

PARLIAMENT OF KENYA

THE SENATE

THE HANSARD

Wednesday, 11th September, 2019

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

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

PRAYER

PETITION

CHALLENGES FACING INDIVIDUALS WITH CONNECTIVE TISSUE DISORDERS/ DISEASE

Sen. Mwaura: Mr. Speaker, Sir, I wish to present the following Petition to the Senate concerning Connective Tissue Disorders Association (CTDA) on the challenges facing individuals with connective tissue disease.

We, the undersigned, citizens of Kenya and in particular persons with individual connective tissue disorders, draw the attention of the Senate to the following:

1. THAT, there is little knowledge of autoimmune disease, especially in Government facilities, due to complexity in diagnosis, some patients are assumed to be feigning pain.
2. THAT, the individuals are having difficulty in accessing quality healthcare since there are only five doctors in the country who can diagnose, treat and manage this disorders.
3. THAT, the undersigned have been having difficulty in acquiring health insurance, especially as individuals since most insurance companies do not cover chronic illnesses such as autoimmune diseases.
4. THAT, the disease is high maintenance because it involves buying regular physiotherapy, diet and medication.
5. THAT, the disease results to regular sick offs resulting in poor performance at work which limits growth professionally.
6. THAT, we have made the best efforts to have these matters addressed by the relevant authorities all of which have failed to give a satisfactory response.
7. THAT, none of these issues raised in the Petition is pending before any court of law, constitutional or any other legal body.

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

THEREFORE, your humble petitioners pray that the Senate investigates this matter and:-

1. Initiate the subsidy of the price of medicine to a more affordable price.
2. Intervene in the matter with a view to ensuring that there are more qualified dermatologists and rheumatologists in all hospitals, especially at the county level because the doctor-patient ratio is 1:100,000.
3. Initiate the recognition of this group as Persons With Disabilities (PWDs) and, therefore, get tax exemption.
4. Initiate the process for allocation of funds to carry out awareness campaigns that will involve the Government and private sector to understand the different conditions of the diseases and management of the patients.
5. Intervene for the undersigned group to obtain a proper cover under the National Hospital Insurance Fund (NHIF) like the case of cancer patients who get free drugs and chemotherapy.

Thank you.

The Speaker (Hon. Lusaka): Hon. Senators, pursuant to Standing Order No.231, I shall now allow comments, observations or clarifications in relation to the Petition for not more than 30 minutes.

Sen. (Dr.) Musuruve, proceed.

Sen. (Dr.) Musuruve: Thank you, Mr. Speaker, Sir, for giving me this opportunity to give my comments. I thank Sen. Mwaura for coming up with this Petition with regard to autoimmune disease persons.

Healthcare is a constitutional requirement. The Constitution provides that everyone has a right to be physically fit. Therefore, when some citizens are physically unfit, they will be unproductive. There is need for a subsidy for physiotherapy treatment so that persons with this disability could access it at affordable cost.

Awareness of issues affecting PWDs is important, but it is not enough. There is need for a practical solution to ensure that even when awareness is done, I appeal to the relevant authority to ensure this issue is addressed conclusively for the purpose of inclusivity. We do not want to leave behind any citizen in this country as far as development is concerned.

We need to ensure that there are qualified medics for the purpose of inclusivity and accessibility of healthcare to everybody because it is one of the Big Four Agenda of Jubilee Administration.

Sen. Farhiya: Thank you, Mr. Speaker, Sir. People with auto immune diseases need special care. For example, lupus is one of the diseases that is auto immune. Some of these people because of their health, even when they are professionally qualified to be economically active, they are not able to do that because of their condition.

Mr. Speaker, Sir, I think a special cover for such people with the National Health Insurance Fund (NHIF) should be considered. The people looking at this Petition should also pursue that angle. Such people are usually a burden to their relatives and the cost of medical care is very expensive. I wish to thank Sen. Mwaura for bringing this issue to the

Floor. I do not know whether these diseases were not known before or they have been on the rise because of our lifestyle.

There are many generations that are dealing with these issues and many other people dealing with different types of auto immune diseases including the skin, muscles and the nerves. So many issues are coming up and the people who are available to take care of them in terms of doctors are not adequate.

Most people sometimes seek medical care abroad which they cannot afford because, as I said, they are not economically active due to their condition. I support the Petition and it needs to be dealt with very thoroughly because it is an emerging issue and affecting our population.

Sen. (Dr.) Ali: Thank you, Mr. Speaker, Sir. Collective tissue disorders are very serious issues all over the world. However, the reality of the matter is that if we cannot handle malaria, pneumonia and other prevalent diseases, including gastrointestinal disorders, we cannot generally talk of collective tissue disorders in this country.

Our priority should be based on the common diseases which occur every day in this country. If we can handle that, then we can deal with other issues and, hopefully, if it comes to the Committee, we will handle it appropriately.

The Speaker (Hon. Lusaka): Hon. Senators, pursuant to Standing Order No. 232(1), the Petition stands committed to the Standing Committee on Health. In terms of Standing Order No.232, the Committee is required in not more than 60 days from the time of reading the prayer, to respond to the petitioner by way of a report addressed to the petitioner and laid on the Table of the Senate.

Sen. Wambua, you have a Petition.

CLOSURE OF KYUSO SUB-COUNTY HOSPITAL, KITUI COUNTY

Sen. Wambua: Thank you, Mr. Speaker, Sir, I rise to petition the Senate on behalf of a section of leaders from Kitui County on the closure of Kyuso Sub-County Hospital.

We, the undersigned citizens of the Republic of Kenya and residents of Mwingi North Constituency draw the attention of the Senate to the following:

THAT, Kyuso Sub-County Hospital in Mwingi North Sub-County was closed on 3rd September 2019 citing alleged insecurity for a section of staff.

THAT, security officers on the ground have dismissed reports of the alleged insecurity saying that no such reports have been made to them.

THAT, the facility offers medical-care to the residents of five wards of Mwingi North.

THAT, Article 43(1) of the Constitution provides that every person has a right to the highest attainable standard of health which includes the right to healthcare services.

THAT, the people of Kyuso Ward and Mwingi North at large have been denied their rights to access primary healthcare by the closure of the facility, increasing the likelihood of life threatening illness causing irreversible damages or even death.

THAT, expectant mothers in Kyuso and Mwingi North are at risk when delivering due to lack of health services in the area.

THAT, Kyuso Sub-County Hospital being the main drug supply center to other health facilities in Mwingi North, its closure has caused shortage of drugs in these subsidiary facilities and, as such, citizens are not able to access adequate medical care.

THAT, we have made the best efforts to have this matter addressed by the relevant authorities, all of which have failed to give a satisfactory response.

THAT, none of these issues raised in this Petition is pending in any Court of Law, constitutional or any other legal body.

Therefore, your humble petitioners pray that the Senate:

1. Investigates the matter with a view to determining the cause of the closure of Kyuso Sub-County Hospital.
2. Causes the hospital to be reopened.
3. Puts in place long-term measures to ensure that other health facilities in the county are upgraded to Level 4 hospitals to ease pressure on the Kyuso Level 4 Hospital.
4. To have in place special interim medical care for patients suffering chronic illnesses whose condition may deteriorate due to this closure as the matter is being sort out.

The Petition is signed by Hon. Kanadu and Hon. Kivunzi.

Thank you, Mr. Speaker, Sir.

The Speaker (Hon. Lusaka): Hon. Senators, pursuant to Standing Order No.231, I shall now allow comments, observations or clarifications in relation to the Petition for not more than 30 minutes.

Sen. Khaniri: Mr. Speaker, Sir, I would like to thank you for the opportunity to make comments on this very important Petition. Let me begin by thanking the three patriotic Kenyans for petitioning this House. Indeed, this is a matter that falls squarely on the mandate of this House because healthcare is a function that is devolved.

The issues raised in this Petition are very grave and extremely serious. I know that according to the standing orders, in particular. Standing Order No.232 (2), the Committee that will be tasked with the responsibility of looking into this matter has up to 60 days.

I want to say that, 60 days for such a matter will be too long. I cannot imagine what the residents of Kitui County are going through given that the only facility they have to access medical care has been closed and the reason being given is insecurity.

It is the responsibility of the national Government to provide security. You cannot close a health center and cite insecurity of staffers. If there are issues to do with insecurity of staff, the national Government has the responsibility to ensure each and every individual within the Kenyan boundary is safe.

The reason being advanced for closing this very important facility is null and void. It is important that this matter is looked into urgently so that the institution is opened to have the people of Kitui access medical care.

Mr. Speaker, Sir, I just want to insist that although the Committee has up to 60 days, this matter requires urgent attention than the 60 days. I plead with the Committee on Health to ensure that this matter is dealt with within 14 days.

(Sen. (Dr.) Ali's microphone was off)

The Speaker (Hon. Lusaka): Your microphone is off.

Sen. (Dr.) Ali: Thank you, Mr. Speaker, Sir. This is a very serious issue. Hospitals cannot be closed just for the sake of it. There is a reason why that hospital was there in the first place. Hon. Khaniri said that there are people who are supposed to take care of that security. Since we will be in Kitui next week, I would urge the Secretariat to set some time for the Committee in the morning session. This will ensure that as others are in other meetings, we can go to Kyuso and look at this issue together with the Senator and we will work on it hopefully by next week.

Thank you, Mr. Speaker, Sir.

Sen. Mutula Kilonzo Jnr: Thank you, Mr. Speaker, Sir. Sometimes, I worry about my neighbors in Kitui because they appear to be at the mercy of bad manners and insecurity by neighbors and somehow we seem not to take this matter seriously.

I remember when the police reservists were withdrawn from some place in Rift Valley, the Majority Leader was up in arms and there were Statements issued from everywhere. However, when people in Kitui die because of attacks by camel herders or a hospital is closed, nobody takes it seriously.

Mr. Speaker, Sir, in line with what Sen. Khaniri said, I propose that on 18th September, 2019, Wednesday morning, we cancel the meeting to visit the prisons and go to this hospital together with the Committee on National Security, Defence and Foreign Relations. I recall that I sat with the Speaker and the County Commissioner of Kitui and he wanted us to deal with this problem, that is the “neighbor issue” between Kitui, Tana River and Garissa so that we can find a lasting solution to the problems that keep engulfing my good neighbors in Kitui. It is very unfortunate to close a Level 4 hospital in a county as big as Kitui; a county that faces many challenges, because people cannot work. All of us, led by the Speaker, should make a very serious statement by going there to make sure that that hospital is opened and the people of Kitui receive health services.

Thank you, Mr. Speaker, Sir.

Sen. (Dr.) Langat: Thank you, Mr. Speaker, Sir, for also giving me the chance to make my comments on this.

It is quite surprising to hear that a Level 4 hospital serving five wards and the neighboring counties has been closed just because of insecurity. It is very interesting that even today while the President was presiding over a passing out ceremony of more security personnel, we are still talking of insecurity in our country, including in the hospitals. I would like to call upon the Ministry of Interior and Co-ordination of National Government to take note of this. I think that the Committee concerned with security should also be prepared, when we will be in Kitui, to explain what measures they have put in place to make sure that the hospital and the surrounding areas are secured.

It is very interesting that people who are sick cannot get treatment simply because of insecurity. A hospital is a facility that should be taken seriously and this is a devolved function to all of us. This is not just a matter that the Committee on Health should deal with. The Committee on National Security, Defense and Foreign Relations should also be

involved so that the custodians of security in Kitui can tell us what they are doing to address the issue of the closure of the hospital.

We should take this issue seriously. It is good that we shall be there next week. As Sen. Kilonzo said, all of us should take this issue very seriously. The two committees should be involved to make sure that things run smoothly.

Thank you, Mr. Speaker, Sir.

Sen. Wetangula: Thank you, Mr. Speaker, Sir. The issues raised in the Petition read by the distinguished Senator for Kitui are as outrageous as they are scandalous.

Mr. Speaker, Sir, closing a hospital and citing insecurity - not insecurity in general - but insecurity of staff is something that this House must condemn. Even under the Geneva Conventions and in war situations, hospitals are never attacked unless it is a rogue army. It is actually a war crime. Hospitals, churches and mosques are never targets of attack even in war situations. To close a hospital in a situation in the country where even those that are functioning are not giving adequate service, is an outrage!

Mr. Speaker, Sir, I want to urge, that you direct that this is not an ordinary Petition that should be subjected to 60 days. This Petition warrants our presence in Kitui next week for the Committee and any friends of the Committee including yours truly, to go and see this hospital and see what exactly is happening. Under the Constitution of Kenya 2010, access to healthcare and proper medicare is a right. So, it is in fact a violation of the Constitution to close a health facility.

In any event, if staff members of a particular institution allege insecurity and they are malingering and not working, sack them and recruit new staff. The insecurity cannot just be affecting the staff and not the residents who are dependent on that hospital. I urge that you direct that we do not subject this Petition to the 60 days that is normal in Petitions, but that we deal with this next week. This will ensure that the Senate is seen - while we sit in Kitui - to be proactive in resolving issues that affect the people of Kitui as a measure of appreciation of their welcome and hospitality.

The Senate Majority Leader (Sen. Murkomen): Mr. Speaker, Sir, first, I would like to say that there are many questions that need to be answered from that Statement.

One, if the hospital is going to be closed because the staff fear insecurity, the question I am asking myself is: what about the residents of Kitui? This means then that you will have to close a whole ward or a whole constituency because everybody is a victim of insecurity.

I know what I am talking about because people from the northern counties, particularly, Mandera and Wajir, were complaining that they need to hire local people to teach their children because insecurity was being used as grounds by teachers to leave those parts of the country. The same issue also happened in Kerio Valley, where I come from, where again many teachers left that area and said they can no longer teach our children because of insecurity. Therefore, the question of insecurity must be dealt with, not just as a question affecting this health facility but also the safety of the people in that part of Kitui.

Mr. Speaker, Sir, I thought that I heard Sen. Mutula Kilonzo Jnr saying here that we made many Statements and a lot of noise regarding the Kerio Valley issue. Whose fault is it that there is no news coming from Kitui? It can only be the failure of Sen.

Mutula Kilonzo Jnr because he comes from that region including leaders from that area. We have been elected, and I want to thank the Senator of Kitui because this is part of the noise, part of the representation. It is our duty as leaders to make as much noise as possible until the issues of the people are heard. What an irony that the Inspector-General of Police comes from that region and yet he cannot even appreciate that from his personal experience, he must deal with the issues of insecurity.

I want to challenge the Senator of Kitui, not to stop with the Petition here. He should organize leaders from his county and march to the Office of the Inspector-General of Police and demand security for the people of Kitui.

Since the coming to office of the new Inspector-General (IG), the only success we know is withdrawing security for Members of Parliament (MPs) and a contingent of about of 150 General Service Unit (GSU) officers arresting an MP. We must bring to task---

Sen. Wambua: On a point of information!

The Speaker (Hon. Lusaka): Sen. Murkomen, do you want to be informed by Sen. Wambua?

The Senate Majority Leader (Sen. Murkomen): If he was not a Senator, probably he would have been a bishop. So, I have no problem being informed by the Senator for Kitui.

Sen. Wambua: Mr. Speaker, Sir, I would like to inform the Senate Majority Leader that I already did what he is asking me to do 30 minutes ago.

Mr. Speaker, Sir, at around 4.00 p.m., you will see the Senator for Kitui County leave the Chamber. I will lead MPs from Kitui County to the offices of the Cabinet Secretary for Interior and Coordination of National Government to make demands about security in Kitui County.

I thank you.

The Senate Majority Leader (Sen. Murkomen): I suspect Sen. Mutula Kilonzo Jnr. will show you directions to that office because I saw him posting a picture from one of the boardrooms. I insist that we must take the issue of insecurity seriously.

I am speaking out of passion. Sometimes we joke as MPs, but I am sure Sen. (Prof.) Ekal and the Senator for West Pokot County would have done the same thing because we face problems all the time. It is important that we encourage our brothers and stand with them when they face a similar situation.

I agree with Sen. Mutula Kilonzo Jnr. on that. We may not need to change the programme but we can add on the list the places we have agreed to visit. I have agreed to be part of team that will visit the area to see for myself the experience of people in that area.

With those many remarks, moving forward, I hope the security management of this country will be professional.

When the police and Directorate of Criminal Investigation (DCI) investigate an issue, like we have police officers investigating the Prime Minister of Israel, we should leave them to do their work because those independent offices which are supposed to do their work independently. They are capable of checking the excesses of the executive

both at the national and county levels. Excuses of insecurity must not be allowed to pass at the expense of services to the people.

I thank you.

Sen. (Dr.) Kabaka: Thank you, Mr. Speaker, Sir, for giving me this opportunity to support my brother's statements. Having gone there with my brother sometime last week, we did some intensive investigation. It is very interesting because despite the fact that my brother has done a good job here, he is somehow timid to state the truth of the matter. When I was sworn in here, I vowed to say nothing but the truth.

I have heard that Senators will visit the place next week. At the end of the day, you will establish that there is a war between the Governor of Kitui County and hon. Kivunzi who is the area Member of the County Assembly (MCA) and a member of the Wiper Party. It is due to political differences which have led to the closure of Kyuso Level 4 Hospital. It is not purely because of matters of insecurity.

As Sen. Murkomen has said, if indeed it is a question of insecurity, what is the status of the local citizens? If there was any insecurity in that area, nothing would have been easier than the Senator for Kitui County reporting the same or even the local media.

Mr. Speaker, Sir, it is my position that what has been done to the people of Kyuso by closing down the hospital is equivalent to the Second World War, holocaust. The Senator of Kitui has put it clearly that women suffer during delivery while some deliver in the bushes. People are also dying due to lack of adequate medicine. That is why I have said that is like a holocaust. It is a serious criminal case which is supposed to be tried in International Criminal Court (ICC) jurisdiction. Once we visit there, we should have serious resolutions on this matter.

I support.

The Speaker (Hon. Lusaka): I can see there is a lot of interest but we have the Division of Revenue Bill. I am sure Members of the Committee have heard.

Pursuant to Standing Order No.232 (1), the Petition stands committed to the relevant Standing Committee. In this case, it is the Standing Committee on Health. Like it has been said, I direct that because of the interest that we have heard from hon. Members, the Committee on Health and all those who would want to accompany the Committee to visit the hospital are free to do so and come up with a report within 14 days.

(The Petition was committed to the Committee on Health)

Sen. Kibiru: On a point of order, Mr. Speaker, Sir. Now that you have ruled, I would like to know whether it will be safe for us to go to Kitui. We need to be sure that we will be safe because if a hospital was closed and we will be going there next week, we need to be assured of our security.

The Speaker (Hon. Lusaka): Hon. Members, I assure you that we will be safe and security arrangements have been put in place. There is no way 68 Senators can be in a county and there is insecurity. Even if it means mobilising the military to take care of us, we shall do that.

Sen. Sakaja: Mr. Speaker, Sir, I want to assure the Senator for Kirinyaga County that the Committee on Security, Defence and Foreign Relations has a very able

Chairperson, Sen. Haji and a distinguished nephew of Sen. Wetangula as the Vice Chairperson. Therefore, he should not be worried but in case of anything, let him stay near me to assure him of security.

(Laughter)

Sen. Ochillo-Ayacko: Mr. Speaker, Sir, it is not only security that we are talking about but also health. Are we sure that some of us who may fall ill while in Kitui County will access treatment? You never know when you might fall ill.

The Speaker (Hon. Lusaka): Hon. Senators, you will be in Kitui Town, which is the Headquarters of Kitui County. Unless there will be a very special case that would require someone to be taken to another area, I think we will be safe.

Let us go to the next Order.

PAPER LAID

REPORT OF THE MEDIATION COMMITTEE ON THE DIVISION OF REVENUE (NO. 2) BILL (NATIONAL ASSEMBLY BILLS NO. 59 OF 2019)

Sen. (Eng.) Mahamud: Mr. Speaker, Sir, I beg to lay the following Paper on the Table of the Senate, today Wednesday 11th September, 2019:-

Report of the Mediation Committee on the Division of Revenue (No.2) Bill
(National Assembly Bills No. 59 of 2019)

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

The Speaker (Hon. Lusaka): Next Order. We will defer the Statements for now.

STATEMENTS

STALLED CONSTRUCTION OF THOGOTO LEVEL 4 HOSPITAL IN KIAMBU COUNTY

(Statement Deferred)

STATE OF REPAIR AND REFURBISHMENT OF POLICE STATIONS

(Statement Deferred)

DESTRUCTION CAUSED BY HIPPOS IN KAKAMEGA COUNTY

(Statement Deferred)

NOTICE OF MOTION

ADOPTION OF REPORT OF THE MEDIATION COMMITTEE
ON THE DIVISION OF REVENUE (NO. 2) BILL (NATIONAL
ASSEMBLY BILLS NO. 59 OF 2019)

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

THAT, the Senate adopts the Report of the Mediation Committee on the Division of Revenue (No. 2) Bill (National Assembly Bills No.59 of 2019) laid on the Table of the Senate on Wednesday, 11th September, 2019 and pursuant to Article 113 of the Constitution and Standing Order No.161 (3) of the Senate Standing Orders approves the mediated version of the said Bill.

The Speaker (Hon. Lusaka): Hon. Senators, there will be a vote. Therefore, I ask you to remain within the Chamber.

BILLS

First Reading

THE REGISTRATION OF PERSONS (AMENDMENT) BILL
(SENATE BILLS NO. 14 OF 2019)

*(Order for First Reading read-Read a First Time and
ordered to be referred to the Committee on National Security,
Defence and Foreign Relations)*

First Reading

THE KENYA SIGN LANGUAGE BILL
(SENATE BILLS NO. 15 OF 2019)

*(Order for First Reading read-Read a First Time and
ordered to be referred to the Committee on Education)*

MOTION

ADOPTION OF REPORT OF THE MEDIATION COMMITTEE
ON THE DIVISION OF REVENUE (NO. 2) BILL (NATIONAL
ASSEMBLY BILLS NO.59 OF 2019)

Sen. (Eng.) Mahamud: Mr. Speaker, Sir, I beg to move:-

THAT, the Senate adopts the Report of the Mediation Committee on the Division of Revenue (No.2) Bill (National Assembly Bills No.59 of 2019) laid on the Table of the Senate on Wednesday, 11th September, 2019 and pursuant to Article 113 of the Constitution and Standing Order No. 161 (3) of the Senate Standing Orders approves the mediated version of the said Bill.

Mr. Speaker, Sir, the Division of Revenue (No.2) Bill (National Assembly Bills No. 59 of 2019) forms the basis of the shared revenue between the two levels of Government. The Bill was published by the National Assembly with equitable share to the counties of Kshs316.5 billion. It was passed by the National Assembly and forwarded to the Senate which rejected it with amendments and amended that the figure for equitable share to the counties be Kshs335 billion. Also, the managed Medical Equipment Services (MES), of Kshs6.2 billion under conditional grant was amended and removed. In fact, those were the two areas of contention.

The Mediation Committee was put in place, according to Article 113 of the Constitution. We had three meetings. In the first meeting, there were no much discussions and the second meeting was this morning.

Mr. Speaker, Sir, I will be brief because our version was that we increase the county equitable share from Kshs316.5 billion to Kshs335 billion. We also removed the conditional allocation of Kshs 6.2 billion on the MES. There was an increase of allocation to Water Tower Protection and Climate Change Mitigation and the Adoption Programme by Kshs385 million to Kshs880 million. This was the contentious issue.

Mr. Speaker, Sir, during the meeting, the Committee observed the following:-

(i) That indeed there is urgent need to approve the Division of Revenue Bill 2019 and cause the County Allocation of Revenue Bill, 2019 to proceed.

(ii) That there was no room to finance the increase in the county equitable share of revenue due to fiscal constraint

(iii) The Mediation Committee considered the issues raised by both Houses, and consequently, adopted the mediated version of the Bill, which is hereby annexed.

Therefore, all matters having been considered and decided by consensus, this report is therefore a unanimous decision of the Committee.

(iv) That it was immutable that counties could not prepare their annual budgets as contemplated under Article 224 of the Constitution due to a lacuna in the law that fails to give remedial relief to counties where the Division of Revenue Bill is not passed by Parliament before the end of a financial year.

Mr. Speaker, Sir, upon reaching consensus, the Committee therefore recommends the following:

(1) That this House to approve the Bill as follows:

(i) That the County Equitable Share allocation for Financial Year 2019/2020 be Kshs316.5 billion.

(ii) That the allocation to the leasing of MES for financial year 2019/2020 of Kshs6.2 billion, be approved subject to the following:-

(a) That before the next Division of Revenue Bill, 2020, there shall be a proper disclosure on the costing of equipment under the MES programme;

(b) Parliament shall establish a Special ad-hoc Joint Committee on MES to conduct a thorough investigation and table a report in Parliament for approval. The ad-hoc Committee should table the report before the end of the 3rd session of Parliament.

(iii) That the allocation to the Water Towers Protection and Climate Change Mitigation and Adaptation Program for Financial Year 2019/2020 be Kshs880 million.

(2) The Budget and Appropriations Committee of the National Assembly and the Senate Standing Committee on Finance and Budget jointly embark on creation of a national policy framework on the management of conditional grants to counties before the end of the next financial year.

(3) That Parliament expedites the amendment to the Public Finance Management Act, 2012, to ensure that in the event the Division of Revenue Bill is not passed before the end of a financial year, counties can access a percentage of nationally raised revenue.

(4) That this House adopts and approves the report of the Mediation Committee on the Division of Revenue (No. 2) Bill (National Assembly Bills No. 59 of 2019)

Mr. Speaker, Sir, last week this House had a *Kamukunji* where we discussed all these together. In fact, I thank the Senate for directing us properly; that is why we are where we are today.

(Loud consultations)

The Speaker (Hon. Lusaka): Let us consult in low tones.

Sen. (Eng.) Mahamud: Mr. Speaker, Sir, we are aware that the mediation did not go as planned. However, we will fight another day. All is not lost. This is because the initial figure of Kshs310 billion was published by the National Treasury and from the first Bill by the National Assembly. However, we brought the figure to Kshs316.5 billion. We wanted more but due to the fact that we are three months into the financial year, it is only proper that we, the Upper House, be sober enough to overcome this. However, we should proceed with the matters that are before us so that in the next financial year, we will achieve a lot to ensure that we improve on what we had this year.

Mr. Speaker, Sir, the Bill annexed---

(Loud consultations)

The Speaker (Hon. Lusaka): Order, Senators! This is important. Let us consult in low tones.

Sen. (Eng.) Mahamud: Mr. Speaker, Sir, the Division of Revenue Bill shall come into force upon publication in the gazette. There was an attempt this morning from some quarters to make it retrospective and deem to be effective from 1st July which would have been serious. This Bill will only be effective after it has been gazetted.

Mr. Speaker, Sir, I beg to move and ask Sen. Mutula Kilonzo Jnr. to second.

Sen. Mutula Kilonzo Jnr: Thank you, Mr. Speaker Sir. I rise to second the Motion on the report on mediation. Since the report is very detailed on the issues we have

agreed on. The statements of the Senate Majority Leader and the Senate Minority Leader are very clear on the issues that lead to the agreement on the Kshs316.5 billion; I will not bother with those details. I only want to say the following.

First, we also agreed that the framework of determining what will happen to the Division of Revenue, the impasse and agreement such as this one. We, as a Committee, have agreed that the Committee on Finance and Budget will forward a proposal so that we can have 50 per cent of the last allocation given to counties prior to the agreement and sorting out of the impasse.

Second, this impasse has brought to forth the contradiction between Article 218 and Article 221 of the Constitution. That contradiction must be resolved. If we do not resolve it, next year, we will have another collision with the National Assembly on the Division of Revenue.

Third, with the regard to Budget Policy Statement, the Chairman of the Committee on Finance and Budget, Sen. (Eng.) Mahamud and Kimani Ichung'wa, the Chairman of the Committee on Budget and Appropriations of the National Assembly, have agreed that we will find a framework of agreeing at the Budget Policy Statement stage a joint report. I can say this with a straight face that the National Treasury has been playing Parliament. The National Treasury has been sending information to us in a way that would make us clash. Sen. Sakaja can confirm that our budget office has been giving the National Assembly and the Senate different briefs.

Mr. Speaker, Sir, by strange luck, the brief for the National Assembly was given to us, and the brief to the Senate to them. We saw what they said. There are certain fundamental problems in Parliament, which includes the people who advise us. The people who advise us are pushing us into a collision course. If these offices are meant to help Parliament, they cannot be giving different opinions. We should insist that the Parliamentary Budget Office give one opinion. If it is the Directorate of Legal Services of Parliament, they should give one opinion. This is the same problem that we had in the Land Value Index mediation where the National Assembly and the Senate all had a different version from the Directorate of Legal Services. The question was whether it should be a Land Index (Law) Bill or a Land Value (Amendment) Bill.

Mr. Speaker, Sir, the lessons have been learnt. For those who thought we cowed, we did not. We just took a tactical retreat so that we go back to the Division of Revenue. For those who spend time with the Building Bridges Initiative (BBI), tell them that the most important thing for this country is Division of Revenue. The thing that has divided this nation is not tribalism, but people sitting in a room somewhere and deciding how the national cake should be divided. We must tell the Executive from where they are that the division of revenue should be decided on the Floor of the Senate and the Floor of the National Assembly. It will never be in State House, Harambee House, the Annexes of Harambee House or any other place. It is Parliament.

If the Senate and the National Assembly cede ground, we will go back to those days when the national cake was decided at night. That will be the end of devolution. I have seen the ghost of 1966. It will come through the division of revenue because they will divide everything and leave you with the spoils. A very simple aspect of this Division of Revenue Bill version says as follows in Clause 5:

“Any shortfall of revenue shall be borne by the National Government. Any excess collected by National Government shall go to pay debts.”

Unless this Senate gets into the question of why we are borrowing, then the question of dividing revenue will be determined by payment of debts for some causes that are nothing other than corruption and shady contracts.

I second.

(Question proposed)

The Senate Majority leader (Sen. Murkomen): Mr. Speaker, Sir, I would like to start by congratulating our Mediation Committee for a job well done and for standing firm in support of the job that must be done in the counties. Article 96 of the Constitution makes it clear that we are the defenders of counties and county governments.

The reason why we came up with a new Constitution was because this country came from a history where the President was acting as a benevolent leader, dishing out development and resources to places that he thought were right. Division of revenue and devolution itself are mechanisms with which the people of Kenya can make decisions for themselves as to what development they need in the local level, and what resources they are going to use for that development.

It must be clear for everybody in the Republic of Kenya; that the national Government does not have its own money that it donates to county governments. The national Government does not have responsibility of dictating to Parliament how much goes to what level of government. The Constitution makes it abundantly clear that it is the role of Parliament, which is both the National Assembly and the Senate, to preside over a process which eventually comes to division of revenue, where resources are divided between the two levels of government.

Mr. Speaker, Sir, we insist that any Appropriation Bill passed by the national Government before the Division of Revenue Bill is passed is unconstitutional and should be declared null and void. I know that many of our colleagues would have wanted us to remain adamant, firm and not concede in so far as the amount going to counties is concerned. As a result of this anomaly where the Appropriation Bill was already passed, the national Government and counties are waiting for resources and the first quota of the new financial year is over, it was becoming clear that only counties were going to suffer.

The Judiciary would make decisions expeditiously to provide a mechanism for us to sit on a round table was already a beneficiary of the Appropriation Bill. Therefore, it was not in a hurry to make a decision. The National Assembly which is part of Parliament was also a beneficiary of the Appropriation Bill. They were not in a hurry. The National Executive was a beneficiary of this illegal Appropriation Bill. Therefore, it was not in a hurry. It only became practical and wise to allow the counties to get the money as we continue waging the war.

Until we finally succeed in the declaration of that Appropriation Bill of 2019, it is an illegality. This report that we are now debating they wanted to introduce a clause that says that the division of revenue should be applied backwards. Of course, there is nothing in the Constitution, and it is even impossible to imagine that any lawyer would have

imagined that there is a law that applies retrospectively to a time that was not enacted. It is impossible.

Mr. Speaker, Sir, I stand here and say that I am proud to be a Senator and the Senate Majority Leader. We have done a fantastic job. I am proud of this House because of the plans we have for our decision to go to court. When we go to court for mention of our case on Tuesday, I believe that this country will see what this House has done.

Mr. Speaker, Sir, we want to vote this afternoon and to ensure that the resources go to our counties and that counties begin to perform their responsibilities as required by the Constitution. I will restrict my comments to that point.

I congratulate Sen. (Eng.) Mahamud, Sen. Mutula Kilonzo Jnr., Sen. Sakaja, and the Senator of Narok County who, otherwise, has given himself a different responsibility out there, which we shall discuss another time. They have done a fantastic job. This includes other Senators such as Sen. (Dr.) Ali---

Sen. (Dr.) Ali: On a point of order, Mr. Speaker, Sir.

The Speaker (Hon. Lusaka): What is your point of order Senator? You are off the microphone.

The Senate Majority Leader (Sen. Murkomen): He has not even been given the Floor.

Sen. (Dr.) Ali: Mr. Speaker, Sir, is the Senate Leader of Majority in order to mention all names instead of just saying the Mediation Committee? Does he have to name each of them separately, yet we want to finish this thing fast?

(Laughter)

The Speaker (Hon. Lusaka): Proceed, Senate Leader of Majority.

The Senate Majority Leader (Sen. Murkomen): Mr. Speaker, Sir, as the Senate Leader of Majority in this House, I think the public out there knew there was a Mediation Committee.

However, there is nothing wrong with the Senate Majority Leader recognising gallant Members of this Senate; that is, Sen. Mutula Kilonzo Jnr., Sen. Sakaja, Sen. (Prof.) Kamar, Sen. Kibiru, Sen. Nyamunga, Sen. Olekina, Sen. Omogeni and Sen. Linturi, who have done a fantastic job to ensure that they represent the interests of this House in that Mediation Committee.

I am very proud of them because sometimes we are called upon to perform certain responsibilities on behalf of this House, and we must be cheerleaders of one another. We must congratulate one another when we are doing well. This is because there are times when we come to this House to chastise some Members for failing to perform their responsibilities. When they do a good job, it is the responsibility of the leadership of this House to publicly recognise and appreciate those who are doing a good job, so that it will encourage others tomorrow to perform even a better job---

The Speaker (Hon. Lusaka): Senate Leader of Majority, because of the voting, you have made your point.

The Senate Majority Leader (Sen. Murkomen): With those very many remarks, I beg to support wholeheartedly.

I thank you.

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

The Speaker (Hon. Lusaka): What is your point of order?

Sen. Halake: Mr. Speaker, Sir, I am a bit confused; is not getting what we set out to do such a fantastic thing? I am a bit confused as to all the accolades. While I believe the effort that has been put in, for us to celebrate for not achieving what we set out to do, it seems a little bit warped to me.

The Speaker (Hon. Lusaka): Sen. Murkomen, keep it short.

The Senate Majority Leader (Sen. Murkomen): Mr. Speaker, Sir, I want Sen. Halake to appreciate that for the many times I have praised her publicly here, she is not the only one who is doing a good job in this House. She must also recognise that others also do a very good job and, therefore, also deserve praises in this House.

The Speaker (Hon. Lusaka): Proceed, Senate Leader of Minority.

The Senate Minority Leader (Sen. Orengo): Thank you very much, Mr. Speaker, Sir. I also take this opportunity to thank Sen. (Eng.) Mahamud, Sen. Mutula Kilonzo Jnr., Sen. Sakaja, Sen. (Prof.) Kamar, Sen. Kibiru, Sen. Nyamunga, Sen. Olekina, Sen. Omogeni and Sen. Linturi.

(Sen. Murkomen consulted loudly)

The Speaker (Hon. Lusaka): Order, Senate Leader of Majority. You were listened to. Please, sit down.

The Senate Minority Leader (Sen. Orengo): Mr. Speaker, Sir, while I am thanking this Mediation Committee, I am going to speak a little bit differently about the House because we cannot congratulate ourselves fully because of what was done. I think we better be honest about what has happened.

There was a time when Parliament was controlled from Harambee House. In fact, when it came to monies, even allowances were not being approved in the precincts of Parliament. The Clerk of Parliament had to go to Harambee House to get validation from the Permanent Secretary in charge of the Office of the President. Many things begin in a very small way. I am saying that if we do not watch this trend, in another one year, we may find that we have completely lost our role as Senate.

Mr. Speaker, Sir, the most important function of the Senate is enactment of the Division of Revenue Act (DORA) together with the County Allocation of Revenue Act (CARA). I want us to understand that although the President of the Republic of Kenya can be considered as the Chief Executive of the enterprise known as Republic of Kenya, but the people who speak for the people for Kenya who are the ‘shareholders’; we are the ‘directors’ and the Chief Executive cannot make a decision without directors.

Hon. Members of Parliament in this corporation known as Kenya are the “directors’ who sit in the board when it comes to the questions of raising revenue or the expenditure of revenue in the Republic of Kenya.

I am, therefore, a little bit disappointed with what has happened in view of the retreat we had to make. It was a tactical retreat but it is a matter from which we should draw lessons. Despite the fact that we have had this retreat, I urge the Vice Chairperson

of the Committee on Mediation who has done a very good job and he has been keeping us posted throughout, that there may be a different version which is put before the National Assembly that even when we have agreed to pass the resolution that the Mediation Committee has come up with and to enact this Bill, there are still some people in the National Assembly who want to backdate the Division of Revenue Bill. That has happened before. If that happens---

Mr. Speaker, Sir, if Sen. Wako was here - I was there after passing the Constitution of Kenya and its proclamation - when it went to the Government Printer, there were people in the Office of the President at that time who tried to get Sen. Wako to agree to certain amendments being made unofficially; that the Government Printer should alter some provisions that related to the former Provincial Administration, particularly, the transitional provisions.

If the National Assembly would come up with a version that backdates this Bill, even the matter we have in court that is coming next week will be dead on arrival. The Division of Revenue Allocation Bill is very important; that the Government cannot appropriate before there has been a Division of Revenue between the two levels of Government; the counties and the national Government. They cannot appropriate or budget until a decision is made on how to divide revenue between the national and county governments.

If we lose the war in terms of this very important legislation by saying that in future things will still happen the same way, then we can as well say goodbye to devolution. The most important outcome of the Constitution that we had in 2010 was devolution.

Mr. Speaker, Sir, the Americans like to pride themselves that when they enacted their Constitution in 1787, what they got, and what Benjamin Franklin talked about was the fact that they had a republic. In Kenya, we can be proud that the outcome of the promulgation of the Constitution in 2010 was devolution. If the Senate cannot play a role in the process of division of revenue between the two levels of government before appropriation, then I think even the devolution that was proclaimed in 2010 is gone.

Mr. Speaker, Sir, I want to thank the Mediation Committee but add that we must be on the watch out in the future. This is going to happen next year, because there is an intention to amend the Public Finance Management Act (PFM). The National Assembly has already put forward an amendment that will make it, in fact, superfluous, even to come with the Division of Revenue Bill. They are going to enable the Executive to spend money that is meant to go the counties before there is that allocation or division of revenue between the two levels of government.

Therefore, I support the report of the Mediation Committee but tell the Senate: This I want to say for whole Republic, in terms of what is going on; we are going through a very difficult period that we must be on the watch out. Normally, when things look like they are working well, that is the most dangerous moment in any republic.

Mr. Speaker, Sir, in 1965 when it looked like things were working well and there was peace in the country, that is when many of laws were changed which took away everything that had been achieved in Lancaster House. Looking at what is happening in Kenya today - I want say very loudly, without fear of contradiction - we must watch the

Executive very carefully. From where I come from, I can tell you that anything happening to any Kenyan belonging to any party – he may be in a party that I disagree with – but if things are done wrongly, I will never support it.

I would never support a situation where, instead of the country moving forward on a democratic path, we seem to be going backwards. This Bill is a demonstration of what is happening in the political sphere. I am telling the Executive that there are things they are doing at the moment which will make Kenya look like a banana republic. There are things that are happening in this country at this time that are winding the clock back.

I hope I will not make such a speech again on the Floor of this House. But I am hoping that the Executive in this country wakes up and knows that their role is limited. We have a Government which is supervised by Parliament. The Bill of Rights is Supreme and part of the law of Kenya. We should learn not to treat Kenyans as if they belong to a banana republic.

Therefore, I am asking fellow Senators that in this financial chapter which has to do with revenue allocation and budgeting, we have to look at it very carefully. In fact, this country is in so much debt that we do not know how much money this country has been committed to. We will know about it in another three years when it is going to bring us down. That is why some people are trying to make sure that we have no role to play in the Division of Revenue Bill because they want to do things the way they want and not the way the Constitution has spelt out.

With those remarks, I thank you Mr. Speaker, Sir.

The Speaker (Hon. Lusaka): Sen. Sen. Sakaja, you may proceed. I give you three minutes because I can see a lot of interest.

Sen. Sakaja: Mr. Speaker, Sir, five minutes would be okay but I will do three minutes. Sen. Orenge has said that he wishes that he will never have to make that speech again. I just want to break the news to him that from the look of things and the direction we are going, he might have to make that speech many more times, unfortunately. I am not a Catholic but there is a prayer of serenity that says:-

“God, grant me the serenity to know the things I cannot change, the courage to change the things that I can and the wisdom to know the difference.”

That wisdom to know the difference between what we can and cannot change is what informed this Mediation Committee. We have not lost the war. The battle might have been lost but the war is not lost. I am glad and grateful for the Senate Majority Leader and the Senate Minority Leader for appreciating the Members of that Mediation Committee.

One, in this country, there exists a cabal of people who are still caught up with the hangovers of the previous system of centralized government where the only semblance of devolution what was called - District Focus on Rural Development. This was where giving money to the local governments was an act of magnanimity and kindness. We want to tell them to wake up and smell the coffee.

This Constitution guarantees fiscal decentralization and devolution. What we give to counties is not a favor. The point that we made, which came out very clearly - I am glad that the Members of the National Assembly today acceded to it - is that division of

revenue is what gives the national Government its money and counties their money. It is not that national government gives counties money.

(Loud Consultations)

The Speaker (Hon. Lusaka): Let us consult in low tones. We are making a very important statement to the whole nation.

Sen. Sakaja: Mr. Speaker, Sir, that must be underscored. Kenyans must listen to that. The national Government must understand that there is no county government that wants money from the national Government. The money does not come from the national Government. It is Parliament that allocates to both the national Government and to the county governments.

Mr. Speaker, Sir, we have made some gains. You can lose the battle but win war. Next year, there will be no issue regarding a war because we have agreed that the PFM Act--- We have said in our report that we must be clear that there is no way that one arm of the Government will draw 50 per cent Vote on Account while the other one cannot draw it. Counties will not have a stalemate again when the National Assembly and the Senate has not agreed on division of revenue. Other jurisdictions such as South Africa, Australia and India have done this before. What was suggested before in this House is what will be implemented.

Two, the Medical equipment Services (MES) which as the names suggests has become a mess, must be looked at by a joint *ad hoc* Committee of the National Assembly and the Senate because we cannot have a case where syringes, trolleys, stretchers and gloves are being leased. Counties are paying Kshs200 million per year yet some have never ever started because of lack of three-phase electricity caused by lack of water.

(The red-light went off)

A Member stated the other day that Article 96 was not made by mistake when we say that counties need to be protected; indeed they need to be protected. We must look at what that money is being used for. It cannot be that we secure this Kshs316 billion, then come back to this House and start negotiating how many billions or millions are being used to construct Governors' houses and luxuries. There must be fidelity and prudence in how this money is being used at the county level.

Thank you, Mr. Speaker, Sir.

Sen. Wetangula: Thank you, Mr. Speaker, Sir. Listening to my distinguished learned colleague, the Senate Majority Leader, speaking, it reminded me of Idi Amin when he was asked why he liked blowing his own trumpet and he said "the trumpet is mine, nobody else can blow it."

Last week was a day of shame for this House. It reminded me of a hilarious play by the late Francis Imbuga called "Betrayal in the City". Indeed, we betrayed Kenyans. Listening to my distinguished, learned senior, Sen. Sen. Orenge, who is my lawyer speak, it reminded me of a major statement made by Prof. Ali Mazrui that "When elephants fight, the grass suffers; but the grass suffers even more when elephants make love."

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

(Laughter)

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

The Speaker (Hon. Lusaka): Order hon. Members. What is your point of order Sen. Orengo?

The Senate Minority Leader (Sen. Orengo): The distinguished Senator for Bungoma County, who is my learned friend, is talking about a preposition of an event that he has never witnessed.

(Laughter)

Elephants are more dangerous to the grass when they are doing the former, and not the latter. I will not tell you why; that is homework for you.

Sen. Wetangula: I have no doubt that the Senator for Siaya County has never witnessed that event.

Mr. Speaker, Sir, this House was the only remaining institution in this country, as most institutions have been beaten to submission and subjugated to a level where they cannot turn left or right. However, the Senate is now behaving like a small coward in the market who, instead of facing a fight, cries to be held before they kill the opponent. We went to mediation and Members of the National Assembly literally bullied us out of the way. We are now busy saying repeatedly, “*Nishike, nitaua mtu!*”

(Laughter)

Mr. Speaker, Sir, I feel very sad that we have come this low, because of the display of arrogance---

Sen. Kibiru: On a point of order, Mr. Speaker, Sir. We are the remnants of *Mau Mau* fighters. Therefore, when the hon. Senator says that we were bullied and ran away, and I was part of that mediation team, I feel belittled. An hon. Senator cannot run away; we were persuaded to leave the battle. We did not run away, but we were persuaded.

(Laughter)

Sen. Wetangula: Mr. Speaker, Sir, that fortifies what I was saying. In fact, they were persuaded to run, and that is even more dangerous. We came to this House with a figure that was scientific and constitutional. Our colleagues from the National Assembly came with a game of ping-pong, requiring us to either pick the money or the box. It is like *Betin* or whatever you call it; they wanted us to take it and promised to add some little on top. We have reached a level where we will be the laughing stock. Let us not cheat ourselves that we have done a good job; we have done no job, because they got what they wanted.

Mr. Speaker, Sir, I urge the President of this country not to allow people with limited knowledge to advise him. When the President says he has no money to give to the counties---

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

The Speaker (Hon. Lusaka): I will add Sen. Wetangula a few minutes, because there have been a lot of interruptions.

The Senate Majority Leader (Sen. Murkomen): On a point of order, Mr. Speaker, Sir. Is Sen. Wetangula in order to mislead the House that the Mediation Committee did not achieve anything? The original Bill passed by the National Assembly was for Kshs310 billion, and the version that was achieved after the first mediation was to move it to Kshs316.5 billion, which is the figure that we want to pass.

Mr. Speaker, Sir, it would be erroneous if the information goes to the public that this Senate never achieved anything, when Kshs6.5 billion was added to counties. What was achieved previously by the Mediation Committee was that only Kshs1 billion was added in the previous financial year. The reason why we congratulate Members of this year's Mediation Committee is because we have moved from an additional Kshs1 billion in the previous mediations, to an extra Kshs6.5 billion, which will go to the counties.

Sen. Poghiso: On a point of order, Mr. Speaker, Sir. Is the Senate Majority Leader or any other Member, who intends to give information, in order to purport to be raising points of order? What he has stated is just information. They should, therefore, rise on a point of information if they want.

The Speaker (Hon. Lusaka): That was a point of information.

Sen. Wetangula: Mr. Speaker, Sir, we all know that our colleagues in the National Assembly forgot that they had passed a Bill with Kshs310 billion, and went on to mediation to propose Kshs314 billion. It is not that we negotiated upwards, but they came with that figure.

Mr. Speaker, Sir, I have not, in any way, belittled the Mediation Team. These are all distinguished Members, but they went to negotiate with a rowdy group; a group that was not capable of negotiating. They came with a fixed mind, a fixed position, a heckling mood and they made it impossible. I am sure that Sen. Murkomen knows the famous case of Lord Denning, where somebody appealed, saying that the lower magistrate had made it impossible for both the defendant and the plaintiff to pursue their case because he was shouting at them throughout. We, as a House, must focus on the case we took to court so that we settle this matter once and for all.

Let me not miss the point that I was saying, about the President being misadvised by his advisers. I know Sen. Murkomen is probably on the outer layer of the onion peel. However, I would want the President to be told in more and certain terms that he has no money to give to the counties. The money is appropriated by Houses of Parliament.

(Sen. Wetangula's microphone went off)

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

The Speaker (Hon. Lusaka): Your time is up, Sen. Wetangula. You have made your point.

What is it, Sen. Sakaja?

Sen. Sakaja: Mr. Speaker, Sir, the person to whom I wanted to direct my point of order is not on the Floor, but it cannot stay. The Senator is my distinguished uncle.

The assertion or claim that the Senate Majority Leader is on the outer layer of the onion peel when it comes to relating with the Head of State should not be in the records of this House. I can confirm that the Senate Majority Leader is very close to the inner core of the onion. I know that he cannot say it himself, but he is in the inner core, which is the juiciest part of the onion. Let that be on record, unless we are talking about a different onion.

The Speaker (Hon. Lusaka): Sen. Sakaja, you seem to be mourning more than to be bereaved.

(Laughter)

Let us keep it short because we must vote.

Sen. Farhiya: Thank you, Mr. Speaker, Sir, for giving me the opportunity to contribute. The importance of the Appropriation Bill being passed after the Division of Revenue Bill cannot be overemphasized. The reason why we are in this quagmire is because other people, including us, have money but the counties have been starved. That is the considered view of Members of the Mediation Committee, because they wanted this Bill to go ahead. It should not be a case of once a problem is solved, we move on and do not look back; let it be different this time. We must get a ruling or an opinion on passing the Appropriation Bill when the Division of Revenue Bill has not yet been passed.

Mr. Speaker, Sir, I do not like the idea of the Managed Equipment Services (MES) being discussed by Members of the Mediation Committee, when we know that health is a devolved function. It means that we are relinquishing our role, as Senators, and sharing the role that is not for the other House.

Mr. Speaker, Sir, I do not support that recommendation of the 50 per cent to the counties that has been proposed by the two Houses of Parliament. This is because it will create a lull that will postpone the problem. It will not solve the problem because prior to the Appropriation Bill, which is supposed to be passed by April, there is enough time for people, who are reasonable, to discuss and come up with an amicable solution. The 50 per cent that we are sending to the counties is just postponing the problem.

I hope that the joint Committee will also discuss the role of the Committee on Finance and Budget on the Budget Policy Statement (BPS). The recommendation of the BPS for the counties was Kshs310 billion. Despite the protests by the Committee that it was below the threshold for the last Financial Year to the National Treasury, our suggestion was put under the table. I wonder why we even discussed the BPS, if the opinion of this House does not even make a difference in terms of how the documents proceeds to the next level.

Mr. Speaker, Sir, the Senate must be engaged in how the country borrows, because a part of the reason why counties do not have money is the excessive borrowing by the Executive. This House does not have a role on the borrowing by the country, and that is unfortunate because we should have been involved in the distribution of whatever money that is left. The borrowing by the country affects all of us.

The Speaker (Hon. Lusaka): Manage your time well, Sen. Fahriya, because we must vote on this Motion.

Sen. Farhiya: Mr. Speaker, Sir, once we pass this Bill, the Committee on Finance and Budget should work on the County Allocation of Revenue Bill. They should be given more time by the House so that it is ready for the next process.

Thank you, Mr. Speaker, Sir.

The Speaker (Hon. Lusaka): Kindly proceed, Sen. Olekina.

Sen. Olekina: Mr. Speaker, Sir, I am one of the people who believe that we have failed Kenyans by allowing the Executive to control Parliament. We no longer have a Parliament in this country, and the country is run by one Executive. What the Executive wants, it is their way or the highway. We have failed Kenyans; shame on us! We had an opportunity to defend this Constitution. When the founders of this Constitution thought of a Commission on Revenue Allocation (CRA), it was because they wanted to ensure that there is a competent body that advises on the division of revenue.

Why is it that when the Salaries and Remuneration Commission (SRC) says something, it is taken as the Gospel truth. However, when the CRA comes up with a recommendation after looking at how the economy is doing, it is trashed. It is about time that we rethink on our roles, as Members of Parliament (MPs). It is wrong to have a National Assembly which, when they are told by the Executive to go to the left, they all go to the left without asking.

Mr. Speaker, Sir, this is the reason I never appended my signature to this Report; I did not believe in it. I indicated that I would not sign it, because I do not believe in it. I stand firm and believe that when we have a CRA---

(Loud consultations)

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

The Speaker (Hon. Lusaka): What is your point order, Sen. Murkomen?

The Senate Majority Leader (Sen. Murkomen): Is Sen. Olekina in order to mislead this House that he does not believe in that figure, when even before this House held a *Kamukunji*, he tweeted and said, "We have conceded to Kshs316.5 billion. We live to fight another day"?

Sen. Wetangula: On a point of order, Mr. Speaker, Sir. In view of the revelation by Sen. Olekina, that he declined to append his signature to the document, can the House expunge the extravagant praises that were heaped on him by Sen. Murkomen?

(Laughter)

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

The Speaker (Hon. Lusaka): What is your point of order, Sen. Cheruiyot?

Sen. Cheruiyot: Mr. Speaker, Sir, I beg your indulgence, because this is a very difficult situation; it is like watching divorce proceedings of your parents live on the television. The more we keep talking, the more we continue disparaging each other and

saying nasty things to one another. We need to hang our heads in shame, and there is no debate about that. However, in the interest of time, I humbly request that those who have spoken have done so on our behalf. Can we just proceed to vote?

Sen. Mutula Kilonzo Jnr.: On a point of order, Mr. Speaker, Sir.

The Speaker (Hon. Lusaka): What is your point of order, Sen. Mutula Kilonzo Jnr.?

Sen. Mutula Kilonzo Jnr.: Mr. Speaker, Sir, we are all going to vote, eventually. There is merit that the Senate spoke, the Mediation Committee spoke and people have raised their own objections. However, if we continue disparaging one another, the way Sen. Olekina has started, then all of us are going to look very bad. In the attempt by Sen. Olekina to throw mud at everybody, he will not walk away smelling like a rose. Sen. Olekina did not attend the meeting, so that he could decline to sign.

Mr. Speaker, Sir, Sen. Olekina is my friend; so, I advise him to be honest and to have integrity. We know those who objected, so let us just vote and move on.

The Speaker (Hon. Lusaka): Sen. Olekina is the last person to contribute to this Motion. Allow him to complete, for us to take a vote.

Sen. Olekina: Mr. Speaker, Sir, the Members should allow me to finish.

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

The Speaker (Hon. Lusaka): What is your point of order, Sen. M. Kajwang'?

Sen. M. Kajwang': Mr. Speaker, Sir, one of the most important duties of the Senate is to divide and allocate revenue. We normally spend hours talking about petitions, statements and all sorts of things. However, when it comes to discussing the division of revenue, we want to truncate the time, because we are afraid that we are going to embarrass ourselves. I fully disagree with the proposal that has been made, to truncate debate time on the division on revenue, because it is the reason we have been elected to the Senate. We cannot allow ourselves to be embarrassed by the National Assembly and then come here and be afraid to express ourselves.

The Speaker (Hon. Lusaka): I am sorry, Sen. Kajwang'; I have already ruled on the matter.

What is your point of intervention, Sen. (Prof.) Ongeru?

Sen. (Prof.) Ongeru: On a point of order, Mr. Speaker, Sir. If there is debate that the people in my county would like to listen to, it is the one on the Division of Revenue Bill. It will be disastrous if the comments of the representative of the people are not heard on the Floor of this House. We elected a Mediation Committee, which has put a report before this House. Therefore, it is only fair to appeal to you that you also listen to the other contrary views so that maybe before we vote, those views would have been registered in the HANSARD.

The Speaker (Hon. Lusaka): Your sentiments have been noted, but I made a ruling after considering the mood of the House. I am intelligent enough to know that the Senators wanted to vote.

Kindly proceed, Sen. Olekina.

Sen. Olekina: Mr. Speaker, Sir, it is important to be correct on anything that goes on record. The Senate Majority Leader rose on a point of order and stated clearly that---

Sen. Ochillo-Ayacko: On a point of order, Mr. Speaker, Sir.

The Speaker (Hon. Lusaka): What is your point of order, Sen. Ochillo-Ayacko?

Sen. Ochillo-Ayacko: Mr. Speaker, Sir, I have been trying to catch your eye in vain; I am happy to have finally done so. We are being asked to vote. We are making a sacrifice, yet we are being denied the opportunity to express our views. I personally feel constrained to sit here and vote without expressing my views. I plead with you, in view of my right for which I was elected to express myself, kindly allow those who want to express themselves to do so. Those who do not want to express themselves may listen to us.

The Speaker (Hon. Lusaka): Hon. Member, I seek your indulgence because this is not the first time that this Bill is on the Floor of the House. It was there and there are members who had an opportunity to express themselves during the Second Reading. This is just a mediated version that has been brought here; nothing has really changed.

You may proceed now, Sen. Olekina.

Sen. Olekina: Thank you, Mr. Speaker, Sir. The Senate Majority Leader made certain allegations, and it is always good to be on record to correct them. Yes, indeed, I tweeted; and I said that we did our best, but I guess our best was not good enough. I said whether we like it or not, county governments will receive Kshs 316.5 billion. I never said that we surrendered. I want to express my position, because I do not believe that there is any reason why we should laud the Executive or the National Assembly when what they are doing is wrong. It is not sound in law.

Mr. Speaker, Sir, I attended that Mediation Committee meeting. We discussed the issues and no Member of the Committee from the National Assembly gave facts. All they were saying was that there is no money. The Kenyans who elected us brought us here need to understand that when we are here, we are doing what they sent us to do. That is to represent them in this House, despite various challenges. There is a Kiswahili saying, “*Kidole kimoja hakivunji chawa.*” That does not mean that whether I agreed or disagreed, I always get my way.

Mr. Speaker, Sir, this issue of division of revenue is very important. I agree with my colleagues who have walked out that it is imperative for Kenyans to know that the Senate is fighting for devolution. If we do not express ourselves on this Bill, then we will not need to be in this House tomorrow. This is because, first of all, we will be gagged and not allowed to express ourselves. It is, therefore, important for Kenyans to know that when we sat in that Committee, we said that it is wrong and dangerous for this country to have one Appropriation Act.

Mr. Speaker, Sir, we came up with a lot of suggestions. I did not say that we totally failed. There are two issues here; first, it dawned on us that we, as Members of Parliament and even the Executive, were enjoying ourselves, but the counties were suffering.

(Sen. Olekina’s spoke off record)

The Speaker (Hon. Lusaka): Order! You have run out of time. You are not on record, Sen. Olekina.

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

The Speaker (Hon. Lusaka): What is your point of order, Sen. Wambua?

Sen. Wambua: Mr. Speaker, Sir, we have a duty to this country and to our counties. Let us face the truth and deal with it head on. If we messed up on this matter, let us say so. Let every Senator be given an opportunity to express themselves on this matter. It cannot be that one or two Senators are directing the Speaker on whether or not to vote. There are Senators here who also want to express themselves on this Bill.

The Speaker (Hon. Lusaka): Order, Sen. Wambua! I do not think the Speaker is being directed by anybody. That is out of order!

Sen. Kibiru: Mr. Speaker, Sir, we can express ourselves by voting or by not voting. Instead of debating here forever, let us take a vote so that the people of Kirinyaga can see whether I am voting for them to get money, or whether somebody from another county is voting for them not to get money.

The Speaker (Hon. Lusaka): I now put the question. I direct that the bell be rung for five minutes.

(The Division Bell was rung)

Order, Members! Can the Whips ascertain that we have the numbers? Hon. Members, after the voting, we will allow a few comments from Senators.

I now direct that the Door be locked and Bars drawn.

(The Door was closed and the Bars drawn)

DIVISION

ELECTRONIC VOTING

(Question, that the Senate adopts the report of the Mediation Committee on the Division of Revenue (No.2) Bill (National Assembly Bills No.59 of 2019) laid on the Table of the Senate on Wednesday, 11th September, 2019, and Pursuant to Article 113 of the Constitution and Standing Order 161(3) of the Senate Standing Orders, approves the mediated version of the said Bill, put and the Senate proceeded to vote by County Delegations)

AYES: Sen. (Dr.) Ali, Wajir County; Sen. Boy, Kwale County; Sen. Cheruiyot, Kericho County; Sen. (Prof.) Ekal, Turkana County; Sen. Faki, Mombasa County; Sen. (Eng.) Hargura, Marsabit County; Sen. Iman, (Garissa County); Sen. M. Kajwang', Homa Bay County; Sen. Kibiru, Kirinyaga County; Sen. Kinyua, Laikipia County; Sen. (Dr.) Langat, Bomet County; Sen. Linturi, Meru County; Sen. (Eng.) Mahamud, Mandera County; Sen. (Dr.) Mbiti, Trans Nzoia County; Sen. Murkomen, Elgeyo-Marakwet County; Sen. (Dr.) Musuruve, Kakamega County; Sen. Mutula Kilonzo Jr., Makueni County; Sen. Mwaruma, Taita Taveta County; Sen. Mwaura, Kiambu County; Sen. Ndwiga, Embu County; Sen. Nyamunga, Kisumu County; Sen. (Prof.) Ongeru, Kisii County; Sen. Orengo, Siaya County; Sen. Prengei, Nakuru County; Sen. Sakaja, Nairobi City County; Sen. Wambua, Kitui County and Sen. Wetangula, Bungoma County

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

NOES: Sen. Mwangi, Nyandarua County; Sen. Ochillo-Ayacko, Migori County; and, Sen. Olekina, Narok County.

The Speaker (Hon. Lusaka): Order, Members. Hon. Senators, the results of the Division are as follows:-

AYES: 27

NOES: Three

ABSENTIONS: Nil

The “Ayes” have it.

(Question carried by 27 votes to 3)

I now direct that the Bars be drawn and doors opened to allow for general comments.

(The Bars were drawn and Doors opened)

Sen. M. Kajwang’: Mr. Speaker, Sir, I must mention that I believe that a debate should be held before a vote. When there is a debate after a vote, it is of no consequence. However, I would like to refer to the comments of my namesake, the Senator for Bungoma, about elephants doing whatever they do, and then the grass suffers. Maybe to paraphrase what the two leaders have said, we have reached a point where, as a House, we need to define what our strategy is. It is not a strategy for our survival, as a House, but a strategy for devolution.

Going by the chronology of events that have led us to this vote, it is clear that this Nation can operate without us. This country can run without the Senate, if the national Government can appropriate before we have the Division of Revenue Bill.

When we send our people to mediation with a position, and they come back with their tails coiled between their legs and give us the numbers from the National Assembly, the question the Nation will be asking is what the value of the Senate is, as far as the defence and protection of devolution is concerned.

Indeed, this Motion that we have just adopted would have been processed by the Budget Committee, which is chaired by Hon. Kimani Ichung’wa in the National Assembly. We sent our troops there with clear instructions, not just on numbers. It was not just on the Kshs335 billion, but we had clear instructions on how to deal with the MES.

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

[The Temporary Speaker (Sen. Pareno) in the Chair]

Madam Temporary Speaker, we have just adopted a Motion and approved that the issue of MES be deferred to the year 2020, yet this House has previously passed a Motion. We almost killed the Chairperson of the Committee on Health. He was effectively discharged from his duty by the Chair on that particular day over this matter.

As the British say, we have kicked the can along the road. We have taken a lazy approach to issues, we have not helped this country, and we have not come up with a position that can guide us in the future. Were it not for the fact that counties need money,

I would have voted “No,” and asked the Mediation Committee to go back and mediate. This is because I believe in the content and composition of the people we send to mediate. The only problem is that the other House sent warmongers, mercenaries and fighters. These are people whose approach to mediation is banging tables, issuing threats, calling people names and invoking names from high places.

I have confidence in the team we sent to mediate, but the manner in which we have treated the Report they have brought back to us is not proper. If what is going to happen is that we send people for mediation, and when they come back, we then insist that there shall be no debate but just to vote, then it will be useless to have a Senator – for instance, from Homa Bay or Turkana – sitting here, because we are being reduced to voting machines.

Finally, there are various bodies that follow parliamentary proceedings, particularly in budget making. I know that the International Budget Partnership (IBP) and other bodies have analysed the manner in which Parliament passes budgets. For the five years that I have been in this Senate, they comment that every year, Parliament spends so much time on irrelevancies. When it comes to the most important function for Parliament, which is budget making, we take positions and take a vote as a result of institutional bullying. Bullying is done by coalitions, parties and forces outside Parliament. Even though I am happy that counties will get some money, I am disappointed that this Senate has failed to come up with a strategy that will secure its relevance in the division of revenue and budgeting matters for counties.

Madam Temporary Speaker, I urge the leadership of this House that when we ventilate on these issues, we are not pointing fingers at a particular individual. When we were out there, having a cup of tea, the Senate Majority Leader seemed to blow up when some of us felt that we needed to debate before voting. It is not about the Senate Majority Leader, the Senate Minority Leader, the people we sent for mediation or the Speaker, but this House collectively. It is about Devolution.

It is a sad day when the other House is debating this matter and taking advantage of the opportunity to belittle the Senate. We have an inferiority complex that we cannot trust ourselves to engage in debate that will inform and improve this process in the future.

I rest my case, Madam, Temporary Speaker.

Sen. Mwaura: Madam Speaker, this is a very sad day for this House. I am sitting here quietly, because we are engaging in a very interesting debate. I was reading about a certain prophet, who believed that he could walk into a den of lions like Daniel, and he was eaten up.

Earlier, Sen. Wetangula talked about the Senate Majority Leader being at the outer layers of the onion peel. When you are in the business of peeling onions, you also cry, because it is not very nice. That is why Sen. Kibiru was also persuaded to turn away because of the crying. It is not something we want to be proud about, because it is a day of shame.

When I look at the people who were constituted to go and mediate for us, these are some of the best brains we have here. They are distinguished Senators who were elected by the people. If you look at the team from the National Assembly, we have accountants and economists, but the scientific argument was with us and it is still with us.

It is very simple; if a certain amount was appropriated the previous year, that allocation becomes a base for the next year. You do not even have to look at the issue of service but consider inflation. The inflation was at 4 per cent and then at 6.9 per cent. Therefore, the matter could have been canvassed better.

Some of us were not in the mediation team, but we were arguing the case in the court of public opinion. We were predetermined with the idea of appearing to be gentlemen wearing suits and singing lullabies to hyenas which want to eat our children. Honestly, we must also develop some “balls,” as a Senate. The inferiority complex that cascades to every thinking--- Let me not go beyond that.

Madam Temporary Speaker, I still insist that it is a day of shame. Sen. Murkomen was being sarcastic, by praising those who went to mediate. It is dishonest for Sen. Olekina to say that he did not participate. If you are given the mandate to negotiate for the House, you do not go to negotiate for a bride, later on say that the bride price was low and start blaming others. You must insist!

Madam Temporary Speaker, we saw on television Senators looking marooned, when Hon. Adan Duale, Hon. Sankok and others were bullying people. I will mention their names. We had Sen. Mutula Kilonzo Jnr. – who I respect very much – Sen. Sakaja, Sen. (Prof.) Kamar and others, who were being intimidated by those people.

An hon. Senator: No!

Sen. Mwaura: *Wacha niwaambie, nitawakaranga kidogo.* We respect them. When they brought the Report on Patel Dam, we praised them, because they made us proud. However, on this one, on a scale of 1 to 10, a score of 2 is very fair, because they have failed us, as a House.

I agree with Sen. M. Kajwang' that we are a House of reason. We should have taken the opportunity to advance our scientific cogent argument so that the nation is ceased of this matter. It could have been as a result of Members of the National Assembly being intimidated by the Executive, which bribes them through the National Government Constituencies Development Fund (NG-CDF). However, it could have shown that the Senate at least seems to have some modicum of reasonability and some plausibility.

Madam Temporary Speaker, we have set a precedent and they may want to correct the anomaly by amending the commencement day so that it does not appear that the Appropriation Bill was passed without the Division of Revenue Bill being passed. We are, therefore, even aiding them to commit an illegality. If we do not do this, we will be encouraging ourselves to do so, and the precedent will continue.

Madam Temporary Speaker, I have voted because that is my party's decision; but I refuse to accept that, that is the way we should have gone---

Sen. Sakaja: On a point of order, Madam Temporary Speaker. Our Standing Orders are clear that a Member must be responsible for statements of fact. I understand and respect the sentiments of Sen. Mwaura and many others, but that does not give them a blank cheque to state things that are not accurate or true.

This Senate has not amended the commencement date of the Division of Revenue Bill, and neither are we aiding the National Assembly in doing so. In fact, the Chairperson of the Mediation Committee has informed Members of the National Assembly not to try to change the commencement date. As much as a few Members

might not be happy with the outcome because we were guided, let us not misrepresent facts, because those facts are still the records of the House. The commencement date is when the Bill will be assented to by the President. Our court case is ongoing because we cannot have the Appropriation Act passed before the DORA.

Madam Temporary Speaker, I am sure you will give me a chance to also contribute and give better facts, so that we know we did not get away with nothing, because we got away with certain things, as a House.

The Temporary Speaker (Sen. Pareno): Sen. Mwaura, please be brief.

Sen. Mwaura: Madam Temporary Speaker, I will be proven right in due process. I am privy to conversations that the Chairperson of the Budget and Appropriations Committee, Hon. Kimani Ichung'wa, has proposed to amend that date. If that is the case, we have already given *carte blanche* to do so, and we have just voted. We have not voted on principle; we have voted because we have been intimidated. This is because that decision was not made within the precincts of Parliament. I believe that we swore by the Constitution to defend the integrity and independence of Parliament. That is where I stand.

The Temporary Speaker (Sen. Pareno): Kindly let us be brief, considering that we have already voted on this Report. We are just making general comments.

Sen. Ochillo-Ayacko: Madam Temporary Speaker, if you push that we be brief, we will lose our comments. We tried to plead with the previous Speaker to give us time, and it was declined. I, therefore, plead with you to allow me or anybody else as much allowable time to speak freely without being intimidated by our own leadership.

Madam Temporary Speaker, I voted 'no' in this matter. I say openly that I voted 'no,' and it is not that I did not want money to go to counties. However, I am disappointed at the way we are conducting ourselves. We have been harassed by people who do not believe in proper debate, and who are not civilized. We have brought that hate and harassed ourselves by denying ourselves an opportunity to debate this matter freely.

You heard a senior Senator, Sen. (Prof.) Ongeru plead that the distinguished residents of Kisii should hear what he will say about the division of revenue, but he was not allowed the opportunity. Therefore, now that I have the opportunity, I have to say that I voted 'no' as my own way of civil disobedience. I wanted to stand out as a person who defies what is going on.

Madam Temporary Speaker, a while ago in this House when the Deputy Speaker was presiding, a Motion and a Bill were brought to this House from the National Assembly. We were of the considered view that since the National Assembly trashed the Senate's version of the Division of Revenue Bill, we should not have debated the version that came from the National Assembly. The same oppressive resolutions were inflicted upon us, and we were denied the opportunity to debate the matter. We were told that we should be gentle and consider these matters kindly and allow debate. We went ahead and amended what we have now considered, from Kshs335 billion to Kshs316 billion. We did so under a lot of pressure and intimidation. Look at where we are now; we have nothing. and we are ashamed to admit that we have nothing. We even continue to gag those of us who want to express disappointment of what has gone on.

Madam Temporary Speaker, I plead that in future, we should not be afraid of being seen to stand for what we believe in. We should not want to appear to be correct all the time. This idea of correctness all the time is what will kill this House. Unfortunately, we are like a girl who has been raped, and she is not given an opportunity to mourn and heal. She is being asked to agree to be raped again; this is a sad and disappointing situation. I, therefore, plead with our leadership to do what the Speaker of the House of Commons, Speaker Bercow, who is resigning soon, does. He has been elected as the Speaker so many times; and he said that it is to encourage---

The Temporary Speaker (Sen. Pareno): Sen. Ochillo-Ayacko, there is a point of order from Sen. Farhiya.

Sen. Farhiya: On a point of order, Madam Temporary Speaker. I am sick and tired of women being used to give an explanation in bad light. This House ought to respect women better. Why use an example of a lady who is being raped, and is not given time to heal? There are so many other examples that we can use. Women are already harassed, intimidated and abused enough. We do not need to bring it to this House.

The Temporary Speaker (Sen. Pareno): Sen. Ochillo-Ayacko, do you want to say something about that?

Sen. Ochillo-Ayacko: Thank you, Madam Temporary Speaker. I am sorry for using that unfortunate example. However, I also feel like a man who has been raped, and is pleading to be raped again. Men also get raped nowadays, and raping men is a little more painful than raping other people.

Madam Temporary Speaker, the Speaker of the House of Commons, hon. Bercow, takes pride in having been elected as the Speaker many times. He says that his mandate is to allow as many Members of the House of Commons to debate as much as possible. He encourages Members of the back bench to debate as much as they can. In the Senate, we are only 67 Members. Fortunately, we have a lot of time, and we brag that we are wise people who should be given time to ventilate. However, I find it unfortunate that we hardly ever have the opportunity for our professor from the great county of Turkana to ventilate. It is nice to listen to Sen. (Prof.) Ekal. We cannot, therefore, have a situation where we are in a hurry to be automated into voting, and not have opportunity to persuade one another. We are our own greatest enemy.

In fact, this opportunity to make remarks after a vote has been taken is like a process that is aborted. This is an embarrassment and it is shameful. If we continue with this trend, we should not be invited to provide quorum and to vote. Why can we not give an opportunity to many of us? We even had a *kamukunji*, where it was said that the debate that we should have is about things that are dear to us. However today, we have given ourselves too much time to debate things that are not relevant, but when it comes to the most important function of the Senate, we are gagged and put under a lot of pressure.

Thank you, Madam Temporary Speaker. I beg to continue my protestation.

The Temporary Speaker (Sen. Pareno): We are no longer debating the issue. We are just making general comments, having concluded and put a question on the issue.

Sen. Sakaja: Madam Temporary Speaker, it is difficult to know the difference. However, this is a different Motion, because a pronouncement has been made. I wish to say two things; I understand the feeling that Members have. Success is measured by what

is set out to be achieved. For us, it was not just about an amount. Of course, there was an amount that we wanted, but there was also the process. I urge Sen. M. Kajwang', Sen. Mwaura and Sen. Ochillo-Ayacko to look at the Report.

The only beneficiary of this stalemate was the national Government. Right now, there is no pressure on cash flow, because counties are not getting their money. Therefore, the national Government is spending and we are getting our salaries in the Senate. However, the people in the counties have not been receiving their money. This is something that happens every year.

Therefore, we have said that the amendment to the Public Finance Management Act, which has already started in the National Assembly, will make sure that at no one time will one level of Government suffer when division of revenue has not been done. That is a gain, because previously that did not exist. It would not have happened if this pressure was not there. Today, a part of the workers of Nairobi City County and possibly a few other counties do not have salaries. Therefore, if we would have refused and stuck to Kshs335 billion while they stick to Kshs316 billion, it would have been an eye for an eye, and we would both lose our sights.

The national Government would have gone on operating, while counties would be suffering because they have appropriated. We are in court and the court process is not being expedited, because they do not want to look like they are interfering with the Senate. Who then suffers? It is the people in the counties. We, therefore, said, "Let us agree on whatever amount it is, but let us put in it in this report and in the law." First, appropriation must be done after division. In the absence of that, when there is a stalemate, it is not that one level of government, whether the national or the county, can draw money when another one is suffering. That is a gain.

Madam Temporary Speaker, when we were in the mediation on the MES, they asked for something very simple. Yes, you want this; but where is the report from the Senate? There is no report. Where is the report showing the audit we had done and the issues around the MES? We do not have a report. It was quite embarrassing to say that we had discussed it at plenary. It is a pity that to date, there is no report on the audit, prudence and fiscal issues to do with MES to us from the Public Accounts and Investments Committee (CPAIC), or the Committee on Health.

The Committee on Devolved Government and Intergovernmental Relations has not issued a report for us to know whether the Controller of Budget has authority to disburse money for a devolved function to be performed by the national Government. Therefore, it is us who were being insincere with ourselves. However, we have agreed that before the next division of revenue is done, that *ad hoc* Committee must have given its report.

Sen. Farhiya: On a point of information, Madam Temporary Speaker.

The Temporary Speaker (Sen. Pareno): Just a minute, Sen. Sakaja.

Sen. Farhiya: Madam Temporary Speaker, if I were the Auditor-General of this country, I would have disallowed all the costs that were paid prior to today for the national Government. That is how serious this issue is; because you cannot appropriate something that you do not have.

The Temporary Speaker (Sen. Pareno): Sen. Sakaja, you are the expert there.

Sen. Sakaja: Madam Temporary Speaker, I do not know whether to respond to that or not. It is not the work of the Auditor-General to do so, but the Controller of Budget. The Auditor-General does not participate in the day to day approval of disbursements to counties. The Controller of Budget is the one who needs to be satisfied that an Appropriation Act is legal before she agrees to that. That is why we are in court, for it to be made clear that you cannot appropriate before division of revenue has been done.

It is true that we would have wanted more money, but we would still be in that perpetual cycle; that if we do not agree next year, counties will suffer and not get money. If we had the luxury of counties still getting the amount of money before – even if it is 15 per cent or 50 per cent – we would have held our ground. However, there are people in the counties today who cannot pay rent. There are people whose children cannot go to school; and there are people with mortgages and loans. We do not want to act brave, say that we are the strongest people and act with so much bravado, yet the common person is suffering.

We are enjoying our salaries in the Senate; shame on us, if that is our attitude. Sometimes you make incremental gains on an issue. I am very proud that, as a Senate, we have made an incremental---

Sen. M. Kajwang’: On a point of order, Madam Temporary Speaker.

The Temporary Speaker (Sen. Pareno): There is a point of order from Sen. M. Kajwang’.

Sen. M. Kajwang’: Madam Temporary Speaker, you will guide us on whether it is in order for the Senator of Nairobi to attempt to insinuate that those of us who have spoken fairly strongly against this process wanted a shutdown of counties. In my comments, all that we are saying is that we ought to have been given an opportunity to debate before voting. We are not saying that they should not have reported back to us. They are our agents; they have brought back a Report to this House. All those who spoke to that report are the same agents.

Madam Temporary Speaker, we wanted the principals to talk to it, debate it, and then we vote. It must be clear to Sen. Sakaja that we are not saying that they should not have agreed. We just wanted an opportunity to debate on that agreement. Yesterday, this House adjourned at 5.30 p.m. Right now, the House is empty. There is nothing wrong with us to spend the afternoon and taxpayers money debating, before putting the matter to a vote. I just wanted to clarify so that Sen. Sakaja does not pursue the line that we felt that they should not have agreed. We agree with their position, we just feel that it should have been subjected to debate.

Sen. Sakaja: Madam Temporary Speaker, I am not talking about that; I am not talking about whether members should have agreed to debate or not. That is the purview of the Speaker, and I am not the Speaker.

Secondly, on the issue of me trying to insinuate that the Members wanted a shutdown, it is not an insinuation---

Sen. Ochillo-Ayacko: On a point of order, Madam Temporary Speaker.

The Temporary Speaker (Sen. Pareno): What is it, Sen. Ochillo-Ayako?

Sen. Ochillo-Ayacko: Madam Temporary Speaker, you heard Sen. Sakaja casting aspersions on Members of the Senate and the National Assembly for earning salaries. He gave an impression that it was wrong for us to earn salaries – which is our constitutional and industrial entitlement – when devolved units were not getting their salaries. Is it in order for him to criminalize the fact that we were earning our salaries, the President was earning his salary and the Members of the National Assembly were doing the same? Is it in order to concede and continue conceding even when you should not concede?

Sen. Sakaja: Madam Temporary Speaker, I wish you allowed me to finish answering the first point, then I shall come to Sen. Ochillo-Ayacko's concerns.

I am not attempting to insinuate that any members wanted a showdown. It is not an insinuation, but a matter of fact. A shutdown is not launched like a project. It is an inevitable outcome of us not having done division of revenue, that counties are not getting money. It is the inevitable outcome of this process we are going into. This Committee was sent by the Senate to go and agree. We had a *kamukunji* and Members agreed and sent us to do that.

Secondly, on what Sen. Ochillo-Ayacko has said, I stand by my word. We cannot be insensitive to the point where we are able to enjoy our salaries. Yes, it our constitutional right; but it is also the constitutional right of nurses in Migori County to earn their salaries. We must be sensitive enough to say that we must secure this process such that next year, if we do not agree, the nurses in Migori County will still be earning their salary while we haggle on the amount of money. That is what we have gained. That is success for the Senate. We are not debating.

The Senate Minority Leader (Sen. Orenge): Madam Temporary Speaker, I had already spoken on the main Motion. However, as a matter of general comment, I want to add that we should think about the great story of King Solomon in the Bible, who is very well known for his wisdom. When two women were fighting over a child, there was provisional award he gave to the woman who would rather have the child die. However, when he eventually realized that the real mother would rather have the child live than be killed, King Solomon, in his final decree, gave the child to the real mother.

Between the National Assembly and us, if you hear their speeches, they are not interested in devolution. In fact, they are calling governors thieves as a justification for not giving money to the counties. We should look at this in terms of the fact the Senate was trying to save the counties. Right now, we want to go to Kitui. There is a county assembly workers strike there. Probably when we go there, we may not have the services we think we will have. There is a great danger in the way this thing is going. There are some forces within all the arms of Government who are not ready to have devolution prospering. They would rather kill it.

The second issue I wanted to deal with, is on what has happened with the debate. I agree with Sen. Ochillo-Ayacko that we should allow debate. We should never be seen to be in a hurry. I remember that when we were in the National Assembly, even if there were only seven Members in the Chamber, the Speaker, Hon. Muturi, would always allow us a chance to debate. He would even extend the debate for days and days. Therefore, I hope that we allow debate in any matter that is going to come before the Senate.

When you look at the record of debate, it is not so much about those who have won in votes, but what was said during the debate. There used to be a Member of Parliament called Serene, who was a very dull speaker. Whenever he would speak in the National Assembly even the Gallery would be empty. However, when you read the headlines the following day, it was only about him. Most of the time he was in the minority, but he was saying a lot of things of substance and quoting Shakespeare. He was a lawyer of no mean repute.

Madam Temporary Speaker, ten years after we have made certain decisions, people will go to the HANSARD and try to find out what the Senator for Migori, for example, said on the issue. I have seen the trend and we tend to think that because we want to vote, we must limit debate. I do not know where this issue of giving people two or five minutes is coming from.

As a young parliamentarian I was used to--- One time I tried to beat the late hon. Shikuku's record. He could speak from one Tuesday to the next; seven days. There was one time when I made it for two weeks. I started on Tuesday, Wednesday and Thursday for two weeks. It was quite normal.

We should never expect that all the time the Senators will vote 'yes' or 'no'. I think that is also wrong. When somebody votes 'no', it is not a transgression. We should be able to live up with it. In the Senate, we are beginning to get happy with the idea that when we vote as a House, it is a sign of maturity. I think it is a sign of laziness and not knowing what we should be doing.

I am very happy that on this issue, we had three people who voted against the Motion. In fact, we should have had five or six. I am not saying that it should have failed, but I think we are getting too cosy with the way we handle things here; that when somebody votes against a Motion, it is taken against them. I heard somebody saying: "Your Bills are coming and we will kill them." I think that was being said by part of the leadership of this House. I do not think that was right.

Madam Temporary Speaker, let us not call it a day of shame. It is a day to remember. Knowing that we have a case in court next week, let us see what we can make out of it. This is because the last time when we had this problem, we went to the Supreme Court of Kenya and came back with flying colours.

I thank you.

Sen. Mutula Kilonzo Jnr.: Madam Temporary Speaker, it is not fair to speak after Sen. Orenge. He is my leader in many ways, both as my senior in the profession and here. However, now that you have honoured me with the privilege, normally in court, I would seek his leave, and you know the obvious.

When I was mobilising people to vote, as the Minority Whip, I was quite prepared for Senators to vote 'no' because it is their entitlement and right. I spoke to Sen. M. Kajwang, Sen. Ochillo-Ayacko and Sen. (Prof) Ekal in the Senate Lounge, and they were very upset about the way they were handled by one of the leaders. I told them they could come and express their disappointments in their vote, which is their right.

Secondly, I must say that most often than not, when we are given a responsibility, sometimes we become very defensive even when we are accused of having failed *et cetera*. I accept that we failed, but this Senate sent us to the Mediation Committee to

fetch water with sieves. We were not to get anything. I accept but want to disclose, because I have said that out of the Senators who are in this House, I am the only one who has served in all the Mediation Committees on the Division of Revenue Bill. We had a Mediation Committee in 2017.

Madam Temporary Speaker, to my colleagues, particularly on the Senate Minority side, I want you to go, and before you do, think about the story of Saul becoming Paul in the story of the road to Damascus. The people who agreed with us inevitably in all Mediation Committees since the year 2014, were the Members of the Opposition in the National Assembly.

This is the problem of “handshake”. This time round the “handshake” has caused the Members of Opposition to behave like finance ministers of government. Most insults came from Members of the Minority side to which I belong. I sat there in shame because I do not have the talent of insulting people. I do not know how to do it, since to do so you do not use your brain. I do not know what one uses to insult people. I do not know what part of one’s brain or body causes them to hurl insults like a child in front of television and be so happy and sleep well at night. I do not know how to do it. Perhaps that is the reason I did not like politics.

Madam Temporary Speaker, for the future, it was going to be a tragedy to go to Kitui and workers are on strike because they have no salaries and we have spent Kshs50 million or 60 million out of the impugned Appropriation Act signed by Uhuru Kenyatta, where we have been given salaries. It is such a contradiction. Please Members, search your souls to think that what is good for the goose must be good for the gander. The person who voted for you is sleeping hungry while you get your night and sitting allowance *et cetera*. That does not mean that Kshs316 Billion is fair.

I said that the President should not have gotten involved in this matter by making a pronouncement when it was our work. I repeat that statement; it was not right. However, in the future and through the Building Bridges Initiative (BBI), I hope we can resolve the crisis in Articles 218 and 221 of the Constitution, and then, Sen. M. Kajwang and your Committee, we want you to hang three governors for us.

Sen. Ochillo-Ayacko: On a point of order, Madam Temporary Speaker.

The Temporary Speaker (Sen. Pareno): Sen. Ochillo-Ayacko, you have an intervention.

Sen. Ochillo-Ayacko: Madam Temporary Speaker, I have a point of order to my very good learned colleague and my Whip, Sen. Mutula Kilonzo Jnr. You heard him say that he does not know how to go for mediation when the other side is abusive and arrogant. You know that these mediations are a constitutional---

The Temporary Speaker (Sen. Pareno): He did not say that he does not know how to go for mediation. He said that he does not know how to do it and abuse people.

Sen. Ochillo-Ayacko: Madam Temporary Speaker, he said that he does not know how to do mediation and abuse people, but he gave the impression that such kind of climate is very difficult for him to participate in. Mediation is a constitutional and statutory duty. Is it in order for the Whip, who is a leader and we respect him very much, to show that he is giving up when the other side is intending to continue being abusive?

Even in future mediations, the other side will be very abusive, condescending in their remarks and very vitriolic. Would I be in order to ask him to confirm whether all of us should give up and say that if we are abused we should just say “yes” and thank them? Like Jesus said, we turn the other cheek.

Sen. Mutula Kilonzo Jnr.: Madam Temporary Speaker, what I did not want to say in simple terms is that I thought that in any mediation, the people who go there--- If you look at the Supreme Court of Kenya advisory opinion, they advised that those who go to mediation must be a certain calibre of people who can sit and mediate. I do not know how to go to a meeting without carrying my brain. If that is the prescription of a mediator, then---

Sen. Sakaja: On a point of information, Madam Temporary Speaker.

The Temporary Speaker (Sen. Pareno): Sen. Mutula Kilonzo Jnr., do you want information from Sen. Sakaja?

Sen. Mutula Kilonzo Jnr.: Yes, Madam Temporary Speaker. Why not?

Sen. Sakaja: Madam Temporary Speaker, it is interesting that even as we are debating here, there is a lady called Ann Joy Mutegi from Tharaka-Nithi County who has just sent me a message.

Allow me to read it:

“Hi *Mhesh*, in our Tharaka-Nithi County Assembly this is the third month without a salary. What is up now that Senators agreed?”

I replied: “Yes, we are resolving.” She said that it was taking too long. She has sent her daughter to school with fare and shopping only; no school fees.

Madam Temporary Speaker, this is one person. I just want to underscore that we cannot be insensitive or blind to the fact that people are suffering. Today we will pass this report. We will possibly do CARA in Kitui. After that, we need to do the Cash Disbursement Schedule. It is possible that July, August, September and possibly even October salaries might not be there, because by the time cash disbursement is done, we will be talking about mid-October.

I wanted to bring that information to Sen. Mutula Kilonzo Jnr. and the House. It is a bad situation.

The Temporary Speaker (Sen. Pareno): Sen. Mutula Kilonzo Jnr., kindly conclude.

Sen. Mutula Kilonzo Jnr.: Madam Temporary Speaker, in conclusion, this is a very untidy situation. Sen. Sakaja, Sen. Kibiru and I thought that you chose us because we have good brains, not because we know how to throw water or insults.

Lastly, part of the problem we have - and Sen. Kajwang’ is here - is that we are accused of giving governors too much, even when we are giving them too little. We must match our words and actions with something. The governors who are misusing funds should be brought here by Sen. M. Kajwang’. We should postpone every business we are doing and hang these governors one-by-one.

We are complaining that the National Assembly has taken over our role; that the Director of Public Prosecutions (DPP) has taken over our oversight role by looking for governors all over the place. Others are hiding and Judge Mumbi Ngugi must make a ruling. Those are the things that this Senate must stand for and say that if a governor is

found to have committed a crime, let us not step into that county; let us not go to his office.

Let us make the law ourselves and not wait for Judge Mumbi Ngugi because she has filled the gap of our oversight. The DPP is filling the gap of our oversight by looking for the Governor for Kiambu County and others who are doing funny things with our money.

Thank you, Madam Temporary Speaker.

The Temporary Speaker (Sen. Pareno): Hon. Senators, we have made enough general comments on the mediation on the Division of Revenue Bill. I, therefore, ask that we move to the next Order.

Sen. Faki: On a point of order, Madam Temporary Speaker. I am sorry to take you back, but this is the second time I am pressing the intervention button and have not been seen by the Speaker to speak on this issue. I do not wish to say much, but it has been a trend in this House that some of us are not seen, to be given a chance to speak. At the end of the day, we are not here to speak for ourselves. We are speaking on behalf of the electorate that elected us into this House.

We should be given an opportunity to express our views because that is what we are paid to do.

Thank you, Madam Temporary Speaker.

The Temporary Speaker (Sen. Pareno): Next order.

Hon. Senators, I am informed that we are unable to proceed with Orders No.11, 12, 13 and 14. The same, therefore, stand deferred to another date.

COMMITTEE OF THE WHOLE

THE RETIREMENT BENEFITS (DEPUTY PRESIDENT DESIGNATED
STATE OFFICERS) (AMENDMENT) BILL
(SENATE BILLS NO. 2 OF 2018)

(Committee of the Whole deferred)

COMMITTEE OF THE WHOLE

THE ELECTION LAWS (AMENDMENT) BILL
(SENATE BILLS NO. 33 OF 2018)

(Committee of the Whole deferred)

COMMITTEE OF THE WHOLE

THE KENYA MEDICAL SUPPLIES AUTHORITY (AMENDMENT) BILL
(SENATE BILLS NO. 38 OF 2018)

(Committee of the Whole deferred)

COMMITTEE OF THE WHOLE**THE CANCER PREVENTION AND CONTROL (AMENDMENT) BILL
(SENATE BILLS NO. 9 OF 2019)**

(Committee of the Whole deferred)

Next Order.

Sen. Sakaja: On a Point of Order, Madam Temporary Speaker.

The Temporary Speaker (Sen. Pareno): What is your point of order, Sen. Sakaja?

Sen. Sakaja: Madam Temporary Speaker, I just want to register my disappointment at the number of items we are deferring. I have been waiting to pass amendments that my Committee processed months ago on the Bill by Sen. Olekina. We even agreed here on which ones we will still pursue, yet when it comes to the matter we are not able to process.

Normally, when you miss one Chairperson of a Committee, the protestations in this House go to high heavens; that Chairpersons are not coming to Parliament. I just want to register that disappointment. Please, when it is scheduled again, especially on the retirement benefits, I will ask that the Office of the Clerk informs us in good time.

The Temporary Speaker (Sen. Pareno): Yes, Sen. Sakaja, it is disappointing that we have to postpone, but you can see that Sen. Olekina, the sponsor of Order No.11 is not here. The same applies to Orders No. 12, 13 and 14. On Order No. 14, I am informed that the Committee has asked that it be deferred. Those are the reasons and that is the position.

Sen. Mutula Kilonzo Jnr: Madam Temporary Speaker, Standing Order No 59 (3) states as follows:-

“Where no Senator moves a Motion at the time specified by under these Standing Orders, such Motion shall not be published again in the Order Paper during the same Session except with the leave of the Speaker.”

This should apply to the Committee of the Whole, where Orders No.11, 12 and 13, if there is no reason or explanation from the movers, should be dropped so that the other Committees of the Whole that are pending can be moved. There is no reason Whips mobilize people to be here, and when their Orders are called, they leave without giving an explanation.

Madam Temporary Speaker, I would like to know from your desk whether there has been an explanation from the Movers or Committees regarding Orders No.11, 12 and 13.

Thank you, Madam Temporary Speaker.

The Temporary Speaker (Sen. Pareno): For Order No 14, I have informed the House that the Committee is still working on some issues. They have, therefore, sought that it be deferred.

On Orders No.11, 12 and 13, I make a ruling that it goes back for discussion under the Senate Business Committee (SBC), so that we know whether in future we

should be applying this particular rule. I do not have other explanations than that the Movers are not here.

Hon. Senators, this is not the first time we are discussing people not attending to business. We have on many occasions talked about Chairpersons of Committees not being here to attend to matters and even Statements. We have severally talked about this issue of Members not being here when their business is on the Order Paper. I would ask, as already ordered, that this be considered by the SBC for future engagements on how Members will conduct themselves.

Next Order.

MOTION

PLANTING OF TREES ALONG MAJOR INFRASTRUCTURE PROJECTS IN KENYA

Sen. Kibiru: Thank you Madam Speaker. I beg to move the following Motion:-

THAT, AWARE of the numerous benefits that trees play in environmental conservation, combating climate change, air and water purification, carbon sequestration, flood control, prevention of soil erosion, human and wildlife sustenance, urban planning, as well as other social and economic benefits;

NOTING THAT Kenya has and continues to implement various infrastructure projects across the country, among them railways, roads and highways, airports, sea and inland ports, pipelines, dams, among others;

CONCERNED by the extent of environmental degradation that takes place when undertaking such infrastructure projects, entailing clearance of trees, foliage, soils, rocks, excavation of quarries, interference with forests, wetlands, rivers, drainage systems and other embankments, as well as human and wildlife displacement along the paths of the infrastructure projects;

ACKNOWLEDGING THAT the Environmental Management and Coordination Act (No. 8 of 1999) and the Guidelines issued thereon require an environmental audit to be undertaken before any infrastructure projects are undertaken, with a view to identifying potential environmental impacts of the proposed projects, assessing the significance of those impacts, and proposing mitigation measures to address the negative impacts of the said projects on the environment;

CONCERNED HOWEVER THAT the implementation of these provisions has failed to comprehensively address the continued large-scale environmental degradation that takes place during construction of these infrastructure projects, and that the mitigation measures undertaken thereon have failed to compensate for the damage done to the environment as well as the negative effects to human and wildlife populations along the infrastructure project paths;

AWARE THAT the National Government has launched an ambitious plan to plant 1.8 billion trees by the year 2022, with a view to enhancing the country's tree cover from 6.2 per cent to the globally accepted minimum of 10 per cent, and that this entails, among others, planting at least 1 million trees annually in each of the 47 counties;

UNDERSCORING the need to balance between development and sustainable environmental management, for the benefit of present and future generations, as enshrined in the preamble to the Constitution of Kenya;

NOTING that planting of tree buffers alongside and around major infrastructure projects in the country would help offset the carbon footprint of these projects, enhance the beauty and aesthetics of the projects, create safe spaces for human recreation and for wildlife to thrive, and help in meeting the target of 10 per cent national tree cover by the year 2022;

NOW THEREFORE, the Senate resolves that the national Government, together with the county governments, formulate a policy mandating the planting of trees alongside and around all major infrastructure projects across the country, setting out the roles of various actors at both the national and county levels, and outlining incentives and penalties to ensure that the policy is complied with, in ensuring a balance is attained between development and environmental conservation.

Madam Temporary Speaker, I do not want to stand here and overemphasize the importance of trees. When I was young in primary school, one of the days that we cherished, though we were not sure about the leadership then, was the day the former President Daniel Moi declared a tree-planting day. As primary schools kids, we loved that day because we would plant trees.

When you move across central Kenya and probably most of the other parts of the country, as you drive along the Kenol-Nyeri Road, you will see a lot of trees that were planted during the period I have talked about. It is because of the tree-planting day that the former President declared. We need to recognise the former President for coming up with that day, which was like a holiday because we would go to plant trees.

Trees have serious benefits that we can talk about until tomorrow. It has been proved scientifically that there is climate change because of deforestation. As a country, we are at 6.2 per cent forest cover and our target is 10 per cent. However, there are countries that have almost 30 to 40 per cent forest cover. I think we need to up our game.

The proposal and intention of the Motion is that for every Government project, such as during the construction of a dual carriage, it should be a requirement to have trees along the road. Many roads are being constructed in this country. However, the first thing people do is to cut down trees without replacing them.

I want to give an example of a dual carriage that is being constructed from Kenol to Marua. When we went for a stakeholders meeting, we asked them to give us the number of trees on that road before they could start construction, so that they double the

number of trees they would have cut down. If we have such conditions on every project, we will achieve our 10 per cent forest cover faster than it has been planned.

It is said that forestry products contribute to about Kshs8 billion of the Gross Domestic Product (GDP) of this country. That is an area that employs quite a number of people in terms of the wood products that we produce in this country. If only we could achieve the kind of forest cover that we are talking about by planting trees, be it exotic or indigenous, issues of some industries collapsing because of lack of raw materials to produce wood products will be mitigated. Sometimes we can allow farming in the forests, like it happens in Kinale Forest, but how do we ensure tree husbandry?

There is also the issue of clean air. Talking about pollution in this country and across the world, we have many diseases, especially respiratory diseases because our air is contaminated. One way of mitigation and prevention is to ensure that we plant trees that can filter the dust and other particles that come as a result of the many activities being carried out. With that, we will get clean air.

Madam Temporary Speaker, when we talk about the highways and infrastructure, there is a lot of carbon emissions from fossil combustion or fuels consumed by vehicles. It is important to ensure that both the contractors and people who live next to the roads plant trees. In the United States of America (USA), if a road is constructed and you live nearby, it mandatory to plant a line of trees, so that the emissions are first trapped by the trees before they get to your home. This is because emissions cause respiratory challenges especially to the young ones.

Trees also provide herbal medicines. We have good herbal medicine where Sen. Mutula Kilonzo Jnr. comes from. Therefore, trees have a lot of benefits, including medicines from the indigenous trees. As we plant trees, whether in our homesteads or on highways, it is important that we encourage people to plant those that have medicinal value.

Trees are important when it comes to value addition in manufacturing. Trees are a source of raw materials for manufacturing or production. Mango or lemon trees or tomatoes and other types of trees are not only sources of production materials, but also good for our health concerns. Avocados are very nutritious and used in beauty care products.

Madam Temporary Speaker, assuming that we agree to plant avocado trees along the way, I am sure that the people who walk along the roads would benefit from the ripe avocados. We will have a healthy nation. We will have the benefit of beauty of trees and landscaping that looks beautiful, which is therapeutic. Beautiful things give us hope and make us happy. We will have a double win because we will eat fruits and become healthy, as well as breathe good air.

In a spectrum of a number of issues that we would want to address in this country, starting from enhancing production and issues of health now that we are implementing a pilot programme of the universal healthcare. We need to do preventive care, where we are able to encourage people to plant trees. We should encourage people to plant medicinal, fruit trees and indigenous trees. We will get a lot of benefits from the trees.

Madam Temporary Speaker, I plant trees myself because I love them. Not even my own mother can cut a tree in our home without consulting me. In the last 10 years I

have planted over 100,000 trees. Where I work when I am not in the Senate, we have agreed that if you want to build a home there, you must plant at least eight trees in your quarter an acre plot.

Tree planting is for the benefit of today, tomorrow and the generations to come. I do not want to get involved in the issues of the Mau Forest. However, it is catastrophic when we are talking about the source of our rivers and the water that we consume. We do not need to joke with the issue of Mau Forest. We need to take it very seriously.

Madam Temporary Speaker, as the Senate, we can agree that where we have Government land trees should be planted. The national Government and county governments need to persuade people to plant trees by way of legislation, laws or force people to plant trees. I wish we can have a situation like in China, where road designs can be diverted at a very expensive cost just to avoid cutting a tree. In a country like China, trees can only be transplanted. Moving around the world, you will see good equipment that can be used to uproot trees and transplant. Such trees are then nurtured until they revive and survive. Cutting trees in some countries like China is almost criminal. You can be jailed or fined heavily for the same.

When I was young, during the Chief's Act, people would not cut some trees without getting a permit from the local assistant chief or the chief himself. We have some sacred trees in my community, like the Mugumo tree. If a sacred tree like the Mugumo tree falls, the community considers it a bad omen. The value of trees economically and otherwise cannot be overemphasized. The Senate as the protector of the counties should protect the counties in all fields. If we have healthy constituents, we have a healthy Kenya cumulatively.

Madam Temporary Speaker, assuming that we plant a lot of trees and get excess of the 10 per cent trees coverage, it will become a serious source of income. This Chamber is beautiful because of the wood that has been used. Wood from indigenous trees was used to make this Chamber. It must have taken 30 or 40 years for the indigenous trees to mature. Some of the trees that we are emphasizing to be planted today will take a long time to mature and get this kind of wood that make places like this beautiful. As I stated earlier, beauty is therapeutic. It makes a Senator like Sen. M. Kajwang' to feel good even when he is challenged by some issues in the Senate.

As I conclude, I understand that the 24 years that the former President ruled this country were not the best, and I was not a Member of KANU at any one time. However, the former President encouraged tree planting to stop *momonyoko wa udongo* or soil erosion. Trees prevent soil erosion. The silting of some of the rivers and dams is because we have bare land. If we could plant trees along the river beds, we would prevent soil erosion. Cumulatively, the total benefits of tree planting are humongous.

Madam Temporary Speaker, I beg to move and ask Sen. M. Kajwang' to second this Motion.

Sen. M. Kajwang': Madam Temporary Speaker, I rise to second the Motion by the distinguished Senator for Kirinyaga County, Sen. Kibiru. This Motion calls for planting of trees along major infrastructure projects in Kenya. I second this Motion with a lot of pleasure because these are some of the things that give me pleasure.

When we plant trees today, it means that we are planning for the future. It also means that we are already writing a will bequeathing something for the future generation. A tree is not something that you will plant now and benefit from it immediately. A tree's life span is not like that of Simon Makonde who was born on Monday, went to school on Tuesday and eventually died on Friday. A tree has a longer life.

A tree guarantees that future generations will be water secure. It guarantees that the air that our children will breathe in future will be clean. It also guarantees that our future generations will have food and medicine. I support this Motion because I have seen a lot of grand infrastructure projects in this Republic such as beautiful roads. However, on the sides of those projects, there is absolutely nothing.

As a result of some of the strategic political partnerships in the past, the people of Homa Bay County benefitted from certain infrastructure projects. It was terrible driving from Kendu Bay Town to Homa Bay Town. The children born or women married in Homa Bay County recently might imagine that it has always been that comfortable. There were years when it would take hours upon hours to move from Kendu Bay Town to Homa Bay Town, which is a distance of only 30 kilometres. That was because of the poor state of the road. That road was fixed during the Grand Coalition Government.

Madam Temporary Speaker, it was even more difficult moving from Homa Bay Town to Mbita Town, which is my home town. I remember how difficult it was in the days when we had to travel out of the village to go to boarding school. We used to rely on lifts from private motor vehicle owners simply because of the poor state of roads. The road connecting Mbita and Homa Bay Town was also built during the Grand Coalition Government.

Madam Temporary Speaker, we now have a beautiful road that snakes all the way from Kendu Bay into Homa Bay Town to Mbita Town. Unfortunately, on the sides of those roads, there is nothing; it is just a bush. There is just 'nothingness,' if I am allowed to use that word.

Sen. Kibiru's Motion would have compelled the people running this project to ensure that part of the deliverables on those infrastructure projects would be trees that would create a beautiful, calm and shaded boulevard, running from Kendu Bay into Homa Bay, all the way to Mbita Town. How wonderful could that have been? Those who visited Kisumu City before the road from the airport to the Central Business District (CBD) was redone - it has been done very well - will tell you that it is now a wonderful and smooth road. Sometimes we say strategic political partnerships can pay for people, particularly when the leaders know what the end game is. Kisumu City has a beautiful road from the airport all the way to Kakamega. I remember the President was there to launch Mamboleo, all the way to Kakamega and the other various arteries.

Before that, there was a beautiful boulevard of trees on the drive from the airport in Kisumu to the CBD. I remember those trees used to produce a red flowers. I am not sure whether it was Nandi Flame trees, but it was a very wonderful boulevard that would tell you that you were in Kisumu. When the new road was being done, all the trees were cut down. Now we have a dual carriage with all sorts of metallic structures all round, but the beauty of the trees are gone.

When driving into Nakuru, back in the days - I am not certain whether it is still there – the highway used to be lined with trees. I still see a little bit of them, but with the expansion of the road, probably those trees have disappeared. We need to bring discipline back to our infrastructure projects. Through this Motion, we need to make it mandatory that those people in public works or in charge of the grand infrastructure projects, will also have an environmental concern as they execute them.

Madam Temporary Speaker, the statistics look bleak indeed that the current forest cover in Kenya is only 7.4 per cent and the recommended average is 10 per cent. If you look at the close canopy forest in this Republic, it stands at two per cent. The African average is about 9.3 per cent, whereas the global average is far much higher. It is these forests that provide us with the water that we drink and clean air that we breathe. It is many trees that the pioneers and visionaries, particularly in the coastal region, planted that provide us with medicine and medicinal extracts that can lead us into the future.

There was a taskforce that was set up. It was called “Taskforce on Forest Resources Management and Logging Activities.” This taskforce reported back in the year 2018 to the Executive. They came up with a very detailed report on what this country needs to do when it comes to forest resource management, particular more specifically issues of logging in our forests. It needs to be made clear to this nation what became of the recommendations of that taskforce because it came up with very good recommendations, particularly on transformation and reforms within the Kenya Forest Service (KFS).

When KFS was established, there was a lot of expectation. We believed that it would follow the footsteps of Kenya Wildlife Service, which had played an important role during some period in ensuring that Kenya’s wildlife resources were protected, and it was promoted to make Kenya an attraction for people who came for wildlife tourism. However, KFS has fallen short of the great expectations of this Republic. When they are in the news, they are there for the wrong reasons or because the Director-General has decided to open a cafe in Karura Forest, as if people who go to forests do not need to eat something.

We need to get the right information on coverage and proper brand for KFS. When we talk about them, they should be telling us what exactly they are doing to increase the current forest cover from the 7.4 per cent to the 10 per cent, which is the target. There are many forest reserves and protected areas in this Republic that are thinning out and balding because there is deliberate effort to re-afforest them. This was a duty that we had given to KFS.

Madam Temporary Speaker, sometimes we might need to learn from the past and present. Just a few minutes ago, the Senator for Mombasa County and I were having a conversation around the issue of the Kenya Fisheries Services; another body that we created as Parliament. We created it believing it would do what KWS has done to wildlife and what KFS is supposed to do to forest resources.

Interestingly, we have Kenya Fisheries Service that is supposed to look at Kenya’s fisheries resources, which is domiciled in Lake Victoria, Indian Ocean and Turkana. The headquarters of Kenya Fisheries Service is in Nairobi. To be more precise, I am told it will be built in South C. you wonder what kind of fishing activities go on in

South C in Nairobi. We also have the Kenya Fish Marketing Authority. Again, instead of promoting the trade in fish and its derivatives for it to be placed in a strategic location like along the lake, the ocean or Lake Turkana, we are told the headquarters shall be in Nairobi.

I believe the headquarters of KFS is also in Nairobi, at Karura Forest. However, I would be happier if we took KFS to Mau Forest, so that it sits there and protects Kenya's greatest water tower. Issues of Mau Forest should not be militarized when we have a KFS. If these are gazetted forests, where is the KFS? Why should it be Mr. Natembea to speak every day? Why should we be seeing the military dealing with children in these forests? What is it that we are appropriating money to KFS for?

Madam Temporary Speaker, I do not want this debate to be about the state of KFS because, cleverly, Sen. Kibiru must have considered all those things. It would have been easier to move a Motion that would compel KFS to do certain things to increase tree cover in this country. However, he has decided to think out of the box and seen a golden opportunity in infrastructure projects.

I think that this is a quick win. This is an issue that if the House resolves today, should be conveyed to the relevant Ministries in charge of infrastructure. This is something that should be implemented almost immediately. It would beautify this country, increase our forest cover, clean the air and purify our drives. It will be a pleasure driving from point 'A' to 'B' when you know that you are driving through a proper tree lined boulevard.

Allow me to address the issue of implementation of Motions of this House. In the past, we have appeared to be helpless. We have passed so many Motions. Indeed, next time when we are meeting as a Liaison Committee, God willing, I will request that we have a tracker of Motions, so that we know the state of implementation. Ideally, this Motion ought to have gone to the Implementation Committee, who then would update the House or track the implementation of the recommendations of this House.

In this case, probably this matter will be forwarded to the Committee on Lands, Environment and Natural Resources, and the Chairperson was here. He seems to be aware of the debate that is going on and will now start wondering where we start with implementation of this particular matter.

The Public Audit Act already has a provision that upon the resolution of Parliament or a county assembly on any matter, the relevant accounting officers have three months to implement the recommendations of Parliament, failure to which, Parliament has been given certain options to deal with the errant accounting officers.

Madam Temporary Speaker, I would like this House to have confidence in itself and invoke the provisions of the law in as far as implementation of Motions is concerned. I want this House to call the accounting officers, who for a long time, have ignored Motions and recommendations of this House. It does not mean that all our Motions and recommendations must be implemented in the manner in which we have passed them. I will give you an example coming from county assemblies. This is because this House also has a responsibility to help strengthen our county assemblies. Last week when we went to Kwale County, we found that the Kwale County Public Accounts Committee had recommended the winding up of Kwale Water and Sewerage Company.

Upon consideration, it was found that, that was not going to be the best option for the residents of Kwale County. The challenge to the Executive was that they had to report back to the Assembly and tell them why that recommendation cannot be implemented.

Madam Temporary Speaker, if the Executive will feel that this Motion by Sen. Kibiru is un-implementable, then it is the duty of the Executive, within three months of the adoption of this Motion, to come back to Parliament and tell us why they cannot recommend it. Otherwise, I see no reason this Motion should not be implemented. I see no reason anyone would say that it is a bad idea not to plant trees.

If we have all these ugly billboards lining our infrastructure projects, distracting us and making some people think that now they can become politicians because they have appeared on billboards on roadsides, there is no harm having trees in place of those billboards.

I am glad that Sen. Mutula Kilonzo Jnr. brought the Outdoor Advertising Bill in the last Parliament, which I believe was sponsored by another Member in this Parliament. Let us pass that Outdoor Advertising Bill, so that we also regulate the utilisation of roadside furniture, but within that roadside furniture, trees must be an essential component along our infrastructural projects.

I second the Motion.

(Question proposed)

Sen. (Dr.) Ali: Thank you, Madam Temporary Speaker. I wish to support the Motion. It looks like many of us do not realise the importance of this Motion. However, to many Kenyans, planting trees is a lifeline for survival. If you go to the dry areas, you will be surprised that you can move for kilometres and miles without seeing even a single tree. When people plant one or some trees along the roads, it makes a lot of difference.

In certain areas like where I come from, which is on the Ethiopian border, we have big hills which used to have many trees and a lot of water before. Nowadays, because the trees are being cut by residents for domestic purposes and there is no replacement of those trees, the water has dried up. We used to have shallow wells and streams flowing around, but now we have nothing. Even the shallow wells are drying up. This is, of course, because of climate change, but also because of lack of trees.

I support this Motion and it should not only apply to infrastructure and mainly the roads that people talk about. It should be like when we were in school where we used to plant trees. Every pupil used to come with a jerrican of water to make sure that their tree grew. If you see those trees now, you will be surprised by their number. Of late, nobody really bothers with those things. Sometimes they even go to the extent of cutting those trees, which is a shame. I remember we used to have the 4K Club, where we would do a little agriculture, including planting trees.

Madam Temporary Speaker, this should not only apply to the infrastructure like the roads, but also in schools, hospitals, all other Government facilities and even homes. In certain places, even here in Nairobi City County, if you wanted to cut a tree, you had to inform the Nairobi City Council, but nowadays nobody really bothers. You just get a sawmill and cut trees the way you want and use them for whatever purpose. Nairobi City Council used to be very beautiful before, but now you can see what is happening. Instead

of having trees on the highways, we have funny grasses and flowers, which disappear when the rains stop because they are not taken care of.

In other places in this world, especially Western Europe and the United States of America (USA), you will see trees everywhere. You will see trees across houses. In fact, you will not even see the house. You will be surprised that these people had cut their trees before, but they have now realised the importance of trees. For us, we are cutting everything and making all areas deserts. You will be surprised at what is now left of areas which were forests before with a lot of tree cover.

As he mentioned, on the Nanyuki-Nyeri Road, you will see trees are being cleared. Now there is drought because it is empty. However, since people have now gotten plots, they are planting trees and it is making a lot of difference. If you compare that road to the Embu-Meru one, you will be surprised. One side of Mt. Kenya has many trees, while the other side is literally bare. Even the rainfall changes are evident.

Madam Temporary Speaker, I saw the airport in the capital city of Finland is surrounded by trees. You do not even see the airport; you only realise that there is an airport there on landing. This helps with emissions. Here in Mlolongo, you cannot even sleep at night because of the noise and can even see the airport miles away. You know how the place is. If trees are planted, they would make a big difference around the Jomo Kenyatta International Airport (JKIA) and the Wilson Airport. The local communities would also enjoy those trees. It is very important because it will help to get rid of the smoke and noise.

Madam Temporary Speaker, we all know what is happening in Mau Forest. Mau and its surroundings used to be a beautiful place. However, the Mara River is drying up. Tourists used to enjoy the wildebeest migration, but nowadays, there is nothing to enjoy because there is no water. Therefore, we do not get the resources that we used to get. I remember a friend of mine in Eldama Ravine telling me that they used to have rivers and streams, but of late, they have dried up. When evictions were done in 2019/2010, it did not help. There is a lot of politics. If evictions have to be done, they must have a human face. Those people should be resettled somewhere because other people have a lot of land, for example, in Naivasha. The Government can buy them the land.

As Sen. M. Kajwang said, it is not just about the Mau Forest. The Kenya Forest Service (KFS) is everywhere, but they do nothing. When people cut trees in areas where there are not forests, they do not do much. So, it is important that this Motion is passed, so that it is effective.

Madam Temporary Speaker, we cut trees and use them for domestic use. However, if people are taught from childhood that if they cut a tree they have to plant one or two new ones, things will change. We had another Motion in this House which tried to lift the ban on burning of trees. However, I would appreciate that it is not lifted, so that people stop cutting trees. We should encourage zero rate importation of timber and its products, so that Kenyans can import timber products from areas where it is cheap, for example, for a limited time of five years. This will ensure that people do not cut or use timber products that are from Kenya for those five years.

Madam Temporary Speaker, with those few remarks, I support the Motion.

Sen. Were: Thank you, Madam Temporary Speaker, for giving me the opportunity to contribute to this Motion by the worthy Senator for Kirinyaga, Sen. Kibiru.

The value of trees cannot be underrated. I remember when we were in primary school, there was a lot of talk about planting trees, especially by the former President Daniel Moi. We recited poems in schools and in music festivals asking people to plant trees. We learnt that trees are water catchment areas, and they provide timber and furniture. They are also good for medicine and food, especially fruits as outlined in this Motion.

Madam Temporary Speaker, I was one of those people who did the poem in primary school, all the way to the national level. Therefore, I have never forgotten that trees are important. However, development is also important. We are reminded that we need to have sustainable development. We are now implementing Sustainable Development Goals (SDGs) that have been expounded from the Millennium Development Goals (MDGs).

We also have the Action 2063 by the African Union (AU) that has environmental protection as one of the things that they must achieve by 2063. However, anytime we have any infrastructure development in this country, there is a lot of environmental degradation. Trees are cut down, soils are excavated and, therefore, there is movement. There is also removal of stumps of trees, and all other forms of degradation. Therefore, in this Motion, we ask that this be restored once the project is done. The environment needs to be restored better than it was found before the development was pushed.

Madam Temporary Speaker, there is now a policy to have 10 per cent of national forest cover by 2020. How will we achieve this if as we develop the country we are also cutting down trees? I have said elsewhere that to achieve the 10 per cent, we need to administratively force through some Government policies and measures to force any land owner to have 10 per cent of their land under tree cover. Whichever size of land a person has, 10 per cent of it should be under tree cover for us to achieve this by 2020. Otherwise, it will just be mere talk.

I also join my colleagues in urging that this Motion be implemented. Motions have the misfortune of being in motion and just moving; they do not find settlement anywhere. I would like that this Motion is taken to the relevant authority to have it fully implemented. The sponsor of this Motion, Sen. Kibiru, should be allowed to make follow ups, like we have done in other Motions, to ensure that whatever we have debated, agreed and passed is implemented by the Executive.

Madam Temporary Speaker, there is danger of cutting trees by developers, especially in Nakuru-Nairobi Highway as you enter Nakuru Town from Nairobi. When they were expanding the road, they cut down a number of trees that had been there for so long. It is disheartening. Developers must be made to replant those trees if they have to cut them down.

In English, there is a word for a road that has trees on either side. It is called a boulevard. The word 'boulevard' sounds beautiful. So, there must be some beauty and aesthetics of having trees aligned alongside our roads. If you enter a town and see a road that has trees, you get encouraged. If you feel like throwing litter in the town, you will

think twice because the entry to the town has announced what is important to it; that is environmental protection.

Madam Temporary Speaker, I support this Motion and urge that we go beyond just passing it and see that it is fully implemented.

With those few remarks, I support.

Sen. Faki: Asante Bi. Spika wa Muda, kwa kunipa fursa ya kuchangia azimio la upanzi wa miti ambalo limeletwa Seneti na Sen. Kibiru, Seneta wa gatuji la Kirinyanga.

Ninampongeza Sen. Kibiru kwa fikira zake na kuleta azimio kama hili. Kwa sasa, kuna umuhimu mkubwa wa kupanda miti, kuboresha na kurudisha mazingira kwa sababu ya changamoto la ongezeko la joto ulimwenguni, kwa jina lingine *global warming*.

Juzi kulitokea kibunga katika nchi ya Bahamas iliyoko kusini mwa Amerika. Sababu kubwa ilisemakana kwamba ni tatizo la ongezeko la joto ulimwenguni. Kwa hivyo, upanzi wa miti utasaidia pakubwa kupambana na tatizo la ongezeko la joto ulimwenguni na vilevile kurudisha na kuboresha mazingira ambayo tunaishi nayo katika wakati wa sasa.

Bi. Spika wa Muda, kwa muda mrefu sasa, miti mingi ya kiasili imekatwa kiholela ili watu wapate sehemu za ukulima, makao na mbao ambazo zinatumiwa kutengeneza vitu tofauti tofauti. Lakini, hakujakuwa na mradi ambao unatarajiwa kurejesha mazingira kama ilivyokuwa zamani. Wakati Rais mstaafu Daniel arap Moi alikuwa uongozini kulikuwa na siku maalum kila mwaka ya kuadhimisha upanzi wa miti katika nchi yetu ya Kenya. Lakini, kwa sasa, kutoka atoke mamlakani, hakujakuwa na harakati zozote za kuhakikisha kwamba miti inapandwa katika Jamhuri yetu ya Kenya.

Vile vile, juzi katika vyombo vya habari kulikuwa na mjadala mkubwa kuhusiana na uchomaji wa misitu katika eneo la Amazon kule Brazil, Amerika Kusini.

Bi. Spika wa Muda, kuna juhudi kubwa sasa ambayo inafanywa na nchi za kimataifa ili kuhakikisha kwamba mazingira katika Msitu wa Amazon yanarejeshwa ili kuhakikisha kuwa miti inaendelea kukua na kusaidia pakubwa kupunguza joto ulimwenguni.

Miradi nyingi inayofanywa katika Jamhuri yetu ya Kenya, iwe ni ya barabara au ujenzi wa majumba, yote inahitilafiana na mazingira yalivyo wakati inapoanza. Vile vile, hakuna juhudi yoyote ambayo inafanywa kwa sasa kisheria kuhakikisha kwamba yale mazingira yanarejeshwa kama vile yalivyokuwa kabla ya mradi kuanza. Azimio hili litasaidia pakubwa kulazimisha wanakandarasi kuhakikisha kwamba wameyarejesha mazingira kama vile walivyoyapata kabla ya kuanza mradi ule.

Bi. Spika wa Muda, vile vile, azimio hili litasaidia pia kupunguza ukosefu wa kazi kwa vijana na akina mama kwa sababu wataweza kupata fursa ya kutengeneza vipandio vya miche na vile vile, kupewa kazi ya kupanda miti katika ile miradi ambayo itafanywa na wanakandarasi katika maeneo tofauti tofauti.

Tumeona katika miji kama vile Mombasa kuwa hakuna misitu mikubwa isipokuwa ile ya mikoko yaani *Mangrove forests*. Hii pia imeingiliwa na kukatwa kiholela kwa sababu ya changamoto ya sehemu ya kuishi na miti ambayo inatumika kama kuni na katika ujenzi wa nyumba.

Kwa sasa kuna mradi wa Bandari ya Mombasa wa kujenga *Container Terminal Three*. Ule mradi utakapokamilika sehemu kubwa itakuwa kama jangwa. Hata hivyo,

ikiwa watalazimishwa kupanda mikoko katika sehemu ile, itaboresha mazingira yale na kusaidia pakubwa kusafisha hewa ambayo inatumika katika mji wa Mombasa na viunga vyake, ili wananchi wapate hewa safi.

Mradi huu umekuja katika wakati mwafaka. Itakuwa bora ikiwa wale ambao watahusishwa nakutekeleza watahakikisha kwamba wanakandarasi wote wanalazimishwa kupanda miti ili mazingira yetu yawe bora. Katika kila sehemu ya nchi, kwa sasa kuna mradi ambao unafanyika na Serikali. Itabidi tutoe masharti ya kwamba ni lazima mwanakandarasi apande miti anapomaliza kufanya mradi. Hii inamaanisha kwamba katika kila sehemu ya nchi yetu tutaongeza eneo ambalo lina misitu na miti mizuri ambayo tumeipoteza itarejea katika jamii yetu. Litakuwa ni funzo kwa vijana wetu ambao tunatarajia kwamba watarithi yale mazingira.

Bi. Spika wa Muda, kwa kumalizia ningependa kuchangia swala la DORA. Waswahili wanasema heri nusu shari kuliko shari kamili. Nusu ya shari ni kwamba tumeweza kukubaliana kwamba Kaunti zipewe *Kshs316.5 billion*. Shari kamili ni kwamba tulikuwa katika mazingira ambayo wafanyikazi wengi wa Kaunti nchini kote walikuwa hawapati mishahara kwa wakati unaofaa. Kwa hivyo, kama Seneti tumeweza kukubali na kuzingatia kwamba wananchi wengi wanapata shida. Wengine wameshindwa kurejesha wanafunzi katika muhula wa tatu wa shule ambao umeanza wiki iliyopita. Vile vile, wengine wameshindwa kupata ruzuku kwa sababu ya ukosefu wa mishahara kwa wakati ufaao.

Kwa kupitisha mapendekezo ya Kamati ya Uwiano, sisi kama Seneti, tumeweza kutoa mchango wetu mkubwa kuhakikisha kwamba ugatuzi unaendelea kukua katika nchi yetu.

Ingekuwa bora zaidi kwamba ile *Kshs9 billion* ambayo tulikuwa tumesema iondolewe katika Medical Equipment Scheme iongezewe katika ile *Kshs316.5 billion* ili tuweze kupata *Kshs325 billion* ziende katika Kaunti. Hata hivyo haikuwezekana. Ninafikiri askari mzuri ni yule ambaye anaishi kupigana vita vingine kuliko kuuliwa katika vita.

Bi. Spika wa Muda ninakomea hapo. Ninashukuru kwa kunipa fursa hii.

Asante.

The Temporary Speaker (Sen. Pareno): I do not see any other request to contribute to this Motion. However, I feel that Sen. Kibiru's Motion needs more contribution from the rest of the Senators. It will not be advisable to stop debate at this moment.

I, therefore, defer the debate on this Motion for further debate when it appears next on the Order Paper.

(Motion deferred)

ADJOURNMENT

The Temporary Speaker (Sen. Pareno): Hon. Senators, there being no other Business, it is now time to adjourn the House. The Senate, therefore, stands adjourned until tomorrow, Thursday, 12th September, 2019, at 2.30 p.m.

The Senate rose at 6.27 p.m.