

NATIONAL ASSEMBLY

OFFICIAL REPORT

Tuesday, 27th February 2018

The House met at 2.30 p.m.

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

PRAYERS

COMMUNICATION FROM THE CHAIR

DELEGATION FROM THE PARLIAMENT OF UGANDA IN SPEAKER'S ROW

(Hon. (Dr.) Pukose walked in the aisle)

Hon. Speaker: The Member for Endebess, take a seat. You can sit next to Hon. Melly. He is not a harmful person.

Hon. Members, I wish to introduce to you a delegation of Members of Parliament from the Parliament of Uganda. They are seated in the Speaker's Row.

Hon. Members, I am told they are still making their way. Anyway, we shall introduce them and recognise them when they arrive.

Indeed, Hon. Members, since I am aware that there is great anxiety that has been created out there, I shall be making yet another Communication to the House when we get to Order No. 7.

Next Order.

PAPERS LAID

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

The Report of the Auditor-General and Financial Statements of the National Government for the Financial Year 2015/2016.

The Insolvency (Amendment) Regulations, 2018 and the Explanatory Memorandum (pursuant to Section 730 of the Insolvency Act, 2015)

The Companies (General) (Amendment) Regulations, 2018 and the Explanatory Memorandum (pursuant to Section 1022 of the Companies Act, 2015)

The Traffic (Amendment) (No. 3) Rules, 2017 and the Explanatory Memorandum (pursuant to Section 119 of the Traffic Act)

The EAC Protocols on Information, Communications and Technology (ICT) and Cooperation in Meteorological Services pending ratification by the Kenya National Assembly. Thank you, Hon. Speaker.

Hon. Speaker: The first Report obviously goes to the Public Accounts Committee (PAC) which is chaired by the Member for Ugunja. It is fair to note that this is a Report of the Auditor-General relating to the national Government for the Financial Year 2015/2016. Hon. Opiyo Wandayi, there is a lot that is expected because counties will be looking up to you to fast track the consideration of those Reports. It is because of the issue of the Division of Revenue Bill. The Chairperson of the Departmental Committee on Agriculture and Livestock, take the Floor.

Hon. Ali Adan: Hon. Speaker, I beg to lay the following Papers on the Table of the House:

The Report of the Departmental Committee on Agriculture and Livestock on the approval for appointment of Principal Secretary for State Department for Agricultural Research in the Ministry of Agriculture and Irrigation.

Thank you.

Hon. Speaker: The Chairperson of the Departmental Committee on Finance and National Planning, Hon. Limo or the Vice Chairperson. Hon. Limo is there.

Hon. Limo: Hon. Speaker, I beg to lay the following Papers on the Table of the House:

The Report of the Departmental Committee on Finance and National Planning on the approval for appointment of Principal Secretary for State Department for Devolution and Planning.

Thank you, Hon. Speaker.

Hon. Speaker: The Chairperson of the Departmental Committee on Defence and Foreign Relations.

Hon. Katoo: Hon. Speaker, I beg to lay the following Papers on the Table of the House:

The Report of the Departmental Committee on Defence and Foreign Relations on the approval for appointment of Principal Secretary for State Department for Foreign Affairs.

The Report of the Departmental Committee on Defence and Foreign Relations on the approval for appointment of various Ambassadors and High Commissioners.

Hon. Speaker: Chairperson, Departmental Committee on Labour and Social Welfare, Hon. Ali Wario.

Hon. Ali Wario: Hon. Speaker, I beg to lay the following Paper on the Table of the House:

The Report of the Departmental Committee on Labour and Social Welfare on the approval for appointment of Principal Secretary for State Department for Gender.

Hon. Speaker: The Vice Chairperson, Departmental Committee on Health, Hon. Mishra.

Hon. Mishra: Hon. Speaker, I beg to lay the following Paper on the Table of the House:

The Report of the Departmental Committee on Health on the approval for appointment of Principal Secretary for State Department for Health.

Hon. Speaker: Chairperson, Departmental Committee on Transport, Public Works and Housing, Hon. Pkosing.

Hon. Pkosing: Hon. Speaker, I beg to lay the following Paper on the Table of the House:

The Report of the Departmental Committee on Transport, Public Works and Housing on the approval for appointment of Principal Secretary for State Department for Housing and Urban Development.

I thank you, Hon. Speaker.

Hon. Speaker: Chairperson, Departmental Committee on Administration and National Security, Hon. Koinange.

Hon. Koinange: Hon. Speaker, I beg to lay the following Paper on the Table of the House:

The Report of the Departmental Committee on Administration and National Security on the approval for appointment of Principal Secretary for State Department for Immigration, Border Control and Registration of Persons.

Hon. Speaker: Chairperson, Departmental Committee on Education and Research, Hon. Melly.

Hon. Melly: Hon. Speaker, I beg to lay the following Paper on the Table of the House: The Report of the Departmental Committee on Education and Research on the approval for appointment of Principal Secretary for State Department for Vocational and Technical Training.

Hon. Speaker: Hon. Francis Chachu Ganya, on behalf of the Departmental Committee on Environment and Natural Resources. Hon. Washiali!

Hon. Washiali: Hon. Speaker, I beg to lay the following Paper on the Table of the House:

The Report of the Departmental Committee on Environment and Natural Resources on the approval for appointment of Principal Secretary for State Department for Water and Sanitation on behalf of the Chairman, Departmental Committee on Environment and Natural Resources.

Thank you, Hon. Speaker.

Hon. Speaker: Chairperson, Budget and Appropriations Committee, Hon. Ichung'wah.

Hon. Ichung'wah: Hon. Speaker, I beg to lay the following Paper on the Table of the House:

The Report of the Budget and Appropriations Committee on adoption of the Budget Policy Statement and the Debt Management Strategy for 2018/2019 and the Medium-Term.

Hon. Speaker: Finally, the Chairperson of Justice and Legal Affairs Committee, Hon. Cheptumo.

Hon. Cheptumo: Hon. Speaker, I beg to lay the following Paper on the Table of the House:

The Report of the Departmental Committee on Justice and Legal Affairs on the approval for appointment of Members to the Judicial Service Commission.

Hon. Speaker: Next Order.

NOTICES OF MOTIONS

APPROVAL FOR APPOINTMENT OF PRINCIPAL SECRETARY, STATE DEPARTMENT FOR AGRICULTURAL RESEARCH

Hon. Yussuf Adan: Hon. Speaker, I beg to give notice of the following Motion:

THAT, this House adopts the Report of the Departmental Committee on Agriculture and Livestock on the Vetting of Nominee for Appointment as Principal Secretary, laid on the Table of the House on Tuesday, 27th February 2018, and pursuant to the provisions of Article 155(3)(b) of the Constitution, approves the appointment of Prof. Hamadi Iddi Boga as the Principal Secretary, State Department for Agricultural Research.

Hon. Speaker: Chairperson, Departmental Committee on Finance and National Planning, Hon. Limo.

APPROVAL FOR APPOINTMENT OF PRINCIPAL SECRETARIES,
STATE DEPARTMENT FOR DEVOLUTION AND PLANNING

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

THAT, this House adopts the Report of the Departmental Committee on Finance and National Planning on the Vetting of Nominees for Appointment as Principal Secretaries, laid on the Table of the House on Tuesday, 27th February 2018, and pursuant to the provisions of Article 155(3)(b) of the Constitution, approves the appointment of Dr. Julius Muia and Mr. Nelson Marwa as Principal Secretaries, State Department for Planning and State Department for Devolution, respectively

Hon. Speaker: Hon. Katoo ole Metito

APPROVAL FOR APPOINTMENT OF PRINCIPAL SECRETARY,
STATE DEPARTMENT FOR FOREIGN AFFAIRS

Hon. Katoo: Hon. Speaker, I have to give notices of two motions.

I beg to give notice of the following Motions:

THAT, this House adopts the Report of the Departmental Committee on Defence and Foreign Relations on the Vetting of Nominee for Appointment as Principal Secretary, laid on the Table of the House on Tuesday, 27th February 2018, and pursuant to the provisions of Article 155(3)(b) of the Constitution, approves the appointment of Amb. Macharia Kamau as Principal Secretary, State Department for Foreign Affairs.

APPROVAL FOR APPOINTMENT OF VARIOUS AMBASSADORS/HIGH COMMISSIONERS

THAT, this House adopts the Report of the Departmental Committee on Defence and Foreign Relations on the Vetting of Nominees for appointment as Ambassadors/High Commissioners, laid on the Table of the House on Tuesday, 27th February 2018, and pursuant to the provisions of Article 132(2) (e) of the Constitution and Standing Order 216(5) (f), approves the appointment of the following persons-

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|-------|----------------------|---|---|
| (i) | Prof. Judy Wahkhungu | - | Ambassador to France |
| (ii) | Dr. Cleopa Mailu | - | Permanent Representative to UN
Geneva |
| (iii) | Hon. Dan Kazungu | - | High Commissioner to the United
Republic of Tanzania |
| (iv) | Mrs. Phyllis Kandie | - | Ambassador to Belgium, Luxemburg |

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| | | and the European Union |
| (v) | Mr. Willy Bett Kipkorir | - High Commissioner to India |
| (vi) | Prof. Jacob Kaimenyi | - Permanent Representative to UNESCO |
| (vii) | Dr. Hassan Wario Arero | - Ambassador to Austria |
| (viii) | Mr. Lawrence N. Lenayapa | - Ambassador to the Kingdom of Netherlands |

APPROVAL FOR APPOINTMENT OF PRINCIPAL SECRETARY,
STATE DEPARTMENT FOR GENDER

Hon. Ali Wario: Hon. Speaker, I beg to give notice of the following Motion:

THAT, this House adopts the Report of the Departmental Committee on Labour and Social Welfare on the Vetting of Nominee for Appointment as Principal Secretary, laid on the Table of the House on Tuesday, 27th February 2018, and pursuant to the provisions of Article 155(3)(b) of the Constitution, approves the appointment of Ms. Safina Kwekwe Tsungu as the Principal Secretary, State Department for Gender.

APPROVAL FOR APPOINTMENT OF PRINCIPAL SECRETARY,
STATE DEPARTMENT FOR HEALTH

Hon. Mishra: Hon. Speaker, I beg to give notice of the following motion:

THAT, this House adopts the Report of the Departmental Committee on Health on the Vetting of Nominee for appointment as Principal Secretary, laid on the Table of the House on Tuesday, 27th February 2018, and pursuant to the provisions of Article 155(3)(b) of the Constitution, approves the appointment of Mr. Peter Kiplagat Tum as the Principal Secretary, State Department for Health.

Thank you, Hon. Speaker.

Hon. Speaker: Hon. Pkosing.

APPROVAL FOR APPOINTMENT OF PRINCIPAL SECRETARY,
STATE DEPARTMENT FOR HOUSING AND URBAN DEVELOPMENT

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

THAT, this House adopts the Report of the Departmental Committee on Transport, Public Works and Housing on the Vetting of Nominee for Appointment as Principal Secretary, laid on the Table of the House on Tuesday, 27th February 2018, and pursuant to the provisions of Article 155(3)(b) of the Constitution, approves the appointment of Mr. Charles Hinga Mwaura as Principal Secretary, State Department for Housing and Urban Development.

I thank you, Hon. Speaker.

Hon. Speaker: Hon. Paul Koinange.

APPROVAL FOR APPOINTMENT OF PRINCIPAL SECRETARY,
STATE DEPARTMENT FOR IMMIGRATION, BORDER CONTROL
AND REGISTRATION OF PERSONS

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

THAT, this House adopts the Report of the Departmental Committee on Administration and National Security on the Vetting of Persons for Appointment as Principal Secretary, laid on the Table of the House on Tuesday, 27th February 2018, and pursuant to the provisions of Article 155(3)(b) of the Constitution, approves the appointment of Maj. Gen. (Rtd) Dr. Gordon Odemo Kihalangwa as the Principal Secretary, State Department Immigration, Border Control and Registration of Persons.

Thank you, Hon. Speaker.

Hon. Speaker: Hon. Melly.

APPROVAL FOR APPOINTMENT OF PRINCIPAL SECRETARY,
STATE DEPARTMENT FOR VOCATIONAL AND TECHNICAL TRAINING

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

THAT, this House adopts the Report of the Departmental Committee on Education and Research on the Vetting of Nominee for Appointment as Principal Secretary, laid on the Table of the House on Tuesday, 27th February 2018, and pursuant to the provisions of Article 155(3)(b) of the Constitution, approves the appointment of Dr. Kevit Desai as Principal Secretary, State Department for Vocational and Technical Training.

Thank you, Hon. Speaker.

APPROVAL FOR APPOINTMENT OF PRINCIPAL SECRETARY,
STATE DEPARTMENT FOR WATER AND SANITATION

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

THAT, this House adopts the Report of the Departmental Committee on Environment and Natural Resources on the Vetting of Nominee for Appointment as Principal Secretary, laid on the Table of the House on Tuesday, 27th February 2018, and pursuant to the provisions of Article 155(3)(b) of the Constitution, approves the appointment of Mr. Joseph Wairagu Irungu as Principal Secretary, State Department for Water and Sanitation.

Thank you, Hon. Speaker.

ADOPTION OF THE REPORT OF BUDGET AND APPROPRIATIONS
COMMITTEE ON THE BUDGET POLICY STATEMENT

Hon. Ichung'wah: Hon. Speaker, I beg to give notice of the following Motion:

THAT, this House adopts the Report of the Budget and Appropriations Committee on the Budget Policy Statement and the Debt Management Strategy for 2018/2019 and the Medium-Term, laid on the Table of the House on 27th February 2018.

Thank you, Hon. Speaker.

APPROVAL FOR APPOINTMENT OF MEMBERS TO THE JUDICIAL SERVICE COMMISSION

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

THAT, this House adopts the Report of the Departmental Committee on Justice and Legal Affairs on the Vetting of Nominees for appointment as Members of the Judicial Service Commission, laid on the Table of the House on Tuesday, 27th February 2018, and pursuant to the provisions of Article 171(2) of the Constitution, approves the appointment of Mr. Patrick Gichohi, CBS; Prof. Olive Mugenda and Mr. Felix Koskei as Members of the Judicial Service Commission.

Thank you, Hon. Speaker.

Hon. Speaker: The Member for Mvita could take his seat.

DELEGATION FROM THE PARLIAMENT OF UGANDA IN SPEAKER'S ROW

Hon. Members, I indicated earlier that we have guests. I wish to introduce to you a delegation of Members of Parliament from the Parliament of the Republic of Uganda seated in the Speaker's Row. The delegation comprises of the following:

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|--------------------------------|---|---|
| 1. Hon. Patrick Mshabe Nzamba | - | Leader of Delegation |
| 2. Hon. Norah Nyeduha Bigiriwa | - | Member |
| 3. Hon. Anne Abaju Adeke | - | Member |
| 4. Hon. Hebert Ariko | - | Member |
| 5. Hon. Maurice Henry Kibaiya | - | Member |
| 6. Mr. John Tamale | - | Legal Counsel |
| 7. Mr. Marx Kamakech | - | Clerk Assistant/Secretary to the Delegation |

(Applause)

Hon. Members, the delegation is in the country on a study visit of our Parliament to interact with our committees and various State agencies to discuss legislative mechanisms for ensuring that low-cost benefit in procurement of goods and services in the public sector.

On my own behalf and that of the House, I wish to welcome them to the National Assembly of the Republic of Kenya and wish them fruitful engagements during their stay in the country.

I thank you.

Hon. Members, allow me to also recognise, seated in the Speaker's Gallery, members of staff of the County Assembly of Nyandarua and students from Mwakitawa Girls' Secondary School, Voi Constituency, Taita-Taveta County, and students and pupils, in the Public Gallery, from Mugui Secondary School, Tharaka Constituency, Tharaka-Nithi County, and Mwiki Primary School, Ruiru Constituency, Kiambu County.

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

Hon. Members, I did indicate that owing to some interest that has been generated unnecessarily in the country, I have communication to make. The Members who are coming in

could come in and take your seats because this will take some time; very quickly, if you can take your seats.

Those who are coming in, please take your seats; this Communication will take some time.

COMMUNICATION FROM THE CHAIR

PETITION FOR REMOVAL OF JUDICIAL SERVICE COMMISSION MEMBERS

Hon. Members, I wish to inform the House that my office is in receipt of a petition from one Adrian Kamotho Njenga seeking the removal of Hon. Justice David Maraga, Hon. Lady Justice Philomena Mwilu, Hon. Justice Mohamed Warsame, Hon. Justice Aggrey Muchelule, Prof. Tom Ojienda, Hon. Emily Ominde and Hon. Mercy Deche as members of JSC pursuant to Article 251 of the Constitution. In support of the Petition, the Petitioner outlines a number of particulars including, among others:

- i. Violation of Article 3, defence of this Constitution, Article 10 on national values and principles of governance, Article 27 on equality and freedom from discrimination, Article 35 on access to information, Article 73 on responsibilities of leadership, Article 168 on removal from office, Article 172 on functions of the Judicial Service Commission and Article 232 on values and principles of public service.
- ii. Discrimination and victimisation in the treatment of complaints and disciplinary proceedings against judicial officers.
- iii. Failure to recommend persons for appointment as Judges of the Court of Appeal.

Hon. Members, the Petitioner calls upon the National Assembly to exercise its mandate under Articles 94, 95 and 251 of the Constitution to ensure that the JSC does not degenerate into further mediocrity on account of unconstitutional conduct by its members by holding the seven commissioners accountable for derogation from binding constitutional standards. He prays that the House:

- (i) Finds the seven commissioners, jointly and severally:
 - a. to have contravened the Constitution and the law;
 - b. to have committed acts of gross misconduct in the performance of functions or otherwise; and,
 - c. incompetence.
- (ii) Finds that the Petition discloses overwhelming grounds for removal of the seven commissioners as enunciated in Article 251(1) of the Constitution.
- (iii) The House be pleased to send the Petition to His Excellency the President, for the appointment of a tribunal to investigate the matter expeditiously, report on the facts and make a binding recommendation to the President.

Hon. Members, as you are aware, petitions to this House are governed by the provisions of Article 119 of the Constitution where any member of the public can petition Parliament to consider any matter within its authority, including the enactment, amendment or repeal of legislation. Further, Hon. Members, this House has enacted the Petition to Parliament (Procedures) Act, 2012 which outlines the modalities of petitioning the House. The procedure set out in the Act is mirrored in the Standing Orders of the House at Standing Order No.223 for

Ordinary Petitions and Standing Order No.230 for petitions seeking the removal of a member of a constitutional commission or holder of an independent office.

Hon. Members, before I venture into the general admissibility of the Petition in terms of the Standing Orders, I shall first deal with a material issue which the Petition raises by seeking the removal of the CJ as a Commissioner of the JSC. As Members are aware, once a person is appointed as CJ under Article 166 of the Constitution, that person is automatically designated as the President of the Supreme Court and Chairperson of the JSC under Articles 163(1)(a) and 171(2)(a) respectively. With this in mind, a clear reading of the Constitution reveals that the Office of the CJ and that of Chairperson of the JSC are joined at the hip and may only be held by one person. Therefore, a person desirous of removing the Chairperson of the JSC from office must necessarily seek for his or her removal as the CJ. In this regard, a person must petition the JSC for the removal of the Chief Justice via the express procedures provided under Article 168 of the Constitution. Indeed, and by analogy, Article 127(2)(a) of the Constitution automatically designates the person elected as Speaker of the National Assembly to be the Chairperson of the Parliamentary Service Commission. Therefore, a person seeking the removal of the Chairperson of the PSC from office must necessarily seek for the removal from office of the Speaker under Article 106(2)(c) of the Constitution.

Hon. Members, the inclusion of the CJ as a subject of the Petition by the said Adrian Kamotho Njenga, therefore, is, in itself, misplaced and fatal to the Petition. The petitioner, by purporting to move the National Assembly to consider removal of the Chairperson of the JSC by using Article 251 of the Constitution is a long shot, pedestrian and engaging in a fishing expedition. As a result, the House will not be in a position to address itself to the rest of the contents of the Petition in light of that material irregularity alone. It, therefore, follows that this Petition falls on its own sword. I shall, however, proceed to address the rest of the contents of the Petition that similarly raise issues of concern in order to restate the procedural requirements governing petitions for the removal of constitutional office holders and independent offices.

Hon. Members, the Petition as filed seeks the removal of seven members of the JSC jointly and severally on three of the six grounds specified under Article 251(1) of the Constitution, these are, and I quote:

“(a) serious violation of this Constitution or any other law, including a contravention of Chapter Six;

(b) gross misconduct, whether in the performance of the member’s or the office holder’s functions or otherwise;

(c) physical or mental incapacity to perform the functions of office;

(d) incompetence; or

(e) bankruptcy.”

Hon. Members, the Petitioner outlines several particulars in support of the grounds without particularity as to which ground they support and which specific member of the JSC they relate to. I have previously guided the House on this issue in a Communication issued on 22nd October, 2015 on the processing of Special Motions under Articles 145, 150(2), 152(6) and 251 of the Constitution. In that Communication, I ruled that the grounds outlined for the removal of a constitutional office holder should specifically relate to the individual office-holder with sufficient particularity and annexures or sworn testimonies in support. This House, at the close of the 11th Parliament, amended its Standing Orders to accord with that Communication by

including this requirement for particularity at Standing Order No.230, a Standing Order which provides, and I quote:

“1.In addition to complying with the requirements of paragraphs (a), (b), (c), (d), (h),(i),(j),(l) and (m) of Standing Order No.223 (Form of petition), a petition to the House for removal of a member of a commission or holder of an independent office under Article 251 of the Constitution —

(a) shall—

(i) indicate the grounds under Article 251(1) of the Constitution which the member of the commission or holder of an Independent Office is in breach;

(ii) where the grounds in subparagraph (i) above relate to violation of the Constitution or any other law, state with a degree of precision the provisions of the Constitution or any other written law that have been alleged to be violated;

(iii) indicate the nexus between the member or office holder concerned and the alleged grounds on which removal is sought; and

(b) may contain affidavits or other documents annexed to it.”

Hon. Members, a further close look at Article 251 of the Constitution and Standing Order 230 reveals that a petition to this House pursuant to Article 251 of the Constitution must relate to an individual. The grounds advanced against the individual must be stated with particularity and be adequately supported in order to guide the Speaker and the House in admitting the petition or subsequently recommending the formation of a tribunal as stipulated under the Article. The petition filed by the said Adrian Kamotho Njenga is couched in corporate terms and therefore fails the admissibility test on that count.

Hon. Members, in the particulars provided in support of the omnibus grounds for removal of the cited members of the JSC, the petitioner alleges discrimination and victimisation by the Commission in the treatment of complaints and disciplinary proceedings against named judicial officers. It is my considered opinion that disciplinary proceedings commenced against judges or other judicial officers are in the nature of administrative actions governed by Article 47 of the Constitution on fair administrative action, and the provisions of the Fair Administrative Action Act, 2015. You may agree with me that this House is not an appellate forum for ventilating appeals arising out of administrative proceedings of the JSC. I wish to caution members of the public that Parliament is not a place to settle constitutional grievances without first adhering to the very same Constitution that they seek to rely on, especially matters administrative.

Consequently, a judge or complainant aggrieved by any administrative action taken or not taken by the JSC has an adequate remedy in judicial review before the courts.

Hon. Members, as a matter of procedure, the Petition to Parliament (Procedure) Act, 2012 obliges the Clerk of the National Assembly to verify the admissibility of a petition to the House and advise the Hon. Speaker on whether the petition should be tabled in the House. Where a petition is found to be inadmissible, the Clerk responds to the petitioner, drawing his or her attention to the nature of inadmissibility.

I have taken this unprecedented step of issuing this communication to the House on this petition before its tabling in light of the subject it relates to; being a constitutional commission which deals with matters of one arm of the Government, and the amount of public interest that this petition has generated. Therefore, I accordingly direct that the petition by the said Adrian Kamotho Njenga is hereby inadmissible as it seeks the removal from office of the chairperson of

the Judicial Service Commission in a manner not contemplated by the Constitution; a prayer that is fatal to the entire petition. In addition, the petition by the said Adrian Kamotho Njenga is inadmissible as: -

(a) it does not state with a degree of precision the provisions of the Constitution or any other written law that each Member of the JSC is alleged to have violated;

(b) it does not indicate the nexus between the individual commissioners and the alleged grounds for which their removal is sought apart from corporate decisions made in the exercise of their constitutional functions as the JSC; and,

(c) the particulars indicated in support of the grounds relate to administrative actions taken or failed to be taken by the JSC, which are amenable to judicial review.

Therefore, I direct that the Clerk prepares and conveys an appropriate response to the petitioner informing him that his petition has failed miserably and accordingly inadmissible.

Please be guided accordingly.

(Applause)

Hon. Speaker: Hon. Mbadi, what is the matter.

Hon. Ng'ongo: Hon. Speaker, first, I would like to congratulate the Leader of the Majority Party for winning his petition. Even though we come from different political sides, we are good friends on personal lines. I would like to congratulate him for that. It is not easy to go through a petition. Also, I congratulate all the other Members who have won and pray for those who are still facing petitions.

Secondly, I did not want to talk on this matter after you have made your ruling, which is well informed and grounded in law. There is very little to add. However, there is just one issue I wanted to address you on, which probably in future may become an issue. I am raising this well aware that the Hon. Speaker has the capacity to address this matter.

Our Constitution separates the powers of the three arms of Government. I do know that Parliament is mandated to initiate the process of removal of State officers from office, including commissioners. However, I am not sure whether the drafters of the Constitution contemplated a situation where an individual would want to remove an entire commission from office at once by citing individual members, just like the said Njenga has attempted to do.

That raises the fundamental question of how this would affect the independence of the Judiciary, if we, as a House, are going to address ourselves to removal from office of entire commissions in the name of removing individual commissioners.

Hon. Speaker, when I heard of this petition, I started wondering how, if at all it were to be found admissible, Parliament would determine the boundary in exercising its powers under Article 251 of the Constitution, of removal of commissioners from office, *vis-a-vis* protecting the independence of the Judiciary, especially where the petitioner questions the performance of those commissioners in their duty of executing their mandate.

It is probably something that you would not address yourself to now. However, I just wanted to raise it so that in future it does not appear like Parliament is trying to interfere with the performance of the JSC as an entity in pursuit of individual commissioners being investigated or facing a process that would lead to their removal from office. The names which were cited comprise of all the commissioners, except the vacant positions. This means the petitioner had a

problem with the Commission. It is like the petitioner wanted us to disband the JSC. That is what I am raising. I think the Leader of the Majority Party was not alert. I am just trying to bring it to the attention of the Chair that probably, in future, it may cause some serious questions of separation of powers between Parliament and the Judiciary.

Thank you, Hon. Speaker

Hon. Speaker: Hon. Mbadi, you have also heard some Kenyans say that they want to go to court to have Parliament dissolved. I wonder whether it is any different. So, the independence issue is something I believe all arms of the Government must deal with, with a lot of circumspection. This is so that no one particular arm of the Government seems to be derailing the other from performing their constitutional functions. Of course, our laws are very clear. You cannot just come and claim that there is violation by an entire Commission, especially when you are seeking removal of an office holder. Maybe, disbandment could be a different thing. Possibly, they can go to the same courts and seek disbandment. Where you allege misconduct and violation and you do not mention which particular article of Chapter Six of the Constitution has been violated and in which manner... All that the petitioner is saying is that they presented complaints which were dismissed or they have not been acted on. That is not a matter we should spend our time dealing with.

If you present your matter before any quasi-judicial body and you are not happy with the decision they take, you are at liberty to, again, approach the courts by way of judicial review and any other appropriate reliefs you may think are necessary. Hon. Wamalwa, we should just let this matter rest. But, of course, I agree with Hon. Mbadi that the issue had raised a lot of unnecessary tension in the country.

The Leader of the Majority Party, I can see you want to say something.

Hon. A.B. Duale: Hon. Speaker, I think your communication has set the threshold for the public to bring petitions. Yes, they have an opportunity to bring petitions on many issues, including the removal of constitutional office holders. Members of Parliament have the opportunity to impeach Cabinet Secretaries, Principal Secretaries, the Deputy President and the President. The Law has set a certain benchmark or threshold and so we do not want the types of Adrian. I do not know whether that gentleman is a lawyer. The Law Society of Kenya and the lawyers in this House need to confirm whether or not he is a lawyer. The last time I saw that gentleman in Parliament was when he was following the Information and Communication Technology (ICT) Bill. He was the Chair of an ICT association. So, I do not know why he is being called a lawyer. I think even the basic... I can remember Hon. Wamalwa raising an issue the other day that before a petition comes to the Floor for you to communicate, it must pass through a thorough scrutiny because there are too many busy bodies. This House must use resources and time on matters that can have a very good end product.

We have no interest in the removal of the Chief Justice or any constitutional commission. Of course, if they commit a serious violation of the Constitution then this House will deal with them. I am so happy and I want to tell the likes of my friend, the owner of this petition and may others that this is a petition that can go to the *bunge la wananchi*.

(Laughter)

This particular petition has nothing to do with the famous quote of ‘revisit’. When we intend to revisit, we will revisit with a serious petition which is well researched. We can do that on anybody – That is why we are MPs. Any member of the public, who has a serious issue on any holder of a constitutional office, needs to do research. That is why we can see many of the busy bodies who took us to court are now suffering with hefty bills to pay in terms of court costs of up to Kshs5 or Kshs6 million. Of course, I am not going to follow up on my Kshs6 million. I have even instructed my senior counsel, Ahmednassir, that the Independent Electoral and Boundaries Commission (IEBC) can follow up on the costs. For us we do not want to follow up on that because I believe in community harmony. We do not want somebody who has spent money...

I think the court is sending a message that busy bodies who file petitions will not go home free. They will go home with a huge bill. Even my good friend, Hon. Jakoyo has a bill of Kshs3 million. In fact, I am looking for him because I want to help him. Also Hon. Gumbo, my former colleague, has another bill of Kshs3 million. So, this week will be very bad for me because I have to attend fundraisings for my good friends.

I think the way the Judiciary is dealing with busy bodies, this House, under your leadership, must deal accordingly with anybody who brings any petition here which has no legs to stand on. This House respects the office of the Chief Justice, the men and women who are at the Judicial Service Commission and the whole Judiciary. So, the three arms of Government must respect each other. I am sure you, as the custodian and gatekeeper, want to make sure that the Floor of this House and Parliament is not used by people who are malicious. If you want to deal with the CJ do not use Parliament! You can use other routes. Some of us want to respect and uphold the rule of law and the Constitution. We will not allow any person who wants to use the Legislature to deal with his personal issues. We have no interests. So, Hon. CJ, do not look at the media, but what the Speaker has communicated this afternoon.

However, if there comes a day that one violates the Constitution, just like the two former Chairpersons of the Ethics and Anti-Corruption Commission (EACC) did, then one would be removed by Parliament. The Departmental Committee on Justice and Legal Affairs brought a very robust report on the two cases I have mentioned. Many other people have also been removed by Parliament.

Hon. Speaker, I want to thank you because we were waiting for this communication. I am sure during the life of this 12th Parliament, anybody who wishes to bring a petition would need to burn the midnight oil. They would need to have the relevant evidence and affidavits so that Parliament can give them an opportunity to discuss the conduct of any State, public or independent commission office holder.

Thank you, Hon. Speaker.

Hon. Speaker: I can see the Chair of the Departmental Committee on Justice and Legal Affairs wants to say something. I just want to imagine that, even as we use these rules about admissibility...I can see my good friend Hon. John Olago Aluoch and Hon. Otiende Amollo would want to weigh into this matter. I hope even the Judiciary would also exercise some little bit of restraint in the way they admit matters before them. This is because once both Houses pass legislation and we are not quarrelling about the procedure that has been followed but about some provisions in the law, we should not find the Judiciary admitting a suit where the Speaker is the respondent. Respondent to do what? Even if the Speaker was to appear there he can only say that law was passed in a particular way. I saw Hon. Otiende Amollo smiling. It is because there is

nothing else I can say. It is not my business to comment about the law if it has been passed. If you have issues with the law go and challenge the particular clauses in the law. Do not spend taxpayers' money. Of course, they go under the guise of public interest litigation so that they do not incur any costs. However, we have to send legal representation in matters which we should not be unnecessarily spending resources on.

Hon. Cheptumo, I can see you are burning to say something. Be brief, because I can see the Member for Kiminini is also eager to speak.

Hon. Cheptumo: Thank you, Hon. Speaker. I will be very brief. I want to start by thanking you for the very well thought-out communication. Since yesterday, when a report on this petition appeared in the news, the feeling across the country was, as I understood it, about the popular issue of "revisiting" the Judiciary. As you addressed this House through your Communication today, Kenyans got a chance to realise that this is a House of procedure and rules. This is a House that believes in the rule of law. We are guided by our Constitution, which has been extensively quoted in your Communication. I would like to join my colleague, the Leader of the Majority Party, in saying that Kenyans continue to have faith in this House. This House shall never entertain any petition of whatever nature intended to spoil other people's names.

The JSC is a very important institution of governance in this country. I am happy that today this House informed Kenyans that we are not here to pass petitions for the sake of passing. I have stood up because I want to tell Kenyans that even though we have a chance to challenge the suitability of some public officers, we have a problem. Even during the recent vetting, some Kenyans did not follow the due process of the law. They submitted to the Office of the Clerk of the National Assembly memoranda which were not signed as required by the law. I appeal to Kenyans to appreciate that this House is able to address all their issues but, they must also comply with the requisite legal requirements. If you wish to challenge the nomination of any person for appointment to public office, please, ensure that your complaint is in the form of an affidavit so that we are able to take those challenges seriously. That is very important. If we proceed that way, this House shall continue to uphold justice.

Hon. Speaker, all public servants in this country should feel free that as long as they obey the law and the Constitution, this House, under your leadership, shall always stand with them. If they do not follow the law, the opposite will be true.

Hon. Speaker, I commend you for your very well thought-out Communication. I believe Kenyans out there are happy with it.

Thank you, Hon. Speaker.

(Hon. Wakhungu stood up at his place)

Hon. Speaker: It looks like the Member for Suna East, being your boss, should have the first shot. Be brief, Hon. Junet.

Hon. Nuh: Thank you, Hon. Speaker, for giving me an opportunity. Your ruling today is precedent setting by all standards. It is a ruling which will help this country for many years to come. Because petitions are provided for in the Constitution, Kenyans think that anybody can bring any kind of petition to Parliament without looking at the law properly to ascertain whether it has basis or not.

Having said that, as much as you have ruled that this is not the right petition for the removal of the JSC, on the other hand, the Judiciary must be accountable to Kenyans because they run their programmes using taxpayers' money. There are three arms of Government in this country – the Executive, Judiciary and Legislature. The Legislature is held accountable by Kenyans through an election at the end of every five years. If I do not do my work as a Member of Parliament, I will be removed by Kenyans during the next general election. The Executive is accountable to Kenyans through Parliament. We audit them through the various committees of this House. There is even a process for removing a Cabinet Secretary from office as provided in the Constitution. However, if you have a complaint against a judge, the best thing you can do is to write your complaint to the JSC. The JSC is full of judges. There are judges representing the Court of Appeal, the High Court, and the Supreme Court. The President of the JSC is the Chief Justice. What kind of accountability is that even if that arrangement is provided in law and the Constitution? My point is that as the legislative arm of Government, we must come up with a better methodology and mechanism for making sure that the Judiciary, which is an important arm of Government, is held accountable for the Kenyan people.

Hon. Speaker, if you look at the way the Judiciary is run at the moment, it is like people who live in ivory tower. You cannot get your complaint to them. The petition that was brought here was not satisfying in terms of law and fact but if a Kenyan has a complaint and you take your complaint to the JSC, it can take ages before that matter is determined by the JSC itself. These are matters raised by Kenyans who have legitimate issues against people working in the Judiciary. Look even at the way they have handled the election petitions. You slap a petitioner with a bill of KShs12 million. I am not a lawyer but I do not think there is anything that warrants anybody to pay Kshs12 million as costs of petition. I am speaking having the privilege of the Floor of the House. Petition cost of Kshs12 million is an abnormality of the highest order.

I do not want to lose the point that as a House, through legislation, we must come up with mechanisms, on behalf of Kenyans, to hold the Judiciary accountable. I propose vetting as one of the mechanisms. There must be vetting after three or four years. In five years' time, I will be vetted by the people of the Republic of Kenya. Who is going to vet judicial officers? There must be a mechanism for vetting them even if it is after every three or four years so that some of the rulings they have made can be ventilated on. I have no problem with Hon. Duale's election petition. I am very happy that he has won the case. However, there are other rulings people have issues with. We must have a way of ventilating on them.

You cannot say anything about the Judiciary in this country for now. If you do, you will be told that you want to finish the Judiciary. I support the independence of the Judiciary since they are the custodian of our Constitution. When we have constitutional issues, we go to the Constitutional Court for interpretation. When the constitutionality of a legislation is in doubt we go to them so that they can look at it and verify whether it is constitutional or unconstitutional. However, that does not give them blanket immunity from questioning of their actions. There is an unwritten rule that gags Kenyans from speaking against the Judiciary. You can say anything you want about Parliament or the Executive but when it comes to the Judiciary, it is a no-go-zone even if a rotten thing has happened there.

Lawyers should not take offence with me. I am a Kenyan who needs the services of the Judiciary. When you place a matter before court, you should be able to have sound sleep at night. However, Kenyans are worried at night when they file cases in court. They are not sure how their

cases will go, because they think that the other party will reach out to the presiding judicial officer. The Judiciary has become like the cattle market in Isiolo, where you have to give it to somebody to sell it on your behalf as you sit under a tree and wait for that person to bring you the money. Hon. Duale knows what I am talking about. He has been a cattle trader before he came to Parliament. He has been the chairman of the Cattle Development Association. That is how we met in the Orange Democratic Movement (ODM) in 2007. He was a serious cattle dealer in Mombasa.

(Laughter)

Without losing my point, this Parliament is obligated to come... I am happy the Chairman of the Justice and Legal Affairs Committee is here. We must come up with a mechanism to make the Judiciary of this country accountable to the people of Kenya. In every budget cycle, we give a lot of money as Parliament.

With those few remarks, thank you so much.

Hon. Speaker: Of course, recently, the Report which was issued on 15th December last year on the state of the Judiciary and the administration of justice in the country is before a Committee of the House. We expect that when the Committee comes up with a report, we will then have an opportunity to discuss it. Hon. Cheptumo, I know you are dealing with the matter and you have the report. I am sure you will tell us what you think about it.

Hon. Wamalwa, take a maximum of two minutes.

Hon. Wakhungu: Hon. Speaker, I will take less than two minutes. I really want to thank you for the solomonic wisdom. Among the rulings you have made, I can tell you that today's is the best. This is a gift to Kenyans, particularly at this time of Lent which is very holy to a Christian like me.

Martin Luther King Junior said that in the end we will not remember the words of our enemies but the silence of our friends. I was so worried when I saw this petition. I thought the Jubilee Coalition was revisiting the Supreme Court's ruling of the presidential petition. However, the Leader of the Majority Party has confirmed today that Jubilee was not revisiting the Supreme Court's ruling of the presidential petition which I am so happy about.

Article 119 of the Constitution says that every Kenyan has a right to petition Parliament to consider any matter within its authority including to enact, amend or repeal any legislation. It is high time we legislated on this. We must come up with a law that will operationalise that Article. It is not very good to leave it the way it is for people to come and abuse that right. Such petitions can lead to anarchy. I am happy you have ruled the way you have. The Leader of the Majority Party said that we must have some mechanisms and a framework of levels. This matter should not have reached this level. Kenyans were very worried. They thought that the revisiting of the Supreme Court's ruling of the presidential election had become a reality.

I want to thank you and encourage you to continue with such kind of wisdom and solomonic rulings. I thank you, Hon. Speaker.

Hon. Speaker: Hon. Members, it is only fair to say - I have stated it - that indeed our procedures under the Standing Orders and the Petitions to Parliament Act, 2012, it is not necessary for me to make this Communication. But just because of the reasons that you have just stated... The Clerk could have written back to the petitioner telling him: "This one you can take it

back to the village and deal with it there with the elders or take it to some other place,” but because of the interest it appeared to elicit, we felt that it would be important that nobody thinks that there is anything that is happening within the administrative offices of Parliament. Indeed, the same Communication is going to be forwarded to the petitioner, so that he can take it wherever else he thinks he can seek redress but certainly it is not here. I do not think there is anything to debate, Members.

Hon. Muturi Kigano, do you want to say something? There is nothing to protect here.

Hon. Kigano: Thank you, Hon. Speaker. As I stand here, I feel very ashamed that the petition came through a lawyer.

I thank you for your wise ruling but there is one or two pertinent issues. Clearly, you have pronounced that this House should not be used as a subterfuge for irrelevancies. You have also set pace for other institutions to positively act and pronounce themselves. My colleague, Hon. Wamalwa, had thought mistakenly that this was a Jubilee issue. I can see him. There are certain pronouncements that have been made recently in Kenya. They are subversive and they cause upheavals. Those pronouncements should have attracted Ms. Bensouda way back. It is high time she also beams on Kenya to see some of these people who want to subvert the Government.

This should not be used as a House for settling scores. Certainly, Jubilee is not here to settle scores. I should not be answering this because Hon. A.B. Duale is here. However, we all know that even if I were to try to settle scores, with your very sharp eye, this would not happen.

I am again fairly grateful to that ruling and the pronouncement which is contained in it. Thank you, Hon. Speaker.

Hon. Speaker: Next Order.

BILLS

First Readings

THE LAND VALUE INDEX LAWS (AMENDMENT) BILL
THE CONSTITUTION OF KENYA (AMENDMENT) BILL

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

Second Reading

THE KENYA ROADS BILL

(Hon. A.B. Duale on 21.2.2018)

(Resumption of Debate interrupted on 22.2.2018)

Hon. Speaker: Hon. Members, I have been informed that a total of 19 Members contributed to the debate on this Bill. At the time the House rose, an issue of quorum was raised.

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So, any Member who has not contributed to this Bill is at liberty to do so. It looks like the Member for Kikuyu had contributed to this Bill. It has been confirmed that you have not contributed. Do you want to have the first shot or what is it?

Hon. Ichung'wah: Thank you, Hon. Speaker, for noticing me. I had struggled for you to notice me on the issue of the Judiciary. Since that is long gone, let me contribute on roads, even on those that lead to the Judiciary.

(Laughter)

Let me first take this opportunity to thank and congratulate the Chair and the Departmental Committee on Transport, Public Works and Housing for the enormous work that they put in reviewing this Bill. I know Hon. Pkosing and his Committee put in a lot of hours and work. Indeed, I must congratulate them because it the first departmental Committee in the 12th Parliament, Second Session, to table a report before this House for a substantive Bill to be debated.

The issue of roads is one that has been nagging many Members of Parliament and Kenyans at large and more so, since the advent of devolution when a lot of roads were designated to the counties. Some of the governors went for roads because they were after the fuel levy funds without any regard as to whether they were getting this fuel levy money to offer services or deliver on the rehabilitation and maintenance of roads. We have seen across the country, roads that are designated as county government roads are those that fall under Classes D, E and F, going all the way to the unclassified roads.

Members of this House have suffered immensely. In fact, a good proportion of the Members who served in the 11th Parliament lost their seats because members of the public blamed them for not repairing, maintaining or even constructing new roads, not knowing that since 2015, MPs could not even access the National Government Constituencies Development Fund (NG-CDF). They could not access money to even construct a small village road since many of these roads had now been classified as county government roads. It is, therefore, good that this Bill will now make clear that distinction of the reclassification of roads for Kenyans to know that other than roads that are classified as Class A, B and C, all the other roads now fall under the county governments and they have funds to work on those roads. I, therefore, implore the Chair of the Departmental Committee on Transport, Public Works and Housing to make sure that the authorities created under this Bill clearly mark the assets that fall under the national Government so that we do not have duplication.

The roads sector is one that is bedevilled by corruption, both at the national Government and the county governments. One of the ways that this is mitigated is to make sure that a road is allocated money both at national level and at the county level. The Kenya Rural Roads Authority (KeRRA), the Kenya Urban Roads Authority (KURA) and the Kenya National Highways Authority (KeNHA) should put up signboards to show clear classification of roads so that we avoid duplication. This way, Kenyans will be able to judge which level of government is not being accountable to the people.

Funds are there. Even in the Budget and Appropriations Committee we have appropriated a lot of money to the roads sector and to the county governments through the Division of Revenue Bill. Part of that money is designated to construct roads and the fuel levy fund from the

Kenya Roads Board (KRB) is specifically geared towards the delivery of better roads for Kenyans. I want to implore the Chair and the Committee to make sure that the agencies in the roads sector designate and mark those assets that will now fall under them. This is so that even MPs know the roads in their constituencies that will fall under whatever roads agency and, therefore, be able to follow up with those particular agencies. It is also important for Members of County Assemblies (MCAs) in our counties and the public at large to know which roads are being constructed in their areas then they will hold their governors, their MCAs and county executives to account in terms of delivery in the roads sector.

I urge the Committee that moving forward, it should have a very consultative way of engaging with MPs because most of them are yet to know how roads have been classified. I would encourage the Chair that when we retreat in workshops, they should get time to explain to Members what roads have been classified in which class of roads and which ones will fall under the national Government agencies so that Members are able to oversee the construction.

The other thing that happens is that you find many of these road agencies will come and commence on a road project in a constituency. At times, there are roads that cut across two constituencies but the particular MPs are not even aware what agency is constructing that road or the funds that have been allocated to that particular project. Therefore, Members will not be able to oversee the construction. One of the easiest ways to make sure that there is value for money in the delivery of road projects in this country is to empower the MPs because every Thursday they retreat to their constituencies and are, therefore, able to see first-hand and relay that information back to this House through the Committees, areas where contractors have stalled the construction of roads.

Last year and the year before, a lot of road projects commenced across the country under the 10,000 Kilometres Roads Project. Many of them there were contractors who got mobilisation funds - the 10 per cent to mobilise equipment - and just left tractors lying there. But MPs suffered the wrath of the public because the public could see tractors on the road but there was no work going on. Innocently, those MPs did not even know what agency was in charge. It is easier when MPs are well-informed on what agency is in charge of a particular road to provide first-hand oversight on the ground and also come back to this House and hold the particular agencies to account so that we do not have a situation where we have so many kilometres of roads with contractors who have been commissioned to start work but work has stalled and nobody back in Nairobi knows what is going on. The MPs who go back to their constituencies every other weekend will relay that information back to the House and also help the Ministry to weed out those contractors that are not able to deliver on time.

Finally, I want to mention the overlap. This is for the Chair of the Committee. There is clearly an overlap between many roads that were urban roads and are now being managed by KeNHA and others that were under KeNHA but are now being managed by KURA. There are contracts that had already been given. I have a case in point of the by-passes that have been done around the city. Many of them were constructed by KeNHA but a few of them are now coming under the mandate of KURA. There may be ongoing contracts and the Chair, Committee and the Ministry must ensure that there is a very smooth transition so that at the end of those maintenance contracts, the agencies that had contracted the roads are able to hand over the maintenance contracts.

Maintenance contracts are a new thing that I have seen in the last three years under the Jubilee administration. They have helped maintain those roads in a serviceable manner and save this country billions of shillings. In the past, roads could be constructed but they would go for 10 years without anyone ever mending a pothole. Today, we have seen a new culture where, after construction of roads, there is a maintenance contract ensuring that every time there is a pothole, it is taken care of. Even simple things like clearing the drainage are necessary because many of the roads get damaged because of water flooding on the roads. Therefore, we want to encourage the Ministry and the Committee overseeing that Ministry to make sure that there is a very smooth transition in terms of handover of assets between the different agencies.

Hon. Speaker: I hope the other Chairs of Departmental Committees can emulate the Chair of the Departmental Committee on Transport, Public Works and Housing on how a Chair remains to listen to the contributions from other Members so that at the appropriate time, he will be able to respond from knowledge and information shared by other colleagues. I would like to encourage the Chairs of other Departmental Committees to be in the Chamber when debates of Bills that have been referred to you are happening. This is because we have decided that Chairs will also get not less than 30 minutes or even longer amounts of time that they will require reporting to the House about their engagement, their general feeling as a Committee about the Bill and what the stakeholders have said. I have been watching Hon. Pkosing since the debate began. He has not left the Chamber. I hope you have a vice-chair so that when you want to step out for one or two things, including what you described as tea, there is somebody who is holding forte for you. It is important for the chair, vice-chair and, indeed, members of a committee to pay attention to what other Members are saying because it helps to enrich a Bill.

Member for Seme.

Hon. (Dr.) Nyikal: Thank you Hon. Speaker for giving the opportunity to make my contribution. Let me also express my gratitude to the Committee and its Chair. It is not the first time in the 12th Parliament a Committee has not presented a report. Even in the last Parliament we had a big problem of Committees not presenting reports, but this Committee has done its report very well.

I stand to support this Bill because it does what all sectors in Kenya should look at. It seeks to align the legal framework for management of roads to the Constitution. Many sectors have not done what this Bill seeks to do. The Fifth Schedule mandates this Parliament to put laws in place and to align them to the Constitution. With the exception of the Health Act, which has not been fully implemented, we have not seen that done. This Bill seeks to make that alignment. It goes a long way to do that. With this, the Fourth Schedule will be adhered to in terms of road management. The Roads Act may have to be looked at because it has been giving us problems.

The Bill looks at the old structures like the Kenya Rural Roads Authority (KeRRA), Kenya Urban Roads Authority (KURA) and Kenya Highways Authority (KeNHA). They were operating in a centralised system before and when we changed to the new Constitution, they brought a lot of problems. Many times, in the last Parliament, governors went to court to stop the construction of roads because it was not clear which roads belonged to who. Now that this Bill has done that, things will be clearer. The Bill goes ahead to create a standard board. This is something we must look for across the sector.

One of the biggest national functions in the Constitution is standards and policy setting. In this case, we have a board that is going to look at standards so that whoever is in the business of constructing roads does so in uniform standard. Therefore, the roads in the counties and at the national level will all adhere to the same standard. The Bill provides under the Intergovernmental Relations Committee that institutions at the county and national level will have one instrument to confirm that roads have been done according to set standards. This is a great contribution.

It further goes ahead to classify roads. Indeed, this has been a major issue. People were not sure of the classification. In fact, people were fighting over them. That has been spelt out clearly in the First Schedule of the Bill. It states what each institution is to do and prevents arguments that normally delay projects. With this kind of classification, roads will improve. A provision for roads to be moved from one class to another is provided for in this Bill. That is extremely important. KeNHA and KURA have now been relooked at in the context of the new Constitution and the county governments. We have the Kenya National Urban Roads Authority which replaces KURA and KeNHA remains as it was. We have the Kenya National Secondary Roads Authority which will replace KeRRA. As Members of the National Assembly, we will be keen to look at the classification of roads and also the operations of the Kenya National Secondary Roads Authority, that is, what used to be KeRRA. We still have classes C and D roads. Things will be much easier at that level.

The Bill goes ahead to provide administrative structures for the authorities that have been set up. They have boards and the criteria for getting people to these boards is also spelt out. That is really important so that people are not just picked to sit in the boards. There is a clear way of nominating members to sit in the authorities. The requirements for one to sit in the boards are clear. The Committee has expressed concern that membership to these boards seems to have been drawn from professional bodies. This implies that it will be a club of professionals sitting together. The Committee has proposed the Bill to give the Cabinet Secretary authority to appoint the user stakeholders. They have asked how to get Wanjiku to sit in the boards. That is something that is commendable.

We have also to look at the fact that if we have too much Government in these institutions, they get affected by political influence. We know that, as it is now, the Cabinet Secretaries we have are not politicians, rather they are appointed. We know that they are more sensitive to the needs of the Executive. If we leave them to appoint board members, probably, they will be influenced by the Executive. We should have the midway of leaving professional organisations to nominate members so that we have a lot of stakeholder involvement in the process.

The Bill also clearly defines the powers given to the authorities, for example, on the use of land. If they have to acquire land for the purpose of constructing a road, what is the process of doing that and how are the owners compensated? If land is acquired for a shorter time, for example, in an emergency situation for the purpose of constructing a road, are we going to say that that cannot be done? There is a provision that, at least, the owner of the land should be compensated in 30 days. There should also be a provision that if it is very urgent, the land can be taken and compensation will then be worked out later.

There is a provision to establish a road fund and that these authorities will be funded from Parliament. This Bill has done what I would encourage other sectors to do, that is, to look at all the laws that need to be harmonised in order to bring a peaceful coexistence and synergistic

working between the county governments and the national Government in all sectors of our economy.

Thank you.

Hon. Speaker: Leader of the Minority. Hon. Members, you know that in speaking, Leader of the Minority Party takes precedence.

Hon. Ng'ongo: Hon. Speaker, I want to thank you for giving me an opportunity to also contribute to the Kenya Roads Bill. Immediately when the devolved units started functioning in 2013, there were a lot of issues around the maintenance of roads and even their funding. There was fighting among governors, Members of Parliament and Members of County Assemblies. The whole country was debating how effectively we would execute or discharge the function of maintaining roads.

Hon. Speaker, interestingly, this matter has taken this long to be addressed through legislation. A lot of the issues that we still face regarding maintenance of roads are as a result of lack of a legal framework which would clearly define which roads are county roads and which ones remain with the national Government. You remember that a number of roads in Kenya were classified as rural roads, and they were put under the Kenya Rural Roads Authority. Therefore, the assumption at that time was that all those roads would be maintained by the county governments. Some of the roads were so important to the economy of this country. There is the question of capacity of our young county governments to manage those roads. I remember that immediately the county governments came into being, I did not have a single road in my constituency that fell under the national Government. Even when I was pushing for one of the roads to be improved to bitumen standards, it was not very easy to get the authority of the county government to sign the release papers. That made it very untidy. The national Government wants to improve the road network but it cannot do so because the authority has to come from the governors. In the absence of cooperating governors, the process of improving rural roads to bitumen standard would not start. Later, the road was re-classified to Class B. That demonstrates how significant that road is. It was initially a Class D road. It became necessary to re-classify it from Class D to Class B because part of the road links Kenya with Tanzania and Uganda.

The issue of reclassification of roads in this country took so long. I am happy that we are at least coming out clearly to define Class S roads, Class A and Class D roads, among other classes of roads across the country. It is now going to be clear which roads are in the hands of county governments. Right now, there are only two roads that fall under the national Government in my county. One is being improved to bitumen standard. The other one is where we put what we used to call KeRRA allocation of 22 per cent. The rest of the roads fall under the county government. There is no specific funding for these roads, and they are numerous. There are many of them. Some of them were opened when I was serving my first time in Parliament. Some of them were even opened earlier but since 2012, those roads have not been improved at all. You would imagine how many rainy seasons we have had yet those roads are not being maintained. When you talk to county government, they do not receive any money from the Fuel Levy Fund – which is meant for routine maintenance of the roads. The county governments say that they do not provide funding for maintenance of those roads because they do not have any funds.

Now that we have clearly defined which roads are county government roads, and now that we are putting 15 per cent of the Fuel Levy Fund to go to the county roads, I hope they will

be careful enough not to create unnecessary agencies which would take a lot of money meant for development to finance operations. I hope the county governments will prioritise our rural roads. The rural economy is affected heavily and significantly by these roads. One thing I cannot understand is that Members of the County Assemblies always push for the opening of new roads instead of maintaining existing roads to make them motorable. Therefore, they end up with many roads that do not serve the people. I want to plead with the county governments and MCAs; that, they gain nothing by opening new roads so that people can say “this road was opened by Mbadi” when such road is serving no one. Instead, allocate those resources to the rural roads that exist. Make them motorable. I would not mind walking one kilometre to reach a road instead of cheating me that you are opening a road to my home.

What I am saying is that the county governments need to come to terms with prioritisation of roads. It should now be clear how much money goes to the Kenya Secondary Roads Authority and which roads are remaining with KeRRA. This body will be responsible for Class C and Class D. In the last Parliament, we used to call those roads “orphaned” roads. The urban roads were clearly defined. Class A and B roads are clearly defined. Those are the ones under the Kenya National Highways Authority (KeNHA). The funds for those roads go there but they were orphaned because no one cared for them. If you go to the county government, they tell you that they are not responsible for those roads and refer you to the area Member of Parliament. If you come to the MP, the MP says that road maintenance is no longer a National Government Constituencies Development Fund (NG-CDF) function. If you put a road project under the NG-CDF, it will not be approved. That means Members of Parliament have no responsibility over road maintenance.

There is something fundamental I want to speak to. I want to address the Chair of the Departmental Committee on Transport, Public Works and Housing. He is aware of it. When we plan to do roads, we need to be careful. We should avoid populist initiatives. We should avoid pretending that we can do so much when we cannot because we do not have the resources. I hear a lot of talk from the Jubilee side that they have done 9,000 kilometres of road. In fact, someone was asking me where the 9,000 kilometres are. I was telling them that I know why Jubilee talks about 9,000 kilometres. The moment Jubilee starts a road project of, say 50 kilometres, they do three kilometres and tell you that they have done 50 kilometres. You will see from the list of the roads they published. I am speaking from experience. I have seen the list of the roads they have tabulated as having been done. It is true that they have started the project, but they have not been done. Something that has been done is totally different from something you have started doing. The most important thing is that when you start doing a road, you allocate money for it.

The Chairman of the Departmental Committee on Transport, Public Works and Housing is in serious problems. He had to appear before us as Members of the Budget and Appropriations Committee to plead with us to give him money because as a matter of fact, the confession is, road projects are ongoing. Contracts have been awarded. Contractors are on site but there is no money to pay them. Therefore, this is something that, as a country, we need to look at, especially at this time when we have issues with ballooning debt levels. We should not bite more than we can chew. It is better to be realistic with ourselves and speak up, if you are not prioritising correctly. I do not mind you taking one critical road network in say Homa Bay County and doing it instead of every constituency competing to have a piece of some 10-kilometre road, which ends in the middle of nowhere. That will not help in spurring economic growth in this country.

Economic growth in this country can only be realised if we strategically agree on which projects to undertake first, based on their economic value. When we borrow money to put into these roads, there will be no problem. It is because we know, in the shortest time possible of say five years, we will be able to repay the money we have borrowed. Hon. Speaker, if we are not careful, we have as a country already put ourselves into problems.

I was saying this because I know the Chairman of the Departmental Committee on Transport, Public Works and Housing is aware of it. I know he has the difficulty of accepting that because of his political leaning. I can say it for him. I am speaking to the Executive, wherever they are: Please, let us stop this craze and this populist approach of trying to please every region and constituency by starting a road project for them, a tarmacked road. Let us first of all concentrate on the roads that we have started as a country. Let us develop them and conclude the development. We are a country, this country is not so many countries in one; it is still one. Unless and until Kaluma's Motion of secession goes through, I am very confident that we are still one country. Whether we like each other or not, we remain a country. In that case, we need to think globally. We need to think nationally. In fact, we need to think nationally even when we are borrowing money. I would not mind if money is borrowed, I am forced to pay and, that money goes to a water project to, for example, make Turkana County have water or make North Eastern have water. But, I would be very hesitant if it is not so.

Hon. Speaker, I do not want to give another example but allow me to give example with the county you come from. That is when, maybe, I will not get many points of order here and there. I assume, I may be wrong, your county may have more water than the average counties in this country. I would be very reluctant if this country goes to borrow Kshs80 billion, for example, to add to your Embu County and we have North Eastern with no water! People are dying just to get water to drink. Turkana has no water; there is no water in Lower Eastern; Makueni has no water, and other places have no water. I would want the country to prioritise projects based on needs – not based on political expediency; not because so and so comes from such and such a place. We all pay these debts. We are all taxpayers. I one time said here, in response to my friend Duale, that it is not just Jubilee supporters who pay taxes. We all pay taxes – including supporters of the National Super Alliance (NASA). That is why we are all entitled to services.

I want to conclude my contribution to this Bill by urging the Committee. I do not think there will be many amendments because this Bill has actually been discussed; the stakeholders have been involved. Actually, the Bill should have been passed in the last Parliament. I want this House to quickly move and pass this Bill.

Thank you.

Hon. Speaker: Member for Mwea.

Hon. Josphat Wachira: Thank you Hon. Speaker for giving me this chance to support the Report by the Departmental Committee on Transport, Public Works and Housing.

This is an important Bill. It clarifies roles and responsibilities of the various entities that are involved in the construction and maintenance of roads in this country. Roads play a great part in the development of any country. I would want to correct the Leader of the Minority Party by telling him that the Jubilee Government is well aware of what it is doing. It does not play populism politics with development. I believe he is trying to play populism politics in Parliament for the sake of the Press out there.

The Report on this Bill touches on classification of roads which has created confusion in this country. I want to confess that classification remains a problem. I tried to apply the First Schedule of this proposed Bill over the weekend. I wanted to see whether I can identify roads in my constituency. I must confess it was not easy. In particular, classification of roads which are supposed to be Class D and placing them under the counties is, to me, something the Committee should consider revising.

Another thing I want to point out is that there is need in this country to have a special fund that will attend to emergencies that should not put into consideration the classifications we have. I have in mind one bridge in my constituency in a place called Mahigaini that has brought to life a very important road that is used by lorries going to quarry. Quarrying is a very vital economic activity. For six months, that road is not being used. It is supposed to be a county road. Therefore, the county is supposed to look for money to do that bridge.

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

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

Hon. Temporary Deputy Speaker, that has put that economic activity on hold. I believe we would not be talking about county roads or national roads if there was a special fund to attend to such emergencies.

We would have attended to that bridge. We also have another very important bridge leading to a very important hospital – Karira Hospital. That bridge has been a danger to users for the last about two years. This is a bridge without rails on the sides. It has shown signs of cracks. It can be a menace any time. Again, because of the same problem of classification, this bridge has gone unattended for the last two years. I hope the Committee can heed to my call to have a special fund from which we can attend to some of these emergencies.

I want to agree with the Committee that we should look at the usage of roads as opposed to lengths of roads as we allocate resources. Thirty years ago, the area Member of Parliament - the late Stephen Kiragu of Mwea - talked of a road which is only 12 kilometres. To date, this road is yet to be done. It is simply because this road has always been enjoined with other longer roads. Funds have been a problem to get. I believe, if the usage of that road could have been evaluated, a road from a town called Mutithi connecting to another very highly economic value town called Kagio, would have been done 30 years ago or, at least 10 years ago. But, because of trying to wait until it is longer by enjoining it to other roads, that road has suffered due to scarce resource allocation. This goes to other shorter roads we have in Mwea which is a highly populated area. It is the most populated rural constituency in Kenya with only six kilometres of roads.

We have two other roads which are 12 kilometres each. I hope the Chairman of the Departmental Committee on Transport, Public Works and Housing is hearing this: We have shorter roads; 12 kilometres only but they are highly important roads that would have really saved this country a lot of revenue. Examples are a road from a market called Kutus to a place called Kimbimbi and another one from Kimbimbi touching on the two centres of Kanjinji and Togonye all the way to Piai; these are short roads. They are 12 kilometres each. I believe we

would have saved this country a lot of revenue if we did those roads without looking at their lengths but, rather, their usage. As we look forward to the rains, I do not know how the users of those roads will be when it rains in this country. I hope the Chairman is hearing me and will do something about those three short roads of 12 kilometres each.

Hon. Temporary Deputy Speaker, the other thing I want to point out is that looking at our country, the NG-CDF has done quite well in spurring the development of educational infrastructure in this country. If you go to any of the constituencies, you will bear witness that that fund has done very well in education. It is high time we increased resource allocation to Members of Parliament to oversee some of these roads through the NG-CDF so that at the end of the day, we can have roads infrastructure developed the same way the education sector is developing.

In the previous contributions, I have heard some Members talk about some areas being favoured and some areas not being allocated resources. This is a narrative that has characterized our minds for a long time, thinking that resources are allocated to some areas and not others. My constituency, which I have just said is the most populated constituency in the classification of rural constituencies in Kenya, has only six kilometers of tarmac. I believe most of the people who are complaining here have at least 10 kilometers to 20 kilometers where they come from. It is high time we erased the narrative that this Government is favouring some constituencies and ignoring others.

If we have ever had a government that has distributed resources in the best way possible, it is this Government. It is for the same reason, that I am saying it is high time we now asked our Government not to forget some of these constituencies that are said be enjoying more than others and turn to them also. I am looking at my constituency where we only have six kilometers of what they call Road 2000. We have not had a kilometer of the 10,000 kilometers initiative. Some of these people complaining have a lot of it, yet they do not want to acknowledge that for the last five years, this Government has done wonders in the area of infrastructure.

So, Hon. Temporary Deputy Speaker, I would ask the Chair not to listen to some of these things that are being said about some areas being favoured. I want to tell the Chair that some of us have been out there watching and waiting patiently so that our time can come for us to enjoy these tarmac roads just like any other person out there. I know that the Government is doing this equitably. Any time this year, I am confident that the three short roads in my constituency, the most populated rural constituency in this country, will be done and we will enjoy as much as other people are enjoying.

I support the Report by the committee and thank them for the job well done.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Thank you, Member for Mwea. Next on my request list is the Member for Rarieda. Hon. Otiende Amolo.

Hon. (Dr.) Otiende Amollo: Thank you, Hon. Temporary Deputy Speaker. I rise to support this Bill and to congratulate the Committee on Roads. I have had an occasion to read the Bill in its entirety and the accompanying Report. While I support it, I have five observations to make. The first observation is on page 1510 of this Bill in Section 7. I note with concern, that the authority, the Public Roads Standards Board that is proposed, excludes completely any representation from the counties and yet this board is supposed to regulate both the roads that fall under the counties, and the roads that fall under the national Government. I propose that the

Committee should consider including, perhaps, a representative of the Council of Governors or such other representative as may be said to represent county governments.

I appreciate as noted in the Report that Section 7(1)(h) has been changed from the Institution of Engineers to the Engineers Board of Kenya. That is commendable.

My second comment is on Section 23 that appears on page 1523. Section 23 helpfully requires that the boards observe ethnic and regional balance and also observe the two-thirds gender principle. My problem is that we have many laws, including the Constitution of this country that have a similar requirement and yet it has not been observed. I would like to suggest, therefore, that the Committee may consider going further than the bare provisions and include a provision that if at any time any of these boards do not meet that threshold, then that penalty will result in dissolution. Perhaps, that would ensure that it is observed, not in breach, but in fact.

My third observation is on Section 37 that is on page 1527. This is the one that requires each authority to deliver within a period of four months of the end of the financial year an annual report. In Section 37(2)(b) it also requires to be included as part of that annual report, a copy of the audited accounts. It is on record, and the Auditor-General has told this House severally, that it is impractical to audit any authority within three months of the end of the financial year. It is clear and it is on record that within the first four months after the end of financial year, all that the auditor's office does is to receive the financial statements. I would, therefore, like to suggest that the inclusion of this provision is impractical and does not help. I understand that the Committee's hands are tied by Article 229 because it is the one that generally requires such reports from the Auditor-General within three months.

I would like to suggest a solution that might not only help these authorities but might help a way of getting round Article 229. I would like to suggest that the Committee could consider making this provision that the annual report be submitted within three months of the beginning of the calendar month, rather than the financial year, so that in default, it will not breach Article 229 but in essence it allows these authorities about six months of the beginning of the financial year. If you say within three months of the beginning of the calendar year, then it allows the auditor's office about four or five months of auditing and issuing an audited report, then that audited report will be included in the Report. This is not speculative. When I was the Chairman of the Commission on Administrative Justice, I adopted this approach and it is the approach that enabled us to submit to this House every year a report that included the audited accounts.

My fourth observation is on Section 46 on page 1531. This relates to acquisition of land for purposes of use sometimes in emergencies, sometimes in necessity. What is not clear on that section and is clear on page 12, is that the Report expressly says it allows the acquisition of such land for road works and any land, including private land. We should read Section 46 with the clear knowledge that we are possibly also including private property. If you are including private property, then we must be alive to the provisions of Article 40. Article 40 is very clear in terms of acquisition of private property without due compensation. My concern in this section is that if you come to Section 46(5), it then provides for compensation but it says, the roads authority shall compensate an owner of land for any loss or damage arising. It does not say "for the use". It says "for any loss or damage". Two things arise. One, it leaves it open to interpretation that unless there is damage then you will not be compensated. And it should be noted that the period of use is left open. It says "for such period as may be necessary. Two, it does not prescribe in any way the mode or who to deal with the question of compensation. I

would like to suggest that the Committee might consider tidying up that particular section so that it does not offend Article 40.

My fifth and last point is on Clause 96 on page 1552 of the Bill. It copiously endeavours to allow the public access to information and in several sub-clauses it does prescribe in what manner and how. While it is well-meaning, I am afraid it falls short of the threshold in Article 35. But more fundamentally, there is already an entire Act passed by this House, the Access to Information Act, which dedicates in great detail how and in what circumstances one is to obtain information from public entities. I am afraid that Clause 96 not only falls short of the threshold in Article 35, it is also of a lesser pedigree than the Access to Information Act. But more importantly, because we already have that Act, we do not require this entire Clause 96 because it is provided for in another legislation. I would like to respectfully suggest to the Committee that it would serve them well to delete that entire clause.

Hon. Temporary Deputy Speaker, with that I support this Bill.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): The Member representing the people of Igembe Central, Hon. Iringo Kubai.

Hon. Kubai Iringo: Thank you, Hon. Temporary Deputy Speaker, for giving me this opportunity to contribute to this Bill. I rise to support the Bill. This Bill will go a long way to cure a lot of issues which have been bedevilling the roads infrastructure in the country and at the same time to at least bring harmony and spell out the boundaries and levels which each and every arm of government should go. Currently the road network in this country and the infrastructure for that matter is wanting. The Government needs to spend a lot and also do proper planning and at the end of the day put a lot of money so that we can cope with the current influx of road usage.

If I may recall, the Thika Superhighway, when it was being constructed during the Kibaki era, we thought it would solve a lot of problems with congestion of our roads. But to date, those snarl-ups in the morning and evening are still being experienced. This is because once a project has been muted to be done, it has no timeframe on when it should be done, and by the time the government is prepared to do the same, it has been overtaken by events. Therefore, it is prudent that once this law is in place, once a project has been started it must be done to the end.

Some of my colleagues have mentioned it here: the Government is very ambitious and they are doing roads across the country; and I believe it is across the country. Most of the projects under the 10,000 kilometres project which were started by the Jubilee Government are yet to be completed; others are yet to be started. This is where the financing should come in properly. The Ministry should give its projections in the Budget, which should strictly be adhered to by the Ministry of Roads through the National Treasury so that at the end of the day, if a road has been allocated money that money should be there, it should not be paper, so that that work can be done.

Today I have spent the whole day trying to quell uprisings in my constituency where there is a road which had been given money through the Ministry of Tourism, and because of the bureaucracy in the Ministry of Infrastructure and in KeRRA, they jumbled with figures and papers until at the end of the day that funding was overtaken by events and now they have to go back to the National Treasury to ask for the same. Whereas they do not know that on the ground people are asking: Where is the road which was promised to us? At the end of the day, the person at the receiving end is the Member of Parliament. They say the MP has not done this. The

citizens on the ground do not know exactly who should do the road. Therefore, this Bill should spell out clearly who is supposed to do these roads. And it should be known and put clearly that the MP is an oversight public officer who is the eyes of the public and who needs to be told what is happening and when so that when the public demands to know, as the mouthpiece of the public, one can give that information.

The Bill is also going in the right direction of saying when you acquire people's land for the purpose of putting up a road or a bridge or a railway line, there is a clear way of compensating those people. There are those pipelines which pass along the roads. The Bill has also spelt it out clearly. Presently, you will find that if a road is passing a certain place, the contractor will come and damage pipelines which had been laid down by the public with a lot of expenses. They destroy the pipelines. They do not repair the same. People go without water and they have to go back to their pockets or seek donors or do *harambees* so that they can lay that line again. The contractor should be made to repair the pipes. Also, if need be, the land which has been acquired, if it is private land, it needs to be compensated for the purposes of doing the road.

When a contractor has been given work, usually in their bills of quantities, they put money so that they can do a road which can be used temporarily as they construct the main road. But these days they end up closing the roads completely. They inconvenience the public by closing the roads under the guise that they are making a new road. Despite the fact that we are doing good roads, yes it is welcome, but other day-to-day activities of the people of the area should be put into account and should be respected and should not be interrupted in any way so that at least people can do their work easily without interruptions.

Currently, the way the roads are classified has made it difficult for us to know which road should be done by the county government and which one should be done by the national Government. Sometime people complain and say that the MP is not doing a road going to a certain village. When you tell them the road belongs to the county government, nobody listens to you. The MCA might use it as a scapegoat and fail to do that small road or footpath or bridge in the guise that it should be done by the MP. Therefore, I propose this Bill should also include, in the Public Roads Standards Board, MCAs so that when these things are being done, it is easy for them to identify those small roads inside the villages which need to be repaired.

There are roads which connect constituencies and others connect counties. Today before I came to this House this afternoon, I was in the Office of Cabinet Secretary in charge of infrastructure, complaining that there are roads in my constituency which have already been put under the county government whereas they have been being maintained by KeRRA which is about to be disbanded by this Bill and get the national secondary roads authority which will handle roads which connect constituencies with others. I am already connecting my constituency from Gachanine to Isiolo and it joins another country, but you find it being put as a road under the county government. When we interlock these roads, it becomes very difficult to identify which road should be done by this or the other government. Therefore, I strongly believe if this Bill is put into practice once we pass it, it will bring a lot of sanity in our roads.

Hon. Temporary Deputy Speaker, initially, we did not have motorbikes in this country. Today, we have an influx of those motorcycles which are used as a mode of transport. We have millions of them today. Most of the time, they use the same roads with heavy commercial vehicles and fast-moving vehicles which causes accidents day in, day out. When we make new

roads or repair them, we should take into account putting up of lanes by the side of the roads which will be used by motorcycles so that we can have sanity on our roads. We need to make it convenient for motorists, pedestrians and those using vehicles to avoid more accidents.

I support the Bill and let us pass it. Thank you.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): The Hon. Member for Ndhiwa, Martin Owino, the Floor is yours.

Hon. Martin Owino: Thank you so much, Hon. Temporary Deputy Speaker. I am really in appreciation of what this Departmental Committee on Transport, Public Works and Housing has done. I just want to put some few comments which I hope they will consider.

Hon. Temporary Deputy Speaker, you were told not to listen to complaints however, what we are doing is to make this document better. Before Independence, all good things were in urban areas. If you wanted to see tarmac roads, running water, decent toilets and good roads, they were only found in urban areas. I hope through this Committee, we can transform our rural communities so that they can also enjoy what other Kenyans are enjoying. In Ndhiwa Constituency which I represent, the roads which matter most are those that join markets, dispensaries and health centers. They are critical because I experience crude death rates including maternal and antenatal deaths. This is because victims or patients cannot be moved from point “A” to “B” because of the bad state of roads. What I was looking for exactly is appropriation of these percentages. When it comes to giving Kenya highways or secondary roads, urban areas get the highest share. That means those who are left will get 15 per cent to the counties and all these roads I am talking about now under the counties.

I am appealing to the Departmental Committee on Transport, Public Works and Housing to help us get this Bill shaped. Let us have a paradigm shift from urban to rural areas. This is because you cannot ferry goods on a highway if they do not originate from rural areas. Some of these roads especially in my constituency are still lying hollow because they are not opened yet. If they are open, they are not murramed or motorable. We are talking of superhighways which are good urban roads connecting cities to cities. It is the same Kenyans who live in pathetic conditions and are dying because of lack of roads. My suggestion is as we clamour for standards, which is very good, if rural roads can be murramed let us have standards of doing it. As the Members who oversee these roads, it is very difficult because we do not know how much is going to the counties and how much is allocated to our constituencies and specifically to which roads. How would I oversee if I do not know? We do not want to be reduced to pleading Members. We make laws and what we make should be very clear so that when we oversee we know what we are doing. If you ask me about the fuel levy today, I do not know how it is apportioned or how it is being used. These are things that should come clear in this Bill because as a Member, I should know how it affects my constituents.

I take roads as a health issue and that is why we need to focus on rural areas, set standards for those murram roads and if possible, let us not leave our rural areas for murram roads only. There is low volume technology which we can use to connect our markets and our people.

Lastly, I would request the Committee to also look at the bridges. It does not feature much here. You cannot build roads without considering bridges. During the rainy season in my constituency, you find that communities cannot access important facilities. Most of the bridges in rural areas are built using timber. Just as superhighways, we should also have standards for rural

areas so that they can be built to last. The types of bridges I see in my constituency are pathetic and should not even be called bridges. So, when we do roads, let us have standards.

Lastly, we would like to be updated on the clause that says that of the 30 per cent that you give, some of it will be distributed to the constituencies. We do not know what mechanisms will be used to distribute those resources but we would like to be well informed. If you are distributing to constituencies, what mechanisms are you using and how will a *Mbunge* ensure that Ndhiwa people get their share from KeNHA, counties and all these secondary roads?

With those few remarks, I thank you, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Very well. The Member for Turkana South, Hon. Lomenen, the Floor is yours. Just give him the microphone. I think your microphone is not working. Hon. Lomenen, you can just move to another working microphone or just come to the Dispatch Box, if you are not able to access any working one.

Hon. Ekomwa: Hon. Temporary Deputy Speaker, thank you for this opportunity. I stand to support this Bill.

It is very fundamental especially in the areas where we come from. I want to thank the able Chair of the Departmental Committee for Transport, Public Works and Housing. You have really shown competence. This is because people have been thinking that you are only informed about the issue of security. However, you have now proven to Kenyans that you can also be in charge of roads. We have made very fundamental laws in this House but it becomes a problem to enforce them. One such issue that has become a thorn in the flesh is the fact that many Kenyans have been losing their homes just because of poor planning. There is the assumption that Kenyans are living along the road reserves. However, this is due to failure by the law enforcement agencies. Before you construct a road or expand an existing road, we must create public awareness; Kenyans must be warned against living on road reserves. Some Kenyans are ignorant. After they have built houses and shops, they are demolished yet that was their only property. The authorities we are creating must enforce this law. As they plan road construction projects, they must tell the people on time not to occupy road reserves.

The Government has allocated funds to these roads. Secondly, we have awarded contracts to contractors but Kenyans have been denied justice because contractors take time to finish what they are supposed to do. Some of them take two years to complete a road when they are supposed to take one year yet Kenyans are waiting for it. Kenyans have the right to get these services at the right time. When a contractor takes six years to do a road that should have taken a year, do you not think that is a way of denying Kenyans justice? This should be corrected by the authorities we are putting in place.

If a contractor is supposed to complete a road in one year, so be it. You should not give a contractor a contract if you do not have money. You should give a contract when you have money so that the contractor takes the required time frame.

The other issue is when a section of a road or bridge collapses. I have had an experience of the Kitale-Lodwar Road Bridge. It takes long to be repaired. It is not the fault of Kenyans. When we allocate funds, we must allocate funds specifically for repairs and such emergencies. Sometimes there is much rain and most of the roads collapse. We must take care of such uncertainties when budgeting. In my constituency, the Kainuk Bridge took six years to reconstruct. Vehicles and school children stay for two months without accessing services. We have to correct that because it is very important for people coming from rural areas to access

services. I have seen good roads only here Nairobi. I heard of one road called Kitale-Lodwar Road. The authorities proposed in this Bill that it will make my county to be accessed by road.

Another important issue I want the Committee members to listen to carefully is on value for money. There is a big irregularity when it comes to costing of roads in this country. I have always set an example. You find a county government building a 5-kilometre road at a cost Kshs15 million. The Kenya Urban Roads Authority or KeRRA will do the same road at a cost of Kshs2 million. You are then left wondering about the big disparity in terms of costs. The money is from the same National Treasury but we are wasting it. We must make a law to address such disparities. Members of the Committee on Transport, Public Works and Housing are not listening.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): I can confirm that the Chair is listening.

Hon. Ekomwa: Hon. Temporary Deputy Speaker, he is not listening. I also have eyes. I have been seeing what he was doing.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Carry on. I am sure the Chair is taking notes, but we congratulate him for being here. Others are never here. To add on, we have the Chair for the same committee in the 11th Parliament, Hon. Kamanda. I can see them consulting.

So, carry on.

Hon. Ekomwa: You must have private consultations to share your experience.

Hon. Temporary Deputy Speaker, I was saying that you have to consider. You have established these very important authorities and allocated them funds. As the representatives of the people, we are asking whether we are getting value for money. How do you cost these roads? Earlier on, I gave an example of roads being constructed at different costs by the county government and KeNHA. We have to correct that anomaly. We have no money to waste. People lack water and health services. We need to utilise these funds properly. If it is the Ministry of Works which should cost road projects, they must do so for all of them whether county roads or whatever. They must ensure that we get value for money.

With those remarks, I support.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Thank you so much Hon. Lomenen. I am sure the Chair is taking notes. We will have amendments during the Committee of the whole House. Thank you for being in the House. Members of the public should know what Members of Parliament do in this House.

Let us hear the Member for Makueni, Hon. Maanzo. You were here, and you left your card.

Hon. Maanzo: Hon. Temporary Deputy Speaker, I have been queuing since 2.30 p.m. It is just that I briefly walked out to hand over a matter to another Member. So, it is likely my card has been here.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Yes, your card has been here but you went out to consult.

Hon. Maanzo: First of all, I would like to thank the Chair of the Committee on Transport, Public Works and Housing, and his predecessor, for being here. Many other chairs should copy this example so that when matters are being debated here in relation to their committees they can be here throughout. This is a very important law.

I am very grateful to Hon. Kamanda. I have looked at the First Schedule and seen the new classification of roads but just before this happened, I think somebody was trying to be mischievous in the Ministry of Transport, Infrastructure, Housing and Urban Development; because there was a new classification just last year, whereby a certain road that belonged to KeNHA suddenly became KeRRA's. Another road that was being done by KeRRA became a county road even before the current law was passed. This was an attempt to defeat the purpose of this Act. I believe this is something which should be re-looked at again so that classification of roads can be done afresh once we pass this Bill with amendments. You have heard the contributions of Hon. Otiende Amollo. They are very specific with regard to the law. I agree with him. What he did not say on record is that it is better for the Committee. Now that the Chair is here and I am sure this will go on HANSARD, the Committee needs to pick the good suggestions from Members. Amendments pass quickly when they originate from the Committee where they are re-negotiated and re-argued. So, contributions from Members become very useful when dealing with Bills.

I know of the limits of delegated authority because regulations will be made for this Act. I sit in the Committee on Delegated Legislation and I know that the Ministry of Roads has been very notorious when it comes to this sort of laws. They make regulations themselves and they do not bring them to the House. They also ensure that the regulations are effected when the House be not in session. Therefore, some of the regulations end up being challenged in courts and we end up on the drawing board again. This amounts to wastage of public finances. It also makes the Ministry appear as if it is acting in bad faith as opposed to the best interest of Kenyans. Of course, I am very happy with the recent changes of the Principal Secretaries in this Ministry. At times, new blood is better and especially when we have a new Act of Parliament to be implemented. I like this and I believe it is tied up together with what is now in the Act. I believe it is supposed to be collated so that it becomes much better. One of the most important things which have been left out in this Bill is about bridges. I want to give an example of Athi River and Tana River which, before we destroyed our environment, were flowing with water throughout. Kenyans would find it difficult to cross these rivers, especially in Makeni Constituency where we had proposed construction of bridges. The roads which connect counties across the bridges are county roads of very low class.

The construction of bridges should be given consideration so that people do not have to travel, say, 300 kilometers because of lack of a bridge. We should build bridges, even small ones that can allow one vehicle at a time to pass. There is a bridge across Tana River between Mwingi North and Tharaka Nithi, which has served Kenyans for many years and whose construction was initiated by the former Member of Parliament of that area, Hon. Kalonzo Musyoka. It saves people from travelling long distances between the two counties because without it people would have to walk long distances to access a bridge. It is just a metallic bridge which can carry vehicles across. If we had such bridges in many other parts of that country, they would help a great deal. The sort of bridges anticipated in this proposed law are the ones that are built in the course of construction of roads. This will not serve Kenyans adequately. I believe the input of the parliamentary Committee is very important to the engineers who are involved in this.

The other thing is the design of roads. The reality is that we now have many bicycles and motorbikes. However, our roads still maintain the old designs, even with regard to the new classes that we have come up with. This will save lives and even reduce expenditure in terms of

medical care. You all know that, for instance, motorbike accidents are quite common nowadays. In fact, many mothers use motorbikes with their children. They have no choice. Where we do not have a motorbike lane, the design of the road should take care of that need because it will help ease traffic. We will save many lives and especially of children. My suggestion is that such lanes should form part of this law so that in certain classes of roads such a design is automatic.

I would also want to encourage the Ministry to cultivate good relations with Parliament so that when it comes to lobbying and allocation of monies their cases could be considered. Many times, roads have been budgeted for, but time expires and they are not built. So, the monies are returned to the National Treasury. This used to give Hon. Kamanda a very difficult time because he had to request the National Treasury to return the monies back to the Ministry. I hope the current Chair will ask Hon. Kamanda to assist him when it comes to helping the Department of Roads. The solution to this is making sure that the money is utilised during the relevant financial year. The roads should be tendered for and constructed in good time so that the monies are not taken back. At the same time, we must synchronize the roads in the counties with those ones that belong to the national Government. This mechanism is clearly missing from this Bill. Even Hon. Otiende Amollo has pointed it out. In the board that is being proposed herein, the county government should be represented so that the decisions which are made there are not repeated by the counties.

In Makueni, we have a road which connects Ukia and Emali. In fact, it originates from Loitoktok and goes through five constituencies in Ukambani and finally connects at Thika. It is actually a by-pass to assist the overloaded Mombasa Road. I understand that the international community, and particularly the United States of America (USA), is keen on funding this particular project - It has started at the Machakos junction. It would have been better if it extended to Konza City as a dual carriageway because it will be built in phases. I am sure that after the construction of Thwake Dam is complete – it is now in advanced stages – the construction of a road is going to be launched next month. It is good to plan so that we synchronize the different developments in the country. That way, our road network will be a reality.

Thank you, Hon. Temporary Deputy Speaker. I want to apologise to a few Members who did not see me walking out to assist some Members.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Thank you, Hon. Maanzo, Member for Makueni Constituency. The Hon. Member for Tharaka, Hon. Murugara.

Hon. Murugara: Thank you, Hon. Temporary Deputy Speaker. I stand to support this Bill. First and foremost, I thank the Chairman of the Committee for being resilient enough to stay in the House and listen to what Members have to say in contribution and furtherance of the aims and objects of the Bill.

The Committee did a fantastic job. All that the Bill requires now are some slight touches and we will have one of the best laws to govern the road sector in the country in furtherance of the Fourth Schedule of the Constitution.

I want to make a few comments on the Bill. It is quite timely because we need to consolidate and bring together all the laws which relate to the roads system in the country. We need our roads system managed properly and effectively. It is important that public roads are dwelt with both by the county and national governments. It is, therefore, essential to separate national roads from county roads. It is also vitally important that we have a Public Roads and

Standards Board which will regulate and maintain the quality of roads in the country. Complaints are rampant that contractors are getting roads that, possibly, would take one year to construct but you find that three or four years down the line, a contractor is still on the road and the work that is being done cannot be said to be of standard.

There has been a lot of emphasis on our highways and urban roads at the expense of roads in the rural constituencies, where most of us come from. That is where the vast majority of Kenyans live, and they expect to get good service roads so that they can go about their day-to-day businesses; be it agriculture, business or whatever it is. These are the areas we need to focus on we work on the road network. That way, I can go to Tharaka Constituency and relate the road situation in that constituency to this new Bill. Again, I am happy to have the chairman here because he is noting what I am saying, especially Tharaka being one of the marginalised constituencies with the poorest road networks in the country. The constituency needs special consideration so that people there can feel that the Government is also taking care of them.

That notwithstanding, there is a tarmac road project which commenced three years ago. It is supposed to cover 36 kilometres but to the dismay of everybody, the contractor has done only eight kilometres, starting from Gatunga Town in Tharaka North to Marimanti Ttown – the constituency headquarters. He still has a lot to do to move the road from Marimanti to Chiakariga. Eventually, the construction has to proceed from Gatunga to Ura Gate of Meru National Park. There is hue and cry amongst the residents regarding the contractor. I constantly remind him that we will revisit. We will have to look at his contract because he is not delivering to the people of Tharaka what the national Government has given them.

It is also important to bring to the attention of the chairman and the Committee that, that is the only tarmac road in that constituency. We are eying another road that comes from Meru Town. That road is being tarmacked with low volume grading, which we believe is suitable and sustainable for the constituency. I, therefore, urge the Government to continue with the construction of that road to Nkondi and then to Gatunga. Then we have another road that comes from Meru Central through Mitunguu, but which does not extend to Tharaka. That is the road that passes through Mukuni to Kibunga and Marimanti. I, again, urge the Government to consider these roads because they actually should be tarmacked. They are the major roads that serve the people of Tharaka. It is important that they are made to standard for the benefit of the people.

We have what has always been known as KeRRA. This Authority is supposed to maintain roads in the constituency under the guidance of the Member of Parliament. Unfortunately, in most constituencies – especially in my constituency of Tharaka – this Authority allocates only Kshs30 million for maintenance, upgrading and sustenance of the roads. There is very little that can be done with Kshs30 million. I urge the Government that whatever Authority is going to take over rural roads is awarded more money, so that even the roads that lead from village to village and connect small towns are also well maintained for purposes of good communication.

The Member for Makueni has just made an important contribution touching on Kitui and Tharaka Nithi counties, where there is a bridge that links the two. It is the only bridge in a span of more than 80 kilometres. There is need for another two bridges to be constructed on the road that joins the two counties between Tharaka and Kitui for purposes of easing communication and making trade and whatever other activities that take place between Kitui and Tharaka Nithi

counties feasible. There is a major road that joins Kitui and Tharaka Nithi counties, which passes through Kathangachini to Usueni. It is a major road maintained by the county government, which is now to be upgraded so that it can be maintained by the national Government. It is my plea that we have this road done for purposes of easing communication within the constituency.

Therefore, I urge the chairman, who is here with me, to make sure that in the recommendations that he makes to the Government and even in the budget estimates that he has just approved, he considers Tharaka Constituency as one of the areas that are in dire need of road infrastructure. Those roads extend from Classes A, B and C. They also go to Class D and finally Class E. My contribution to this Bill is that we need this law in place. It is a Bill that is going to help Kenyans and our constituents in realising their dreams of having good roads cutting across the vast areas of the rural constituencies in the country.

Finally, it is my plea that we do pass this Bill so that it is enacted and we try to consolidate the various laws that are in place. It even becomes easier to understand the laws that we have and the laws that govern our roads system in the country.

Thank you, Hon. Temporary Deputy Speaker. I rest my submission there.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): I have 14 requests from Members who want to contribute to this Kenya Roads Bill (National Assembly Bill No. 47 of 2017). Next on my request list is the Member for Nambale. Before I give you the Floor, allow me to give the Floor to a Member from the other gender. Let us have Hon. Adagala Kahai, Member for Vihiga, and then we will come to the Member for Nambale.

Hon. (Ms.) Adagala: Thank you, Hon. Temporary Deputy Speaker, for giving me this opportunity to contribute to this important Bill that touches most of us from the counties we come from. I thank the Chairman of this Committee for the good work he has done. There is need to recognise the two levels of Government – the national Government and the 47 county governments. The Constitution of 2010 equally recognises that there shall be national roads and county roads. Therefore, the only roads authority to serve the interest of the nation is the KeNHA. The national Government should not purport to impose rules and other authorities. Moreover, KeRRA and KURA should channel budgetary allocations to counties and not hold those powerful positions to the disadvantage of the rest of the counties. The Government should make sure that all counties are given proper budgetary allocations for the roads to be constructed and not to favour certain counties. We want a transparent formula of sharing out roads development and maintenance budgets in which all counties will receive good share of the budget. This is will also greatly harness national cohesion as it will reduce the near-death competition that is in presidential elections in this country.

I know once you touch there the warrior blood in Hon. Sankok rises but Hon. Sankok when it comes to national issues like this, we do not have the idea of Jubilee or what. It is a matter that is touching all of us in the whole country. I can see the warrior blood in him is also rising.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Order, Hon. Adagala Kahai! There is a point of order from Hon. ole Sankok. What is out of order?

Hon. ole Sankok: Hon. Temporary Deputy Speaker, I do not know what the Hon. Member is insinuating by saying that whenever she speaks, I have to rise up and defend the Jubilee Coalition. I only defend it on realities and facts. She is out of order for mentioning my name.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): That is not a point of order, Hon. Ole Sankok. There is nothing out of order in mentioning your name.

Carry on, Hon. Member.

Hon. (Ms.) Adagala: Thank you, Hon. Temporary Deputy Speaker. I would like to thank the Chairman of this Committee. As these allocations are made, they should mind about other counties like Vihiga where I come from. There are roads that have been earmarked for tarmacking for the last almost 10 years.

(An Hon. Member crossed the Floor without bowing)

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Order, the Member who is walking out. We do not cross the Floor without bowing. I order that you go back, do the necessary and you come and talk to your colleague. We must observe decorum in this House.

Thank you. Carry on, Hon. Member.

Hon. (Ms.) Adagala: Hon. Temporary Deputy Speaker, I want to say that most counties need to be...

(The Hon. Member crossed the Floor without bowing)

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Order, Hon. Member. You have crossed the Floor without bowing again. It was in a short time. Go back, bow and then you can cross to the other side. Try that.

(Laughter)

Thank you. You are now in order. Carry on, Hon. Member.

Hon. (Ms.) Adagala: Thank you so much, Hon. Temporary Deputy Speaker. Let us not blame him. You can see that he was crossing over to see a beautiful person. It has drawn the attention of all Members.

I will go back to the Bill which is very crucial. Vihiga County has not seen any improvement from the national Government concerning our roads. For example, there are roads like Mago-Mululu-Vokoli, Gisambai-Shamakhokho and Maseno-Luanda, where nothing is seen to have been done. Therefore, I urge the Chairman of this noble committee to make a follow up, so that every county can enjoy the noble idea of all roads being constructed. All counties must be given budgetary allocations by the year 2022 when most of us will be vying for gubernatorial positions. We want roads and bridges constructed all over to make sure that all our children pass through good roads as they go to school. We have had a lot of accidents. For example, we lost 17 family members recently because of poor roads full of potholes.

This Bill should be passed to make sure that roads are up to date and all areas are covered in the whole country.

Thank you, Hon. Temporary Deputy Speaker, I support.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): I give the Floor to the Member for Nambale, Hon. Bunyasi John.

Hon. Bunyasi: Thank you, Hon. Temporary Deputy Speaker. I will be conscious of the fact that my colleagues want to say something.

I rise to support the Bill. The intentions of the Bill are very noble. The process of restructuring institutions to conform to the Constitution and realign with the mandate of development is a very good idea and I support it. It is one thing to have good institutions, but it is quite another to have those institutions deliver. Beyond institutions that will manage the road network, we have a whole set of decision-making networks that allocate resources to construct roads. In the current dispensation and over the last five years, this does not come out of a planning process like it used to be in old days. Back in the 1970s, roads were constructed clearly on the basis of plans that would relate to how to promote growth most rapidly.

However, it is fairly difficult for planners to have a say and get resources allocated. You have to go to very high offices, which is not very easy for most Members. It is all well and good to have a beautiful institutional set up, but if it cannot recommend roads on the basis of need, it will not be useful at all.

Furthermore, we need better alignment between national resource allocation and responsibilities that are assigned. A lot of roads have been assigned to the county governments but as you know, the allocation of resources even after the first cut of the devolved roads, was held back, and only minimal amounts were passed on to the counties. If you want to realign institutions to the supreme law and reality of governance, you should also align resources for roads that have been assigned to county governments. We should not have intense lobbying by the Council of Governors and others for roads to be constructed. Our rural roads are so crucial because they move more people and goods than the highways, but they do not get the resources that are needed for construction and maintenance. Those *panya* roads that move people and goods on motorbikes and rugged vehicles really matter in moving the economy. We are not a supermarket economy, but a retail one that relies on the local stores and local produce. Resource allocation to the county governments is extremely important.

One of the frustrations in road repair is the fact that the right of way that we used to have during the colonial period no longer exists. A road is constructed but those that own the land that is adjacent to the road do not allow any drainage into their lands. Therefore, roads get damaged. We need to ease the law on the right of way to enforce the fact that in a scientifically sound way, roads must be allowed to drain off into the nearby farms. Sugarcane growers in my constituency refuse to have drainage face their farms partly because it is not done properly, and they fear a gush that will then go down and destroy housing. The issue of standards that is part of proposals of this Bill is extremely important. It is a good start to define standards, but it is very important to enforce them. If they are national standards, it does not matter which level of Government or institution is constructing the roads, they must conform to the standards. My good friend from one of the Igembes mentioned the fact that the movement of our people and goods is now on motorbikes. There have always been pedestrians. Some of those roads are built with complete disregard for other road users to the extent that when you find those road users on the road, it is almost like they are a nuisance. You even ask where they came from. It is extremely important that when looking at those standards, we accommodate those users in a respectful way. If you go to South Asia, you will see how they have respected the multi-modal forms of transport that they have on their roads in the sense that what used to be large urban roads are cordoned off for pedestrians and motorcyclists. It helps and we need this.

In the rural areas, particularly with children walking to school, we need to get a clear separation. If possible, a side footpath along the road that will accommodate school children and other pedestrian users, but perhaps not motorbikes in that regard, so that we can have safe roads. The standards should both be safe but should also take note of efficiency in road use. There is no need to have a high-speed highway with bumps every 50 metres such that motorists must slow down. It reduces the amount of traffic you can carry and negates the advantage of spending billions of shillings to make high-class roads when movement is just as slow as on any other road. That needs to be taken care of.

I would like to add two more points. There are roads that already exist for which dangers have been identified like the Nakuru Highway. I say this because we, from the Western part of the country, have the highest number of lives lost. Most of them seem to come from western and Nyanza. Responsive and friendly consideration of the issues involved is extremely important to get the roads improved; accept reality and improve the trauma facilities in Nakuru. This has been discussed for a long time. If it happens, there is something you can, at least, do about it, perhaps, in other areas.

I want to conclude by raising the issue of the competency of contractors. As these institutions are aligned, hopefully they will choose competent contractors and not those who must be connected to somebody in the public service. It could be in this House, the Executive or somewhere else. They sit on those roads and do nothing for years and years. I have a short road in my constituency which is only 28 kilometres long and was commissioned two years ago. The contractor has only moved about 10 kilometres. If you go on the road, the so-called road engineer is barely literate in any language spoken in this country and he is supposed to be a citizen of this country. He cannot gather information. Clearly, these are sons of aunties and uncles who were contracted to construct those roads. This particular contractor is in charge of a large number of roads in the western part of the country, but his capacity is extremely limited. It is important to mention this because they won the contract openly. They are underperforming because they are protected somewhere. You combine that with the fact that to get a road included in the road programme, you must rise almost to the highest levels of governance in this country. That is a sad affair. We are aiming to get double digit growth of the economy. Double digit growth does not come with patronage. It should follow the path of most impact in the selection of those roads.

I support this Bill and the alignment of institutions. I hope this will lead to more efficient and transparent governance; selection of roads and the management of contracts so that the country can realise the benefits so that we get rapid growth in our economy.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Let us have Hon. David ole Sankok.

Hon. ole Sankok: Thank you very much, Hon. Temporary Deputy Speaker for considering persons with disabilities who are also road users.

From the outset, I support this Bill. Let me congratulate the Chair, Hon. Pkosing. “Pkosing” starts with letter “P” but it is silent. I do not know why they put it there. I also want to congratulate the Members of that Committee, together with the Vice-Chair, Hon. Moses Kuria; and also the former Chair of the Departmental Committee on Transport, Public Works and Housing in the 11th Parliament, Hon. Kamanda, who is here. Thank you very much for being

present. I am sure if all Chairs of Committees are as serious as the Chair of the Departmental Committee on Transport, Public Works and Housing, we will move forwards as a country.

I just want to give my input. One is that we need roads that are user-friendly to persons with disabilities. For a long time, we have had road reserves being grabbed by individuals. I want to suggest to the Chair that whenever we have a road reserve...

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Hon. Sankok, I am just getting advice from the Clerk-at-the-Table. You spoke to this Bill before. In our rules and procedures as per the Standing Orders, you can only speak once. You cannot speak twice. You can only speak once to a Bill.

Hon. ole Sankok: It was a point of order.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): You were not on a point of order. I am just informing you.

(Loud consultations)

Order Members! Allow the Speaker to do her work. It is good to guide him. Hon. Sankok, according to the records, you spoke for around two minutes. You are lucky you got time to speak before we looked at the records so you cannot speak twice.

Hon. ole Sankok: Thank you, Hon. Temporary Deputy Speaker, I oblige.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Thank you for understanding. Hon. Members, it is always good that we revisit our Standing Orders on the number of times you can speak to a Bill. When you come to the House, check on the Bills that you have spoken to so that you do not do it twice.

I now want to give an opportunity to the Chairman of the Departmental Committee on Transport, Public Works and Housing in the 11th Parliament. Maybe you have the experience to tell us how far we had gone as far as the roads are concerned. Let us have Hon. Maina Kamanda. For the information of Members, Maina Kamanda served as the Chair of the Departmental Committee on Transport, Public Works and Housing in the 11th Parliament.

Hon. Kamanda: Thank you, Hon. Temporary Deputy Speaker.

From the outset, let me also thank the current Chair who has managed to fine-tune the Bill from where I left it. I worked on this Bill for five years and it was about to be passed. I have seen that he has made some changes which are good for this country and this House. He is equal to the task and I wish him well in chairing this Committee.

First, I want to thank the Jubilee Government. I also want to thank His Excellency the President because when he took over, he promised Kenyans that he would construct twice the number of roads that were constructed since Independence. From Independence to when the President took over, 14,000 kilometres of road had been tarmacked. He promised that during his time, he would construct twice the number of roads that other regimes had done. He was true to his words. I was the Chair and those Members who were in the 11th Parliament are aware including my friend here, my mayor. I will still be referring to you as “mayor” because I know the power of mayors then. Even my brother here will agree that there is no part of this country that was not touched. I agree that not all roads were done but I think the Jubilee Government touched every constituency.

Hon. Members: No. No.!

Hon. Kamanda: You may say no, but we know. Those saying no, will have their time.

(Loud consultations)

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Order, Members! Hon. Kamanda, just a moment. Order, Hon. Members! If you have anything to raise, you do not have to shout. Press the intervention button and I will give you a chance to raise your point of order.

Hon. Kamanda: Hon. Temporary Deputy Speaker, I am saying this because even some of those who are saying no, are aware of the reality. The reality is that work was done.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Hon. Maina Kamanda, there is an intervention from Hon. Kibunguchy. What is your intervention? Let it be a point of order or a point of information.

Hon. (Dr.) Kibunguchy: The Hon. Member is completely out of order. I want him to point to me one road in Likuyani that has been done by this Government. Just one.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): That is not a point of order. The Member is not out of order. That may be a point of information. You wanted to inform him that in your constituency there is no road that has been tarmacked.

Hon. Member, carry on. If he can recall during his contribution, he will do it.

Hon. Kamanda: Hon. Temporary Deputy Speaker, if the Hon. Member wants information, we will avail it to the Chair of the Committee. Though, I think he has it.

It is sometimes good to thank someone who has done a good job. This Government may not have done 100 per cent, but in the five years it has been in power, it has constructed more roads than the previous Government. This was the promise given by the President. I was the Chairman of Departmental Committee on Transport, Public Works and Housing and I made sure that there was equal distribution in the construction of roads in all parts of the country. Areas which were not touched at that time - the Chair is here - will be rolled out this time.

I would like to advise new Members that they should not decline to participate in the vetting of Cabinet Secretaries because at the end of the day, they will require to go to those Cabinet Secretaries for something to be done in their constituencies. Dr. Kibunguchy who has been my friend for a long time, knows that. At the end of the day, if you want to be re-elected, it will not be through how much you shout in this House, but how you follow up on issues in relevant Government Departments with regard to service delivery to your people.

I thank the Chair because he has managed to do something I was unable to do. I was unable to bring the governors to agree on this Bill.

Hon. King'ola: On a point of order, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Order, Hon. Kamanda. There is an intervention by Hon. King'ola Makau.

Hon. King'ola: Hon. Temporary Deputy Speaker, with all due respect to Hon. Kamanda, is he in order to inform Members in this House that one's re-election to this House is determined by how much work one does for his people? We are all aware that he lost the Starehe parliamentary seat while he was the Chairman of the Departmental Committee on Transport, Public Works and Housing. Does he mean that he did not do any work not only for Starehe Constituency, but also for Kenya?

Hon. S. S. Ahmed: On a point of order, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Hon. Member, that is an observation or advice. Before you answer him, this is a House of debate. As he contributes, he may throw in something. There is an intervention by Hon. Ahamed Shabir.

Hon. S.S. Ahmed: Thank you, Hon. Temporary Deputy Speaker. Hon. Kamanda took away a big percentage of our NG-CDF money and misled us to believe that he was to put the money into road construction in our constituencies.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): You are out of order! That is not a point of order. You are out of order!

Hon. S.S. Ahmed: I am not out of order. It is very relevant to...

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): You are out of order. When the Speaker is talking, you do not continue speaking. Hon. Members, it is important that when you rise, you do not argue. Just raise your point of order, otherwise you will get your time to contribute and rebut what has been said. Unless you are saying that the Hon. Member is out of order for deducting money from the NG-CDF. In future, quote the Standing Order you are rising on and what is out of order. I am sure during your time, you will bring out your point.

Hon. Kamanda: My friend there knows that we did a lot of work with that money. The other Hon. Member should know that I did not lose the election. If I lost, I would not be in this House. I am here because I did not lose. We are now together here and I am a Chairman of another Committee – He is not Chairman of any Committee!

I would like the Chairman of the Committee to look at the issue of contractors.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Hon. Member, You have only two minutes.

Hon. Kamanda: We have a major problem in the area of contractors. I urge the Chair to be extremely careful about the people who are given contracts. When I toured most of the road projects, everybody was requesting for Chinese contractors. Our people at the grassroots have lost confidence in our local contractors. When a local contractor is awarded a contract, first, if one had a debt, they service it then use the remaining money to construct the road. At the end of the day, most of the roads done by our Kenyan contractors are not completed on time. That is a very challenging area.

I would like to raise another point. I was the Chair of Departmental Committee on Transport, Public Works and Housing for five years and interacted very well with Members. Members would canvass for certain contractors to be awarded contracts. That is where we go wrong as a House. The moment we push for a contractor to be awarded a tender in our constituencies and he does not perform, we will not be able to discipline them. How I wish the Chairman could listen to this because this is an area I used to get a lot of pressure from Members. They would want certain contractors to be awarded contracts. That is the genesis of very big problems. If we push that agenda, when it comes to discipline, we will not discipline that particular contractor. It is better we leave this matter to the officers concerned so that we only oversee the contractors. Once the officer or contractor makes a mistake, you can penalise them.

Hon. Temporary Deputy Speaker, you should have given me another 10 minutes because I was the Chairman of the Committee which has fronted this Bill. He has just taken the chairmanship from me.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): There is no such provision.

Hon. Kamanda: With those few remarks, I beg to support.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Thank you former Chair. There is no provision for adding former Chairpersons time to contribute in debates.

Next on my list is the Member for Likuyani, Dr. Kibunguchy. He can now negate the sentiments expressed by Hon. Kamanda to the effect that there is no single road constructed in his constituency.

Hon. (Dr.) Kibunguchy: Thank you, Hon. Temporary Deputy Speaker. I would like to start from there. There is no single road that has been done by the Jubilee Government in my constituency. Fundamentally, I wanted to talk about two main issues. Let me also join my colleagues in congratulating the Chairman of the Departmental Committee on Transport, Public Works and Housing for work well done. I would like him to avail to Members all the roads, especially roads that fall under what we are now calling Kenya National Secondary Roads Authority and the county roads. It will be very good for all these Members because we understand that of late they have reclassified these roads yet we do not know. I wanted him to do that. If he can do that before the Third Reading, it will help us very much. It will help us in many ways. One of the ways is what an honourable Member said; that, he has only two Class C roads in his constituency where one has been tarmacked and therefore he is left with one road.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Order, hon. Members! When you are seated there, you can catch the Speaker's eye. Every Member is equal in this House. We have a list. Sometimes you can confirm the list from the clerks. We will follow the list of the requests. Sometimes we play around with gender and other considerations.

Carry on hon. Member.

Hon. (Dr.) Kibunguchy: Thank you, Hon. Temporary Deputy Speaker. I wanted to ask the Chairman something. He is very busy talking to a colleague next to him. I want him to make available to us all the schedule of roads in every constituency so that we know which roads are Class C, which ones are Class D and the county roads.

Secondly, I want to talk about the issue of equity, fairness and all that. I know a lot of things. The previous chairman has just been congratulating the Jubilee Government. This is something the Jubilee Government keeps talking about; that they have tarmacked 10,000 km of roads in this country in the last five years. First, where are they? Second....

(Hon. Ali Sharif interjected)

Hon. (Dr.) Kibunguchy: Relax!

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Who is not relaxed?

Hon. (Dr.) Kibunguchy: Sharif!

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): I can confirm that Hon. Sharif is relaxed. I can confirm from where I am. Member for Likuyani, proceed with your contribution.

Hon. (Dr.) Kibunguchy: He kept interrupting me. That is why I am telling him to relax.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): You are protected. Let Hon. Kibunguchy, Member for Likuyani, make his contribution without any interruption.

Hon. (Dr.) Kibunguchy: Thank you. The whole question of equity and fairness is that every part of this country is considered. I hate it when Members of Parliament stand here and say that we should thank the Government for the good work they have done. The Government is executing the mandate of Kenyans on our behalf. We pay taxes. It is not a question of them

doing us a favour. The Government is not doing anybody a favour; they are doing a job which was given to them by the mandate of Kenyans and therefore we want to see the issue of fairness and equity. I have done very quick arithmetic. If 10,000 kilometres of roads have been done in this country, and if we look at equity and fairness, we should be seeing at least 34.5 kilometres of roads in every constituency. That is 10,000 divided by 290. I do not have a single road in Likuyani. I do not know where these 10,000 kilometres of roads are.

Thirdly, this goes to the Chairman of the Committee. The recommendations of the Committee say that Class D roads... The Bill has put Class D roads under the Kenya National Secondary Roads Authority, which was previously KeRRA. According to the Committee's Report, there was a Legal Notice that was signed by the Transitional Government, which transferred Class D roads to the counties. Class D roads became part of the county roads. I would like to know whether a Legal Notice is superior to an Act of Parliament. I am saying this because in the rural constituencies, like Likuyani, there is very little difference between a Class C and Class D road. They all serve the same purpose. When you look at the definitions that have been given, they are very similar. I wish the Chairman was listening. I know we have problems back home. Do not worry.

I would like us, on a very serious note, to look at two things. One, let us get Class D roads back to KeRRA because Members of Parliament know KeRRA more than this other new animal called the Kenya National Secondary Roads Authority. Former colleagues who did not come back to this Parliament, who were there with us in the 11th Parliament, did not make it because of roads. Once we have defined who does what, it becomes very difficult for one to go and do something that is in the purview of the county government, for example. That is why we are saying that as much as possible, let us get the Class D roads back to KeRRA and increase the budgetary allocation to KeRRA.

According to your recommendations, you have reduced the amount of money. The Bill had proposed 30 per cent; you reduced it to 28 per cent. I suggest that once we get Class D roads back to KeRRA, then we can comfortably reduce the amount of money going to the counties. That is what I would like to ask you.

Finally, I was talking about something I would like you to make arrangements. If all Members of Parliament have a schedule of their individual roads, from Class C to Class D, it will help us very much to know where our mandate falls when we are looking at these roads in our constituencies.

Many people have talked about the road from Mombasa to Nairobi, leading all the way to Malaba. That is the lifeline of Kenyans. We should put forward a very strong recommendation to ensure that it is transformed into a dual carriageway. It is very important because those of us who travel on that road know that there are too many accidents. If we were to dual it, it might be very good.

Thank you.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Hon. Kevin Wanyonyi, Member for Kwanza.

Hon. F.K. Wanyonyi: Hon. Temporary Deputy Speaker, I want to thank you for this opportunity. First and foremost, I thank the Chairman of this Committee. I have seen him here since 2.20 p.m. He has not even moved. I wish other Chairmen would follow suit because we discuss some of these things in vain. In fact, some of them are not able to present whatever they

have been given. I want him to keep it up. I think he has taken most of the notes. There have been very good contributions on the roads. Therefore, we are waiting for the Committee of the whole House so that we are able to incorporate the comments from Members of Parliament, which in my view have been very useful. This includes what Hon. Kibunguchy and others have said.

If we had what the other committee in charge of roads in the last Parliament had, we would be much more informed than we are today. So, this Bill will cure some of the problems we have had in the past. There is KeRRA, KURA, and KeNHA that most people do not know about. We should use civic education to inform members of the public. I would like to tell the new Members that most of my colleagues who I thought were very good did not make it back because of the poor road infrastructure. People assume Members of Parliament are in charge of all the roads in the sub counties.

(Hon. Pkosing consulted with other Members)

Hon. Temporary Deputy Speaker, allow me to make some little comments before my colleagues... I would like to make two comments that may be useful as a summary of what we are discussing.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Do you want the Chairman to listen to this?

Hon. F K. Wanyonyi: Yes, I want the Chairman to listen to it.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): The Chairman is still consulting.

Hon. F.K. Wanyonyi: He can consult after I say what I am about to say. He is on HANSARD. I do not think he is going to listen to the HANSARD.

First and foremost, it is about redesigning of roads. We have more vehicles on our roads than we used to in the past. Every week we have new vehicles on the road. So, there is need for us to redesign the roads particularly in the urban areas. We need emergency lanes. Places like South B and Westlands, in case of an emergency, the ambulances struggle to get patients to hospitals. There is need for us to redesign our roads because funds are available. Along Uhuru Highway, there is a small provision for redesigning emergency lanes. If you go to most developed countries, you will see that. About three months ago, I had to come out of the vehicle with my bodyguard to clear the road for an ambulance which of course was carrying a patient because its sirens were on. The drivers of the cars in front did not care at all. There is also need for us to redesign roads for posterity.

Secondly, for us to understand which road belongs to who, they should have sign posts. I am blamed for all the rot. For heaven's sake, there are roads which were taken to the county government and up to now, I do not know which ones they are. When I attend a simple funeral, I am told, '*Mheshimiwa* you have not done this road; it is impassable'. We should have sign posts showing which road belongs to KeRRA, KeNHA, KURA and KNSRA so that people can tell which road belongs to who. Otherwise, we are blamed unfairly. I am sure Members who are here can bear me witness; we are blamed for all the rot. If we had signposts showing which jurisdiction a road belongs to, that would be understandable.

Lastly, in the last Parliament we sat in this House and talked about having 20 kilometers of tarmac road in constituencies that do not have them. What happened? I need an answer. I

have gone to KeRRA and the Ministry in charge of our road infrastructure to follow up on the same. I do not have any tarmac road in my place. Is it because I belong to NASA? I went to KeRRA and I was told that my constituency has roads. I hope that the engineer in charge of KeRRA is listening to me. We said that each constituency that does not have tarmac roads, whether it is Jubilee zone or not would get 20 kilometers of road. Nothing has happened so far. What happened? I need an answer. I have gone to KeRRA and to the Ministry of Works and I have seen the PS, I have also gone to Macharia and nothing has happened. Please, can we get an answer to that?

Lastly, and not least, if we do not want these contractors that we get and that Hon. Kamanda just mentioned - I understand sometimes Africans have many problems, including myself - once you are awarded a road, I expect you to complete it. I see the Japanese and the Chinese doing better than our own people. So those agencies that were put in place to align this kind of contracting and awarding have not done it. For example, the road between Webuye and Kakamega has taken three contractors. Two to three months ago it was given to a Chinese contractor and he is moving very fast. So what is happening to our contractors from within Kenya? I hope the agencies that we are trying to align the road will be able to pick up. I do not mind who the engineer is, whether he is from Italy, China or wherever, so long as my roads are completed within the expected time of the contract. Kenyan or African contractors have let us down to the extent that now most of the awards are going to the Chinese. No problem. I do not care who does the road, but I want to see the road completed. I think this Bill is a cure so that people are able to do the job within the stipulated time.

With those few remarks, I support this Bill. But chair, be there at the Committee of the whole House stage to be able to incorporate some of the comments that have been made by my colleagues in this House, which to me are very useful for the prosperity of our country.

I support this Bill.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Thank you, Hon. Wanyonyi. Hon. Members, as individuals, you can also approach the Committee and give any amendments that you think can be captured.

Secondly, you can see the importance of the chair being in the House. I am sure the other chairs will learn from the Chair of the Committee on Transport, Public Works and Housing. This reminds me of how we miss the question time in the previous Parliaments, because we would have the ministers being asked some questions as far as implementation is concerned.

Member for Lamu East, the Floor is yours.

Hon. Ali Sharif: Asante Mhe. Spika wa Muda. Ningependa kuungana na wenzangu kumpongeza Mwenyekiti wa Kamati hii pamoja na kamati yake kwa kazi nzuri ambayo wameifanya.

Tunalolizungumzia leo hapa ni Mswada muhimu sana katika nchi yetu. Unahusiana na barabara zetu, mipangilio ya Serikali na utaratibu wa kuinua hali ya barabara zetu nzuri. Kitu muhimu ambacho nataka tufahamu kwanza ni kujua umuhimu wa barabara katika nchi yetu na katika ulimwengu kwa ujumla. Vile vile, nataka tufahamu katika nchi yetu ya Kenya ni hatua gani tumepiga katika suala nzima la barabara. Kwa kweli, mbali kwamba tutaipongeza Serikali ilioko kwa juhudi zake bado kuna matatizo ambayo yako.

Kuna malalamiko kutoka kwa Wakenya, ambapo naamini pakubwa Serikali inajitahidi ili kuweza kulifanikisha jambo hili. Lakini kwa upande mwingine kuna matatizo ambayo

yanaonekana kupitia kwa wanakandarasi wanaopewa kandarasi hizi ama kupitia wale wahusika wanaopewa kuendesha jambo hili. Mhe. Naibu Spika wa Muda, utakubaliana nami kwamba barabara ni muhimu sana katika nchi yetu ya Kenya kwa sababu inarahisisha usafiri na vile vile inainua uchumi wa sehemu yoyote ambayo kuna barabara nzuri. Tutaweza kufaidi vipi mambo kama haya katika hili suala nzima? Tatizo liko Serikalini au wahusika vile nilivyosema? Tatizo liko kwa wahusika na kandarasi.

Mhe. Naibu Spika wa Muda, Serikali inatumia pesa nyingi sana katika sekta hii ya barabara. Bilioni za pesa zinatumiwa kila mwaka tunapopanga Bajeti ya nchi. Mbali kwamba bilioni za pesa zinatumiwa, suala hili linaonekana bado lina tatizo na Wakenya na viongozi wenzangu wameweza...Kwa masikitiko makubwa, tunapozungumza, kuna baadhi ya maeneo Bunge ambayo hayana hata kilomita moja ya barabara ya lami tangu tupate Uhuru. Hata zile sehemu ambazo barabara zipo, utapata zimejengwa kwa hali duni kabisa. Kwa mfano, unaendesha gari kwa masaa matatu ama manne ilhali ni sehemu unaweza kutumia dakika kumi au ishirini kufika. Haya yote yamesababishwa na kutoajibika kwa wahusika waliopewa majukumu haya. Ni lazima tuyazungumze ili yafahamike kwa sababu ikiwa ni kosa lilifanyika jana, hatutaki lifanyike tena kesho. Ni lazima kupatikane ushirikiano. Suala hapa sio la kujenga barabara pekee bali ni kuzingatia masharti yote kwa sababu ya siku zijazo.

Nchi yetu inapanuka, idadi ya watu inaongezeka na magari yanaongezeka lakini leo utapata mipangilio inayofanywa kujenge barabara si sawa. Utapata kwamba baada ya miaka mitano au sita barabara hazina nafasi tena ya kupanuka. Waliopanga kutengeneza barabara zile hawakuweza kufikiria mambo kama hayo. Hayo ndiyo matatizo tumekuwa nayo.

Serikali za kaunti zimepewa majukumu ya kusawazisha mambo hayo na ni jambo nzuri. Hatuanguali suala la kaunti, Mbunge ama pengine KeNHA, KURA na kadhalika bali tunachoangazia ni uajibikaji wa hao wote ambao watapewa majukumu ya kutengeneza barabara hizi. Huku tukiendelea kujadili Mswada huu, ninaomba tuipitishie katika Bunge hili ili mipangilio ya kuzijenga babara hizi uendelee. La msingi ni kwamba Serikali yoyote itakayochukua usukani ihakikishe kwamba miundo msingi na matekelezo yametekelezwa kisawasawa na wahusika wakuu wameweza kuwajibika katika hili suala nzima.

Mhe. Naibu Spika wa Muda, kwa masikitiko makubwa, utapata barabara imejengwa kutumia bilioni za pesa lakini haidumu hata miaka miwili kabla Serikali tena kutumia pesa zingine kuikarabati. Kutokana na tatizo hili, ningependa kutoa maoni yangu katika suala hili nzima. Ikiwa mwanakandarasi amepewa kazi ya kutengeneza barabara, ni vyema kuwe na mkataba baina ya mwanakandarasi na Serikali ya kuhakikisha kwamba kwa muda wa miaka mitano au kumi, kwa gharama ile ile aliyopewa kutengeneza barabara, atahakikisha aimekarabati bila Serikali kutimbia pesa zingine. Kwa nini Serikali itumie kati ya Ksh2 bilioni hadi Ksh10 bilioni kumpea kandarasi ya kutengeneza barabara kisha baada ya miaka miwili, Serikali itafute pesa kwenda kuifanyia marekebisho barabara hiyo hiyo? Kwa hivyo, ili pesa hizo ziweze kuwasaidia Wakenya kwa namna nyingine, ningependa Serikali ihakikishe kwamba mwanakandarasi huyo ameingalia barabara hiyo kwa muda wa miaka 10. Ikiwa kutakuwa na tatizo, yeye ndiye atahusika kwenda kuirekebisha barabara ile.

Hii itasaidia kuokoa pesa ambazo Serikali inatumia kwa namna hiyo. Vile vile, itasaidia kwamba mwanakandarasi yeyote atakayepewa kazi atafanya kulingana na vile vigezo vinayotakikana. Vile vile, katika suala hili la barabara, utapata kwamba mwanakandarasi mmoja anapewa kilomita 100. Thamani ya pesa ni Ksh10 bilioni had Ksh20 bilioni. Mwanakandarasi

huyo anatumia miaka kumi ama miaka saba kutengeneza barabara ile ya kilomita mia moja. Kwa nini barabara ile isigawanywe miongoni mwa wanakandarasi watano, kwa mfano, ndiyo kila mwanakandarasi apewe kilomita 20?

Ikiwa mwanakandarasi yule atapewa kilomita 100 kuzijenga kwa miaka mitano, kazi hiyo ikigawanywa wanakandarasi watano, wataikamilisha kwa muda wa mwaka mmoja. Mikakati kama hiyo ndiyo itaifanya Serikali kuokoa pesa ambazo zitaiwezesha kufanya mambo mengine badala ya kutumia pesa kwa njia moja peke yake kwa njia ambazo sivyo.

Nataka kuipongeza Serikali kwa juhudi zake nikizungumzia Eneo Bunge la Lamu Mashariki na Kaunti ya Lamu kwa jumla. Kwa mara ya kwanza, wakazi katika Kaunti ya Lamu wameweza kupata barabara ya lami. Lakini kwa masikitiko makubwa, mwanakandarasi anayetengeneza barabara kutoka Garsen mpaka Lamu ana mwaka mmoja hivi sasa ameshapewa cheti. Mheshimiwa Rais ametia barabara wakfu lakini mwanakandarasi huyo hajatengeneza barabara hiyo, na haya ndiyo matatizo. Tuko na barabara ambayo inatoka Lamu kwenda Kiunga. Tunasikia mara kwa mara kuna magaidi na kadhalika. Barabara hiyo ikitengenezwa na iwekwe lami, itasaidia pakubwa katika masuala haya.

Kwa hivyo, mimi naunga mkono lakini kama nilivyosema, tukiwa kama viongozi, twataka tuyajadili vizuri masuala haya na tuhakikishe tumeyaweka sawa kwa sababu ya siku zijazo.

Asante sana, Mhe. Naibu Spika wa Muda.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Hon. Members, I have 16 requests against a balance of about 30 minutes. I wish we can save some time to have many more Members to contribution to this debate.

Next on my list is the Member for Jomvu, Hon. Bady Twalib. Member for Ndaragua, get ready.

Hon. Bady: Asante, Mhe. Naibu Spika wa Muda kwa kunipatia nafasi hii ili mimi pia niweze kuchangia Mswada huu. Ningependa kuunga mkono Mswada huu kwa sababu una mambo mengi mazuri kuhusu miundo msingi katika nchi yetu ya Kenya.

Pili, ningependa kumshukuru Mwenyekiti wa kamati ya barabara, Mhe. Pkosing, ambaye namjua vizuri kwa utendakazi wake. Ni mheshimiwa ambaye tulifanya naye kazi katika Bunge ambalo lilipita na katika Bunge hili leo twafurahi kuwa tuko pamoja naye katika mambo haya ya barabara. Vile vile, ningependa kumtambua Mhe. Maina Kamanda ambaye ndiye alikuwa Mwenyekiti wa Kamati ya Barabara wakati wa nyuma. Binafsi, katika Bunge la Kumi na Moja, katika sehemu yangu ya uwakilishi kulikuwa na barabara ambayo ilikuwa inaitwa Hakika, mahali panapoitwa Madafuni. Barabara hiyo ina msongamano mkubwa sana wa magari ya kutoka Nairobi kuingia Mombasa. Eneo Bunge langu la Jomvu ndilo linakaribisha watu katika jiji la Mombasa. Ujenzi wa barabara hiyo ulipewa mwanakandarasi, Blue Chips Ltd., ambaye alisumbua watu sana kwa muda wa karibu miaka saba. Lakini tukishirikiana na Mhe. Maina Kamanda - alinisaidia akiwa mwenyekiti wa kamati ya Bunge kuhusu barabara - leo hii barabara imetengenezwa na iko katika hali nzuri.

Mswada huu unaonyesha idara mbalimbali ambazo zinahusika na barabara katika vitengo mbalimbali. Wameweza kutenganisha barabara ambazo ni za KeNHA, KURA na vile vile zile za KeRRA ambazo zinaingia mashinani. Hilo ni wazo zuri kwa sababu mara nyingi sisi tunasumbuliwa sana huko mashinani tukiulizwa barabara fulani ziko kwenye kitengo gani. Lakini watu hawajui jinsi barabara humu nchini zimeainishwa. Wao hufikiri barabara zote ziko

chini yetu sisi Wabunge ilhali kuna watu ambao ndio wahusika wakuu katika masuala ya barabara. Kwa hivyo, katika Mswada huu, tumeonyesha vitengo mbalimbali vya barabara.

Vile vile, Mswada huu, katika kipengele cha 46(5), kinazungumzia malipo. Jambo hili ni zuri sana kwa sababu juzi katika sehemu mojawapo ya barabara pale Jomvu, KURA walikuwa wanataka kunijengea barabara nzuri sana lakini wakaniambia, “Hakuna *provision* ya *compensation*.” Niliona jambo hili haliingii kwenye akili na nikarudi kwa wananchi wangu na kuwaambia, “Liwe liwalo. Hatuwezi kutengeneza barabara tukavunja makao ya watu.” Tungeondoa nyumba, barabara ambayo tungetengeneza ingetumiwa na nani? Mswada huu ambao umesukwa na mwenyekiti Mhe. Pkosing, unatambua kwamba sharti malipo yapeanwe kwa watu ambao ardhi na mali yao itaathiriwa na ujenzi wa barabara.

Kipengele cha 96 chazungumzia habari. Kuna shida kubwa hapo. Kwa hivyo naunga mkono Mswada huu zaidi. Nikipeana mfano, watu wa KURA wanataka kutengeneza barabara kwangu lakini wanasema eti wananchi wakae chini wajadiliane kisha ndiyo wapeleke maafikiano kwao. Ndiposa nilisema si sawa hivyo. Wao wanataka kutengeneza barabara. Kwa hiyo waje wazungumze na wananchi huko mashinani na kusema wanataka kujenga barabara fulani kwa ajili ya jambo Fulani. Kwa hivyo, mimi nikiungalia Mswada huu naona una mambo mengi mazuri.

Siku chache zilizopita Mhe. Rais Uhuru Kenyatta alikuja Shika Adabu kule Mombasa. Nilisimama na kusema hatuwezi kupanua bandari yetu ya Mombasa bila kupanua *external infrastructure*. Barabara ni lazima zipanuliwe. Kwa maana hiyo mimi nashukuru kwa sababu barabara hivi sasa zinapanuliwa kutoka Mlango wa Kenya Ports Authority (KPA) kupitia kwenye eneo bunge langu. Mswada huu unasema kwamba ikiwa kuna kitu chochote ambacho unahitaji kirekebishwe ni lazima utoe notisi ya miezi sita. Ni kweli Wachina wako pale kwangu wakitengeneza barabara nzuri lakini hawakutoa notisi ya kutoa mifereji ya maji katika sehemu ya Mikindani. Leo hii panapotengenezwa barabara kule kwangu wakazi hawana maji. Sheria inawahitaji wajenzi wa barabara watoe notisi ya miezi sita kwa Mombasa Water and Sewerage Company ambao husambaza maji ili wapate nafasi ya kutoa mifereji yao na kuiweka mahali pengine. Leo hii kwa sababu barabara inatengenezwa ndani ya eneo bunge langu, sehemu ya Mikindani, wananchi hawana maji kabisa.

Ukiangalia ndani ya Miritini watu hawana maji kwa sababu *pipe* zimeharibiwa na barabara. Hata ndani ya sehemu ya Jomvu Kuu pia watu hawana maji kwa sababu sheria haikufuatwa. Mwenyekiti wa Kamati inayosimamia barabara, ambaye ni rafiki yangu, yuko hapa. Tafadhali tushikane mikono tuangalie jinsi tutakavyoweza kuthibiti tatizo hili ili wananchi wasifurahie barabara huku wanakufa kwa kiu. Tuangalie kuwa mambo haya yanaenda sambamba. Barabara itengenezwe na watu wapate maji ili wafurahie mradi ambao umeletwa kwao kuwa umeletwa kwa njia ya manufaa.

Yote tisa lakini mimi kama Mbunge nimefurahishwa na barabara ambayo inatoka Kilindini na ambayo itakuwa *dual carriageway* ya kupita katika sehemu yangu. Barabara ile ikimalizika msongamano mkubwa wa magari ambao ulikuwa ukishuhudiwa katika magari ya kutoka Nairobi na kwenda mpaka Mombasa utaisha.

Mhe. Naibu Spika wa Muda, nakumbuka ni mwaka juzi tu ulipotoka Mombasa. Wewe ni rafiki yangu. Ulitaka kwenda moja kwa moja mpaka Mtito Andei lakini ulikwama kwa barabara katika sehemu ya Miritini mpaka ukanipigia simu ikabidi nimuite OCPD aje akufungulie barabara ili uweze kupita uende sehemu yako ya Mtito Andei. Kwa hivyo hili ni jambo ambalo

hatutaki tena litoke katika nchi inayokua kama Kenya. Tunataka tuone barabara zetu zimenawiri na kuwa sawasawa. Kama Mbunge mwenzangu alivyozungumza hapa, barabara ya kutoka bandarini ambayo inaitwa *gateway to East and Central Africa* ndiyo barabara ambayo inafanya biashara katika nchi zetu za Uganda, Rwanda, Burundi na sehemu nyingine kunawiri. Kwa hivyo, ni lazima barabara hizi zitengenezwe na namwambia mwenyekiti wa Kamati inayosimamia barabara kwamba tutashirikiana pamoja na Kamati yake katika sehemu zetu tofauti ili tuweze kukuletea matatizo yetu tuone kuwa tumeyatua kwa ajili ya wananchi wetu ambao wametuchagua.

Kwa hayo machache, nakushukuru Mhe. Naibu Spika wa Muda kwa kunipatia fursa hii ili nizungumze na kuchangia katika Mswada huu wa barabara. Asante na Mwenyezi Mungu akubariki.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): *Asante.* Let us have the honourable Member representing the people of Ndaragwa, Hon. Jeremiah Kioni.

Hon. Kioni: Thank you, Hon. Temporary Deputy Speaker, for the opportunity to support this Bill. Before I start my contribution, let me take this opportunity to also thank the Speaker, Hon. Justin Muturi, for the ruling that he made a little bit earlier in the day, where he made it clear that this institution should not be used to undermine other institutions. Different arms of Government should allow other arms to function. That does not mean that they have a free day but it is important that we do not use Parliament to undermine other institutions.

Let me also take this opportunity to thank the Chairman of the Departmental Committee on Transport, Public Works and Housing, Hon. Pkosing, and also the former chairman, Hon. Kamanda. It is because of their effort that we have this Bill before us this evening. Also note that it had taken the former chairman a whole five years to get the Bill moving. It has taken this chair just a couple of weeks to consult and have the Bill on the Floor. That is surely commendable and we hope that when this moves to the Senate, they will not delay it but allow it to pass so that we can have the clarity that is there in this Bill.

This Bill introduces clarity in the management of our roads. It clearly allows us to know which road belongs where and who is responsible for what. It also brings clarity to the many agencies that have been created. I can see it has also repealed Acts. It is unfortunate that we had an Act that was passed. I do not think we even did it. It is dated 1920 and it helps us to man our roads. It is good to know that it has now been repealed.

For the record, many members have complained of what has not been done in their areas and what they think other areas have received. Let it be on record that Ndaragwa Constituency is one of the constituencies that did not benefit from any tarmacking of roads in the last Parliament. We hope and we have confidence that going forward, we will get some bit of tarmacking in our constituency.

Nyandarua County was mentioned by His Excellency the President as a marginalised county. It is within the Mt. Kenya region but we suffer for being there. Our area has the least of services. I have encouraged the Chairman of the Departmental Committee on Transport, Public Works and Housing to visit my area. I have promised to slaughter a goat and if we can handle two, we will slaughter two, for him to come and familiarise himself with the conditions that we are in. When we say that we lack services, it is not believed for the reason that we are within the Mt. Kenya region. The narrative is that most areas within Mt. Kenya region are developed in one

way or another. That is not true. It is far from the truth. I encourage Members who still harbour and hold that view to come and visit our area, especially Ndaragwa Constituency.

I want to join Hon. (Dr.) Kibunguchy. If we are not careful, Members will literally become irrelevant on issues of roads in this classification. If it was possible to get back class B roads to the national Government, then we can influence the development, improvement and maintenance of roads within our constituencies. I have read this Bill. As it is now, Ndaragwa Constituency is completely outside the ambit of the national Government. We have nothing that can be called a national trunk road within the secondary or the primary category. If that is the case, then we will be left at the mercy of the governor and the county assembly. This is not a comfortable thing. I have been with them for the last six months, and all that I can see happening is unnecessary competition which will not help us in any way. For Members of Parliament to be relevant, we need to be careful, so that we do not take all the roads to the county government. If we want our roads within our constituencies tarmacked, the only agency that will do it is the national Government. The county governors will not tarmack any roads in our area. They will continue to murrum and add murrum on top of another, and it will continue. I do not know what you expect more. I am fearful because if this classification is not checked again, then we will never get any road tarmacked in Ndaragwa Constituency, unless it will be under a special programme. All the roads have been taken over. They are all called feeder roads from this classification. It is something that we, as Members, must pay attention to because we can easily legislate ourselves out of the road sector. That will not be a very kind thing.

Having said that, the Bill helps us in many ways, including the clarity that I have talked about. It has established the Public Roads Standards Board. I hope one of things that the Board will do quickly is to pay attention to the kind of bumps that we have in this country. Some of the bumps that have been erected across the country are very high. Some cars take some time to climb over a bump. I do not need to belabour that point. We have many vehicles that have been damaged in this country because of the kind of bumps that are constructed. You go to one region and there are high bumps. Other regions have low bumps, and others have rumble strips. We need common standards across the board so that you are not surprised by a bump that causes you to crash into a ditch.

Let me also say that it is important to pay attention to the penalties. I hope the issue of the *boda bodas* will be addressed by the Departmental Committee on Transport, Public Works and Housing. I do not know how they ride. When looking at the suggestions from Members, we need to address the *boda boda* issue. You cannot talk about issues of roads in this country anymore without thinking about the *boda boda* issue. When you are driving a motor vehicle, you are not in the same mindset as the cyclist. That is how many accidents occur. When I am driving, I find it very difficult to think of how the motor vehicle driver is supposed to behave while still thinking of how the rider is likely to come and disobey all the rules. We need to pay attention to it because it is a major issue that requires our attention. I am sure the Departmental Committee on Transport, Public Works and Housing has an opportunity to do that now. They should do it well.

I have seen the people in charge of KeRRA. I am happy that they are likely to do some work in our constituency. Some tarmacking of roads is likely to happen during this term and we thank the Government; the roads team and our God because we have been remembered.

We need to talk about Thika Highway where a lot of the traffic jam we experience is caused by pedestrians crossing. They have to because they have not been provided with footbridges. It is important that attention be paid to that. I know there is the issue of money but it is important that attention be paid to that.

Article 22 of the Bill, among other Articles, talks about the qualifications of those who are supposed to serve on various boards. There is the requirement of fulfillment of Chapter Six of the Constitution. I know this is something we find in many pieces of legislation that pass through this House and in the Senate. It is important that we focus on the requirements of Chapter Six. If we fulfil the requirements of Chapter 6, many of the things that we are complaining about including the corruption, delayed completion of roads and standard of construction would be dealt with. I am happy to see that we have brought in the requirements of Chapter Six in the qualifications of board members but it is important to ensure that they are read and adhered to.

Finally, I thank the Committee and this House because in passing this Bill, we will align it to the requirements of the Constitution. It is important that we always focus on what the Constitution intended for every Bill that we pass.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Let us have the Member for Ganze.

Hon. Mwambire: Thank you very much, Hon. Temporary Deputy Speaker for giving me an opportunity to demonstrate my support of this Bill.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Hon. Member, we are just following the list. After the Member for Ganze, we will have the Member for Kanduyi then the Member for Kasipul.

Hon. Mwambire: Hon. Temporary Deputy Speaker, though much has been said, there are some pertinent issues which I need to share particularly from my constituency.

I have looked at the Bill and discovered that there are some issues which will address the current situation. For instance, in my constituency, with regard to the KeRRA roads, I have come to discover that even disbursement of funds is normally given equally. I have a good number of roads which are under KeRRA. Those roads have been left to a neighbouring constituency to fund them making it very difficult for me to oversee them. But in this Bill, it is very clear on how those roads will be managed. I believe that when it comes to disbursement, it should not be done equally but there should be a clear way on how best these monies can be channelled to the constituencies, especially to the roads committees so that it can be easier even for the Member of Parliament to oversee these roads. Otherwise, if the situation will remain the way it is, then it becomes a very big challenge. I believe that even after passage of this Bill there will be close follow-up so that some people do not engage in the same practices. This is because there is a tendency in this country whereby we have very good laws but when it comes to implementation, they come up with some loopholes to keep on practising the same issues whereby some constituencies do not get the right services.

Some Members are talking of some counties not tarmacking some roads. There are some counties which tarmac some roads. There are some constituencies, like mine, which normally get it very rough. There must be clear ways of ensuring that all constituencies get good tarmac roads. That way, people will be in a position to rush from one point to another and also access institutions that ought to serve them.

Thank you very much Hon. Temporary Deputy Speaker for giving me an opportunity to demonstrate my support for the Bill.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Hon. Members, we have stipulated time to complete debate on Bills as stated in the Standing Orders and as per our House resolutions. Let me give this chance to the Mover to reply. I know he is going to be philanthropic enough and donate some time to the four Members whose requests I have.

It is time for the Mover to reply though I wanted to give this chance to Hon. Wamunyinyi.

Hon. Losiakou: The Leader of the Majority Party can reply and if he has time, I could help him. Thank you.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): The Mover of the Bill is the Leader of the Majority Party.

Hon. A.B. Duale: Hon. Temporary Deputy Speaker, the Mover is the owner of the Bill and in this case, I am the owner. So, the Chair can hold his horses.

Because my colleagues, Hon. Wamunyinyi, Hon. Ong'ondo, Hon. Ngugi and Hon. Ayub Savula, have been here all the while, I will give them two minutes each, in that order.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Thank you Leader of the Majority Party for being philanthropic enough. We have four requests and all the four Members are going to benefit.

Hon. Wafula Wamunyinyi, you have two minutes.

Hon. Wamunyinyi: Thank you, Hon. Temporary Deputy Speaker and thank you Leader of the Majority Party for donating your time.

I support this Bill. It is very important to us because it seeks to give effect to the Constitution by proposing to rationalise and to put in place a good framework for the general management of roads in our country. It does this through various amendments of legislative pieces. It proposes that agencies and boards to manage road networks and activities related to roads be set up. I want to say two things because of the brief time I have been given.

It is necessary to make sure there is harmonisation and re-classification of roads in our country to make sure that there is no confusion and duplication. The roles of both county governments and national Government must be spelt out very clearly. Roads must be properly maintained and made safe for all people, including people living with disabilities. Apart from maintenance, roads signs and markings have to be in place to show black spots.

I also wanted to talk about equitable distribution of resources for road networks. It is important that all parts of the country benefit from that, like we are insisting on the NG-CDF. A flat rate for each constituency was set yet a constituency like mine with nine wards gets the same amount of money as a constituency with, say, three wards. I have more than 200 schools in my constituency yet I get the same amount of money as a constituency with 40 schools. That is very unfair.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Thank you, Hon. Wamunyinyi. Your two minutes are over. I am sure you have much to say.

Let us have the Hon. Member for Kasipul.

Hon. Were: Thank you, Hon. Temporary Deputy Speaker. I take this opportunity to support the Bill. For any country to be developed, roads are key. They are a pillar for any economic development. Through roads, we can take our produce to markets and reach hospitals. So, they are key. The only thing which has to be done, Hon. Chairman, is the application of

equity in roadwork distribution. I can confirm without fear of contradiction *serikali ya nusu mkate* did a lot of work in terms of roads. Even the road designs that are currently being implemented were engineered during the time of that regime. *Kwa hivyo, hongera kwako.*

The other thing is on contractors. The Chinese contractors are doing a very good job, and we appreciate. However, in Kasipul, there is one contractor who is doing a project under the African Development Bank (ADB). We need the Chairman to visit that area to ascertain the type of work being done. Even when it comes to employment of locals, only 10 per cent of the labour force is from within the local areas. I wish the Chair could look into that aspect so that road projects can benefit us in terms of employment. On equity, there is a problem. For example, in...

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Your two minutes are over. Please plan for your two minutes.

Hon. Ngugi: Thank you, Hon. Temporary Deputy Speaker. Thank you also our leader for giving me two minutes. I do not want to talk much but there is an issue I want to address. Most of the Members who have talked seemed to have lost confidence in our local contractors but I want to tell them that if we support our local contractors, they can also perform. They suffer because when they bid for jobs, they have to spend a lot of money, which is very expensive. There is 10 per cent performance bond. Most road agencies want you to pay using cash. Even when you use an asset, it has to be devalued, which is very expensive. It has become very hard for local contractors to secure advance payment. When it comes to the Chinese, most Members do not know that they are heavily supported by their Government. Our local companies are not given any support.

Hon. Chairman, you have done a good job but as we come to the conclusion of this debate, you must find a way of supporting our local companies. It is very bad that 50 years after Independence, we are talking about foreign companies winning big contracts. Local people have been able to perform in various other sectors. We have seen them in Small and Medium-sized Enterprises (SMEs)...

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Your two minutes are over. Hon. Angatia Savula.

Hon. Angatia: Thank you, Hon. Temporary Deputy Speaker and the Leader of the Majority Party for the opportunity.

First and foremost, I congratulate the Committee. You have done a wonderful job of collapsing several statutes into one roads Bill creating standards of roads in this country. This will help local and international contractors to do standard jobs in this country, establish standard bridges and even road shoulders, and ensure that we monitor how the roads are done before payments are made. Previously, we used an inspection unit at the Ministry of Public Works, which was not effective.

Secondly, the Bill also gives clarity between the work done by the county governments and the national Government, especially county governments that manage areas that are in urban centres. Governors have been taking advantage of roads done by the Kenya Urban Roads Authority and claim that they are the ones responsible for the good works. This Bill has clarified the difference between a road done by KURA and the county government.

Thirdly, the Bill also gives a clear indication on which road should be done by KeNHA and KNSRA. The KNSRA is a new introduction in this Bill, and it will deal with Road Classes C and D. This will help constituency-based roads that link one county to the other. Lastly, there is

the issue of creation of a county roads agency. This is very critical because the roads in the counties have been done haphazardly.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Thank you. The Leader of the Majority Party, you only have two minutes.

Hon. A.B. Duale: Thank you, Hon. Temporary Deputy Speaker. I want to thank all colleagues who contributed. I also want to thank the Chair of this Committee. He is a unique one. He has sat here the whole afternoon. That is the essence of a chair; to listen to the views of Members and to incorporate them into amendments that will improve on the Bill. In just one word, the principal object of this Bill is to give effect to the Fourth Schedule of the Constitution in relation to the roads subsector. It is supposed to review, consolidate and rationalize the legal and institutional framework for the management of the road network in our country.

I beg to move.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Order, Hon. Savula! Hon. Members, the Question to the Bill will be put at the most appropriate time in a sitting as will have been decided by the House Business Committee (HBC).

ADJOURNMENT

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Hon. Members, the time being 7.00 p.m., this House stands adjourned until tomorrow, Wednesday 28th February 2018 at 9.30. a.m.

House rose at 7.00 p.m.