

PARLIAMENT OF KENYA

THE SENATE

THE HANSARD

Wednesday, 12th September, 2018

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

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

PRAYER

COMMUNICATION FROM THE CHAIR

VISITING COUNTY STAFF ON LEGISLATIVE ATTACHMENT PROGRAMME

The Temporary Speaker (Sen. (Prof.) Kamar): Honorable Senators, I have a communication to make on the visiting staff on attachment for the Sixth Senate County Legislative Attachment Programme.

I acknowledge the presence in the Speaker's Gallery this afternoon of visiting staff from 15 county assemblies who are on attachment for the Sixth Senate County Legislative Attachment Programme which was formally launched by the former Speaker of the Senate, Hon. Ethuro, on 18th September, 2015, at the Serena Hotel.

I request each member of the delegation to stand when called out, so that they may be acknowledged in the Senate tradition.

Nairobi City County

Mr. Mwenje Edward Atang'o - Audio Technician
Ms. Caroline Mutegi - Hansard Reporter

Nakuru County

Mr. Gatimu Stephen - Deputy Clerk
Mr. Raphael Rotich - Principal Clerk

Garissa County

Mr. Salah Bule - Committee Clerk
Mr. Abdi Siyad Keynan - Senior Research Officer

Baringo County

Mr. David K. Cherutich - Fiscal Analyst
Mr. Emmanuel Kibai - Hansard Reporter

Migori County

Mr. Immanuel A King'wara - Principal Clerk
Ms. Emma Atieno Ogutu - Hansard Editor

Kirinyaga County

Mr. Solomon Mwai Munene	-	Principal Clerk Assistant
Ms. Susan Wangui Githinji	-	Legal Research Officer
Embu County		
Mr. William Njeru Karani	-	Serjeant-At-Arms
Ms. Dorothy Muthoni Mate	-	Hansard Reporter
Elgeyo-Marakwet		
Ms. Priscah Kipyator	-	Serjeant-At-Arms
Mr. Edwin Cheserek	-	Hansard Reporter
Makueni County		
Mr. Franklin N. Kisilu	-	Clerk Assistant II
Ms. Esther Mutheu Musau	-	Principal Clerk Assistant
Mombasa County		
Mr. Dorothy Auma Adhoch	-	Director, Legislative Procedural and Committee Services
Mr. Rashid Kaka	-	Director, Research and Information Services

The Temporary Speaker (Sen. (Prof.) Kamar): May I allow the hon. Members to walk in.

(Several hon. Members walked into the Chamber)

Nyandarua County

Mr. Stephene Muriithi Wairimu	-	Director Legal Legislative, Procedural, Research and Committee Services.
Mr. Peter Waweru	-	Principal Hansard Clerk

Nyamira County

Ms. Sheillah Kerubo Obare	-	Director- Legal, Library and Research Services.
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Uasin Gishu County

Mr. Paul Kiporono Kirwa	-	Senior Clerk
Mr. Richard Kiprono Bett	-	Senior Hansard Editor.

Tana River County

Ms. Amina Marwa	-	Clerk Assistant
Mr. Ibrahim Dido	-	Fiscal Analyst

Kakamega County

Ms. Susan Adhiambo Musumba	-	Research Officer
Mr. Brian S Minishi	-	Legal Assistant

We welcome you all to the Senate and wish you well in the attachment programme which you are participating in.

I thank you.

(Applause)

The Senate Majority Leader (Sen. Murkomen): On point of order, Madam Temporary Speaker.

The Temporary Speaker (Sen. (Prof.) Kamar): Why I am I seeing a point of order from the Senate Majority Leader?

The Senate Majority Leader (Sen. Murkomen): Madam Temporary Speaker, I have a point of order to raise. Before I do so, first with your permission, I join you in welcoming the staff from the county assemblies across the country. As has been our tradition, we have been providing the professional guidance to county assemblies. We have worked so well for the last six years. I am very proud of the fact that we have county assembly staff coming in here to visit for benchmarking.

I believe - as I said yesterday when the other team came - that this is a great opportunity for us to build the institution of our counties. As I have insisted, the success of county assemblies depends on the kind of staff they have because the mobility and the changes that happen with the elected leaders is always very frequent. However, when it comes to the staff, they are the institutional memory of the county assemblies.

Thank you, Madam Temporary Speaker.

Madam Temporary Speaker, you may now allow me to raise my point of order.

POINT OF ORDER

THE SIGNIFICANCE OF WHITE HEADSCARVES WORN BY SENATORS IN THE HOUSE

Now allow me to raise my point of order. There is a problem in the House. Is it in order for hon. Senators, including the youngest Senator, to come wearing something that I cannot even describe, but I only see it in religious cycles? Is the Senate being converted into a sect with a particular uniform that has not been declared?

Madam Temporary Speaker, I am very careful when I am raising this issue, because, although you have something close to what they have, it is not worn exactly in the manner in which they did. Is it in order that more than ten Senators are wearing something that looks like a religious sect and without the notice of the House, not even the Senate Minority Leader or myself knows what is going on? What is going on in this House? Are we safe?

The Temporary Speaker (Sen. (Prof.) Kamar): Hon. Senator, are you worried that, coincidentally, people are wearing the same colour, or you are worried that there could be something? First, let us listen to another intervention from Sen. Farhiya.

Sen. Farhiya: Thank you, Madam Temporary Speaker for giving me this opportunity. This is about gender parity. It is not about women.

Right now, women are the ones who are disadvantaged. However, in the future, men could also be on the other side. Our Constitution demands two-thirds gender rule be observed. So, it is a constitutional right. We would have liked to have 50 per cent, but now we are beginning with a third. None of our institutions has met such requirements, including this House, the National Assembly and many others. Gender parity is a human right. Gender parity is also a development issue.

The Temporary Speaker (Sen. (Prof.) Kamar): Sen. Farhiya, I though you stood on a point order. I think they have understood.

I can see several points of order apart from contributions. Sen. Khaniri, I see you in both point of order and also in requests.

Sen. Khaniri: Indeed, Madam Temporary Speaker, I am rising on both, but I do not know which one you are granting me. Do I start with the point of order?

The Temporary Speaker (Sen. (Prof.) Kamar): Did you use the system when you posted both?

Sen. Khaniri: Yes, Madam Temporary Speaker. Initially, I had sought the Floor so that I could have joined you in welcoming the distinguished delegations from various counties. However, I am equally concerned, just like the Senate Majority Leader. Initially I thought the female Senators were turning the House into some kind of cult. However, I heard some explanations which bring in another aspect. This amounts to discrimination. If there was a protest, then we should also be involved and also be given those white turbans so that we can protest together. Why are they discriminating against the male members of the Senate?

The Temporary Speaker (Sen. (Prof.) Kamar): I can see another point of order from Sen. Outa.

Sen. Outa: Thank you, Madam Temporary Speaker. When we talk of gender parity, then I would be lost for words when they know this is the right thing to do. As Senator Khaniri has said, we are much more willing to join in this campaign and have the Constitutional requirement met. How come the Deputy Senate Minority, Sen. Dulo, was not even given one? Is there any design that they will be able to design for us so that we can join in this good fight?

The Temporary Speaker (Sen. (Prof.) Kamar): Good request. Because we have a number of points of order, I want to clear them so that we go back to your notes of appreciation. I thought you were going to ask why they have adopted the headscarf of the Speaker because that was my headscarf in the morning and everybody is in it now.

Sen. Sakaja: Thank you, Madam Temporary Speaker. While nothing might be out of order in the dress code chosen by the female Senators, Article 27 is clear as Sen. George Khaniri has said about discrimination. However, beyond that, I am struggling to understand, and I hope one of the female Members might let us know how the headscarf translates into the vote. This is because in this House as legislators, what we need to do is to bring the Bill and vote for it. We are struggling to understand the connection between attire and the actual vote that is needed.

Finally, Madam Speaker, I was an hon. Member of the last Parliament. I am afraid that our female Members are getting into the same trap. The reason why the National Assembly at that time did not vote in support of the two-thirds gender rule is because female Members made it about the female gender. In fact, I was an honorary member of KEWOPA as a man because we were supporting their cause. However, as long as they make it us versus them, men versus women, immediately you bring it to the House, there will be a divide and the numbers will never be enough to pass it. So I would just like to advise our female colleagues rope us in, but explain to us how the scarf translates into a Bill and how it will be voted in this House and in the “lower” House.

The Temporary Speaker (Sen. (Prof.) Kamar): I see Hon. Parano. She might answer that.

Sen. Pareno: Thank you, Madam Temporary Speaker.

I want to assure the Senators, especially the Senate Majority Leader that we cannot be members of a sect. In fact, I was raising a point of order whether it was in

order for him, in the first place, to purport to indicate that anybody wearing a headscarf is a sect member? So, I want to say that, that was really out of what we want to say.

Madam Temporary Speaker, we are just making a statement. In this country, you have the same rights that everybody else has of either gender. We are not talking about two-thirds as just affecting the women. It is two-thirds of either gender. So, for us we are saying that we are making a statement to rope you in. So, if this statement has touched male Senators that these female Senators and ladies from the National Assembly are making a statement to appeal to men that it is time we changed on the two-thirds gender rule.

I came from the observation of elections in Rwanda. They had a special day to dedicate to elections that touch on women. They had a special day to dedicate to youth and people with disabilities. At the end of the day, everybody felt he had been given a chance. How did it translate? In fact, it has gone up to 67 per cent. The women who were elected in Rwanda in the just concluded election rose up from 64 per cent to 67 per cent.

I must say that I was proud to see that country conduct the election in the manner that it did. We are not just talking about elections, we are talking about space for all of us. Can we have the two-thirds gender rule? This is because it says, not either of the gender should be more than two-thirds. It does not discriminate against men. We are asking our brothers to join us in this statement. It is an appeal.

The Temporary Speaker (Sen. (Prof.) Kamar): Thank you.

Sen. Ali Abdulahi, I want to make a ruling so that we can proceed.

Sen. (Dr.) Ali: Thank you, Madam Temporary Speaker. I understand the plight of the female gender, given the African male chauvinism. However, I thought in this House we have achieved that. We are supposed to be one and join the others and push the National Assembly and other areas to achieve this. You do not have to protest in the House where we have the one-third. That one will make us turn against you guys. Is that in order for them to protest here when the Senate has achieved the one-third rule? Out of 47 Senators, we have 16 female Senators.

The Temporary Speaker (Sen. (Prof.) Kamar): Hon. Senator, I hope you are not talking of guys.

Let us listen to Senate Minority Leader, Sen. Orengo.

The Senate Minority Leader (Sen. Orengo): Madam Temporary Speaker, in fact, I was looking for a headscarf. If it gets here on time I will wear it. I will not ask why the gracious ladies, the Members of the Senate, are wearing the headscarf and a white one, which is a sign of peace.

Under the Constitution of Kenya, there is freedom of expression. Freedom of expression does not mean that you stand up and speak; you can use other means to express and communicate what is on your mind. I want to remind our fellow Members that if you go to the history of the Suffragette Movement, women were struggling for the right to vote and it took quite a long time. They were going on hunger strike as a basis of freedom of expression; to make the world know about the urgency of the moment.

I am a little bit ashamed that communities that are thought to be hard on women like in Asia and Islamic countries like Pakistan, Bangladesh, Indonesia and Sri Lanka have had women leaders and even prime ministers. Here, we cannot imagine women being the majority in any Chamber of the two Houses of Parliament. I support and if my

mother was a Member of this Chamber, she would have worn this scarf. I would not ask her why she has worn a scarf because she brought me into this world.

I believe in the urgency of the moment because the Constitution of Kenya was promulgated in August, 2010. It is now nearly a decade and we have not achieved one of the most basic commands of the Constitution. I remember when Hon. Ombaka was a Member of the National Assembly, he said something that touched everybody in the National Assembly. At that time, 90 per cent of the Members of Parliament were men. He said:

“When you walk out of this Chamber and go out to the streets, the majority of the people out there are women and when it comes to leadership women are in the minority.”

I think that Africa is being left behind. Some of the most powerful countries in Latin America like Brazil and Argentina are electing women as Presidents and yet, here, wearing a scarf here becomes an issue. Just imagine that wearing a scarf is worrying us. It shows how far away we are from the principle of equality.

Madam Temporary Speaker, if I do not wear my scarf today, I will wear it tomorrow even if I will be alone. I will wear it very proudly as a supporter of the women movement.

Thank you.

The Temporary Speaker (Sen. (Prof.) Kamar): Thank you the Senate Minority Leader. I now have the last person who is the Senate Majority Leader.

The Senate Majority Leader (Murkomen): On a point of order, Madam Temporary Speaker.

The Temporary Speaker (Sen. (Prof.) Kamar): Is it a clarification for you already had your chance on a point of order? I need to rule so that we move on, because we have a very huge agenda today.

The Senate Majority Leader (Murkomen): Madam Temporary Speaker, I want to thank the Senators for giving an explanation as to why they dressed up closer to *Legio Maria* today. I wanted to understand the reason---

The Temporary Speaker (Sen. (Prof.) Kamar): Hon. Senator, are you against *Legio Maria*?

The Senate Majority Leader (Murkomen): Not at all, Madam Temporary Speaker. What they are wearing is closer to *Legio Maria*, which is a very important religion in this country. I thought that there was a sermon somewhere around this building and people were converted.

That is important because it would have been of no value if the hon. Senators came to this House wearing what they have and no explanation is given.

Sen. Shiyonga: On a point of order, Madam Temporary Speaker.

The Temporary Speaker (Sen. (Prof.) Kamar): You seem to be attracting another point of order against a point of order.

The Senate Majority Leader (Murkomen): I am on a point of order, Madam Temporary Speaker. The Standing Orders do not allow another point of order.

I am equally satisfied with the explanation given. It is only Sen. Orengo who seems to have had the memo. If the memo was sent telling us to wear a white scarf or a white cap today, why discriminate against us?

In the last Parliament, I laboured in this House four or five times, and the Hansard will bear me witness--- In fact, I turned myself to be a whip for purposes of mobilising both sides to vote for the constitutional amendment that was brought by Sen. Sijeny, so as to ensure that we have more than a third of either gender in this House. Before you wear the white scarfs, you should start by honouring the honourable supporters of the women's cause in this country like me.

Secondly, if Sen. Orenge was so serious, he is the Senate Minority Leader and the most influential leader in ODM and NASA. The minority side has no single elected woman in this House. The majority side, where I serve and had contribution, has three elected women, including you, Madam Chair. In fact, if the minority side had allowed hon. Joyce Lay to be elected as the Senator for Taita-Taveta County - and this is not meant to look down upon the Senator for Taita-Taveta County - this House would only need one elected female Senator to get to the one-third gender rule.

It is good for Sen. Orenge to speak passionately, but he should demonstrate his passion with actions. On this side we are celebrating three elected women Senators in this House. I hope that going forward, the minority side will provide opportunities for more women.

I believe that in 2022, with the seriousness that we have on the majority side, we will have more than five women elected to this House, even if it means that the Senate Majority Leader, yours truly, will have to forfeit his position for a woman to be elected in Elgeyo-Marakwet.

Thank you.

The Temporary Speaker (Sen. (Prof.) Kamar): Thank you. Sen. Shiyonga, are you satisfied with the clarification?

Sen. Shiyonga: Yes, Madam Temporary Speaker.

The Temporary Speaker (Sen. (Prof.) Kamar): She is satisfied. The last one is Sen. Farhiya, who must apologise for discriminating.

Sen. Farhiya: Madam Temporary Speaker, I apologise for discriminating. I also know that this is a responsible House and it will do the right thing in terms of passing the legislation. However, I wanted to make a clarification. We are not yet 33 per cent; we are 31 per cent even in this House.

Thank you.

The Temporary Speaker (Sen. (Prof.) Kamar): Hon. Members, I will go back to those who wanted to speak to the Communication on the staff that we have in the Gallery today.

Hon. Khaniri.

Sen. Khaniri: I will be very brief, Madam Temporary Speaker. I want to join you and the Senate Majority Leader in welcoming the distinguished delegations of staff from various county assemblies around the Republic.

I also want to note that as I have always said here, devolution is one very important thing that Kenyans achieved in the last change of the Constitution that we had in 2010. For devolution to succeed, it will take the county assemblies and the Senate working together. The county assemblies are our first line of defence when it comes to oversight of the funds that we send to our counties.

Therefore, I want to encourage the collaboration that is there between the Senate and the county assemblies. I wish to encourage the county assemblies that have not yet

sent their staff and members here for bench marking to do so. Vihiga County Assembly, in particular, has sent so many delegations both in the last Parliament and in this Parliament, and I am very proud of that fact. I want to join you in wishing them well and success in whatever they are doing in Nairobi and a comfortable stay.

Thank you.

Sen. Dullo: Madam Temporary Speaker, I wish to join my colleagues and yourself in welcoming members of staff from various counties including Nakuru, Garissa, Migori, Kirinyaga, Elgeyo-Marakwet, Makueni, Mombasa, Nyandarua, Nyamira and Tana River. The counties that have sent members of staff to the Senate will learn a lot from the Senate and also interact with members of staff of the Senate. I hope they will utilise the opportunity so that they build capacities of their assemblies and county governments. Capacity building is continuous even for this House.

Yesterday I talked about capacity building for Members of County Assemblies (MCAs). Unfortunately, my opponents construed that I called MCAs of Isiolo County illiterate, which is not the position. Capacity building is important for each and everybody new in the institutions.

As Sen. Khaniri has said, I hope that counties that have not sent delegations to the Senate will do so, so that we interact and work together closely in terms of our partnership.

I thank you, Madam Temporary Speaker.

The Temporary Speaker (Sen. (Prof.) Kamar): Let us limit ourselves to less than one minute.

Sen. (Dr.) Langat: Thank you very much, Madam Temporary Speaker, for giving me this chance to also congratulate delegations from various counties to this particular House. The relationship, interaction and cooperation between the Senate and county assemblies and county executives will enhance the agenda for devolution in this country.

This Senate has organised field trips to various counties. As you all know, in two weeks' time, we shall be in Uasin Gishu County. That signals that we are very much interested in knowing what is happening on the ground as Members who do oversight.

I thank them very much. I encourage various counties that have not come to also come and see what is happening here. I thank you.

The Temporary Speaker (Sen. (Prof.) Kamar): Sen. (Rev.) Waqo, you have a half a minute.

Sen. (Rev.) Waqo: Madam Temporary Speaker, as I stand, with your permission, I congratulate the ladies who have passed an important message. I also join you in welcoming the members of staff of counties who are here with us. I would like to tell them that by coming, they are strengthening our relationship and partnership with the counties. I just want to give them assurance that the Senate is always there for them and we are always ready to support them.

As I finish, they should also know that many things are happening in counties. They need to protect the integrity and accountability is much needed in every county. As they go back to the counties, they should make sure that there is good service delivery, so that they serve the people properly. Pass our greetings.

The Temporary Speaker (Sen. (Prof.) Kamar): Sen. Masitsa Naomi Shiyonga, you also have a half a minute.

Sen. Shiyonga: Madam Temporary Speaker, thank you for giving me this opportunity to join you in welcoming the various staff from our counties. It is great pleasure to have staff from various counties come to benchmark with us. When counties come to learn and see what the Senate does, it is a gesture of good relationship between the counties and the Senate.

Much more has been said but I would like to point out one thing. Benchmarking is not all about wasting money and time but it is about learning from your superiors or colleagues.

I take this opportunity to join you in welcoming members of staff from various counties to the Senate. We will soon be going to the counties so as to make the relationship strong.

The Temporary Speaker (Sen. (Prof.) Kamar): Let us now move to the next Order.

The Senate Majority Leader (Sen. Murkomen): Madam Temporary Speaker, before I lay these Papers, allow me to request that Members should wait for the Division because we are just enough to vote, so that we do not miss the numbers. I am sure they have heard me. I just wanted to pass that message.

PAPERS LAID

REPORTS ON FINANCIAL STATEMENTS OF VARIOUS COUNTY AGENCIES

The Senate Majority Leader (Sen. Murkomen): Madam Temporary Speaker, I beg to lay the following papers on the Table of the Senate, today, Wednesday, 12th September, 2018-

(a) Report of the Auditor-General on the financial statements of Kilifi County Ward Scholarship Fund for the year ended 30th June, 2015.

(b) Report of the Auditor-General on the financial statements of Kilifi County Ward Scholarship Fund for the year ended 30th June, 2016.

(c) Report of the Auditor-General on the financial statements of Kilifi County Ward Scholarship Fund for the year ended 30 June, 2017.

(d) Report of the Auditor-General on the financial statements of Kilifi–Mariakani Water & Sewerage Company Limited for the year ended 30th June, 2017.

(e) Report of the Auditor-General on the financial statements of Kwale County Bursary Fund for the year ended 30th June, 2016.

(f) Report of the Auditor-General on the financial statements of Kwale County Assembly Members and Staff (Car and Mortgage) Loan Scheme Fund for the year ended 30th June, 2016.

(g) Report of the Auditor-General on the financial statements of Taita-Taveta County Employee Mortgage Loan Fund for the year ended 30th June, 2017.

(h) Report of the Auditor-General on the financial statements of Taita-Taveta Emergency Fund for the year ended 30th June, 2017.

(i) Report of the Auditor-General on the financial statements of Taita-Taveta Road Maintenance Levy Fund for the year ended 30th June, 2016.

(j) Report of the Auditor-General on the financial statements of Taita-Taveta Road Maintenance Levy Fund for the year ended 30th June, 2017.

(k) Report of the Auditor-General on the financial statements of Taita-Taveta County Government Education Fund for the year ended 30th June, 2017.

(l) Report of the Auditor-General on the financial statements of Taita-Taveta County Assembly Mortgage (Members) Scheme Fund for the year ended 30th June, 2017.

(m) Report of the Auditor-General on the financial statements of Bungoma County Disability Empowerment Fund for the year ended 30th June, 2017.

(n) Report of the Auditor-General on the financial statements of Bungoma County Community Empowerment Fund for the year ended 30th June, 2016.

(o) Report of the Auditor-General on the financial statements of Bungoma County Disaster Management Emergency Fund for the year ended 30th June, 2017.

(p) Report of the Auditor-General on the financial statements of Kakamega County Water and Sanitation Company Limited for the year ended 30th June, 2017.

(q) Report of the Auditor-General on the financial statements of Mombasa County Elimu Fund for the year ended 30th June, 2016.

(Sen. Murkomen laid the documents on the Table)

Madam Temporary Speaker, I have laid these Papers but I have questions at the back of my mind. Yesterday I laid almost 15 Auditor-General's reports and today I have laid about 15.

When will we be done with these reports of the Auditor-General? I remember we discussed here that it is important for the County Public Accounts and Investments Committee to give us a way forward as the Senate even if it means sub-dividing the whole House to deal with various reports led by one or two Members of various committees, so that we can be up to date. Sen. Sakaja raised the same issue and said that he is oversighting the former Governor for Nairobi City County, Dr. Kidero, who is nowhere ---

The Temporary Speaker (Sen. (Prof.) Kamar): Senate Majority Leader, you have been on this Chair that I am sitting on before. You do no debate when ---

The Senate Majority Leader (Sen. Murkomen): Madam Temporary Speaker, I am not debating. I am just ---

The Temporary Speaker (Sen. (Prof.) Kamar): We know you are alerting the House. I remember the Chairperson of the County Public Accounts and Investments Committee (CPAIC) has already said they have storages. I remember him talking of dealing with the documents together instead of single filing them. So, if you can leave it there---

The Senate Majority Leader (Sen. Murkomen): Madam Temporary Speaker, I was making a request to the Chairperson that through you, Chair, because it was a ruling from the same Chairpersons in so far as how to expedite the same reports. It is not just these ones. You can see these are just bursaries and water companies. What about the main reports?

Through you, Chair, we request that that Committee, through The Speaker's Office, can - even if it means arrangement of a *kamukunji* within a week's time and agree

on how to deal with these reports. Otherwise, we will just be reading them here and wait for another five years to be dealt with.

The Temporary Speaker (Sen. (Prof.) Kamar): Thank you. I can see another intervention from the Minority Leader.

The Senate Minority Leader (Sen. Orengo): Madam Temporary Speaker, no.

The Temporary Speaker (Sen. (Prof.) Kamar): Okay. Sen. Faki, do you want to raise something?

Sen. Faki: Madam Temporary Speaker, on the issue raised by The Senate Majority Leader. It is actually a concern to the CPAIC Committee on the delay in the disposal of these reports. As you are aware, every county has an average of four reports which need to be considered and submitted to the full House.

One of the strategies that we have employed is to seek submission from the governors on the reports of the Auditor-General in so far as the executive branch is concerned. Based on the submissions made, unless there will be any queries, then we should be able to make our reports and submit them to the House. We are working on those strategies and I wish to assure the House that we shall be coming up with very vibrant strategies to deal with the backlog and also deal with current issues that are occurring in the counties.

The Senate Majority Leader (Sen. Murkomen): Madam Temporary Speaker, I thank the Member of the Committee for speaking out. However, is he in order to say that there are strategies and that they are working hard when yesterday you deferred Motions relating to reports of counties because there was no one from the Committee to move them? Can they show a little bit more seriousness on this important matter?

The Temporary Speaker (Sen. (Prof.) Kamar): Sen. Faki, do you want to respond to that?

Sen. Faki: Madam Temporary Speaker, yes. This is the only Committee that seats four days in a week. Sometimes we have sittings with governors up to 2 o'clock before we adjourn to attend the plenary session of the Senate. So, it is not a matter of people sleeping on the job. We are working very hard in this Committee.

Sen. Sakaja: On a point of order, Madam Temporary Speaker. This is a very important matter and the fact that it has been raised before and not dealt with conclusively, raises a lot of concern. We acknowledge that the Committee is working and possibly, it is not a matter of indolence or that the Committee is unable to perform. However, on this issue, we need direction, this time, from the Chair as to how we will deal with this backlog of events.

There is nothing more important for the Senate to play than its oversight role over counties. The oversight role that we play as expected by mwananchi out there is not out of subjective reasons that the governor did or did not do this yesterday. We play that oversight role based on the documents that come after the audits; the Auditor-General's reports.

On this issue, we urge you that from the Chair of the speaker, you shall give direction. If all Members of this House formed ourselves in an ad-hoc manner for two or three weeks on different counties, we will come up to date. Such that today, the senator for Siaya will deal with the current Governor for Siaya and the current issues affecting his county and we will be able to do that for all our counties. So, I urge for your indulgence. Please, deal with this issue. Let us not just hear that there are strategies and

ideas that we are coming up with; no. let there be clear direction on how to deal with this backlog on county audits.

The Temporary Speaker (Sen. (Prof.) Kamar): I see another intervention from Sen. Cheruiyot.

Sen. Cheruiyot: On a point of order, Mr. Speaker, Sir. I just want to bring to your attention that this is the umpteenth time that we are hearing this issue about the operations of CPAIC. At this point, I think it will be in order if you squarely put it on the hands of the House leadership where both the Senate Majority and Minority leaders sit in the Senate Business Committee (SBC) for them to consider a more effective approach to this. On previous occasions, we had had this discussion on the matter and the Speaker did not make any ruling. Before we know it, two or three weeks down the line, we are complaining again.

Madam Temporary Speaker, please, rule and give this matter the attention that it deserves.

The Temporary Speaker (Sen. (Prof.) Kamar): Thank you. Sen. Orengo, you may proceed.

The Senate Minority Leader (Sen. Orengo): Madam Temporary Speaker, I support what the Senator for Kericho County has said; that, the issue should be referred to the House leadership. The reason why I am saying this is; if you give directions and there is no structured way of dealing with the matter --- it is urgent and pressing. What The Senate Majority Leader and sen. Sakaja have said is true. Maybe in the lifetime of this Senate, we may never deal with a current Auditor-General's report. We will wait until another Senate comes.

It is something which should be thrown to the House leadership and may require the amendment of Standing Orders to find an effective and structured way to deal with these reports.

I remember Sen. M. Kajwang' at one time addressed the House on this issue. However, I think the way he was addressing it was not coming up with the solution which is structured. So, I think the direction that you should give is that the House leadership should come with a way forward within a certain time frame.

The Temporary Speaker (Sen. (Prof.) Kamar): Thank you, the Senate Majority Leader for raising this. I did not realise that it was going to attract a lot of attention. It has given some opportunity to ventilate on it. I think this is very serious.

I rule that tomorrow during the *kamukunji*, we will allow members who are not members of the leadership to ventilate for half-an-hour. So, we will spend 30 minutes discussing the issue of these reports. Thereafter, we will put it in the hands of the leadership. It is true that we have delayed. We cannot be doing postmortem. This is year two and we are starting our second year of service to this country and we would like to be current and deal with the current governors' reports. We will come up with a resolution tomorrow and will allow 30 minutes for ventilation during the *kamukunji* for non-members to put their ideas forward for the leadership to take over.

Next order.

We have two Notices of Motion. One is by Sen. Mwaruma.

Sen. Mwaruma: Thank you, Madam Temporary Speaker. I stand to give a notice of Motion on a topic that is as important as what has been discussed today on the issue of gender parity.

We cannot pretend to be developing or moving Kenya forward, while we are leaving a whole section of our population behind; and that is women and People living With Disabilities (PWDs).

NOTICES OF MOTIONS

COMPENSATION FOR VICTIMS OF HUMAN-WILDLIFE CONFLICT

Sen. Mwaruma: Madam Temporary Speaker, Sir, I beg to give notice of the following Motion:-

THAT, aware that tourism is amongst key sectors of Kenya's economy contributing billions of shillings to the country as well generating employment and livelihoods to millions of citizens;

FURTHER AWARE that Kenya is endowed with different wildlife species which contribute substantially to the national economy through tourism;

NOTING that cases of human-wildlife conflicts are on the rise as a result of many factors key among them climate change and encroachment on parks and nature reserves leading to deaths and maiming of people by wild animals

FURTHER NOTING that there is need to create a conducive environment for peaceful coexistence of human and wildlife in the same space given the importance of wildlife, not only to our economy, but ecology as well;

CONCERNED that victims of human-wildlife conflict and their families are not compensated for loss of lives, their being maimed or loss of means of livelihoods due to failure of the National Treasury to allocate adequate funds for this purpose, contrary to the Wildlife Compensation Management Act;

FURTHER CONCERNED that the regions and communities hosting the wildlife are marginalized and do not benefit from the proceeds of wildlife tourism in their area;

NOW THEREFORE, the Senate calls upon the national Government to-

(a) allocate adequate funds during the current financial year and subsequent years for compensation.

(b) ensure that victims and families of victims of human-wildlife conflict are always compensated within 90 days of submitting their claims; and;

(c) come up with innovative ways of ensuring host communities benefit from the revenue accruing from wildlife tourism.

Thank you, Madam Temporary Speaker.

The Temporary Speaker (Sen. (Prof.) Kamar): Thank you, Senator. The next notice of Motion is from Sen. Aaron Cheruiyot.

EXTENSION OF MANDATE OF AD HOC COMMITTEE ON
CHALLENGES FACING THE TEA SECTOR

Sen. Cheruiyot: Madam Temporary Speaker, Sir, I beg to give notice of the following Motion-

AWARE that the Senate passed a Motion establishing an *ad hoc* Committee to conduct an inquiry into the challenges facing the tea sector in Kenya on 14th March, 2018;

FURTHER AWARE that the Committee was required to table a report in the Senate within five months from the dates of establishment;

CONCERNED that the duration accorded to the Committee lapsed on 15th August, 2018 while the Senate was on recess;

REGRETTING that due to the heavy work load, the Committee is yet to conclude its inquiry and requires additional time;

NOW THEREFORE, the Senate resolves to extend the mandate and duration of the Committee by a further 60 days to enable the Committee to conclude its work and table a report in the Senate.

Thank you, Madam Temporary Speaker.

The Temporary Speaker (Sen. (Prof.) Kamar): Thank you.

We proceed to the next Order.

BILLS

First Readings

THE COPYRIGHT (AMENDMENT) BILL
(NATIONAL ASSEMBLY BILLS NO.33 OF 2017)

THE PUBLIC PRIVATE PARTNERSHIPS (AMENDMENT) BILL
(NATIONAL ASSEMBLY BILLS NO.52 OF 2017)

THE LAND VALUE INDEX LAWS (AMENDMENT) BILL
(NATIONAL ASSEMBLY BILLS NO.3 OF 2018)

*(Orders for First Reading read – Read the First
Time and ordered to be referred to the relevant Senate Committees)*

The Temporary Speaker (Sen. (Prof.) Kamar): Thank you.

We proceed to the next Order.

Second Reading

THE ENERGY BILL (NATIONAL ASSEMBLY
BILLS NO.50 OF 2017)

(Sen. Murkomen on 9.8.2018)

(Resumption of Debate interrupted on 9.8.2018)

The Temporary Speaker (Sen. (Prof.) Kamar): For Division Purposes, I order that the Bell be rung for five minutes.

(The Division Bell was rung)

The Temporary Speaker (Sen. (Prof.) Kamar): Hon. Members the Bell has gone off. You can now draw the bar and lock the doors.

(The Bar was drawn and the doors locked)

I will now put the Question; that the Energy Bill (National Assembly Bills No.50 of 2017) be now read a Second Time.

Confirm that you are logged in. We are now ready for voting. You may now votes using the 'Yes', 'No' or 'Abstain' buttons.

(There was a technical hitch)

I am sorry there is an error somewhere. Technical team, please check; the voting system is not on yet.

Hon. Senators, the Information Technology (IT) seems to be failing us. We will, therefore, do manual voting. If the technical team will correct the system, we will go back to electronic voting.

That means that we require one Teller for 'Ayes' and one Teller for 'Noes.' We will have Sen. Cheruiyot for 'Noes' and Sen. Pareno for 'Ayes.' Please, come forward.

We can now proceed. The Clerk-at-the-Table will call out your names.

I seem to be the only one with a microphone. We will also need the mobile microphone. I think that we can now go ahead. We have two microphones by the desk, so we will start afresh.

Voting in progress

(Loud consultations)

The Temporary Speaker (Sen. (Prof.) Kamar): Order! Members, please consult in low tones because we are voting.

DIVISION

ROLL CALL VOTING

(Question, that the Energy Bill (National Assembly Bills No.50 of 2017) be read a Second Time, put and the

Senate proceeded to vote by County Delegations)

AYES: Sen. (Dr.) Ali, Wajir County; Sen. Cherargei, Nandi County; Sen. Cheruiyot, Kericho County; Sen. Dullo, Isiolo County; Sen. (Prof.) Ekal, Turkana County; Sen. Faki, Mombasa County; Sen. (Eng.) Hargura, Marsabit County; Sen. Iman, Garissa County; Sen. (Prof.) Kamar, Uasin Gishu County; Sen. Khaniri, Vihiga County; Sen. (Dr.) Langat, Bomet County; Sen. Lelegwe, Samburu County; Sen. Madzayo, Kilifi County; Sen. (Eng.) Mahamud, Mandera County; Sen. (Dr.) Mbito, Trans Nzoia County; Sen. Mpaayei, Kajiado County; Sen. Murkomen, Elgeyo-Marakwet County; Sen. Mwaruma, Taita-Taveta County; Sen. Mwaura, Kiambu County; Sen. Orengo, Siaya County; Sen. Outa, Kisumu County; Sen. Prengei, Nakuru County; Sen. Sakaja, Nairobi City County; and, Sen. Shiyonga, Kakamega County.

Teller of the Ayes: Sen. Pareno

NOES: Nil

Teller of the Noes: Sen. Cheruiyot

The Temporary Speaker (Sen. (Prof.) Kamar): Hon. Senators, the results of the Division are as follows:-

AYES: 24

NOES: Nil

ABSENTIONS: Nil

(Question carried by 24 votes to 0)

(The Bill was accordingly read a Second Time and Committed to a Committee of the Whole tomorrow)

Let us go to the next Bill.
Next Order.

Second Reading

THE IRRIGATION BILL (NATIONAL ASSEMBLY
BILLS NO.56 OF 2017)

(Sen. Dullo on 24.7.2018)

(Resumption of Debate interrupted on 25.7.2018)

DIVISION

ELECTRONIC VOTING

(Question, that the Irrigation Bill (National Assembly Bills No.56 of 2017) be read a Second Time, put and the Senate proceeded to vote by County Delegations)

AYES: Sen. (Dr.) Ali, Wajir County; Sen. Cherargei, Nandi County; Sen. Cheruiyot, Kericho County; Sen. Dullo, Isiolo County; Sen. (Prof.) Ekal, Turkana County; Sen. Faki, Mombasa County; Sen. (Eng.) Hargura, Marsabit County; Sen Iman, Garissa County; Sen. (Prof.) Kamar, Uasin Gishu County; Sen. Khaniri, Vihiga County; Sen. (Dr.) Langat, Bomet County; Sen. Lelegwe, Samburu County; Sen. Madzayo, Kilifi County; Sen. (Eng.) Mahamud, Mandera County; Sen. (Dr.) Mbiti, Trans Nzoia County; Sen. Mpaayei, Kajiado County; Sen. Murkomen, Elgeyo-Marakwet County; Sen. Mwaruma, Taita Taveta County; Sen. Mwaura, Kiambu County; Sen. Orengo, Siaya County; Sen. Outa, Kisumu County; Sen. Prengei, Nakuru County; Sen. Sakaja, Nairobi City County; and, Sen. Shiyonga, Kakamega County.

NOES: Nil.

The Temporary Speaker (Sen. (Prof.) Kamar): Order, Members. The results of the voting are as follows:

AYES: 24

NOES: 0

ABSTENTIONS: 0

(Question carried by 24 votes to 0)

(The Bill was accordingly read a Second Time and Committed to a Committee of the Whole tomorrow)

The Temporary Speaker (Sen. (Prof.) Kamar): Next Order!

Second Reading

THE KENYA ROADS BILL (NATIONAL ASSEMBLY
BILLS NO.47 OF 2017)

(Sen. Murkomen on 4.7.2018)

(Resumption of Debate interrupted on 12.7.2018)

The Temporary Speaker (Sen. (Prof.) Kamar): Hon. Senators, remove your cards and log in afresh.

I will now put the question; that the Kenya Roads Bill (National Assembly Bills No.47 of 2017 be now read a Second Time. Go ahead and vote. The assisted voters should come forward and vote. It is possible that where you are, the system is not working.

(The Senators proceeded to vote)

DIVISION

ELECTRONIC VOTING

(Question, that the Kenya Roads Bill (National Assembly Bills No.47 of 2017) be now read a Second Time, put and the Senate proceeded to vote by County Delegations)

AYES: Sen. (Dr.) Ali, Wajir County; Sen. Cherargei, Nandi County; Sen. Cheruiyot, Kericho County; Sen. Dullo, Isiolo County; Sen. (Prof.) Ekal, Turkana County; Sen. Faki, Mombasa County; Sen. (Eng.) Hargura, Marsabit County; Sen. Iman, Garissa County; Sen. (Prof.) Kamar, Uasin Gishu County; Sen. Khaniri, Vihiga County; Sen. (Dr.) Langat, Bomet County; Sen. Lelegwe, Samburu County; Sen. Madzayo, Kilifi County; Sen. (Eng.) Mahamud, Mandera County; Sen. (Dr.) Mbito, Trans Nzoia County; Sen. Mpaayei, Kajiado County; Sen. Murkomen, Elgeyo-Marakwet County; Sen. Mwaruma, Taita-Taveta County; Sen. Mwaura, Kiambu County; Sen. Orengo, Siaya County; Sen. Outa, Kisumu County; Sen. Prengei, Nakuru County; Sen. Sakaja, Nairobi City County; and, Sen. Shiyonga, Kakamega County.

NOES: Nil

The Temporary Speaker (Sen. (Prof.) Kamar): Hon. Senators, I would like to announce the results of the Division as follows:-

AYES: 24

NOES: 0

ABSTENTIONS: Nil

The 'Ayes' have it.

(Question carried by 24 votes to 0)

(The Bill was accordingly read the Second Time and committed to a Committee of the Whole tomorrow)

The Temporary Speaker (Sen. (Prof.) Kamar): Hon. Senators, I now direct that the doors be unlocked and the Bar drawn.

(The doors were opened and the Bar drawn)

Hon. Senators, let us move to Order No.14 on the Supplementary Order Paper.

Second Reading

THE PHYSICAL PLANNING BILL
(NATIONAL ASSEMBLY BILL NO. 34 OF 17)

(Sen. Murkomen on 26.7.2018)

(Resumption of debate interrupted on 26.7. 2018)

(Loud consultations)

The Temporary Speaker (Sen. (Prof.) Kamar): Hon. Senators, I do not see any additional Member interested to contribute since we had debated previously. I now invite the Senate Majority Leader to reply.

The Senate Majority leader (Sen. Murkomen): Thank you, Madam Temporary Speaker. I thank the Senators who made contributions to this Bill, particularly Sen. (Eng.) Mahamud who moved the Bill in my absence. This is an extremely important Bill pursuant to a constitutional provision that demands that we align the existing Acts of Parliament including the Physical Planning Act to be in consonance with the Constitution.

Madam Temporary Speaker, from the onset, I thank hon. Members who availed themselves yesterday when we had a consultative meeting on this very important Bill. There are many suggestions and amendments that have been proposed.

The Chair of the Committee took us through the Report of the Committee and the amendments that are supposed to ensue. Most of them are acceptable, particularly those related to the title of the Bill. We were convinced yesterday that the world has moved to land use planning and not physical planning, and that physical planning is just a small part of the land use planning. I am completely in support of the amendments of the Committee to that effect.

Madam Temporary Speaker, the other provision that this law is making is on the management; the provision of the institutions that are related to the physical planning. I thank the Committee also for proposing strengthening of the institutions. There is a suggestion that the Forum should be removed because it is superfluous. That suggestion must be interrogated against the wishes of the drafters of this Bill when the Cabinet passed it so that during the Committee Stage, we should be able to adopt suggestions that are going to take this Bill forward.

The Bill captures the role of the National Land Commission (NLC) in the monitoring and overseeing of land use planning throughout the country.

What the Committee said yesterday and the contributions of most of the Members, was that we must ensure that the law does not give the Cabinet Secretary (CS) the power to undermine the authority of independent offices such as the NLC. That is well noted, which is why the aligning of the Bill is welcomed so that we can put things in order.

On Clause 11 on the qualifications of the Director of Physical Planning, we were of the view that this detailed requirement of the experience of the person is not necessary. The category of the qualification that a person should only hold a bachelor's degree in urban and regional planning or related disciplines should be widened so that it can capture---

This is because as per the views of the Members in this House, the Director is the leader and sometimes, we should not just focus on the qualification of the director. We must focus on the leadership qualities. That is why Section 11 will be redrafted to capture and provide for flexibility of those who are going to sit in the Board to hire the director of

physical planning to have the flexibility in the indent when they advertise to capture the concerns to that regard.

Madam Temporary Speaker, these are very important provisions that have come from the Committee. During that Committee stage, we should be able to deal with those issues.

There are other views that have come up and are related to the cross-referencing of the spatial plans that are provided for in the County Government Act and the urban planning provisions in the Urban Areas and Cities Act. In the drafting of the amendments at the Committee Stage, the Committee will come up with a proposal, either that we lift those provisions from the County Government Act and the Urban Areas and Cities Act and bring them to this Bill or we do the necessary cross-referencing between the two laws.

It would then have been neater if we were able to bring all the planning provisions that are related to land use to this important Bill so that the County Government Act and the Urban Areas and Cities Act can only provide for the intergovernmental frameworks of governance and bring the land use related amendments to this very important Bill.

Madam Temporary Speaker, that is important because the details--- I am very proud to have served in the task force of devolved governments. I keep saying, and I will keep doing so, that we worked on the county Governments Act and the Urban Areas and Cities Act that had these detailed provisions about physical planning in the counties and land use.

The other provision that the Committee is dealing with is in relation to agricultural land. There are strong views that time has come for us to properly provide for an institutional framework that is modern and enforceable. That will ensure that when we plan land for agriculture or urban planning, the necessary governance structure will be put in place to ensure that there is enforcement.

A good example is given for Uasin Gishu, Trans Nzoia, and parts of Elgeyo-Marakwet and Nandi counties where it was known as the White Highlands and the food basket of this Republic. That was the place where we got maize and it was even up to Bungoma County.

Madam Temporary Speaker, at the moment, the Land Control Act makes it clear that for you to subdivide agricultural land; you must get the permission of the Land Control Board. However, because of the weaknesses that are within that Land Control Board, chiefs at the local level are unable to resist the temptation and inducements that come with that kind of sub-division. That governance structure is so weak that nowadays, it is bypassed and lands have been subdivided.

We knew that Trans Nzoia County had large tracts of land and about maize. Nowadays, we find that land in some places has been reduced to less than five acres. If we are not careful in another 10 to 20 years, this great republic will not have a place for farmers and farming. It is important that as a nation we designate certain areas and know that when people are living in them it is about farming or pastoral life. When the Committee proposes amendments that are related to planning for agriculture and urban areas, we must strengthen this law to ensure that agricultural land will not be sub-divided into small bits and pieces that are unable to provide opportunity for us to do proper farming.

Let us allow those who can do farming up to 200, 300, 500 or 1000 acres to do it. The rest of us who own land for the sake of it can move to the city and do other things, so that we can continue producing food for this country.

Madam Temporary Speaker, I had a very good friend of mine, perhaps he was known to you, the late James Bett. When he was the leader of EMO Foundation, one of his greatest commitments at that time was to push for people to move to and live as a family or community in one area as is done in Europe and the USA and so on. This would then allow the large tracts of land to be available for farming. They would then form family or community companies. You would have the farm, a place where you live together and be easily given utilities such as electricity and water.

Let us look at the case in Mwea, if you go there, that concept should be applied across the country where people live in one small township area and are able to do farming that is beneficial to the country and themselves. This is also so that farming can be done in a way that can be economical and that adds value to the people who are involved in farming as a business.

This Bill is very good and I appreciate the Members for their contributions. Issues of development control in Clause 50 on Part IV are very good. Can we have a country where in future we do not have to demolish buildings? This is because where we build, we will have respected the riparian areas, there is plenty of planning, not next to a school and that you do not put up a bar next to a school or a church. Can we have that process and what are the enforcement mechanisms that will ensure that we have prevention of such kind of constructions that is detrimental to the interest of the people of Kenya and sustainable development in this great Republic?

The Committee has come up with robust amendments that are going to change this Bill for the betterment of the country. I am sure that when we send it back to the National Assembly, they will concur with the great work that our Committee has done and the consultations from the sector and stakeholders and the members of the public that have contributed to this very important Bill

Madam Temporary Speaker, I do not want to say any much more. I beg to move. I request you that pursuant to Standing Order No. 61(3), we defer the putting of the question on this Bill to another date of your choice.

I thank you.

The Temporary Speaker (Sen. (Prof.) Kamar): Hon. Members, I would like to order that the Division on The Physical Planning Bill (National Assembly Bill No. 34 of 2017) be done at a later time for the convenience of the House.

(Putting of the question on the Bill deferred)

COMMITTEE OF THE WHOLE

THE COUNTY BOUNDARIES BILL
(SENATE BILLS NO. 6 OF 2017)

THE FOOD SECURITY BILL
(SENATE BILLS NO. 12 OF 2017)

The Temporary Speaker (Sen. (Prof.) Kamar): Also, for the convenience of the House, we defer Order Nos.15 and 17 because the two Members have requested and we have consulted.

(Committee of the Whole deferred)

Next Order.

COMMITTEE OF THE WHOLE

THE OFFICE OF THE COUNTY ATTORNEY BILL
(SENATE BILLS NO.3 OF 2018)

(Order for Committee read)

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

IN THE COMMITTEE

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

The Temporary Chairperson (Sen. Pareno): Hon. Senators, we are now going to proceed with the Committee of the Whole on the Office of the County Attorney Bill (Senate Bills No.3 of 2018). We shall move Clause by Clause. I ask the Clerk to read out the clauses.

Clauses 3 and 4

*(Question that Clauses 3 and 4
be part of the Bill proposed)*

The Temporary Chairperson (Sen. Pareno): Division will be at the end.

Clause 5

Sen. Cherargei: Madam Temporary Chairperson, I beg to move:-

THAT, Clause 5 of the Bill be amended by deleting sub-clause (2) and substituting therefor the following new sub-clause-

- (2) A person qualifies for appointment as County Attorney if such person-
- (a) is an Advocate of the High Court of Kenya of at least five years standing;
 - (b) has experience as a legal practitioner including experience in the legal academic field; and
 - (c) meets the requirements of Chapter Six of the Constitution.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Pareno): Division will be at the end.

Clause 6

Sen. Cherargei: Madam Temporary Chairperson, I beg to move:-

THAT, Clause 6 of the Bill be amended-

(a) in paragraph (a) by deleting the words “executive committee” appearing immediately after the words “to the county” and substituting therefor the word “government”;

(b) in paragraph (c) by inserting the words “on the instructions of the county government” immediately after the word “shall”.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Pareno): Division will be at the end.

Clause 7

Sen. Cherargei: Madam Temporary Chairperson, I beg to move:-

THAT, Clause 7 of the Bill be amended in sub-clause (2) by inserting the words “in consultation with the county public service board” immediately after the word “establish” appearing in paragraph (a).

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Pareno): Division will be at the end.

Clauses 8 and 9

*(Question that Clauses 8 and 9
be part of the Bill proposed)*

The Temporary Chairperson (Sen. Pareno): Division will be at the end.

Clause 10

Sen. Cherargei: Madam Temporary Chairperson, I beg to move:-

THAT, the Bill be amended by deleting Clause 10.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Pareno): Division will be at the end.

Clauses 11 and 12

*(Question that Clauses 11 and 12
be part of the Bill proposed)*

The Temporary Chairperson (Sen. Pareno): Division will be at the end.

Clause 13

Sen. Cherargei: Madam Temporary Chairperson, I beg to move:-
THAT, Clause 13 of the Bill be amended by deleting sub-clause (2).

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Pareno): Division will be at the end.

Clauses 14 and 15

*(Question that Clauses 14 and 15
be part of the Bill proposed)*

The Temporary Chairperson (Sen. Pareno): Division will be at the end.

Part III – Heading

Sen. Cherargei: Madam Temporary Chairperson, I beg to move:-
THAT the Bill be amended by deleting in the heading the words
“PART III – PERFORMANCE OF FUNCTIONS OF THE COUNTY
ATTORNEY” appearing immediately after Clause 15.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Pareno): Division will be at the end.

Clause 16

Sen. Cherargei: Madam Temporary Chairperson, I beg to move:-
THAT Clause 16 of the Bill be amended-

- (a) in sub-clause (1) by deleting the words “County Attorney” appearing immediately after the words “without the approval of the” and substituting therefor the words “county executive committee”;
- (b) by deleting sub-clause (2) and substituting therefor the following new subclause-

(2) A request by a department or public entity to the county executive committee to engage the services of a consultant for the provision of legal services, shall be in writing.

- (c) by deleting sub-clause (3) and substituting therefor the following new subclause-

(3) An approval by the county executive committee of a request under sub-clause (2) shall be in writing.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Pareno): Division will be at the end.

Clause 17

*(Question that Clause 17
be part of the Bill proposed)*

The Temporary Chairperson (Sen. Pareno): Division will be at the end.

Clause 18

Sen. Cherargei: Madam Temporary Chairperson, I beg to move:-
THAT Clause 18 of the Bill be amended in sub-clause (1) by inserting the words ‘in consultation with the County Attorney’ immediately after the words “public service board shall”.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Pareno): Division will be at the end.

Clause 19

Sen. Cherargei: Madam Temporary Chairperson, I beg to move:-
THAT Clause 19 of the Bill be amended by inserting the words “County Attorney, County Solicitor and” immediately before the words “County Legal Counsel”.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Pareno): Division will be at the end.

Clause 20

Sen. Cherargei: Madam Temporary Chairperson, I beg to move:-
THAT Clause 20 of the Bill be amended-

- (a) in sub-clause (1) by inserting the words “County Attorney, County Solicitor” immediately before the words “County Legal Counsel”;
- (b) in sub-clause (2) by deleting the words “County Attorney” appearing immediately before the words “may from time to time” and substituting therefor the words “Cabinet Secretary”

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Pareno): Division will be at the end.

Clause 21

*(Question that Clause 21
be part of the Bill proposed)*

The Temporary Chairperson (Sen. Pareno): Division will be at the end.

Clause 22

Sen. Cherargei: Madam Temporary Chairperson, I beg to move:-
THAT Clause 22 of the Bill be amended in sub-clause (1) by inserting the words “in consultation with the county public service board” immediately after the words “the County Attorney”.

The Temporary Chairperson (Sen. Pareno): Division will be at the end.

Clauses 23 and 24

*(Question, that Clauses 23 and 24
be part of the Bill, proposed)*

The Temporary Chairperson (Sen. Pareno): Division will be at the end.

Clause 25

Sen. Cherargei: Madam Temporary Chairperson, I beg to move:-
THAT the Bill be amended by deleting Clause 25.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Pareno): Division will be at the end.

Clauses 26 – 29

*(Question, that Clauses 26, 27, 28
and 29 be part of the Bill, proposed)*

The Temporary Chairperson (Sen. Pareno): Division will be at the end.

Clause 30

Sen. Cherargei: Madam Temporary Chairperson, I beg to move:-
THAT Clause 30 of the Bill be amended by deleting the words “County Attorney” appearing immediately before the words “may make Regulations” and substituting therefor the words “Cabinet Secretary”

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Pareno): Division will be at the end.

Clauses 31 and 32

*(Question that Clauses 31 and 32
be part of the Bill proposed)*

The Temporary Chairperson (Sen. Pareno): Division will be at the end.

New Clause 5A

Sen. Cherargei: Madam Temporary Chairperson, I beg to move:-
THAT the Bill be amended by inserting the following new clause immediately
after Clause 5-

Tenure of	5A.	The County Attorney shall
office.		hold office for a term of six years.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Pareno): Division will be at the end.

First and Second Schedules

*(Question, that First and Second Schedules
be part of the Bill, proposed)*

The Temporary Chairperson (Sen. Pareno): Division will be at the end.

Clause 2

Sen. Cherargei: Madam Temporary Chairperson, I beg to move:-
THAT Clause 2 of the Bill be amended by inserting the following new definition
immediately before the definition of the term “County Attorney”-

“Cabinet Secretary” means the Cabinet Secretary responsible for matters relating
to justice and legal affairs.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Pareno): Division will be at the end.

Title and Clause 1

*(Question that the Title and Clause 1
be part of the Bill proposed)*

The Temporary Chairperson (Sen. Pareno): Division will be at the end.

Hon. Senators, you will notice that we do not have sufficient numbers for
purposes of Division. So, we shall report progress and thereafter give further guidance on
this.

*(The Temporary Chairperson (Sen. Pareno)
consulted with the Clerks-at-the-Table)*

Hon. Senators, we have other Bills that are also due for Committee of the Whole. So, I give guidance that we proceed with all the Bills in the Committee of the Whole stage and then we can report progress on all of them.

I now call the Mover.

Sen. Cherargei: Madam Temporary Chairperson, pursuant to Standing Order 142, I beg to move that the Committee of the Whole do report progress on its consideration of the Office of the County Attorney Bill (Senate Bills No.3 of 2018) and seek leave to sit again tomorrow.

The reason I am happy today is that I am standing with the women of this country as we seek to achieve the gender parity rule. Some people could be wondering whether I have a bandage. I am just standing in solidarity with all the women across the country.

Thank you, Madam Temporary Speaker.

(Question proposed)

(Question put and agreed to)

(The House resumed)

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

PROGRESS REPORTED

THE OFFICE OF THE COUNTY ATTORNEY BILL (SENATE BILLS NO.3 OF 2018)

The Temporary Speaker (Sen. Nyamunga): Chairperson, please proceed.

Sen. Pareno: Madam Temporary Speaker, I beg to report progress; that the Committee of the Whole has considered the Office of the County Attorney Bill (Senate Bills No.3 of 2018) and seeks leave to seat again tomorrow.

The Temporary Speaker (Sen. Nyamunga): Mover, please proceed.

Sen. Cherargei: Madam Temporary Speaker, I beg to move in accordance to Standing Order No.142 that the Committee of the Whole report progress on its consideration of the Office of the County Attorney Bill (Senate Bills No.3 of 2018) and defer to a later date.

The Temporary Speaker (Sen. Nyamunga): Mover, you have read the wrong document. Please, check again.

Sen. Cherargei: Madam Temporary Speaker, I beg to move that the House do agree with the Committee on the said Report.

I request my learned senior, Senior Counsel, Sen. Omogeni, to second.

Sen. Omogeni: Madam Temporary Speaker, I second.

(Question proposed)

(Question put and agreed to)

The Temporary Speaker (Sen. Nyamunga): Next Order!

COMMITTEE OF THE WHOLE

THE OFFICE OF THE COUNTY PRINTER BILL
(SENATE BILLS NO. 7 OF 2018)

The Temporary Speaker (Sen. Nyamunga): We will defer that Order. We move on to Order No. 18.

(Committee of the Whole Deferred)

BILL

Second Reading

THE CARE AND PROTECTION OF OLDER MEMBERS
OF SOCIETY BILL (SENATE BILLS NO.17 OF 2018)

The Temporary Speaker (Sen. Nyamunga): The Mover of the Bill is not in the House. Therefore, we will defer that Order too.

(Bill deferred)

Next Order.

MOTIONS

ENFORCEMENT OF NATIONAL TRANSPORT AND SAFETY AUTHORITY
(OPERATION OF MOTORCYCLE) REGULATIONS 2015

AWARE that the National Transport and Safety Authority (NTSA) is mandated to plan, manage and regulate the road transport system, while ensuring the provision of safe, reliable and efficient road transport services;

FURTHER AWARE that motorcycle transport services have been rapidly embraced throughout the country leading to several challenges including: rise in road accidents involving motorcycle riders, unlawfulness, insecurity and road congestion;

COGNIZANT that the National Transport and Safety Authority (Operation of Motorcycles) Regulations that came into force on January 1, 2016 have not adequately addressed the challenges associated with the high numbers of motorcycles as a mode of transport;

NOW THEREFORE, the Senate resolves that the Ministry of Transport, Infrastructure, Housing, and Urban Development: -identify strategies to enforce the National Transport and Safety Authority (Operation of Motorcycles) Regulations; in collaboration with county governments, develop programs to sensitize and educate members of boda-boda associations and the public on the laws regulating motorcycle operations; submits a Report to the Senate within ninety(90) days outlining the short and long term strategies, and preventative measures that are being put in place to halt the rising cases of road carnage involving motorcycle riders.

(Sen. Kasanga on 2.8.2018)

(Resumption of debate interrupted on 2.8.2018)

The Temporary Speaker (Sen. Nyamunga): Hon. Senators, we will defer Order No.20 because the Seconder, Sen. (Dr.) Musuruve, is not in the House. In such a state, we cannot proceed.

(Motion deferred)

We move on to the next order.

ADOPTION OF CPAIC REPORT ON FINANCIAL OPERATIONS
OF NAKURU COUNTY EXECUTIVE FOR FY 2013/2014

THAT, this House adopts the Report of the Sessional Committee on the County Public Accounts and Investments on the inquiry into the financial operations of Nakuru County Executive for the financial year 2013/2014 (1st July 2013 - 30th June, 2014) laid on the Table of the House on Tuesday, 19th June, 2018.

Sen. Faki: On a point of order, Madam Temporary Speaker.

The Temporary Speaker (Sen. Nyamunga): What is your point of order?

Sen. Faki: Madam Temporary Speaker, the Chairperson of the Committee is not present but we have agreed with Sen. Kibiru to move the Motions on Orders No. 21 to 23.

The Temporary Speaker (Sen. Nyamunga): If there is representation, we should proceed.

Sen. Cherargei: On a point of order, Madam Temporary Speaker.

The Temporary Speaker (Sen. Nyamunga): What is your point of order?

Sen. Cherargei: Madam Temporary Speaker, is it in order for them to indicate that they will only move Order Nos.21 to 23 whereas the Order Paper indicates that they should deal with Order Nos.21 to 24? Are they saying on behalf of the County Public Accounts and Investments Committee (CPAIC) that they will only deal with Order Nos.21 to 23 and leave out Order No.24? If I heard right, the distinguished Senator from

County No. 001 of Mombasa, Sen. Faki, who is also a Member of my Committee, said that he will only deal with Order Nos. 21 to 23.

The Temporary Speaker (Sen. Nyamunga): Senator, did you say that you will only deal with Order Nos. 21 to 23 or Order Nos. 21 to 24?

Sen. Faki: Madam Temporary Speaker, there is confusion. According to the copy of the Order Paper on my desk---

The Temporary Speaker (Sen. Nyamunga): Sen. Faki, there was a Supplementary Order Paper. I do not know whether you have it.

Sen. Faki: Madam Temporary Speaker, I have not seen the supplementary Order Paper.

The Temporary Speaker (Sen. Nyamunga): Can we provide a Supplementary Order Paper to Sen. Faki?

Sen. Faki: Madam Temporary Speaker, the Order Paper that I have states Orders Nos. 20, 21, 22 and 23. May be, Order Nos. 21 to 24 have been renamed.

The Temporary Speaker (Sen. Nyamunga): Senator, kindly look at the Supplementary Order Paper.

Sen. Pareno: On a point of order, Madam Temporary Speaker. Is it really in order for us to defer the moving of reports of a serious Committee like CPAIC just because the Chair of the Committee is not within the House? Is it not in order for them to have delegated this duty to Members of this Committee to submit or address the House on these reports?

The Temporary Speaker (Sen. Nyamunga): We need to consult on that one. I understand that even if we give Sen. Faki the opportunity to move the Motions, he is not well prepared. Sen. Faki, are you ready to move the Motions?

Sen. Faki: Madam Temporary Speaker, I wish to apologize because we are not prepared to proceed. I thought the Chairperson had left the moving notes with the secretariat but he did not. Therefore, I propose that we defer the matter until tomorrow afternoon when we shall be ready to move the Motions.

Sen. Cherargei: Madam Temporary Speaker, public accounts are serious and fundamental issues that need proper preparation and consideration. I agree with Sen. Pareno that in future, with your able guidance in such matters, if a Chairperson of a Committee is not available, they should consult with the secretariat and seek guidance from your office so that we avoid backlog.

Madam Temporary Speaker, I remember that a few minutes ago, we were arguing why we are still looking at accounts or reports for the Financial Year 2013/2014 when we have new governors and Senators. Therefore, the Committee should be serious. The last time they were serious is when they were discussing Ruaraka Land Scandal. They should be serious when discussing the accounts and reports concerning our counties because we majorly oversight the counties. So, the Committee is out of order.

The Temporary Speaker (Sen. Nyamunga): I agree with the sentiments of the two Senators who have raised the issue that we should take our work seriously. We should take Orders that are listed on the Order Paper seriously. The work of Senators should be seen by the actions that we do. If we are dealing with accounts for Financial Year 2014/2015 and we are in the Financial Year 2018/2019, we are failing in our responsibilities. I urge the secretariat to do these things with a lot of consultations so that

we do not move back and forth. We do not want to appear like we are not serious with the work that we are doing.

(Motion deferred)

Next order.

ADOPTION OF CPAIC REPORT ON FINANCIAL
OPERATIONS OF KILIFI COUNTY EXECUTIVE
FOR FY 2013/2014

THAT, this House adopts the Report of the Sessional Committee on the County Public Accounts and Investments on the inquiry into the Financial operations of Kilifi County Executive for the Financial year 2013/2014 (1st July 2013 - 30th June, 2014) laid on the Table of the House on Tuesday, 19th June, 2018.

The Temporary Speaker (Sen. Nyamunga): We defer that one also.

(Motion deferred)

The Temporary Speaker (Sen. Nyamunga): Next Order!

ADOPTION OF CPAIC REPORT ON FINANCIAL
OPERATIONS OF HOMABAY COUNTY EXECUTIVE
FOR FY 2013/2014

THAT, this House adopts the Report of the Sessional Committee on the County Public Accounts and Investments on the inquiry into the Financial operations of Homabay County Executive for the Financial year 2013/2014 (1st July 2013 - 30th June, 2014) laid on the Table of the House on Tuesday, 19th June, 2018.

The Temporary Speaker(Sen. Nyamunga): We defer that one also.

(Motion Deferred)

Next Order.

ADOPTION OF CPAIC REPORT ON FINANCIAL OPERATIONS
OF KISII COUNTY EXECUTIVE FOR FY 2013/2014

THAT, this House adopts the Report of the Sessional Committee on the County Public Accounts and Investments on the inquiry into the Financial operations of Kisii County Executive for the Financial year 2013/2014 (1st July 2013 - 30th June, 2014) laid on the Table of the House on Tuesday, 19th June, 2018.

The Temporary Speaker (Sen. Nyamunga): For the same reason, we are deferring that one also.

(Motion deferred)

Next Order.

DEVELOPMENT AND IMPLEMENTATION OF NATIONAL
DISASTER RISK FINANCING STRATEGY

THAT, WHEREAS Kenya's disaster profile is dominated by droughts, fire, floods, terrorism, diseases and epidemics that disrupt livelihoods, destroy infrastructure, divert planned use of resources, interrupt economic activities and retard development;

FURTHER WHEREAS the government, through its various agencies, is ultimately responsible for disaster reduction, preparedness and management;

COGNIZANT of the fact that government agencies involved in disaster management are usually overwhelmed when called upon to provide response services during disasters and emergencies;

AWARE that the Kenya Red Cross Society Act, Cap 256 of the Laws of Kenya establishes the Kenya Red Cross Society, a sole national Red Cross Society in Kenya, as a voluntary aid society;

RECOGNIZING, the efforts of the Kenya Red Cross Society to provide first-line disaster response services in incidences of disasters and other emergencies across the country;

OBSERVING, the huge financial resources required to finance disaster reduction, preparedness and other emergency services;

NOTING that one of the sources of the Kenya Red Cross Society in financing its operations is through accepting unrestricted contributions and assistance, in any form, from individuals, public authorities and private bodies;

APPRECIATING, the efforts made by the prudent management of funds by the Kenya Red Cross Society;

FURTHER AWARE that emergency fund is a substantial proportionate Vote Head in both the national and county government budgets;

CONCERNED, that the Kenya Red Cross Society has not been allocated a budget from the national and county governments despite the huge contribution in disaster and emergency response across the country;

NOW THEREFORE, the Senate urges the national and county governments to explore collaborative mechanisms for the Kenya Red Cross Society to support and implement a paradigm shift from post disaster response to risk reduction by developing and implementing a national disaster risk financing strategy across all sectors and incorporate

it into the national and county development planning and financing processes.

The Temporary Speaker (Sen. Nyamunga): I do not see Sen. Khaniri in the House.

(Motion deferred)

Sen. Pareno: On a point of order, Madam Temporary Speaker. Is it in order for these matters to keep on appearing on the Order Paper without prosecution by the Members concerned?

Sen. Khaniri was in this House this afternoon. However, he is not here to move his Motion. Is it in order for us to continue listing these matters on the Order Paper and yet Members who are supposed to prosecute them are not here to do so?

Madam Temporary Speaker, this has to come out clearly that if your matter is listed on Order Paper, you must prosecute it. It is unfair for Members to be in the House and only disappear when the time for prosecuting their matters comes, they withdraw from the Chamber. We need your guidance on this.

Sen. Cherargei: Madam Temporary Speaker, I share the same sentiments of Sen. Pareno. Some of these matters have always been listed on the Order Paper, but they are never prosecuted.

I think, with your able guidance, the Senate Business Committee (SBC) needs to consult before putting any matter on the Order Paper so that Members are aware. I am happy that one of the SBC Members, Sen. Were, is in the House. It is very unfortunate that many Members whose issues should be prosecuted were in the House before, but they have just left without delegating or even giving moving notes to anybody.

With your guidance from your able office and in consultation with the House leadership, we need to take the House business seriously. We need to consult and agree. It does not make sense to list and even include the matter in a Supplementary Order Paper and yet the relevant Senators were here to prosecute their Orders. We need to take this matter seriously because Kenyans are watching us and we are using taxpayers' money. Therefore the issues of this House must be taken as sacred and be treated with the seriousness they deserve.

Therefore, we need to ask ourselves whether we need more women in leadership because it seems they take the business of this House seriously.

The Temporary Speaker (Sen. Nyamunga): Hon. Senators, I agree with the sentiments of the two Senators and I believe all us do. We will refer the matter to the SBC for further direction.

ADJOURNMENT

The Temporary Speaker (Sen. Nyamunga): Hon. Senators, having deferred the business of the House, it is now time to adjourn the House. The Senate, therefore, stands adjourned until Tomorrow, Thursday, 13th September, 2018 at 2.30p.m.

The Senate rose at 5.15 p.m.