

PARLIAMENT OF KENYA

THE SENATE

THE HANSARD

Thursday, 21st November, 2013

*The Senate met at the Kenyatta International
Conference Centre at 2.30 p.m.*

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

PRAYERS

QUORUM CALL AT COMMENCEMENT OF SITTING

The Speaker (Hon. Ethuro): Hon. Senators, let us determine if we have a quorum.

(The Speaker consulted with the Clerk-at-the-Table)

Hon. Senators, I am informed that we have quorum. Therefore, we may commence business.

COMMUNICATIONS FROM THE CHAIR

The Speaker (Hon. Ethuro): Hon. Senators, I have several Communications to make from the Chair.

JOINT MEETING OF THE SENATE AND NATIONAL SECURITY OFFICIALS ON THE STATE OF INSECURITY IN THE COUNTRY

As you are all aware, there has been a lot of pressure placed on the Senate by the public to seek for answers on the rising incidents of insecurity in the country. This is confirmed by the number of Statements sought by Senators on this particular issue almost on every sitting day in the recent past. The Chairperson of the said Committee on National Security and Foreign Relations has often been taken to task while trying to respond on behalf of the security department on security related concerns raised by Senators. On many occasions, there have been delays in getting the said responses from the Executive and sometimes, the answers given have been grossly unsatisfactory,

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compelling the chairperson of the Committee to seek for more comprehensive information.

Considering the recent terrorist attacks and the increased incidents of insecurity in many of the counties, the Standing Committee on National Security and Foreign Relations in conjunction with my office has organized a half-day meeting between the Senate and the national security officials to deliberate on this very important but sensitive matter. The meeting will therefore take place on Tuesday, 26th November, 2013, at the Amphitheatre at the Kenyatta International Convention Centre (KICC) starting at 9.00 a.m.

I appeal to all Senators to attend to this very important meeting as we jointly seek for solutions for the security of our country.

I thank you.

PROCESSING OF DRAFT PUBLIC FINANCE MANAGEMENT
(UWEZO FUND) REGULATIONS, 2013

Hon. Senators, you will recall that in the afternoon sitting of Wednesday, 20th November, 2013, Senator Billow rose on a point of order on the matter of the processing of the Draft Public Finance Management (Uwezo Fund) Regulations, 2013. The Senator made reference to Sections 24 and 205 of the Public Finance Management Act and sought the guidance of the Chair on the role of the Senate in the processing of the draft Regulations and, in particular, whether the Draft Regulations would be considered by the Senate.

Sen. Hassan, Sen (Dr.) Khalwale, Sen. Wako and Sen. Murkomen made contributions on this matter. In so doing, the Senators also raised a number of other matters relating to the legislative process in Parliament, particularly in the context of the advisory opinion of the Supreme Court in Supreme Court Reference No. 2 of 2013 issued on 1st November, 2013. I will address these matters in a separate Communication.

Hon. Senators, on the matter of the Draft Public Finance Management (Uwezo Fund) Regulations, 2013, the procedure for the disposal of regulations made under the Public Finance Management Act, No. 18 of 2012, is set out in section 205 of the said Act. Section 205(1) empowers the Cabinet Secretary to make regulations that are not inconsistent with the Act, respecting any matter that is necessary or convenient to be prescribed under the Act or for the carrying out or giving effect to the Act. Section 205(4) provides that:

“Regulations under subsection (1) shall not take effect unless approved by a resolution passed by Parliament”.

Section 205(5) further provides that:

“Regulations approved under sub-section (4) shall take effect on the day after the date on which both Houses approved them or, if a later date is specified in the regulations, on that later date”.

Additionally, Section 205(6) states that;

“If a House of Parliament does not make a resolution either approving or rejecting any regulations within fifteen sitting days after submission to it for approval, the House shall be deemed to have approved those regulations”.

Hon. Senators, it is, therefore, clear from these provisions that any regulations made under the Public Finance Management Act are to be made in accordance with the procedure set out in section 205 of the said Act. By that procedure, all draft regulations require the approval of both Houses of Parliament before they take effect.

Hon. Senators, the Draft Public Finance Management (Uwezo Fund) Regulations, 2013 were, in accordance with Section 205 of the Public Finance Management Act approved, with amendments, by the National Assembly at its afternoon sitting of Wednesday, 20th November, 2013. Pursuant to section 205 of the Act, the process of approval by Parliament is not yet concluded. The draft regulations, as approved by the National Assembly, now require the approval of the Senate. In terms of the procedure set out in Standing Order 41(1) and (2) of the National Assembly Standing Orders, the National Assembly is expected to refer the draft regulations to the Senate by way of a Message from the National Assembly to the Senate seeking the concurrence of the Senate to the draft regulations as approved by the National Assembly. The Senate would then dispose of the Message from the National Assembly in the manner set out in Standing Order 40(3), (4), (5) and (6) of the Senate Standing Orders.

The Message of the National Assembly on the draft regulations would be considered by the Senate on a Motion to concur with the resolution of the National Assembly on the draft regulations. Where the Senate concurs with the National Assembly, the draft regulations would be due for transmission to the Cabinet Secretary for publication of the regulations in terms of section 205(1) of the Public Finance Management Act.

However, where the Senate does not concur with the National Assembly, the resolution of the Senate would be transmitted to the National Assembly by a Message from the Senate to the National Assembly in terms of standing order 40(1) and (2) of the Senate Standing Orders seeking the concurrence of the Assembly with the resolution of the Senate on the draft Regulations. The Assembly would then consider the Message of the Senate in terms of standing order 41(3), (4), (5) and (6) of the National Assembly Standing Orders on a Motion to concur with the resolution of the Senate. If the Assembly does not concur with the Senate, the matter would then be referred to mediation in the manner provided for under Article 113 of the Constitution.

Hon. Senators, I trust that the Regulations having been approved by the National Assembly, the concurrence of the Senate will now be sought and the draft Regulations would proceed to be disposed of in the manner in which I have detailed. I already have the confirmation from the Speaker of the National Assembly that that will be done.

However, it is important to observe that any Regulations made otherwise than in the manner set out in section 205 of the Public Finance Management Act would be inconsistent with the law and therefore null and void. Additionally, any such Regulations may also be challenged as having been made *ultra-vires*, outside of the ambit of the powers given to the Cabinet Secretary under the Act.

I thank you.

(Applause)

The Senate Majority Leader (Sen. (Prof.) Kindiki): Mr. Speaker, Sir, thank you very much for making us proud again with a very well-reasoned ruling. I congratulate you because, in spite of very difficult challenges relating to the relationship between this House and our colleagues in the National Assembly, you have continued to steer this House very soberly; reasoning and justifying your decision on the basis of law. I want to thank you and I want to appeal to all of us as leaders in both Houses that time has come when we must stop unnecessary exchanges. I think some of these things can be dealt with and addressed if all of us were approaching this matter the way the Senate has approached it.

Therefore, without much ado, I want to say that we are proud of that ruling and we hope it will be implemented. You have assured us that you have talked to your brother, the Speaker of the National Assembly, and we are happy that you are addressing this matter at your level but should there be a problem, we also want to say that the Senate will not entertain anything that demeans this House from whatever quarter. Such a move will be resisted. We want to send this message loud and clear because we are elected and have not come in town here as people who have nothing to do. So, anybody who thinks otherwise should be told we will not take this lightly.

The Speaker (Hon. Ethuro): Order, Senators! While appreciating Sen. (Prof.) Kindiki's comments, I would just like to remind us that let us not anticipate debate because that matter will come as a message and that opportunity will be there.

Sen. Hassan, I had to make that intervention knowing that you are next.

Sen. Hassan: Mr. Speaker, Sir, I just wanted to join my brother, the Majority Leader, Sen. (Prof.) Kindiki, in his assertions. I want to tell you that since you started discharging your responsibility as the Speaker of the Senate, you have never let this House down, neither have you ever let this country down. That demonstrates your conscious ability to discharge your responsibilities not only under the Constitution but to ensure that we are able to transform this country into a truly bicameral system of Parliament. I think you have exercised extra ordinary restraint and patience and I think that has been an inspiration to all of us.

So, I join my friend, Sen. (Prof.) Kindiki, in lauding that communication from the Chair and hope that practical steps will be followed so that we can discharge the responsibilities of this House amicably in a manner that defines the decorum of this House and the seniority is placed both as a political fact and a constitutional reality.

Mr. Speaker, Sir, I would be looking forward to the other communication so that this House may be properly guided and the nation will be the paramount winner in all that we discharge in this Senate.

The Speaker (Hon. Ethuro): Order, Senators! I have the final communication from the Chair.

IMPLEMENTATION OF THE SUPREME COURT
ADVISORY OPINION IN THE LEGISLATIVE PROCESS

Hon. Senators, you will recall that in the afternoon sitting of Wednesday, 20th November, 2013, which was yesterday, while making their contributions to the matter of the Draft Public Finance Management (Uwezo Fund) Regulations, 2013, Sen. Hassan, Sen (Dr.) Khalwale, Sen. Wako, Sen. Murkomen and Sen. Billow raised a number of issues concerning the matter of the legislative process in Parliament. The issues raised by the Senators may be summarized as follows:

(a) Was the input of the Chair sought, pursuant to Article 110(3) of the Constitution, with regard to the legislation that has continued to be processed in the National Assembly after the advisory opinion of the Supreme Court in Supreme Court Reference No. 2 of 2013 issued on 1st November, 2013?

(b) What steps have been taken to implement the advisory opinion of the Supreme Court in Parliament?

(c) Is the legislative process in Parliament now compliant with the Advisory Opinion of the Supreme Court?

Hon. Senators, these are important issues calling for the attention of Parliament particularly in the light of the advisory opinion of the Supreme Court in Supreme Court Reference No. 2 of 2013. Following the advisory opinion of the Supreme Court, I have directed that copies of the full text of the advisory opinion as well as a summary thereof be forwarded by e-mail to each Senator. I urge all Senators to fully acquaint themselves with the advisory opinion.

Hon. Senators, it is critically important to observe that the Constitution and the Standing Orders of both the Senate and the National Assembly must henceforth be read in light of the advisory opinion. Any reading of the Constitution and the Standing Orders otherwise than in the manner set out by the Supreme Court would be unconstitutional and unlawful. Additionally, any legislation that is processed in a manner otherwise than that set out by the Supreme Court in the advisory opinion is null and void. Consequently, in light of the advisory opinion of the Supreme Court, any Bills that proceed to be processed by either House and are forwarded to His Excellency the President for assent otherwise than in the manner set out in the advisory opinion, are null and void.

I, therefore, urge all hon. Senators, and in particular the chairpersons of Committees, in respect of legislation falling within the subject matter of their respective mandates, to monitor the legislative process in Parliament and to ensure that the legislative process fully complies with the Constitution, the Standing Orders and the advisory opinion of the Supreme Court.

Hon. Senators, the concerns raised by the mentioned Senators on the legislative process in Parliament and the implementation of the advisory opinion are legitimate. Since 1st November, 2013, the date of the delivery of the advisory opinion, a number of Bills have continued to be considered in the National Assembly in a manner otherwise than that set out in the Constitution and the Standing Orders of both Houses. In particular, the following five Bills have been read a First Time in the National Assembly:-

- (1) The Statute Law (Miscellaneous Amendments) Bill (National Assembly Bill No. 32 of 2013);
- (2) The Statute Law (Miscellaneous Amendments) (No. 2) Bill (National Assembly Bill No. 33 of 2013);
- (3) The Military Veterans Bill (National Assembly Bill No. 34 of 2013);
- (4) The Public Procurement and Disposal (Amendment) Bill (National Assembly Bill No. 31 of 2013); and,
- (5) The Fertilizers and Animal Foodstuffs (Amendment) Bill (National Assembly Bill No. 36 of 2013).

The following eight Bills have proceeded to Second Reading in the National Assembly:

- (1) The Election Campaign Financing Bill (National Assembly Bill No. 14 of 2013);
- (2) The National Police Service Commission (Amendment) Bill (National Assembly Bill No. 17 of 2013);
- (3) The Media Council Bill (National Assembly Bill No. 17 of 2013);
- (4) The Truth, Justice and Reconciliation (Amendment) Bill (National Assembly Bill No. 22 of 2013);
- (5) The Insurance (Motor Vehicle Third Party Risks) (Amendment) Bill (National Assembly Bill No. 6 of 2013);
- (6) The National Social Security Bill (National Assembly Bill No. 27 of 2013);
- (7) The Wildlife Conservation and Management Bill (National Assembly Bill No. 21 of 2013); and
- (8) The National Police Service (Amendment) Bill (National Assembly Bill No. 18 of 2013).

Additionally, the Matrimonial Property Bill (National Assembly Bill No. 12 of 2013) has been passed by the National Assembly. This, hon. Senators, is obviously a grave matter that calls for the most urgent attention. I have, by correspondence, brought these matters to the attention of my brother, the Speaker of the National Assembly, who has assured me that these pieces of legislation will be subjected to the requirements of Article 110(3) of the Constitution as read with the advisory opinion.

I thank you.

The Acting Minority Leader (Sen. Abdirahman): Mr. Speaker, Sir, I want to join my colleagues who spoke before me in actually thanking you very much for the information in regard to the advisory opinion. I particularly want to thank you because of how you stood as the head of this House all through as we awaited the judgement, not forgetting how you flew from Eldoret on the day of the judgement at the Supreme Court. That has made us assert authority as a House and actually get our rightful place. It is not that we are in competition with the National Assembly but it is important that we understand and our brothers on the other side get to understand that we play complementary roles and in the interest of the country, we need to have concurrence on a number of Bills that affect the people of this good nation.

I am also glad to hear that you are talking with your counterpart on the other side and it is my anticipation and the anticipation of a number of people in this House that we shall be able to make much progress as we proceed.

Thank you, for your good statements.

Sen. Keter: Mr. Speaker, Sir, I want to join my colleagues in thanking you for being bold enough and decisive---

(Sen. Murkomen stood up in his place)

The Speaker (Hon. Ethuro): Order, Sen. Keter! I hope Sen. Murkomen understands that you are senior in ranking.

(Laughter)

Sen. Keter: Thank you for that, Mr. Speaker, Sir. I am saying that the decision which you have taken is not political. You have taken that decision in line with the law and I want to assure you that we will support you 100 per cent. Now that some of the Bills have even gone through the Second Reading, I think it would be good for us as a House to originate some of those Bills and we move on. We cannot wait. We cannot be crying and saying that those brothers of ours have passed the following Bills and yet the law is very clear. Therefore, I would suggest that as a way forward, we have all those Bills, subject them to debate here and forward to His Excellence the President as required by law.

Sen. Orengo: Mr. Speaker, Sir, thank you. I also thank Sen. Abdirahman. Before I congratulate you on that communication, I really want to congratulate your humility. Having the head of an important organ, a separate distinct and an independent organ of the Government appearing before another organ which is separate and distinct, being the judiciary, and sitting there throughout the proceedings without uttering a word but hoping that justice will be done in the circumstances, I think was a demonstration of the humility with which you hold the office. I will always remember that because I know a lot of people who take matters to court or submit issues before the arms of Government but they will never have the humility that you showed when these proceedings were before the Supreme Court.

Secondly, I thank you for this communication but more importantly, Chapter 8 which deals with the legislature has a Part IV which deals with the procedures for enacting legislation. These are very important provisions for you and for both Chambers of Parliament. If any Chamber of Parliament does not respect Part IV of Chapter 8 of the Constitution, then every law that is being made is being rendered null and void. I am saying this knowing very well that during the proceedings in the Supreme Court, the Executive was represented by the hon. Attorney-General as *amicus curiae* although he did not have the humility that you have of staying throughout the proceedings. He was there only when he was required to speak but not when he was required to listen.

It is my hope that instead of this burden being left to you to consult with your brother in the National Assembly, the hon. Attorney-General of the Republic of Kenya, in

performance of his functions as spelt out in the Constitution, must make it very clear because if he does not exercise that function under the Constitution, then I do not know why he is the Attorney-General. He should not be seen to be defending any one arm of Government or any one organ of Government. You are equally entitled to advice from the Attorney-General as is the National Assembly, the Executive and the Judiciary. It is not lost on us that in fact the Attorney-General sits in the Judicial Service Commission (JSC) which is a very important organ in the judiciary.

Therefore, I hope that at some point, particularly the leadership of the House; the Majority Leader and the Minority Leader should take steps to talk to the Attorney-General and advise him of the decision of the Supreme Court. It was not a decision which was being made for purposes of cosmetics. That decision is very clear because it spells out a condition precedent that before any Bill is considered by either House, it must be referred to both Speakers. So, by the time the Bill is being read for the First Time without consulting you, there is already a violation of Part IV of the Constitution. If the Attorney-General does not so advise either Speakers or Houses of Parliament, then even him, because he will also finally advise the President on whether or not to assent to the Bill---. I hope that the Senate Majority Leader – I will call him the Senate Majority Leader but in this one, if he does not take those steps, I will withdraw that title of the Majority Leader. I will call him the Majority Leader but not the leader.

(Laughter)

Finally, Mr. Speaker, Sir, I hope and trust that we will not be seen to be lamenting all the time, because we are, all the time, seen to be lamenting; we cry here, we accolade ourselves as the more superior House, but we seem to be ignored totally. So, I hope that steps will be taken this time to ensure that the letter and spirit of the Constitution is completely complied with.

I thank you, Mr. Speaker, Sir.

(Applause)

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

(Laughter)

Sen. Murungi: Thank you, Mr. Speaker, Sir. Could you protect me from this uncivilized behaviour?

Mr. Speaker, Sir, I want to join the Senior Counsel, Sen. James Orengo, in congratulating you for your humility and being a shiny path for constitutionalism and the rule of law in this country. This is, indeed, what is required of all those who hold constitutional offices like the office that you hold. I think we went to court because we had a constitutional right to do so, and when one has a right, the right is an entitlement. I do not think the Senate is here courtesy of the charity of any person. We are not here

because of benevolence of any person; we are here as of right and we are entitled to be here.

(Applause)

So, Mr. Speaker, Sir, these consultations that you are going to make, I think you should go there as a person who has rights; as a person who is demanding. You know, when a person owes you money, you have a right to recover that money; so, you do not go begging that “Please, please;” rather, you go and ask “When am I getting that money I gave you?”

(Laughter)

Mr. Speaker, Sir, I think we have seen consistent attempts to reduce the Senate into mere political flower girls, and the time has come for us to be united, stand firm, and resist all attempts to reduce the status and constitutional rights of this Senate. Being the first time that we are having a Constitution, how many constitutions were left by the British in 1963 in all the countries? But because we did not have enough people to stand up for those constitutions, that is why we had the one party rule and the military rules coming in Africa; and I think we should learn from history so that, that history is not repeated. So, what we are doing is not a small thing; we are resisting forces which could be turning the wheels of this history backwards. So, we are with you.

(Applause)

Mr. Speaker, Sir, I want to take the suggestion by Sen. Keter seriously; we do not need a Bill to be referred to you; we do not need a Bill to be brought to us from the National Assembly for us to debate it; we can get it from the Government Printer!

(Laughter and applause)

So, any Bill which we feel touches on the counties, we do not need the permission of any person to come and debate it on this Floor. So, whether they are debating it in the other House or not, it is our right to debate it. So, please, let us move on; let us behave as per the advisory opinion; let us exercise our rights as per the Constitution, then any other issues which arise, we are going to deal with them as they come.

Mr. Speaker, Sir, I want to thank you.

(Applause)

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

Sen. Murkomen: Mr. Speaker, Sir, I was going to stand, but I thought Sen. (Dr.) Machage was senior to myself, if seniority was followed. Otherwise, you know Sen. Kiraitu came in and he was asking what was being discussed; and before he sat down---

(Laughter)

Mr. Speaker, Sir---

The Speaker (Hon. Ethuro): Except that, Sen. Murkomen, you know better; the seniority was in where you went to school; and I have every reason to believe that you and Sen. (Dr.) Machage went to different schools. But you and Sen. Kiraitu went to the same school, and he was ahead of you.

Sen. Murkomen: Mr. Speaker, Sir, I have learned; and once I sit there, I will be asking him which school he went to so that I follow the procedure.

First of all, Mr. Speaker, Sir, I want to congratulate you and the leadership of this House for taking a bold step. I remember that when the Division of Revenue Bill was signed against our will, at that point in time there were many measures that we put in place. But I think the most brilliant decision we made was to go for the advisory opinion. The magnanimity with which you conducted yourself and the House is commendable, and like Sen. Orengo, who is a Senior Counsel, said, it is rare to see in this country a situation where heads of other arms of Government would be humble enough to go and sit before another arm of Government – which is the Judiciary at this level – to listen and look for an advice.

Mr. Speaker, Sir, it would have gone otherwise; the advice would have been that we have a role or we do not have a role. But the ability, decision and wish to sit there and believe that whatever will be decided by the court will be the right decision, is commendable even for our county governments. Because that section that enabled us to go to the Judiciary applies even far much more to the county governments, and we will be seeing more advisory opinions being sought by the counties. You and this House have set a very good example in terms of teaching and showing the counties that we abide by the rule of law.

Mr. Speaker, Sir, I am very saddened when it comes to the Bills that are going on in our other Chamber, the National Assembly. I am saddened because on the face of it, I have seen that a number of those Bills concern counties. Already, the Supreme Court, in their advisory opinion, said that anything that concerns elections concerns counties. I am saddened because issues of social security, for example, will concern the staff of county governments; I am saddened because issues of veterans – in fact, when I heard of that Bill, I already had in mind an amendment that will ensure that we utilize our military veterans to assist the county governments in disaster management, which basically makes it a Bill concerning counties.

Mr. Speaker, Sir, we have that responsibility as both Houses to look at these Bills. I am actually a bit encouraged by a Statement you made, that; “however you have been assured by your brother that the process will be---“; which means there is wind of change, however slow it may be, that is emanating from the Supreme Court decision. But that needs to be expedited. We need to accept that we cannot win everything in life; sometimes some decisions will go against us, but we accept and move forward.

In fact, I have a suggestion that under Article 110, there is nothing that stops the Speaker of the Senate from forming a Committee of three Senators that advises you – and

you have already recognized the senior counsel here – that will always be looking at the Bills that come in and advise the Speaker. There is also nothing that stops the Speaker of the National Assembly from having a team of three or four Members of the National Assembly who advise him by looking at Bills if they are concerning counties.

Mr. Speaker, Sir, the last thing that I want to say is this; nothing stops the Senate Majority Leader – and I want the Senate Majority Leader to listen to this; I know I am addressing the Chair – but nothing stops him because in his other life, he is ranked high in the Jubilee Government – from working with the Cabinet Secretaries and the relevant Ministries and parastatals to also ensure that some of the Bills start from this House. Who told them that all Bills must start from the other House? So, if there are 10 Bills starting from the National Assembly, another 10 Bills should start from here because the procedure of Article 110 does not say which House these Bills must start from. I think that will also be useful for us. I am saying this because quietly, I have seen the Senate Majority Leader carrying some blue papers, and when I asked him, he said that they are some of the Bills, and I am a bit encouraged because of that.

Thank you, Mr. Speaker, Sir.

(Applause)

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

Sen. Wangari: Thank you, Mr. Speaker, Sir. I know I featured yesterday not in a very positive light. It was definitely not by show of contempt, and I hope that I will be forgiven; I will do as directed by the Speaker.

But that said and done, Mr. Speaker, Sir, I also want to congratulate you for really being the mature one in this case.

(Laughter)

Mr. Speaker, Sir, I also want to display my utter disgust of the manner that we have had to talk about issues back and forth. Although I did not go to the same school as Sen. Kiraitu, Sen. Murkomen and Sen. Orengo, I went to some school and I am hoping that the literal interpretation or reading that I can do to the Constitution, Article 94(4) really shows that we need to safeguard the Constitution, which has vested all the sovereignty to the people of Kenya. I am hoping that this time round, we will see more action and that those people who are taking your humility – like I said, as the mature one in this case – will not take it to be a weakness. I am hoping that we will see some change and that you can be assured of the support of this House in whatever way we can in order to protect the Constitution of Kenya and the sovereignty of the people of Kenya.

Thank you very much, Mr. Speaker, Sir.

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

Sen. (Dr.) Machage: Mr. Speaker, Sir, as I thank you and congratulate you for all you have done, allow me to also appreciate the humility of Sen. Murkomen, who actually continued sitting when he realized I was standing in recognition of my seniority.

(Laughter)

But in his right, he is also a Chairperson of several Committees and also a Member of the Speaker's Panel, which makes him quite senior too. Actually, he is more senior than the others who had purported to be senior to him.

(Laughter)

Mr. Speaker, Sir---

The Speaker (Hon. Ethuro): Order! Order, Sen. (Dr.) Machage!

(Loud consultations)

(Sen. (Dr.) Machage resumed his seat)

Sen. (Dr.) Machage, I did not tell you to resume your seat. I just said "Order!", so that you can listen to me.

Sen. (Dr.) Machage: Mr. Speaker, Sir, being so senior, I was scared to continue standing up.

(Laughter)

Mr. Speaker, Sir, in natural happenings – and most of us, if not all are parents – when you have a brat for a child, he tends to misbehave more when you are around because he feels that daddy is around and, so, he can do anything. The mischief of the Lower House should be a little bit intensely studied; they are brats of whom?

(Laughter)

The Speaker (Hon. Ethuro): Order! Order, Sen. (Dr.) Machage!

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

The Speaker (Hon. Ethuro): Order, Sen. (Dr.) Machage! You have distinguished yourself as an authority on Standing Orders; and I have always reminded you of Standing Order No. 88(5).

Sen. (Dr.) Machage: Thank you, Mr. Speaker, Sir, for reminding me. I want to repeat; the sense and, indeed, the necessity of respect of law as very much clearly stipulated in Sections 105, 110 and indeed other parts of the Constitution, give us that authority that we deserve not to cry because, as has been put by some of our legislators, speaking out for what is good for us is not crying. It is not at all. It only reminds some forgetful minds that they need to read the Constitution and understand it better. I am very happy that despite you not being a lawyer, I think you are better than most lawyers in this country in your understanding of the law. Keep it up and continue that way.

Sen. Njoroge: Mr. Speaker, Sir, I wish to congratulate you for fighting hard for this House. One thing I have observed is that during the induction, if there was any that

was done to the Members of the Lower House, something must have gone amiss. This House should request for another induction because that was not done very well. If you go through the Constitution, you will find that it is very clear on this. The Lower House seems to get away with issues. It is my opinion that this House requests for another induction so that the mandate of each House can be well understood by each Member.

Sen. Kittony: Thank you Mr. Speaker, Sir, for allowing me to contribute on this statement and for bringing this House to this position. I congratulate you and I want to say that we have a responsibility as a House. We have to take up our place as the Senate. I attend many meetings where we are not recognized because we do not take up our position properly. If we are to support the ruling that was read very well - I probably should be saying this in a Kamukunji - we should play our role and take up our positions seriously.

Mr. Speaker, I hope you are listening to me. While we support your ruling, the Senate should take up its position seriously. If we are invited for any functions, we should take up our place. I support Sen. Njoroge when he says that another induction should be conducted so that Senators know their roles. I am not an elected Senator. I am nominated but I take up my position very seriously.

Sen. Murkomen: On a point of order, Mr. Speaker, Sir. Is it in order for Sen. Zipporah Kittony to insinuate that we need another induction? Maybe Sen. Omondi and Sen. Njoroge need an induction but I do not think we can go through another induction.

Sen. Njoroge: On a point of order, Mr. Speaker, Sir. I want to make my point clear. When I talked about induction, I did not talk about Senators. I talked about the Speaker and this time I will be clear; I talked about the Speaker of the National Assembly.

The Speaker (Hon. Ethuro): Order, Sen. Njoroge! I do not think that is what you said initially. You have changed completely and, therefore, completely out of order. You cannot clarify by adding things. You should clarify what you have already stated.

Sen. (Eng.) Muriuki: Thank you, Mr. Speaker, Sir. I also want to add my voice on this important matter. I will start by congratulating you on the way you have handled it.

As Members of the Senate are aware, I have been away for a while. The news of the advisory opinion by the Supreme Court is something I got when I was away. I was very happy and excited about it. I had a feeling that this House was moving towards a very dangerous direction. As I stand here, I want to add one word to this whole game of consultation between you, our Speaker, and the Speaker of the other House with regard to how Bills have been coming to Parliament.

My observation is that the Bills in the Senate are so far four or five. The National Assembly is talking about Bill No.37. The three arms of Government; the Judiciary, the Executive headed by the President and the Legislature headed by the two Speakers, should take another angle that has to be brought into play. Many of the Bills that are going through the National Assembly, I stand to be correct, emanate from the Executive.

The Executive suggests what they want done. The fact that the Bills land at the National Assembly first rather than to the two Speakers of Parliament does not mean that the Bills--- The two Speakers should discuss and I want to ask; do the three arms of

Government ever meet? We need to ask this question so that the advisory opinion from the Supreme Court is looked at. There should be a meeting of the three arms of Government.

The Speaker (Hon. Ethuro): Thank you, honourable Senators. I would not want us to revisit a matter where I have already given a ruling. However, this is a very weighty matter. I think it is important to emphasise some of the matters you have raised.

First, I want to thank you for your positive sentiments. This was not really a matter of your Speaker being in the limelight but the Senate because we passed a resolution to that effect. Without your support, my leadership would not have done much.

Two, it was a very humbling experience, as a number of you have stated, to appear before the Supreme Court to make the conscious decision of whether we were promoting the rule of law and constitutionalism or whether we want to go back to the stone age where people fight with *rungus*, *pangas* and stones. Considering where I come from, that is not a route I want to take. I listened to two Senators yesterday, Sen. Munyes and Sen. Lonyangapuo, who almost brought a theatre of the chaos in their counties to the Senate. It is very important for us to make a difference.

In the 21st Century, in a democracy and a country that believes in the rule of law and these institutions, when the Constitution makes provisions on how disputes and interpretations are handled, then we are in the right institutions. Fortunately for us, our Constitution is very clear and we have the Judiciary to interpret. I could not agree more with the sentiments about the Attorney-General that were raised by Sen. Orengo. I just want to confirm that I personally communicated with the Attorney-General not only once but severally in the role he must play in advising all of us.

In the words of Sen. Kiraitu and Sen. Murkomen, each one of us has a responsibility to play our role as per the Constitution. Unless we stand up, we will be going back to what we have been running away from. It is important for that argument to be made especially when the position of the Attorney-General was contrary to the advisory opinion. So, he needs to be advised and we need to play the chair-leading role of advising everybody.

I want to assure you, Senators, that we have not been lamenting as a House. We have not. We have just been put in an awkward position where we have decided that we will not be the aggressors. We will defend our positions robustly and with determination. No matter how many times the aggressors arrive, our defence shall remain tight.

We went to court, as they say, to seek equity. As they also say, if you go to court seeking equity, you should have clean hands. So, we also went with clean hands. We were very prepared for whatever outcome because we believe in our institutions. We would have taken it in our grace and other options would have been available if the Senators and the country thought so. I just want to conclude by one paragraph in the ruling which is part of the summary I have given to you and which is also in the communication we made to the other Chamber. I like the words used by Sen. Murkomen; “our other Chamber” because we have one Parliament. We belong to the same institution although we are just two Houses. So, this could be issues of a polygamous marriage where they are yet to come to terms, and I hope nobody will use that against me.

It says:

“On the matter of whether a Bill concerns counties, the Supreme Court cited its decision in an earlier matter before the court; read, the matter of the Interim Independent Electoral Commission. There is in reality a close connectivity between the functioning of the national Government and county Government. We considered that the expression “any matters touching on county Government should be so interpreted as to incorporate any national level process, bearing a significant impact on the conduct of county government”.

It goes on to say:

This is a very broad definition which creates room for the Senate to participate in the passing of Bills in the exclusive functional areas of the national Government for as long as it can be shown that such Bills have provisions affecting the functional areas of the county governments. That was our reading of the law and that is what we got.

For the suggestions by Sen. Keter and Sen. Murungi that we should just pick the Bills from the street so to speak or from the Government Printer, yes, that option is available to us but just imagine the anarchy it will create. That we generate Bills, we prosecute them and then we take them to the President. The National Assembly does the same and takes them to the same source. Which one will be signed by the President? As an institution empowered to make laws and with procedures on how to go about it, our procedures are such that either House can generate the Bill and then it goes to the other House. That is just the neater way of doing business because at the end of the day, there is only one law enacted by Parliament of the Republic of Kenya and not by one Chamber.

Thank you.

Next Order!

NOTICE OF MOTION

APPROVAL OF THE NATIONAL HONOURS REGULATIONS, 2013

Sen. Keter: Mr. Speaker, Sir, I wish to give Notice of the following Motion on behalf of my boss who is so busy:-

THAT, the Senate approves the National Honours Regulations, 2013; laid on the Table of the Senate on Wednesday 20th November 2013 pursuant to Section 14 (3) of the National Honours Act, 2013; signed by Sen. (Prof.) Kindiki.

The Speaker (Hon. Ethuro): Next Order!

STATEMENTS

WITHDRAWAL OF SEN. MUTHAMA’S SECURITY

Sen. Orengo: Mr. Speaker, Sir, I was looking behind where my Chair, Sen. Haji is sitting. There was a Statement that you gave some direction on; this is the matter concerning Sen. Muthama. I hope he has the Statement ready.

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The Speaker (Hon. Ethuro): Sen. Orengo, you may approach Sen. Haji. I just want to make it clear to you that if you are expecting a Statement, I think one waits for whoever is responsible to refuse to communicate and then you can do a reminder, and particularly when you are in the same neighbourhood. Sen. Orengo would easily have whispered to Sen. Haji and Sen. Haji would have been acknowledged.

Proceed, Sen. Haji!

Sen. Haji: Mr. Speaker, Sir, I want to tell this House that I complied with the instructions given by the Speaker and communicated the same to the Ministry concerned. Immediately you issued that instruction, I beckoned the Clerk of the Senate, went to his office and rang the officers in that office to make this Statement available today. That is not my business. At 10.00 a.m., I rang the same office and I was assured that the Statement will be here. I stand here annoyed and very embarrassed. We are trying to cooperate and assist, but people are not taking us seriously. I may be forced, with the consent of this House to name that office so that the Senate can decide what to do with it. I am sorry I do not have the Statement with me.

Sen. (Dr.) Machage: Mr. Speaker, Sir, this is a very disheartening report that we have received from a very senior Senator; a Senator who has even served as Minister for Internal Security and even taken up other responsibilities in Government than the Cabinet Secretary. This is just a Secretary not listening to the orders from our senior Senator. We are very disturbed as the Senate and I really sympathize with the Chairman of the Standing Committee on Security and Foreign Relations. I want to thank him for the role he has played to date. He has reminded them three times and even shown his anger on the Floor of the House for that nasty behaviour.

The Speaker (Hon. Ethuro): Order, Sen. (Dr.) Machage! Mind your language. A Cabinet Secretary is not just a mere secretary. He or she is a constitutional office holder with certain specific responsibilities and that recognition should be put in place.

Sen. Billow: Mr. Speaker, Sir, we have heard what Sen. Haji has said. It is becoming very apparent that we are getting a very raw deal from the Ministry in charge of internal security in this country. Members have been asking for Statements, information and directions because insecurity has become a major problem from the central part of Kenya, to the north eastern part and everywhere else. I think it is demeaning when the Senator has to call officers in a Ministry and they promise him something but they do not do it. He did not even mention the Cabinet Secretary. He meant the Principal Secretary and others.

What is clear is that, it has been repeatedly stated in this country by Kenyans across the board that the people who are managing security in this country have failed. To say the least, they are incompetent if they cannot even provide information that is being sought by the Legislature. I think it is time that this House really pronounced itself on this matter by taking an unprecedented action which includes among other things summoning the people who are responsible for security before this House so that we can demand to know what is going on. The responsibility of ensuring security is not only on the Head of State. I think we also have a role as Senators and it is time we demanded those who are being paid through taxpayers to explain what they are doing in their offices. I think it is really embarrassing and I would recommend that we pursue the proposal that the Chair

had suggested a couple of days ago, that we bring all those people who are in charge of security in this country to a forum of all the Members of the Senate so that we can demand to know what is going on.

The Speaker (Hon. Ethuro): Order, Sen. Billow. If you had only bothered to ask Sen. Orenge what had transpired before you came, he would have advised you that such a forum will be available on Tuesday 26th, 2013.

Sen. Musila: Mr. Speaker, Sir, I want to express my utmost sympathy with my colleague and friend, Sen. Haji. I have asked questions about our border problems every time since September, this always been postponed till today. I have not heard anything. More importantly, we are talking about the security of one of our Senators, Sen. Muthama.

Since the security of Sen. Muthama was withdrawn, we have not seen Sen. Muthama here. He is scared and, therefore, staying in his house. I speak to Sen. Muthama every morning to find out whether he is still alive because you never know why his security detail was withdrawn. Yesterday even the High Court issued an order to the Government to reinstate Sen. Muthama's security and up to now, I have checked before I came here and they have not complied. If the State is unable to give my colleague and a neighbour Senator security, would I be in order to be asked to mobilize my people with bows and arrows to be following Sen. Muthama as security so that he can come and represent the people of Machakos County in the House?

Sen. Abdirahman: Mr. Speaker, Sir, I stand to thank Sen. Haji for his honesty and particularly for the effort he has made. The Statement we expected his afternoon relates to the security of a Member of this House and it is long overdue. We have tried to reach this particular arm of Government through press conferences and individual contacts but it is not yielding any fruits. I think waiting for the meeting of 26th September, 2013, which is going to discuss broader national security issues will not solve our current problems.

I would like to request the Chair, because we have had problems in terms of getting information from Cabinet Secretaries, to demand through your office so that we can have the Cabinet Secretary in charge of National Coordination and Security appear before our departmental Committee the first thing tomorrow morning. Kindly give an order on this and help us reinstate the security of Sen. Muthama.

Sen. Keter: On a point of order, Mr. Speaker, Sir. This is not a joke but a serious issue. The Chair himself, who is an experienced Member of this House, has indicated that the office is not co-operating with him or the Committee. All Senators and Members of Parliament are entitled to security provided by the State and not by begging. All of us seated here have our security officers. Since the Cabinet Secretary in charge has refused to co-operate with this Senate---

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

The Speaker (Hon. Ethuro): He is also on a point of order! I will allow you after him.

Sen. Keter: Mr. Speaker, Sir, I was urging you to make a ruling that our colleague, the Senator for Machakos, be provided with security henceforth without any delay.

Sen. (Prof.) Lonyangapuo: On a point of order, Mr. Speaker, Sir. Like my colleagues have said, this is a matter that we should not take lightly, in the light of what the senior Member of this House, Sen. Haji, has confessed here, all of us here can attest to the work that Sen. Haji has really been doing in this House. He is more committed than most of the other Chairmen, to the extent that we need to acknowledge the magnitude of the problem that we have at hand. The relevant officers really need to take their work seriously. They are very busy creating new titles for themselves on the ground; moving from District Commissioners to County Commissioners and so on. When it comes to anything that touches on their welfare, they are very quick to deal with it rather than security issues.

No day passes without a Member here raising an issue of insecurity in the country. The same applies to the National Assembly and county assemblies. I think that we need to stand by the Chairman of this Committee. Although we are going to meet again on Tuesday, we do not know what effect insecurity can cause between now and then. Therefore, they can be summoned to appear before the Committee so that by the time we meet next week, we will have seen the seriousness of that office. Alternatively, they should quit if they are not able to perform.

Sen. Hassan: On a point of order, Mr. Speaker, Sir. I want to associate myself with the comments by Sen. Keter; that this provision of security to Members of Parliament and other elected leaders is not under the discretion of any person or authority. I think that the allocation is as a result of the attendant risks that we face on a daily basis in the discharge of our mandate. Therefore, for any person to jeopardize the security of any Member of this House or any other public official, whose provision for that security is made, I think we need to take also firm action against that person. Therefore, we not only want the reinstatement of the security to Sen. Muthama to be done with immediate effect – and again, I want to associate with Sen. Keter; that the Speaker must make that direction - but we also want those who withdrew that security to be punished under the law. This is because today, it is Sen. Muthama; tomorrow, it will be Sen. Orengo and the next day, it will be Sen. Keter. Every other time that you make a statement that is not compatible with certain interests, your security will be withdrawn. We have been left to the whims of discretion of a man or two or woman or two and this is not what the House wants to be dealing with as far as matters of the security of Members are concerned.

Mr. Speaker, Sir, lastly, the words of one of our elders, who is the Chairman of the Committee on National Security and Foreign Relations, Sen. Haji, must be conveyed in those terms. I think that we should not write a letter, but also attach the HANSARD, so that it reflects the anger of Sen. Haji and the House to whoever is in charge of security, particularly the Cabinet Secretary, who I think is still on a learning curve when it comes to matters security. He needs to learn from the security expertise that some of the Members of this House bring on board. Therefore, we feel extremely belittled and undermined as a House, that even those who are learning the trades of security can undermine those who are quite conversant with security itself.

Sen. Mbuvi: On a point of order, Mr. Speaker, Sir. I also sit in the Committee on National Security and Foreign Relations, under the Chairmanship of Sen. Yusuf Haji,

who is doing a very good job. I would like to tell our security agents that the years of intimidation and dictatorship are over. The years when the Special Branch used to eliminate politicians are over. Although Sen. Haji has not revealed the name of the Cabinet Secretary, which I believe is Mr. ole Lenku, in this case---

Sen. Mositet: On a point of order, Mr. Speaker, Sir. While I have a lot of respect for my colleague, Sen. Sonko, who actually represents many Maasai's from my county, I do not think that it is in order for him to mention the name of the Cabinet Secretary, Mr. ole Lenku, here when actually our senior Member did not mention the name. Could he be allowed to mention the officer, because he never mentioned Mr. ole Lenku? In the Ministry, there could be a particular desk which is in charge of answering questions either from this Chamber or the National Assembly. So, I do not think that the hon. Senator is in order to mention and insinuate that Mr. ole Lenku is the person that Sen. Haji had in mind.

Sen. (Dr.) Machage: On a point of order, Mr. Speaker, Sir. Sen. Mositet has raised a frivolous point of order. Standing Order No.88 does not include the Cabinet Secretary in charge of security as one of those that cannot be mentioned on the Floor of this House. Is he in order?

Sen. Orengo: On a point of order, Mr. Speaker, Sir. On account of what the Senator for Kajiado has just brought out, I want to bring the attention of the Senate to Article 153 of the Constitution, as read with Article 153. If you look at Articles 152 and 155, in relation to the functions of this House, I think that it is for a good cause that when Parliament is dealing with the Executive, the responsibility is with the Cabinet Secretary. You do not find similar provisions when you relate to Principal Secretaries. I invite the Speaker to look at Article 153 and 155, so that when there is a matter of this nature, we would expect responsibility to end with the Cabinet Secretary. It is not a matter which can go to a clerk or executive officer.

The Speaker (Hon. Ethuro): Proceed, Sen. Sonko!

Sen. Mbuvi: Mr. Speaker, Sir, I think that Sen. Mositet was trying to play tribal politics in this House.

(Laughter)

The Speaker (Hon. Ethuro): Order, Sen. Sonko!
Proceed.

Sen. Mbuvi: Mr. Speaker, Sir, I think that we have the oversight responsibility over the state officers. As I said earlier, I sit in the Committee on National Security and Foreign Relations and we have previously been summoning the Cabinet Secretary for Interior and Coordination of National Security and the Director General for the National Intelligence Service (NIS), Mr. Gichangi, and they have not been honouring the summons. Unless we censure all or one of these security agents, this House will never be respected.

Sen. Haji: On a point of order, Mr. Speaker, Sir. There is no time when we have called these people and they have refused to come. I must be very honest. They have

always come whenever we have asked them to do so, but occasionally, we have had to postpone meetings because of other engagements.

Sen. Mbuvi: Mr. Speaker, Sir, I stand corrected since Sen. Haji is the most senior Member in our Committee.

Mr. Speaker, Sir, as I explained earlier, the years of threatening politicians are long gone. I remember the days of the *Saba Saba* rallies where people, including Sen. Orengo, used to be tear-gassed and their private parts used to be pinched by the same security officers.

(Laughter)

The Speaker (Hon. Ethuro): Order, Sen. Sonko! You have become repetitive.

Sen. Mutula Kilonzo Jr.: Thank you, Mr. Speaker, Sir, for the opportunity. In legal circles, there is something we call provident. It is extremely worrying that the people who are supposed to be guarding us are doing so at the discretion of other people who we do not know, yet we think that they are taking orders from us. It is, therefore, absolutely in bad taste that Sen. Muthama's security has been treated casually. The office of the person in charge is possibly 300 metres from here and so, there is no reason all of us should not walk to that office and protest against the manner in which insecurity has been treated.

Mr. Speaker, Sir, from information that I have received from my good friend and Senator for Kitui and the press conference by Sen. Muthama, the security officers attached to Sen. Muthama were withdrawn via a phone call which lasted less than ten minutes. It has taken more than two weeks for his security to be reinstated and now they are not picking phone calls. So, it is extremely worrying to know that as a new Senator in this House, I am walking around with a security officer who is taking instructions from somebody in an office and at any given time, he can be withdrawn. Therefore, as Senators, we are being treated casually. The issue of security ought to be taken seriously. If necessary we ought to walk to that office in protest, because we cannot wait for these things to take another two weeks.

(Sen. Munyes stood up in his place)

The Speaker (Hon. Ethuro): Sen. Munyes, do you want to contribute to this one or the other matter? Finally; Sen. Orengo.

Sen. Orengo: Thank you, Mr. Speaker, Sir. First of all, I want to say this in regard to the Chairperson of the Committee on National Security and Foreign Relations; that the way he goes about his work is diligent and he is all the time available in all the meetings, including this morning; and he is very cordial even to state officers, bending backwards to make sure that the business of the Government goes ahead.

Mr. Speaker, Sir, if you remember, the Senator for Garissa at one time simultaneously or at separate times was the Minister for Defence, Minister for Internal Security and Minister for Foreign Affairs; and I was his colleague at that time. He was able to perform these functions and at the same time be in Parliament answering

Questions, particularly when the late hon. Orwa Ojode passed away. So, he was able to perform those functions without assistance for quite a long time. So, in circumstances where the Senator for Garissa is taking off the load from the Cabinet Secretary in terms of prosecuting these Statements in Parliament, in a matter of this nature, there should be absolutely no excuse for these Statements not being made or brought to the House expeditiously.

But, Mr. Speaker, Sir, what worries me is that Sen. Muthama had the opportunity to record the conversations between his security and senior police officers, and between him and the Inspector-General (IG) – and these documents will be laid on the Table at an appropriate time – but the comments which were being made are very worrying. It is very clear that the withdrawal of the security was deliberate.

Mr. Speaker, Sir, if you look back from 1969, when we started having political assassinations, some of these things happened either when the security was withdrawn or where the police officers, like in the case of Tom Mboya, withdrew; or in circumstances where the police officers were ordered to withdraw, like in the instance of Sen. Muthama. Therefore, this is worrying, because Parliament, at a particular time, made a decision that all Members of Parliament (MPs) are entitled to security. In fact, if you look at the MPs we have lost, including hon. Ndilinge, it was the absence of security that contributed largely to their elimination.

So, Mr. Speaker, Sir, I would join other Senators by pleading with the Chair, that while we wait for the Statement, the Speaker, in exercise of your functions under the Constitution which goes beyond the functional role of the Speaker but seeing to it that the Constitution is complied with, that you direct that, in the meantime – and as ordered by the High Court – Sen. Muthama be provided security because he has not been able to perform his functions as a Senator; and he is part of the leadership in the Senate and, therefore, his functions are very important; and that on Tuesday afternoon, a concrete Statement be made available to the Chairperson, Sen. Haji, before the House.

I thank you, Mr. Speaker, Sir.

(Applause)

The Speaker (Hon. Ethuro): Hon. Senators, I think the issues that you have canvassed, debated, and contributed to are very grave matters, especially when they concern the security of a Senator, who is a Member of this House, just like any other Kenyan. But particularly as a leader in the House, given that he is the Whip from the Minority Side, I want to state as follows. That the security of Sen. Muthama must be assured by the State and he must be given his security today.

(Applause)

Secondly, we want a full report from the Chairperson of the Committee that on Tuesday afternoon, that not only in compliance to this particular directive is reported, but also the reasons why the security of Sen. Muthama was withdrawn in the first place; and who was responsible.

(Applause)

Because, really, until we start asserting the supremacy of the Constitution in the way we perform our functions, we cannot be making the kind of progress anticipated in this Constitution.

Hon. Senators: Absolutely!

(Applause)

The Speaker (Hon. Ethuro): Because if you look at the section from Article 153(4), which was given to us by Sen. Orengo; and it states:-

“Cabinet Secretaries shall –

(a) act in accordance with this Constitution; and

(b) provide Parliament with full and regular reports concerning matters under their control.”

So, when Parliament is asking you for this information, it is in recognition of the fact that, in the final analysis, anyway, they need to report back to Parliament.

If you look at Article 232, which is about values and principles of public service, Chapter 13, says:-

“The values and principles of public service include—

(a) high standards of professional ethics;

(b) efficient, effective and economic use of resources;

(c) responsive, prompt, effective, impartial and equitable provision of services;”

I would like to underline the words “impartial” and “equitable.” Nobody should imagine that those days of one party system, just because you come from an Opposition, is a good enough reason for you not to enjoy certain services provided.

(Applause)

And, indeed, not only Parliament authorized this, it was actually authorized in the Eighth Parliament by the administration of President Kibaki; that every Member of Parliament and Senator must be provided with security. It is our right; so, public servants can only comply.

(Applause)

I want to urge our good friend, the Senator from Kajiado; if for some reason you think that you can do the bidding of a public officer, then you can also help this House by communicating the directive from the Chair.

(Applause)

That is the best way to demonstrate your proximity and the need to be helpful; and you would have been extremely helpful, not only to Sen. Muthama, but to the institution in which you actually serve and to the rest of the country. But we are not seeking for personal favors; we are seeking for responsible actions by officers appointed to public office and paid by public funds.

As for our Chairperson, Sen. Yusuf Haji, we want to appreciate the kind words that other Senators have described you in terms of the way you work.

(Applause)

And it is definitely a cue that Senators usually take from you because you are efficient, you want order and it is a job you have done before. So, you know it is doable. So, I can understand your anger and frustration when others are not performing their duties. So, we will do everything in our power as Senators to ensure that this matter is resolved before the end of the weekend, at least.

Thank you.

(Applause)

Sen. Haji: Mr. Speaker, Sir, I want to thank you most sincerely and also thank my honorable colleagues for their kind words and assure them that I will always try my best to satisfy their needs as far as the question of security is concerned so long as I am their Chairperson here.

Mr. Speaker, Sir, I also have another Statement which I was to read. This is the response to the question by Sen. Bule of Tana River, although he is not here. I, however, want to send back this Statement because it was not signed by the Cabinet Secretary and, therefore, I cannot take it as an authentic Statement.

The Speaker (Hon. Ethuro): The fact that it has not been signed, then it is inadmissible.

Yes, Sen. Munyes.

Sen. Munyes: Mr. Speaker, Sir, I have two Statements, but I wish to withdraw a Statement that I would have wanted the Chairperson of National Security and Foreign Relations to respond to, given that you have already ruled that on Tuesday, we can meet to discuss the matter of the worsening security in West Pokot and Turkana. Following what happened yesterday, which I want to regret, I want to say that I think I can shelve this matter and present it on Tuesday when we meet as a Committee.

The second Statement is as follows:

COMPLETION OF CONSTRUCTION OF CAMPS
FOR INTERNALLY DISPLACED PERSONS

Sen. Munyes: Mr. Speaker, Sir, I want to request for a Statement from the Chairperson of the Sessional Committee on Devolved Government concerning completion of construction of the following camps for Internally Displaced Persons (IDPs), which have been under construction for the last two years; Esokori, Lokichar, Kanamkemer, Nakwamweki, Kalemorok, Kainuk and Katilu. In the Statement, I would like the Chairperson to:

- a) state the technology used to construct the camps;
- b) state the action that the national Government is taking to provide security and other services like water, schools and electricity to the IDPs, given that some of the camps are located in very insecure areas; and,
- c) what plans are there to extend similar services to IDPs in Kakuma and Lokitaung, which were not included in the construction plan.

Thank you very much, Mr. Speaker, Sir.

The Speaker (Hon. Ethuro): Where is the Chairperson?

Sen. Murkomen: Mr. Speaker, Sir, how does that become the mandate of my Committee?

The Speaker (Hon. Ethuro): Who is dealing with the IDPs?

(The Speaker consulted the Clerk-at-the-Table)

Order, Sen. Murkomen! Those are matters which are squarely within your mandate, because they are dealt with by the Ministries which you are supervising; they are under devolution.

Sen. Murkomen: Mr. Speaker, Sir, yes, the Cabinet Secretary is one, but if you read the Standing Orders, it spells out the functions of the Sessional Committee. I can only undertake to do that out of collective responsibility, but it is not the function of the Sessional Committee under our Standing Orders to deal with matters of IDPs. We only deal with matters of inter-governmental relations, county governments, urban areas and cities, but not in relation to building of IDP camps.

An hon. Senator: Are you serious?

Sen. Murkomen: I am very serious; I am not taking it casually, Mr. Speaker, Sir. It is the Standing Orders. I guess such a matter would possibly be in a different Committee, but because we cannot now get exactly which Committee that is, I will undertake to do this for this particular reason. But when it comes to the next question, it must be located exactly where its domain is. I will deliver the Statement in two weeks time.

The Speaker (Hon. Ethuro): Okay.

Sen. Munyes: Mr. Speaker, Sir, I will be okay with two weeks.

CIRCUMSTANCES SURROUNDING THE DEATH OF
HENRY NYABUTO OMWANGE

Sen. Obure: Mr. Speaker, Sir, you will recall that you issued a directive last week so that the question I had raised in connection to Henry Nyabuto Omwange be responded to today. So far, I have not received any response and the Chair does not seem to be ready to come to read the Statement. I would like to know why.

Sen. Haji: Mr. Speaker, Sir, I sincerely want to apologise to my brother, Sen. Obure, for delaying in issuing this Statement. The Statement has not been given to us until now. We will pursue it until we give it to you. Therefore, please, forgive us.

The Speaker (Hon. Ethuro): So, when will you give it?

Sen. Haji: Possibly, Wednesday next week.

Sen. Obure: Mr. Speaker, I am very sympathetic with the Chair of the Committee, hon. Haji, whom I respect very much. I know that he is making very serious and genuine efforts to get this statement. However, I would like to remind him that we are talking about a civil servant who has served this nation for 26 years as an officer of Government. This is a parent who died in unclear circumstances. This was a respected member of the community. His family and children are anxious to know the cause of his death. Therefore, I want to urge, particularly those who are responsible for issuing the statement to see the urgency and gravity of this matter. His children cannot go to school because of the anxiety existing. People are waiting to hear what really caused the death of this very prominent person in the community.

I plead, with the Chair, as much as he may be frustrated, to make extra efforts and ensure that statement is obtained on the day that you have directed.

Sen. Haji: Very much obliged Mr. Speaker, Sir. I agree with the concern of Sen. Obure.

ILLEGAL LOGGING IN MAKUENI COUNTY

Sen. Mutula Kilonzo Jnr: Thank you, Mr. Speaker, Sir. There are a few statements that I had requested for. On your schedule, item No.47 on Illegal Logging in Makueni County was due on 5th November, 2013. There was also a statement on the Demarcation of Konza City Boundary which was due on 13th November. I am particularly concerned about the one on illegal logging because Government agencies are issuing contradictory reports on the ground whilst the Cabinet Secretary had issued a ban. Now, the logging has resumed, apparently, on the orders of the National Environment Management Authority (NEMA). I request that some action be taken so that the Statement comes to the House as quickly as possible.

The Speaker (Hon. Ethuro): Was this one from the Ministry of Agriculture?

Sen. Mutula Kilonzo Jnr: Yes, Mr. Speaker, Sir. There were three items; item No.37, 47 and 56.

The Speaker (Hon. Ethuro): Is there any Member from this Committee who can respond to that? Yes, Sen. Chelule?

Sen. Chelule: Thank you Mr. Speaker, Sir. As you may be aware, we were supposed to issue a statement yesterday concerning irrigation and the issue of land. We could not do it because the officer concerned was not in the office the other week.

Last week, as you know, we had county visits and Senators could, therefore, not meet. We are requesting for another two weeks so that we bring the statement to this House.

Sen. Mutula Kilonzo Jnr: Mr. Speaker, Sir, two weeks is a very long time. I can hold for the rest but not on the one for illegal logging, 14 days is too long while people are still logging a forest.

I had sought for the orders that were issued by the Cabinet Secretary to the Forest Officers in Makueni to stop the logging. The statement that was issued confirms that the logging is, in fact, illegal. I request that the statement be issued on Tuesday.

Sen. Chelule: Thank you Mr. Speaker, Sir. This is an issue that I would not want to give a response that is misleading to the House. I need to have enough time to give a credible answer and a solution to this. I cannot promise that in three days, I will be ready with the answer. I request the hon. Senator to allow me to come back with the response in two weeks. This will allow me to come back with a credible answer.

The Speaker (Hon. Ethuro): Sen. Chelule, we appreciate the need for a credible answer. However, a credible answer can be sought in a lesser period. Considering the fact that the Member has allowed you, out of three statements, you can prioritise one. So, why can you not give one week, Thursday latest, especially on the logging one? You can handle the rest in two weeks time.

Sen. Chelule: That is okay, Mr. Speaker, Sir.

The Speaker (Hon. Ethuro): Next Order!

BILL

Second Reading

COUNTY GOVERNMENTS (AMENDMENT) BILL

(Sen. Sang on 20.11.2013)

*(Resumption of Debate interrupted on
20.11.2013 – Afternoon Sitting)*

The Speaker (Hon. Ethuro): Who was on the Floor? Sen. Murkomen.

Sen. Murkomen: Mr. Speaker, Sir, I want to start by thanking Sen. Sang for being creative, taking up his legislative duties very well and ensuring that he comes to this House with a wonderful Bill which, in my own summary, will bring leaders together for development in the counties; for uniform and collective vision of the counties.

I would also like to laud my colleagues who have made tremendous contributions to this Bill. Sen. Sang is my friend and my neighbour in terms of the North Rift counties. At times, since we spend a lot of time together, I would like to congratulate him because I

am his legal senior. He joined first year when I was leaving in my fourth year. Basically, he has performed above the expectations of very many people to the extent that in one of the forum we were with him, somebody said that the Bill looks like Murkomen but has the face of Sen. Sang.

I want to make it very clear that I made not a single contribution to the drafting of this Bill except to support my friend's contribution because of his brilliance. He has thought and taken seriously the work of our counties. In fact, I remember asking at that time; how does a Bill look like somebody? Senator Sang has thought through something which is very important. These are the advantages that this Bill will bring.

The Speaker (Hon. Ethuro): Sen. Murkomen, you are confirming that a Bill has both a face and a body?

Sen. Murkomen: Yes. The face and the body of the Bill have everything to do with Sen. Sang. They have nothing to do with me other than me being a cheerleader of the Bill.

I have an advantage of having some history. I was Member of the Taskforce on Devolved Government. I have to acknowledge that it was Sen. Orengo who contributed to my membership to that Committee; the Taskforce on Devolved Government. I was telling him that part of his contribution has made me to be called an expert in matters devolution.

In the Taskforce on Devolved Government, one of our initial drafts was providing for a county citizens forum; sub county citizens forum and the ward citizens forum. In the ward and sub county fora, the Chair of the fora was supposed to be a Member of the National Assembly in the constituency, a county Assembly Member in the ward and the Senator was supposed to chair the forum.

When this Bill arrived at the National Assembly – you were there and among the few lethal Members legislative wise in terms of looking at laws. I remember I used to be a consultant of a group that used to call itself the devolution group. This was not formal group but was a caucus. During the caucus meetings, Members of Parliament thought that creating forums at the sub-counties, wards and counties would be an unnecessary impediment to the leadership in terms of the Governor at the county level. Therefore, they amended Section 91. Section 91 of the County Governments Bill provides that the County Government would set up procedures for citizens' participation including the participation of elected leaders which is the Member of the National Assembly and the Senator.

Nine months down the line, no county assembly has provided, through legislation at the county level, a forum where leaders can participate even though the County Governments Act gave them the leeway to create that forum. To the contrary, many counties are suffering from leaders pulling apart. You will find a situation where a Senator is pushing a particular vision which is contrary to what the Governor is pushing and which is also contrary to what the county assembly members are doing and contrary to what Members of the National Assembly are doing and contrary to what NGOs at the county are doing and different from what the churches are doing and yet all these people have representation.

In fact, our Senate, although we borrowed the idea from the Constitution of South Africa, the equivalent of Senate in South Africa is called the National Council of Provinces (NACOP). However, the difference between the Senate of Kenya and the one for South Africa is that the National Council of Provinces is elected by an equivalent of county assemblies, provincial parliaments. They have a vote and they vote for people. They come to the national level to carry out representation on behalf of those parliaments.

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

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

However, Madam Temporary Speaker, our Senate derives its legitimacy from Article 1 and 2 of the Constitution, exercised directly through the sovereign power of the people. That means that all of us, the six leaders elected in Kenya, including the President, have direct mandate of the people to perform certain functions and achieve certain visions.

If you visit some counties, you will realise that if I went to the village today or to a constituency as I will be doing tomorrow, if I were to go to Soule North or Metkei, the people of Elgeyo-Marakwet will not realize that I was elected to represent them in Nairobi. The people of Elgeyo-Marakwet County who elected me will not realize that I was elected just to represent them in Nairobi, but they will ask me why the roads have not been made and why the road between Nyaru and Kapsowar is not tarmacked and why all these things are not done at the county.

To enable me to answer the people well, there must be a forum where the leaders will exchange information. So, the advantage of this Board is, first; the exchange of information. It gives the leaders the ability to sit down together and give themselves information as to what you are doing; for the Members of the County Assembly to be able to brief Members of the National Assembly as to what they have been doing legislative-wise at the county level, to brief the Senator and to exchange ideas about the Constituencies Development Fund (CDF) management. Some Senators have the advantage of travelling and perhaps certain connections.

Could you imagine the kind of connections Sen. Obure, who was a former Cabinet Minister since I was born has? He has connections all over the world and the county government should have a framework to utilize even his connections in terms of attracting investors and giving ideas as to what we can do in terms of agriculture in Kisii County. We should take advantage of previous Ministers like Sen. G.G. Kariuki to give advice with regard to security and tourism, among others, in Laikipia County. This forum gives us the opportunity to exchange information. Misinformation is the cause of many conflicts in this world.

At the moment, the Governor does not even know what the Senator has been saying in this House and people do not even know at the county level what a Member of the County Assembly is doing. I will come with a Motion to this House in the next one or two weeks which will ensure that every county has a county radio. If we do not have a

county radio, nobody will know what the Member of the County Assembly is doing. There should at least be reports as to what they are debating in the county assembly.

Madam Temporary Speaker, this forum that brings all of them together will be very useful in terms of exchanging information. Secondly, this County Development Board as proposed by Sen. Sang is going to give an opportunity for peer review which is a very important concept. It is important for leaders to challenge each other and to ask themselves what they have done. It is good for the Member of the National Assembly to have a forum to say he has, for example, done two or three Bills and even ask the Senator to think of coming up with two or three Bills for the benefit of their county. It is important for Members of the National Assembly to go and tell the Members of the County Assembly not to only debate Motions but come up with County Bills so that leaders are able to challenge each other.

Peer review is a very important concept and that is why the African Union (AU) came up with NEPAD. It was the President of Namibia at that time who called it “knee pad”. This is a new partnership that has a very important concept of peer review where leaders come and sit together and challenge each other about the issues and the things they are doing on behalf of and for their people.

There is misconception about this Board. People read that section that Sen. Sang has come up with and read it as County Government Board whereas it is the County Development Board. It is domiciled at the county level but it does not mean that it is serving the County Government alone. To the contrary, it is an opportunity for every person to be able to account to each other as leaders. There have been a lot of debates; people have said that they do not want Senators to sit with them at the county level, but when I made inquiries as to why some of these counties are uncomfortable with the Senators sitting with them, I have been told that in some counties, the Governors fear the Senator hanging around the county and Members of the National Assembly being able to know what is happening at the county because in some counties, the Senators are seasoned politicians who know matters about accountability like Sen. (Dr.) Khalwale who is known to have chaired the Public Accounts Committee (PAC). I have been reliably informed that some of our Governors fear us because of social auditing; the basic audit of what they are doing at the county level.

Madam Temporary Speaker, in one county, you will be told that a building has cost Kshs10 million and a similar building in an adjacent county has cost Kshs60 million. That kind of disparity and the fact that leaders are not supposed to know these issues raises this fear. I can look at a building and cost it. They do not want us to deal with issues of corruption which is our oversight function. We should not wait just to do a postmortem; the kind of oversight that we do two years down the line while reading the Auditor-General’s report.

That kind of oversight that waits for the Auditor-General’s report to do a postmortem is not useful to the *mwananchi* at the local level. The best auditing is the one where we are together, exercising our oversight role immediately so that we can avert a situation where resources at the local level are going to be misused. I know one thing; that the people at the local level will say that if the Governor fails, all the leaders have failed. When we go to the next elections, the people of Elgeyo-Marakwet will be at pains

to accept an argument by the Senator which says that I did my job, whereas at the local level, money has been misused.

I have said this time and again; that Senators and Governors in the words of former American President Benjamin Franklin need to appreciate that you have to hang together or you will be hanged separately. It is important that we have to sit together, agree on development, have an agenda and vision for the county being driven in one direction or in 2017, we will be hanged separately. It is important that all of us come together to think through the vision. You cannot tell me that out of five or 40 elected leaders in the county, only one has a vision and the others are just supposed to follow. It is important that we bring these visions that we have for the county together and push them through the County Development Board. That is why I support this idea of the County Development Board because it will avert situations of corruption and give us an opportunity to oversight.

Madam Temporary Speaker, public participation is a very important concept in leadership. There is a chapter in the County Governments Act - I want to be very proud to have contributed to its drafting - that talks about the protection of the minority and the marginalized and participation of the public. If you go to some counties you will realize that there is an ethnic majority and in one corner there is a particular ethnic minority. This ethnic minority has elected a Member of Parliament and some Members of the County Assembly and when they make decisions, in most cases because of the nature of politics in this country, you will find that they belong to one particular party. So when they reach the county assembly, they become the minority political party and their decisions are overrun using the tyranny of numbers. But if they have an opportunity where a Member of the National Assembly is elected from that community and the Members of the County Assembly are sitting together, then they will have that opportunity to be able to speak to each other.

This is Kenya, but I want to be very candid. If you go to Bungoma, you will find that in some corner there, a very beautiful mountain called Mount Elgon, there is a constituency that largely has the Sabaots, but the rest of the county is formed by the Luhya Community. Now, they have a Member of the National Assembly and a few Members of the County Assembly. It is important to ensure that the Member of the National Assembly is not pulling in a different direction inciting the community, perhaps against the county government. To do that, they have to have an opportunity to sit together through the County Development Board and agree on certain issues.

If you go to north eastern, you will find a situation where all the Members of the National Assembly come from a different clan, may be a Senator comes from a different clan and the Governor also comes from a different clan. Let us take the example of Trans Nzoia County where there seems to have been some form of coalition that one community brings the Senator and the other community brings the Governor. Now, if these two people cannot sit together for development of their county, why was there need for that kind of coalition in the first place?

In fact, I am opposed to the amendment that one of the Senators was suggesting that we need to remove the deputy governors from the meeting of the County Development Board because in the true sense of it, in most counties, the Deputy

Governor is contributing to a coalition in a county. If you go to Nakuru, you will have a Governor from one community while the Deputy Governor comes from another community. The idea is to bring people together. In fact, you will find the same scenario in Narok County and Trans Nzoia. If you go to north eastern, one clan brings the Governor and the other clan brings the Deputy Governor and yet most of these deputy governors are ignored when it comes to the running of the county.

In fact, the greatest concern for me in terms of devolution is that most deputy governors are either flower girls or page boys. It is important that there is a forum where we are going to come together and think about the county because some of these governors have completely forgotten that they won the election by the assistance of the Deputy Governor. Even it means balancing the constituencies where you have a Governor coming from one constituency and the Deputy Governor coming from another corner of the county to give the balance of the county.

So, this leadership forum is very unique and important. It gives us a balance and the representation of the minority and marginalized communities. It makes everybody feel part and parcel of the county governance particularly because it is not legislative. So, the tyranny of numbers does not occur because it is a peer review forum. Even if you come from the smallest community, you are able to be heard at the county level.

Madam Temporary Speaker, when citizens want to petition to be heard, they will be able to come and say: Can the County Development Board discuss this issue? If you look at matters of security, some of the reasons why there is insecurity in certain counties is because one clan is pulling against the other. In some situations, it even goes beyond the county. In one county, a particular clan has the leadership while in the next county the clan which is the minority has the leadership. So, it is important that we have that forum to sit together and discuss matters to do with security which are matters of the national level. In fact, I do not know why our Governors are so concerned about infringement of the functions of the county government and they are not concerned about the infringement of the concerns of national Government.

The Members of the National Assembly are representing, to a great extent, the roles that the national Government is doing. For that reason, that is the opportunity for us to ask them; During the Budget for the national Government, what is there in it that is going to come to the county this financial year like a road, a manufacturing plant, a university or a polytechnic? So, we must look at the benefits that this forum brings. It brings harmony and unity. We will avoid situations where we are speaking at cross purposes and leaders will be speaking together particularly when it comes to matters security.

So, I want to allay all the fears that our county Governors had. Most of them think that Senators are just supposed to be in Nairobi and they fear that we are going to take up their jobs. I want to be very candid that most of us who are here have had great experience in passing legislation in Parliament while some of us are lawyers. Before I ran for the position of Senator, I had done clear auditing and research as to what Senators and Governors should do and we are not interested in being Governors. What we only want is to ensure that we play our role in how our counties are run in terms of contributing ideas and advice.

I like what Sen. Okong'o said that giving advice does not mean that the other parties must follow it, but at least you will sleep as leaders knowing that that message that you were given by the electorate at the local level, you have had an opportunity to pass it to all the leadership so that each one of us can have an opportunity to access county resources.

The only objective we have here is to finish poverty. If one person can come with a *rungu* and hit your head and another one comes with a knife and chops your legs, it does not matter as long as we can bring down poverty. We cannot start saying that poverty eradication is only a function of the county Government and that the Governor has the sole responsibility to eradicate poverty at the local level or that employment can only be eradicated by one person. Let it be a collective responsibility for all of us to use. They say if you want to walk one mile, you walk alone, but if you want to walk 2,000 miles, you walk with the other people. The company of the other leaders should give security to the Governors that we are ready to perform and work together as leaders at the county level.

In fact, some have asked, and I want to pass this message very clearly: Suppose Parliament passes this Bill and the Senator convenes the county development board and the Governor does not appear, what will happen? We will return here and file proper procedures for the removal of any Governor who is going to violate the law. So, let them be warned that we are not a country where there is no rule of law. As long as this Bill will be passed and become law, we will all be bound by it. The chair will be bound to call a meeting and the members are bound to report to the county development board.

Madam Temporary Speaker, there are people who are saying that if the Governor becomes the secretary, it is a demotion. Let me make it very clear that the mentality of always looking at positions--- Someone who cooks in a nursery school in the village, for example, is doing tremendous work to ensure that a small child, who at one time will be the President of this Republic, is fed well and, therefore, continues with their education. So, it is not undermining your integrity or ability if you cook for the nursery school. But if you cook for the President, your position is even higher. You travel with the President all over. If you are called "secretary" just like the Cabinet Secretary, it does not mean that you are a mere secretary. There are many secretarial positions, including the Personal Secretary to the President and Cabinet Secretary. So, even a board secretary at the county level is a very honourable position.

In any case, the Constitution says that the Governor is the Chief Executive Officer (CEO) of the county. So, if you are a CEO, like any other CEO in any public institution, you are the secretary of the board of that county. It does not mean that the Governor is the one to take notes. He can always bring his assistants and so forth. In any case, in more "digital" counties, you do not even need to take notes. You will just speak to some devices and somebody will be there transcribing the message and it will be reported back to the committee. So, the question of just being a mere secretary does not arise.

Madam Temporary Speaker, the other point that I want to mention is that the Constitution of the Republic of Kenya does not have the functions of a Governor. I know that this will shock so many people. It does not also have the functions of the Deputy Governor. The Constitution only mentions functions of the county executive committee.

In essence, it means that in the Constitution, it was envisaged that a county executive headed by the Governor will work as a team, so that the Deputy Governor's decision and county executive members' contribution is important. It is only in the County Governments Act that Parliament attempted to bring about the functions of a Governor in detail. But constitutionally speaking, the county executive committee acts collectively. It is an institution that acts collectively. So, there should be no obsession by one individual of that executive committee.

If we were going to speak derogatively about the position of the secretary, we would even say worse of the county executive committee, because we would have just said: "The Governor is the head of a committee." But the county executive committee is a constitutional committee and so, they work and act collectively. That collective responsibility should teach our Governors that the individual glory of a Governor does not arise from the Constitution. It talks about teamwork and that teamwork now needs to be extended, under the provisions of Article 91 of the Constitution, to the National Assembly, the Senate and Members of the County Assemblies, so that all of us can contribute to the better vision of our counties.

Madam Temporary Speaker, in conclusion, I have a message for the Members of the County Assemblies (MCAs). The county assembly is a very honourable and wonderful institution. Therefore, it is important for them to appreciate that their membership in this board has nothing to do with their constitutional responsibilities to pass legislation, provide oversight and representation. If there was a threat to the county assemblies functioning, that threat also would have affected the functioning of the National Assembly and the Senate. There is no legislation that can limit the constitutional functions of a constitutional institution. So, I want to give them the assurance that after we have all consulted, they will go back more knowledgeable and having a wider perspective. They will go to the county assemblies and pass legislation, budgets and development plans. It does not have to be exactly in the sense in which it is contributed by the board, but capturing the vision of the county, as expected from the board. Therefore, their work becomes even better, neater and excellent. Their contributions will become more useful to our counties.

Madam Temporary Speaker, for those many reasons, I support the amendments that are going to create the sub-county development board, chaired by the Member of the National Assembly and the ward development board, chaired by the Member of the County Assembly. I support this Bill because I know that it is going to give us a more organized leadership and delivery of the vision for our people, under this new devolved system of Government.

Sen. G. G. Kariuki: Thank you very much, Madam Temporary Speaker, for giving me this opportunity to make a few remarks on this very important Bill. Unless we want to misuse words in saying what we want, this is a very sober Bill that is asking the whole country that development without involvement of everybody does not become good development.

Madam Temporary Speaker, if you look at the memorandum of this Bill, it is very simple. Let us not make a forum where we appear as if we have war with anybody. We have no war with any Governor and those who have their personal wars, should not use

this platform to try and condemn our colleagues at home. This is a simple matter; that we want to get involved. All elected and nominated MCAs want to have a forum to sit together.

In fact, if the Governors were well advised, they would realize that the burden which they are carrying is going to be divided amongst all of us. If there will be no development, the Governor alone will not be condemned. As my colleague rightly said, the Governor in the Constitution does not have any responsibility except execution of what has been passed by the county assembly. That is why this responsibility is not to the county assembly but the so-called “cabinet,” which also does not appear anywhere in our Constitution. I think that we need to start being very open and frank. Let us correct our people before they make a big mistake. This is because there is no provision in our Constitution for a county government to have a minister. It is the county executive committee which now advises the Government and does the job of implementation of whatever has been passed by the county governments.

Madam Temporary Speaker, therefore, I am appealing to my colleagues here that when we have a very serious matter like this one, we have to watch our words, because the Governor is elected, just as we are elected. I cannot claim to be more popular in Laikipia than the Governor and he cannot as well claim to be more popular than me. This is because we were elected by the same people, with the hope that we were going to join together and give them services. They are not interested in anything else other than services. In fact, people in some counties have started wondering why they elected some leaders. This is because during the elections, some people did not understand the roles of a Governor, a Senator and even a Member of Parliament. We have been working in darkness.

Madam Temporary Speaker, there are those who claim to be good lawyers. Let us tell them today that none of us is an expert of the current Constitution. Sometimes I get disturbed when lawyers behave as if they are in court. This is a political document which has nothing to do with lawyers. If you are charged with the responsibility of determining what the Constitution says, you can only do that if you look at the drafters and try to determine where their thinking was directed. It is not what the lawyer would have wanted it to be. I would like to appeal to all my colleagues to be responsible. Let us not insinuate that some Governors are not important. They are all Governors and are here to stay with us. No one is going to remove them. But I also appeal to them to look at this issue seriously and critically, and determine whether it is for the benefit of the Senator, Governor or MCAs. It is for the benefit of the entire county, because that is what the county wants. The county needs services no matter what we say here.

Madam Temporary Speaker, the only thing that I have not made a clear decision on is whether the Senator should play the role of the chairman and the Governor the role of the secretary. I think that this point needs to be explained because Kenyans have got a chronic disease of wanting to become bosses. If I become chairman, immediately the Governor or someone else will think that I am the boss. But somebody must sit on that seat, whether it is the Governor or Senator, because that is what we are charged to do by the people of Kenya.

Madam Temporary Speaker, let us also understand that this House is not final. The Governors have the right to contest this law in the High Court or Supreme Court. They can seek to know whether we are infringing on their rights. Therefore, let us try as much as possible to create a law that cannot be challenged, because the aim is to make sure that our people get development, which they have lacked for many years. We want to make laws for posterity. The law should favour the Republic and people of Kenya.

Madam Temporary Speaker, although I was out of the country for a short time and quite a number of Senators have contributed and I am sorry if I may be repeating what they said; but it is my strong feeling that we should pass this law to make sure that Kenyans really see that we are serious in wanting to see development taking place in every place without interruption. But the reason for bringing this Bill at an early stage was the saying that “Senators do not appear to be having any job;” or “the Senators are like this; there is no way you can direct these people.” This House should not be for directing anyone; it is a House where we are all equal – we are equal with the Governors and even the Members of the County Assemblies (MCAs).

Therefore, the people of Kenya will judge--- My colleague here, Sen. Sang, will not be judged in future by what we have passed here; we will also not be judged by what we are doing here; but we shall be judged by what we shall have done because this can be passed, everyone can agree with it and then it becomes ineffective. I understand Kenyan politics and the way they reduce even important things. If I was the governor or the MCA, I would support this Bill because you have come to share my political burden, which is a really big burden for the Governor. There is a very serious problem; no governor can now walk with his face high because they have been asked several questions like “what have you done?” and this is very painful because we all know that no county has done anything so far. The Government of Kenya has not done anything, leave alone the county governments. We are all in a learning process and, therefore, let us hope that when we are discussing this Bill, we must be as sober as possible. Let Kenyans judge us as the most responsible people who would stand and speak clearly and in a language that they can understand.

Madam Temporary Speaker, I am sure that a number of my colleagues have contributed and I do not want to repeat what they have said. With these very few remarks, I wish to thank you very much and I beg to support.

The Temporary Speaker (Sen. Ongoro): Sen. Obure.

Sen. Obure: Thank you, Madam Temporary Speaker, for the opportunity. First, I want to thank the Senator for Nandi, Sen. Sang, for his initiative to bring this Bill here and for moving it very passionately and with clarity. I also want to thank Sen. Amos Wako for adding a professional touch when he eloquently seconded the Bill, and for assuring the country that the Bill does not, in any way, violate constitutional provisions; neither does it violate any existing law. I also want to thank Sen. Wako for assuring this House and the nation at large that, indeed, this Bill is well within the letter and spirit of the Constitution.

Madam Temporary Speaker, I also join my colleague Senators who have contributed before me in appreciating the good work done by the Standing Committee on

Legal Affairs and Human Rights, first, for spending many hours to interrogate the Bill and to make contributions which have, in fact, enhanced the quality of the Bill.

Madam Temporary Speaker, I strongly feel that the idea of the Boards being proposed is a very brilliant idea which will go a long way in ensuring the success of county governments and, indeed, the success of devolution as a whole. Success will be assured largely because the proposed Boards will involve the participation of all the key players; the leaders themselves within that particular county and within its jurisdiction. The fact that they are Members of those Boards will give them an opportunity to contribute in terms of ideas, and to participate in the various proposals that will come out. I see that through the platform created by these Boards, a lot of potential disputes will be solved long before they even emerge. I, therefore, think that this is a very brilliant idea.

Madam Temporary Speaker, the function of the proposed County Development Boards is threefold, as I said; first, to create a forum for consultation among the main players within the counties. Secondly, the Boards will take responsibility for co-ordinating and harmonizing development plans and projects. This is very important because there is need for us to operate in a manner which is harmonious and in a manner which is also co-ordinated. These Boards will also be empowered to consider and recommend those integrated plans and even the budgets before they are ultimately presented to the assembly for consideration and approval.

Madam Temporary Speaker, the functions of the proposed Boards are clearly designed, in my opinion, to achieve order and harmony in managing the development activities and programmes within the counties. I do not personally see any area of conflict. I do not see how they interfere with the functions assigned to any other players. I do not see how they will impede the discharging of functions assigned to other office bearers. In my opinion, there is absolutely no conflict of any kind; and in any event, we have been assured that the Boards will largely be advisory and that they will not assume any executive functions.

Madam Temporary Speaker, if you look at any county today, there are funds from various sources which are available for development activities within that county. There will, of course, be the Constituencies Development Fund (CDF) with the Members of Parliament (MPs) as the patrons. That Fund will engage in development activities within a constituency in any particular county. Then there will be the county government itself which will be undertaking development activities. Once again, the main job and mandate of county governments is to carry out development activities within their respective counties. Of course, there will be the national Government which will also be carrying out development activities, particularly in respect to the functions which are assigned to it nationally and, of course, these functions will have to be discharged in our respective counties. Of course, there will be other players – the Non-Governmental Organizations (NGOs), the churches and all those.

Madam Temporary Speaker, if each of these development agencies or development players were allowed to proceed as they wish in carrying out and implementing programmes within our counties, all those initiatives will create such a huge amount of confusion; all those efforts will be duplicated and the result will be wastage of funds. This, in itself, will create room for embezzlement of funds on the part

of those charged with managing those funds. This will in turn give rise to unnecessary conflicts among the various players within the county. I also feel that it will create room for undermining accountability; people who are charged with the responsibility to account for money will not do so; they will find excuses – they will say “we did this and the other project” when, in fact, it was done by another agency; or “we did this road” when it was done by another agency.

So, I feel that accountability to the people will be undermined if we allowed this state of affairs to take place. It is for these reasons that I feel strongly that there is a case to put in place a mechanism for consultation to guarantee orderly and smooth implementation of development programmes and projects in any county government; and I see the proposed Boards as the perfect mechanism to be put in place to play this important role.

Madam Temporary Speaker, if you look at the role of the Senate and ourselves as Senators in this House, the Constitution gives us the mandate to represent our counties, to protect the interest of our counties, to participate in making laws which touch on the counties and to exercise oversight over funds allocated to the counties. For the Senator to represent his or her county effectively, he or she needs to know what goes on in that county and he needs to understand everything that takes place in that county. The Senator must understand the needs of his own county so that he can formulate strategies to meet those needs. Therefore, there is need for us, as Senators, to keep abreast of the developments taking place in our own counties. I feel very strongly that the proposed County Development Boards will provide a platform for us to engage in the major activities taking place in our counties and, therefore, to understand the needs of our counties much better and, by doing so, to perform our duties much more effectively in undertaking the assignments which have been given to us by the Constitution.

Therefore, Madam Temporary Speaker, I want to urge Members of the Senate and members of the general public in our country to understand that what we are trying to do here is very critical to the success of our own county governments and devolution as a whole. I want to appeal to us in the Senate to support this Bill because I think it is a very important mechanism that we are trying to put in place.

With those few remarks, Madam Temporary Speaker, I beg to support.

The Temporary Speaker (Sen. Ongoro): Sen. Liza Chelule.

Sen. Chelule: Thank you, Madam Temporary Speaker. Asante Sana. Nataoa shukrani kwa kunipatia nafasi hii ili nichangie Mswada ulioletwa na Sen. Sang. Kabla ya kuchangia, ningependa kumshukuru sana Sen. Sang kwa kuleta Mswada kama huu wa kutaka kuwa na bodi katika kaunti. Jukumu la bodi hizo zitakuwa ni kuunganisha viongozi katika kaunti zetu na kuongea kuhusu maendeleo katika kaunti zetu. Nilipoona bodi hizo, nilifurahi sana kwa sababu bodi hizo zitaanzia kwenye kaunti na zitaenda kwenye kaunti ndogo, hadi kwenye wodi.

Mswada huu utawaelimisha viongozi kwenye kaunti. Viongozi watakuja pamoja na kuongea kuhusu maendeleo katika kaunti yao. Watakuwa pia na nafasi ya kuelewa vile mambo yanafaa kufanywa. Kuna watu ambao wana wasi kuhusu bodi hii. Bodi hii itawaunganisha viongozi na kuwaelimisha pamoja na wananchi. Haja yetu kama

Maseneta ni kuhakikisha kwamba tumewafanyia wananchi kazi vile tulivyowaahidi tulipokuwa tukiomba kura.

Kazi yetu kama Maseneta ni kuwakilisha serikali za kaunti na wananchi na kutetea pesa ili ziende kwa wananchi. Haitakuwa vyema kutetea pesa ziende katika serikali za kaunti bila sisi kuwa na nafasi ya kujua vile pesa hizo zitatumika. Kwa hivyo, nafurahi kujua kwamba tutakaa kama viongozi wa kaunti na kujadiliana pamoja ili tuwe na mipangilio ambayo kila kaunti inahitaji. Pia, tunafaa kujua shida ambazo zinakumba kaunti zetu. Vikao vyetu katika kaunti havitakuwa vya kuitisha uongozi katika kaunti lakini vitakuwa vya kubadilishana mawaidha kulingana na vile tunavyotaka kuhudumia wananchi.

Bi. Spika wa Muda, kiongozi anaweza kuanzisha miradi na hatamu ya uongozi wake ifike kikomo kabla hajakamilisha miradi yake. Itakuwa vibaya sana kama kiongozi ambaye atakuja nyuma yake atanzisha miradi mingine badala ya kuikamilisha ile iliyokuwa ikiendelea. Tutakapokuwa na vikao katika kaunti, tutahakikisha kwamba miradi yote ambayo ilianzishwa mbeleni imekamilishwa. Kuna miradi ambayo hajakamilishwa kwa muda mrefu. Miradi hii huwachwa hivi mpaka pesa zinakwisha.

Kabla hatujapitisha Katiba ambayo tunayoitumia sasa, tulikuwa na kamati ya maendeleo katika kila wilaya. Bodi hii itafanya kazi kwa niaba ya kamati ya wilaya. Kamati hiyo itakuwa ikifanya kazi na kuchunguza ni sehemu gani ina shida.

Mimi natoka Kaunti ya Nakuru ambapo kuna shida ya barabara. Bodi hii itakapoanza kufanya kazi itaweza kujua shida ziko katika sehemu zipi. Kuna sehemu ambazo zina shida za barabara na sehemu zingine ambazo zina shida ya maji. Watu wengine wana shida ya hospitali. Ni jukumu letu kufanya kazi hii kwa sababu tulichaguliwa na wananchi. Watu ambao walichaguliwa walikuwa kama sita. *Our work is to provide services to the people.*

Naunga mkono Mswada huu na kumpongeza Sen. Sang. Watu ambao wanaipinga bodi hii kwa kusema kwamba Sang hata hajaoa wanafaa kujua jambo hili halihusiki na bwana au bibi ya mtu. Bwana ya mtu hawezi kuwa mwakilishi wa bodi na pia mtu hawezi kumleta bwana yake kuwa mwakilishi wa bodi. Yeye alijitokeza baada ya kuona kwamba kuna haja ya kuwa na bodi kama hii. Hakufikiria hivi kwa sababu ya umri wake mchanga. Alifikiria hivyo kwa sababu ana akili nzuri sana.

Bodi hii pia itakuwa na viwango vitatu. Kutakuwa na moja katika sub county ambapo mwenyekiti atakuwa Mbunge wa sehemu hiyo. Kutakuwa na kitengo kingine katika wodi ambapo mwenyekiti atakuwa ni Member of County Assembly (MCA). Bodi hizi zitawaunganisha watu wote. Watu wote wataelimika kutokea kiwango cha wodi hadi kaunti. Sisi sote tuna changamoto tunapoendeleza maendeleo katika kaunti zetu. Tutakapokuwa tukikutana katika kaunti, hatutakosa kupeana mawaidha kuhusu vile tunaweza kufanya kazi. Kazi yetu ni kuhakikisha tunawajibika katika kuwasaidia wananchi.

Mswada huu umenifurahisha na kunielimisha sana. Sote tutakuwa tukisoma katika ukurasa mmoja. Sasa hivi, tukiulizwa kile ambacho kinaendelea katika kaunti zetu, ingawa tuko hapa kuwakilisha kaunti, utashangaa sana kwa sababu hatujui. Wengine wetu hatujui chochote kinachoendelea huko. Mambo yote kuhusu pesa yamekuwa ni ya siri. Hiki ni kikao ambacho kitatusaidia kujua ni pesa ngapi zimetumwa katika kaunti na

ni ngapi zimetumika. Pia, tutajua ni pesa ngapi zimepotea na miradi ambayo inafaa kufanywa. Mimi kama Seneta kutoka Nakuru, nitafurahia kwa sababu nitajua shida ambazo zinakumba sehemu tofauti.

Bi Spika wa Muda, kuna mambo ambayo huwa yanasahaulika. Haya ni mambo ya kuzaa na huduma za hospitali. Akina mama na watoto wengi wamepoteza maisha yao. Kama hatutakaa pamoja kama viongozi, hakuna mtu atakayeifikiria shida ya mtu mwingine. Lakini tukikaa pamoja kama Maseneta ambao wanawakilisha watu ambao hawajiwezi katika jamii, kwa sababu hakuna mtu aliye kamili hasa, tutaweza kusaidiana. Jambo hili litatukutanisha na kila mmoja atakuwa amewakilishwa katika kaunti.

Bodi hii pia itatuunganisha pamoja kama viongozi na kutuelimisha. Sisi wote tuna majukumu ya kuchunguza jinsi pesa zinavyotumika katika kaunti zetu. Kazi hii haifanyiki katika kiwango cha Serikali kuu. Sisi kama Maseneta tunaangalia Serikali kuu na pia zile za kaunti. Tunawaakilisha watu wa chini kulingana na Katiba. Haitakuwa vyema kama Seneta kuwa sina jibu la kuwaambia wananchi wakitaka kujua kwa nini hawana hospitali ama huduma zingine. Ni lazima nijue ni pesa gani zitakazotolewa kutoka Serikali kuu. Pia, ninafaa kujua ni kiasi gani cha pesa ambazo zimetumika katika miradi mbali mbali. Hatutaki pesa zitumike katika katika miradi ambayo hatujui.

Namshukuru Sen. Sang kwa kuleta Mswada huu. Kuna mambo ya mipangilio ya maendeleo ya kaunti ama *strategic plan* ambayo hatujaonyeshwa. Hii itakuwa nafasi yetu pia ya kujua mipangilio ya kila kaunti. Tungependa kujua ni miradi ipi inafaa kupewa kipaumbele. Ikiwa watu wanataka hospitali na barabara, hatuwezi kusema tuwekewe stima kwanza. Hatuwezi kusema tutengenezewe barabara ikiwa hatuna stima. Hii itatupa nafasi kama viongozi kuungana pamoja. Tunafaa kujua ni nani anafanya kazi ipi. Tunafaa kuifanya kazi hii tukiwa na umoja.

Sina mambo mengi bali kuunga mkono Mswada huu.

Sen. Njoroge: Asante, Bi. Spika wa Muda. Yangu ni kuunga mkono Mswada huu ambao tunaita Sang Bill. Mjadala wenyewe unatutambua katika kaunti hata sisi ambao mara nyingi huitwa *nominated*. Sasa tumepata kazi ya kufanya katika kaunti ambazo tumetoka, sehemu ambayo tulipigia kura. Mara nyingi, tumekuwa tukienda katika kaunti na kujisikia kama watu ambao wanaomba kusikilizwa. Lakini sasa, Mswada huu umetupa kazi katika bodi.

Jambo lingine ambalo ningependa kusema ni kwamba imekuwa vigumu sana kuwasaidia watu walemavu katika kaunti kwa sababu hatujakuwa na mikakati bora. Kila eneno likiwa na uwakilishi hapa Seneti na tujadiliane mambo yanayowakumba watu walemavu, basi mambo haya yataangaliwa vizuri. Nimekuwa nikifikiria kile Maseneta ambao walipewa kura wangewaambia wananchi baada ya miaka mitano. Wananchi ambao waliwachagua hawawezi kuelewa kwamba kuna mambo muhimu ambayo yanapitishwa na Seneti ambayo yanawafaidi katika kaunti. Sasa, vile watahusishwa, kazi yao imekuwa rahisi. Sasa wataweza kuwaeleza kazi ambayo wamekuwa wakifanya. Watu waliopiga kura wangedhani kwamba walidanganywa. Sasa hivi, wamejihusisha moja kwa moja.

Jambo lingine ambalo ningependa kusema katika Mjadala huu ni kwamba Mswada huu umeletwa katika wakati unaofaa. Seneti hii inatakiwa kuwa ikifanya kazi ya kusaidia kaunti. Juzi, Seneti ilipokuwa ikizunguka kupokea maoni kuhusu Mswada wa

Sang, watu walisusia vikao hivyo. Magavana wengi walisusia vikao hivyo na hawakutaka kukutana na Maseneta. Watu waliwasikiliza *county executives* na kuvisia vikao vya Maseneta. Jambo hili litakuwa ngumu sana kwao lakini kulingana na maendeleo ambayo yanatakiwa katika kaunti, bila kuhusisha Maseneta, maendeleo hayatapatikana kwa urahisi.

Magavana wanacheza mchezo kwa sababu wakipatwa na shida ambayo wanataka tuitatue kama Seneti, wanatukimbilia. Wakati walisikia Maseneta wanataka kushirikiana nao katika miradi, pia wakawa na wasiwasi. Hawataki kutuona. Ni kwa nini Magavana wanaendelea na hio tabia? Tunajua vizuri kwamba wengi wao walisusia vikao kwenye kaunti kwa sababu ya jambo hili. Inafaa ieleweke vizuri kwamba Gavana sio mwandishi kwa sababu mwandishi ndio anaweka rekodi wakati ambapo kamati inakutana. Na kama Seneta angekuwa secretary sijui ingekuwa. Lakini kwa sababu wao wenyewe watakuwa secretaries, itakuwa vizuri kwa sababu wao ndio watachukua rekodi za mikutano.

Kwa hayo machache, ninaunga Mswada huu mkono.

Sen. Murungi: Madam Temporary Speaker, I will be very brief because many of the things I wanted to say have been said by the previous speakers including Sen. Obure and Sen. G.G. Kariuki. First, I want to congratulate Sen. Sang for coming up with this Bill and also the Members of the Standing Committee on Legal Affairs and Human Rights. We did very wide consultations because there were arguments from legal groups that this Bill is illegal and unconstitutional because it offends the doctrine of separation of powers. But when we sat down with them and discussed, they all agreed with us that there is need for coordination of development at the county level and so long as we do not make executive decisions and so long as our role was advisory and recommendatory, then there was no problem and that the doctrine of separation of powers will not be offended. I think after our interaction with them, the initial hostility against the Bill has been overcome.

We pointed out to them that what we are doing is not retiring them because Article 91 of the County Governments Act does provide for every county to have a forum like this where elected leaders meet to discuss development planning. It specifically mentioned that such a forum should have Senators, Members of Parliament and other elected leaders. As of now, there is no county in the country where that forum has been established which makes this Board a necessity now.

Madam Temporary Speaker, I think the constitutional and legal basis of this Board can be traced to our mandate under Article 96 (1) which says that the primary responsibility of the Senate is to represent the interests of the county Government which includes the county executive and the county assembly. The question is what we mean by the word "represent" and what those interests that we are representing as Senators are. I think when you represent somebody, you are an agent of that person and you have authority to speak authoritatively on behalf of the agent. It is like when you get a lawyer to represent you. The lawyer has the mandate to speak on your behalf even when you are present in court because he has consulted with you and you know exactly what he is going to represent.

I think as Senators, just like lawyers get instructions from their clients so that they can go and represent them, a Senator needs to get instructions from the counties. You

cannot come here and say things from your own end if you are truly representing the interests of the county. What we are seeking for is a forum where you can get instructions. It is a forum where you can consult with other leaders so that when you speak in the Senate, you are truly reflecting the views and the feelings of the people at the county level. The term “interests” is a very broad term. It could be economic interests, social interests, cultural or security interests. For you to represent those interests or to know which ones you are representing, it is important for you to consult those people. I think the most critical necessity for this Bill to be passed is because of the current chaos in terms of development which is bedeviling the country today. In fact, there is very little development taking place in the counties because of superiority contests by various elected leaders.

Madam Temporary Speaker, I think in many of the counties that I know, we have situations where elected Members of the County Assemblies are not in talking terms with the Members of Parliament. They complain that they do not know what the Member of Parliament is doing with the CDF because they are not involved. The Member of Parliament is also not talking to them. In another county, you will find that a Member of Parliament is not talking to the Governor and the Governor is not talking to the Members of Parliament. Recently, the Governors went round talking to people trying to do what is called the county integrated development plans. There have been complaints from Members of the National Assembly with regard to how they can complete a development plan for the county without their input being taken into account. We also have situations where Senators and Governors are not talking. The Senator will just be reading in the newspaper what the Governor has done. A clear case is the Machakos County one where a Senator had even to go to court because he was not properly involved.

So that administrative chaos is affecting development in the country, and I think time has come for leaders to sit down together because we are the ones who made promises to the people. The Member of the County Assembly promised the ward what development they were going to do in the ward. It is the Member of the County Assembly who will be asked after five years what they have done for the five years. It will not be the chief or any other leader; it will be the Member who got the votes from the people who will answer that question. At the sub-county level or the constituency level, it is the Member of Parliament who will be asked by the constituents how they have delivered on the various promises they made to them. At a higher level, the Senator will also have questions to answer because all of us promised to do things back at home.

I know Sen. (Prof.) Lonyangapuo must have promised the people of West Pokot that he would do something about insecurity in that region and how they are going to enhance farming and mining in the area although he might have no linkage at all with the events taking place at the county so that after five years, he is not even in a position to know what happened regarding the promises that he made. But if we are in a Board where we sit, maybe the Governor can come and tell us what they are doing with the money they got and then we will advise them on what else to do.

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

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

Mr. Temporary Speaker, Sir, it is not that we are going to make the roads ourselves, but we will look at what is being done and give our input so that we can better represent the interests of that county. So, we are really not competing or trying to create a new level because I have heard some Governors saying that they do not want supervisors. We are not here to supervise the Governors but to enrich and provide new ideas so that our counties can do better. I think that is within our mandate under Article 96.

So, it is for that reason that I am supporting the proposal that we create similar boards at the ward level so that we have a Ward Development Board chaired by the MCA and then we have a Sub-county Development Board chaired by the Member of Parliament. The one at the county level should be chaired by the Senator. We also have a women representative who was also elected from the whole county who is also floating just like the Senator is floating. I think it is important that we say this because the elected Senators are all men. So, let this lady become the Vice Chairperson of the committee so that we also take gender into account.

I think this is a very good Bill, and once again, I wish to congratulate Sen. Sang and I believe after we pass the Bill, he will have no problem finding a wife if that is his problem!

Thank you.

(Laughter)

Sen. Wangari: Thank you, Mr. Temporary Speaker, Sir. I am not talking on behalf of Sen. Sang but I am reliably informed that he has a wife, but that is neither here or there.

Let me start by, first of all, congratulating the Mover of this Bill. I personally think that it is long overdue, it should have come yesterday. I am not a lawyer but at the same time, I have witnessed magistrates misrepresent what is written in this Constitution. So, allow me to refer to it because it is the sovereign law of the land.

The reason people voted overwhelmingly for this Constitution in 2010 was because of devolution. This Constitution vests all the sovereign power in the people. It reads:-

“All sovereign power belongs to the people of Kenya and shall be exercised only in accordance with this Constitution”

The people exercise their sovereign power either directly or through their democratically elected representatives. That provision has also been repeated in other articles in this Constitution. Article 189 guarantees the co-operation between the two levels of Government. If you read Article 189 (b), you will see that the two governments at either level shall assist, support and consult and as appropriate implement the legislation of the other level and (c), the two levels of Government must liaise with the Government at other levels for the purpose of exchanging information, coordinating policies and administration and enhancing capacity.

That having been said, it means that none of us whether a Senator, Governor or Member of the County Assembly, none of us exists in their own right. We exist on behalf of the Kenyan people. The reason people are very impatient is because we have had a system where we only had one level of Government. The reason why people were very excited about devolution was because they expected to get these services closer so that they could interrogate whatever happens because that is not a choice. We must be able to deliver to the people. This law gives citizens a chance to take part in their self-governance. That is why the drafters of the Constitution usually call this Constitution “a devolution Constitution”.

Mr. Temporary Speaker, Sir, I know that Sen. Kiraitu has really delved into what the Senators should do. First of all, I have used lawyers before and know that even when you are going for a case, you must tell your lawyers exactly what you need them to say on your behalf. They must know every bit, otherwise, they will not be able to represent you as you would like them to. How then do the Senators protect and defend the counties, if they are not aware of what the counties are doing? I think that this Bill has been politicized for the wrong reasons. I know that in the Committee on Devolved Government, we have had very many interesting sittings on this issue. I want to quote one which was recorded on HANSARD and so, is in the public domain.

When we had a problem in Nairobi County, especially regarding the issue of personnel, the Nairobi Women Representative went to the Governor’s office and a scuffle ensued, which was really unfortunate. We had to summon the Governor to the Committee. We invited him to give us an overview of how he plans to deal with that problem in this county, and it is not a unique problem to Nairobi County. The Governor, who is also the Vice-Chair of the Council of Governors, was very clear that the Senate should seek to have a legal framework of interaction for all the elected leaders in the county. This is because the problem that we saw between the Women Representative and the Governor was really due to the fact that there is no legal engagement or framework of having to sit down as elected members or leaders in the county and deliberate or even ask these questions.

Whether you are a Senator, Women Representative or Member of the County Assembly, you represent people and they will come to you. I think that, that has loudly been proclaimed even in the ruling of the Supreme Court, when we had a problem between the two Houses. The judges were very quick to actually point out that the two levels are representatives of the people. People are getting very impatient to get services closer to them.

Mr. Temporary Speaker, Sir, that said, I know the misconceptions of this Bill and how much it has been misinterpreted, and I have written about it even in the dailies. Of course, we have issues of people saying that they cannot be secretaries or take minutes. It saddens me to see that we, first of all, chose to selectively apply our memory on what is contained in this Bill. The people who were challenging it only took one issue of who chairs this Board. I want to refer to one of my very favourite writers called Robin Sharma, and I know that I have quoted him here before. He has written a very good book on a leader who had no title. This is a story that I would like to share even with the Governors and Senators.

A young man was working in a bookstore called Bright Mind Books Incorporation and had just left the army. He was really bored and wondered how he could climb the ranks. One day one gentleman called Tommy Film showed up from nowhere. He was not exceptionally dressed and actually in shambles. One thing that the young man did was to ignore him and wondered what he was doing in the store. He went ahead to explain that he had actually been called to be manager in that incorporation and refused. For five years, he had won the award of the best worker or employee of the year, but he did not have any indication of having such qualifications. When he was asked for his business card, what he gave was a very interesting card which read: "Bright Mind Books Incorporation, Fifth Avenue, 555 New York, Tommy Film, human being." That was his title. His illustration was that whatever title you have, all you need really to have is to be a human being. I hope that our leadership in this country can relate to this leadership model called "leader with no title." You do not need a convoy of ten vehicles or battalion of security officers for you to be regarded as a good leader. I hope that we can borrow from that and really enlist back servant leadership, which has been missing.

Mr. Temporary Speaker, Sir, I also happen to sit in the Committee on Energy, Roads and Transportation and we have had our share of issues. The one problem that we have had, and that has been demonstrated not only in this country, is overlap. For example, we will have a person saying that he did a bridge using the Constituencies Development Fund (CDF), another one will say that he did the same using the Uwezo Fund and the other one using donors like UNDP. How then will we have accountability? How will we account to the people of this country that even the funds that we are charged to oversight, as a Senate, are being put to good use? We need to provide the right information and I think that it is a culture that we really do not have and we hardly read things as Kenyan people. That was demonstrated even in the Westgate incident, where all shops were looted apart from the bookshop. I would suggest that the people who are opposing this Bill should, first of all, take the time to go through it.

Mr. Temporary Speaker, Sir, I hope that we will lead from the front and give the right information. That way, we will create order and reporting mechanisms, so that we do not have even corruption being devolved to the counties. That is something that we also must be very careful about. This is because I cannot do the oversight role without knowing what you put even in your budget. That has been a deliberate omission and we need to be really open-minded and put it on the table. We should enable this Senate and Parliament in general to play that oversight role and coordinate development, so that you do not also choose that as a Governor, since I come from Kangema Constituency, and Kiharu did not support me, I will concentrate development in other four constituencies and leave out the one that did not support me; or if I have a problem with the Member of Parliament for a certain constituency, then I will leave out the people of that specific constituency.

We must realize that the moment we are put in office; whether by an overwhelming majority or whatever, it means that there are people who had faith in you and you also respect the others who did not have faith in you. When we talk of the President today, he is not a President of only the people who voted for him, but of everyone. That way, we will be able to create a very clean legal engagement, monitor

progress and make sure that devolution works. Already when something goes wrong, then it is blamed on the Senate, because we are the people responsible to oversight the counties and make sure that development goes to the people. It is our constitutional duty to make that happen. It is also our constitutional duty, as legislators, to come up with these legal frameworks to make things smoother and better.

Mr. Temporary Speaker, Sir, I hope that we will be able to demystify misinformation about this Bill. I think that it is propaganda and would urge everyone to read the Bill. I think that the Senate has led discussions on this Bill. We believe that we will be able to sit down and deliberate on issues and not just on hearsay.

Mr. Temporary Speaker, Sir, I beg to support.

Sen. Ongoro: Mr. Temporary Speaker, Sir, I rise to support this Bill and want to thank Sen. Sang for bringing it. I also think that what has been stated here before about him is not really correct. I am aware that he is married with two children, although his marital status does not have any bearing on his bringing a Bill to this House. Whether you have 20 children, 50 children or no child, it really does not affect your legislative role or representation of your people.

Mr. Temporary Speaker, Sir, having said that, this week I was reading a book - because I have made a point of picking one book per week to read, without really restricting myself. Unfortunately for me this week, I picked a biology book and it was talking about body parts. It was a bit boring for me at the beginning because I am not a scientist, but since I had promised myself that I have to finish one book a week, towards the end, I realized that it was very interesting. It was talking about the human anatomy and how all the body parts are related. I realized that we have one heart, one head, many body parts, but if one part of your body, even if it is the smallest of your fingers, is hurting or wounded, it can lead to your death. This is because the pain will cause you a lot of stress and depression. If you overlook it, you might die from just extreme pain or depression.

Mr. Temporary Speaker, Sir, Governors and county governments must realize that they cannot operate in isolation. Whether he is the head, tail, chest or whatever part they want to refer to themselves as, all of us collectively, that is, Members of County Assemblies (MCAs), Members of Parliament, Senators, Governors, Executive and even the general public, must understand the vision for that county, interrogate every process, be part of it and own it for success. First of all, our responsibility as Senators is that of oversight. In my opinion, you cannot oversight that which you do not understand. You must understand what you are overlooking. We must ask ourselves: How did we end up with this budget? What are the priorities? Why did we decide that we are constructing this road and not a hospital first? We must understand how much we have allocated per county, per ward and per project even before we oversight. So, we must be part of the process.

Mr. Temporary Speaker, Sir, our other responsibility is even resource mobilization. As a Senator, how will you take your time to go to other countries, to represent your county and source for funds? By and large, it means that if this process is allowed to blossom the way it is going, we will end up with Senators who are so detached from their counties that they really do not care. Come the next budgetary allocation from

the national Government and your county is given Kshs2 billion as opposed to Kshs10 billion, you will not stand here to defend it. Do they really know what they are talking about? You cannot fight the person who has the absolute responsibility to defend you. It is like going to see a doctor and then you start fighting with him. If you do not want to allow your doctor to understand exactly what you are ailing from, how will he help you? He cannot prescribe the right medication for you. Likewise, you cannot fight with your lawyer if he is going to represent you in a case. You have to be absolutely thorough and open to your lawyer, for him to represent you adequately.

So, we are representing the Governors and their teams – the county governments. For them to even think that they can work in isolation is a big mistake on their part. They are doing a lot of injustice not just to themselves, but to the people of their counties. We must be involved. We have a responsibility, not just to the governor; not just to the county government, but to the electorate. The same people who voted and elected the governor also voted for the Senator; and the Senator, in his own mind, having all the choices before him, chose to vie for Senator and not for governorship. That does not mean that he would not become a governor if he wanted. The fact that he even chose to be a Senator means that he knew that there was going to be a governor with whom they were going to work together. So, why the fight? Actually, these fights, whether real or perceived, are actually pushing some people now, next time, to take over those seats. While they think they are protecting their territories, they are creating a lot of interest in some of us. So, be open to those that are supposed to help you.

Lastly, Mr. Temporary Speaker, Sir, you cannot, in this Senate, represent the interest of a people, of an institution or of a process that you do not understand; and you are not going to force yourself on them. But if this Bill is passed, we are going to have a legal framework of engagement. But even with that, I am talking to the county governments and the governors; let them not live in euphoria. Those seats are not anybody's forever. It is better that you create a system that is sustainable; that you can defend, whether you are in or out, and it is better if you were realistic because it is not a kingdom that you are creating for yourself; it is not a dynasty of sorts; it is a seat that you are occupying for a time, and we now only have about three years to go. For God's sake, open your eyes, *bwana governors* and know that we are here, not to compete with you, but we have a collective responsibility between the Senator, Members of Parliament (MPs), Members of County Assembly (MCAs), the executive wing, *wananchi* and everybody – even the opinion leaders – to ensure that the money that comes to the county is utilized well for the sake of *wananchi*.

Senators have got this unique responsibility that can turn them into a very important bridge between the governors on one side, MPs on the other side, the MCAs on the other side and the executive on another side. Because the Senator, having this legislative role in the Senate, has got a unique opportunity to interrogate other matters that do not just pertain to one county; he is able to talk to other Senators; he is able to interrogate what goes on in other counties and have this wealth of experience and information which he can use to infuse into his own county.

Mr. Temporary Speaker, Sir, just as I was saying before about the human body, the governor cannot operate in isolation. The governor needs, as his chief partner, his

Senator; the governor needs to consult widely, intensively and extensively with the Senator. The governor needs to get information from the Senator, and the Senator needs a lot of information from the governor so that the Senator, while legislating in this Senate, can not only defend, but also understand what he is defending. He needs to understand the position and to explain the process that brought his county or his governor to that position. Maybe before the end of our term, we will witness some very interesting scenarios. What happens when the name of your governor happens to crop up here; that he is being thrown out of office? Is it not the Senator of that county who will have the responsibility to talk to all of us, to allow us into the insights of whatever is happening so that, collectively, we can defend that governor? We are not supposed to be fighting with them.

Mr. Temporary Speaker, Sir, I just want to conclude by stating that if they would not remember anything, let them remember the human body; while the head might think that it is more important than the leg, but the head will never walk; however strong the arm it, it will never eat; however strong another part of the body is, it will never play the role of a heart. So, removing the Senator from the operations of this county is like somebody trying to stop his heartbeat and thinking that he is still going to survive.

Thank you very much, Mr. Temporary Speaker, Sir. I beg to support.

(Applause)

The Temporary Speaker (Sen. Murkomen): Sen. Karaba.

Sen. Karaba: Thank you very much, Mr. Temporary Speaker, Sir, for allowing me to also contribute and support this Bill. This Bill is very relevant and it is one of the checks and balances that are already enshrined in the Constitution, particularly so with regard to the devolved government; that is the county government. If there are no checks and balances, we are going to allow unaccounted for activities in these counties, and we have already started seeing these things. We have seen, heard and read about what is happening in these counties.

We are aware of some counties which are holding beauty contests, and that practice is rampant everywhere. You will hear of a beauty contest on this side and another one in Kakamega; we were in Vihiga and we saw a beauty contest there. It is like a free for all; whatever the governor wants to do with the money that he has been given – which is supposed to be supervised and oversighted by the Senator – he does it without anybody questioning him. So, to me, this Bill is coming at the right time so that we can now tell the governors that there are limits to what they are doing, and there are consequences for whatever else they would like to do.

Mr. Temporary Speaker, Sir, in this Assembly, we have moved Motions and some of these Bills have emanated from a very serious Committee, headed by none other than the former Attorney-General. Members of that Committee are not simple men and women or Senators; and they have come up with a Bill, not for the sake of the Committee, but for the sake of this country of ours. So, it is this process, therefore, which should be respected. In respect of this process, we need to sympathize with those people

who cannot understand it; and they cannot understand it because they have other ulterior motives of trying to see how they can use and misuse the money that we allocate to them.

We have sat here in the Committee on Finance, Commerce and Economic Affairs under the able chairmanship of the Committee Chairperson, and we have discussed allocations of these funds. We said this county will get so much; another one to get Kshs6 billion; another one to get Kshs2 billion; and we are the people who decide how much each county will get. We are the same people who sit to decide how much will go towards the Equalisation Fund; it is there, and we discuss a lot about funds to go towards the counties. Surely, if we are the same people discussing how much each county should get, are we not the same people who should sit down to find out how much each county has spent? This is for accountability; we need to know why this amount of money has not been spent; we need to know why you are buying a vehicle, *et cetera*. By the way, there is a lot of competition – I do not know whether you are aware. You will find a governor buying a bigger car than the Senator, so that if the Senator has a Lexus, the governor will buy a Lexus 10 or 12 costing about Kshs15 million, yet he has a fleet of other vehicles which serve as his security.

(Laughter)

A governor has about 10 other ‘soldiers’ following him, so that when he appears somewhere in a market, it is true to say that he is a governor. When a Senator appears, he is not even recognised; and this is the amount of money that we are still trying to vet here in order to give this person to spend.

Surely, I think we will be missing the point if we will just be talking here and yet the money is being used to do something different because there is nobody to ask for advice. That is exactly what we are doing here. We are trying to institute and come up with a policy in the Board. We want to sit in the Board in the county where we will discuss whether money that has been allocated to each county has been well spent. If the money is not well spent, then we will question before the issues come to the Senate. Why should we be coming here to solve problems of all the 47 counties? By the time we solve the problems of the 47 counties, the five years will have elapsed. So, what will we have done to help the counties?

We need to pass this Bill. This Bill is meant to save counties and to ensure that Governors and all those who are elected are protected. These people can be protected in a board where all the elected members sit to do what is spelt out in this Bill. We should sit with the ward representatives, Members of the National Assembly, Governors and the Senators. When we sit together, whatever is done will become a responsibility of all the elected leaders of that county.

Whoever does not understand this Bill should know that this is the right way of doing things. It is the right way because if one of us is not included in the Board, he could easily pass the buck. However, right now, we may have the same people who are playing the role of overlooking embezzling money. Why should we watch people embezzling money and yet after five years, we will have to explain what we did about it? We know that we need to avert such problems. This can only be done through such Boards. The

Board, therefore, is coming at the right time. The Board will act as a shock absorber. The Governor will also have a place to lean on when he happens to spend a lot of money on one project. The following year, the Senator will try and ask for money for something else. That Board will be responsible for doing everything in that county.

We have been passing many Motions here. I am aware that I have brought two or so Motions. Those are the Motions that are not brought to the fore. We have committees that are charged with the responsibility of implementation. These committees will see to it that Motions that are passed by the Senate are implemented in the counties. Since we will be providing oversight to the counties, we will also be checking whether the Motions are being implemented. Therefore, what forum can we use for this? This can only be the forum of elected people. We were all elected on the same slate. Some of us, in some areas, belong to one party. Some of us got more votes than the Members of Parliament. For example, I came here with more votes than the Member of Parliament. Therefore, if that is the case, I should then be given a chance to tell people how I will deliver what I promised them. The Motions we pass here should get down to the counties and should be implemented so that our counties can do well.

There is something else that we need to think about. I have an office in Kirinyaga. However, if I only sit there to read newspapers the whole day without knowing how the money we passed here has been used, then I will be doing nothing. We approved Kshs3 billion for Kirinyaga County. Has the Kshs3 billion been spent well? I need to have a way of knowing whether they are misusing the money. It is only through this board that we can solve the problems of embezzlement as it has been stated here by other members. We do not need to sit down here and oversight problems. We need to sit here and oversight progress in our counties.

Recently, I went with the President to China. I remember this very well because I benefited from it. A lot of money was given to Kenya. I was there and saw what was happening. If I do not interpret what I saw there into deeds and if I do not have a forum to tell my people what we did there, since we did very great things, that will all go to waste. For example, the Chinese are very passionate about irrigation schemes. Having come from an irrigation county, Kirinyaga, I know what the Chinese can do. How can I tell the people of Kirinyaga that we can carry out the irrigation that is being carried out in China? Where do I get that forum?

The Board is the only way that we can develop the counties. That is the reason why the Bill will be passed. A county is not somebody's kingdom. When you go to many of these counties, you will hear people talking about one person whom they refer to as the owner. They will now realise that the counties do not belong to them. The counties belong to everybody else. The Governor should be respected but this respect should come through all the elected people. Let them be assisted. At the ward level, we have a ward representative accounting for the monies given to the wards; we have the Members of Parliament in the constituencies. These ones are accountable for the funds that they are given. Thanks to this Senate because we have somebody like Eng. Karue who is the father of the CDF. Were he not in this Senate but somewhere else, we would have said that we are not sure of what we are doing. However, we have very experienced people. We have experiences that can be used at the county level.

It is for this reason, therefore, that we can supervise ward development, advise constituencies, the Governor and the women representative. If the Governor is, for example, recalled because there is a clause that provides for that, who is left? The Senator is left and the woman representative. So, if the Senator is not there and the Governor has been recalled, who becomes the head of the county? No one would be left there and, therefore, there would be retrogression because no development would take place in that county. That is why this Bill is very useful.

This is a Bill that the Governors should respect more than any other. It will provide security of tenure for their services and it is the one that will make sure that they live longer. The Senator, after being made the Chairman to oversee development, will allow the Governor to live longer because he will also be explaining to people about development issues. The moment the Senators are not in that Board, nobody will question what happens. This is a threat to devolution. If it is a threat to devolution, it is also a threat to the Senate and we cannot afford not to pass this Bill and that is why we are supporting it.

As we discuss this Bill, let it be understood clearly that this is the first time Kenya has started moving ahead. This is the only time we can say that we are starting to realize development because all of a sudden, we have discovered oil in Turkana and Isiolo and recently the King of Meru was in London to convince the Britons to buy *miraa*. This is the time every county is getting serious. In Kirinyaga County, we are thinking of putting up cable cars from Kerugoya to Mount Kenya. We want to be the first people to earn that revenue from tourism. Every county is busy looking for money. Who is going to make sure that that money, which we are looking for, is well spent? Who will make sure that whatever money they are borrowing is not only from the county as if there is no money that can be got from other sources?

Mr. Temporary Speaker, Sir, in Kirinyaga County, the national Government is putting up a dam at a cost of Kshs12 billion which is in excess of what the county is getting from the national Government which is about Kshs2.75 billion. So if the national Government has set aside Kshs12 billion to put up irrigation works in Kirinyaga County, how will the Governor claim that this money is from the county? To avoid mix up, we can borrow money from other sources. So, there is need for all of us to sit down and come up with what we call accountability. That is what we are looking for in this Bill so that the money which is allocated to the county government and other monies generated from other sources can be accounted for. You might have noticed that in Machakos, there was a problem and in Nyeri, they want to start wind power generation. When all this happens, there will be a problem since some governors will not know what to do with the money because it will be too much. It is only the elected Members who should sit down and decide how that money will be spent. Without this team, the citizens will be left wondering what the county is doing.

This is an important Bill that will safeguard the wealth of the county and the powers of the Governor. It also limits how much the Governor should use. We also have a problem with some of the governors who are not as experienced as some of these people who you see here. Some of them were elected because there was euphoria. Some of these people do not have any experience in handling money, so the moment you give

them Kshs1 billion, they will spend it according to where they got more votes and by so doing, the Governor will continue plundering public money. The moment you involve the Senator, he will be the stabilizing factor in that county to make sure that even in areas where the people did not vote for the Governor, they are also served. Where the Governor feels he has enemies in a certain area, it is the Senator who will be the stabilizing factor. That is the reason this Bill is important. Without passing this Bill, we will be digging our own graves here. We are going to commit suicide.

Sen. Billow: On a point of order, Mr. Temporary Speaker, Sir. You heard the hon. Senator saying on the platform of this august House that if this Bill is not passed, Members of the Senate will commit suicide. Even in jest that is not acceptable, because Members of the Senate have a lot of other things to do, than just assisting in stabilizing the Governors to continue in office.

Sen. Karaba: Mr. Temporary Speaker, Sir, it is good to understand English. It is not the literal meaning of suicide that we are talking about. This is metaphoric. When you talk about committing suicide, it is not only looking for a rope and hanging oneself. It could be sabotage or something else. So, in this case---

The Temporary Speaker (Sen. Murkomen): Order, Sen. Karaba! The Chair agrees with you.

Proceed!

(Laughter)

Sen. Karaba: Thank you very much, Mr. Temporary Speaker, Sir. This is a Bill which we have to pass. I believe that it will be voted for 100 per cent, because it is a vote which will also make us relevant. It will make us go home every other time to inspect projects which are going on. We will have a reason to go home, as opposed to staying here and waiting for reports to come from the governors. The moment people will see that you are also supporting the Governor, the entire county will support the whole system, because the system is not only for the governors, but for all elected members, be it the Members of the County Assemblies, Members of Parliament, Women Representatives or even the Senators.

The way it is now, if you go to some counties, the governors live in fear. They cannot even greet the Senator because they believe that they are more popular. The Senator is also not even comfortable with the MCAs, because some of them are allied to the Governor or the Speaker. Some are saying that the Speaker should be ejected. They have a lot of problems and it is only the Senator who is left out. If we can include the Senator in the development of the county, I am sure that these problems will be minimized and this will make things easy for the county and country.

Mr. Temporary Speaker, Sir, I beg to support.

Sen. Obure: On a point of order, Mr. Temporary Speaker, Sir. You will agree with me that very important contributions have been made on this subject, and I am sure that they will continue to be made next week. Would I be in order to suggest that the HANSARD report relating to this debate be bound together and sent to the county

assemblies' libraries or offices of the governors and the other people who are interested in this particular debate for record?

The Temporary Speaker (Sen. Kipchumba): Hon. Senators, I think that the request made by Sen. Obure is very important for purposes of enhancing debate and assisting the county governments to proceed. So, it is so ordered.

ADJOURNMENT

The Temporary Speaker (Sen. Kipchumba): Hon. Senators, it is now time to adjourn the House. The Senate will resume on Tuesday 26th November, 2013, at 2.30 p.m.

The Senate rose at 6.30 p.m.