

# NATIONAL ASSEMBLY

## OFFICIAL REPORT

Wednesday, 21<sup>st</sup> February 2018

The House met at 2.30 p.m.

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

### PRAYERS

### PETITION

#### STATUS OF INVESTIGATIONS INTO THE MURDER OF MR. ELIUD WACHIRA

**Hon. Speaker:** Hon. Members, this is Petition No.5 of 2018. Standing Order No.225(2)(b) requires that the Speaker reports to the House any petition other than those presented through a Member. I, therefore, wish to convey to the House that my office has received a petition signed by one, Gachoki Kori regarding alleged murder of his brother one Eliud Wachira of Kimuri Estate, Kerugoya Town, Kirinyaga County.

The petitioner contends that on the night of 24<sup>th</sup> January 2015 the late Eliud Wachira was murdered at his home in Kimuri Estate, Kerugoya Town and goods of unspecified value stolen. The petitioner avers that his efforts to address the matter with the relevant authorities have been futile.

Hon. Members, among other prayers, the petitioner prays that the National Assembly causes the Directorate of Criminal Investigations (DCI), the National Police Service Commission (NPSC), the Director of Public Prosecutions (DPP), the Independent Policing Oversight Authority (IPOA) and the Attorney-General to expeditiously investigate and prosecute those found culpable of the murder of the late Eliud Wachira and keep the petitioner's family regularly informed of the progress of the investigations.

Hon. Members, the Petition stands committed to the Departmental Committee on Administration and National Security for consideration. Since investigations of this nature are not under the authority of Parliament, the Committee is requested to consider the Petition and cause the relevant organs of Government to investigate and keep the petitioner regularly informed and thereafter file a report to the House in accordance to the provision of Standing Order No.227(2).

Thank you.

### PAPERS LAID

**Hon. Speaker:** Hon. Ruth Mwaniki.

**Hon. (Ms.) Mwaniki:** Hon. Speaker, I beg to lay the following Paper on the Table of the House today, Wednesday 21<sup>st</sup> February 2018:

The Report of the Kenya delegation to the 47<sup>th</sup> Session of the ACP Parliamentary Assembly and the Inter-Sessional Meetings of the ACP-EU Joint Parliamentary Assembly held in Brussels, Belgium from 9<sup>th</sup>-12<sup>th</sup> October 2017.

Thank you.

**Hon. Speaker:** Next Order.

## NOTICES OF MOTIONS

### MEETINGS OF THE ACP-EU JOINT PARLIAMENTARY ASSEMBLY

**Hon. (Ms.) Mwaniki:** Hon. Speaker, I beg to give notice of the following Motion:

THAT, this House notes the Report of the Kenya delegation to the 47<sup>th</sup> Session of the ACP Parliamentary Assembly and the Inter-Sessional Meetings of the ACP-EU Joint Parliamentary Assembly held in Brussels, Belgium from 9<sup>th</sup>-12<sup>th</sup> October 2017.

**Hon. Speaker:** Hon. Faith Gitau.

### REQUEST FOR GOVERNMENT WAIVER ON PAYMENTS MADE BY YOUTH SEEKING EMPLOYMENT

**Hon. (Ms.) Gitau:** Hon. Speaker, I beg to give notice of the following Motion:

THAT, aware that the average youth population in Kenya is 35 per cent of the total population of the country; further aware that the majority of this population is in the job market entry level; noting that Article 55 of the Constitution obligates the State to take measures to ensure that the youth access employment; concerned that this access is hindered by the requirement to produce numerous documentation, including tax compliance certificate from the Kenya Revenue Authority (KRA); Certificate of Good Conduct from the Directorate of Criminal Investigations; Higher Loans Education Board (HELB) clearance certificate, Ethics and Anti-Corruption Commission (EACC) clearance certificate, Credit Reference Bureau (CRB) clearance certificate; further concerned that the documents cost not less than Kshs4,500 to acquire; deeply concerned that most of the job seekers in the youth bracket cannot raise this prohibitive amount for purpose of job application; this House urges the Government, through the Ministry of Public Service, Youth and Gender Affairs, to waive the payment of these fees by job-seeking youth in the country and further urges the Ministry to immediately fast-track the implementation of the National Employment Authority Act which requires the establishment and maintenance of integrated and up-to-date database of all persons seeking employment.

Thank you.

## COMMUNICATION FROM THE CHAIR

### INVITATION TO ATTEND POST-ELECTION SEMINAR

**Hon. Speaker:** Hon. Members, I had indicated earlier that I have a short Communication to make. This is regarding what is known as post-election seminar.

In keeping with the practice at the start of every new Parliament, the National Assembly in conjunction with the Commonwealth Parliamentary Association (CPA) has organised a three-day post-election seminar for Members of the National Assembly. The theme of the seminar is;

“Sharing our experiences to enhance good governance and continually safeguard the welfare of the nation”.

The seminar, which is a follow-up to the induction workshop held in Nairobi in September 2017 after the swearing in of Members of this House, is scheduled to be held in Mombasa County from 4<sup>th</sup> March to 8<sup>th</sup> March 2018 at a venue to be confirmed in due course.

The seminar will offer Members an opportunity to interact and share experiences with resource persons from other legislative jurisdictions within and outside the Commonwealth, particularly Australia, Canada, the United Kingdom, the United States of America, Zambia and indeed our own experts in various disciplines. It will also offer an avenue to continue the debates from the recent induction workshop as well as the open experiences in the House so far.

Hon. Members, it is my pleasure and indeed an honour to invite each and every one of you to the seminar in order for everybody to be able to share their own experiences so far on matters particularly to do with good governance and collectively safeguarding the welfare of our nation.

In order to facilitate proper planning, all Members are requested to register their preferred times for travel with the Office of the Clerk by filling a prescribed form at the main reception between now and end of next week.

I thank you.

**Hon. Nuh:** On a point of order, Hon. Speaker.

**Hon. Speaker:** There is an intervention. Yes, Minority Whip.

**Hon. Nuh:** Thank you, Hon. Speaker, for giving me an opportunity. I wanted to draw your attention that as per the resolution of the House Business Committee (HBC) yesterday, we were supposed to submit names of the Parliamentary Service Commission (PSC) by today noon. The Leader of the Minority Party will expound on it but after consultations, the biggest party in the country, ODM, has a National Executive Committee (NEC) meeting tomorrow at 2.00 p.m. The matter will be discussed and taken to the National Governing Council (NGC) on Friday. We are requesting if we can submit our names on Tuesday, with your indulgence. It is very unfortunate that the nominee for Wiper Party went with the names of the Jubilee coalition. It would have been better if it had come with ours. Now that it has gone with Jubilee, we say God help them. *Inshallah*.

Thank you.

**Hon. Speaker:** Did you say that the nominee has gone to bed?

**Hon. Nuh:** No. when the Leader of the Majority Party tabled the nominee for Wiper, together with the nominees of the Jubilee Coalition, it was like mixing sheep and goats. I wonder how they are going to move forward together. We are waiting to see.

**Hon. Speaker:** Hon. Mbadi, do you also want to address the same issue? Is that the reason your intervention is here?

**Hon. Ng'ongo:** Thank you, Hon. Speaker. I want to agree with my Whip that we will have a meeting tomorrow to deliberate on this matter as we discussed in the HBC. It may not even take that long. It will take up to Tuesday once we are done with our consultations tomorrow in the NEC. We are doing this in light of what transpired yesterday; that we probably needed more information to authentic the nominations. We are going to do that. I did not want to talk about the issue of Wiper. Probably, it is a matter that the coalition must look into seriously. As the Leader of the Minority Party, I have raised this matter with the leadership of NASA at the level of the Summit. This is a very serious matter. Having a Wiper nominee going through the Jubilee direction to reach this House is something that cannot be taken easily.

You can even hear the shouts from the other side. When you want to know the owner of a dog, you touch the dog and you will see the owners coming out.

The owner of this dog is clearly coming out. I am the Leader of the Minority in this National Assembly. Anyone expected that the list for any Member from NASA Coalition should have been brought in a way that is acceptable to the leadership of NASA Coalition, but the way this name has been bulldozed...I know my friend, Momanyi, will be in the Commission because with the tyranny on that side, definitely he will go through. However, I just want to advise him that he needs to look at where he belongs. When you see Jubilee cheering you, they may be cheering you to the slaughter House.

**Hon. Speaker:** Yes, Leader of the Majority Party.

**Hon. A.B. Duale:** Hon. Speaker, I did not want to stand but I need to make correction and go on the HANSARD. Of course, I understand the frustration of the Minority Leader and the Minority Whip. Coming to tell the House when their party is meeting...The largest political party in the country is Jubilee with 170 Members followed by ODM, Wiper, ANC, FORD Kenya and the rest, in that order.

Last night you chaired a meeting of the HBC and following the Constitution and the Standing Orders, you confirmed that one party, Wiper, has a slot in the PSC. That is not in dispute. It is very sad that an arrogant ODM leader is calling a whole party a dog. Hon. Mbadi, that is not leadership. He is saying "if you want to know the owner of the dog..." The dog in this reference is the Wiper Democratic Movement – Kenya (WDM-K). The owner can be a rich bourgeoisie like the Jubilee Party (JP). So, the derogatory term was used on the WDM-K. The leader of the WDM-K was the running mate of his party leader.

**Hon. Member** (*Off-record*)

**Hon. A.B. Duale:** That is a new Member. You need to learn the ropes. It is Hon. Speaker who gave me the chance. You will speak if you want to.

The House Business Committee gave Hon. Mbadi, Hon. Junet and Hon. Makali Mulu who represented the minority in the HBC until 11.00 a.m. this morning to put their House in order. They could not. At 12.30 p.m., as you directed, I came and gave a notice of Motion for one Ben Momanyi. Whether you have your National Executive Committee (NEC) meeting on Friday, next year or tonight, it is none of the business of this House. This House cannot be taken hostage. We waited; we waited for too long. We want to give you five members tomorrow afternoon if the House agrees with me. We have welfare issues that we want discussed. We cannot be hostage to one party which wants to dominate, abuse and talk in arrogance.

Hon. Mbadi, you are the second Leader of the Minority Party under the new Constitution following the demise of our late brother, Hon. Nyenze. You need to learn from how Hon. Jakoyo, Hon. Nyenze and Hon. Chris Wamalwa ran the affairs of the Minority in the last Parliament. Yes! The WDM-K is here to stay. They have over twenty plus Members of Parliament. They are qualified for the 5 per cent of the House. Until 2022, WDM-K will be with you here; whether you call them dogs or not. So, let us discuss the serious matter of the House. Your orders and orders of the HBC have been complied with. Hon. Ben Momanyi is not a surrogate Member of Parliament. He is an MP by right. Anyone of us here can be a member of the Parliamentary Service Commission. There are no sacred cows; there is no animal farm in this House. Hon. Keynan is equal like any other Member of the JP. Whether you like it or not, Hon. Ben Momanyi's fate lies with this House tomorrow afternoon. It does not lie with the JP. We need to move. Let us give our colleagues time to go and do their NEC or a Parliamentary Group (PG) meeting. They can consult *Baba*. They can consult the whole rank and file of the Orange

Democratic Party (ODM). Ultimately, you need to give us two names which I have no problem receiving; I am going to diligently give notice of Motion. Please, the earlier you give us the names the better. There are men and women in your party who are qualified and educated. Do not segregate or discriminate your membership. They supported you; they campaigned for you. Why are they becoming dogs now?

I beg to say that we move to something better.

**Hon. Speaker:** Hon. Members, I did not think this was going to be a big debate. I can see Hon. Makali Mulu is agitated. He says it is because his name has been mentioned. It is only fair that we give you a chance.

**Hon. (Hon.) Mulu:** Thank you, Hon. Speaker.

In terms of our Constitution, a party becomes a party of this House if it has more than 5 per cent representation in this House. The WDM-K has more than 5 per cent. When you look at the requirement of who should communicate to this House in terms of commissioners, it is a political party. The WDM-K is a political party. So, I take offence when I hear leaders - I have a lot of respect for our leaders in the coalition - speak badly. There has been a tendency where Members in this House, who have only served one term or more, end up abusing the party leader of WDM-K. He has been in this House for 28 years. I think we need to respect him. We do not have any angel in this coalition. Some of us never abuse other leaders. They will never abuse them because we respect our leaders. We are not going to take it lightly as the house of WDM-K to see our leader being abused every day, even by people who have not defended their positions even once and won.

I plead for respect for the WDM-K. We respect all our partners. We demand respect. If we are not respected, we have the capacity to also abuse. We have the capacity to say all the things being said against the WDM-K. Let nobody undermine the WDM-K. In terms of membership, we are up to the task. I want to promise this House... You know, when you want to seduce a girl and the girl keeps on running away from you, you can always think about an alternative. Let people not think that we do not have an alternative.

*(Laughter)*

This idea of always being pushed because people think we cannot, it is like... We have said and it has been said publicly that the WDM-K is in NASA to stay. For your information, if people play around, we will be kicking people out of NASA ourselves. We are original members of the NASA. Let nobody think that we are subordinate. We just demand respect. If something has been decided, it is the rules demanding. Let the rules be followed but not abusing people because a name has been submitted. The fact that the name has come through the JP does not make *Mheshimiwa* Momanyi become a JP member - he is a member of the WDM-K. These Members will be voting, we will have the chance to vote. If you want to vote for Momanyi, you are at liberty to do it. If you want to kick everybody out, we will kick everybody out. My plea to Members in this House is that the people we are going to put in the PSC are, actually, our representatives. If they cannot push our interests, let us forget what is happening outside this House. They will be representing us inside here, our welfare. I want to support the idea that if somebody is not up to the task, let them disappear. Some of us are even willing to take those positions. It is not that people are special in any way. We want members of the PSC or commissioners who can champion the interests of Members. That is my plea to Members.

Thank you, Hon. Speaker, for giving me the chance.

*(Wiper! Wiper! Wiper!)*

**Hon. Speaker:** Order, Hon. Members. You suddenly appear to have forgotten that you are not in a public rally. The only thing that I may wish to caution Hon. Makali Mulu is, he talked about abusing and insulting. Please, do not do it within the Chamber but those other places, wherever it may be. You can hurl whatever words that you think are appropriate to describe your friends, save, of course, I want to implore Members to also appreciate that, in the month of June last year, this House as well as the other House passed the new Powers and Privileges Act. I encourage many of you to go through it. As you go through it, also take time to look at the Leadership and Integrity Act, 2012. Even on what you are threatening to do, once you read those two Acts, you will notice what is expected of you as a State officer or a public officer. I am saying this well knowing that Order No.10 is about constituting members to the Powers and Privileges Committee. It is only fair that you go through it. You passed it. Since it was at the time when many of you were going for reelection, you might not have paid sufficient attention. But please, just go through it carefully and see what it is you can say where and when. Hon. Olago Aluoch, do you still want to weigh in on this?

**Hon. Aluoch:** Thank you, Hon. Speaker. While I support the request by the Minority Party Whip, Hon. Junet, I want to make certain confessions here. Having been a commissioner myself, I have kept a studious silence over this debate because I have noticed that when Members use terms and language like, “dogs” and insults and abuses, it only reaffirms what I have said in this House severally that our weakness as a House is the lack of our ability to resolve minor conflicts. Instead of resolving them, we make them worse. If I was Hon. Momanyi, I would be really afraid to have my name being fronted by Jubilee. I would be the first to say, “Please, do not. Let it be done by our own side”. I know in our coalition there are junior brothers, senior brothers, bigger brothers and younger brothers. My only hope is that when this matter is going to be discussed, let us discuss it with people who know how to resolve conflict because the line that this debate is taking may even wreak havoc in NASA.

I notice the happiness that our brothers and sisters on the other side have. It is threatening to me. I get worried where I am. This may split NASA. I kindly request that you allow the request to be given by Hon. Junet, but in the meantime because there is business to be transacted at the commission and Members’ welfare is at stake, I kindly request that Jubilee goes ahead with their four names – Not five names including that of Hon. Momanyi. Let them present their four names to be approved by the House. Five names would mean including Hon. Momanyi who is not a Member of Jubilee. So, do not include his name there. The four persons can be sworn in as commissioners and work will proceed as we resolve our own conflict.

*(Applause)*

**Hon. Speaker:** Hon. Members, everybody wants to get into points of order. Maybe you are saying some of these things because of lack of certain information. Hon. Members, let me just take some little time to explain this matter.

In December, during the First Session of this Parliament, as is normal, parties that qualify to nominate persons to serve as commissioners to the Parliamentary Service Commission created under Article 127 of the Constitution were notified. Article 127(2)(c)(i) provides that four Members shall come from the party or coalition of parties forming the national Government. Article 127(2) (c) (ii) provides for three Members who come from parties not forming the

national Government, one of whom shall be from either House and another one to be of the opposite gender. The same is provided for the other four, that two shall come from the National Assembly and the other two shall come from the Senate. If you recall, on 14<sup>th</sup> December before this House went on recess, that matter was extensively debated here until it got to a point where the party, which is a partner or a coalition partner in NASA known as Wiper Democratic Movement-Kenya, insisted that they are one such party that is qualified for a slot from among the three reserved to parties not forming the national executive.

We had to go to our Standing Orders. Who qualifies to be a party in the National Assembly? In our Standing Orders it is any party that has more than five per cent of the representation in the House. At that time, I directed that, therefore, since Article 127(2)(c)(ii), like Article 127 (2)(c)(i) does not provide for coalition, it is parties. I did direct, therefore, that either NASA sits as a coalition and agrees or those parties that qualify provide names. We did the calculation. This is information which has been provided to the Leader of the Minority Party and the Minority Whip. After the calculation, ODM is entitled to two of the three slots. There is 1.78 per cent of three and the nearest to that, is two. Wiper Democratic Party is entitled to 0.48 per cent. The next parties worth mentioning in that category are what is called ANC or something. Is it African... Amani National Congress?

*(Laughter)*

Amani National Congress is entitled to 0.31 per cent of the three. The next one is FORD-Kenya which is entitled to 0.26 per cent. There are others which are fairly peripheral and entitled to 0.004 per cent. There are some other three which are entitled to 0.002 per cent. Working in the same manner that we worked for the nominations into the East African Legislative Assembly (EALA), the party that will take the one slot remaining is Wiper Democratic Party. That is the formula which has been used.

As you recall, when this Second Session commenced, and the parties were again requested by the Clerk to provide nominees, I got a request from Hon. John Mbadi, the Leader of the Minority Party in the National Assembly, to withhold processing of the names of the commissioners until the 19<sup>th</sup> of this month - That was Monday. In the meantime, on the 12<sup>th</sup> of this month, I received minutes and communication from Wiper Democratic Party signed by Prof. Kivutha Kibwana, Chairman of Wiper Democratic Party and Sen. Judith Sijenyi, Secretary-General of Wiper Democratic Party forwarding not just the names, but also the minutes and the resolution that Wiper Democratic Movement Kenya had nominated one Hon. Ben. Momanyi, to be their commissioner in adherence to the provisions of Article 127 (2)(c)(ii).

Yesterday at the House Business Committee, a lot of argument took place and everybody agreed that Wiper Democratic Movement Kenya was entitled to that one slot. But there has been a dispute because Hon. John Mbadi, Leader of the Minority Party in the National Assembly, forwarded another name of a Member of Wiper Democratic Party from the Senate. After looking at the two documents, it was resolved and agreed. Indeed, Hon. John Mbadi can communicate, but with regard to this issue, because of the coalition agreement, signed on 12<sup>th</sup> February 2017, between the various component parties that formed NASA, which coalition agreement was deposited with the Registrar of Political Parties, Article 10(6) thereof provided that nominations to positions in constitutional commissions and independent offices were not to be shared among the coalition partners using any strength. Indeed, a copy of that coalition document was also forwarded by Hon. (Prof.) Kibwana. If you read Article 10 of that coalition document, it

provides very well: They were to share Executive positions in Cabinet, which they never got. But more importantly, it clearly provides that the coalition was to share various leadership positions in legislatures, positions such as Leader of the Minority Party, or Majority Party if they had won; whips; chairs of committees that would be available to the commission. It is very clear in that Article 10 of the coalition agreement.

As is the normal practice, the House Business Committee met, and indeed every Thursday the Leader of the Majority Party in this House reads to the House the resolutions of the HBC showing the business that is going to be available to the House for the coming week. Therefore, it was agreed last night that there was need again to adjourn but allow Hon. John Mbadi, Hon. Junet and Hon. Makali Mulu to consult their superiors further but provide the names by midday today so that the Leader of the Majority Party, on behalf of the HBC, would give notice of Motion of the names that he would have received. Indeed, I confirm that the names that I have received from Jubilee are the ones that were read out. The name that I have received from the Wiper Democratic Movement, through their Chairman and Secretary-General is that of Hon. Ben Momanyi.

I think it is only fair that we appreciate the procedures. That the Leader of the Majority Party has not nominated Hon. John Mbadi or, indeed, even the names that he presented from his party. All of those names will be before the House; it is up to the House to make what it desires to do with them. It is only fair that we put the record straight. Hon. Ben Momanyi has not been nominated by the Leader of the Majority Party. The Leader of the Majority Party moves several Motions here on behalf of the HBC. He gave notice about the various sessional papers that we have discussed on behalf of the HBC. That is what has happened. Unless, Members, you want to adopt a different procedure, which would then mean that we amend the Standing Orders. For the time being, until such amendment is moved and carried, we will continue moving in the manner that we have always moved, both in the last Parliament and in this one.

I thank you. I do not think there is need for further clarification on this matter.

*(Loud consultations)*

Order Members. That notwithstanding, the request by Hon. Junet, the Whip of the Minority Party, to submit the additional two names, is allowed. But I thought the Leader of the Minority Party indicated that you do not have to go up to Tuesday; according to him it is something that he could resolve much faster. Nevertheless, if the names are provided by 12 O'clock tomorrow, I will authorise that a Supplementary Order Paper be prepared and the Motion be moved in an amended form by the Leader of the Majority Party, if the matter can be resolved. But if it is not, Hon. Junet requests that the names be provided by Tuesday.

So we proceed. Sorry, Members, there are some Members whose names I may not quite know very easily. There is a Member who is raising his hand. I do not want to describe him. In the last Parliament I described some Member and he never made it back, so I do not want to repeat that. That is the Member for Uriri?

**Hon. Nyamita:** Yes, Sir. Thank you. Though you have substantively covered the issue of the Parliamentary Service Commission, I just wanted to highlight something. I do not know whether it is I who did not hear you very well when you were doing your mathematics around how the slots have been shared and you talked about ODM having about 1.78 and you rounded it off to two, which is mathematically correct; and then you talked about Wiper having 0.48. When



you round it off, it does not come to 1. So there is some inconsistency in that mathematics and I want to challenge the HBC.

Having said that, you went further and said that ANC has around 0.3 and FORD-Kenya 0.2. If you add the two, if they are in concurrence, you will realise that then Wiper might not even qualify for that very slot. I am afraid that if you proceed...

**Hon. Speaker:** Just a minute. We are long past that. You will learn that very soon. Once I have finished with that, it is impossible that it can be revisited. So, Hon. Nyamita, it is not a matter that we will even want to engage in. We used it for the nominations to EALA. You cannot engage in an argument with the Chair. Sorry, it never happens. The matter is over. So let us move to the next Order.

## MOTION

### ADOPTION OF SESSIONAL PAPER ON THE NATIONAL POLICY ON CLIMATE FINANCE

THAT, this House adopts Sessional Paper No. 3 of 2017 on the National Policy on Climate Finance, laid on the Table of the House on Thursday, 15<sup>th</sup> February 2018.

*(Hon. A.B. Duale on 20.2.2018)*

*(Debate concluded on 20.2.2018)*

**Hon. Speaker:** Order Members, debate on this Motion was concluded yesterday. What remains is for me to put the Question.

*(Question put and agreed to)*

## BILL

### *First Reading*

### THE WAREHOUSE RECEIPT SYSTEM BILL

*(Order for the First Reading read-Read the First Time and ordered to be referred to the relevant Departmental Committee)*

## MOTIONS

### APPOINTMENT OF MEMBERS TO THE COMMITTEE ON PARLIAMENTARY POWERS AND PRIVILEGES

**Hon. A.B. Duale:** I beg to move the following Motion:

THAT, pursuant to the provisions of section 15(1)(a)(ii) of the Parliamentary Powers and Privileges Act, 2017 and Standing Order 175(3), this House approves the

appointment of the following Members to the Committee of Parliamentary Powers and Privileges, in addition to the one specified under Paragraph 1(a)(i) of the said Act:

- (i) Hon. Anthony Githiaka Kiai, M.P.
- (ii) Hon. Vincent Kipkurui Tuwei, M.P.
- (iii) Hon. Beatrice Pauline Cheron, M.P.
- (iv) Hon. Gladwell Cheruiyot, M.P.
- (v) Hon. Marselino Malimo Arbelle, M.P.
- (vi) Hon. Jude Njomo, M.P.
- (vii) Hon. Didmus Wekesa Barasa Mutua, M.P.
- (viii) Hon. Peter Mwathi, M.P.
- (ix) Hon. Francis Chachu Ganya, M.P.
- (x) Hon. Omar Mwinyi, M.P.
- (xi) Hon. James Mathew Onyango Koyoo, M.P.
- (xii) Hon. Dan Mashako, M.P.
- (xiii) Hon. Vincent Kemose, M.P, and;
- (xiv) Hon. Andrew Mwadime, M.P.

Hon. Speaker, the Committee of Powers and Privileges is a sessional committee thus the need to reconstitute its membership annually. So, every new Session, this Committee, the House Business Committee (HBC) and the Committee on Members' Services and Facilities must be reconstituted. That is why we are bringing these names afresh.

Section 15 of the Parliamentary Powers and Privileges Act, 2017 provides for the Committee on Parliamentary Powers and Privilege... We draw those powers to form this Committee and the relevance of this Committee from Section 15 of the Parliamentary Powers and Privileges Act, 2017. That is what the Speaker referred to, that we did a number of amendments and Members need to apprise themselves.

Hon. Speaker, this Committee is chaired by the Speaker. That is why Paragraph 1(a)(i) of the said Act specifies who the Chair is. It has 14 other Members that are shared along party lines. What is the function of this Committee? It is to inquire into the conduct of a Member whose conduct is alleged to constitute a breach of the privilege. So, if your conduct and behavior within the precincts of Parliament is not in tandem with the privilege you enjoy and it constitutes a breach of that privilege then definitely you will appear before this Committee. These include an assault within the precincts of Parliament or obstruction. You remember in the 11<sup>th</sup> Parliament there were times a section of Members of Parliament wanted to obstruct the proceeding of the Speaker. If you dare to obstruct the proceeding of the Speaker in and out of the Chamber then you will appear before this Committee. If you insult any Member within the precincts of Parliament either at the bar, lounge or offices and molest... You know what molestation means. These are the functions of this Committee. I am sure we have picked Members to this Committee to make sure that they really help the House in enforcing conduct of Members and allow them to enjoy their privilege but they should not have a breach of that privilege.

This Committee can also summon any person to appear before it for the purpose of giving evidence or providing information. For example, if there was an assault case in any of the premises within the precincts of Parliament and you are a Member of Parliament, and you and your staff happen to be there, this Committee has the powers to summon you so that you can give your side of the story.

Hon. Speaker, this Committee also has the powers to enforce the attendance of witnesses and do an examination under oath of affirmation. So, you can be summoned and put under oath

because they have those powers. They have the powers to compel any individual or person whether a Member of Parliament or not on a matter before them to produce documents that they need to deal with that matter.

Finally, this Committee of Parliamentary Powers and Privileges has the powers to request to do an examination into a witness abroad. So, this is a very important Committee. As we start the new Session of the 12<sup>th</sup> Parliament, let us make sure that we live by the “hon. Members” title we hold. The title “hon” is not just a title; it is something you live with when within the precincts of Parliament as well as outside. You are a leader. We need to show example to the rest of the country. If you want to be respected, then let us make sure you do not appear before this Committee. I saw in the 10<sup>th</sup> and 11<sup>th</sup> Parliament Members were called to this Committee. It is your duty to ensure you are not involved with it. The alternative “Chief Justice”, Hon. Kajwang’, is in the House. So, if he organizes a purported swearing in of a Member of Parliament... You know Hon. “Chief Justice” T.J. Kajwang can purport to do another swearing in of a Member of Parliament outside the precincts of the Chamber. So, if you participate in that swearing in, then definitely you will appear before this Committee.

Hon. Speaker, you know Hon. T.J. Kajwang’ was in the Speaker’s Panel. He is a man I respect. When you see him daring it tells you he is not a coward. We have put him in the list of men who can do anything when they believe in it.

I beg to move and ask the Leader of the Minority Party to second.

*(Hon. Mbadi stood in his place)*

**Hon. Speaker:** Hon. Members, some of those things which are not here... There is a famous place, maybe the slightly older Members would know where it is located called Jeevanjee Gardens. There are some regular gatherings and in that place there is somebody called the speaker and he was sworn in by some others there. So, we take that those are things which are... We are dealing with other issues here. Hon. Mbadi, you wanted to raise an issue.

**Hon. Ng’ongo:** Thank you, Hon. Speaker. I rise to second Motion No.10 on the Order Paper. As the Leader of the Majority Party rightly put it, this is one of the sessional committees that we have to form every time Parliament resumes from the long recess at the end of one Session. I also agree with the Leader of the Majority Party that this is a very important committee. At times it is a very idle committee because when Members do not behave in a manner likely to demand that there is need for the Powers and Privileges Committees to sit and look at the issue, the committee more or less remains idle.

Hon. Speaker, this time round I ask this committee to take time and look at the Powers and Privileges Act and just clean it up. This is because some of the provisions in the Act may enslave MPs instead of promoting and enhancing the work of Parliament. I know there were some provisions that were included in this Act towards the end of the last Parliament, which may be very offensive to these MPs. I urge this Committee, instead of remaining idle to wait for Members who misbehave, which may not happen, they can take their time to look at the Act.

I know the Hon. Speaker, who is the Chairman, is very busy. So, you can delegate to other Members to take their time to be meeting often or regularly to look at the Act.

Hon. Speaker, you can see the National Super Alliance (NASA) Coalition is still very intact despite all that has taken place, including what happened this afternoon in the House. We will remain intact. I want to tell you that even in this committee we have representation from the

Wiper Party sponsored by NASA. Despite these disagreements, some of which my colleagues are enjoying, you will still find NASA very strong.

We are a democratic coalition, and that is why you hear a lot of our issues being discussed openly. I thank God that I do not belong to the other side where you are called somewhere, where a list of who should be there is read out to you. If you dare joke and try any other game, even offering yourself to be Chair of something, do not be surprised if you are charged with fraud of Kshs1 billion, when you have not even seen a billion in your life.

That is why I am a very proud Member of the NASA Coalition and the Orange Democratic Movement (ODM) where even the leader of that party can still be challenged on the Floor of the House and no one will de-whip you the following day. I am sure that if my colleague on the other side of the House was challenged in the way Members of my coalition have challenged my position here, the following day you would see Members of his party being de-whipped. You would be arrested on a Friday afternoon and incarcerated until Monday to ensure that you do not see the light of the day throughout the weekend.

Hon. Speaker, I just plead with my Members from the NASA side to be very proud of NASA in this House. No one will victimise you. We will criticise your actions if they are not good and are not supporting the coalition course. Some of us have been criticised but we will not victimise any Member of the NASA Coalition – not when I am the Leader of the Minority Party. No Member of NASA will be victimised for airing or expressing his ambition because it is normal for an individual to be ambitious.

I want to conclude by saying that if you are in politics and you are not ambitious then you have no business being in politics. Even with regard to Hon. Ben Momanyi, there is nothing wrong in his showing his ambition. We welcome it but you should also listen to wise counsel from elders like me. Hon. Momanyi actually found me here.

Hon. Speaker, finally Hon. Duale cannot get away with this. He keeps on reminding me to behave like... God rest the late Hon. Francis Nyenze's soul in peace. Hon. Duale must know that I am a very faithful and competent Member of the ODM Party and the NASA coalition. I am the chairman. I am different from the people you are referring to. I have an extra responsibility to ensure that the policies of the party are adhered to and respected. I cannot just speak like any other person. I am not any other person. I am Hon. John Mbadi, the Chairman of ODM party and Leader of the Minority Party.

If Hon. Duale expects someone who is a cheer leader, who will be praising him, then I am the wrong person. However, if he wants robust debate, someone who would engage him and give contrary opinion, he will get that from Mbadi effectively.

Hon. Speaker, I second.

**Hon. Speaker:** I want to propose the Question. Member for Kilifi North and Member for Seme, if you could just allow us to finish with this matter.

Hon. Members, even as we propose the Question to this Motion, as I did indicate earlier, the previous House passed the latest edition of the Powers and Privileges Act in the month of June. The Act came into force on 22<sup>nd</sup> August, 2017. As you know, there are some Kenyans who, in exercise of their rights, went to court to challenge that Act. As we speak, there is in existence a conservatory order suspending the operations of Sections 3, 7 and 11 of that Act.

Some of them deal with service of the civil processes of Members within the precincts of Parliament, especially section 11. Section 3 deals with the definition of what are the "precincts of Parliament." So, even as we discuss this, as I said earlier, I want to encourage you to look at this Act.

I want to agree with Hon. John Mbadi that, that would be the practice unless none of the Members you have given me is unwilling to deputise me. Ordinarily, because of the many meetings that I expect this Committee to hold, because there are issues to do with ethics, you may find it necessary to have a separate committee dealing with ethics of Members. This happens in many other jurisdictions. This is so that this Committee only deals with matters of privileges and immunity of Members.

I want to confirm to you, Hon. John Mbadi; that one of them will have to deputise me because their work is cut out. There is a lot to be done, because of the requirements from other institutions dealing with matters to do with ethics of State and public officers.

*(Question proposed)*

**Hon. Speaker:** Hon. Members, I can see several requests here but before I give Members a chance, let me recognise the presence in the Speaker's Gallery of the following people: Students from Nguumo Secondary School, Kibwezi West Constituency, Makueni County and staff from Elgeyo Marakwet County who are on attachment observing the proceedings of the House. You are welcome.

Hon. Member for Rarieda!

**Hon. (Dr.) Otiende Amollo:** Thank you, Hon. Speaker. It was not my intention to speak on this but on an earlier issue. Therefore, I take this opportunity to humbly suggest that you put the Question.

**Hon. Speaker:** Can I get an indication as to whether all those Members who have put a request have nothing to say? Is that the case, so that nobody loses their chance to speak on account of having been skipped?

**Hon. Nuh:** Thank you, Hon. Speaker. I want to take the shortest time possible. I rose here last week addressing you on matters of privilege. Unfortunately, at that time this Committee was not in place and you are the Chair. You can remember I was talking about the privileges given to Members of NASA leadership and Members of Parliament in terms of security. Even the Leader of the Minority Party is still walking; he does not have a car as the Leader of the Majority Party. I was asking whether we can now refer this matter to this Committee under your leadership and give a timeline of one week to report back to the House, preferably next week Tuesday so that we can discuss the Report of the Committee. That is my humble request.

**Hon. Speaker:** Hon. Members, I take it that even though there are several requests they are meant to be.... If it is the desire of the House, Hon. Members, I will therefore put the Question.

*(Question put and agreed to)*

Hon. Members, now that the Committee is in place, I want to inform the Members of that Committee that they are expected to attend an inaugural meeting in the Speaker's Boardroom next Tuesday at 9.30 a.m.

Hon. Junet wants the Committee to start meeting but they have to meet under my chairmanship. But, because of other engagements, I am unable to meet them as you had suggested. Hon. James Oyoo knows where we have always regularly met. He can lead the rest of the team. No! You cannot be a friend of the Committee, not at the inaugural meeting. There is housekeeping and some other information meant for that Committee.

**Hon. Ichung'wah:** On a point of order, Hon. Speaker.

**Hon. Speaker:** Yes, what is your point of order, Hon. Ichung'wah?

**Hon. Ichung'wah:** I wanted to ask whether it is in order even as you convene the inaugural meeting to co-opt members. Remember in the 11<sup>th</sup> Parliament there was a time we co-opted members whom, we famously referred to as *Njuri Ncheke*. I wanted to request that there are many Members, of course I included, who diligently served in this Committee in the 11<sup>th</sup> Parliament together with Hon. Ali Wario and the Deputy Speaker, who is now privileged to sit in when you are not there and you can probably delegate this to him.

I am requesting this because of the many issues relating to matters privilege, if you would kindly consider incorporating those of us who are elders in our own right to this Committee. I do not know whether the Leader of the Minority Party imagines being an elder has something to do with age but it has everything to do with wisdom. Those who are co-opted as you can remember was not on the basis of age but the wisdom they would impact into that Committee. I am kindly requesting that you consider this as you start work in this very important Committee. I know some us are chairs of other Committees and cannot be included in this Committee but do consider including us as *Njuri Ncheke*.

Thank you, Hon. Speaker.

**Hon. Speaker:** Well, Members can only be included on need basis. But, it is good to allow the membership to first of all have their inaugural meeting to do their own calendar. We do not want any Committee to be idle. There is no Committee that can be idle. There is a lot of work under the Parliamentary Powers and Privileges Act, the Leadership and Integrity Act of 2012 and even to make proposals as to which provisions of the Public Officer Ethics Act, 2003 which may need to be incorporated into the Parliamentary Powers and Privileges Act and then repeal the earlier Act. I think there is a lot of work for this Committee to do even before dealing with issues of immunity, discipline and such like. In the last Parliament those issues were quite many. I have a feeling that we could have many more this time. Besides that, I have gone through the work plan and there is already a lot for this Committee to do. Members of the Committee led by Hon. James Oyoo, let us meet on Tuesday at 9.30 a.m.

Next Order!

APPOINTMENT OF MEMBERS TO THE COMMITTEE  
ON MEMBERS' SERVICES AND FACILITIES

**Hon. Speaker:** The Leader of the Majority Party.

**Hon. A.B. Duale:** Hon. Ichung'wah has no specific talent and expertise to serve in that Committee as *Njuri Ncheke*. The Members from Jubilee and NASA are qualified. They can handle any matter including the ones that were raised by the Chief Whip of the Minority Party. I agree with you that the issues of privilege which he raised on the Floor can be addressed by that Committee but he must go with the proper evidence and hire the services of the Chief Justice and renowned lawyer, Hon. Otiende Amollo. They can help him argue your case.

Hon. Speaker, I beg to move the following Motion:

THAT, pursuant to the provisions of the Standing Orders 175(3) and 212B(3), this House approves the appointment of the following Members to the Committee on Members' Services and Facilities:-

- (i) The Hon. Ezekiel Machogu Ombaki, M.P.
- (ii) The Hon. Catherine Waruguru, M.P.

- (iii) The Hon. Florence Chepngetich Koskey, M.P.
- (iv) The Hon. Samwel Moroto Chumel, M.P.
- (v) The Hon. Silas Kipkoech Tiren, M.P.
- (vi) The Hon. Janet Nangabo Wanyama, M.P.
- (vii) The Hon. Rehema Hassan, M.P.
- (viii) The Hon. Rigathi Gachagua, M.P.
- (ix) The Hon. Charity Kathambi Chepkwony, M.P.
- (x) The Hon. Elisha Odhiambo, M.P.
- (xi) The Hon. Aisha Jumwa Katana, M.P.
- (xii) The Hon. Elsie Muhanda, M.P.
- (xiii) The Hon. Eng. Nzambia Thuddeus Kithua, M.P.
- (xiv) The Hon. Christopher Wangaya Aseka, M.P.
- (xv) The Hon. Catherine Wambilyanga, M.P.

Hon. Speaker, this is not a committee that is called catering. I need to make it very clear. In the 10<sup>th</sup> and 11<sup>th</sup> Parliaments, it had this tag of catering and members did not like it but now we are calling it the Committee on Members' Services and Facilities. This is a Committee that will work hand in hand with the Parliamentary Service Commission. So, it is a serious Committee. Standing Order No. 212B (1) provides that:

“There shall be a select committee to be designated the Committee on Members' Services and Facilities.

The Committee shall be responsible for-

- (i) receiving and considering views of Members on the services and facilities provided for their benefit and wellbeing; and
- (ii) advising and reporting on all matters connected to the services and facilities provided for Members.”

The Committee, being a sessional committee, needs the approval of the House at the beginning of every Session like the Committee on Parliamentary Powers and Privileges. Those who were in the 10<sup>th</sup> Parliament, Hon. Mbadi and the rest, will agree that it is good for Members to read the Powers and Privileges Act. It will save you one day. He is not in the House right now but the Member for Yatta, Hon. Charles Kilonzo, and I tabled a Report in the 10<sup>th</sup> Parliament. We were told to appear before the Committee on Defence and Foreign Relations on the issue of the International Criminal Court (ICC). One evening, the Speaker wrote us a letter to appear before that Committee. We went and read that Act and we wrote a long letter to the Speaker saying that our immunities and privileges and the powers did not allow us. So, we said we would give our evidence on the Floor of the House. So, it is good that you have kept on saying that we should read it.

On this Committee, we want Members to help Parliament. There are many things like how the gym is run and how our food and facilities are run. We want them to help the Speaker, who is the chair of PSC, and the commissioners that we are going to constitute in the days to come. So, this is a very important Committee just like the Committee on Parliamentary Powers and Privileges. I am sure the men and women in this Committee are up to the task. They will leave a mark that during their tenure the welfare and facilities of the House greatly improved.

Hon. Speaker, with your support and the support of the Clerk and other officers of this House, I am sure the 12<sup>th</sup> Parliament Committee on Members' Services and Facilities will change how things are run within the confines of Parliament.

I beg to move and ask the second Whip of the Minority Party, Hon. Junet, to second. He is the second person to hold that office. Hon. Mbadi drives one of the best four-wheel Land Cruisers in the House. So, he does not walk. He is my neighbour. When you say he walks, the people of his constituency will wonder what is going on. So, Hon. Mbadi is not missing that vehicle. He is entitled to it by his office but he is not missing it. I am sure he does not walk to Kiambu Road where we live with him. It is a long distance. Hon. Junet, you need to tell him that there is democracy but check on the language. You do not call your colleagues dogs. You need to withdraw that from the HANSARD.

So, I ask Hon. Junet, the great Member for Suna East to second because he was a member of the House Business Committee when we made this decision in the last meeting.

**Hon. Speaker:** Member for Suna East.

**Hon. Nuh:** Thank you, Hon. Speaker. I stand to second the Motion. This is a very important Committee. In the last Parliament, on our side of the National Supper Alliance (NASA) – that time we used to be called the Coalition for Reforms and Democracy (CORD) – the main man who was representing us in that Committee was Hon. Washington Jakoyo Midiwo. We felt that the best caterers may be from that constituency. We decided to bring the hon. Member who replaced him to the same Committee because I think they know how to cook good cassava. He talked to me as the Whip and told me: “I must be in that Committee.” The hon. Member who replaced Hon. Jakoyo Midiwo is a member of the Committee.

After a Member of Parliament leaves his home at 6 O’clock or latest 7 O’clock, basically he or she lives in this Parliament up to almost 9 p.m. or 10 p.m. So, the facilities that are here have to be good. In this country, it is only Members of Parliament who cannot speak about their welfare and facilities. We have been made a group of people. I do not know whether we were supposed to work for free for the country. I do not know whether we are not supposed to have any privilege at all. When you go to Government offices at levels that are lower than us, the kind of tea that you are served in those offices cannot be compared to ours and yet he is a small man like a director of something. He tells you to choose the type of tea you want. He has three varieties of tea and here in Parliament, you are served tea that I normally call “tea *ya matanga*”. For “*matanga* tea,” milk is very little. It is just white by semblance. The colour is just white but you can see *maziwa imenusa* chai.

(Laughter)

That is the kind of tea you drink here. However, when you go to other offices...

**Hon. Speaker:** Hon. Junet, when you want to mix the two languages you say “in quotes” so that you are not captured in the HANSARD as using Swahili and English interchangeably.

**Hon. Nuh:** That is right, Hon. Speaker. We basically stay in these premises, the precincts of Parliament, for a whole day or more than 12 hours. I think we were suffering under humiliation because people think Members are given a lot of allowances and salaries and that there is a lot of food. Nowadays, I am sure the Parliament that you served as a whip and this one is different. Here, when it comes to lunch time, you queue like high school to get food. They are calling it buffet but that is how we used to queue at Lenana School in the dormitory. The queue is as long as 30 people. You do not know when you are going to reach the plate or the *sufuria* which has the food. Sometimes, you have to leave it midway because the bell of the house rings at 2.30 p.m. You have to put the plate down because the Speaker has gone to the House.



(Laughter)

All this is with a light touch. We are here, for example, debating the Roads Bill today evening. This Roads Bill we are debating is going to help this country develop its roads. Without this Bill, there will be no roads. I have to be facilitated within these precincts for me to be able to have a conducive environment for me to legislate. So, I want this new Committee not only to do their meetings at 1 O'clock as they do... This Committee does their meetings only at 1 O'clock especially near the small dining hall. You will hear a text message: "We have a meeting of the Committee on Members' Services and Facilities at 1 O'clock." Your guess is as good as mine. It is for free lunch. They can have that but they must report back to this House to tell us how they want to improve the welfare and facilities of this Parliament. It is not the responsibility of the Speaker to do that. It is the responsibility of this Committee that is constituted by this House to look into those issues on behalf of Members. Lastly, there is even a report. The last welfare committee went to Singapore, India, United States of America (USA) and Holand to check how *mandazi* look like in those countries.

(Laughter)

That Report was not discussed, Hon. Speaker. I was in the last Parliament. That Report must be tabled, and it must carry samples from those countries. I am sure they did not find *ugali* there but those *mandazi* that our former leaders spoke about must be presented here.

With those few remarks, I second the Motion.

**Hon. Speaker:** The Committee also travelled to Uganda.

(Question proposed)

Hon. John Mbadi.

**Hon. Ng'ongo:** Thank you, Hon. Speaker. I want to support this Motion which is on the Appointment of Members to the Committee on Members' Services and Facilities.

I have the following to say about this Committee: I hope this Committee will not make us lose hope this time round in the performance of this Committee. Some of the things we call privileges are not even privileges because we pay for the food that Hon. Junet was talking about. This is something that needs to go out. When we say that we queue for food, Kenyans may think that it is provided for free. It is not provided for free. By the way, it is one of the costly foods in this country. The price is like that of a five star hotel but the actual food is terrible. As Hon. Junet said, it is like *chai ya matanga*. I want to say seriously that this Committee needs to give us services. These Members need services. You cannot use the facilities at Continental House because they are terrible. At least, there is a new building coming up now. I do not have an office there anymore. The cleanliness of the building leaves a lot to be desired and yet Parliament pays a lot of money to a service provider who is contracted to do that.

We want to ask you to not only be in this Committee by name but also offer services to us. You cannot tell me that the Parliament where legislators of a country stay cannot even have toilet paper. At one point, you go to the washroom and there is no toilet paper. In fact, you have to be very careful at the Continental House. First of all, you have to check whether the taps are running because you may mess yourself up. I do not want to go into the details but I am saying that before you take any action, you must find out whether there is running water. Otherwise, if

you come to some civilisation like some of us, then you really need that water after passing through some activity.

Having said that, I do not doubt the competence of any of these Members. Let us not make joke of this Committee. By the way, maybe one of the reasons why this Committee did not perform previously is that we have been making joke of it like the Catering Committee. I am not referring to Hon. Junet. I can see he is looking at me like he is the one who made the joke. The point is that this Committee is the one that is responsible for our welfare in terms of services. In fact, we were discussing with Hon. T.J here. He was proposing that going forward, we need to see how we can create an interface between this Committee and Parliamentary Service Commission, so that the provision of services and Members' welfare as a whole is treated in a holistic manner. So, there is work cut out for this Committee. I know this is one Committee where you could not remove Hon. Washington Jakoyo Midiwo. I can see Hon. Elisha has completely fitted in the foot of his predecessor. Let us hope that our 15 Hon. Members who were put here will bring a change this time. Let us have good food. We are paying for it. Let us have facilities that are need.

Our gym is in pathetic state. I do not use the gym here. I go elsewhere and I pay for it, which is very costly. We have a gym here which is paid for by taxpayers' money, and yet it does not offer the same services. For me to have the speed to run the way I ran when I went to see my friend Hon. T. J. Kajwang', you really need a serious gym, but not the one that we have here. Otherwise, you will break your leg like the way many of my colleagues have broken their legs. I am soon turning 47 years old. If you break your leg at this age, it will definitely cost you the whole period of four years. Before four years end, you will not have recovered and you know how campaigns are difficult. In fact, I was telling my deputy, Hon. Mbui, that we need to work on him, so that he can recover quickly. Otherwise, his seat is under threat. If you cannot walk to win a parliamentary seat or your seat in this country, it is very difficult. Let us have facilities that we need.

Finally, I even have a problem right from here. I do not know where this idea of carrying a card came from. I saw yesterday that you were not very kind to those of us who misplaced their cards. I cannot remember exactly when I was forced to carry something continuously every day. It must have been in primary or high school because even carrying a ruler or a geometrical set was very difficult. Carrying this card everyday and remembering when I am leaving to put it in my pocket and when I am leaving home, I have to carry it, it is such... Through Parliamentary Service Commission, can we have a way of modifying this system that we have, so that we just use our fingerprints or thumbprints instead of carrying this card? Carrying a card is a bit difficult. Maybe other Members find it comfortable but I find it a little bit difficult.

Thank you, Hon. Speaker. I support the Motion.

**Hon. Speaker:** Hon. John Mbadi, for the time being, you require your card when you are voting electronically. You have to demonstrate to the PSC that you are of such temperament as to maintain whatever facilities that are put in the Chamber. The Commission is still weighing the options available given the structure of the Chamber. You will have gadgets very soon where you will access a lot of stuff. The issue you have raised is also being actively considered, so that we see how it can be addressed. Members will vote without necessarily carrying a card. Remember we inherited this system. Hon. John Mbadi was in the 10<sup>th</sup> Parliament so he should be well aware of the history. When you were a mono, you should have argued at that time as the Chamber was being reconfigured that there was need to provide for a mechanism different from the one where you use the card. Hon. John Mbadi, do not forget that the Speaker also carries his

card. It is for that reason that I cannot excuse any other Member not carrying theirs. I never forget mine. Let us just get used to carrying these cards for the time being.

I can see the Member for Seme. He is a ranking Member. Let me allow him to speak about this.

**Hon. (Dr.) Nyikal:** Thank you, Hon. Speaker. I have devised another way of catching your eye. Thank you for giving me this opportunity.

With all the light touches we have had, we are taking this Committee a little lightly. In my view, this is an extremely important Committee of this House because it deals with the health of Members. When we talk about food, we do so in a casual way and take it lightly but if you look at all of us, our morphology seems to change once we come into this House. Is it a good or a bad thing? It is possible for this Committee to design our diet to take into consideration the fact that food is available to us in a fairly large amount. With proper planning, it can be the same amount because it is frequent but the calorie content will be such that we do not suffer weight gain. That is extremely important.

Looking at the design of the Continental House offices, many of them do not have ventilation at all. I am not sure how many of us over the years have developed chronic problems which they may not easily attribute to the design of those offices. This Committee should deal with that issue. We were talking about the toilet facilities. It is extremely important. We know that it does not matter how sophisticated a hotel is, you can still get cholera there. This Committee is extremely important.

We have also said casually that we sit here from 6 a.m. in the morning to 9 p.m. in the evening. That is a sedentary lifestyle. That is the quickest way to kill yourself. The gym needs to work. If you go into that gym, there is a lot of information that is put on the wall and in the toilet. I do not think anybody takes that information seriously. The Members need to do that. There is even a blood pressure machine that does not work. People take it casually but just taking your blood pressure every day is a serious intervention in the health of anybody after 40. These are things that may not make you feel sick but your health is actually deteriorating. Even the machines do not work and the staff take it casually. There are no actual programmes telling each Member that since you came, you seem to be rounder than before and so we can take you through a programme that will help you get your weight down. That will save us.

I know we have a health insurer but who supervises how that health insurer works? The Parliamentary Service Commission like other commissions is busy and will not go into the details of how the health insurance of the Members works for them. It is this Committee that should really look at that. For your families, you have Kshs300,000 for outpatient in a year. I know the kind of routine check that you need to do once a year will take nearly half of that. Who is currently aware of that fact? When this Committee goes to other places to look at what *mandazi* look like, it may also have to look at how to make sure that Members of Parliament look healthy and are in good health. What are the regular reviews or exams that they should take? I know we have a health person in the gym but does he just run the gym or does he also design programmes that will keep us healthy and pick problems that we may have so that we do not have to go to hospital? It may save our insurance. This is probably the most important committee as far as our health is concerned.

I, therefore, support this Committee.

**Hon. Speaker:** Hon. Nyikal, that is the reason why we had to even change the name of the Committee from what it had been since 1967. We removed the name that indicated that it

only dealt with catering. Members assumed that its work was to look at what comes from the kitchen.

The facilities offered to Members are many and we expect this Committee - as you rightly said - to get serious with its mandate. This Committee - as has been said by both the Leaders of the Majority Party and Minority Party - is the one that will be interfacing with the Commission. I expect this Committee to be the real watchdog almost on a permanent basis so that if the Commission is not performing certain of its functions properly, this Committee will report or even request for meetings with the Commission and discuss what it is that they have found to be either below standard as is expected or what needs to be improved and in which respects. I appreciate those comments.

Let us have the Member for Westlands.

**Hon. Wetangula:** Thank you, Hon. Speaker. I also want to support the appointment of Members to this Committee. It is a very important Committee. I had even applied to be a Member but I found that I was not included.

The point I want to raise is on the Members in this House who have special needs. The services of those Members are not properly addressed. For example, when you go around Parliament, there are places we cannot even access. I have talked about Continental House and the gym. Sometimes I have to leave Parliament to go for physiotherapy. We have a very well-equipped gym here where we can do those things but it is not accessible to us. The washrooms are not properly accessible. The other thing is the sitting arrangement in this Chamber. We sit right at the back whereby *kamukunjis* are held.

Hon. Speaker, sometimes when you are addressing us, I do not even follow what you are saying because everybody sits behind here and they talk and make a lot of noise. Those are some of the things that we should be looking at. I should not just be permanently seated here. I can sit in other positions.

We also feel that the importance of this Committee cannot be overemphasised. I would have also wished that one of the Members of this Committee is a person with disability. I believe that we can speak for ourselves better than somebody else speaking for us because this is very important. I feel that we need to be considered in some of those Committees so that we can present our cases properly. Somebody else cannot understand what I go through every day when I come here.

The other area is at the parking. I suppose that areas should be designated specifically for us so that when we come, we can park our cars and get out of the car without any hindrance. But in a few areas which have been marked as parking for the disabled, you find that Members park there and sometimes they cannot be told anything. We take some of these things for granted but they are very important for us. I want to feel comfortable when I am here and feel that I am a representative of the people not someone soliciting sympathy or anything. This Committee should address some of these issues and privileges of Members must be taken into account wholesomely.

Thank you, Hon. Speaker for the opportunity to speak on this.

**Hon. Speaker:** You have spoken when the Whip of the Minority Party was listening very attentively and both the Leader of the Majority Party and himself have taken note. I suppose the problem is what has been associated with the former Committee. Many Members would never want to be put in that former Committee simply because it was called Catering Committee.

I recall some years in the 8<sup>th</sup> or 9<sup>th</sup> Parliament when a former Member from the great County of Turkana was put in that former Committee by none other than myself, he came here

and rose in his place and protested very vehemently and strongly that in his community they do not cook. I did not think that the mandate of that former Committee included cooking because Parliament had employed cooks. The name “catering” was not very appropriate. As we move forward, what Hon. Wanyonyi has said is important and has been noted.

Let us hear from the old man, the father of the House.

**Hon. Angwenyi:** Thank you, Hon. Speaker for giving me a chance to contribute on this important issue. Like Hon. (Dr.) Nyikal said, this Committee can make a difference in our health. Our gyms both for males and females are deteriorating at a very fast rate. I had been away from that gym until last Friday. When I went there I found that none of the machines is working. None of the treadmills is working. I went there because I want to reduce my stomach.

*(Laughter)*

To do that, I must walk on the treadmill or cycle but none of the equipment is working. So my health is endangered simply because we cannot provide adequate facilities in that gym. That equipment is not very costly. I do not see the reason we should repair them instead of replacing them with new equipment. The House is in charge of the Budget of the nation, why can we not budget to buy equipment in the gyms?

I was coming to report to you this morning but I did not find any of our leaders in the House so I decided to stay in the House. I would have taken you there to go and see the exact condition of that gym. I saw you there about three years ago. That is the last time you came there. Please, visit there today and authorise the people who are concerned or call the outgoing Parliamentary Service Commission for our last act to authorise funds to replace the equipment.

We also need to expand that facility. But I know that cannot be done until we complete the new building. It needs to be on top of the priorities to provide for the Members’ welfare in this Parliament.

As Members have said, I went for lunch this afternoon and there was a queue. So, when I got to the food, I took too much because I did not want to come back because I might not have found food remaining. We should also have a new kitchen. The new one we have built should be utilised so that Members do not spend more than five minutes on the queue. They should also improve on the cooking. We have hired qualified people who can do it if we give them equipment and the correct food so that a *mzee* like me does not have to stand on the queue for 30 minutes. I might collapse.

I wish there were a health expert in this Committee and also a person living with disabilities because a health expert can introduce to the Committee certain programmes that need to be implemented for the welfare of Members of Parliament.

With those few remarks, I beg to support the Motion.

**Hon. Speaker:** Hon. Jimmy Angwenyi talks of reducing the size of his tummy. I suspect he has every reason to do that especially after winning an election petition. He says he is overfeeding and that may become a bit tricky.

Let me get the Member for Nambale, Sakwa Bunyasi.

**Hon. Bunyasi:** Thank you, Hon. Speaker. First, I rise to support the proposed Committee as shown in the Order Paper. It is a very good team that has been put together.

Secondly, I agree entirely that this is one of the most important Committees in this House. I want to look at it from several dimensions.

First is the facilities aspect. We should wear badges even as Members of Parliament. In many large institutions, even if people know you, you still have to show your badge because sometimes even access needs that badge. As we move forward, we will modernise access to this facility.

There is a prominent sign in the dining room saying Members are not allowed to bring in more than two guests at a time. Sometimes people have more than two guests coming in. It does not seem to matter. Where Members meet in the lounge they say it is for sitting Members only but guests come and sit there. The rules do not seem to matter. There should be a way through this Committee to limit access electronically so that when you enter there is no question of negotiating or pushing somebody or anything like that. Members identify themselves and go in.

There is a lift in Continental House designated for Members only, but you find a whole range of people and sometimes goods being transported through there. These are things that can be changed.

I would like to reiterate the contribution by the Member for Westlands, Hon. Wanyonyi. In many ways, although this is an old building, efforts must be made to really improve access. I go to church in here once every week on Wednesday morning. I know Hon. Wanyonyi is a Member of that group but he cannot access it because it is not accessible. It is not just good practice but the law. Parliament should seek to obey the law. That is on the facilities side.

In respect to that, it is worth having Members go to other parts of the World to see how things are done. I worked in an institution where we had between 10,000 and 11,000 people using dining facilities. They were maintained to high standards and had a wide range of foods. You could get foods that are unique to Kenya and many different parts of the world. Let us showcase our country here in Parliament. I would want to go for lunch one day and find there is a specialty from Turkana or from Coast or the Lake and is served with due care and with some class that goes with it. Sometimes, when we have lunch at our dining room, it is pulverised. You can eat chicken in other parts which is well cooked but ours is overcooked.

This brings me to the next concern I have. We must have a functioning nutritionist in respect of the dining side of our facilities. This is not only important to ensure that the food is of healthy standard, but that you nuance where there are needs. I bet without any survey in this House that there are Members in this house who have specific dietary needs but who are not going to go out looking for that. People who want to have their meals here, the diabetics, for example. I am sure there are many other considerations that deal with issues of obesity. You have seen in our newspapers, obesity is a huge problem even down to children. In this House, *Mheshimiwa* Angwenyi has spoken to it. These are real problems that have implications on health that even the insurance company should be concerned with.

In employment policy within the precincts of Parliament as a whole, some training is helpful. When you go at the gate, you find somebody chatting on phone while opening for you the gate. In some place, you cannot use your phone when you are at work and you are supposed to be a security guard inside our buildings. You find people are chatting away. In the Continental House, you just walk in and walk back and the same case applies to the main Parliament here. There is some level of training that is extremely useful. As people tour, they should look at these organisational aspects that we have talked about. We should not wait for the new building because it may take another year, perhaps more. These are things that needed to be done yesterday. I urge the Committee to begin to work on them and make improvements.

As a whole, even for the service in the Members' Lounge, let us have people who have gone through some training. I am sure that in many of our homes, you get people who have

studied catering or hotel management. With all the love I have for the range and diversity of our innate capabilities, when people come in, sometimes they do not know what they are doing. If you walk into our Members' Lounge, tea in a big pot and *mandazi* or cake is brought to you. Nobody asks for it, it is just brought. For heaven's sake, we can do a lot better than that.

As people think seriously about this, our lifestyle is going to be entirely dependent on the diligence and the work that this Committee does. I am on the sixth floor of the Continental House. My office is directly opposite the elevators and the bathrooms are just off to the side. I can tell you that sometimes I wish the public health officials could come by and just close down the whole floor and tell us to go home until it has been taken care of. That is happening frequently. The doors to the washrooms are broken. Where are the repairers for heaven's sake? Locks to the toilets have malfunctioned. So you have to keep one hand on the door, while in the toilet. That may sound comical but it is not funny at all. We should upgrade and we can upgrade. I bet that the expenditure for running a substandard facility is just as high as the expenditure for running a well maintained facility. Service providers must be able to provide service as needed. If you clean a place and leave the mop right at middle of the room for heaven's sake, there are many little things that should be done! In my view, this is not a light matter. I know we want to be light-hearted and laugh a bit but this Committee is critical.

I conclude by urging again that we want chefs, we do not want just cooks. Chefs have studied and they can go down to Nambale and find a dish they can serve and people like it. They go to Samburu and bring us their speciality. Let us showcase Kenya. We can do that very easily.

Thank you very much.

**Hon. Speaker:** Hon. Members, I can see quite a number of you want to speak. The Member for Gem is listening. He is proposed to be a Member of this Committee. Some of you may not know. The issues that you are raising are very serious. They are not light matters but those who are going to report about what you have been saying, if you read the newspapers in the next few days or even this evening... Check what is on social media. They had business about roads but they had to talk about meals. I am not telling you to be scared but since you are forming your own committee which will be dealing with these issues, I agree with you. These are fairly serious matters because it is about yourselves. It is about all of us, the facilities that we have and services that the institution offers for you to be able to be of value is important. Unless you tell me you are going to speak for one minute each, we can move on.

This Member for Lari feels that he has a very important matter he wants the Members to know that maybe they have not mentioned about this Committee.

**Hon. Jonah Mwangi:** They have not touched this thing. Most have been said about the gym. I am looking at this Committee knowing that Members of Parliament need to be in top notch health conditions. I am looking at situations where we could even have some cards to attach ourselves to the main clubs like Railway Club. I see CEOs going to golf and other things that are healthier not in the small gym that we have here. We can have cards that can attach us to things. Long time ago, we had public service clubs. We had things like Nairobi Club. Why can we not attach ourselves to those clubs so that we can be going there? It is our welfare. There should a small dispensary. We have a crowd in this Parliament of more than 400 people. We can get sick anytime. We will get emergencies here. Why can we not have our welfare taken care of in a good manner? We have our families. Our welfare also concerns our children and we are all in this Nairobi. So, we can be attached to places like Parklands Sports Club and we have a card that a Member of Parliament can access those clubs. Some of these Members of Parliament come

from the deepest bush. I come from the deepest bush of Lari. So, I need some amenities in Nairobi that I can get access to through this welfare. What is the need of the welfare then?

Hon. Speaker, with your permission, this Committee has a lot to offer to us as Members of Parliament and they need to offer to us like yesterday. We need not wait. We approve quickly then they come up with a good strategic plan for our welfare.

Thank you.

**Hon. Speaker:** Hon. Members, some of these ideas would be best addressed to the Committee, if you appreciate what I am saying. You have some interesting ideas but they are best addressed to the Committee. Hon. Sankok, I can see you are pleading.

**Hon. ole Sankok:** Hon. Wanyonyi talked about persons with disabilities. We have been complaining about offices in Continental House. I have complained about my office in Continental House. It is just last week when a person with disability was being carried on a wheelchair and he fell down. He is now in hospital while he wanted to come and see me in that office. For sure we may be disabled but we have some little pride left in us. When we have to be carried to the toilet, we have to be allocated a specific place like Hon. Wanyonyi now. Whenever they come with wheelchairs, they are told *pahali yenu ni pale*.

**Hon. Kajwang':** On a point of order, Hon. Speaker.

**Hon. Speaker:** There is a point of order by Hon. Kajwang'.

**Hon. Kajwang':** Hon. Speaker, I have no interest to interrupt the new Member. As I saw the Member address us, I was just wondering if I know the Standing Orders of dress and so on. I am seeing a dress which is so similar to Clerks-at-the-Table. Is it in order that Members should dress in such a manner so that we are unable to distinguish them from Clerks-at-the-Table?

**Hon. ole Sankok** (*Off-record*)

**Hon. Speaker:** He has been given permission by the Speaker.

**Hon. ole Sankok:** Do not worry about him. You know because sometimes... But, please, my friend, let female Members admire my dressing, not you.

**Hon. Speaker:** Hon. Sankok, I have reminded the House several times not to address the other Members directly.

**Hon. ole Sankok:** Yes.

**Hon. Speaker:** These things about what is in Continental House are things that will be addressed by the Committee. In fact, you should be telling us about some the functions of the Committee that you think the Members should be taking notes of.

**Hon. ole Sankok:** The floors here are very slippery for some of us who are on crutches. Through you, I would have liked to address the *bonoko* chief justice that he should not admire my dress. Let the women Members admire my dress, not him. We need representation as persons with disabilities; the way we said we need a representation in that Committee so that we can put forward our issues. They are very serious. Some of us use wheelchairs....

**Hon. Speaker:** The Whip of the Majority Party also has a point of order. He appears to me to have also....

*(Hon. Washiali leaned on his crutches)*

**Hon. ole Sankok:** He is pretending to be disabled. See, he has a crutch.

*(Laughter)*



**Hon. Washiali:** Hon. Speaker, I sat here patiently listening to Members. It reminded me that we have not had a *Kamukunji* since the time the 12<sup>th</sup> Parliament came to being. Most of the issues being raised will be better handled in a *Kamukunji* as opposed to being handled in support of this Motion. Therefore, I am rising on Standing Order No. 95 on whether we could end this and call the Mover top reply.

Thank you, Hon. Speaker.

**Hon. Speaker:** It seems that it is the mood of the House that I call upon the Mover to reply.

**Hon. Members** Yes!

**Hon. Speaker:** Mover?

**Hon. A.B. Duale:** Thank you, Hon. Speaker. I think the Committee has enough to deal with. From Member for Nambale to Hon. Nyikal, we have given you a tray full of matters to deal with. But, Hon. Speaker, I agree with you and the media should not look at me as the headline. There is nothing wrong if we decide to deal with a matter in-house because we are dealing with a Committee that is responsible for this. So, I think this Committee comprises men and women who are up to the task. Those of us who are in leadership and any other Member, let us attend the meetings of this Committee and take those issues. Having said that, let us also offer constructive criticism. When we go for tea, I agree with the Member for Nambale that you are not even asked whether you want coffee, water, tea or camel milk. You are just brought the Hon. Junet's tea. Hon. Junet attends a many funerals. So, *hii chai ya matanga*....

**Hon. Speaker:** What is your point of order, Hon. Junet?

**Hon. Nuh:** Hon. Speaker, I was here during the 11<sup>th</sup> Parliament. I have been a very good attendant of this Parliament. I have never seen camel milk in the menu or within the precincts of Parliament. Is the Leader of the Majority Party confusing his kitchen with where we are, in Parliament? There is no camel milk in Parliament. Can he withdraw or substantiate?

**Hon. Speaker:** He did not say that there is. He just said you are never asked whether you want to take camel milk, water, porridge or any other froth appropriate to the time. The Leader of the Majority Party.

**Hon. A.B. Duale:** Hon. Junet is one pastoralist who got lost in the lake. He has gone to Migori; he has been a councilor there; he became a mayor and became an MP. He forgot his heritage. His fathers and parents owned camels. Because he went to a different environment, he disowns, in this House that there is existence of camel milk. It is very shameful. I am sure the community out there is watching. We sent you there to go and become a leader. You need to teach the guys in the lake how to eat.

I beg to move and ask Hon. Junet to accept it is our responsibility to make sure that Kenyans' foods and diversification is brought here. Even from the way he talks, it is like somebody from Luo Nyanza. His tone has changed.

I beg to move.

*(Question put and agreed to)*

**BILL***Second Reading*

## THE KENYA ROADS BILL

**Hon. Speaker:** The Leader of the Majority Party.

**Hon. A.B. Duale:** Thank you, Hon. Speaker. I beg to move that The Kenya Roads Bill (National Assembly Bill No.47 of 2017) be now read a Second Time.

I wish to note that the 11<sup>th</sup> Parliament which I had the privilege to serve, had made sufficient progress in attempting to enact this piece of legislation. Unfortunately, by the time the previous House was adjourned *sine die*, it had lapsed. It died in the other House and not in this House. I remember it was read the First Time on 1<sup>st</sup> July 2015, Read the Second Time on 14<sup>th</sup> June 2016 and debated severally on different dates and Read a Third Time on 23<sup>rd</sup> August 2016. It was then passed and forwarded to the Senate for consideration when it, unfortunately, lapsed.

So, this has necessitated the republication for reintroduction in this House during the 12<sup>th</sup> Parliament. The Kenya Roads Bill (National Assembly Bill No.47 of 2017) was First Read on 14<sup>th</sup> December 2017. It presents us with an opportunity to align the road sector in this country to the provisions of the new Constitution. That was the reason we had this Bill in the last Parliament.

Under the Constitution of Kenya, 2010, the Fourth Schedule of the Constitution introduces changes to the roads subsector, taking cognizance of the counties, cognizance of devolution and the existence of counties. Under the Fourth Schedule, you will find the new concepts like national trunk roads and county roads. The Bill gives effect to the Fourth Schedule of the Constitution in relation to the roads subsector. This Bill proposes to review, consolidate and rationalise the legal and institutional framework for the management of the road subsector in a more efficient and effective manner. This Bill proposes to amend the outdated Kenya Road Boards Act of 1999 Cap.408A. It will look at the Public Roads and Roads of Access Act of 1920 Cap.399. So, you can see that it is very outdated. It is a colonial and post-colonial legal regime.

The stakeholders' views will be given by the able Chairman of the Transport, Public Works and Housing Committee, Hon. Pkosing. Let me just give the highlights of this.

This is a Government Bill and it has the signature of the Leader of the Majority Party. This Bill is arranged in 10 parts. Part I provides the title and the commencement date, the interpretation, the purpose of the Act and the guiding principle.

Part II of the Bill provides for the establishment of what we are going to call Public Roads Standards Board. So, there is going to be a board that will deal with the various roads and their standards. Clause 6 provides for the establishment of that board whereas Clause 7 provides for the composition of the board. Clause 8 provides for several functions of the board, which is to advise the Cabinet Secretary on the material to be used in building of bridges, how designs should be done, how construction and maintenance should be carried out by the men and women who work in the roads subsector. Part III provides for the classification of the national trunk and county roads and the assignment of roads. So, Part III deals with the various classes that we have in our national trunk road. I am sure you have seen roads being called B20, B32 and so on.

This Bill also has schedules at the back. The First Schedule of the Bill provides for the classification of public roads. There are two broad categories. There are national trunk roads and county roads. The national trunk roads are further subdivided into two, namely, primary

national trunk roads and secondary national trunk road. Under each category, there are various classes of roads.

Part IV provides for the establishment, functions and composition of the Kenya National Highways Authority (KeNHA), the Kenya National Urban Roads Authority (KNUR) and the Kenya National Secondary Roads Authority (KNSRA). It talks about how those bodies are established, their functions and their composition. The functions of these authorities relate to management, development, rehabilitation, and maintenance. Various classes of roads are specified in the schedule of this Bill. This part also provides for the establishment of the managing boards of the authorities and their powers and functions. Clause 21 provides for the responsibilities of the board or the authorities.

Part V of the Bill is on administrative matters or provisions. If you look at Clause 22 of Part V, it talks about the qualifications of a chairperson or member of the board of the Kenya National Highways Authority, the board of KNUR and KNSRA which in this Bill replaces Kenya Rural Roads Authority (KeRRA).

Clause 29 provides for the Director-General of each authority, the men and women to hold the positions therein, the functions of a Director-General and so on. The circumstances under which the director's appointment may be terminated is found in Clause 31. Clause 32 talks about the employees. The whole of Part V is on administrative matters.

Part VI is on general provisions of the Authority. Clause 41 provides for the acquisition of land for the purpose of the Authority. How do we acquire land for the purpose of building roads? This is found in Part VI as well as the power to enter and alter the position of any electric, telephone, telegraph, fibre optic and others. In my constituency, since 2017 October, 10 kilometres of road cannot be constructed because the Kenya Power Company (KPC) takes its time to remove power lines. The telecommunication companies take their time to remove their lines, the fibre optic providers take their time as well. That affects the efficiency of building roads in our country. So, this Bill is dealing with how to deal with those matters and how to bring together the role and the function of the KPC, and telecommunication companies in providing service and the same time making sure that the amenities are in line with the programme of the roads body.

Part VI also provides for the financial matters and this is general in all Bills. It includes the provision for financial year, annual estimates, accounts, audits of these authorities, how they table their reports to Parliament, how the Auditor-General does his work, the annual estimates, the accounts and the audits of the Authority. These are public institutions and must have those particular parts dealing with the governance structure.

If you look at Clause 64 and Clause 65, it provides for the development and implementation of the annual works of the road works and road investment programmes. They must provide to the relevant Parliamentary Committee and to the country at large, their roads programmes. It must be transparent to the public so that roads are not built in one section of the country. That transparency and accountability is provided for in Clauses 64 and 65.

Part VII provides for miscellaneous matters. Clause 72 talks to the power of the Authority to enter into an agreement with any person, including a county government or a national Government body. Mainly, miscellaneous provisions are provided for in Part VII.

Part VIII provides for the responsibility of county governments under Clause 100. A county government will be responsible for the construction and maintenance of country roads under its jurisdiction.

Of course, the last Part X is on transitional provisions in relation to the former authorities. There must be a transitional period because when this Bill becomes law. You will need to know how to deal with assets, liabilities and many other issues. Part X provides for transitional clauses in relation to former authorities. Having said that, I want to confirm that no other Government - the first Government of Mzee Kenyatta, the second Government of Mzee Moi or the third Government of Mzee Kibaki - has built more roads in our country than the Jubilee administration under Uhuru Kenyatta. If you listen to me, I will tell you where. For the first time in the history of Kenya... The purported chief justice and my very good friend the Member for Ruaraka should hold his horses. The government that he took part to swear in does not have the capacity and the financial muscle to build a kilometre of road. The Government that I represent in this House has allocated over Kshs500 billion to construct roads. So, you listen to those who have resources to build roads.

For the first time in the history of Kenya, the people of northern Kenya, under this Government have seen roads. My own constituency is a recipient of over 41 kilometres and the great Member for Dadaab, Dr. Mohamed, sitting here can confirm. For the first time in the history of Kenya, the road between Garissa-Modogashe heading to Wajir is 85 per cent complete. Today, you can drive from here to Isiolo to Moyale to Marsabit. The road from Lamu to Malindi, Kilifi, and from Malindi Town to Bamba all the way to Tsavo, is done. Go to Bondo where the former Prime Minister comes from, you will never see a road which is not tarmacked. I am sure even in the former Western Province, roads are tarmacked. I wish the Whip of the Majority Party was here.

The three successive Governments built 14,000 kilometres of road network. This Government has so far built 9,000 kilometres. Give the devil his due. That is the reason why the people of Kenya, in their numbers, on the 8<sup>th</sup> August 2017, woke up and gave this side of the House over 217 Members and gave the so-called people's leadership less than 127 Members. Again, put together, they gave the single largest political party called Jubilee 170 Members. To discuss the Kenya Roads Bill, we must discuss the successive Governments of the 11<sup>th</sup> Parliament.

**Hon. Kajwang':** On a point of order, Hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. Omulele): Hon. Kajwang', what is out of order.

**Hon. Kajwang':** Hon. Temporary Deputy Speaker, we are very patient and waiting to contribute substantively to the Bill, but when issues are bandied around which cannot be substantiated, we have to rise and ask for these things to be substantiated. Nine thousand kilometres of road is the distance you travel to Central England and back. Is the Leader of the Majority Party in order to say that the Jubilee Government or whatever it is that he calls it, has built 9,000 kilometres of road? Is he able to substantiate that there are roads in this country that can stretch as far as Nairobi to England and back during the period only limited to when Uhuru took power, not the period of Kibaki which was the National Rainbow Coalition Government? Is he in order and can he substantiate?

**The Temporary Deputy Speaker** (Hon. Omulele): Very well, Hon. Kajwang'. The Leader of the Majority Party has said that he can do that. But I think that is a matter of metrology. Leader of the Majority Party, you said you could do that?

**Hon. A.B. Duale** Yes, Hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. Omulele): Very well, proceed.

**Hon. A.B. Duale** Hon. Temporary Deputy Speaker, I am one Member of Parliament and a leader who say what I know. When I say 9,000 kilometres of road have been done - and I want

my colleague to pick a pen and a paper, the road from Isiolo to Moyale is close to 1,000 kilometres. The road that we are doing between Garissa to Wajir is about 800 kilometres, and by the time we reach Mandera, it will be 1,500 kilometres. The roads we are doing in the former Coast Province add up to about 1,000 plus kilometres. The roads we are doing in western are about 500 kilometres. If you cumulatively add all those, they will add up to 9,000 kilometres. They will have their chance, but this is the truth of the matter.

**The Temporary Deputy Speaker** (Hon. Omulele): Hon. Members, what we are doing here is that the Leader of the Majority Party is moving the Bill. Everybody is going to have an opportunity to speak to it. Everybody will have their say. Let him finish. You will have a chance to have your say on what he is putting across. So, Leader of the Majority Party, please, proceed.

**Hon. A.B. Duale:** They say the truth hurts. People do not want to hear the truth. But I want to confirm and I want to go on record that one of the reasons why on 8<sup>th</sup> August 2017 the people of Kenya decided to give Uhuru Kenyatta and his Government overwhelming support in the Senate, the National Assembly, counties and in the presidential elections is because of the investment in infrastructure. From the Standard Gauge Railway (SGR), to the 9,000 kilometres of road network, to the three million extra Kenyans who have been connected to power and water, our achievement speaks for itself. Our achievement is what made us have 170 Members of Parliament. Hon. TJ's party, which I was a Member of at one time in the 10<sup>th</sup> Parliament, and which had the highest number of Members of Parliament, today is surviving with less than 80 Members of Parliament. Every political party must reassess itself after every election.

To jog his memory, the Labour Party of the UK for many years could not get to power under the leadership of a man called Neil Kinnock. They made a decision and removed him and put Tony Blair. That is how they took power. Our colleagues need to do a soul searching. It is not about political rhetoric. The people of Kenya want to see tangible development like roads.

I want this House and its committee under the able leadership of Hon. Pkosing and the able leadership of CS Macharia to make sure every part of our country, regardless of where they voted, people access certain portions of road network. Let us differentiate between politics and development. We, in Jubilee, believe in politics of development. We have no time for politics of ethnic mobilisation. We have no time for politics of regional caucusing. We have no time for politics of hate, politics of *fitina*. We want to set an agenda for generations to come and Uhuru Kenyatta has said it. I saw the media saying that Jubilee Members of Parliament have been gagged. We have not been gagged but we want to speak on the choice we want. We want to speak on development. We do not want to speak on ethnic politics. We do not want to speak on propaganda. We will speak to the media and the people of Kenya on development agenda.

This Bill is so critical. Members will agree with me that one of the most amazing things is that this House allocates over Kshs30 billion to road maintenance and a certain percentage from the Fuel Levy Fund to county governments. We want to synergise all these resources so that when you drive on our highways, we have fewer potholes. The Kshs30 billion or so must be spent on road maintenance.

Hon. Speaker, the billions that this House allocates to the road sector, either to KeNHA, KURA or to the new outfit that would replace KeRRA, must be accounted for. If you look at the percentage that comes to Members of Parliament under the NG-CDF banner, it has done tremendous things in making sure rural roads in our constituencies are catered for. We do not need to play politics. As a House, we need to enrich this Bill. That is why a Member of Parliament has an opportunity to legislate; to make this Bill better. You have an opportunity at the Committee stage to bring the relevant amendments. So, I think this is a very important Bill.

I hope our colleagues in the Senate will also this time take their role effectively and pass this Bill within the time provided for in the Standing Orders. I am sure the Committee will do so. What we did in this Bill, and the Chair will agree with me, is that the amendments done by the Departmental Committee on Transport, Public Works and Housing in the 11<sup>th</sup> Parliament have been carried on board. It has very little left for amendments. I am sure the Chair will agree with me. This Bill, as it is printed has the amendments of the Departmental Committee on Transport, Public Works and Housing and the amendments made on the Floor. Hon. T.J. Kajwang' was one of the active Members when we were doing this Bill at the Committee of the whole House. His amendments and the amendments of other Members have been carried on board. Let us all enrich it. Please, if you dispute that we have done roads, some of you will be ashamed because we will go to your constituencies and we will be launching road networks. I will be there with the Minister and the President. When we launch a road network in your constituency, I do not know where you will hide. We will do it in Western, Nyanza, North Eastern, Central, Rift and Coast. We are a Government that believes in equity. Whether you voted for us or not, you will get a road because you are a taxpayer.

My good friend, the Member for Mwingi Central, and I enjoy a wide range of road all the way from Thika to my constituency. Over 20 constituencies are served by that road. We rarely get potholes. When we get them, we ask KeNHA to do it. If you travel from here, Nairobi-Mombasa Highway is being transformed to an eight-lane dual carriageway funded by the Kenya Government and donors. The Nairobi-Thika Highway and Thika-Murang'a-Nyeri Highway are being done into a dual carriageway. Construction for a dual carriageway for Nairobi-Nakuru Highway is already ongoing. Those who have eyes can see. Those who have ears can hear, but those who are blind will never see. Those who have no ears to hear, you can as well remain where you are. We are telling you Kenya is going places. Kenya is developing under the able leadership of one President Uhuru Kenyatta and his Deputy, William Ruto.

With those many remarks, I need to go and have tea, the *matanga* type and the *mandazi*, and ask the able Chair of the Departmental Committee on Transport, Public Works and Housing to second.

**The Temporary Deputy Speaker** (Hon. Omulele): Hon. Pkosing, the Floor is yours.

**Hon. Losiakou:** Thank you, Hon. Temporary Deputy Speaker, for giving me this opportunity to second the Motion by the Leader of the Majority Party.

For avoidance of any doubt, I also want to tell Hon. T.J. Kajwang' that he can also come to my Committee. I can confirm that what the Leader of the Majority Party said is very accurate. I am around to help you. One time when you were the Speaker, you helped me do certain things that you know. I will tell you later. We are good friends so do not harass our Leader of the Majority Party.

I second the Bill. What is very critical from the outset is that the role of a chairman of a committee, and for this case my Committee, is to share with the House and the people of Kenya what the public said during public participation in terms of capturing their views and observations so that then, while the House is debating, it is debating with knowledge of what the public said.

Before I delve into that very quickly, I will also take this opportunity to thank my Committee and say for the record that this is the first Committee in the 12<sup>th</sup> Parliament to present a properly done Report. It is history because on record, the first Report to be discussed was tabled properly in the 12<sup>th</sup> Parliament. Therefore, I thank my able Committee for doing that.

Hon. Temporary Deputy Speaker, before I make a few observations from the public, it is good to know and tell the nation and the Members that this Bill is trying to address three things critically. One is to actualise the Fourth Schedule of the Constitution in terms of saying which roads will go to the counties and which ones shall be national. This is very critical and I would like to request the Members to check the Third Schedule of this Bill. It is very important to say so that when you give the reactions from the public, you will mirror what is actually in the Bill. If you look at that Schedule in terms of assigning the roads, you will see that the national Government has been given Classes S, A, B, H, J, C and D. Those are the roads which are supposed to be proposed in the Bill to be under the national Government. As for the county government, it begins from E to P. That is in actualising the Fourth Schedule of the Constitution, so that we can reduce the misunderstanding of which roads are under the national Government and which ones are under the county Government.

If you look at it critically, you will find that those classes have been given descriptions which somebody might call definitions, but we take from our Committee as functions, so that it can be understood by all Members. That is the first and very critical function that this Bill was trying to address.

Hon. Temporary Deputy Speaker, it also goes on to assign responsibilities. This is very important for the House to appreciate. From Class 12, you find that agencies have been created to perform certain specific functions in terms of doing roads. It is important for the House to appreciate that four agencies have been created. One of them is called KNSRA. For Members to understand, it used to be KeRRA. It has since been renamed KNSRA. If you go further, KeNHA remains KeNHA, but in a new description. If you go forward, you will find that KURA has been renamed KNUR in this Bill. So, a Member should get used to these words so that as we debate and pray that the Bill is passed, we understand them. Also, there is the Kenya Roads Board under the assigning of these roads.

Hon. Temporary Deputy Speaker, it is good to understand because I know KeRRA is at the heart of Members. It is very critical. I know they will ask me to quickly go there. Before I do that, this is how the roads have been assigned to the agencies in the Bill. Classes S, A and B are under KeNHA although it shall be a new agency. If you go forward, you find that Classes H and J have been assigned to what was KURA, which is now KNUR. The Bill is then proposing KNSRA, which was KeRRA, to remain with classes C and D. Counties will then begin from E going downwards until Class P. This is very critical. As we debate later, you will find that it is important to have said that.

The third and final thing that this Bill is trying to attempt to do is to divide revenue which is coming from the maintenance levy. It is important for Members to appreciate the revenue so that when we discuss and looking at what is happening, we can understand the issues. The Bill has proposed a sharing formula of the Road Maintenance Levy Fund amongst the various entities. It proposes that KeNHA gets 35 per cent, KeRRA 30 per cent, KURA 10 per cent, county governments 15 per cent, the Kenya Wildlife Service (KWS) 1 per cent, the CS 6 per cent, KRB 1 per cent and the National Transport and Safety Authority (NTSA) 1 per cent. This makes a total of 100 per cent.

The Bill was taken for public participation, where various stakeholders made their submissions on what they thought about it. As has been said before, this Bill was considered in the last Parliament. It died with the last Parliament, but it has been brought back to us. This is the best opportunity to address it properly.

In my view, as the Chairman of the Committee on Transport, Public Works and Housing, it is good that this Bill has been brought back. There are certain issues which Members would discuss and realise that it is good it was brought back.

Secondly, we are discussing it at the best time in the history of this country. We are going into the Budget cycle. As we are all aware, we have already started the annual Budget-making process. It is good that we pass this policy before June, so that the country can be very clear in terms of what goes to the counties, what remains with the national Government and what goes to all other agencies. The Bill went for public participation as is required by the Constitution and we received a number of views from the public. Some gave their memoranda, some requested to appear before our Committee and we granted them that opportunity. The first one was the Council of Governors (CoG). It is history because governors have never appeared before any National Assembly committee. In the last Parliament, there was a lot of acrimony in this country. We were fighting with governors in terms of who was more powerful. I thank God that as I make this presentation there is much harmony and understanding between the national Government and county governments. I want us to take this forward. My Committee's Report is a testimony of the kind of synergy that exists between the two levels of government. This is the best for the country. There is no need of fighting with the governors. I asked them why we were fighting before and some of them said that they probably did not know what they were supposed to do. We now all know our roles. They came to us on 30<sup>th</sup> January 2018 and among the things they told us, I picked three outstanding issues.

*(Technical hitch)*

**The Temporary Deputy Speaker** (Hon. Omulele): Chair, do you know that you have 30 minutes?

**Hon. Losiakou:** Yes. It was agreed yesterday that Chairs of Committees must be given more time.

**The Temporary Deputy Speaker** (Hon. Omulele): You had 30 minutes, and you have already done 10 minutes. So, you have 20 minutes remaining.

**Hon. Losiakou:** Hon. Temporary Deputy Speaker, you will give me more time so that I can share with the Members the views given to the Committee by members of the public. Remember that people have gone to court to challenge our Bills and they have succeeded by saying that there was no sufficient public participation. We must address the issues that were raised by members of the public so that this Parliament can be known to have conducted public participation sessions.

Our governors were represented by the Governor of Nyandarua, Hon. Kimemia and the Governor of the great people of Busia, Hon. Ojaamong and there were three key issues that were outstanding in their presentation:

One, in a number of clauses, they are seeking consultations amongst the national Government and county governments. Two, they argue that there is no need to have KeRRA and KURA, that these bodies should be disbanded and the money taken to the counties. They propose enhancement of revenue allocation to the counties from 15 to 53 per cent. Three, they also propose that road Class H be taken to KURA, and road Class D from KeRRA to the counties.

Hon. Members will note our full observations later on. At this stage, our observation, particularly on public participation, is that the word "consultation" has been misused. It is



amorphous. What do we mean by “consultation”? Is it about writing a letter and waiting for a reply? How long are you supposed to wait? Is it about making a phone call, and who will own up? Even if you wrote a letter to consult, must the reply be positive or negative? If we go that way, two things will happen. There will be delays in implementation of projects. What would you be waiting for? An opinion? What if you waited forever? We felt it is a dangerous way of doing things, particularly within the road sector.

In the infrastructure sector, we would want work to be done quickly. Kenyans do not want to know who is talking to who. They want to see a road. Members of the public do not want to know who is writing to who, at what time and in which language. We are of the view that such an approach will delay projects or result in micro-management of county affairs by the national Government and vice-versa. This aspect will be addressed properly under public participation as provided for in the Constitution. We listened to members of the public and I will give you our general observations later on.

Hon. Temporary Deputy Speaker, we also received a presentation from KeNHA. We picked the critical issues that came from them. They want the framework of Public Private Partnership (PPP) to be well anchored in law. That goes together with the tolling infrastructure. This area involves capital investment. If we are to continue with reliance on the Exchequer, we will not get the resources required to build the more than 10,000 kilometres of roads that the Jubilee administration has promised Kenyans. So far, we have done 9,000 kilometres.

Even if we did the 10,000 kilometres, this country requires more roads. Our network is now more than 180,000 kilometres going forward. We are talking of 10,000 kilometres out of 180,000-kilometre road network. When will we reach the 180,000 kilometres target? We require resources. If we are to depend on the Exchequer, we will have a problem. We will wait for roads forever. We do not want to go that way.

The KeNHA, in their wisdom, propose that we have the PPP and tolling issues entrenched in this Bill. They also suggest that their proposed share of 35 per cent of the Road Maintenance Levy Fund that has been proposed be enhanced to 40 per cent.

I want to clarify something about the governors’ presentation. There is something crucial this House must understand. After they made their presentation, and upon receiving our reply, they went back. We told them that if they wanted to scrap KeRRA and KURA, it is not their problem. Suppose they are given their roads, as counties? The roads that will remain with the national Government, it can be decided upon which agency should be responsible for their maintenance. We gave them an example. We asked them: “If somebody wants to name his/her children KeNHA and KeRRA, how does that affect you?” Those roads are already under the national Government and they can be named in whichever way.

I think they must have taken this from us and they went back and held another meeting this time under the Intergovernmental Budget and Economic Council (IBEC), which is higher than them. They had a joint communique which I want to present to the House. It is in our Report and it is very critical. It is signed by H.E. Governor Ann Waiguru, EGH and Vice-Chair of the Council of Governors and the Minister. It means their proposals become even stronger. In their communique, which I think they agreed with the IBEC, knowing what the IBEC means, they wrote to our Committee and reviewed some of their earlier proposals. One of them was the revenue share. They had proposed 53 per cent and when we asked for justification, they said we should scrap KURA and KeRRA and then take all the money to the counties. Of course, after reasoning with them, they realised that KURA and KeRRA are children of the national Government and it just depends on how they are named.

When they saw we were going to retain them, they went back and agreed to review the terms back to 20 per cent to enable them to implement their roads. They also seem to have reviewed the classification of roads which they wanted. As I had said earlier, they said they wanted classes H and E. They reviewed and proposed that this time they are okay with Class D and not H, which can remain with the national Government. That was their proposal which is very crucial for this House to understand.

We received submissions from KeRRA and I have picked their critical issues for the Hon. Members to understand. They said that the revenue should go up from the 35 per cent which is proposed here to 40 per cent. When the governors met under the IBEC, they proposed and agreed with the Ministry that their resources should be moved to 20 per cent and also proposed where they wanted to get the money. Of course, they were aiming at KeRRA. They said that they wanted 5 per cent more, which would add up to 15 per cent as I have said. It would, according to the Bill, come from KeRRA. You will see our observations later.

Next on line was KURA. They appeared before the Committee and made a very good presentation. Some of the things we picked as critical from them was their memoranda and we had a verbal discussion about PPP. KURA is in charge of city roads and they are very critical for this country for economic purposes and transportation, but they require a lot of money for construction. Therefore, they recommended that we have to look at the issue of PPP because it has not picked properly in this country. Maybe, that is why they have proposed that we incorporate it in this Bill, so that we clarify certain grey areas. They also raised the issue of tolling.

They also proposed resources. Everybody wants resources and this House has a tall order. We are up to the task to help our country. They are asking for these resources not for themselves, but for the people of Kenya and the country. The people of Kenya have given us a responsibility as a House to help and balance that.

Next to come to our Committee was KeRRA. I know they are dear to people's hearts here. They asked for more resources too. They agreed that they wanted to remain with their classes C and D roads and they can manage that very well and they were very happy with that.

Also, the Kenya National Chamber of Commerce (KNCC) came to our Committee. For the record, I want it to be captured that all those institutions and agencies which came to us had issues with composition of the boards in terms of who sits on them. Others had various proposals. In fact, some of them were saying that Matatu Owners Association should be included. They brought a number of proposals in terms of populating the policy and we have an observation which I will just give in a short while. So, KNCC proposed also to be included in one of the boards running the roads of this country. They had some very good reasons. They said because KNCC manages businesses, they should be given the chance to also manage roads. This is because most businessmen use roads for transportation. They also had very good proposals to us.

Going forward, we also received views from the Kenya Roads Board, which is in our Report and is very critical. I want to tell Members that this is the institution which receives money and classifies roads together with the CS. Therefore, it is very critical for us to understand that is their background and role. What did they propose? They proposed key issues, one of them is that before they give out money to agencies, they must show the good quality work they have done. They should not be given money just because they have requested for it.

We also listened to the Ministry itself and particularly the State Department of Infrastructure. They appeared before us on 6<sup>th</sup> February 2018 and they also had serious

proposals. Key among them was, again, the formula of populating the board. I want to share with the House because I have talked about this for a while. Looking at the Bill, the formula it proposes on how to populate the boards is interesting. For example, I want to take Members to Clause 12, which is very interesting and is captured in our observation. Under Clause 14, there is the Board of KeNHA. This is very interesting because you realise that people were trying to use Parliament to create a club of certain people or alumni. Just listen for one minute and you will be surprised. Clause 14(2)(a) states that:

“(a) a non-executive chairperson to be appointed by the President from amongst the members appointed under paragraph (f);”

**The Temporary Deputy Speaker** (Hon. Omulele): Where are you reading, Chairman?

**Hon. Losiakou:** I am reading Clause 14(2)(a) of the Bill.

**The Temporary Deputy Speaker** (Hon. Omulele): Very well.

**Hon. Losiakou:** Temporary Deputy Speaker, I hope we are together. It talks about the chairperson of KeNHA, that he/she shall be appointed by the President, but from amongst people under (f). So, what does (f) state? It states that:

“(f) five persons, nominated by the following organisations –

- (i) Institution of Engineers of Kenya;
- (ii) Institute of Certified Public Accountants of Kenya;
- (iii) Law Society of Kenya;
- (iv) Institute of Surveyors of Kenya; and,
- (v) Kenya Private Sector Alliance.”

Funnily, this is not enough. When you go to the constitution of the Board of KURA in Clause 17, it is the same thing about the chairperson being appointed by the President from amongst the people under (f). It states that:

“(f) five persons, nominated by the following organisations –

- (i) Institution of Engineers of Kenya;
- (ii) Institute of Certified Public Accountants of Kenya;
- (iii) Law Society of Kenya;
- (iv) Institute of Surveyors of Kenya; and,
- (v) Kenya Institute of Physical Planners.”

As if that is not enough, proceed a little bit. I hope I am not taking your time, but it is important for Members to realise how this Bill was crafted. It was actually aimed at creating a club of certain people or elitists.

Looking at Clause 20(f) on the composition of the Board of KNSRA, it states that:

“(f) five persons, nominated by the following organisations –

- (i) Institution of Engineers of Kenya;
- (ii) Institute of Certified Public Accountants of Kenya;
- (iii) Law Society of Kenya;
- (iv) Institute of Surveyors of Kenya; and,
- (v) Kenya Institute of Physical Planners.”

This is funny if not liberal. It is an alumnus of certain engineers and begs a lot of questions. Let us go to engineers or the Law Society of Kenya (LSK). It provides that the LSK will be in KeRRA, another one in KeNHA and another one in KURA. So, who will be at the offices of the LSK or the Physical Planners of Kenya? There is nobody who is going to be there. It might be that they have transformed their offices to KeRRA, KeNHA and KURA. It might also mean that they can also do a board meeting in their offices wherever they are and then come

and pass resolutions. It might also mean they can also hold the country hostage the way some other people are holding this country hostage at the moment. They become institutions among themselves. So, where are the people of Kenya and the road users? Where are you and me? If we were not parliamentarians here today, we would be with the people of Kenya using the roads. So, where are we?

You will see the observations of the Committee in a minute. This was creating a club of certain people. So, people sat down and drafted the law for themselves. I think it is unacceptable from where I sit as a Chair of this Committee. It is unacceptable. That is why the issue which was said by the public cuts across in terms of populating those boards. We have a Department of Infrastructure which appeared to us as I said earlier and addressed their critical issues in terms of populating the board. Even if you were to give the President the power to appoint a chairman and you have decided where the chairman is going to come from, what was the point of telling the President to appoint a chairman and yet you have decided in the law that the chairman comes from these institutions?

Hon. Temporary Deputy Speaker, I have been a public servant. I have been a Chief Executive Officer (CEO) for about four or five years. Every department and agency of Government has a serious office called the legal department. Even Parliament has a legal department. Even KeRRA and KeNHA have legal departments. We have serious accountants. We also have the official legal advisor of Government, namely, the Attorney-General. Why are people creating some boards for themselves and locking out the people of Kenya? These are the people who matter and the people who use the roads and pay for the construction of the roads. Where are they? You just get a club of some people. You will see what we found in our final observation.

We also had the Institute of Certified Public Accountants of Kenya and they were coming to tell us that they want to be members of the board. So, what has happened? They have seen that there are people from other institutions and so, why not them? Even Matatu Owners Association came to us and said they also wanted to be part of the Bill. What is happening? When you are populating institutions with agencies and private clubs, they scramble to be part of the institutions. That will bring a problem in this country and again they can also hold the country hostage, the way some people have held the country hostage.

Hon. Temporary Deputy Speaker, I will ask for more time because this is a very critical part of the Bill coming from the Chairman himself. It is very important to have the Chairman's input and to reason with the Members. So, what were our observations?

**The Temporary Deputy Speaker** (Hon. Omulele): Hon. Chair, you have done your 30 minutes as Chair. I will allow you an extra minute, so that you can second.

**Hon. Losiakou:** Give me only five, Hon. Temporary Deputy Speaker. It will be good for the Members.

**The Temporary Deputy Speaker** (Hon. Omulele): I will give you an extra two minutes so that you can second.

**Hon. Losiakou:** So, what were our critical observations? They were as follows:

When it comes to dividing revenue, we listened to what happened with the governors and we proposed a different formula for dividing the revenue. It is very important that you give me this time for the Members to understand because this is the Committee in charge of this Roads Bill. On revenue, this is the new proposal.

KeNHA	-	32
KeRRA	-	28
KURA	-	10
Counties	-	19
Kenya Wildlife Service (KWS)	-	1
The Cabinet Secretary (CS)	-	7
Kenya Roads Board (KRB)	-	2
National Transport Safety Authority (NTSA)	-	1

That is our proposal to the Members to amend the Bill. On management of roads, we have agreed that after the definition, we have looked at functionalities that if, for example, we have to take the functionality as we have provided under (c), then all roads from our constituencies will be 31,000 which shall be under KeRRA. So, we said rather than fight for the word, we agreed that the D, as a word, and, of course, as defined in the gazette notice, can still go to counties. However, if all roads are classified properly under C, we will achieve all the roads 31,000 under KeRRA and it will be sufficient.

On composition of the board, we adopted a hybrid that out of five, two shall come from agencies and three shall come from the community.

**The Temporary Deputy Speaker** (Hon. Omulele): Hon. Pkosing, you need to second. There will be Members from your Committee who will be speaking to this. They can make all these contributions also. Kindly second so that we can make progress.

**Hon. Losiakou:** I second.

*(Question proposed)*

**The Temporary Deputy Speaker** (Hon. Omulele): There is a lot of interest in this. It is understandable that Members are very interested in this. The Member who was on top of my list before he disrupted himself with a point of order was Hon. TJ Kajwang'. I will allow him that and as he goes on, the next Member will come from the right. The Member who is on top of the list on the right is Hon. Nyoro Ndindi. So, you will have to start preparing yourself.

Hon. TJ Kajwang', you have the Floor.

**Hon. Kajwang':** Hon. Temporary Deputy Speaker, I thank you for giving me an opportunity to contribute to this Bill. I am not very proud that I rose on a point of order because then that brought me down on your list of preference.

Listening to Hon. Pkosing argue his case, I am very proud. Before, we used to think that transport and infrastructure was the domain of Hon. Maina Kamanda, but now it is clear that even in Pokot, there are men and women who can shine as chairmen of committees. I am proud that I once served as his lawyer at the International Criminal Court (ICC). These are accolades which do not come easy because ICC does not come every year.

*[The Temporary Deputy Speaker  
(Hon. Omulele) left the Chair]*

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

Having said that, I do not want to get into politics because we are now in the business of this House. I am not very happy that Members are not here when we are now doing what brings us here. Everything we have handled since we came this afternoon were issues, but this is the business of the House. Even if it is for record, I need to say this thing that is being bandied about and we are being bullied that there is some development of 9,000 and 10,000 kilometres of road. If I put the Chairman to substantiate, I tell you that there will be no substantiation. This is because I have information, for example, that KeRRA was before the Committee the other day asking for Kshs4 billion to be able to finish the 5,000 kilometres which they confessed that they have not done and it is unlikely they are going to do. They asked for Kshs4 billion. They were before the Committee the other day. I am just narrating the information I have. So, when the Leader of the Majority Party stands to speak and says that there is 9,000 kilometres of roads, enough distance from Nairobi to London and back, Kenyans must see these things. Yes, it is possible, but where are those roads? We want to see them with our eyes. We do not want to perceive them in documents. We do not want to make politics out of them. We want to see them.

I have said that I do not want to wade in the territory of politics because I will interrupt what I think are very concrete proposals that I have on this Bill. This is a very good Bill and we have struggled with this Bill, as you know.

**Hon. Losiakou:** On a point of order, Hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. Mariru): Order, Hon. Kajwang'! What is it Hon. Pkosing? You are on a point of order.

**Hon. Losiakou:** Hon. Temporary Deputy Speaker, you know I respect T.J. a lot, but is he in order to mislead the House? I want to remind Hon. Kajwang' that it is not only KeRRA that constructs 10,000 kilometers of road, but there are other road agencies which are KURA and KeNHA. I want to challenge him. My Committee is available to clarify that information which was given by the Leader of the Majority Party. He is thinking about flying like the way somebody was flying to somewhere where you know. These roads go through the hills and they meander around them. That is why we get 10,000 kilometers. It is not about flying to London. I do not know why he is thinking about that. Does he want to run to London after what happened the other day? He is misleading the House. Is he in order to mislead the House?

**The Temporary Deputy Speaker** (Hon. Mariru): Hon. Pkosing, that looks like a point of information to Hon. Kajwang', but you used another route to do it. In any case, Hon. Kajwang' you are now informed.

**Hon. Kajwang':** The Member is old enough to know that he cannot give me information if I have not requested for it. So, let me just go on and say that this is a very good Bill which we need to support. However, we need to do a lot of research. We need to look at this Bill in and out, so that the results that come out of it will be something that will serve us for posterity.

I have a few comments which I need to make. It is good to allow some of us who are not in the Committee to make comments. Members who are in the Committee are versed with these facts. They will discuss them all the time. Those of us who are not in the Committee should be given the first opportunity to look through the Bill. If I just ran through it in a cursory way, I will look at pages 15 and 13. This is Clause 12 and others. It is calling for the establishment of the authorities, which is good. The Constitution has placed the ownership of these roads into the authorities that are given the legal mandate to run them. It is a good thing now that we have legislation which is putting the legal custody of these roads to those authorities. However, I think that those authorities should think out of the box. We should show it here in legislation. I know that, for example, KeNHA owns this road which travels from border to border, but when it

passes Nairobi here, there are a lot of things it can do. There are a lot of people who have billboards and advertise here. These are the things which people use to make big money in modern development. However, when they reach the urban centres, they cede those powers to the counties. So, it is the counties that draw levies and make money and yet KeNHA own those roads.

In Clause 12 as well as another clause which is towards the end, we need to innovatively give these people an opportunity to raise revenue and maintain the roads. In fact, they should create a fund through which they can liaise with county governments.

In the subsequent clause towards the end, it is saying that counties will have authority over the national trunk roads. I think that is a wrong concept. There must be an arrangement between the county and the national roads, so that we make money out of these things. We need that money for the maintenance of the roads and to raise the levies. There is something which the Chairman has just said which is on Clause 14. I beg to differ. In fact, I was one of the Members who underlined Clause 14(2)(f)(iii). I am asking what law has to do with roads. Why are we looking for lawyers to sit in boards everywhere? This is the same thing he was saying. I wanted to suggest that we look elsewhere for other disciplines, but he got it wrong. He said that we do away with all these institutions and we only remain with two institutions, and then the two institutions are appointed by the CS. That is not correct because Clause 14(2)(a), (b), (c) and (d) are already employees from the Executive. If the CS brings two more, what you have done is just to increase to Clause 14(2) to (e) and (f) for the same Executive. If I can jog your memory, the reason we went into institutions was to put roads sector infrastructure in the hands of the private sector. We wanted private sector participation. You can think of all formulas of getting the private sector. I do not begrudge you. I can debate whether we can get this from the churches or elsewhere.

Time is too short nowadays. I do not know what happens. Maybe we have too much to say. Hon. Temporary Deputy Speaker, give me a few more minutes to explain that private sector is an important component in today's business world. You have to think of a way. If you want to bring a university or some other organisation, that is all right. However, do not say that you will remove these people and then allow the Government to appoint others. It has already brought four people in the board. The CS will bring another two people. You only have two people in the same board to represent the private sector. That is now outdated.

**The Temporary Deputy Speaker** (Hon. Mariru): Order Hon. Kajwang'. If I add you one more minute, there is no reason why I should not add any other Member one more minute. I am sure all these Members want to contribute to this Bill. It is a very critical matter. You are raising a very important matter.

**Hon. Kajwang'**: I did some research.

**The Temporary Deputy Speaker** (Hon. Mariru): Indeed, just like the way every Member has taken time to research. I am sure Hon. Pkosing has noted your contribution. I saw him taking notes on your issues.

Hon. Ndindi Nyoro.

**Hon. Nyoro**: Thank you very much, Hon. Temporary Deputy Speaker. I travelled all the way from my constituency to give my voice to this very important Bill. Just like yesterday, I am very surprised that we are so few and yet the topic of discussion is so important to each one of us. Roads are very important for such a country like ours which is a growing economy. Economically, there is a clear correlation between per capita, especially on tarmac per capita

concentration of tarmac roads and the economic growth, and the standard of life of the persons living in those nations.

I want to cite some of the countries that have grown very well like Singapore. We keep on quoting them in this Parliament almost every day. We remember about the industrial revolution in the United States of America (USA) and in so many countries. The driver of those revolutions was road networks. I have gone through the entire Bill and I have seen some of the things in it, especially the recommendations from the Committee that are very timely. For example, the streamlining of percentages in terms of authorities. I am very keen on KeRRA being given 30 per cent. Previously, it used to be 22 per cent. I am also extremely happy because of the Committee. The Chairman has taken us through the appointment of board members in the authorities. I had noted the same because we cannot have the same cabal of people in every kind of a board in this country. The main stakeholders of roads are the road users, but not professionals as listed here. As my Hon. colleague, Hon. T.J., quipped about the LSK, I do not see any correlation or technical input that those kinds of professionals would bring to the board.

I will go to some of the issues that I noted. It is always work in progress even on Bills. I will speak about these issues, so that Members can think about them deeply because they concern us deeply. I have seen the issue of public participation in Part I, (4)(c) of the Bill. There is no better public participation than the one we do as Members of Parliament especially if we are talking about the NG-CDF. I am sure most of the Members of this House have committees under KeRRA called the constituency roads committees. If you remember in the previous classification of the authorities, KURA was to deal with roads that are within the now-defunct municipalities. Like in my constituency, some roads fall under KURA while others are under KeRRA. I also think that in terms of public participation, we also need to establish committees under KURA. As it is now, it acts as a cabal of professionals-only from the regional managers and the engineers, without proper input from the communities. As we improve this Bill, it is high time we considered having some kind of committees also under KURA.

On the classification of roads, I have a great concern as a Member from a rural constituency. Previously, and I am sure engineers go through this, Class A roads were transnational roads maybe from Uganda to Kenya. Class B roads went through the previous provinces. Class C roads went through the previous districts. Class D roads went through the major markets. Class E is the category of roads, as it is in the current classification, that gives us a lot of political capital. These are the roads that we gravel and grade. I want to tell the Members that if we let Class E roads go, we will come back here to cry to amend the Bill. It is high time we included Class E roads under KeRRA because that is the bulk of the work we do. Like in my constituency, Class D roads and above, I am only left with two roads to maintain under KeRRA. So, even before we pass this Bill, we should think about Class E roads because that is most of the work that we do as Members.

On the same, we get equal distribution of money especially under KeRRA in every constituency. As Members, we have to keep lobbying for tarmacked roads. I also think we need to come up with a formula. If we have 290 constituencies and the Government of Kenya is tarmacking 2000 kilometres of road every year, we can also do the same. We should appropriate those monies equally. If we have done 9000 kilometres of road in the past four or five years, and we distribute them equally, I am sure even the questions we are getting from some of the Members will not be there anymore. Therefore, we also need to think about equity and equal distribution of resources especially, the tarmac road resources equally in the constituencies.



I also have a great concern because after visiting the countries that we can learn from, we have so many entities as a Government and a country. We have KeNHA, KURA, KeRRA – I am using the previous abbreviations - the National Transport and Safety Authority (NTSA) and KRB. I tend to think that these are so many entities. Citing a case study like in Singapore, they only have one entity taking care of the land transport called the Land Transport Authority which even takes care of the railways. When we were given the previous 22 per cent allocation by KeRRA, a lot of money went into maintaining offices. We can pick some points from the suggestion by the Council of Governors. If we combine KeRRA and KURA, all these entities serve us as Members because they work in our constituencies. There is a lot of duplication when you go to the ground in terms of road H and J, the ones done by KURA and the jurisdiction of KeRRA. With regard to those two entities, we lose so much money in terms of recurrence and maintaining offices. This is money that can otherwise go to developing our roads if we put the entities under one roof that takes care of all land transport infrastructure in this country.

Lastly, I laud the Bill especially in terms of streamlining the issue of compensation and also the utilities. In Kiharu Constituency, I have several roads under construction and while we are happy about the tarmac roads being built, there is a lot of crying from the people who deserve to be compensated. There is also a lot of disruptions in terms of utilities from the KPC and water companies. The streamlining that I have seen in this Bill and especially from the recommendations of the Committee will go a long way in proper preparation so that when we are making these very noble infrastructural developments, we can pre-plan in terms of shifting the utility infrastructure that is also needed in our areas of representation.

**The Temporary Deputy Speaker** (Hon. Mariru): Let us have Hon. Mawathe Musili. The opportunity cannot be substituted, Hon. Member. Before I get to the list, allow me to look for a lady Member who is on the list. I think that is fair enough. There is none who has registered interest.

Let us have Hon. Waweru Kiarie. Hon. Members, I follow the list but it is important to allocate slots taking into consideration gender, but I agree.

**Hon. Waweru:** Thank you very much, Hon. Temporary Deputy Speaker. From the outset, I would like to note the great effort that has been put in by the relevant Committee under the very able leadership of the Chairman, Mheshimiwa Pkosing. I say this because I note that this Bill seeks - and quite to some level of success - to align the roads sector to the new Constitution. As such, it is able to take us from the many laws that previously existed. It also tries in its own way and wisdom to classify our roads in a way where we start bringing ourselves into the present and are also able to start forging forward into the future.

I note that this Bill extensively deals with matters hardware. By matters hardware, I talk about establishment of authorities that will be dealing with the hard brick and mortar construction of roads in this country. However, I regrettably note that conspicuously absent is a consideration of matters software as we realise that in this country, we can build beautiful amazing highways, trunk roads and roads. If we do not consider how we teach our population to use these roads, we shall run into problems. That is why I seek for the Committee to note that they have to put pressure on these authorities that we will be establishing through this Bill, not limited to KeNHA, KNSRA and KURA to address those issues. I would like the Committee to note that issue number one is on software matters, namely, compliance which has become a massive problem. Examples abound of places where roads have been built but users have found it extremely difficult to comply with road rules. Hon. Temporary Deputy Speaker, currently, in my constituency, I am dealing with an issue regarding Kabiria Road that was done recently. We

are witnessing accidents every other day because our road users are not able to comply with even the basic road rules. We have ended up with a myriad of accidents. Sadly, we even have young children, especially those from Kabiria Primary School, getting hit almost every week.

The mentality of our people is software issue. Our road users, that is, the pedestrians, the *bodaboda* riders, *tuktuk* drivers and motorists have to be brought up to speed on how to use the modern roads that we seek to build in this country. There are issues that arise and cannot be dealt with by just building roads. They will have to be dealt with by going out there and working aggressively on behaviour change which in itself is a mentality and attitude issue and as such a software issue.

There are places where we have even tried to construct new roads but it becomes very difficult to use them because of encroachment by members of the public. You find individuals encroaching on the roads and they even build fences right in the middle of the roads. This is a software issue that needs to be addressed. There are issues the Chairman of the Committee needs to note, for instance, where the Government intends to build roads, but it is impeded because Kenyans run ahead of it and buy out land speculatively so that they can take advantage. This is extortion.

We have situations where we have traders who lay down their wares, especially in urban areas, on roads. As much as this Bill seeks to deal with matters that are hardware, we will need the relevant Committee to address issues software: mentality, attitude and behaviour change in how we use roads. So, as they allocate budgets, because the timing is perfect, we will need to see this Committee tasking the relevant authorities to put in money on the training about safe usage of roads. The money should be channelled through existing institutions which are not limited to schools, churches and community institutions.

Finally, I note that in seeking to align the road subsector and the transport sector in general with the new Constitution, there will be need to revisit how the national Government and county governments share their responsibilities on matters related to roads. Lawyers in this House – I am not one of them - will tell us that the Constitution is very clear on the responsibilities that have been allocated to county governments. In the Constitution reference is broadly made to county transport, which includes county roads, street lighting, traffic and parking, public road transport, the ferries and harbours, but excluding the regulation of international and national shipping matters. These issues might regrettably end up being, not intentionally, replicated in the Bill. I would like to leave it there and say that as we talk about the things we are considering in this Bill, we shall also, as a House, be seeking to see how funds are allocated to these matters. A former Vice-President of the United States of America wisely said, “Don’t tell me what you value, show me your budget, and I’ll tell you what you value”

Thank you, Hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. Mariru): Thank you very much. On top of the list is Hon. Oudo Ojiambo, the Member for Funyula.

**Hon. (Dr.) Oudo:** Thank you, Hon. Speaker. First of all, let me take this opportunity to congratulate the Committee in charge of this subject matter because, at least, they demonstrated they have the ability to look at things seriously and consult widely. I must also admit that the Bill is timely, coming in time to replace the old Bill.

However, there are a few observations that come out very clearly even though we will be dealing with most of the issues at the Committee level. The first issue is to take exception to the remarks that were made by the Leader of the Majority Party and to some extent, by the Chair of the Departmental Committee on Transport, Public Works and Housing. They alleged that the

so-called Jubilee Government has built roads in this country. I would invite the Chair with his Committee to tour this country and see the open discrimination that has been perpetrated against some parts of this country.

I want to say categorically that for many years, there has been only one road in Busia County. It took the intervention of the then Vice-President, Hon. Moody Awori, for us to get the road connecting Mayoni, Funyula and Budalang'i and the one connecting Mumias with Busia Town. To date, in Funyula Constituency, we only have one road of less than 12 kilometres yet somebody can have the audacity to gloat about the so-called success of the Jubilee Government in infrastructural development. We call upon the people in charge to appreciate that Kenya stretches all the way from Funyula to Lamu. Kenya does not mean Murang'a, Nyeri, Kiambu, and Nakuru. Kenya is big enough and it is for all of us. We call for equal share of the development budget.

**Hon. Rindikiri:** On a point of order, Hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. Mariru): Order, Hon. Ojiambo. What is it, Hon. Murwithania? You seem to have an intervention.

**Hon. Rindikiri:** Hon. Temporary Deputy Speaker, is it in order for the Member to insinuate that Kenya is Murang'a and Kiambu, and not any other place? It is a very irrelevant statement. It is not in good faith. This Bill was brought in good faith to try and bring harmony in this country. I ask the Member to withdraw that statement.

**The Temporary Deputy Speaker** (Hon. Mariru): Order! You cannot have a crossfire this way. Hon. Ojiambo, that speaks to you, does it not?

**Hon. (Dr.) Oudo:** Hon. Temporary Deputy Speaker, there is nothing to withdraw. I have invited the Committee in charge of roads and transport to tour this country and do a comparative study. We cannot just keep on hiding the truth. We do not owe anybody an apology.

**The Temporary Deputy Speaker** (Hon. Mariru): Order! Hon. Member, if the point is to invite Hon. Pkosing's Committee to tour, you can take a route that is not contentious to invite them. I am sure they are listening and they have made a record. There is a non-contentious way of inviting. I am sure they are already invited, Hon. Member.

**Hon. (Dr.) Oundo:** Thank you, Hon. Temporary Deputy Speaker for your guidance. Now that my minutes have been taken away, I hope you will be kind enough to allow me to consume my time.

I want to concur with quite a number of my colleagues. We seem to have so many bodies and so many authorities in the roads subsector; they are merely a duplication, a waste of resources and generally confusing. I want to give you an example. You go to the constituency trying to explain to the ordinary voter the difference between the roads for KeNHA, the roads for KURA, the roads for KeRRA and those of the county government and it gets extremely confusing. My suggestion is that the drafters and the committee need to consider collapsing some of these authorities into a few that are fairly functional and effective. To be honest, in view of the devolved function and in view of the fact that urban development and management is a responsibility of county government, I do not see the essence of KURA.

We also need to look at reclassification. We have had so much money pumped into county governments. I can say without fear of contradiction that in some of the counties, Busia County being one of them, the amount of money that has been allocated to roads has been minimal. The feeder roads that were supposed to be opened by the county governments have generally remained unattended, or they have basically been badly done to a point that they are of no use. The Council of Governors need to demonstrate what they have done with the amount of

money they have received even as they ask for another allocation. Some counties have done fairly well, but for others, I can say without fear of doubt that they have done badly.

The issue of the road designs is important. We passed a Motion in this House sometime last year calling for setting up of dedicated lanes for the purpose of road design. We were told that when it comes to the review of the Roads Bill, we will incorporate the same. Unfortunately, I have not seen that provision in the law. Obviously, once we pass the law, it becomes cumbersome to change it.

The other point of concern is the issue of the amount allocated to the current KeRRA now being called KNSRA. My view is, we need to follow the route of the National Government Constituencies Development Funds Act. We need to expressly provide for a constituency roads committee. Leaving it to regulations and benevolence of the Cabinet Secretary is to put into trouble the roads that are recurrently under KERRA or KNSRA. As it is now, the committee is all about regulations and we know regulations do not have the full force of law.

I also want to raise the issue of compensation. I think the Constitution of Kenya and the Land Act No. 6 of 2012 is expressly clear when it comes to compensation. When you go to Clause 42, there seems to be an indication...

*(An honourable Member crossed the Floor without bowing at the Bar)*

**The Temporary Deputy Speaker** (Hon. Mariru): Order! Did that Member actually cross?

**Hon. Members:** Yes.

**The Temporary Deputy Speaker** (Hon. Mariru): Order, Hon. Member! I raised this in the morning. It looks like the induction we did... Hon. Member, just walk to the Bar, bow and cross, so that you can consult Hon. Pkosing.

**Hon. (Dr.) Oundo:** Clause 42(c) seems to suggest that there is another way of compensation other than the one provided for under the Constitution and the Land Act No. 6 of 2012. I request the Committee to basically align that particular clause to the Constitution and the relevant Act.

**The Temporary Deputy Speaker** (Hon. Mariru): Hon. Dahiye, Member for Dadaab.

**Hon. M.D. Duale:** Thank you, Hon. Temporary Deputy Speaker, for giving me this chance. First of all I want to thank the Mover of the Motion, Hon. Duale, who is the Member for Garissa Township, which is the headquarters of Garissa County where I come from, and the chair of the roads committee.

Roads network is very important for a country's development. The current Government, which was also in power for the last five years, together with the Kibaki Government, did a lot of work in road development in this country. No doubt, I can attest that the amount of investment that has been put in the road network in this country over the last 10 or 15 years has been so great. Today in Nairobi, for example, the Thika Superhighway and the bypasses have really reduced traffic congestion in this city. But we have also lagged behind in the development of road network particularly in the poor city of Mombasa. It is deplorable that, that road is not a dual carriageway 55 years after Independence. The road from here to western Kenya should also have been a superhighway because it is a trunk road that would have helped the economy of this country.

While I say that, the problem of roads is also a major contributor to accidents. In December last year, I am sure everyone here remembers the number of accidents that happened

and took away a lot of lives and caused a lot of injuries. This is because of the poor state of roads. That also contributes to healthcare mobility. If you go to Kenyatta National Hospital and you visit the orthopaedic ward, you will find that it is overcrowded because of trauma and fractures. And this is attributable to the state of roads.

A good road network also contributes to security. For example, in Dadaab Constituency where I come from, the road from Garissa-Dadaab-Liboi to the border is earth road. I think it is the only road of its kind in this country where no project has been done in terms of tarmacking it; neither is it in any of the plans of the Government. This is the road used by the Kenya Defence Forces when they are going to Somalia. It is the road used to transport refugees back to Somalia. It is a road that will connect trade between us and Kenya. In May and June last year, we lost 19 people on that road.

Apart from beefing security, we also need to reach every part of this country. Now we are very happy with the Government because the road from Garissa to Modogashe is being done and maybe by 2019 it will be ready. The Isiolo-Wajir-Mandera Road will be started soon, which is very commendable of the Government. Without underrating the concerns of the Minority Party, I think it is also good to appreciate the good work that is being done.

Overall, in terms of the Bill which has been brought here, I want to agree with one of the Members who spoke before me, I think we have a lot of authorities which also contribute to overhead costs. We may need to restructure the way we look at road development; in fact, call land transport, sea transport and air transport. That way we can reduce the issue of different authorities doing the same work.

The second thing is that we need to do a lot of amendments to the Bill. The development of major roads is not possible through the national Budget. Normally, governments borrow money to do major projects. It is very important in future to do the road from Mombasa to Nairobi and connect this country from the capital city to the western part of Kenya. This will serve Uganda, Rwanda, Burundi, DRC Congo, South Sudan, North Eastern and Somalia. The percentage given to KeNHA should have been more than that. I know that we are going to borrow for those roads but it is very important. We are not going to have an oil pipeline soon from Turkana, but people are talking about transporting that oil by road. Imagine if you were to put trucks on that road from where the oil is in Lokichar to Eldoret, Nairobi and then to Mombasa, the current road cannot accommodate it. I am told that there are 600,000 tonnes of oil ready to be transported. If you are to put that on the road, it would clog the entire road from Lokichar to Mombasa. That is the importance of trying to develop the railway line which has been done from Mombasa to Nairobi and now the western part of Kenya. This will be of great help to reduce the burden on the road. We need to see how we can connect the major cities of this country so that we can improve our economy, reduce accidents and improve security.

With those few remarks, I support the Bill. Thank you very much.

**The Temporary Deputy Speaker** (Hon. Mariru): Hon. Musili, you look like you literally want to stand before I give you a chance. Hon. Kimani, the Floor is yours.

**Hon. Kimani:** Thank you, Hon. Temporary Deputy Speaker. I rise to first appreciate the good effort that has been made by the Committee especially looking at this Kenya Roads Bill in relation to the big four agenda of the Government. If you are talking about having food security in this country, we must think about how those potatoes you farm in Kuresoi or Kapsita are going to reach those hungry people elsewhere in the country. If we are talking about manufacturing we must think about how we are going to transfer our factors of production from

one place to the other. All these are dependent on our road network. Therefore, this Kenya Roads Bill cannot come in at a more crucial time than now.

We are also looking at developing this country from where it is to another level. In an economics class I learnt about factors of production. One of the key concepts was mobility of these factors of production. This mobility again is only going to be enhanced by increasing the road network. But again, look at the population where 85 per cent of us are young people and more than 50 per cent are jobless. I am also seeing an opportunity in this Kenya Roads Bill to create employment for young people.

If we could design these roads in such a way that those people who want to hawk their items along the road can do so without having to risk their lives then it will be good. You and I have at one time or another bought an item when in traffic. You have also probably stopped at Kikopey to have your *Nyama Choma*. How then can we design our road networks such that we have places where our young people; where people who need to sell their maize; or those who need to buy their fish do not have to risk their lives. I think that is something that this Committee should pick and amend so that it speaks on that.

Last year, we talked a lot and even brought a Motion to this House about the increased number of accidents, especially at Sachangwan – that blackspot in my constituency. We are now talking about redesigning that road so that we can have a place where trucks can park before they get downhill. How do we ensure that is done when we are talking about enacting a new law that will change the way our roads are done? We do not come here to discuss how we are going to have those trucks stop somewhere before they go downhill. Can we introduce a clause in this Bill to provide for places where long distance trucks and public service vehicles (PSV) must stop for the drivers to rest? Those of us who travel to the North Rift region and western Kenya know that buses sometimes stop at certain places by the roadside to allow passengers to relieve themselves. Again, whose responsibility is that? Do we leave it to the county to do it? These are some of the issues that need to be captured in this Bill.

Much has been discussed about the need to have professional bodies to be part of this board. Whereas a lot of emphasis has been made on the Law Society of Kenya (LSK), as a Certified Public Accountant, I am worried because every time there is such a proposal you find there is a space for LSK. Does it mean that we do not have other professionals who can give input to these boards? We do not need to take the lawyers away but all these could agree on who could represent them. We can have representatives from the LSK, the Institute of Certified Public Accountants of Kenya (ICPAK) or the Physical Planning. We also need to appreciate that other professionals in this country have a role to play in policy implementation.

Lastly, still on the design of the road, an hon. Member said that if you go to most of hospitals, you will find that most of the inpatients are accident victims involving *boda boda*. The *boda boda* motorcycles are in this country to stay. We must design our roads to ensure that they cater for *boda boda* riders. Can we make provision for a lane to be used by motorcycles just the way we nowadays provide for pedestrian walkways? Most roads in Nairobi have footpaths in recognition of the fact that most people in the estates take a walk in the evening. Could we also have a lane or somewhere for *boda boda* riders so that they can do their business just the way PSV, personal cars and trucks drivers do their job?

Until we get our planning right, we will continue to have accidents on our roads. We will continue to come here with Motions and Bills purporting to address the issue. Today we have a chance to ensure that this Bill is corrected before it is enacted.

Thank you very much Hon. Temporary Deputy Speaker, and God bless you.

**The Temporary Deputy Speaker** (Hon. Mariru): Yes, Hon. Musili.

**Hon. Mawathe:** Thank you Hon. Temporary Deputy Speaker. I appreciate you for giving me a chance to contribute to this very important Bill. I appreciate your fairness since I had stepped out at the time you called me. I also appreciate and request that you continue with that spirit. You had indicated that you would pick a Member from the Government side and then come to the Opposition side.

**The Temporary Deputy Speaker** (Hon. Mariru): Hon. Member, that is exactly what guides the Chair.

**Hon. Mawathe:** I do not wish to engage the Chair but two people spoke before me. I request that we continue.

I appreciate the Chairman of the Committee on Transport, Public Works and Housing for the commendable job they have done. The Chairman indicated that he was Chief Executive Officer (CEO) for four years. I wish to point out that he was a CEO, courtesy of former Vice-President Kalonzo Musyoka, the appointee having been a Member of the Orange Democratic Movement-Kenya (ODM-Kenya) elected in 2007.

One of the things we need to put on the national highways being managed by KeNHA is to ensure that the highway from Mombasa all the way to Busia is a dual carriageway. There is no question about it. The importance of that road cannot be overemphasized. I do not even know why we should be talking about it here.

The second thing is that we should build truck stops. As my friend indicated, people have to pull over in the bushes to relieve themselves. Let us build bus or truck stop as they are called in the United States of America. This is a huge place where you stop-over to gas up, rest, sleep and also relieve yourself. So, let us build some truck and bus stops, especially along Mombasa Road.

I am the Member for Embakasi South Constituency and this area includes Mukuru kwa Njenga and Mukuru kwa Reuben. I know Kileleshwa, Mukuru kwa Reuben, Lavington, Karen and Mukuru kwa Njenga are in Nairobi. We have been neglected because if you look at the leafy suburbs they have roads, but we do not have roads in Mukuru kwa Njenga, Mukuru kwa Reuben and Kware. I am looking forward to working with your Committee. I say that my constituency is neglected because we do not have tarmac roads. We only have a 1.4 kilometers tarmac road in the entire constituency called Catherine Ndereva.

I believe you are putting together a good Bill and we will support it and appreciate the fact that you retained the KeRRA and added the word "National" to it just as you did to KURA. This is very important because it separates them from the county roads. A member has indicated here that there might be duplication in their functions. I beg to differ because it is important that we retain the three authorities, unless, the Members of Parliament from Nairobi see the need for the separation of those authorities. However, on the issue of moving the various classes of roads and giving class D to the counties, that will somehow affect us. But, I am glad that when I consulted with the Chairman yesterday, he indicated to me that we still have a chance to change some of those roads from Class E to D so that they can qualify to be funded by KeRRA.

In my constituency, I do not have any roads. We walk on *matope*. We even have an area called Matopeni. This is because people walk on mud. I refer to my constituency as neglected because it is the only constituency in the entire country that has only one Government high school called Embakasi Girls Secondary School and only one public primary school, Njenga Primary School. Yes, we have Our Lady Primary School which also assists and the fee there is fair. I am talking of a place that is totally neglected. I hope the Speaker does not find me out of

order but I hereby invite the Chair of the Departmental Committee on Lands to visit my constituency so that he can get to see what I am talking about. My people are neglected. I know they do not have good income but we are still Kenyan taxpayers and voters. That one human being who lives in Karen or Runda has the same say when it comes to voting as that person who lives in Mukuru kwa Njenga or Mukuru kwa Reuben.

We need to be treated equally. There is a time we talked about equalisation funds. That is another area that we really need to come and look at. We need to look at the equalisation funds being sent to other parts of the country and yet within Nairobi itself we are totally neglected. My colleague from the other side alluded to the fact that the roads in Nairobi, thanks to the bypasses, have no traffic jam. If you were to leave Embakasi in the morning coming to town, it is about one hour and 40 minutes' drive. So, we are not there yet when it comes to eliminating traffic jams in Nairobi. We need to find a way to really solve some of these problems.

With those many remarks, I wish to support the Bill. Thank you, Hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. Mariru): Hon. Atandi, you will still get a chance but before you, let us have Hon. Sankok.

**Hon. ole Sankok:** Thank you, Hon. Temporary Deputy Speaker, for this opportunity. From the outset, let me say that I do support this Bill. It is a very important Bill. It is unfortunate that the House is almost empty when we are discussing such important Bills but when we were discussing about our welfare, the food in the kitchen and other issues, we were full house. When we were talking about *mandazi*" we were full house.

First of all, I would like to answer Hon. TJ Kajwang' who said that from here to England it is 9,000 kilometres yet we as the Jubilee Party are claiming that there are 9,000 kilometres of road in this country. It is not good for anybody to become ignorant. Inside our chest we have lungs and the capillaries in our lungs are actually 500 kilometres. So, you cannot just come and say that a whole country cannot have a 9,000-kilometre road network. Let me just mention a few roads from Narok. Before the Jubilee administration, we only had 150 kilometres of roads but during the five years of the Jubilee administration, we had the 90-kilometre road from Narok to Maasai Mara being tarmacked. We have the road from Narok to Nakuru which is 50 kilometres. We have Ololunga to Olmekenyu Road which is 30 kilometres and the Rumuruti to Maralal Road which is 120 kilometers and so on. What I am just alluding to is that what the Leader of the Majority Party said is true. The Jubilee administration has constructed 9,000 kilometres of road. You can inquire from the chairman of the Departmental Committee on Transport, Public Works and Housing. My friend is shaking his head but this is the truth.

As we discuss the Roads Bill, let us also remember to include persons with disabilities. Some of them have wheelchairs and some of these wheelchairs are motorised. They can be used on road and we had suggested earlier that when we are constructing these roads, let us have lanes and these lanes should be used by emergency vehicles as well as wheelchairs of persons with disabilities. Let us also have the bus stops being accessible to persons with disabilities. Let us build ramps because earlier on, we used to have bus stops that were not accessible to persons with disabilities.

Let us also protect our road reserves. The problem we have in this country is the grabbing of road reserves not only by wealthy individuals but if you go across market places, you will find people selling wares along the roads. If you go to a market called Ewaso Ngiro, last week we lost one child who was knocked down by a vehicle during a market day because people literally sell



their wares along the road. In case a car or lorry loses breaks, then the Ewaso Ngiro Market will be a disaster. We will have more deaths.

Hon. Temporary Deputy Speaker, before Jubilee administration, we only had 150 kilometers of road and 30 of them were removed by the Government in the pretext of replacing the tarmacking during the time of Hon. Raila Amolo Odinga who was the Minister for Roads. I should not mention him because he is in Harare attending a funeral. We excuse him because he is very good at attending funerals. In fact, we call him a professional mourner in Narok because he attends funerals.

Thank you, Hon. Temporary Deputy Speaker. I beg to support the Bill.

**The Temporary Deputy Speaker** (Hon. Mariru): Hon. Atandi, I know you are normally straight to the point. If you are gracious enough to finish in a minute, you will give one or two other Members a chance before the House rises.

**Hon. Atandi:** Thank you, Hon. Temporary Deputy Speaker, for giving me this opportunity to contribute. I have been in this Chamber since 2.00 p.m. because I was waiting to ventilate on this very important Bill. However, I am disappointed because Members who have contributed have basically digressed. They failed to appreciate the significance of this Bill and its content.

I would like to start by saying that I have gone through the whole of this Bill. I have realised that it has borrowed heavily from the Kenya Roads Act 2007 in many areas. I have also noted that most Members are keen basically on the operationalisation of this Bill. I mean the aspects of the Bill that talk about road construction. I have been careful to observe that there is an introduction into this Bill which, in my view, I find very important in the management of our roads. This is Part III which is the establishment of the Public Roads Standards Board. I want to plead with the Chairman to listen to me because I want to make certain recommendations. When you travel outside this country and you go to developed countries, you admire the kind of engineering works that are done on those roads. Sometimes when you travel, you really wish that Kenyan roads were also in that respect. You find that a number of roads meander in Kenya. We have many roads that meander. That is the reason you find that there are so many accidents happening in this country which are attributed to the way we build our roads. So, I think the drafters of this Bill thought it wise to introduce a Public Roads Standards Board that ideally should advise the Cabinet Secretary on a number of aspects to do with the standardisation of the roads and best quality practice.

I would like to support this particular introduction in this Bill. However, I think that the Bill has not been given the required mandate which I would like the Committee to look at. In my view, we need to expand the mandate of this Public Roads Standards Board, so that we can have within it eminent personalities within our societies and captains of industry in the various areas that are relevant to our economy. This will enable us to have a competent team of personalities who will advise the CS on many other aspects of quality of roads, roads construction and also to borrow best practices from other countries, in order for us to say that we are actually constructing roads that are capable of meeting the international standards.

The other issue that I have also noted in the creation of Public Roads Standards Board is that the Bill tries to create a department in the Ministry of Transport, Infrastructure, Housing and Urban Development which in my view will not serve the intended purpose. For instance, the Chairman of this board is supposed to be the Principal Secretary in that particular ministry. The Bill says that the secretariat of this important board should be created by the same Ministry. Let us see how we can separate and make this particular body autonomous. We also need to give

it financial autonomy so that they can advise the Cabinet Secretary properly. You realise today that some of our Cabinet Secretaries have not gone to school. We have appointed Cabinet Secretaries who are Standard Seven drop-outs. We need competent people to guide them on the way they can think about implementing our roads. I am not saying that my friend Macharia is illiterate; you know he is a very competent Cabinet Secretary having been my boss in the banking sector. I know he is a well-briefed man who goes out of his way to get information and do things properly. Because we are making laws for the future, in case we have another Cabinet Secretary who does not have the required basic education, we need competent people to show him a few things.

The other issue that I would also like to address in this Bill is what the Chair already highlighted, namely the creation and the membership of the various authorities. He pointed out that we have many professional bodies coalescing and agreeing to be in charge of the roads sector as far as this authority is concerned. I agree with the Chairman but I want to suggest that we need some aspect of independence on the bodies that are in charge of constructing our roads. We could retain certain relevant independent bodies as an option for the President to appoint the chairmen of these authorities from and do away with the others that are irrelevant. I cannot see the relationship between the Law Society of Kenya and roads. I propose to the Committee that they need to delete that option that has been indicated there. We have other important bodies like the Kenya Institute of Planners (KIP), the Institute of Surveyors of Kenya and the Engineers Board of Kenya (EBK). Those ones are relevant to this sector because we want to have a roads sector that is well-captained and the professionals there should be capable of helping the Ministry to undertake these projects.

I also want to propose within the establishment of the Public Roads Standards Board, that the chairman of this board must not be the Principal Secretary in charge of roads. Most of you have interacted with Government ministries and are aware that the accounting officers of ministries are very busy people. Some of them, as I have said, are not professionals in the various sectors in which they work. We need to have somebody independent chairing this board because this is the board that will advise the Ministry in a number of areas.

In conclusion, some of these Bills are very serious and we do not want to play politics on the Floor of the House because if we do so, we are likely to miss out on certain aspects of the Bills that are very important that will help this House enact relevant laws.

I support the Bill.

**The Temporary Deputy Speaker** (Hon. Mariru): Let us have Hon. Kweyu. I think I mispronounced your name. Let us have Hon. Thuku Kwenya.

**Hon. Thuku:** Thank you, Hon. Temporary Deputy Speaker. My name is Kwenya Thuku not Kweyu. I am the Member of Parliament for Kinangop. I rise to support this Bill. It could not have come at a better time than this.

We are living in very interesting times whereby our constituents still believe in the traditional MPs where an MP is supposed to construct roads, provide education and water for his constituents and those kinds of things. Down in our constituencies, our voters have not realised that there is a devolved system of Government. Such being the case, this Bill has come at a time whereby it will address some of the issues that we have been dealing with as MPs, whereby we are expected to construct roads while the same has been devolved to the county governments. I want to appreciate the work that has been done by this Committee and the three bodies that have been created, that is KeNHA, KNURA and the KNSRA, whereby there is a clear demarcation of

roles of what each authority is supposed to do. This is a clear demarcation of roles of what each authority is supposed to do.

Hon. Temporary Deputy Speaker, a case study is Nyandarua where there are no roads. Traditionally, there are roads that were maintained by KeRRA. There is none that was maintained by KeNHA.

**The Temporary Deputy Speaker** (Hon. Mariru): Order, Hon. Thuku. I am afraid it is now 7.00 p.m. You will have a balance of your eight minutes next time. This is not the end of this Bill. It will be brought again and you will all have a chance to engage, debate and contribute to it. So Hon. Thuku, when we resume debate on this Bill, you will have your eight minutes. Please take note.

**Hon. Thuku:** Thank you.

### ADJOURNMENT

**The Temporary Deputy Speaker** (Hon. Mariru): Hon. Members, the time being 7.00 p.m., this House stands adjourned until tomorrow, Thursday, 22<sup>nd</sup> February 2018 at 2.30 p.m.

The House rose at 7.00 p.m.