

NATIONAL ASSEMBLY

OFFICIAL REPORT

Tuesday, 14th June, 2016

The House met at 2.30 p.m.

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

PRAYERS

MESSAGES

APPROVAL OF NOMINEES TO PRIVATIZATION COMMISSION/ COMPETITION AUTHORITY OF KENYA

Hon. Members, pursuant to the provisions of Section 5(1) of the Public Appointments (Parliamentary Approval) Act, 2011, I wish to convey to the House that I have received a request from the Principal Secretary for the National Treasury, asking the House to approve the appointment of the following nominees to the Privatization Commission and the Competition Authority of Kenya:-

(a) Nominees to the Privatization Commission:-

- (i) Amb. Boaz Kidiga Mbaya;
- (ii) Mr. Wilfred Sang;
- (iii) Mr. John Boru Halake;
- (iv) Ms. Faith Chepkemboi;
- (v) Mr. John Joseph Tito;
- (vi) Mr. Mohamed Suraw Isaak; and,
- (vi) Ms. Zipporah Mukoruru.

(b) Nominees to the Competition Authority of Kenya:-

- (i) Dr. Abdirizak Aralle Nunow;
- (ii) Ms. Eunice Maranya;
- (iii) Mr. Stephen Kiptinness;
- (iv) Ms. Carolyn Kimbo Musyoka; and,
- (v) Ms. Leila A. Ali.

Hon. Members, Section 5(1)(d) of the Privatization Act, 2012 and Section 7(1)(f) of the Competition Act, 2010 provides that members nominated by the Cabinet Secretary for appointment to the Privatization Commission and the Competition Authority, respectively shall be vetted and approved by the House before appointment. In furtherance of the said provisions, Standing Order No. 45(1) provides that upon receipt of the notification of nomination for appointment, such nominations shall stand committed to the relevant Departmental Committee of the House for consideration.

In this regard, I hereby refer the names of the nominees, including their curriculum vitae, to the Departmental Committee on Finance, Planning and Trade to undertake the necessary

approval hearings. Thereafter, the House shall consider the nominees in accordance with the Public Appointments (Parliamentary Approval) Act, 2011.

Hon. Members, Section 8(1) of the said Act requires the National Assembly to either approve or reject the nominees within 14 days from the date on which the notification of nomination was given. In view of the foregoing, I wish to guide the Committee and the House as follows:-

(i) That, the Committee should notify the nominees and the general public of the time and place for holding the approval hearings in good time. The notification should, therefore, be made immediately; and,

(ii) That, the Committee may, thereafter, commence the necessary approval hearings and submit its report to this House on or before Tuesday, 28th June, 2016.

Thank you.

(Loud consultations)

Hon. Speaker: The Members who are being addressed by Hon. Chepkong'a at the door, you can now make your way in so that we can proceed with business. Hon. Angwenyi, stop shaking hands. Proceed and take your seat so that we can proceed with business.

PETITIONS

REVIEW OF THE NATIONAL TRANSPORT AND SAFETY AUTHORITY ACT, 2012

Hon. Members, Standing Order No. 225(2)(b) requires that the Speaker reports to the House any petition other than those presented through Members. I, therefore, wish to convey to the House that my office has received a Petition signed by one Blamuel Njururi, a resident of Nairobi County, regarding proposed amendments to the National Transport and Safety Authority Act, 2012. The Petitioner is proposing amendments to the National Transport and Safety Authority Act, 2012 to provide for introduction of road safety branded advisories and the establishment of a national road safety insurance fund.

Hon. Members, the Petitioner states that over 3,000 lives are lost through road carnage every year, hence the urgency to introduce a road use awareness strategy for the safety of millions of Kenyans exposed to road carnage. He further emphasizes that the proposed amendments will broaden road safety awareness and provide for a financial safety net to cushion victims of road carnage. The Petitioner, therefore, prays that the National Assembly:-

(i) Reviews the NTSA Act of 2012 to provide for introduction of road safety branding; and,

(ii) Enacts legislation to provide for establishment of a national road safety insurance fund;

Hon. Members, this Petition stands committed to the Departmental Committee on Transport, Public Works and Housing for consideration. The Committee is required to consider the Petition and report its finding to the Petitioner and the House in accordance with Standing Order No. 227(2). I urge the Committee to engage with the Petitioner, among other Kenyans.

Thank you.

Did the Members who have made requests know about the Petition or are they the ones

who are permanently in the list to comment on anything?

Hon. Waititu, Member for Juja.

Hon. Francis Waititu: Thank you, Hon. Speaker. I rise to support this Petition by Mr. Njururi, bearing in mind that I also brought a similar petition to the House, having realized that our people are dying on the roads. He is in order when he talks about 3,000 lives that have been lost. We need to take care of our people by creating awareness. I also agree with him when he talks about creating a national road safety insurance fund.

Just three days ago, on Thika Superhighway, between Ruiru and Juja, we lost 11 people. Three of the victims were on motorbikes while three ladies were hit as they crossed the road near Ruiru Sports Club.

Hon. Speaker, I urge the Committee that is in charge of transport to look at this Petition seriously.

Thank you.

Hon. Speaker: Are there any further comments? Obviously, Hon. Members, it is your right to comment.

I see Hon. Muthomi Njuki, Member for Chuka/Igambang'ombe.

Hon. Njuki: Thank you, Hon. Speaker. Initially, I had put my request because I wanted to speak to an issue concerning our welfare. I want to request that you give us a *Kamukunji* because we have a few problems that I do not want to address in public. Some Members have used the gym, but have not showered, just to say the least.

(Loud consultations)

Hon. Speaker, let me go straight to the Petition.

Hon. Speaker: Are you saying that they are cave men and women? Every Member has some residence.

Hon. Njuki: Hon. Speaker, I have not pointed out anyone in particular. Anyone who feels that I have offended them probably falls in that category, but I will come and tell you what I am talking about.

Hon. Speaker, I support this Petition. Insurance companies do not like covering very vulnerable groups because they do not like losing money. It is easier for insurance companies to cover vehicles which they know are taken care of by their owners. Before you get insurance cover to cover your life, you are taken through all kinds of medical tests that rule you out. Sometimes, even age rules you out because they think they will lose their money. Therefore, pedestrians who walk innocently and get involved in accidents caused by careless drivers will never get justice in this country because of coverage by insurance companies. This kind of petition will ensure that the insurance companies invest in creating awareness because once we have a compelling situation where we have insurance covering people who are not in any particular group, it will be in order for them to ensure that they invest in awareness to ensure that they do not lose their money and save lives.

Initially, we used to say that our road infrastructure was not good because the roads used to have potholes. As you avoid the potholes, you may find yourself getting involved in an accident. However, even after the roads were fixed to the standard of the Thika Road Superhighway, the accidents still increase. It, therefore, means that the problem is not the road but the road users. That is why this Petition needs to be looked into to see if we can save the lives of our people.

With those few remarks, I support the Petition.

Hon. Speaker: Hon. Wafula Wamunyinyi.

Hon. Wamunyinyi: Thank you, Hon. Speaker, for giving me the chance to also make my observations on this Petition. We have so many problems regarding the transport system in our country. In fact, in dealing with this Petition, the members of the Committee should cover all the areas related to transport, including recommendations for a proper modern transport system. Even the rescue and fire brigade teams that rush to accident scenes are not properly equipped to help the victims. Kenyatta National Hospital is the only public facility with an emergency wing. There is no other place. Some patients have been taken to private hospitals, where they have been rejected. They end up dying at the casualty departments. I support and agree with the Petitioner that we need to undertake a complete review of our road safety framework to take care of the issues that have been pointed out. I do not wish to debate the Petition, but we need to look at ways of ensuring that we improve our transport systems.

Today, I read something to the effect that the Tanzanian Government is planning a new city around Arusha – a city that is properly planned to match the intelligent city of Malaysia. They are also doing special lanes for buses in Dar-es-Salaam. They will be doing the same in Arusha. We can re-organize our transport system to be like the transport systems of countries in the West. They also started from where we are now. There is nothing that can stop us from getting there.

With those remarks, I support the Petition and hope that it will bring changes.

Hon. Speaker: Very well. The Petition stands committed to the Departmental Committee aforesaid.

Hon. Members, before we move on, allow me to recognize the presence of students from the following institutions: In the Speaker's Gallery, we have students from State House Girls' Secondary School, Dagoretti North Constituency, Nairobi County; Kabolo Secondary School from Chepalungu Constituency, Bomet County and Kaharu Girls Secondary School from Maragwa Constituency, Murang'a County.

They are all welcome to observe the proceedings of the National Assembly.

(Applause)

PAPERS LAID

Hon. A.B. Duale: Hon. Speaker, I beg to lay the following Papers on the Table of the House:-

- (i) Sessional Paper No. 2 of 2015 on the National Building Maintenance Policy from the Ministry of Lands, Housing and Urban Development.
- (ii) The Report of the Auditor-General on the Financial Statement of Suna East Constituency for the year ended 30th June, 2014 and the Certificate therein.
- (iii) The Reports of the Auditor-General on the Financial Statement in respect of the following constituencies for the year ended 30th June, 2015, and the Certificates therein—
 - (a) Vihiga Constituency.
 - (b) Hamisi Constituency.
 - (c) Lunga Lunga Constituency.
 - (d) Dagoretti South Constituency.
 - (e) Embakasi South Constituency.

- (f) Kamukunji Constituency.
- (g) Balambala Constituency.
- (h) Dadaab Constituency.
- (i) Msambweni Constituency.

Hon. Speaker, I will ask you to ask the Public Accounts Committee (PAC) Chair to set up a sub-committee within the Committee to deal with the matters of constituencies and political parties' audit reports from the Auditor-General, so that Members of Parliament are not accused of sitting on the constituencies' audited reports, which concern them.

Hon. Speaker: Well. We can only suggest to the respective committees the need. I know some of the committees have set up sub-committees of themselves.

Hon. Members, knowing where we are and some of the exciting things that are ahead in 2017, this Report of the Auditor-General on the constituencies--- I would urge Members to pay keen attention because, sometimes, they can have a lot of implications on how a Member proceeds after the second Tuesday of August in the fifth year. Without necessarily having to direct the Public Accounts Committee (PAC), maybe from the Chairman, we could hear how they are proceeding with these kinds of reports. They should come out in good time so that your colleagues do not get the reports when it is too dangerous to respond.

Hon. (Eng.) Gumbo: Hon. Speaker, I wish to thank my good friend, the Leader of the Majority Party, for bringing up the matter. I want to inform the House that we have deliberated on these matters. The problem that we have had in the Constituencies Development Fund (CDF) accounts is that there is a lot of segmentation. Each constituency is being presented on its own. We have had a meeting with the Auditor-General, the CDF Board and the responsible Ministry. We have agreed that we are going to consolidate them. Right now, hopefully, within the course of this week, we are going to table the Committee's Report on the Financial Year 2013/2014, and one of our priorities is to embark on the CDF Account reports. Of course, they are many but the issues are not that detailed. That applies to the political parties whose reports have been presented here. We have discussed this matter before.

I want to assure the House and the nation that as PAC, we are seized of the matter and we are going to look into it and bring a report here within the shortest time possible for both areas that the Leader of the Majority Party has mentioned.

I thank you.

Hon. Speaker: Very well. I hope Members attend because usually, some people may attend to defend some minor audit queries regarding operations in your constituency and you never know. They may never quite give a true representation of the matter. It is only fair because you carry the greatest responsibility even when you are not the accounting officer. The public out there expects that you carry the greatest responsibility on accountability on what happens in your constituency offices and, more particularly, within the CDF functionality.

Hon. (Eng.) Gumbo: Hon. Speaker, thanks for your guidance. We have taken that into consideration. As we look into the accounts of the various constituencies and those that have audit queries, we will also take it upon ourselves to invite Members to come and not just the fund account managers. That is because, as you rightly said, much as most of these Members do not get directly involved, to the extent that they carry political responsibility, it is important for them to be there so that they can understand how the audits in their respective constituencies have been conducted.

I thank you.

Hon. (Ms.) R.K. Nyamai: Hon. Speaker, I beg to lay the following Paper on the Table of the House today, 14th June, 2016:-

The Report of the Departmental Committee on Health on the progress of the matter between Clinix Healthcare, Meridian Medical Centre Limited and National Hospital Insurance Fund on the civil servants outpatient scheme.

Hon. Speaker: Next Order. Hon. Omar Mwinyi, Member for Changamwe. You have no idea that people use cards here?

NOTICES OF MOTIONS

Hon. Shimbwa: Thank you, Hon. Speaker. I first take this opportunity to wish all Muslims all over the world---

Hon. Speaker: It is a Notice of Motion. I will give you a chance to do that when we get to the next Order so that you do not convolute.

Hon. Shimbwa: I stand guided.

FREE ISSUANCE OF P3 FORMS

Hon. Speaker. I beg to give notice of the following Motion:-

THAT, aware that P3 Form is a legal document that is produced in a court of law as evidence in cases which involve body injury; noting that victims are required to have the P3 Form completed by a certified public medical officer; further aware that the victims are charged a fee for that service by the hospitals that offer that particular service; concerned that most citizens are financially challenged hence the medical fee charged by the hospitals is in contravention of Article 48 of the Constitution on access to justice; deeply concerned that if the situation is left unchecked it may lead to continued abuse of the poor, delayed justice and possible incidents of unrest; this House urges the Government to ensure that the completion of P3 Forms is offered free of charge at all public and health facilities.

Thank you. Ramadhan Mubarak.

Hon. Speaker: This is Order No. 6, which is Notices of Motion. Hon. Rachel Nyamai, you had been indicated to give Notice of a Motion for the adoption of the report which you just tabled.

PROGRESS OF CIVIL SERVANTS OUTPATIENT SCHEME

Hon. (Ms.) R.K. Nyamai: Hon. Speaker, I beg to give a notice of the following Motion:-

THAT, this House adopts the Report of the Departmental Committee on Health on the progress of the matter between Clinix Healthcare, Meridian Medical Centre Limited and National Hospital Insurance Fund on the civil servants outpatient scheme, laid on the Table of the House on Tuesday, 14th June 2016.

Thank you.

Hon. Speaker: Hon. Geoffrey Odanga seems to have a problem about hours of sitting. Last week, he was supposed to give notice of his Motion; the one calling for the deployment of chaplains in secondary and tertiary institutions. I thought it was a very important Motion. He

seems to have developed cold feet about the Motion. Hon. Mwadeghu, your Member has gone missing in action.

Hon. Mwadeghu: Thank you, Hon. Speaker. I understand he is attending to a very important issue in court. So, I seek your indulgence. I will ask him next time to do a note that he delegates that responsibility to one of us and we can do that.

Hon. Speaker: As you know, Hon. Mwadeghu, the House Business Committee balloted for this Motion the other week. He is doing himself a disservice because the longer he stays without giving notice of it, the more others will come, including the ones that may come this evening. They will overtake his. He is doing himself a disservice, and not the House. It is good you communicate to him that he can delegate to you.

Hon. Mwadeghu: I stand guided. Thank you for your indulgence.

Hon. Speaker: Next Order.

PERSONAL STATEMENT

GRATITUDE FOR SUPPORT OFFERED FOLLOWING THE DEMISE OF SOITA SHITANDA

Hon. Injendi: Hon. Speaker, I rise to express my personal appreciation for the support I received from Members of Parliament and the Government during the funeral of the late Hon. Soita Shitanda. I want to express this by stating that the support I got from Members of Parliament during the *Harambee* at his rural home, the *Harambee* at United Club and even visitation at home were really comforting.

I also want to express my appreciation to the Government for supporting us during this particular moment, particularly the President for his personal contribution at home here in Nairobi and also for supporting us in settling the medical bill. I also want to express my appreciation to the Deputy President for equally giving his own personal contribution during that moment and supporting us through the Government by paying the medical bill.

I also want to express my appreciation for the persons who managed to travel all the way to Malava to attend the burial of our brother, Hon. Soita Shitanda. I will not forget to extend my appreciation to the county government for its support.

On 26th during our Special Sitting in this House, it was resolved that Members can support the same through a check-off system. This matter was left to the House leadership, the Leader of the Majority Party and the Leader of the Minority Party, that they would do a write up to ask you to do this. I did my part to request them. However, the wife of the late was writing to me yesterday asking when that money will get to her account. The information I got was that Members at one point resolved - when the leadership was approaching them - that since most of what was incurred by family was paid for by the State, then there was no need for that.

In fact, I was given a list of MPs to go round so that they can give their own personal contribution and not through the check-off. I am raising this matter for it to be clear on what we are supposed to do. Usually, after burial, it is difficult for persons to make their contributions. I am just requesting the House leadership to explain what transpired finally after our resolution here that we support the family.

Thank you.

Hon. Speaker: The Leader of the Majority Party.

Hon. A.B. Duale: Hon. Speaker, I remember that, that matter was raised in the House. From the practice and precedents of the House, Members only pay through a check-off system when one of their own in the Parliament passes on. When it is a former Member of Parliament, we usually take the list round and it is collected on a voluntary basis. That is the decision Hon. Nyenze and I reached on the matter of the late Hon. Shitanda, who was a very good friend of mine.

I will still ask Hon. Injendi that, as we sit here, he takes the list round starting with me and the other leadership. We will do our contribution. The precedent is that it is only a check-off system - and the leadership writes a letter to the Speaker and the Clerk - when it is one of our own in the current Parliament. That is the decision we have reached.

Hon. Mwachugu: Thank you, Hon. Speaker. I wish to concur with the views expressed by the Leader of the Majority Party. More so, most of the expenses were settled by the Government and the county government and it became a State funeral. For that matter, even if the family has a burden which we accept, I would go the way the Leader of the Majority Party has said. Individually, we can contribute whatever we feel we should contribute. If the Government of the day has footed all the bills and that is what I am made to understand, and the county government has also come in, for that matter, it is only fair at this juncture we ask the hon. Member to pass the list around. As the Leader of the Majority Party has said, you start with him. Also, come over this side. We are willing to give our personal contributions.

Thank you.

(Several hon. Members stood up in their places)

Hon. Speaker: That should put the matter to rest. There is nothing out of order. I can see some people purporting to intervene. There is nothing to intervene. That should suffice. It is a bipartisan consensus between the leadership.

Next Order.

BILL

First Reading

THE COUNTY ALLOCATION OF REVENUE BILL

(Order for the First Reading read –Read the First time and ordered to be referred to the relevant Departmental Committee)

MOTION

APPOINTMENT OF MEMBERS TO VARIOUS COMMITTEES

Hon. A.B. Duale: Hon. Speaker, I beg to move:-

THAT, pursuant to the provisions of Standing Order 175, and further to the resolutions of the House of 8th October 2013 and 28th April 2016 on appointment of Members to respective Committees, this House further approves

the appointment of the following Members to the Committees specified hereunder:-

- (i) The Hon. John Mbadi, MP, to move from the Departmental Committee on Finance, Planning and Trade to the Budget and Appropriations Committee.
- (ii) The Hon. Anyanga Andrew Toboso, MP, to move from the Departmental Committee on Agriculture, Livestock and Co-operatives to the Departmental Committee on Finance, Planning and Trade.
- (iii) The Hon. Joash Olum, MP, to move from the Committee on Delegated Legislation to the Departmental Committee on Finance, Planning and Trade.
- (iv) The Hon. Junet Sheikh Nuh, MP, to move from the Departmental Committee on Energy, Communication and Information to the Committee on Delegated Legislation.
- (v) The Hon. (Dr.) David Eseli, MP, to move from the Budget and Appropriations Committee to the Departmental Committee on Health.
- (vi) The Hon. Hezron Awiti, MP, to move from the Departmental Committee on Finance, Planning and Trade to the Departmental Committee on Agriculture, Livestock and Co-operatives.
- (vii) The Hon. Joseph Magwanga Oyugi, MP, to move from the Departmental Committee on Health to the Departmental Committee on Energy, Communication and Information.
- (viii) The Hon. Abdikadir Ore Ahmed, MP, to move from the Budget and Appropriations Committee to the Departmental Committee on Finance, Planning and Trade.
- (ix) The Hon. (Dr.) Makali Mulu, MP, to move from the Departmental Committee on Finance, Planning and Trade to the Budget and Appropriations Committee.
- (x) The Hon. Daniel Maanzo, MP, be appointed a member of the Committee on Delegated Legislation.

This is a straight forward procedural Motion. The object of this Motion is meant to allow the said Members to be legitimately in the Committees they have been nominated to. My colleagues from the CORD Coalition have decided to re-organise their membership in various committees. Hon. Ken Obura should know, and I want to go on record, that he is not a member of the CORD leadership as per the Standing Orders. He can be a member of any other group outside the Standing Orders.

The CORD leadership has decided to re-organise their membership in various committees. As required by Standing Order No.175(1) of this House, the Select Committee shall, within seven days upon nomination of members to serve in any committee of the House, present the list to the House for approval. That is what I am doing. In this regard, I notify the Office of the Clerk that when we did changes on 28th April 2016, there were a number of Members who were not listed in their Committees. That is when we were re-constituting the Budget and Appropriations Committee. We also re-constituted some other Committees. There are a number of Committees whose clerks have not effected the changes. Members do not know whether they have really been moved to those Committees. I have a number of examples. The reason I had

issues last week is because those Members were members of the Committees and yet, the list was not updated in various Committees.

Through you, I ask clerks to Committees to follow what goes on in the Chamber and regularise their records. They should have the telephone numbers of Members and call them when there are meetings of those Committees. I present this list and urge this House to approve the appointment of these Members to the various Committees.

I beg to move and ask Hon. Mwadeghu, who is the Whip of the Minority Party, to second.

Hon. Mwadeghu: Thank you, Hon. Speaker. I second this Motion, which is on the appointment of Members to various Committees. It has arisen due to the re-organisation which we felt was necessary. More so, it is when the Coalition for Reforms and Democracy (CORD) fraternity felt that the analytical skills that some of our Members have, have been missing in the Budget and Appropriations Committee. Let me be straightforward on this one. It was generally felt that there was need to inject that synergy, hence the moving of Hon. John Mbadi and Dr. Makali to the Budget and Appropriations Committee. I got presentations from the Chairman of the Departmental Committee on Finance, Planning and Trade that Hon. Toboso and Hon. Olum, who are spearheading issues in the tourism sector and have since been moved, should be taken back to that Committee.

It is important that the House benefits from the knowledge that certain Members have. In so doing, we have considered the entire membership. It is not easy to change Members around. It has its own problems and challenges. I seek the indulgence of hon. Members. If there is anyone who is not satisfied, let them come to my office on Tuesday. It is always open. We can discuss it further so that we achieve our main objective of making sure that Parliament benefits from the various skills that are embodied in the different Hon. Members.

I stand to second the Motion.

Hon. Speaker: Well, I also urge that the Committee on Selection, chaired by the Leader of the Majority Party, in which you also serve, gives a chance to Members to sit in the Committee on Privileges and the Committee on Appointments. Those two Committees are now moribund. Their term expired and they have not been re-appointed.

Hon. Members, before I propose the Question, may I also recognise the presence of students from Mulot Girls Secondary School, Bomet East Constituency of Bomet County. They are in the Speaker's Gallery. They are welcome to observe the proceedings of the House.

(Applause)

(Hon. F.K. Wanyonyi walked in the aisle)

The Member who is walking in, you cannot sit. The Standing Orders which I have to administer are not mine. They are yours.

(Question proposed)

(Question put and agreed to)

Hon. Speaker: Hon. Members, at the request of the Budget and Appropriations Committee, which is holed up in a meeting this afternoon in the presence of Chairpersons of

some of the Departmental Committees and officers of the National Treasury, the business appearing under Order No.10, which was the Motion for the Adoption of the Report on the Budget Estimates for the Financial Year 2016/2017, is stood down for the convenience of the House, under Standing Order No. 40(2), to the Afternoon Sitting of tomorrow.

Next Order!

(Motion deferred)

BILL

Second Reading

THE KENYA ROADS BILL

Hon. A.B. Duale: Hon. Speaker, I beg to move that the Kenya Roads Bill, 2015 be read the Second Time.

The proposed Kenya Roads Bill gives effect to the provisions of the Fourth Schedule of the Constitution in relation to the roads sub-sector. It assigns different respective functions to the two levels of Government. That part of the roads function is with the county governments and another major part is with the national Government. In particular, Paragraph 18(b) and (c) of Part 1 of the Fourth Schedule provides that the national Government shall be responsible:-

“18(b) the construction and operation of national trunk roads;

(c) standards for the construction and maintenance of other roads by the counties.”

That part of the Fourth Schedule is very clear that construction and operations of the national trunk roads is a function of the national Government while standards for the construction and maintenance of other roads as provided for either through a legal notice is for county governments. Paragraph 5(a) of Part II of the Fourth Schedule provides that county governments shall be responsible for county roads.

Hon. Speaker, this Bill is of great importance to Kenyans for the development of the road infrastructure. Again, it provides clarity, classification, management, construction and maintenance of public roads. If the House agrees with this Bill, it anticipates the establishment of Kenya National Highways Authority (KeNHA) and Kenya National Secondary Roads Authority (KeNSRA) as well as their functions and powers for connected purposes.

As currently constituted, we have the Kenya Urban Roads Authority (KURA), the Kenya Rural Roads Authority (KeRRA) and the Kenya National Highways Authority (KeNHA). When the 11th Parliament came into force and devolved systems of government were created, there was a lot of talk that KURA and KeNHA would be scrapped. Scrapping can only be through legislation because KURA and KeRRA were constituted and are creatures of an Act of Parliament. So, for one to say they do not exist, they will be contravening the same Act that formed it. We must deal with the assets and liabilities.

This particular Bill is trying to bring sanity and order to the roads sector and create a function for the two levels of Government, namely the national Government and the county governments. This Bill proposes to check, review, consolidate and rationalise both the legal and institutional framework for better management of the road network and the sub-sector in a more

efficient and effective manner. Then, we will know what roads classification belongs to the county government and which one belongs to the national Government.

Members of Parliament will have a role to play in certain roads. This Bill is very important and our input is welcome. I am sure by the time it comes back from the Senate, we will know where to put that function within our constituencies, the functions for the national Government and the county governments. Those are the preliminaries.

Let me go to the highlights of this Bill. Part 1, just like in any other Bill, deals with the interpretation of words, object and purpose of the Bill and the guiding principal. Part II provides for the development and position of standards. It also talks about the set standards and development of any road in our country. Part III is important to all of us. It deals with the classification of national trunk roads which are under the national Government. Again, it deals with county roads and their assignments. The classification of county government roads and national Governments trunk roads is found there.

Part IV provides for the establishment of the two institutions which I have talked about, namely KeNHA and KeNSRA. It talks about their management, constitution of the board, their powers and functions. Part V proposes for the procedure of appointment for the chairperson, members of board and the office of the Director-General.

I want to make this very clear. Members of the board in the two roads authority will not be like in other boards in the Government who can be nominated by the Cabinet Secretary (CS). There is a procedure and they must meet certain qualifications. The qualification of the Director-General, members of the board and the Chairman are provided in the Bill. Their term of office is well documented in Part V. On removal from office of the board members and the Director-General - and that is what we are insisting in the Independent Electoral and Boundaries Commission (IEBC) - the Constitution anticipates and corrects itself. It tells us how to recruit and appoint. The same Constitution talks about removal from office.

(Loud consultations)

Hon. Wanyonyi will have his say. It is now my chance to speak and I think tolerance is the best.

The Constitution or any law we made here provides how a public servant and a Kenyan can be removed from office. I am sure this is where some of us will insist whether a Kenyan is a tea girl, Commissioner, Minister or Member of Parliament. The Constitution has provided for how that individual can be removed from office and given a fair chance. Part V is dealing with removal and vacation of office, filling of vacancy and office of the members of either the board or the Director-General.

Part VI deals with financial matters. The provision of these authorities, where they will get their finances, how they present their annual estimates, their accounts and audits are all given here. It also deals with an element called "Implementation of the Roads Sector Investment Programme" and "Annual Works Programme". This Bill is saying that these institutions must give Parliament and the country their annual works programme. If they say they are going to build the road in constituency "X", then that programme must be tabled in the august House, for the respective Committee of Parliament to do an oversight.

Part VII relates to the general powers of these authorities. These authorities will be given powers on road reserves and the acquisition of land for the purpose of the Authority. They can use that power for compulsory acquisition of land for public good. They can buy your property to build a road for the public good and for the people of that area. So, they will have some

powers. They will have the power to enter and survey lands. They have the power to enter into your farm and survey. They have the powers to prevent accidents as well as alter positions of pipes from within road reserves. They have the powers to tell the Kenya Power Company (KPC) where to have their power lines, sewerage and water lines.

Finally, Part IIX is more of a miscellaneous section of the Bill. It provides for the performance agreement and powers given to the CS for direction. It also deals with classification of roads, inventory and structure of roads and many other things.

Finally, Part IX provides the responsibilities of the county governments. It provides that county governments have certain responsibilities. Part X provides the transitional clauses. Transitional clauses must be there. Once this Bill is assented to, there will be a migration.

Those were the highlights of this Bill. Let me now say two things. With all the programmes that are in place, in as far as the road sector in our country is concerned, the Jubilee Administration, which I belong to, will go to the next general election having completed, five years in power, over 10,000 kilometres of tarmac road across the 47 counties. I am not saying this for politics. Since Independence, the northern part of Kenya has never seen a tarmac road. The tarmac was ending in my constituency. In fact, civilisation was ending in my constituency in Garissa. There was no tarmac road 20 kilometres outside my constituency. The Government of the former President, the late Mzee Jomo Kenyatta never did any tarmac road in that area. The Government of retired President Moi did a good job and at least linked Nairobi to Garissa with the famous Thika-Garissa Highway. Retired President Kibaki only did 20 kilometres in my constituency. That was when my good friend, the Vice-Chair of the Departmental Committee on Transport, Public Works and Housing, Hon. (Eng.) Mahamud, was the Permanent Secretary (PS) for Roads. At least, Hon. (Eng.) Mahamud, during the retired President Kibaki's administration, delivered 20 kilometres of tarmac road.

Today, the road from Mandera to Rhamu and the road from Rhamu to Elwak is under construction. We are not saying it for politics. The contractor is on site from Nuno in Hon. Abdikadir's constituency of Balambala, all the way to Hon. Shidiye's constituency, known as Nuno-Modogashe Road. That is why Hon. Abdikadir is not very much excited these days with the Coalition for Reforms and Democracy (CORD) because he has seen development. I am sure a commitment has been made for the road from Modogashe to Wajir to be tarmacked. That is why Hon. Fatuma is laughing. Since Independence, the people of northern Kenya were waiting for this Government. If we knew it is President Uhuru who was going to build the roads, he should have been born long time ago. He should have been the first President.

I am sure my colleagues from the north will agree that today if you drive from Isiolo to Merille and Marsabit, the road has already been completed. It is retired President Kibaki who did it. I am sure there are more other roads. We are doing it everywhere. That shows that there is a commitment. You have seen the Standard Gauge Railway (SGR). When you go to Hon. Jessica's constituency, you feel like you are not in Kenya when you see the way the railway is being done. It is fun to drive to Mombasa these days than to fly. I am sure by the time the SGR is complete, we shall all use it.

A Committee of this House will spend about two to three hours to travel to Mombasa while we are chatting and discussing coalition politics. We will find ourselves in Mombasa in three hours. We spend two hours now to drive to the airport, spend another two hours to drive from Moi International Airport in Mombasa to our hotels. It is better to travel by train. We hope the Governor of Nairobi and the Ministry of Transport and Infrastructure will finish the metro train between the airport and the Nairobi CBD.

That is why this weekend the President went to Ukambani to launch serious road projects which were never there. My colleagues from that region were crying. Looking at my friend, Hon. Jessica, I never thought she can do a serious demonstration. She did the mother of all demonstrations. Today, I am sure she is happy because, at least, the President has listened to her and this weekend, many roads have been launched in Ukambani. This is a Government that does without discrimination. We build roads in Western, Nyanza, Central, North Eastern, Eastern and Coast regions. At the Coast, we are doing roads from Taita Taveta, Voi up to Tanzania. That is why we better discuss development and stop inciting our people to war. We have an obligation as leaders to talk to our friends. We can see incitement, hate speech and hatred outside there. We expected cattle rustlers, thieves and criminals to be arrested, but we do not want Hon. Members to be taken to the Directorate of Criminal Investigation (DCI) everyday on allegations that they made hate speeches.

I am sure all of us sitting here will indulge our colleagues and tell them to let us live up to that which we have been elected to do. We have been elected as Hon. Members. That was just to make sure we send a message to our colleagues.

I am sure the Jubilee Administration is on track and the next elections will be between those who do what they have promised; those who build roads, health facilities, improve the agricultural sector, give our children laptops and those who improve security against those who are known for rhetoric that does not change the lives of Kenyans.

With those many remarks, I beg to move and ask the Vice Chair of the Departmental Committee on Transport, Public Works and Housing, an engineer and a former PS of Public Works and Roads to second.

Hon. Speaker: Hon. (Eng.) Mahamud.

Hon. (Eng.) Mahamud: Thank you very much, Hon. Speaker. I beg to second the Motion on the Second Reading of the Kenya Roads Bill 2015. At the outset, I am happy that this Bill has actually found its way into the Second Reading, knowing that it was published a year ago in June last year. This is an important Bill to this country.

In seconding the Motion, I would like to start by reiterating the principal objective of the Kenya Roads Bill 2015 which is, in essence, to give effect to the provisions of the Fourth Schedule of the Constitution in relation to the roads sub-sector. The Bill proposed to review, consolidate and rationalise the legal and institutional framework for management of the road network and road sub-sector in a more efficient and effective manner in the light of the new Constitution.

The road sector was unbundled in 2007 by the enactment of the Kenya Roads Act 2007. I had the privilege of being the PS then of that ministry when that Bill was initiated and brought to Parliament. Today, we are standing here to repeal that act of 2007 and also the Roads Board Act 1999, which was basically enacted to introduce the issue of road maintenance, which was not there before. Even that Roads Board Act is being amended to harmonise it with the current Bill.

The Departmental Committee on Transport, Public Works and Housing of this House processed the Bill. We invited stakeholders. We met with the Ministry of Transport and Infrastructure. The Committee also held several meetings with other stakeholders. You will see a lot of amendments that the Committee will propose at the Committee of the whole House stage.

The Bill gives effect to the provisions of the Fourth Schedule of the Constitution. Even before this Bill is enacted, some provisions of the Road Act, 2007, are being violated in the sense that there is the Transition to Devolved Government Act. Money is being sent to the counties

without proper legislation. It is important that this Parliament enacts this Bill quickly, so that we operate within the law.

The Bill addresses critical issues in the management of the road sub-sector. The Bill provides a clear criterion on the classification of roads. It defines a national and county road. It is worth noting that the current system of roads classification was established about 35 years ago. In fact, the Bill proposes to reclassify the roads.

The Fourth Schedule of the Constitution highlights the mandate of each level of government in as far as road construction and management is concerned. The national Government is mandated with the construction and operation of national trunk roads. It is also mandated to set standards for the construction and maintenance of other roads by the county governments. The standards which are proposed in this Bill are for the national Government. Clear distinction is given on what national trunk roads and county roads are, hence the classification. On the other hand, county governments are mandated to construct and maintain county roads.

What are county roads? This Bill seeks to breathe life into these provisions of the Constitution. The Bill has defined the classes of roads that will fall within the purview of the national and county governments. The national Government shall be responsible for the construction of a new class of roads called "S", which is a superhighway between cities and classes "A", "B", "H", "J", "C" and "D". The county governments, on the other hand, have a huge mandate for the construction and maintenance of roads under classes "E", "F", "G", "K", "L", "M" and "N". These are properly defined although we have an amendment in terms of what the national and county governments will manage. That will come at the Committee of the whole House stage. That is what the Bill proposes. It introduces new classifications and gives the roads are going to fall under the two levels of government.

Part IV of the Bill establishes two key agencies that will be charged with the construction and development of national roads in this country. The two agencies are KeNHA, which will be responsible for the development and maintenance of roads under classes "S", "A", "B", "H" and "J" and KeNSRA, which is the present KeRRA. The KeRRA shall be responsible for the development of roads under classes "C" and "D", but there could be some changes at the Committee stage. There are proposals that only Class "C" roads will be under KeNSRA because they are so many.

Members will note that KURA has been collapsed and its functions will be performed by KeNHA. Roads under classes "H" and "J", which are urban roads and would ordinarily be managed by KURA, will be under KeNHA in the proposed Bill. There is a lot of agitation by stakeholders that we should as well retain KURA, but the merits and demerits of that proposal will come at the Committee stage.

In general terms, the Bill provides for the classification of roads network in the country as well as modalities for development and management of roads by the two levels of government. In terms of financial matters, what is of interest to this House is how we manage our Road Maintenance Fuel Levy Fund. In the current law, 40 per cent of the Road Maintenance Fuel Levy Fund goes to KeNHA, 15 per cent to KURA, 32 per cent to KeRRA, 3 per cent to the Kenya Roads Board (KRB) for their operational matters and 1 per cent to the Kenya Wildlife Service (KWS). The funds that were originally meant for KURA are now earmarked for county governments. We will look at the proposal in the Bill because there are a few amendments meant to adjust that figure. We have also increased the levy from Kshs9 per litre to Kshs18 per litre. So, there will be a lot of money for maintenance of roads. Members of Parliament will see what

interests they have in their constituencies. We have safeguarded those interests in our amendments.

As I conclude I would like to state that in as much as the Bill in its current form is fairly good and addresses the central issues in road construction and critical issues in the management of road network and the road sub-sector, it falls short in certain areas. My Committee will be proposing a raft of amendments at the Committee stage of the Bill to address those deficiencies. In fact, our Report is already before the House and you will see it.

With those few remarks, I beg to second. This Bill is urgent. I know it will go to the Senate, but it is important that we rush it because as it is today, we are almost operating without a law.

Hon. Speaker: Eng. Mahamud, I can see you still have some more material you want to use.

Hon. (Eng.) Mahamud: No, I have finished. Hon. Speaker, with those few remarks, I beg to second.

Hon. Speaker: I hope you are not cut short because you are the Vice-Chair of the Committee.

Hon. (Eng.) Mahamud: Hon. Speaker, I beg to second. Let us support this Bill and develop our road network. As the Leader of the Majority Party said, a lot of work is being done. Of course, those of us who come from our region have been complaining. There are still complaints today, but rest assured that between 2003 and today, the road network in Kenya is not the same. It has changed. I am happy to stand here and say that I took great part in that development of our roads and what we see today are some roads which we planned during those years.

With those few remarks, I beg to second.

(Question proposed)

Hon. Speaker: Hon. John Waiganjo.

Hon. Waiganjo: I thank you, Hon. Speaker, for giving me an opportunity to debate the Kenya Roads Bill, 2015. This is a very timely Bill. It is the kind of Bill that we should be debating in a country where the road infrastructure is taken very seriously and also to align it with the Constitution. We now have two levels of government and already there are conflicts that are emerging on which roads are national roads and which ones are county roads. So, it is a very good Bill. The spirit of the Bill is good. The formation of KeNSRA, KeNHA and their respective boards is largely what we probably need to align the ongoing developments with the Constitution.

The issues that I would want to raise are in Clause 78 of this Bill. This clause attempts to create certain offences, which the Bill is calling “major offences and other offences”. I take issue with these offences as created by the Bill. I am going to propose major amendments to this Bill because, for instance, Clause 78, which creates major offences, flies in the face of criminal justice process and related statutes. There are offences created by Clause 78(a), (b), (c) and (d) of the Bill, but the offences already exist.

We have an offence of obstruction within our Penal Code, but Clause 78 purports to create another offence. We have another offence under the Traffic Act. The Bill also purports to create an offence within this statute. Clause 78(d) says “exceeds axle load limit”. This is duplication. The National Transport and Safety Authority (NTSA) must relook into their *modus*

operandi because this Authority has not brought regulations to the Committee on Delegated Legislation where I sit. They are, therefore, operating without regulations. Clause 78 of the Bill is a duplication because it prescribes sentences that contradict already existing statutes. If we are to pass this Bill with these clauses, then we will contradict the Penal Code, the Criminal Procedure Code and the Traffic Act. We need to amend this area.

Section 79 of the Bill creates other offences. For instance, if you are found within the compound of an Authority, then there is a sentence. If you entered an Authority's compound, then that is trespass which is covered in a different statute. It has a prescribed penalty, but Clause 79 of the Bill still purports to create a penalty which contradicts what is in the Penal Code. If these amendments are not carried out, then under the Kenya Roads Bill, the offence of trespass has a different penalty from the one prescribed by the Penal Code. That is a clear contradiction. I will be seeking to make some amendments.

Under Clause 79(b)(ii) of the Bill, if a person is in a state of intoxication or behaves in a violent or offensive manner to the annoyance of any other person, that is an offence. Under ordinary legislation, that offence is drunk and disorderly, but they bring it here and give a different penalty. We cannot have contradictory statutes in the manner in which they penalise, prescribe or define an offence.

Another interesting offence is "cause injury to any person on such premises or upon such vehicle". In ordinary statutes, this is vandalism. Clauses 78 and 79 of the Bill need serious amendments, so that they do not contradict existing statutes. Clause 84 of the Bill also flies in the face of the civil proceedings and related statutes. It flies on the face of the Civil Procedure Code, Civil Procedure Rules, Government Procedure Act, Auctioneers Act and Limitation of Actions Act. Why is that so? The Authority is creating a process that is already prescribed by the Civil Procedure Code. When the Authority says that you cannot execute or attach its properties in the event of litigation, they are interfering with the Civil Procedure Code which is clear on the manner of execution. We cannot repeat them here because Order No.22 of the Civil Procedure Code talks of execution of decrees and orders. It clearly lays out the mode of paying money under decree or out of court, execution of decree by another court, execution in foreign jurisdictions and execution by joint decree order. They are trying to import provisions of the Civil Procedure Code and Civil Procedure Rules and impose them here thereby creating a serious contradiction. I will be seeking to amend this area.

Clause 85 of the Bill is on summons. The Bill is trying to create a situation where if you take the Authority to court, for instance, if you had a contract with the KeNSRA or KeNHA, take them to court, you win the case and you are awarded in that litigation, they are purporting a different route other than the one prescribed by the Civil Procedure Code and Civil Procedure Rules in the manner in which you serve pleadings and raise notice with them. The provisions in the Civil Procedure Rules and the Civil Procedure Act are clear on serving of summons and the processes of serving pleadings on you. This Bill cannot purport to take over the provisions of existing statutes.

Clause 86 of the Bill is strange. It talks about judgment and how you can realise your award after the judgment. It says that the Director-General must write and permit an auctioneer to go and execute. That is also contradictory. I will be seeking to carry out those amendments. I support this Bill. It is a progressive Bill and will remove contradictions between the counties and the national Government in the manner in which we run our road infrastructure. I would like to congratulate the Government for carrying out wide ranging infrastructure which shows that the country is moving forward.

I beg to support.

Hon. Speaker: Hon. Wamalwa.

Hon. Wakhungu: Thank you, Hon. Speaker. I rise to support this Bill. I would like to thank Hon. (Eng.) Mahamud and the Committee for the good work. This Bill has been long overdue. It is very critical and we know that the road network is important in every economy. The Bill had brought a lot of confusion on the ground. I am happy to note that the Bill brings in the criteria for the classifications of roads. When you go to the counties, you will be able to tell the roads that belong to the national Government and the ones that belong to county governments. The counties have been taking advantage of the confusion on the ground. In a place where roads have not been constructed, they will say that they belong to the National Government Constituencies Development Fund (NGCDF). I am happy this Bill will address this issue.

The Bill clearly stipulates that the national Government must bring the work plan to be tabled in this House. This will help legislators for purposes of accountability. When it comes to the county level, the county governments should also table work plans in their county assemblies for purposes of oversight and follow up. The road network plays a very critical role. This Bill will bring in consolidation and rationalisation of the road network for efficiency and effectiveness.

Hon. Speaker, it is good to note that we will have two parastatals namely, KeNHA and KeNSRA. I would like to know what will happen to KURA. Of course, it will collapse. As it collapses, we need to know where their assets will go. We have seen people in Authorities taking advantage to misappropriate these assets. This Committee should do a follow up and know how these assets will be transferred. There must be a clear framework on how to transfer them to KeNSRA.

The KeNHA will have more work. Roads have been classified as Classes “S”, “A”, “B”, “H”, and “J”. Some of these roads will touch urban areas which were being handled by KURA. It is my humble submission that it will be important for KeNHA to devolve, so that we can have their offices in regions. Their presence has been lacking. So, we need to follow up, so that we can have KeNHA offices in every county. This will enable them to work easily. It will also help them in issues of follow up of the construction of roads.

The Road Maintenance Fuel Levy Fund which has been increased in the new Budget will affect the common *mwananchi*. You will pay more for fuel for *boda boda*. On the other stage, we need to look at the aspect of the cost of living. As we try to maintain these roads, we also need to balance, so that we do not increase the Road Maintenance Fuel Levy Fund and compromise on the cost of living. The levy will be higher. This will be carried forward to the common *mwananchi* who uses *boda boda* on a daily basis to travel.

As we move on, it will be key for this House to know the classification of roads. I have seen a big booklet which has classified all the roads in this country. However, that booklet is not available. I know it is on sale. It will be critical for the common *mwananchi* at the grassroots to know who is responsible for these particular roads. It has brought a lot of confusion.

I come from Trans Nzoia County. I attended the Senate sitting when my governor appeared. We have had a lot of audit issues and corruption in procurement. The county government is not following the public procurement law to the letter in awarding contracts. This House passed a law which provides that 30 per cent of tenders should be given to the youth, women and people living with disabilities. It is important to get reports on how Kenya

Government has done in terms of the 30 per cent procurement that is supposed to go to the youth, women and people living with disabilities. This is key to county governments.

We know very well that we have so many youths who do not have jobs. Research has shown that 70 per cent of the youths are unemployed. We need to be told the percentage of the projects in terms of tenders, which have been given to the youth at the county level. The report must be tabled to the county assemblies. It is key because it is a disgrace in some counties. We must defend the interest of the youths who are unemployed in this country.

As I conclude, there is the issue of KeRRA. It has done a good job, but we need to have a clear framework on the transition of its assets. It is key. I have seen many machines on the ground. If proper framework has not been put in place, the public is likely to lose a lot of these assets that are being misused at the ground level.

I do not have much to say. I thank the Committee because this Bill has been long overdue. As I conclude, there is 10,000 kilometres of road which the Jubilee Government promised put tarmac. We need to have a clear framework because it will be very unfortunate if these roads are being skewed to suit the Jubilee supporters' zones. For example, in Trans Nzoia County, we have clear big roads that go towards Mt. Elgon. When it rains, it is totally impassable. As the allocation is being done, it should not be done in a way that allows more projects to be done in Jubilee supporters' areas. We are calling upon His Excellency the President, to visit Trans Nzoia County to launch those particular roads. We have not seen much of these roads in Trans Nzoia County, which we represent. I was told that the Jubilee Government has launched roads in Kitui County. We want the distribution of these roads to be equal. It should be done irrespective of political affiliations because every Kenyan pays taxes and levies.

I support the Bill.

Hon. Speaker: Hon. Humphrey Kimani Njuguna.

Hon. H.K. Njuguna: Thank you, Hon. Speaker, for giving me this chance to contribute to the Kenya Roads Bill. I will be brief. The spirit of this Bill cannot be underestimated. We are giving roads approximately Kshs200 billion in the 2016/2017 Financial Year Budget. This shows the importance of infrastructure. As we are aware, one of the things that President Kibaki's administration shall be remembered for is his contribution to the road network in this country. That transformed this country.

We are talking of the 10,000 kilometres of road annuity programme that the Jubilee Government has already initiated. In fact, in the last couple of months, there has been a lot of activity in the commissioning of roads. They are either pretentious shows or actual commissioning of tenders towards this programme. So, there is one important component of this Bill that moving forward, we cannot underestimate the role of infrastructure in the economic growth and development in this country.

We are alive to the Constitution of Kenya, 2010, where we have the county government and the national Government. In the recent past, there has been vagueness and conflict between county governments and the national Government. We have been in the mix. Governors are saying that some roads are supposed to be constructed by the county governments and the national Government wants to construct them. This Bill tries to remove this ambiguity and conflict by way of classification. This will enable us to know the roads which the national Government shall deal with and the ones which county governments shall deal with. There will be no more vagueness and conflict. This is something that needs to be lauded. We know the importance of the removal of this conflict. It is very important for Members of Parliament

because we know the problems we have been encountering with our constituents. They are asking what the national Government is doing towards roads construction and maintenance. This Bill seeks to remove this vagueness and conflict with finality.

It is very important to have this classification because we want uniformity in the way roads are constructed. Once we talk about classification that goes to KeNHA, then there will be uniformity in primary roads throughout the country. If KeNSRA board deals with secondary roads, there will be uniformity in these roads. The issue of capacity must be dealt with in infrastructure. Our county governments might lack the capacity to deal with primary and secondary roads. So, when these roads are earmarked on by KeNHA and KeNSRA, then we know for sure there will be uniformity in the way these roads are constructed. There will be predictability. We need to laud the Kenya Roads Bill.

The other thing that we need to appreciate is the fact that moving forward, it will not be business as usual in the Jubilee Government. This is something that we need to congratulate the Government about. I am happy to hear the contributions of the Leader of the Majority Party that we have roads in North Eastern Kenya and everywhere. Roads are being constructed. If we are talking about this country achieving the two digits economic growth, this is a serious sector. The spirit is good. This Bill needs to be supported because of the role it will play towards economic growth and development of this country.

Hon. Speaker: Hon. (Eng.) Gumbo

Hon. (Eng.) Gumbo: Thank you, Hon. Speaker, for giving me the opportunity to contribute to this Bill. The enactment of this Bill will eliminate the confusion that has been there between county governments and the national Government with regard to maintenance of our roads. As I speak, many roads in our constituencies remain in poor state because of confusion in demarcations and the role of the national Government and that of county governments. I am glad that this Bill speaks to the standard annual maintenance for all our roads.

Hon. Speaker, it is not enough to have an annual maintenance programme. What is even more important is for us to have a management programme which is structured so that we know that building roads alone is not enough. We have to maintain and develop them or they should be serviceable at all times.

This Bill clearly assigns the responsibilities between national and county governments in the development, maintenance and management of our roads. The fact that it allows for the national Government to be responsible for developing standards for building, development, maintenance and management of our roads is important because if we were to devolve the aspect of development of standards, then the confusion we have had in the past will again start to rear its head in the way we build our roads.

I am glad that this Bill speaks to the fact that all parts of the country must have reasonable access to national and county roads. If there is one aspect, and I am glad the Leader of the Majority Party spoke to it when he was moving the Motion, is that he has typified the degradation and to an extent the discrimination that has been rampant in our country. It is a fact that the way we have provided roads in this country has been in a manner that is completely devoid of procedure and in a manner that clearly tends to make some parts of the country look less important than other parts. I have spoken to it before and I want to speak to it again that it is unacceptable that 50 years since we got our Independence, there are still parts of this country which do not have a single kilometre of tarmac. What would we be saying in that instance? Would we be saying that those Kenyans who live in those parts of the country do not require services of roads?

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

*[The Temporary Deputy Speaker
(Hon. (Ms.) Mbalu) took the Chair]*

Hon. Temporary Deputy Speaker, this is a thorough indictment of the regimes that have been there before. It goes back to the highly acclaimed Sessional Paper No.5 of 1965 which classified Kenya as high and low potential areas and gave emphasis to the development of certain parts of the country while completely ignoring other parts.

I am glad that this Bill clearly states that the Kenya National Highways Authority (KeNHA) will be responsible for classes “S”, “B”, “H” and “J” as stipulated under Section XI of this Bill.

I have a concern as to the composition of the Board of the KeNHA. I have seen many instances, when we are composing boards, we allow bodies that have no recognitions in law to be nominating entities. I have no idea why every time we make laws in this House we try to recognise this body called “Kenya Private Sector Alliance (KEPSA)”. As far as I am concerned, the KEPSA is not recognised in any law. The KEPSA is a gathering of like-minded people who have common interest. In fact, it can be there today and not be there tomorrow. When we say, for example, that the KEPSA will nominate a member to the KeNHA Board, what happens if it decides to disband tomorrow? What happens to that nominee? It is important that we do not get carried away by pressure groups. As it stands now, the KEPSA is nothing more than a pressure group.

I am a member of the KEPSA but I know that it is no more than a pressure group. If you look at the whole spectrum of our laws, you will find that it is nowhere. I have even talked to members of the KEPSA and asked them why they do not want to propose a law so that they can be recognised so that when we say--- For example, where is the dichotomy when we are nominating one of their members? It is a whole continuum. Where do you draw the line on who is the private sector and who is not? Does the fact that you are a Member of the KEPSA make you to be more in the private sector than a private sector practitioner who chooses not to be in the KEPSA? I will be proposing an amendment to remove the allocation that has been given to the KEPSA to nominate a member into the Board of the KeNHA.

I notice that the Board of the Kenya National Secondary Roads Authority (KeNSRA) under Section XIII of this Bill actually seems to be alive to this fact. It has, instead of the KEPSA coming up with a nominee, nominated a member from the Kenya Institute of Physical Planners to the Board. Why are we not allowing Kenya Institute of Physical Planners? Are we saying that in the highways in the national trunk roads we do not need physical planners to help us in building our road network? That is an area that we have to look into.

I wish my friend Eng. Muhamud was here. When we say that the Director-General should be a holder of a Civil Engineering Degree in this day and age, what are we really talking about? If you go to the University of Nairobi, you will find that a civil engineer can be a water engineer or a structural engineer. We need to be more specific. What about those who have chosen---

Hon. F.K. Wanyonyi: On a point of order, Hon. Temporary Deputy Speaker.

Hon. (Eng.) Gumbo: What is out of order? I am speaking about engineers. You are not an engineer!

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Hon. Gumbo, let me hear what his intervention is. Hon. Wanyonyi, what is out of order?

Hon. F.K. Wanyonyi: Hon. Temporary Deputy Speaker, I know the Hon. Member is making a very important contribution. We will be debating in vain if we do not even have a single Committee Member.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Hon. Wanyonyi, just state what is out of order. Do not make an argument.

Hon. F.K. Wanyonyi: Is it in order for us to debate a very important Bill on roads when we do not have even the Chairman and---

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): The Hon. Member for Kwanza, this is a House of debate. When you get your time, you can argue from your side whether it needs to be respected or not. This is a House of debate. You will put your point across whether it will be done or not.

Hon. Gumbo, carry on.

Hon. (Eng.) Gumbo: Thank you, Hon. Temporary Deputy Speaker. I want to apologise to my friend Hon. Ferdinand Wanyonyi. I agree with him that it is important for Members of the Committee to be here to take notes as we debate this important Bill.

As I have said, the requirement in this Bill is either for the Director-General of the KeNHA or the KeNSRA to be a holder of a Civil Engineering Degree with, at least, 15-year experience. Civil Engineering *per se* is very limiting. We need to expand that because these days we know that there are universities that go beyond just the traditional civil engineering as we know it and offer courses in highways engineering. It is important to recognise that.

As I conclude, I will be proposing some amendments. I also notice that in this Bill there is no requirement for the Director-General of either the KeNHA or the KeNSRA to be a registered engineer. That is disrespect of our own laws. We recently passed the Kenya Engineers Board Act, an Act of Parliament. We have put very high standards of what a registered engineer should be. In fact, you are not recognised as an engineer in this country unless you become a professional engineer or a registered consulting engineer. That is an omission which we have to include in the amendments. It is not a must that the fact that you have 15-year experience that you have to be a registered professional engineer or a registered consulting engineer. That is an omission that we need to include in the amendments as we move forward.

Most importantly, I have seen under the offences a very bad Kenyan habit of those who usually drag reinforcement bars along the roads and scratch the road surface. Under the offences, we must also be punitive on those who go out of their way either through improper loading or deliberate actions, for example, the irregular erection of bumps which happens all over the country. Why are we not including that as an offence in this Bill?

The development of roads is a very expensive undertaking. The Estimates that we are about to debate allocate a lot of money towards development of roads. We cannot devote a lot of public resources towards maintenance of roads only for people to damage them by engaging in reckless actions, which are otherwise avoidable. We need to be more punitive so that people who go out of their way to destroy roads, either through overloading or constructing things that are not permissible such as erecting unapproved bumps on roads are punished. This is so, so that once we build our roads, we do not incur costs that are avoidable just because of the actions of others.

In conclusion, this is an important Bill. As we look at it, let us seek to expand our economy by making our major roads dual carriageway like Mombasa Road. I do not see why

after all these years the Mombasa-Nairobi-Nakuru-Eldoret-Kisumu-Malaba Road has not been dualled.

Otherwise, I support the Bill but I will propose amendments to it.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Your amendments are very welcome. Let us have the Member for Vihiga, Hon. Yusuf Chanzu.

Hon. Chanzu: Thank you, Hon. Temporary Deputy Speaker for the opportunity to support this very important Bill. For us to develop as a country or for any nation to develop, it is very important that the country is opened up and has a proper road network. Whether the road is for ordinary use such as social activities or leisure, or whether it is for tourism and tourist activities, it is very important that it is done. As it is stated in the Memorandum of Objects and Reasons, several laws have been quoted such as the Public Roads and Roads of Access Act, 1920, Cap. 399, which we are repealing. We are also repealing the Roads Act, 2007, Cap. 408. We are also proposing to amend the Kenya Roads Act, 1999, Cap. 408A.

When this matter was brought up during the drafting of the Constitution, it was assumed that the issue would be straightforward. However, it has not turned out to be so because the Constitution brought up the two levels of Government which created a lot of confusion. This Bill will clarify the confusion that has been there.

If you look at the reports of the Controller of Budget, from the 2013/2014 Financial Year up to now, and the reports of the Auditor-General, you will find that there has been a lot of misuse of funds with regard to the county governments and constituencies. I have seen cases in my constituency in Vihiga where you would use road funds provided by the Kenya Rural Roads Authority (KeRRA) to construct a road and then the county government would do the same. The motive was not to construct the road but to engage in a cover-up. This has caused many problems. In fact, it went to the extent of some governors going to court to stop KeRRA from performing its functions. Vihiga County happened to be one of these counties. The roads are in a pathetic situation. That is the reason why the clarification that this Bill will bring on board is going to be useful.

If there is not going to be compliance by county governments in differentiating between what they are supposed to do and what the national Government should do, there should be serious penalties for that. There is defiance mostly because of corruption. You will find that for a small road passing through a village, which could have been constructed through manual labour, someone brings a grader to construct it. Such a road ends up costing between Kshs5 million and Kshs10 million when it could have cost less than Kshs1 million, if you used manual labour. In any case, the purpose of devolution or taking resources down to the people is so that they can benefit from those resources. People do not benefit if you take a grader to construct a small road in the village and spend that amount of money because we are not creating employment.

I have been here for some time and we have put in place many laws but implementing them or enforcing them is the critical part. If you look at the Budget that was read by the Cabinet Secretary last week, you will find that the roads sector is consuming a lot of money. The main purpose is so, so that we can open up the country and make it comfortable for people to move.

The Southern Bypass connects Mombasa Road to Lang'ata. The Kenya Wildlife Service (KWS) was asked to allow the road to be expanded on that side but if you go there you will find that it is a totally different place because of the construction. However, that has taken a long time, from 2004 to 2005, because of confusion due to lack of agreement. With this law in place, we should be able to open up many places.

The Leader of the Majority Party talked about the roads going up to Garissa. I happen to have gone to Garissa by road last week and it took a short time. This is what we need to know as Members of Parliament. It only takes four hours if you have a good car. Going by road to Kisumu, Kakamega or Kitale takes a long time.

Over the weekend, I went to Kericho through Naivasha and it took a long time. The road network is very important. Unfortunately, when we went to Garissa and then visited Dadaab, we found that the roads are pathetic.

Clarification of who does what will make it much easier for us to build the road network for the country and for Kenyans to visit their country. A place like Garissa can even be a tourist attraction centre. People should not go to one place all the time. We should open up the country because this will improve its economy. We have said that we are opening up roads and spending a lot of money on them.

The Kisumu-Kakamega, the Kakamega-Webuye and the Webuye-Kitale roads have not been repaired for a long time and they are in a bad state. Those of us who attended the funeral of our brother, Soita saw it. I had imaged how I would take a short time from my place but when I got to Kakamega I found that the road was in a very bad shape. The President said that the contractor defaulted and they had to get another contractor. Those are some of the issues we should address. Procurement is another problem. It is not helping us. Those involved in procurement take advantage of that to engage in many corrupt activities. There are a number of issues we need to address. I am happy that this is coming up.

Now that we are going to have an energised KeNHA given the fact that we are splitting the Authority into two entities, I hope that those roads will be addressed. I raised the issue in Parliament in 2008 and I am happy it is being addressed. It is only that it is taking too long.

With those few remarks, I support.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Let us have the Member for Kajiado North, Hon. Manje.

Hon. Manje: Thank you for giving me his chance to contribute to this Motion, Hon. Temporary Deputy Speaker.

Road network is very important in a country. We know that the economy of a country improves when it has a good road infrastructure. We cannot underscore the importance of the image of a country as far as roads are concerned. When the roads in a country are good, they portray a very good image, which attracts investors. You will know the standard of a country by the road infrastructure it has. If you go to China and see the kind of road network they have, you will straight away know that the country has a lot. We will start attracting investors if the same thing happens to our country.

I am happy that this Bill has tried to do a bit of classification even though it is a complicated one. It will remove the ambiguity on roads between the county governments and national Government. Currently, Kenyans are not clear on which roads belong to county governments and which ones belong to the national Government. Sometimes you find a Member of Parliament allocating funds to a road which a governor has also allocated money. This is bringing complications. This Bill is trying to separate the two.

The creation of KeNHA and KeNSRA gives a proper mandate on which road is to be done by who. When it comes to KeNHA, it will deal with national trunk roads. According to the new classification, that falls under classes “S”, “A”, “B”, “H” and “J”. Although this classification is a bit complicated to the common man, it is very clear. If it was to be classified as county and national roads, it would be a bit clearer to the people.

We would like the authorities to put more emphasis on the development and rehabilitation of our roads. This is because roads are neglected after they are constructed. They wear out with time and become impassable. Maintenance of our roads is very poor. When it rains a bit, the roads are worn out because their foundations are not laid well.

With this Bill and classification, various authorities will be proactive. There is a lot of traffic jam in our major towns. If you come to Nairobi, you will find that it becomes a problem going home during peak hours. You cannot traverse Nairobi easily. If you go to Kajiado North Constituency which I represent, you will find that there is a road that has permanent traffic jams. It is the Ongata Rongai-Bomas Road. The perennial traffic jams on that road are making investors relocate from Ongata-Rongai. I hope that the authorities being created will be proactive instead of waiting to be pushed by citizens.

The nomination criteria in Part XI is a bit ambiguous. We might bring amendments. Some authorities have been given chance to nominate a representative to the board. If you look at Part XI on creation of KeNHA, you will see that the nomination criterion is not good. The provision for six nominees from “foreign” organisations is not good. I do not see the importance of the Institute of Certified Public Accounts of Kenya (ICPAK), the Law Society of Kenya (LSK) and the chartered universities in nominating representatives to the Board. What does a university have to do with KeNHA? That is something over which I will bring an amendment in due course as we move to the next stage of this Bill.

The area that I would like the Bill to emphasise on is auditing of the roads. Because of the lifespan of the roads that are made, you will find that the auditing of an earth road becomes a bit awkward once it rains. We can be proactive. Where a road is made, the auditors should immediately go to inspect it before payments are done. That is a better approach. Such audits will ensure that we get value for money as a country.

On procurement, our roads are procured a bit clumsily. The process is not pro-development. It takes a lot of time to procure roads, especially in the new annuity programme where a private entrepreneur is identified. He undergoes very many steps before the award and contract is signed. It takes a lot of time. The process should be fine-tuned to make it proactive so that contractors can be on the ground within a short time.

With those few remarks, I support.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Next on my request list is the Member for Kwanza Constituency.

Hon. F.K. Wanyonyi: Thank you for giving me the opportunity, Hon. Temporary Deputy Speaker.

(Hon. Mwadeghu stood up in his place)

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): I cannot see you on a point of order on the intervention box.

Hon. Wanyonyi, let us allow the Whip of the Minority Party.

Hon. Mwadeghu: Hon. Temporary Deputy Speaker, we are discussing a very important Bill which affects the entire country. I am not convinced that we have quorum to proceed with debate.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Hon. Members, it has come from the Whip of the Minority Party and he has done it procedurally. Pursuant to Standing Order

No.35(1), (2) and (3), I can confirm through the clerks that there is no quorum. Ring the Quorum Bell for 10 minutes.

(The Quorum Bell was rung)

Order, Hon. Members! You are out of order. Before the Whip walks out I want to refer you to Standing Order No.35(3). It states:-

“(3) Whenever the Speaker or the Chairperson, as the case may be, is engaged in counting the House or the Committee respectively, the doors shall remain unlocked but no Member shall be allowed to leave the Chamber, except a party whip who may be permitted to leave the Chamber to seek the Members required to raise a quorum.”

Hon. Members you are tied by your own Standing Orders and you will be out of order if you fail to observe them in which case Standing Order No.107 will be applicable. We will only allow the Whip to walk out.

Order, Hon. Members! As per our Standing Orders, the Quorum Bell has been rung for the first 10 minutes. We were debating the Kenya Roads Bill, which is very important. I request that the Quorum Bell be rung for another five minutes to see whether we can raise the quorum.

(The Quorum Bell was rung)

ADJOURNMENT

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Order, Hon. Members! Having been unable to raise quorum, and pursuant to Standing Order No.35(2)(a), this House stands adjourned until Wednesday, 15th June, 2016, at 9.30 a.m.

The House rose at 4.55 p.m.