message that you want to give the public. If you put it there and let it waste away---

I have seen other billboards made of canvass. When the wind blows and reaps them off, they remain in tatters for six months on the highway. Again, people who do that must be sanctioned and made to face some penalties.

Madam Temporary Speaker, I want to talk about Clause 15.

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

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

Mr. Temporary Speaker, Sir, congratulations on your recent elevation to sit on that coveted Chair. I sat on it 25 years ago when I first came to Parliament. It makes you

feel very good. We encourage you not to be draconian but be good to the House. We have some of your colleagues who sit there and become demi-gods.

Mr. Temporary Speaker, Sir, Clause 15 states that the Committee shall cause a notice of an application made under section 4 to be published in at least two newspapers with a national circulation in the county. We have to be very careful about this because if you go to a county like Turkana, what two local newspapers could possibly be circulating in the county for people to advertise in other than *The Daily Nation* and *The Standard*? It is a nightmare for you to come from Turkana to advertise in *The Daily Nation* in Nairobi and it would cost you 10 times.

The sponsor of the Bill should cause the committee to maintain a public record that anybody could inspect and see what is being advertised or applied for. There should even be a notice board at their offices on which they put this information for anybody to see. They would probably be obligated to put such information in sub-counties within the county. In any case, if you put an ad in Mavoko, it is not necessary to advertise it and inform the people in Kathiani. If you put an ad in Ikolomani, why would you go to Matungu to tell people that you will put a billboard in Ikolomani? That is actually a local issue because I believe the reason you want the information to be made public is to see if there are any local objections like “*hii shamba ni yangu*” and such kind of issues.

Therefore, the sponsor of the Bill may have to look at this and make it easy, because if, for example, you want to advertise a small issue that will cost you about Kshs12,000 and you are required to advertise in the two newspapers that circulate in your county, the newspapers will invariably be *The Daily Nation*, *The Standard* or *The Star*. If you want it to be on Sunday, *The Star* is excluded. To put a little piece of an ad in *The Daily Nation* is very expensive. It costs Kshs50,000 for a little thing. If you want to take a quarter page of *The Daily Nation*, you pay Kshs250,000. If you want to advertise something of a value of Kshs12,000, it defeats logic for you to pay that kind of money to advertise.

Let us have a better mechanism that captures the assistance of ordinary people making ordinary advertisements under ordinary circumstances for ordinary business like the ones you see on the road from the airport to here. Those are different and you can treat them differently. You can graduate them depending on the location, the quality of the advertisement and the possible revenues being generated from that kind of advertisement. If the advertiser is a cigarette manufacturing company or a beverage company as big as Coca-Cola, you can impose quite substantial conditions on them because they have the money. But if an advertiser is a group of young people who have come together from university to set up an engineering firm advertising about quick engineers who will do anything for you including emptying your septic tank, such cannot be able to pay.

Mr. Temporary Speaker, Sir, my last point is on Clause 17 which states that a person contravening any provisions of this Act commits an offence and is liable on conviction to a term of imprisonment not exceeding six months. That is fine. However, regarding the fine, I would like to encourage that we do two things if possible. If you are a lawyer or the sponsor and you fix a fine of this magnitude, it enhances the value of corruption, which is the problem in this country. For a jail term of six months, a

commensurate fine would invariably be not exceeding Kshs50,000 or Kshs100,000 because Kshs200,000 is too heavy. Like I said, it defeats logic if somebody advertises something worth Kshs12,000 and you end up slapping him with a fine of Kshs200,000.

We are just going to curtail young and poor people from emerging from the ashes to also grow into business. So, as we penalize this, we should find a better way of using it so that if an offending party is a big conglomerate like Coca-Cola or Samsung, those ones can be put in a different category. However, if it is a small man in the village or a poor man just putting up a billboard that says: "Weta for President" and you impose such a huge fine on me, then you will kill people. There are people out there who want to be Members of County Assembly (MCAs) and they will advertise themselves. Probably, that is the only means of campaign. They will land in a lot of problems. I encourage that we make this very important sector orderly, workable and able to raise revenue for county governments and the people of Kenya. If we do this well, it will work very well.

Mr. Temporary Speaker, Sir, let me finish by saying this to the Jubilee Government. They have now decentralized corruption. Do you know what the Government has done? They have set up an agency. Even independent institutions like the Independent Electoral and Boundaries Commission (IEBC), the Ethics and Anti-Corruption Commission (EACC) and the National Land Commission (NLC) now do not have authority to advertise anything.

In fact, the national Government in the Treasury is holding close to Kshs6 billion for advertising and they tell you that if you are IEBC, if you give your advertisement to a small radio station owned by the distinguished Senator for Nyamira, Senator No.1, the appointing authority is the national Government and not the contracting agency. Two, the payment is coming from the national Government and not the contracting agency. Then, what is the purpose of having independent institutions? This unit is already there and is now controlling all Government advertisements and guarding them like a hen guarding eggs. They cannot allow any agency to advertise. Even IEBC, as they are asking people to go and register as voters, it is that agency that is determining who tells *wananchi* that it is time to register. It is not IEBC themselves. This is dangerous and it is wrong. It is an assault on free enterprise, devolution, decentralization and independence of the institutions of the country. Why did we create institutions in the Constitution?

Just like we said here the other day, why do you say the Auditor-General is an independent office, overseeing Government, and then you tell the Auditor-General that you cannot recruit your auditors? We will recruit them for you, give them to you and then you will send them to audit us. How?

Mr. Temporary Speaker, Sir, these levels of corruption--- No wonder the Government is so mired in corruption--- Somebody said that in the old days when children were stealing their mothers' vegetables from the pot, they would put their fingers and pick a little. These people shove in the hand until they break the pot. It is terrible. We do not want to see this kind of things. We told them that Ms. Waiguru had messed up the Ministry and stolen money. They said: "She is a whistle blower." Look at the affidavit that we are reading in the papers now; look at the conduct of the police. A policeman in charge of investigations arrests a suspect, takes her to the police station, pretends he has

locked her in and then he drives her to her house and says: "Sleep. I will pick you up in the morning and take you back to the police station and it will appear as if you slept there." What country are we running?

I beg to support.

Sen. (Dr.) Khalwale: Thank you, Mr. Temporary Speaker, Sir. I wish to confirm that while you were away, I congratulated you for being appointed to that very important office. I hope that you will serve us without favour.

The Senate Minority Leader (Sen. Wetangula): Without fear or favour.

Sen. (Dr.) Khalwale: Mr. Temporary Speaker, Sir, I congratulate Sen. Mutula Kilonzo Jnr. for coming up with this Bill. It might not occur to you but the spark of thought that allowed you to come up with this industrious piece of legislation will be the reason why some people will become very rich and others will lose out on multi-million shilling opportunities in business. This is because business is all about people knowing it is there and, therefore, the advertisement is the reason why you will succeed or fail.

I cannot speak to everything. I do not have the privilege of having the kind of time that the Senate Majority Leader has. So, I will only speak to three clauses and see how we can accommodate my thinking. It might not necessarily be the best but it might provoke one line of thought or more in your mind.

Mr. Temporary Speaker, Sir, in Clause 3, you are speaking to the issue of application. It is important that we know that the world is now oscillating between electronic and print advertisement. So, when you are drafting the final, you should distinguish between the electronic and print billboards. I mean, a person who has put up an electronic billboard like the one that you see at the roundabout of Nyerere Avenue and Uhuru Highway, that kind of ---

A hon. Member: Where is that?

Sen. (Dr.) Khalwale: Sorry, it is at the junction of Haile Selassie-Uhuru Highway roundabout. That huge electronic billboard attracts this person more customers almost like somebody who has put up a billboard at Safaricom Stadium Kasarani. So, this distinction should be there. This person pays more for the county governments to make maximum returns on that kind of advert. What is more, a person who is advertising electronically means that he is a bigger company, the returns are bigger and, therefore, we can help the public to partake of those particular returns.

My second comment is on Clause 4. In this clause, you have created a committee and I suggest that you think that this is a committee of five people because they are two in "c". It is actually a one man committee; the governor. You go on to make the governor the final authority to decide on every cent and shilling that will go into advertisement in his county. He will be extremely powerful and the moment he does that, companies that compete with his companies or companies where his friends and relatives have an interest will be frustrated.

The Senate Minority Leader (Sen. Wetangula): Like Mr. Berlusconi!

Sen. (Dr.) Khalwale: Yes, like "Berlu". Although I admire "Berlu" for different reasons.

The Senate Minority Leader (Sen. Wetangula): His love for women!

Sen. (Dr.) Khalwale: He also loves soccer. So, be careful.

Mr. Temporary Speaker, Sir, I want to persuade Sen. Mutula Kilonzo Jnr. that at this particular point in time, we have to kill this one-man show in licensing. I, therefore, propose that the governor should give the committee the person in “a”, “b” and “d”. However, the man and woman in “c” should actually be appointed, not by the governor but by the County Chamber of Commerce. The County Chamber of Commerce will know who is this businesswoman or man who would be ideal in making sure that there is a level playing ground in terms of people getting licences.

The Senate Minority Leader (Sen. Wetangula): Also the Kenya Private Sector Alliance (KEPSA).

Sen. (Dr.) Khalwale: Yes, and KEPSA.

Then, I propose that you think about us adding “(e)” because I want us to find another three people. When you add the two people in “c” to these, it will make five. During the vote, they will make it difficult for the governor’s appointees to rig the licensing process.

Owing to the fact that the issue of morality is important not just to Christians but even to Muslims, I propose that faith based organisations give us three people; a Muslim, a Protestant and a Catholic or whichever arrangement that you will find admissible so that these three people not only check the one man show of the governor but also to ensure that billboards that are morally offensive do not find their way along our streets and highways.

I am sure that I am not alone; maybe it is because of my age. I have been forced to have a television set in my bedroom. I have also been forced to control the channels that go to the television in the sitting room.

An hon. Senator: And in the bedroom?

Sen. (Dr.) Khalwale: Mr. Temporary Speaker, Sir, in the bedroom, you can watch anything because you are adults alone. However, in the sitting room, adverts can splash on the screen, and you are there with your daughter who is in Form Three and you are just confused. You do not like it - Or I am there with the wife of my firstborn son and I do not know what to do. So, we need the issue of morality to count in Sen. Mutula Kilonzo Jnr.’s Bill.

As I conclude, I have a final comment on Clause 5. Clause 5(2) states, “an application for registration shall be in the prescribed form and shall be accompanied by---” You have put that list. I would like you to remember the following: We have people who do businesses of erecting spaces for billboards. That is where Sen. Wetangula’s view touched me because *mimi ni mtetezi wa wanyonge*, when he said, “the man with his stone alongside the road.” So, let me give you the example of Magnate Ventures Limited; they have put up billboards all over the Republic. That guy controls a fortune of business. He mounts on whatever he wants.

For example, when Nakumatt Holdings Limited wants to put up something, they come to Nairobi and get paid or when Sen. Wetangula wants to run for the presidency and Sen. (Dr.) Khalwale wants to run for Governorship for Kakamega County; they go to Magnate Ventures Limited. They are convenient because you tell them what you want, they take a picture of what you want or they design it for you, and

very quickly within a few days, you see it coming up. You do not have to bother about chasing a licence and so on.

Therefore, we need to distinguish so that the governor is told, “You have those sites that belong to the county government, and then you have the privately owned sites. So, if somebody who is promoting a business does not want to do the local running of an advertisement and so on, he or she will be free to approach somebody who owns a private advertisement site, if it is a billboard, for example. You pay then that person does the local.

I was joking in Malindi when I was campaigning during the by-election with two governors; so they warned me, that, “Sen. (Dr.) Khalwale, do you know that your joke of saying that you want to unseat a sitting governor, you can easily be frustrated?” I asked them how? They told me: “We can block all the billboards in the county and you cannot access even a single one.” We need to encourage that there be liberalization in ownership of advertisement sites so that if you are not friendly to the governor, then you can go to a privately owned site and get your advert going. Sen. Wetangula, are you surprised?

I do not know who owns Magnate Ventures Limited but from the adverts that I saw during the presidential campaigns, I had a feeling that they must be owned by somebody who shares a DNA with a certain candidate who ran in 2013. As much as my candidate was limping and being assisted to get organised; even to get a billboard for him in Kakamega was impossible. However, I could see the billboards of President Uhuru in Kakamega. We do not want this kind of frustration. This law should also protect us. We do not want candidates at the election who are so well endowed financially like the governors---

The Temporary Speaker (Sen. Sang): Sen. (Dr.) Khalwale, did you say that your candidate was limping. Can you substantiate? Are you saying he was physically challenged?

Sen. (Dr.) Khalwale: Mr. Temporary Speaker, Sir, I was being figurative. I wish Sen. Wangari was here. She would have easily substantiated this because she knows the whole story.

This thing is so important that Sen. Mutula Kilonzo Jnr. Should put into consideration because we do not want monopoly of businesses by people who are already rich. We do not want monopoly on the opportunity to advertise yourself as a candidate to be left to the people who are most financially endowed. If you do not do this, the richest governor or gubernatorial candidate, Senator or President will just simply buy you out. He or she can go and pay a thousand times when you have paid for that site. After all, it is only for 21 days. So, he or she can afford to do that. They can block everything. We need to do it. Sen. Mutula Kilonzo Jnr. and the Senate Minority Leader are equally brilliant lawyers. You have to guide us; we have to protect the public. This is a House of equity. It makes sure that there is social justice. We want social justice in the way of doing business.

Mr. Temporary Speaker, Sir, finally, there is the issue of punishment. Please, go easy on that one. I do not want to repeat what Sen. Wetangula said. Do not make it prohibitive. Do not make a matter of advertisement a greater sin than somebody who has stolen somebody's goat. So, if the punishment of stealing a goat is not that excessive,

then, please, let is also reflect in this. I was amused that Sen. Wetangula led us and has opened it; I was amused, and this is where the punishment comes in; that an old woman whose son stole two plastic chairs ended up behind bars very quickly with maximum force as a suspect because she had to be tried to be found innocent, but it was not her but her son who stole.

The Senate Minority Leader (Sen. Wetangula): She did not even handle the chairs.

Sen. (Dr.) Khalwale: Yes! Yet Ms. Anne Waiguru suspected of all the looting in the National Youth Service has never spent even one hour behind bars.

The Senate Minority Leader (Sen. Wetangula): Even at the police report office.

Sen. (Dr.) Khalwale: Yes!

Mr. Temporary Speaker, Sir, what kind of country are we building? I was giving a speech to law students at Moi University two weeks ago; I told them: “Students, be aware, the glory of academic excellence we had when we were at the university is gone”. Our university students are now learning skills, not of how to earn money but how to make money. A very unreasonable word is trending in the minds of young people; “I am a hustler.” We have to change our society.

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

Sen. (Prof.) Lonyangapuo: Mr. Temporary Speaker, Sir, I join my colleagues in recognizing that this is your first time on the “big seat” in the House. I wish you well as you discharge your duties.

The Temporary Speaker (Sen. Sang): This is my third day on the seat.

Sen. (Prof.) Lonyangapuo: Mr. Temporary Speaker, Sir, my eyes have seen you today and I am happy. I congratulate my colleague, Sen. Mutula Kilonzo Jnr., for bringing the County Outdoor Advertising Control Bill (Senate Bill No.11 of 2015). Although this Bill is late, it is better late than never. I say this because some of our county headquarters, towns, shops and roads are saturated with a lot of advertisements, particularly billboards that have been put up haphazardly in some areas. This Bill, therefore, will control outdoor advertisement and protect the environment in the counties.

As you enter some towns and cities like Nakuru, Eldoret, Kitale and Kapenguria, you will see an array of competing advertisement billboards paraded everywhere. This Bill will regulate this and compel counties to form committees that will manage this type of business. As you enter Kitale and Kapenguria towns, you will see over 1000 small billboards advertising everything, including some things that do not even exist anymore. If we pass this Bill, the governors and those who will be coming later will organize the advertising. I am happy with what happens in Nairobi. We have digital billboards which run several advertisements many times once they are paid for. Once such a billboard is put strategically in a particular place, it can have all the advertisements. If the county does not have entrepreneurs like Magnet Ventures Limited, they can do it using a committee, so that all advertisements can be paid through the relevant department.

The design and display of messages should also be regulated to ensure that the advertisements on billboards are seen and read clearly. In some airports, for example, you will find only one billboard that rolls over. In Amsterdam, for example, many planes land every five minutes. So, you have to keep monitoring. Suppose 1,000 planes land---

(Sen. (Prof.) Lonyangapuo snapped his fingers)

The Senate Minority Leader (Sen. Wetangula): On a point of order Mr. Temporary Speaker, Sir. Did you notice that my distinguished friend, in expressing himself, demonstrated something using his fingers? How will the HANSARD capture that because what we say here is on HANSARD?

Sen. (Prof.) Lonyangapuo: Mr. Temporary Speaker, Sir, my neighbour and leader is excited over nothing. I am explaining and you have to get what I am saying. He is very good at doing that himself. I do not know why he has raised the issue when he is very good at expressing himself using his fingers.

The Temporary Speaker (Sen. Sang): Sen. (Prof.) Lonyangapuo, expressing yourself using fingers cannot be captured by the HANSARD. It should be accompanied by an explanation, so that it is captured on HANSARD. The hon. Senator, therefore, has a point.

Sen. (Prof.) Lonyangapuo: Mr. Temporary Speaker, Sir, whatever my fingers were doing came from the heart. It is normal for that to happen when you want to express a point. You also know that I am a teacher.

I was saying that in some airports, for example, Amsterdam, many planes land per day. Suppose all airlines were allowed to erect billboards, it will be impossible to get space. Therefore, it is good to manage advertisement by putting in place a system that can control and manage the information that is shared.

Kenya is a religious nation of Christians and Muslims. New churches are started every time. If you drive to Nakuru, on the way to Eldoret, you will see an advert around a corner which says: "Good news, good news" or "breaking news." This can make you stop and easily cause an accident. However, when you read the advert carefully, you will find that the "breaking news" is very interesting. It could be about a witchdoctor who has arrived from Tanzania. Those are the types of things that are advertised and they capture attention because of the way they are displayed. If the committee proposed in the Bill existed in the counties, they would identify such adverts that could cause accidents.

If you drive in the countryside, you will see that Constituencies Development Fund (CDF) billboards have been put up everywhere, especially now that the next election is approaching. Even a bus that was bought using public funds is written "CDF-funded." Some adverts even have the photographs and names of the sitting Members of Parliament and what they have done. This is how wild and weird we have become---

The Senate Minority Leader (Sen. Wetangula): On a point of information, Mr. Temporary Speaker, Sir.

Sen. (Prof.) Lonyangapuo: I accept to be informed.

The Senate Minority Leader (Sen. Wetangula): Mr. Temporary Speaker, Sir, I want to inform the distinguished Senator that the obscenity going on now is in every county. At every primary or nursery school, there is a billboard with the picture of the governor; that this school was built by the county government. The picture of the governor is put, as if he used his personal money.

Sen. (Prof.) Lonyangapuo: I want to thank my brother, Sen. Wetangula, because what he has said is the truth. That is how low things have sunk in the counties. One notorious leader in that direction is the Governor of Murang'a. His photographs and names are all over. Very soon, you may see the photographs of his wife and children next to his on the billboards. His name appears even on latrines that have been built in schools using public funds.

Mr. Temporary Speaker, Sir, innocent governors like mine are now beginning to learn that they can issue cheques that are meant for bursary and announce that it is their personal contribution of, for example, Kshs500,000 or even Kshs1 million. Innocent people collect water, sand and stones in the name of that man and when it is ready; they print posters with his face and name. How sad it is that we are heading to that direction. It is important that this law comes into effect so that every county and particularly assemblies will be given this Bill to effect and customize it so that we bring decency and order.

I saw the Governor for Nandi County has graduated from the billboards; he is now advertising himself on the television (TV) for everyone to see him. Advertisements are all over in the newspapers. If you opened today's papers you must have seen a number of them doing that. For instance, if they advertised some issues on Kisii County, you will see a picture of the Senator squeezed at one corner while four pages are dedicated to the governor and his team. We did not even know some of the County Executive Committee (CEC) members existed, but they have now matured to elevate and parade their names everywhere.

The amount of money wasted is huge. It seems that some of them have companies that deal with the advertisements. That is why you see that only photographs of one individual appear everywhere. This has to come to a stop. We cannot continue like this any longer. Suppose the President of the Republic of Kenya was doing that, and that his photograph had to appear even on water bottles from manufacturing companies, what would have happened? This is what is happening in the counties and it is so sad. The ethics of advertisement must be followed.

I agree with the Members who spoke before me that when it comes to penalties and exercising of penalties set, we should give rates that are reasonable so that we do not end up doing what was done before; that when somebody has stolen an egg, they are jailed for two years or a fine of Kshs10,000 yet that person can be utilized for manual labour for one day or a few hours to pay back what he stole.

Mr. Temporary Speaker, Sir, looking at this Bill, I am happy that Sen. Mutula Kilonzo Jnr. has brought it to the House. Any suggestions that are there should be brought forward to make it better because it will add a lot of value. I am happy that we, as the Senate, are generating these laws. My worry is that a lot of the Bills that we have generated here have not seen the light of day because our colleagues in the "lower" House have detained and disabled these Bills from going forward. Because of the crucial nature of such Bills, this is one of those pieces of legislation that should not have any issues whatsoever. Our colleagues in the National Assembly should work on it so that it can be forwarded for assent so that we remedy and rescue the situation.

On the punitive measures, I do not know how we can deal with a governor whose photographs appear everywhere. I am told that the Senate gave out a decree that they should be pulled down but I am informed that they have added more. We should have a way to implement this. The Committee on Implementation should ensure that the Bills and Motions that we have passed in this House are implemented.

I beg to support.

Sen. M. Kajwang: Mr. Temporary Speaker, Sir, allow me to congratulate you on the assumption of that Chair. You indicated that this is your third day on that Chair, but this is the first time that I am catching your eye. I am, therefore, proud to be speaking under your direction.

I support this Bill, and I would like to make some very brief comments because the Senate Minority Leader and the other Senators who have spoken before me have done justice to this Bill. They have even brought perspectives that I had not seen previously. It is clear that outdoor advertising as per the Constitution is the responsibility of counties. The drafters of our Constitution, some of whom sit in this House, when assigning outdoor advertising to counties---, it is quite interesting that they listed a number of things – pollution - then they said other public nuisances including outdoor advertising. I do not know whether at that point there was a feeling that outdoor advertising was nuisance yet this is a huge revenue generating opportunity.

Mr. Temporary Speaker, Sir, if you look at the Constitution, you will see very clearly that outdoor advertising is assigned after other public nuisances and pollution. It is important that we stop looking at outdoor advertising as a public nuisance, but as an indicator of economic growth. There are certain socialist countries - if you go there, you find virtually no advertising. When we visited Cuba with the Committee on Agriculture, Livestock and Fisheries, it was refreshing to drive in a city without billboards and outdoor advertising. However, it tells you something about the economic growth and pace of a country. When you come back to Kenya, you land at JKIA and you are blasted with the signage and billboards in your face. Outdoor advertisement should be seen as much more than a nuisance.

Mr. Temporary Speaker, Sir, this Bill is dated 10th July, 2015. Probably, at the time it was initiated, there was still a dispute between county governments and the Kenya National Highways Authority (KeNHA) on control and ownership of advertising structures that lay on national highways. In December 2015, the High Court ruled that the KeNHA had no role in outdoor advertising and ruled very clearly that it was a function assigned to counties. I have seen that there are certain references to KeNHA in this Bill. Clause 5(2) says that approval should be sought from KeNHA if it lies on the national highways. In light of the court ruling, it will be important for us to revisit this Bill and make sure that we do not assign any responsibilities to KeNHA when this is a matter that rests solely with the counties.

Genuine business men and women – not salonists who have become overnight millionaires – who do business across multiple counties, have always expressed concern that where there is a licensing regime in each respective county, business becomes very difficult to undertake. This is one example where we are talking about a licensing regime

that is domiciled in each county. Therefore, we will have almost 47 committees across the counties.

If I were an advertising company that is headquartered in Nairobi and wanted to roll out a national branding or advertising strategy on behalf of a client, I would be forced to make 47 different applications. This is one area that we need to look into so that we make it easy to do business in this country. There are certain entrepreneurs who mostly happen to be young people in the technology space and provide fiber optics service; you find a lot of young people contracted to dig trenches where the fiber optic cables will be laid. This is also another category of business people who are frustrated because in each county they go to, they are required to pay way-leaves, they are required to apply for licensing and that becomes a frustration to a number of these businesses. So, as we come up with this Bill, we need to be mindful of some of these additional barriers to doing business.

I also want to talk about the new developments in outdoor advertising. We have gone beyond the traditional billboards. We have gone to light emitting diodes or LED displays. In fact, one area of outdoor advertising that has not received a lot of attention even though it is as old as walls, is wall branding. When I was in the private sector, we found it much cheaper and cost effective to do wall branding because if we were to put up a billboard, you would be charged an arm and a leg. The only reason why it was cheaper to do wall branding was because it was not regulated. All you needed to do was to go and talk to the owner of the building and tell them you were going to repaint their name nicely on that building and 99 per cent of that building, you put the colors, brand or the images of the organization that you want to promote.

Mr. Temporary Speaker, Sir, there is also the issue of vehicle branding which is big business globally. We are seeing all these passenger service vehicles, particularly those that are on franchise like the City Hopper and Kenya Bus, you will find an entire bus that is consumed, a bus that looks like a loaf of bread because it has been branded in such a manner that it looks like a loaf on wheels. That is outdoor advertising. I have seen somewhere where we are making an exclusion of vehicle displays. I think it is something that we need to think about. There are entrepreneurs who have come into this market who have been studying abroad and they tell us that there is a huge potential in not just branding the vehicle, but when people are inside the vehicle, branding the seats and the windows so that when you are inside a moving vehicle, you are able to be exposed to a brand.

Mr. Temporary Speaker, Sir, someone needs to regulate that because if it is not regulated, it will lead to clutter and it will ultimately go back to that thinking that the drafters of the Constitution had; that outdoor advertising is part of nuisance and pollution. So, I would urge the originator and the mover of the Bill to think about how we can incorporate vehicle displays without losing out on this revenue.

Mr. Temporary Speaker, Sir, the Senate Minority Leader talked about the exclusion on religious institutions and I agree with him on his argument. The only example he gave that I do not agree with is that the Kanyaris of this world should be charged more than the Catholic churches. I do think that even Kanyari has got his following and there are people who are willing to die or plant a seed

for as long as Kanyari is alive. But there are some churches that have gone beyond the limit. You go into a town and you find a huge banner that poses a risk to even motorists, saying that the prophet is coming next week. When the prophet comes, you have to clean the roads, do a lot of ridiculous things, the tailors have a field day because you have to put on suits that are fairly long and look like robes.

Mr. Temporary Speaker, Sir, I do not think churches should be excluded *per se*. In fact, we need to be much more vigilant with churches. If it is just a signage saying that this is a church, then that is okay, but if it is a signage saying that the prophet is coming, all hail the great prophet, I think that should be controlled and it should not be allowed to be draped across the road without the necessary approvals and revenue that would go to the county government.

Mr. Temporary Speaker, Sir, the approval process should not take too long. I have seen that the committees should take 14 days to make a decision and another 14 days to communicate the decision. We are looking at a situation where we want to increase the ease of doing business. If we get to the point where it takes you one day to incorporate a company, then it should not take you 28 days to get a license for that company to operate.

I believe that the mover of the Bill can still go and look at this and make sure that the timelines are consistent with the overall objectives that this nation has of making it easy to do business. Sometimes when you want to promote an event which has a fairly short shelf life, it could be a music event or a jazz festival where you have just been given 30 days to put up everything and publicize, if you have got a long approval process, then that might kill the business potential.

Mr. Temporary Speaker, Sir, I spoke about multiple applications in different counties. If we, for example, theoretically we say it takes 14 days to get a licence in a county and we are dealing with 47 counties, and you decide to do a waterfall approach where you apply one county at a time, it would take you 658 days at the maximum to get your approvals, and that is about two years. So, I urge that we look at those durations.

I want to talk about transparency of revenue accruing from outdoor advertising. Various reports indicate that Nairobi City County earned about Kshs1 billion from outdoor advertising. If you look at some focus coming from organizations like PriceWaterhouseCoopers, (PWC) did an out of home market assessment. In Kenya, they predict that by 2017, the out of home market segment, which is basically outdoor advertising, will be worth about \$153 million. That could be about Kshs15.3 billion. If Nairobi City County is only reporting Kshs1 billion, it means that there is a lot of money that is going into certain pockets. There is a lot of money that is going to people who do not re-invest it.

Mr. Temporary Speaker, Sir, even in my county, I have seen outdoor advertising billboards. But when you look at the income statements from the counties, our accountants only tell us about the money that is collected from cattle sellers and from market women. You will rarely see revenue coming in from billboards. So, these things are there, people are collecting revenue out of them and pocketing instead of depositing in the accounts as required by the law. It is, therefore, very important that we have a proper licensing framework so that all these things can be regulated and all these revenue can be recognized.

The final point is on enforcement of the law. When the Governor of Nairobi City County planted grass to welcome the President of the United States of America, the grass refused to grow and decided to wait for the Pope. But in the process of the grass deciding to grow, he deployed enforcement officers whose job was to bully, intimidate and to harass innocent citizens in this city. You would be arrested for just stepping slightly on the grass.

Mr. Temporary Speaker, Sir, we have also seen a lot of rent-seeking when it comes to enforcement of some of these rules with regard to outdoor advertising. I hope that as we finalize and make amendments to this Bill, we can give some thoughts about enforcement, nature and shape that enforcement should take. It is not just the issue of the Kshs200 fine or the six months imprisonment but we could also talk about how - once these approvals have been made - we go about ensuring that on a regular basis, those who have been given the permits or the licenses adhere to the terms of their licenses.

I support the Bill with the amendments that have been raised by my colleagues and by myself.

Thank you.

Sen. Elachi: Thank you, Mr. Temporary Speaker, Sir. I also rise to thank Sen. Mutula Kilonzo Jnr. knowing very well that outdoor advertising is a very critical component because it targets the masses. Therefore, whether you will use it positively or negatively, it captures the minds of those doing the adverts. It brands you. Therefore, the governors are always branded whenever you see those billboards of theirs.

Mr. Temporary Speaker, Sir, their audiences at the grassroots understand that they have only one person within the county called the governor. When I look at the Bill also – I would wish to ask the Senator - we need to look at the payments of damages. Sometimes there is a mishap. Where will the ordinary citizen go to complain? When they put up those billboards, you will find that sometimes there is a breakage and people who were seated or passing there are hurt. Measures of safety should also be put in place.

The other important thing is ensuring that counties benefit from the adverts. Most of the time, the adverts involve only those who have the money. The county assemblies cannot do an advert in any of their counties. I have never seen an advert showing the County Assembly of Makueni, for instance, and what they have done. The only adverts in counties are more of individuals. We have to bring in measures to ensure that if Makueni County is good in coal or sand, they have a right to put up a billboard that shows what their economic empowerment is. What do they have that other counties do not have? What is the nature of that county? How do you ensure that the county assemblies safeguard that? I also wish that within the Bill, the county assemblies are given powers to approve some of these things especially the big advertisements. It should be approved by the county assemblies. We should not leave it between the committee and the governor. The county assemblies should be empowered to safeguard this.

Mr. Temporary Speaker, Sir, there should be a central registry so that we do not rely on the renowned Magnate Company as if it is the only advertising company that many people have known for years. There should be a register of the practitioners to show those from national and the county levels. The registry should safeguard the small firms from being overshadowed by big ones like Magnate. We must ensure that when

advertising business is given out, those growing in the sector should be given an opportunity. A law has been passed both in the National Assembly and the Senate that 30 per cent should go to youth and women.

They should benefit from the park benches advertisements too. Since they have not understood how to override the others who have dominated the business, they should be given a chance. We have worked for three years in this House and we have seen what is happening in counties. We shall save Kenyans from the entire hullabaloo we have witnessed in the counties. Today, if we do not go to our counties, people will forget us and it is a fact that many Senators, if they joke, they will be rejected.

I hope we can change that narrative. The governors have perfected the narrative through outdoor advertisement. A governor makes sure that he advertises himself either verbally, through a billboard, in a vehicle or through a *boda boda* wearing a jacket and all these are advertisements. We should help Kenyans to come back to sanity and understand that advertisements are not just meant for the governor but the whole county to help it build its economy. Unless we put laws in place, it will be very difficult for Kenyans at the grassroots to understand that advertisement is also part of collecting revenue.

Mr. Temporary Speaker, to ensure maintenance of billboards, we need to ask ourselves – as my Leader said – if we need to give a timeframe, because somebody could decide that they have the money. Therefore, you will be seeing their billboards for the whole year because they have the money. Therefore, nobody should question why their billboard is there. Even if you give the person the leeway to renew before expiry, then, we need to also have---, especially if it is an individual on the billboard. However, if it is the county, then, that is a different thing. A county assembly can give an approval that it still needs a certain billboard because of certain reasons. We must ask ourselves questions if we see billboards with pictures of certain individuals, for example, a governor.

When you enter Kakamega County, you will see a billboard welcoming you to the county. Six months later, I still see the same billboard. If you conduct an inquiry, you will find that the governor does not even pay for the billboard. Those are some of the issues we need to put into consideration, to ensure that many other things are advertised. Therefore, we should put in place measures to ensure that an advertisement on a billboard does not exceed six months. Another advertisement should be put on the billboard after six months. Thereafter, an earlier advertisement could be put up again.

We must also ensure we put in place measures regarding advertisements in the parks within the counties. When you visit many parks in the counties, you will find many advertisements of governors. When you are seated in a park – because that is the only place where people go to relax – the only things you will be reading are advertisements of the governor and the executive. We must also safeguard our parks because they are not just for governors but for the people belonging to the county. Parks are public land for people to go and relax. We should also put measures in place to ensure that only adverts concerning the county are put on billboards. Therefore, water or something that is viable for the county should be advertised. We should safeguard parks in order to make counties generate revenue from them. When I want to feel our culture, let me feel it in the park knowing that, it is our culture and, therefore, what we believe in. We should have such measures put in place.

When you visit some counties, go beyond and sit in a park somewhere, you will appear lost and wonder because you may find advertisements full of party colours. For example, we have very many parties in western Kenya. Why should somebody advertise a party colour? They should, instead, advertise about our culture, diversity or what we believe in and we will appreciate that. Many counties have such advertisements. You will find advertisements of party colours, yet we are saying that billboards should be used for advertisements. If anything, all parties should be treated equally. Let us also put in place parameters of what should be advertised. If the party wants to advertise, that is fine. However, the party should pay money to the county for advertising in the county because they are also national parties.

Mr. Temporary Speaker, Sir, I thank the Senator because this Bill has come at a time when we are just about to see all sorts of advertisements until you would not see any road signs. We will be seeing individuals competing in the name of running for governor seats. I do not think somebody will advertise that they want to be a Member of Parliament (MP) in the county. Let us try and safeguard how advertisements should be made for the sake of the whole county and Kenyans.

I know that if this Bill goes to the National Assembly, Members of the National Assembly will look at the issue of goodwill. I understand there is something called goodwill where you suppress things that are supposed to safeguard the country. That is why we face the mess because of the National Assembly. If Members of the National Assembly would be consulting and considering some of the Bills that we felt should safeguard the country, we would not be in some of the messes we are in.

Mr. Temporary Speaker, Sir, I support and hope that we will propose amendments to this Bill during the Committee of the Whole to safeguard our counties.

The Temporary Speaker (Sen. Sang): There is no other interest to contribute on this Bill, so the Mover can reply.

Sen. Mutula Kilonzo Jnr.: Thank you, Mr. Temporary Speaker, Sir. I thank Senators for their contribution. In fact, at the time that we were preparing for this Bill as a Committee, our secretariat had drafted amendments to the Bill but I told them to now listen to views of Senators. Otherwise, I would not have heard of the word, “out-of-home advertising”. It can only come from a person who has been in the private sector; that is, Sen. Kajwang. I thank Sen. (Dr.) Zani, Sen. Wetangula, Sen. (Dr.) Khalwale, Sen. (Prof) Lonyangapuo and Sen. Elachi.

I entirely agree with the proposal by – although we will discuss this in detail – Sen. Wetangula on Clause 3 on the question of dealing with religious organisations. I still think that we can provide a proviso and an exception as to the sort of outdoor advertisement that are exempted, because then the Kanyaris of this world would obviously take advantage of it.

Regarding wall branding, I think Safaricom Stadium Kasarani is branded and Nyayo Stadium is branded by Britam. This is one of those things that we must have forgotten to include in this Bill, and I think we should. It means that at least, the Nyayo Stadium ought to generate revenue for the Nairobi City County Government for the way it is currently branded.

Vehicle branding is so important. I am glad that by listening to the Senators, I have realised that I should have consulted some of them who are experts in this business. That we can actually not only tap those vehicles or that segment of the market where people are doing vehicle branding, but we can increase the segment. It is because this is also an avenue for generating income.

I had mentioned the court process, although Sen. Wetangula says that for purposes of drafting, it is not necessary to mention a court. However, I think just to make it complete the way we have done it in the Fair Administrative Act, that after five, there should be a provision that anybody aggrieved can access the court or any other provision of the law. I would have been happier if it was a tribunal dealing with it but we will provide for a court process so that the person then has an opportunity to do so.

The proposal to have Sports advertising for things like Heineken --- although there is a prohibition about how you can advertise beer in relation to sports. You can do it but to the extent that people who are sponsoring activities of sports, goods or products, there is a segment of revenue that has been excluded and we should do it when we do the Committee amendments.

I believe, under Clause 4 and to agree with Sen. Wetangula, the proposal to have these officers who are in office not getting a sitting allowance is on all fours with prudent financial management.

One of the proposals we have made for amendment, which will appear at the Committee of the Whole, is what Sen. Wetangula has proposed; that, the word "Title Deed" would discriminate the majority of Kenyans and leave it to those who have benefitted unfairly from the process of discriminatory issuance of title deeds.

Regarding Clause 6, Sen. Wetangula is correct, that, in fact, at the Railway Headquarters, there are billboards that cross from the highway into land that belongs to the Kenya Railways. I believe that can be captured in the Bill.

I also agree with Sen. (Dr.) Khalwale on the distinctions that ought to be made when you are dealing with the Committee Members and particularly, his proposal on Clauses 3, 5 and 7. We would think a little bit about the penalties because most Senators have proposed that we deal with it so that it does not appear to be too punitive in terms of the fine.

Mr. Temporary Speaker, Sir, the concrete sites are extremely ingenious because they are everywhere. There is one that is coming up somewhere on my way home. It is just in the middle of the road. I do not think it is regulated. This will apply to Safaricom Limited sites particularly, where they have concrete signs everywhere. People are advertising yet we have not provided for it specifically here. It should be because I have dealt with one or two cases. These sites are mostly leased to Safaricom Limited. They do not own those sites. Therefore, we will include that.

Mr. Temporary Speaker, Sir, we had a difficulty. You are aware that under Clause 15, you have proposed that we use the County Gazette. So, how do you synchronize? Under this clause, I would propose when we do the amendments that we put newspapers where applicable, County Gazette where applicable and maybe as many forms as possible or alternatively go back to the provisions of the County Governments Act which has, at

least, three or four methods proposed for publication or publicizing matters concerning counties.

I agree with the registers as proposed by Sen. Elachi because Magnate Ventures Limited appears to be a monopoly, whether deliberately or otherwise, it is still a monopoly but it appears as if Kenyans do not have an alternative; maybe because they do not know. However, we should provide that alternative by providing that, in the county government, once approved there will be a register for them to go and check; maybe the regulations so that we do not over legislate perhaps. We will propose that the regulations will include what would be a register of all persons who can undertake outdoor advertising.

The idea that somebody can own a site and, therefore, you go to them as opposed to the county government is something that we must deal with. If these sites are on the roads or county lands, they should not be left for private individuals to control. Therefore, the Bill will capture that in our amendments.

The amendment of the Committee to include faith based organisations is a brilliant idea although I am not sure how they will manage to do it when we get to the portion of religious organisations. I have a feeling that we will get into a very big quarrel about which religious organisation applies. In my county, for example, there are about 60 to 70 denominations; and, there would be a big problem about it but I am sure we will find an avenue of how these organisations – because if you left it to the major church organisations or any other religious organisations, the *Kanyaris* and others who are just duly registered---

(An hon. Senator spoke off record)

Yes, that one would complain. I realised that with the contentious regulations that were published by the Attorney General, the number of organisations which were affected were not few. Therefore, the idea to include faith based organisations would create a conflict because I do not know the idea we will use to nominate a person to sit in this Committee. That will create chaos.

Regarding the LED sites, for example, the billboard at the junction of Uhuru Highway and Haile Selassie at the roundabout is something that we should think about. However, the objection to that site is that the LED billboard is extremely bright.

Although Sen. M. Kajwang had proposed that we consider the LED displays as a category of advertising, I am not quite sure whether it is in tandem with what we are saying; that billboards should not be too offensive in terms of their display. I like what Sen. Elachi said. The Senate Minority Leader had an accident and people blamed it on the billboard. On the question of who has liability in case of heavy rains and the billboard collapses on a person, I will definitely make sure that there is strict liability on the person who will be responsible for it.

I beg to move.

Mr. Temporary Speaker, Sir, pursuant to Standing Order No. 54(3), I beg your leave that the question be deferred to a later date.

The Temporary Speaker (Sen. Sang): The request is so granted. We will defer the putting of the question to a day when the matter will be placed on the Order Paper.

(Putting of the Question on the Bill deferred)

Second Reading

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

The Temporary Speaker (Sen. Sang): Since Sen. Gwendo, the Mover of the Bill, is not here, we will defer it.

(Bill deferred)

The Senate Minority Leader (Sen. Wetangula): On a point of order, Mr. Temporary Speaker, Sir. I am sure that I speak for myself and my brother, the Senate Majority Leader; that we want to process business. When the sponsor of the Bill that is on the Order Paper is not in the House and no reason is given, there must be some sanctions from the Chair. The sponsor of this Bill has been in this House and she just walked away. This is not taking business of this House seriously. Many of us sit here for long hours. We have not been bringing personal Bills but we bring Bills through committees. Individuals who bring Bills must be patient enough to sit here and listen to others, as they would be listened to when they move their Bills.

The Senate Majority Leader (Sen. (Prof) Kindiki): Mr. Temporary Speaker, Sir, I support the point raised by the Senate Minority Leader. At the very least, when a Senator is a Mover of a Bill or Motion that is in the Order Paper, the Senator owes the Chair an explanation and leave if they will not be there. It is the only way to show dignity to this House. I would actually suggest that if possible, the Speaker could consider giving a specific ruling on this issue of Senators sneaking out when their Bills are in the Order Paper without the permission of the Chair.

The Temporary Speaker (Sen. Sang): The points raised by the Senate Majority Leader and the Senate Minority Leader are noted. It is a concern to all of us given that there are many other Bills that would have appeared in the Order Paper on a particular day. Therefore, it is important that people take seriously the slots allocated to them. Nonetheless, the Speaker will pronounce himself as to the sanctions that would be attendant to such kind of business.

Next order!

Second Reading

THE KENYA NATIONAL EXAMINATIONS COUNCIL
(AMENDMENT) (NO.2) BILL (SENATE BILL NO. 14 OF 2015)

Sen. Obure: Mr. Temporary Speaker, Sir, I beg to move that The Kenya National Examinations Council (Amendment) (No.2) Bill (Senate Bill No. 14 of 2015) be now read a Second Time.

The Temporary Speaker (Sen. Sang): Sen. Obure, you will have 59 more minutes to move your Bill the next time it appears on the Order Paper.

ADJOURNMENT

The Temporary Speaker (Sen. Sang): Hon. Senators, it is now time to interrupt the business of the Senate. The Senate stands adjourned until tomorrow, Thursday, 18th February, 2016, at 2.30 p.m.

The House rose at 6.30 p.m.