

PARLIAMENT OF KENYA

THE SENATE

THE HANSARD

Wednesday, 16th September, 2015

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

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

PRAYERS

COMMUNICATIONS FROM THE CHAIR

The Speaker (Hon. Ethuro): Hon. Senators, I have a number of communications to make today.

TEMPORARY RELOCATION FROM KICC OFFICES

Hon. Senators, you may recall that during the workshop of the Senate held on 27th August, 2015, I issued a communication regarding the need for Members of Parliament (MPs) to temporarily relocate from some floors of the Kenya International Convention Centre (KICC) in order to facilitate the hosting of the World Trade Organisation (WTO) Ministerial Conference scheduled to take place from 13th to 18th December, 2015.

I would like to reiterate that the Parliamentary Service Commission (PSC) has requested that Members occupying offices on 3rd, 4th, 5th, 11th, 12th and 13th floors at the KICC be temporarily relocated. Affected Senators are advised to seek alternative accommodation and to liaise with the Director, Finance and Accounting Services for reimbursement for the stated period.

Hon. Senators, the KICC will restore the offices to the original state for use by the affected Members not later than 1st February, 2016. I, therefore, urge all the affected Senators to relocate without further delay in order to avail the offices for the WTO's use.

I thank you for your cooperation and understanding.

WTO MINISTERIAL CONFERENCE SENSITIZATION MEETING FOR SENATORS

Hon. Senators, as you may be aware, Kenya will be hosting the 10th WTO Ministerial Conference in Nairobi from 15th to 18th December, 2015. The conference is yet another milestone in cementing Kenya's global positioning as a preferred conference destination. The WTO secretariat in Nairobi will provide the technical assistance to

Kenya with the specific objective of sensitizing key stakeholders of the substantive issues of the Doha Round of trade negotiations.

In this regard, the Ministry of Foreign Affairs and International Trade jointly with the WTO secretariat, has organised a sensitization meeting for the Senate to be held tomorrow, Thursday 17th September, 2015. The meeting will be held from 11.00 a.m. to 1.00 p.m. at the Senate Chamber, Parliament Buildings.

The sensitization meeting is a key component of the strategy for development of a well informed and evidence-based national position for the Nairobi Ministerial Conference. Your participation, therefore, is of utmost importance. I, therefore, request all of you to avail yourselves and participate in the meeting.

Thank you.

VISITING DELEGATION FROM KISII COUNTY ASSEMBLY

Hon. Senators, we also have delegations visiting us. I am pleased to acknowledge the presence in the Speaker's Gallery this afternoon of a delegation from the Kisii County Assembly. The delegation is in Nairobi on a benchmarking visit to share experiences on the management of the affairs of the legislature.

I, therefore, wish to request each member of the delegation to stand when called out, so that you may be acknowledged in the great Senate tradition. The members are as follows:

Hon. Kerosi Ondieki - Speaker of the County Assembly
Hon. Protus Moindi
Hon. Evans Mokoro
Hon. Charles Nyagoto
Hon. Onchonga Nyagaka
Hon. Catherine K. Manzi
Hon. Philip Motonu
Hon. Wilfred Yoge
Hon. Albert Oino
Hon. Joash Orora
Hon. Alfred Onguti
Hon. Francis Aburi
Hon. Ochwangi Mengo
Hon. Cosmas Saka
Hon. Reuben Moreka
Hon. Dennis Ombachi
Hon. Lydia Okwoyo
Hon. Richard Machana
Hon. George Morara
Hon. Evans Zico
Hon. Josephine Ombati
Hon. Grace Ogonda
Hon. Sabena Kennedy
Hon. Esther Nyamwamu
Hon. Nyamweya Mosota

Hon. Isabella Nyaboke
 Hon. Daniel Apepo
 Hon. Henry Moracha
 Hon. Senators, the delegation is accompanied by the following officers of the county assembly:-

Mr. Geoffrey Ontere
 Ms. Norah Abel
 Mr. Geoffrey Momanyi
 Ms. Esther Ongere
 Mr. Webster Otachi
 Mr. Crispus Magare
 Mr. Douglas Nyamongo
 Mr. Leonard Nyakundi

On behalf of the Senate and my own behalf, I welcome you to the Senate. I wish you well for the remainder of your training programme. I thank you.

(Applause)

VISITING DELEGATION FROM BUNGOMA COUNTY ASSEMBLY

Hon. Senators, the next delegation is from Bungoma County Assembly. I am pleased to acknowledge and welcome to the Senate this afternoon, members of the Bungoma County Assembly Implementation Committee who are seated in the Speaker's Gallery.

I request members of the delegation that when your name is called out, you stand up, so that you may be acknowledged in our usual tradition.

Hon. Ben Namaswa Wafula	-	Chairperson
Hon. James Wafula Nyongesa	-	Vice Chairperson
Hon. Mary Namaswa		
Hon. Moses Nyongesa Wabwile		
Hon. John Wafula Lutukai		
Hon. Godwin Kwemoi Ndege		
Hon. Martin Wafula Wawire		
Hon. David Mabonga Barasa		
Hon. Rose Watima Mukhwana		
Hon. Margaret Nekesa Barasa		
Hon. Enrick Khaemba Nyongesa		
Hon. Charles Khaemba Wamukota		
Hon. Janet Nambwile Wamalwa		
Hon. Gerishom Namasake		
Hon. Violet Namaemba Makhanu		

The delegation is accompanied by the following officers:-

Ms. Carolayne Wamalwa	-	HANSARD reporter
Ms. Martha Alaka	-	Research officer
Mr. Robert Mumbwani	-	Sergeant-at-arms
Mr. Dunstan Wafula	-	Committee clerk

I take this opportunity on behalf of the Senate and my own behalf to wish the delegation a happy and fruitful visit to the Senate.

I thank you.

(Applause)

VISITING DELEGATION OF STAFF FROM VARIOUS COUNTIES

Hon. Senators, another delegation is drawn from various counties and are under attachment at the Senate Legislative Programme coordinated by the County Liaison Office under the Office of the Speaker, Senate.

Hon. Senators, I would like to acknowledge the presence in the Speaker's Gallery this afternoon of the visiting county assembly staff from the counties of Narok, Meru, Mombasa, Nairobi, Kisumu, Lamu and Marsabit. The county assembly staff are here on a two-week inaugural Legislative Attachment Programme organised by the Office of the Speaker, Senate, through the County Liaison Office. I request each member of the delegation to stand up when called out, so that they may be acknowledge in our tradition. They are:-

Fatuma Mohammed Walid	-	Lamu County Assembly
Hussein Miji Abud	-	Lamu County Assembly
Francis Malmalo	-	Marsabit County Assembly
Arbe Ibrae	-	Marsabit County Assembly
Benson Kinyua	-	Meru County Assembly
Emily Kendi	-	Meru County Assembly
Gideon Langat	-	Narok County Assembly
Justus Yalile	-	Narok County Assembly
David Ochieng'	-	Kisumu County Assembly
George Amayo	-	Kisumu County Assembly
Mary Riunga	-	Nairobi County Assembly
Kevin Wasike	-	Nairobi County Assembly
Ms. Robesta Wasike	-	Mombasa County Assembly
Mr. Paul Mulila	-	Mombasa County Assembly
Mr. Bernard Ogolla	-	Mombasa County Assembly
Ms. Moreen Otieno	-	Mombasa County Assembly

Hon. Senators, as you well recognize, the Senate has a constitutional mandate to protect and represent counties and their governments. To facilitate this role, the Senate through my office has established the County Liaison Office, whose function is to facilitate and coordinate effective interaction between the Senate and county governments.

To this effect, the Speaker's Office has established a Legislative Staff Attachment Programme for technical staff in county assemblies. The attachment programme is designed to provide county assembly staff with a unique opportunity to acquaint themselves with parliamentary structures and processes. The programme aims to expose the staff to the best practices and procedure in legislative, legal, procedural and research services for the enhancement and support of the legislative processes in their respective counties.

On behalf of the Senate and on my own behalf, I welcome them to the Senate and hope that they will enjoy a fruitful programme. I wish them well for the remainder of their stay in our House.

I thank you.

VISITING DELEGATION OF MEMBERS FROM
THE NATIONAL COUNCILLORS FORUM OF KENYA

Finally, hon. Senators, we have a visiting delegation from the National Councilors Forum of Kenya. I am pleased to acknowledge and to welcome to the Senate this afternoon, members of the National Councilors Forum of Kenya who are seated at the Speaker's Gallery.

The forum brings together former councilors from 1963 to 2013. I, therefore, request the members of the delegation that when their name is called out they stand, so that they may be acknowledged in our usual tradition.

Mr. Hezron K. Kirimi - Chairperson

Mr. George Ongere Odere

Catherine Ntinyari

Geoffrey Gitau

Alex Ayeko

Josephat Mbaya

Priscilla Cherop

Abdulrahman Sheikh

Jeremiah Matula

Christopher Lonyala

Omar Ali

Amos Gitonga

Boaz Machueye

Joseph Maritim

Samuel Mangambi

Julius Lenakai

Nester Odhiambo

Said Ali Dakane

Alex Sekandu

Josephat Nkii

I take this opportunity on behalf of the Senate and my own behalf, to wish the delegation a happy and fruitful visit to the Senate.

I thank you.

(Applause)

The Speaker (Hon. Ethuro): What is it, Sen. Obure?

Sen. Obure: Mr. Speaker, Sir, thank you for welcoming members of the Kisii County Assembly who are on a benchmarking visit to the Senate. I am particularly grateful to the staff of the Senate for preparing an elaborate programme which will enable them familiarize themselves with the activities and workings of the Senate. It will also

give them an opportunity to exchange ideas and experiences with key officers of the Senate.

Mr. Speaker, Sir, I am confident that their visit will equip them with the skills required to advance the agenda of devolution for the benefit of the citizens of Kisii county.

Mr. Speaker, Sir, I wish them every success and a fruitful visit to the Senate. Thank you.

Sen. Omondi: Mr. Speaker, Sir, I want to join Sen. Obure and Sen. Wetangula, the Senate Majority Leader for welcoming and---

(Loud consultations)

Sen. Omondi: We are the majority.

The Speaker (Hon. Ethuro): Order, Senator! Majority is not a matter of personal opinion.

Sen. Omondi: Mr. Speaker, Sir, I want to join them in welcoming the delegation that is visiting the Senate this afternoon. I also thank the delegation of councilors. I once worked under councilors and they did a good job.

As I join other Senators in welcoming the delegation, I wish them a fruitful and safe stay in Nairobi. I know that they are going to learn something that will add value and promote devolution.

Thank you.

Sen. Karaba: On a point of order, Mr. Speaker, Sir. Sen. Omondi is trying to insinuate that my friend, Sen. Wetangula, has said something about Bungoma, when he has not even said anything. Is she in order?

(Laughter)

The Speaker (Hon. Ethuro): Order, Senator!

Proceed, Sen. Wetangula.

The Senate Minority Leader (Sen. Wetangula): Mr. Speaker, Sir, for the benefit of the distinguished Senator for Kirinyaga, Sen. Godliver has the ability and capacity to foresee what is coming and appreciate in advance. It is called prior appreciation.

Mr. Speaker, Sir, allow me also to join you and the House in welcoming all the delegations that you have cited; in particular, a delegation from my county of Bungoma, the Implementation Committee, that is engaging their counterpart committee on not only benchmarking, but also a learning experience, knowing that implementation of resolutions of any House of Parliament is more critics than the resolution itself, because parliaments like courts, do not act in vain.

I welcome the delegation and wish them a good stay at the Senate and in Nairobi. I have no doubt that when they go back, they will be able to do much more to benefit the people of Bungoma, given the fact that of late we have been in the news for all the wrong reasons.

Thank you, Mr. Speaker, Sir.

Sen. Ong'era: Thank you, Mr. Speaker, Sir, for giving me this opportunity to make my remarks. Like other Senators, I also want to congratulate your office in setting

up this programme for various members of County Assemblies who are here this afternoon to share with them and exchange ideas on the various legislative bodies, at the national level and at the county level.

Mr. Speaker, Sir, I am particularly very pleased to see Members of Kisii County delegation led by our able Speaker in this House and Members of Bungoma County Assembly. I want to congratulate the two counties and ask them that they form a friendship partnership of the two counties where they can share ideas in agribusiness and also in political thought.

Like Sen. Christopher Obure who is the leader of our delegation may I join in congratulating Members of Kisii County Assembly. I wish them all the best in their endeavors and what they will study here in our Assembly. I also wish them safe stay in Nairobi. Let us exchange ideas on how we can make our County Assembly better.

Thank you.

Sen. Kanainza: Thank you, Mr. Speaker, Sir, for giving me this opportunity to appreciate the Members who have come to join us. On behalf of the Committee of Implementation, I want to welcome the Implementation Committee on Bungoma County for seeing it important to come and benchmark with the Senate. This morning we had a session with them. This was a follow up of the good deliberations we had with them in March this year when we visited their county assembly. I want to take this opportunity to welcome them once more to Nairobi, particularly to the Senate. I believe we shall have more to discuss with them.

Sen. Ndiema: Thank you, Mr. Speaker, Sir, for giving me the opportunity to join you in welcoming this delegation. From the negative audit reports that we are receiving from the counties, we are more convinced now that the success of devolution will depend on the ability and commitment of the county assemblies to oversight and legislate on matters relating to counties.

Sen. (Dr.) Machage: Mhe. Spika, kwa heshima na taadhima kuu, sisi ndani ya Bunge hili tumefurahi kuwakaribisha wenzetu kutoka mashinani. Kuna mengi wanaweza kujifunza hapa. Badala ya kuzuru nchi za nje kujifunza, ni heri wajifundishe hapa nyumbani. Tumefurahia kwa sababu wamekuja kwa wingi.

Mimi nikitambua kuweco kwenu hapa, sina furaha sana kwa Bunge langu la Migori ambalo badala ya kuja hapa, wameamua kuenda Dubai kukusanya taka. Tumeelezwa vile watatumia Kshs6 milioni kiholelaholela. Si jambo la kufurahia kwa sababu wananchi wanamulika kazi zenu. Leo mtapata wasifu nchi nzima kuona kwamba nyinyi mmekuwa wazalendo wakuu kufika hapa kuja nyinyi kujionea wenyewe mambo yanavyoendelea katika Bunge hili la Seneti.

Karibuni na mjihisi nyumbani.

Sen. (Prof) Lonyangapuo: Mr. Speaker, Sir, I join my colleagues in appreciating the visit by the respective County Assemblies. As we are all aware, the Committee chaired by Sen, (Dr.) Khalwale dealing with counties' accounts looks very interesting. This is the right time we encourage county visitations to Senate and National Assembly to benchmark and see how accounts are handled in order to be able to stop some of the malpractices we saw recently.

Lastly, we have a special group of visitors today. The Forum for former Councilors who served Kenya so diligently to the extent that we now have a new dispensation called devolution. They are here because of their Petition. It is great that

they have come at this time to see how the country is being run. In fact, we are also concerned about their wellbeing.

Sen. (Dr.) Khalwale: Thank you, Mr. Speaker, Sir. I am sorry to come in late, but while at the Bar, I had your communication on the World Trade Organization Conference that is about to happen in this country. I thought I should draw the attention of the Chair to the fact that Senators have truly humbled themselves in the interest of the economy of their country because World Trade Organization holding such an important function here will bring in a lot of foreign exchange.

Mr. Speaker, Sir, because of the way the Senators have humbled themselves, I want to appeal to the President of the Republic to also consider that the Executive humbles itself. It is only last week when another conference that was meant to draw into the country 37 heads of States collapsed. It is sad the Government found billions of shillings for that conference, but they cannot find billions to pay our teachers.

Mr. Speaker, Sir, let the Executive humble itself the way we have humbled ourselves. The money that was going to do that particular conference last week for heads of States should be passed over to the teachers. We want our children back in school.

Sen. (Prof) Lonyangapuo: On a point of order, Mr. Speaker, Sir. Did you hear Sen. (Dr.) Khalwale talk about “Bar”. Some people who may be listening to us may be wondering what type of bar he was talking about. May he be specific because our proceedings are being watched live by Kenyans? Which type of bar is he talking about?

Sen. (Dr.) Khalwale: Mr. Speaker Sir, I said I came in late and while standing at the Bar, I heard you make a communication on WTO. For the benefit of the Senator who is a new man in politics, that place where a metallic object is drawn, is called the Bar. So, I was at the Bar. I was not at the bar.

Next Order!

MESSAGES FROM THE NATIONAL ASSEMBLY

CONCURRENCE OF THE SENATE ON THE WATER BILL (NATIONAL ASSEMBLY BILL NO. 7 OF 2014)

The Speaker (Hon. Ethuro): Hon. Senators, I wish to bring to the attention of the Senate that pursuant to Standing Order 40(2) and (3), the Clerk received and delivered to me on Tuesday, 4th August, 2015 a Message from the National Assembly regarding the Water Bill (National Assembly Bill No. 7 of 2014).

Consequently, I caused the Message to be transmitted to every Senator pursuant to Standing Order No.40(5) by letter Ref. SEN/L&P/MSG.2015, dated 17th August, 2015 as the Senate was not sitting at the time.

Hon. Senators, in accordance, therefore, with standing order 40(5), I hereby report the following Message to the Senate-

“PURSUANT to the provisions of Standing Order Nos. 41 and 142 of the National Assembly Standing Orders, I hereby convey the following message from the National Assembly-

THAT WHEREAS, the Water Bill (National Assembly Bill No. 7 of 2014) was published vide the Kenya Gazette Supplement No.27 of March 17,

2014 as a Bill affecting County Governments in terms of provisions of Article 110 of the Constitution;

AND WHEREAS, the National Assembly considered and passed the said Bill with amendments, on Tuesday, July 7, 2015 in the form attached hereto;

NOW THEREFORE, in accordance with Article 110(4) of the Constitution and the provisions of Standing Order 142 of the National Assembly Standing Orders, I hereby forward the said Bill to the Senate, the object of which is to seek concurrence of the Senate on the Bill as passed by the National Assembly.”

Hon. Senators, Standing Order No.148 provides as follows, and I quote:

“The Senate shall proceed with a Bill that originates from the National Assembly in the same manner as a Bill introduced in the Senate by way of First Reading in accordance with Standing Order 129 (First Reading of Bills)”.

Hon. Senators, accordingly, I now order that the Water Bill (National Assembly Bill No.7 of 2014) be listed in tomorrow’s Order Paper for First Reading.

I thank you.

REJECTION OF THE COUNTY GOVERNMENTS (AMENDMENT)
BILL (SENATE BILL NO. 1 OF 2014)

Hon. Senators, I wish to bring to the attention of the Senate that pursuant to Standing Order No.40(2) and (3), the Clerk received and delivered to me, on Thursday, 20th August, 2015 a Message from the National Assembly regarding the rejection by the Assembly of the County Governments (Amendment) Bill (Senate Bill No.1 of 2014).

Consequently, pursuant to Standing Order No.40(5), I caused the Message to be transmitted to every Senator vide letter Ref. SEN/L&P/MSG.2015 dated 25th August, 2015 as the Senate was not sitting at the time.

Hon. Senators, in accordance, therefore, with Standing Order No.40(5), I hereby report the following Message to the Senate-

“PURSUANT to the provisions of Standing Order Nos.41 and 42 of the National Assembly Standing Orders, I hereby convey the following Message from the National Assembly-

WHEREAS, following the passage of the County Governments (Amendment) Bill (Senate Bill No.1 of 2014) in the Senate, the said Bill was referred to the National Assembly for consideration;

AND WHEREAS, the National Assembly, on Thursday, August 6, 2015, rejected the said Bill at Second Reading, pursuant to Standing Order No.57(1) of the National Assembly Standing Orders, the import of which the Bill was referred to a Mediation Committee;

NOW THEREFORE, in accordance with the provisions of Article 112 of the Constitution and Standing Order No.142 of the National Assembly Standing Orders, I hereby convey the said decision of the National Assembly to the Senate.”

Hon. Senators, Article 112(1)(a) of the Constitution provides that if one House passes an ordinary Bill concerning counties and the second House rejects the Bill, it shall be referred to a mediation committee appointed under Article 113.

Article 113 provides as follows-

- (1) If a Bill is referred to a mediation committee under Article 112, the Speakers of both Houses shall appoint a mediation committee consisting of equal numbers of members of each House to attempt to develop a version of the Bill that both Houses will pass.
- (2) If the mediation committee agrees on a version of the Bill, each House shall vote to approve or reject that version of the Bill.
- (3) If both Houses approve the version of the Bill proposed by the mediation committee, the Speaker of the National Assembly shall refer the Bill to the President within seven days for assent.
- (4) If the mediation committee fails to agree on a version of the Bill within thirty days, or if a version proposed by the committee is rejected by either House, the Bill is defeated.

Hon. Senators, in the circumstances, I concur with the Speaker of the National Assembly to form a mediation committee in accordance with Article 112(1)(a) of the Constitution. In this regard, Hon. Senators, I have appointed the following Senators to represent the Senate in the Mediation Committee-

1. Sen. Beatrice Elachi
2. Sen. Kipchumba Murkomen
3. Sen. Janet Ong'era
4. Sen. Billow Kerrow
5. Sen. (Dr.) Boni Khalwale

I thank you.

APPROVAL OF THE MEDIATED VERSION OF THE FERTILIZERS
AND ANIMAL FOODSTUFFS (AMENDMENT) BILL
(NATIONAL ASSEMBLY BILL NO. 36 OF 2013)

Hon. Senators, I wish to bring to the attention of the Senate that pursuant to Standing Order No.40(2) and (3), the Clerk received and delivered to me, on Friday, 21st August, 2015 a Message from the National Assembly regarding the approval by the Assembly of Mediated Version of the Fertilizers and Animal Foodstuffs (Amendment) Bill (National Assembly Bill No.36 of 2013).

Hon. Senators, in accordance, therefore, with Standing Order No.40(5), I hereby report the following Message to the Senate-

“PURSUANT to the provisions of Standing Orders Nos.41 and 42 of the National Assembly Standing Orders, I hereby convey the following Message from the National Assembly-

WHEREAS, the National Assembly received a Message from the Senate on August 12, 2015, conveying passage of the mediated version of the Fertilizers and Animal Foodstuffs (Amendment) Bill (National Assembly Bill No. 36 of 2013) by the Senate;

AND WHEREAS, the National Assembly, by way of resolution, on August 20, 2015, also passed the mediated version of the said Bill in the form developed by the Mediation Committee;

NOW THEREFORE, in accordance with the provisions of Standing Order 150(4)(b) of the National Assembly Standing Orders, I hereby convey the said decision of the National Assembly to the Senate.”

Hon. Senators, the mediated version of the Bill will be forwarded to His Excellency the President for assent.

I thank you.

PETITION

LEGISLATIVE INTERVENTIONS TO ADDRESS THE PLIGHT AND WELFARE OF FORMER COUNCILLORS

Sen. (Prof.) Lonyangapuo: Thank you, Mr. Speaker, Sir. I rise to present a Petition made to the Senate pursuant to Article 119 of the Constitution of Kenya and the Standing Order No. 24 of the Senate by the forum of former councillors who served in the defunct local authorities in Kenya since Independence.

We, the undersigned citizens of the Republic of Kenya and former councilors under the defunct local authorities in Kenya draw the attention of the Senate to the following;

1. THAT, we faithfully and diligently serve the people of Kenya as councillors and in various capacities under the defunct local authorities prior to 2013 General Elections when the said local authorities were dissolved to give way to the devolved system of Government;
2. THAT, while former the Members of Parliament and other elective and appointive government officials are entitled to and indeed enjoy pension and gratuity packages, that ensure that they live comfortably once out of office, there exists no similar mechanism to compensate or appreciate those who served this country faithfully as councillors under the defunct local authorities;
3. THAT, majority of those who served as councillors in the defunct local authorities since Independence are now living in squalor and are faced with a myriad of challenges, including inability to cope with the deteriorating health in the absence of health insurance covers;
4. THAT, we have made the best efforts to have this issue addressed by the relevant organs and agencies without any positive outcome;
5. THAT, the matters raised in this Petition are not pending before any court of law, constitutional or other legal body.

WHEREFORE, your humble Petitioners pray that the Senate:-

1. Investigates the issues raised in this Petition and makes appropriate recommendation and legislative interventions thereon to address the plight of former councilors who served in the defunct local authorities in Kenya since Independence including:
 - (a) Making provision for payment of a one off honoraria of Kshs1.5 million to every person who served for a minimum of one term as a councillor in Kenya since Independence.
 - (b) Making provision for payment of a monthly pension of at least Kshs30,000.

(c) Making provision for state-sponsored health insurance for all persons who have served as councillors in Kenya since Independence.

(d) Making provision for access by former councillors to premises and facilities of the current county assemblies, including canteens and Speaker's Galleries in our respective county assemblies.

(e) Making provision for former councillors to be exempted from paying car parking fees and other rates and fees while within the respective local authorities where they served.

We your petitioners will ever pray.

Mr. Speaker, Sir, the petitioners names are as follows:

(1) Hezron Kirimi, National Chairman of the Forum of the Former Councillors.

(2) Tom Ogolla Mboya, Executive Secretary.

(3) Grace Catherine Ntonyiri, Treasurer.

(4) Geoffrey Gitau Mwangi, Organising Secretary.

(5) Christopher K. Lonyala, Member.

Mr. Speaker, Sir, I beg to lay this petition on the Table of this House. Thank you.

(Sen. (Prof.) Lonyangapuo laid the document on the Table)

The Speaker (Hon. Ethuro): Hon. Senators, I will allow very brief interventions if any. Since the interest is quite high, I will restrict you to less than one minute.

Sen. (Dr.) Machage: Mr. Speaker, Sir, the plight of political leadership since Independence in this country is wanting, especially for those who have served before and are on retirement either by default or devolve. The demand and request by the members is not really a tall order for this country. We should not only recognise them at death by delivering long speeches at the time of their burial. We should protect their welfare as they live after retirement from politics.

The plight of Members of Parliament (MPs) has been partially observed. It is just time, due and important that we considered the plight of the former councillors that are still surviving to this end.

Thank you, Mr. Speaker, Sir.

Sen. Boy Juma Boy: Asante sana, Bw. Spika kwa kunipa nafasi kuunga mkono malalamishi haya yaliyoletwa kwa niaba ya waliokuwa madiwani.

Bw. Spika, Waswahili husema kuwa ukiona kichwa cha mwenzako kikinyolewa chako tia maji. Hata sisi pia tunaweza tukawa wa zamani kama wao. Kwa hivyo, ni vyema kushughulikia masilahi yao na kuhakikisha kuwa wako sawa. Namshukuru Sen. (Prof.) Lonyangapuo kwa hilo na naunga mkono malalamishi haya. Naomba yatiliwe maanani na kushughuliwa haraka iwezekanavyo.

Sen. Adan: Mr. Speaker, Sir, I join my colleagues in congratulating the former councillors who brought the Petition to Senate.

Mr. Speaker, Sir, I had a sitting with former councillors in my county. I tried to address their plight in order to see how they could be helped. These are leaders who served this country diligently for a very long time. Unfortunately, they live a miserable life. Their children are not going to school yet, they are actually leaders who were behind the current counties and goodies that we have in counties. Therefore, it is important to look into these issues as quickly as possible. Moreso, we should go to an extent of

addressing the welfare of the county assemblies that are currently serving in our country. It is important to take care of the leaders and see to it that they live a life that leaders deserve.

Thank you, Mr. Speaker, Sir.

Sen. Ongoro: Mr. Speaker, Sir, I also rise to add my voice in support of this petition. It has been said that once a leader always a leader. Former councillors led and represented us at a time when their legislative areas were wider, but they were being paid peanuts. They represented us well. They laid the foundation stones upon which we are building. Expectations are still high from the society, friends and relatives because what is expected of them is what was expected even when they were in office.

Therefore, what they are petitioning us, as a country and Senate, is a minimum of what we would have given them; a tone of appreciation of Kshs1.5 million and access to health and other facilities is not much. I urge everybody to support them so that when we retire and begin fighting for benefits, we will be reading from the same script.

With those few remarks, I beg to support.

Sen. Khaniri: Mr. Speaker, Sir, I join my colleagues who have spoken earlier in, first of all, thanking Sen. (Prof.) Lonyangapuo for presenting this petition on behalf of the former leaders.

Secondly, I thank the former leaders for the path they have taken for their matter to be addressed, by petitioning this House, by exploiting Article 119 of the Constitution. I know that other people would have rushed to courts and used all other means to get redress. However, they chose to petition this House. It is important that we expedite the process. I know that you will refer it to the relevant standing committee.

Mr. Speaker, Sir, it is important that the welfare of our past leaders is looked into. They must live a decent life that befits their status in the society. I know that they have made their case and proposal. It may not be possible to grant them all that they are asking for. However, all the same, it is important that we look into it and see what is sustainable and what can be done for them to live a decent live. Therefore, I support the petition and encourage that it be referred to the relevant standing committee.

Thank you, Mr. Speaker, Sir.

Sen. Okong'o: Mr. Speaker, Sir, I also wish to add my voice on this very important petition. Former councillors are men and women of wisdom and knowledge, which is required in our counties. In this country, huge amounts of money are stolen through theft, corruption and other forms of mismanagement. What they are asking for is just a token. They are only 6,000 members. I request Members of County Assemblies (MCAs), including Kisii County, to consider co-opting them into running of county affairs considering the knowledge they have in other issues.

Mr. Speaker, Sir, with those few remarks, I beg to support.

The Speaker (Hon. Ethuro): If we can all be that brief, it will be appreciated by the Chair.

Sen. Ndiema: Mr. Speaker, Sir, I also join my colleagues in supporting this petition. I know that previously, there was no provision in the law for such remuneration. However, the new Constitution emphasises on redressing historical injustices. I consider this as one of the historical injustices that was meted on leaders at the grassroots level. Some of them lead a life that is not worthy of former leaders.

As you know, when you enter into politics like we are, and that is what they did, it is not possible to get any other job. It is the duty of the State to cater for these senior citizens.

Mr. Speaker, Sir, I take this opportunity to pass a message of condolence to the family of one of them who was supposed to come, Mr. Chepkwony, former vice chairman of Trans Nzoia County Council. He was supposed to be in this team, but he passed on suddenly.

Sen. Orengo: Mr. Speaker, Sir, I fully support the sentiments of Sen. (Prof.) Lonyangapuo and the petition. However, you cannot honour the dead if you cannot honour the living.

Yesterday I saw an incident where we were mourning the father of one us and the Speaker of the Senate was not allowed to say a word on such an important occasion.

Hon. Senators: Shame!

Sen. Orengo: Mr. Speaker, Sir, if we cannot respect your office as the Speaker which is a constitutional office, what about when you leave office? You will be as good as dead. We must begin by recognizing the offices that are there now, so that if Sen. Murkomen comes to Siaya, I will recognise his office without a doubt. Whatever problem we may have with each other, but if he appears anywhere as a leader, that position must be recognised. Woe unto those persons who were responsible for the incident yesterday where our Speaker did not utter a word while the likes of us were able to utter a word. I felt very disappointed.

Having said that, councillors played a very important role during the time when we were dealing with local authorities. This petition has come at the right time. As we recognise their position, I also urge you to recognise the position of the Prime Minister, the Vice President and eventually as a long serving Member for Siaya, you recognise my position so that all these things make some sense and harmony.

Mr. Speaker, Sir, I fully support.

The Speaker (Hon. Ethuro): What is it, Sen. (Dr.) Khalwale?

POINT OF ORDER

SENATE SPEAKER DENIED OPPORTUNITY TO ADDRESS
MOURNERS DURING BURIAL OF SENATOR SONKO'S FATHER
IN MACHAKOS COUNTY

Sen. (Dr.) Khalwale: On a point of order, Mr. Speaker, Sir. The Senator for Siaya has made very serious revelations to the public. That not Hon. Ethuro, but the Speaker of the Senate of the Republic of Kenya was subjected to humiliation yesterday.

I beg for your indulgence; bend backwards and direct that the Senate Majority Leader brings a statement to clarify to the country the circumstances under which the institution of the Senate was abused yesterday.

(Applause)

We hope that the statement will be supported by an authentic piece of evidence from the Office of the President, who was the highest ranking guest at that sad day when we were burying *mzee shujaa*, the father of Sen. Mbuvi Sonko, the Senator for Nairobi.

The Speaker (Hon. Ethuro): What is it, Sen. Murkomen?

Sen. Murkomen: On a point of order, Mr. Speaker, Sir. I was seated next to Sen. Lesuuda, yourself and the said culprit. Everybody who sat around there was shocked yesterday. That happened despite the fact that you came to mourn the death of the father of the Deputy Majority Whip. I personally notified the Governor of Machakos that he had the responsibility to invite you to pass your condolences. He deliberately ignored you. It was not your condolences; it was on behalf of the Senate. The murmurs I heard from the Governor for Machakos was to the effect that you were too junior for him to invite you.

I spoke yesterday and everybody heard. I reminded the country that one of the greatest challenges of devolution is that, power has entered into the heads of those who have been given the responsibility to manage our counties. They think that they are bigger than everybody else, but yesterday was about mourning. It was necessary for you to pass our condolences on behalf of this House. That is why all of us spoke on behalf of ourselves, but left the responsibility to you to pass the message of the Senate of the Republic of Kenya.

I concur with Sen. (Dr.) Khalwale. That, whereas we have accepted as a Senate to be a House of humility; the circumstances under which you were given a total blackout yesterday – I must congratulate you because you behaved very maturely as you have always done. You did not sulk and did not look discouraged. You stood firm. However, those of us who were behind you were very sad. You saw me walking to the stage, to tell the Speaker of the Senate to just wave. I want to say without any fear of contradiction, a Governor who has been running a cinema in the county; thinks that he can transfer that cinema mentality to everybody in this country, is an unfortunate thing. It is an embarrassment to the family of devolved governments. It is important for us to have an official position of what happened yesterday. If nothing, it is for the record.

The Speaker (Hon. Ethuro): Order, Members! Do you really wish to pursue this matter?

Hon. Senators: Yes!

The Speaker (Hon. Ethuro): Proceed, Sen. Wetangula.

The Senate Minority Leader (Sen. Wetangula): Mr. Speaker, Sir, allow me to express my outrage as well because I was in the audience. I would not have minded if all of us Senators, including myself did not speak yesterday, but you conveyed the condolences of this august House to one of us who had lost his father. That, the Governor for Machakos, well known for his cheap theatrics, stood up when given an opportunity to invite you to speak, but chose to invite former Members like hon. Wavinya Ndeti and hon. Kalembe Ndile to speak and leave you out is something that is an affront to the dignity of your office, to the dignity of your person as a very distinguished Kenyan and the dignity of this House that you represented.

I urge, in the words of Sen. (Dr.) Khalwale and Sen. Murkomen, that my brother Sen. (Prof.) Kindiki brings a formal statement to register on the HANSARD of this House the outrage that we all feel for this demeaning behaviour by a person who has no regard for others and who now has forgotten that he is the Governor for Machakos and is spending public funds visiting neighbouring counties to cause trouble for his colleague

governors, purporting to be doing what he calls *Maendeleo Chap Chap* when we know that it is just a smoke screen for fraud.

(Laughter)

(Resumption of Statements)

That, notwithstanding, let me also join the House in congratulating Sen. (Prof.) Lonyangapuo for bringing the petition to honour, respect and show some token payment to former councillors. We all represent geographical areas that were county councils. We know the former councilors who did sterling jobs. In the history of this country you may recall that in 1959, the then county of Bungoma lent money to Her Majesty the Queen's Government because they were doing so well, unlike what we see today where resources we allocate from here are being used to buy wheelbarrows at prices nobody can imagine.

We, as a House, must stand with former councillors because today it is them and tomorrow it will be us. In fact, we have some living Senators who were in the first Senate of this country who are suffering out there. We saw them when we inaugurated this Senate. We judge the level of sophistication of a society in the manner it treats its minorities, disabled persons and the elderly. That is how a country and a community is judged. We must rise to the occasion.

I saw a distinguished lady from Eldoret called Cherop, whom we have fought side by side in the second liberation of this country. She never missed any important gathering that intended to make this country better. She deserves to be recognized and looked after.

Sen. Mwakulegwa: Bw. Spika, kufuatana na yaliyokukumba jana, ninafikiri ni watu wengi ambao hawajui wewe kama kiongozi katika taifa hili ilhali umekuwa katika siasa kwa miaka 20. Ni nani huyo ambaye hakumtabua Spika wa Bunge la Seneti? Spika ndiye kiongozi wa Bunge hili. Kama walikudharau, aibu ni kwao. Sisis tunakuheshimu kwa sababu wewe ni kiongozi wa Bunge la Seneti ambalo linaheshimiwa sana na Wakenya.

Madiwani wa zamani walifanya kazi kwa bidii na wakaacha mali mengi katika kaunti zetu. Itakuwa ni vizuri tuzungumzie matakwa yao ili tuwafidie na marupurupu ya kuimarisha maisha yao. Ni mapenzi yetu kuona kwamba wanaishi maisha ya bora. Wengi wao wanaishi maisha ya umaskini. Sisi kama viongozi wa Seneti ni lazima tuwasaidie kuimarisha maisha yao ili tuendeleo kuheshimiwa kama nchi.

The Senate Majority Leader (Sen. (Prof) Kindiki): Mr. Speaker, Sir, I take this opportunity to congratulate Sen. (Prof.) Lonyangapuo for bringing this petition. I fully support that all people who have served our country should be appreciated without discrimination. As you will guide us, I hope when this petition is committed to the relevant Committee, suggestions in terms of what should be done will be carried forward and supported by us.

Personally, I want to go on record that the idea of recognizing and supporting people who have given their time to serve the country, is welcome. The detail is something that can be worked out and then we take it from there.

Mr. Speaker, Sir, before I sit down, allow me to vent my deepest regret and embarrassment at what happened to you yesterday in Machakos. It is not something that we can contextualize. I am not aware of any civilization where people holding public

offices can be as cheap as what happened yesterday. If you cannot recognize the Speaker of the Senate or the Speaker of the National Assembly and you are purporting to be the leader of one of the so many counties in this country, then you are just telling us that all that we have suspected over the years is true; that you are cheap, primitive, backward, fraudulent and a conman.

I am going to pursue this matter as you will direct. I have heard the request by Sen. (Dr.) Khalwale and if the Speaker so directs, this is something that I will pursue personally. I want this Senate to be told in no unclear terms who directed, advised or encouraged the Governor of Machakos County to demean and embarrass the Speaker of the Senate of the Republic of Kenya.

(Loud Consultations)

The Speaker (Hon. Ethuro): Order, Senators! Sen. (Prof.) Kindiki is so directed.

Sen. Khaniri: Mr. Speaker, Sir, we welcome your direction to the Senate Majority Leader. However, given the weight of this matter, do you not think that it will be prudent for us to give him some timelines by which he should report to the House?

The Senate Majority Leader (Sen.(Prof) Kindiki): Mr. Speaker, Sir, in order to give this matter the kind of attention and comprehensiveness it demands, I request that I be given one week so that I can provide a good statement.

The Speaker (Hon. Ethuro): It is so ordered.

Sen. Murungi: Mr. Speaker, Sir, let me not dwell on the embarrassing moment of yesterday. I beg you to forgive that man because he did not know what he was doing.

(Laughter)

Those who are Christians know that the gospel according to St Luke says that those who exalt themselves will be humbled, but those who humble themselves will be exalted. You will be exalted in the eyes of the Lord.

(Loud Consultations)

The Speaker (Hon. Ethuro): Do you want to be exalted?

Sen. Murungi: Mr. Speaker, Sir, do not worry. They will be humbled.

(Laughter)

Regarding the Petition by our friend Sen. (Prof.) Lonyangapuo, it will be criminal for any Senator not to support this petition. The former councilors, including the Chairman of this forum whom I know very well because he is from my county, are people whom we have struggled with against dictatorship in this country. These are people who have walked with us during the difficult days of the struggle for democratization of this country. These are people who have played a great role in the grassroots development of this country.

Mr. Speaker, Sir, it is a shame that so many years after Independence, *Mau Mau* are being paid and recognized. There is a monument being erected at Uhuru Park, but we

are quickly forgetting the people we were struggling with only yesterday. I have met many of these councillors and they are actually leaving in squalor, many of them are old and sick. They cannot afford medicine. Some cannot even afford to come and visit their own grandchildren in Nairobi. What they are asking for is a small token. We did for former Members of Parliament. I do remember I was one of the people who supported them. It is only reasonable that we should not allow former leader to be reduced to beggars in the country that they love and served.

Let us support this petition.

Sen Wako: Mr. Speaker, Sir, thank you for giving me this opportunity. First, I want to associate myself with the sentiments expressed by my colleagues on the treatment of yesterday. I do not believe that the Governor of Machakos did not know what he was doing. He has been the Government spokesman and he knows the protocols. Normally when a court is sentencing somebody, it makes sure that he knows why he gets two years instead of four years because he should have known better. The governor should have known better. I do not know whether he is selling *Maendeleo Chap Chap* or the retrogressive *chap chap*. If that is so, if he really wants to lead the *Maendeleo Chap Chap* or whatever it is, then the honourable thing for him to do is to render an apology to you, Mr. speaker, and to the entire Senate. I hope he is honourable enough to stand up and do just so.

Mr. Speaker, Sir, talking about the petition, I want to pay tribute to Sen. (Prof.) Lonyangapuo for bringing it here. When I entered politics the people who taught me grassroots politics were this former councilors. They may look very old, very poor, almost hungry looking and so on, but when you talk to them, you see wisdom and how decisions should be made.

Just like former Members of Parliament, they were committed to the development and unity of this country. As we have done for the former Members of Parliament, we should also do for them because when they were serving, they were not even earning big salaries like today. It was just something like pocket money, but they were able to serve well. It is time for us to recognise them.

Sen. Kittony: Mr. Speaker, Sir, I also want to congratulate Sen. (Prof.) Lonyangapuo for bringing the issue of the former councilors. I was a councillor for two terms.

Regarding the issue of Machakos County, I am glad it was you because most of us have been humiliated in many occasions. I have been a victim. The governors do not recognize us. If they are able to do that to you, surely what do they think we are feeling? It is good that it is you now so that the statement that we have demanded be written and be written properly because they have to learn this is a senior House. We demand recognition. While I sympathise with you, it is good that it was you so that things can be put right from now henceforth.

Sen. (Prof.) Anyang'-Nyong'o: Mr. Speaker, Sir, first, I would like to congratulate my dear fellow professor for bringing this petition on behalf of councillors. Many people are suffering from lack of pension in this nation. Quite a number of them have inadequate pension. I have always mentioned my friend, Amb. Kibinge, who was a distinguish civil servant and an ambassador in Washington. One day I met him, and he told me the kind of pension he was earning and I was very ashamed.

While we support the councillors, we should think about the pension schemes in these country and also advisory services to pensioners; how they can use their pension resources when it is adequate not just for self-survival, but on how they can invest and improve themselves.

Mr. Speaker, Sir, having said that, I was not in Machakos yesterday, but I have been fully briefed by friend here, Sen Orenge. I do not know why you are surprised in this House. The fact that Governor Mutua called hon. Wavinya Ndeti and hon. Kalembe Ndile shows you clearly the level at which he was operating. I do not think that he was just about to call the Speaker when he is not in his league. Moreover fraudulent people are always like that. They may carry themselves in high circles. I know some people who have called themselves doctors and professors. One of these days, they will be discovered that they have never gone to a college. I am sure sooner rather than later, the bubble will blow on our friend, the Governor of Machakos.

In any case, Jesus was always humiliated until he was even put on a cross, especially by fraudulent people like those ones who were telling Pilate that he should crucify Jesus and release a robber. So, you are not in bad company. I would encourage you to take this incident in Machakos County as laurel on your crown. I did not expect a fraudulent person to call you to speak after honourable Senators had spoken.

Sen Sang: Mr. Speaker, Sir, I wish to join my colleagues in thanking and congratulating Sen. (Prof.) Lonyangapuo, for the petition he has brought to this House. The contributions of some of these councillors from the defunct local authorities can be seen in our counties today. No wonder most of the counties are collecting far less revenue, than they used to collect. Even with the little resources available to them then, we can still see the track of development in our local authorities much better than we can see from the counties.

I want to support the petition and hope that the Committee that will be handling it will deal with it expeditiously so that we can look at the welfare of these councillors. I am sure that councillors from Machakos County did much more than some of the things that are being done by the renowned film maker from Machakos.

I support this petition and I wish that we expedite the process to ensure that councillors' welfare is sorted out.

The Speaker (Hon. Ethuro): Hon. Senators, it is 3.55 p.m. so can we do another five minutes, because we have good numbers for the voting. We need to harvest when the harvest is ready. I will allow up to 4.00 p.m. and do not exceed one minute. I will order that we just contribute about the issue of former councillors, forget about Machakos County.

Sen. Abdirahman: Mr. Speaker, Sir, for the one that is related to you, my colleagues have very well spoken to it. I will only join in condemning the Governor of "Masaku" for the very bad behaviour. It is important we demand for a public apology.

Mr. Speaker, Sir, I will straightaway talk on the matter which was presented by Sen. (Prof.) Lonyangapuo. It is timely because the former councillors did a wonderful job for this country. Those who are surviving are still doing very good jobs in our counties, including issues that relate to peace. Therefore, it is important to take care of their plight. I would also say that it is tradition, many a times, to take care of the wealthy, which I do not think it is right. We have taken care of retired presidents who are wealthy, so why not the poor fellows on the ground.

Sen. Murkomen: Mr. Speaker, Sir, I am one person who worked with most of the former councillors on the six legislations for devolved governance. Most of the people who were in Bomas of Kenya would remember that greatest contributors to the constitutional making process were former councillors. It is very sad that the new dispensation they were awaiting and the new constitutional order that they fought for, becomes a disadvantage to them. It is important for us to realise that had it not been for these former councillors, we could not have the kind legislation we have now or the legal and constitutional framework that we have today.

If for nothing else, this new constitutional order which recognises social security, should assist and help our former councillors to live a better life which is dignified in the rural areas, the local community and urban areas. These people carry the institutional memory of the county. I wish all the county governments would consult them more. If that happens, we would have less of the problems we are having with devolution because they have the institutional memory, they understand the properties of the counties and other things.

Therefore, I support this petition and support what Sen. (Prof.) Lonyangapuo has done.

The Speaker (Hon. Ethuro): Hon. Senators, I am afraid, it is 4.00 p.m. and we must make progress.

Next Order!

Sen. Khaniri: On a point of order, Mr. Speaker, Sir. According to our Standing Orders, once a petition has been presented, it is supposed to be committed to the relevant Committee.

The Speaker (Hon. Ethuro): Sen. Khaniri, I have heard you. According to Standing Order No.227, this petition will be committed to the Committee on Labour and Social Welfare. According to Standing Order No.227(2), the Committee shall, in not more than 60 days, respond to the petitioner by way of a report. Thank you for reminding me.

Hon. Senators, we committed ourselves to voting on Wednesday afternoon. Since we have the requisite number, we do not want to lose this opportunity. We will now skip all the other orders and move to Orders No.9, 10, and 12. Order No.8 is deferred. We will start with Order No.12 then come back to Order No.9 and 10 which is the Committee of the Whole.

The Senate Minority Leader (Sen. Wetangula): On a point of order, Mr. Speaker, Sir.

The Speaker (Hon. Ethuro): What is it, Sen. Wetangula?

The Senate Minority Leader (Sen. Wetangula): Mr. Speaker, Sir, I duly notified the Speaker in accordance with Standing Order No.33(1), my desire to move a Motion for Adjournment on a matter of grave national importance, that is, the teachers' strike. Now that we are going to Order Nos.9, 10 and 11, I see Order No.11 has quite a bit of work to do, I would want to seek an indication as at what time you will permit me to move the Motion for Adjournment. I do know that many of my colleagues here are also available to discuss the matter of the teachers' strike.

The Speaker (Hon. Ethuro): Order, Sen. Wetangula! You are raising a matter that does not exist. You need to move the Motion and be supported. I was very clear because I

never mentioned Order No.11. The proposal is that after we do Order No.12, 9 and 10, we will move to your Motion.

Proceed.

**NOTICE OF MOTION FOR ADJOURNMENT
UNDER STANDING ORDER NO. 33**

CRISIS OF TEACHERS' STRIKE IN KENYA

The Senate Minority Leader (Sen. Wetangula): Mr. Speaker, Sir, I beg to give Notice of my intention to move a Motion for Adjournment to discuss a definite matter of urgent national importance pursuant to Standing Order No.33(1) today, 16th September, 2015.

(Several Hon. Senators stood up in their places)

The Speaker (Hon. Ethuro): Order! You do not need the whole House, you already have the requisite number.

We will have the Motion after we finish with the three orders that I had mentioned.

Sen. Mutula Kilonzo Jnr.: On a point of order, Mr. Speaker, Sir. Yesterday I rose on a point of order and requested the person who was sitting on your Chair to give directions on the report issued on the dissolution of Makeni County by Mohamed Nyaoga. The directions were given that a communication will be issued this afternoon as to whether or not we can have that report at the Senate. I am seeking your directions.

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

The Speaker (Hon. Ethuro): Hon. Senators, I am learning of the matter and we will endeavour to give it to you on Tuesday.

Let us move on to Order No.12 and it is Division. We shall ring the Division Bell for one minute.

(The Division Bell was rung)

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

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

The Temporary Speaker (Sen. Ongoro): Hon. Members, the Bell has stopped ringing. I request you to resume your seats and log in. Could we ring the Bell for one more minutes to request the Members who have walked out to come back?

Where are our Whips? Sen. Ong'era, you are the only Whip in the House, could you whip Members back to the House?

Ring the Bell for one more minute.

(The Division Bell was rung)

BILL

Second Reading

THE COUNTY INDUSTRIAL DEVELOPMENT BILL
(SENATE BILL NO. 7 OF 2014)

(Sen. (Eng.) Muriuki on 15.9.2015)

(Resumption of Debate interrupted on 15.9.2015)

The Temporary Speaker (Sen. Ongoro): The extra minute is now over. Draw the Bar.

(The Bar was drawn)

We will start with Order No.12; The County Industrial Development Bill (Senate Bill No.7 of 2014). Log in and start voting. Any Member cannot vote electronically should approach the Table and vote.

(The Senators proceeded to vote)

DIVISION

ELECTRONIC VOTING

*(Question, that the County Industrial Development Bill
(Senate Bill No.7 of 2014) be now Read a Second Time put
and the Senate proceeded to vote by County Delegations)*

AYES: Sen. Abdirahman, Wajir County; Sen. Adan, Isiolo County; Sen. (Prof.) Anyang'-Nyong'o, Kisumu County; Sen. Boy Juma Boy, Kwale County; Sen. Chelule, Nakuru County; Sen. Chiaba, Lamu County; Sen. M. Kajwang, Homa Bay County; Sen. (Dr.) Khalwale, Kakamega County; Sen. Khaniri, Vihiga County; Sen. (Prof.) Kindiki, Tharaka-Nithi County; Sen. Kivuti, Embu County; Sen. Lesuuda, Samburu County; Sen. (Dr.) Machage, Migori County; Sen. Mositet, Kajiado County; Sen. Murkomen, Elgeyo-Marakwet County; Sen. Murungi, Meru County; Sen. Musila, Kitui County; Sen. Muthama, Machakos County; Sen. Mutula Kilonzo Jnr., Makueni County; Sen. Mwakulegwa, Taita Taveta County; Sen. Ndiema, Trans Nzoia County; Sen. Ntutu, Narok County; Sen. Obure, Kisii County; Sen. Okong'o, Nyamira County; Sen. Orengo, Siaya County; Sen. Sang, Nandi County; Sen. Sijeny, Nairobi County; Sen. Wako, Busia County; and Sen. Wetangula, Bungoma County.

NOES: Nil.

The Temporary Chairman (Sen. (Dr.) Machage): Hon. Senators, I will now announce the results:-

AYES: 29

NOES: Nil

ABSTENTIONS: Nil

The “Ayes” have it.

(Question carried by 29 votes to 0)

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

COMMITTEE OF THE WHOLE

(Order for Committee read)

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

IN THE COMMITTEE

[The Temporary Chairperson (Sen. (Dr.) Machage took the Chair]

The Temporary Chairperson (Sen. (Dr.) Machage): Undraw the Bar to allow the Senators to walk in.

(The Bar was undrawn and several Senators walked into the Chamber)

THE MINING BILL (NATIONAL ASSEMBLY BILL NO.8 OF 2014)

Where is the Mover of the Bill?

We will now move on to Order No.11. This was left out by the Speaker.

Next Order!

THE FOOD SECURITY BILL (SENATE BILL NO.23 OF 2014)

The Temporary Chairperson (Sen. (Dr.) Machage): Where is the Mover?

Let me hear your comments, Sen. Wetangula.

The Senate Minority Leader (Sen. Wetangula): Mr. Temporary Chairperson, Sir, the Mover is the Senate Majority Leader, Sen. (Prof.) Kindiki. He was here earlier. The Bill has a lot of amendments which he needs to take us through.

(Sen. (Dr.) Machage consulted with the Clerk-at-the-Table)

Temporary Chairperson (Sen. (Dr.) Machage): I am advised that we had actually looked at all the amendments and we only need to vote.

The Senate Minority Leader (Sen. Wetangula): Then why did you put all the amendments on the Order Paper?

Temporary Chairperson (Sen. (Dr.) Machage): Since we had looked at all the amendments, today we have to just take the Division. The interesting thing is that we do not even remember that we had actually done the amendments.

Sen. Ongoro: Mr. Temporary Chairperson, Sir, I think we had gone through almost 95 per cent of the amendments. But to the best of my knowledge, I think there was one or two that we did not conclude. So, it would be in order that we only conclude when the Mover is in the House, to put the matter straight.

Sen. Mutula Kilonzo Jnr.: Mr. Temporary Chairperson, Sir, this is a House of record. The Mining Bill is extremely important to this country and, therefore, the HANSARD should bear witness of what transpired, so that we do what Kenyans wants us to do.

The Temporary Chairperson (Sen. (Dr.) Machage): Hon. Senators, matters on the Floor of this House must be taken as that. It is very difficult to go voting for Bills without the Mover or even the Senate Leader of Majority who is actually the sponsor of most of these Bills. I, as the Temporary Chairperson, say “no”. I will not accept. I have not been informed who is representing the Senate Majority Leader in the House.

Sen. Murkomen: On a point of order, Mr. Temporary Chairman, Sir. Once a Bill goes to a Committee, the Mover is not the original sponsor, but it is the Chairman of the Committee. The Chairman of the Committee is in the House.

The Temporary Chairperson (Sen. (Dr.) Machage): Seriously, why should other Members abscond from the Bills that they have brought to the House? I appreciate that the Chairman is here and I have taken cognizance of his presence. Thank you very much.

Sen. Kivuti: On a point of order, Mr. Temporary Chairman, Sir. You were seated in that same Chair when we concluded on Order Nos.8, 9 and 11. With all due respect, all deliberations were made. The only thing that made us not conclude the Committee of Whole was the numbers. Now that we have the requisite numbers, it would be just fair that we execute the business of this House.

The Temporary Chairperson (Sen. (Dr.) Machage): Yes, that is the kind of guidance I want from you. Who else wants to contribute?

Well, I was wrongly advised by the Clerks-at-the-Table because I had moved to Order No.10 whose position I thought was as has been stated by the Chair. I was again misadvised by Sen. Wetangula on Order No.9, needless to quote Sen. Mutula Kilonzo. We will take all the votes of the Division and then I will announce the results at the end of the voting. So, let us start with Order No.10.

THE FOOD SECURITY BILL (SENATE BILL NO. 23 OF 2014)

(Resumption of Consideration interrupted on 29.7.2015)

DIVISION

ELECTRONIC VOTING

(Question, that Clauses 3, 4, 7, 9, 10, 11, 13, 16, 18, 19, 20, 21, 22, 24, 25, 26, 27, 28, 29, 30, 31, 34, 36, 38, 39, 40, 41, 42, 43, 44, 47, 48, 49 and 51 be part of the Bill put and the Senate proceeded to vote by County Delegations)

AYES: Sen. Abdirahman, Wajir County; Sen. (Prof.) Anyang'-Nyong'o, Kisumu County; Sen. Billow, Mandera County; Sen. Boy Juma Boy, Kwale County; Sen. Chelule, Nakuru County; Sen. Chiaba, Lamu County; Sen. M. Kajwang, Homa Bay County; Sen. (Dr.) Khalwale, Kakamega County; Sen. Khaniri, Vihiga County; Sen. (Prof.) Kindiki, Tharaka-Nithi County; Sen. Kivuti, Embu County; Sen. Lesuada, Samburu County; Sen. (Prof.) Lonyangapuo, West Pokot County; Sen. (Dr.) Machage, Migori County; Sen. (Eng.) Muriuki, Nyandarua County; Sen. Murkomen, Elgeyo-Marakwet County; Sen. Murungi, Meru County; Sen. Musila, Kitui County; Sen. Mutula Kilonzo Jnr., Makueni County; Sen. Mwakulegwa, Taita Taveta County; Sen. Ndiema, Trans Nzoia County; Sen. Ntutu, Narok County; Sen. Obure, Kisii County; Sen. Okong'o, Nyamira County; Sen. Orengo, Siaya County; Sen. Sang, Nandi County; Sen. Wako, Busia County; and Sen. Wetangula, Bungoma County.

NOES: 0

The Temporary Chairman (Sen. (Dr.) Machage): Hon. Senators, I will now announce the results:-

AYES: 28

NOES: 0

ABSTENTIONS: 0

The "Ayes" have it.

(Question carried by 28 votes to 0)

(Clauses 3, 4, 7, 9, 10, 11, 13, 16, 18, 19, 20, 21, 22, 24, 25, 26, 27, 28, 29, 30, 31, 34, 36, 38, 39, 40, 41, 42, 43, 44, 47, 48, 49 and 51 agreed to)

DIVISION

ELECTRONIC VOTING

(Question that Clauses 2, 5, 6, 8, 12, 14, 15, 17, 23, 32, 33, 35, 37, 45, 46 and 50 be amended as proposed and be part of the Bill put

and the Senate proceeded to vote by County Delegations)

AYES: Sen. Abdirahman, Wajir County; Sen. (Prof.) Anyang'-Nyong'o, Kisumu County; Sen. Boy Juma Boy, Kwale County; Sen. Chelule, Nakuru County; Sen. Chiaba, Lamu County; Sen. M. Kajwang, Homa Bay County; Sen. Karaba, Kirinyaga County; Sen. (Dr.) Khalwale, Kakamega County; Sen. Khaniri, Vihiga County; Sen. (Prof.) Kindiki, Tharaka-Nithi County; Sen. Kivuti, Embu County; Sen. Lesuuda, Samburu County; Sen. (Prof.) Lonyangapuo, West Pokot County; Sen. (Dr.) Machage, Migori County; Sen. Mositet, Kajiado County; Sen. (Eng.) Muriuki, Nyandarua County; Sen. Murkomen, Elgeyo-Marakwet County; Sen. Murungi, Meru County; Sen. Musila, Kitui County; Sen. Muthama, Machakos County; Sen. Mutula Kilonzo Jnr., Makueni County; Sen. Mwakulegwa, Taita Taveta County; Sen. Ndiema, Trans Nzoia County; Sen. Obure, Kisii County; Sen. Okong'o, Nyamira County; Sen. Orengo, Siaya County; Sen. Sang, Nandi County; Sen. Wako, Busia County and Sen. Wetangula, Bungoma County.

NOES: 0

The Temporary Chairman (Sen. (Dr.) Machage): Hon. Senators, I will now announce the results:-

AYES: 28

NOES: 0

ABSTENTIONS: 0

The "Ayes" have it.

(Question carried by 28 votes to 0)

(Clauses 2, 5, 6, 8, 12, 14, 15, 17, 23, 32, 33, 35, 37, 45, 46 and 50 as amended agreed to)

DIVISION

ELECTRONIC VOTING

(Question that the First Schedule, Second Schedule, Title and Clause 1 be part of the Bill put and the Senate proceeded to vote by County Delegations)

AYES: Sen. Abdirahman, Wajir County; Sen. (Prof.) Anyang'-Nyong'o, Kisumu County; Sen. Billow, Mandera County; Sen. Boy Juma Boy, Kwale County; Sen. Chiaba, Lamu County; Sen. M. Kajwang, Homa Bay County; Sen. Karaba, Kirinyaga County; Sen. (Dr.) Khalwale, Kakamega County; Sen. Khaniri, Vihiga County; Sen. Kivuti, Embu County; Sen. Lesuuda, Samburu County; Sen. (Prof.) Lonyangapuo, West Pokot County; Sen. (Dr.) Machage, Migori County; Sen. (Eng.) Muriuki, Nyandarua County; Sen. Murkomen, Elgeyo-Marakwet County; Sen. Murungi, Meru County; Sen. Musila, Kitui County; Sen. Muthama, Machakos County; Sen. Mutula Kilonzo Jnr., Makueni County; Sen. Mwakulegwa, Taita Taveta County; Sen. Ndiema, Trans Nzoia County; Sen. Ntutu, Narok County; Sen. Obure, Kisii County; Sen. Okong'o, Nyamira County; Sen. Orengo,

Siaya County; Sen. Sang, Nandi County; Sen. Wako, Busia County and Sen. Wetangula, Bungoma County.

NOES: 0

The Temporary Chairman (Sen. (Dr.) Machage): Hon. Senators, there are some Members who are not in the House and they have voted. So, avoid voting for absentees. Sen. (Dr.) Khalwale, Sen (Prof.) Kindiki and Sen. Mositet are not in the House, but it is indicated here that they have voted.

I have made the necessary correction, but I think when we go to the next division, you will have to log in again.

The Mover will move but the Chairperson will not report, so that we move to the next division. The Chairperson will only report after we finish everything.

The Temporary Chairman (Sen. (Dr.) Machage): Hon. Senators, I wish to announce the results of the Division as follows:-

AYES: 28

NOES: 0

ABSTENTIONS: 0

So, the "Ayes" have it.

(Question carried by 28 votes to 0)

*(First Schedule, Second Schedule, Title and
Clause 1 agreed to)*

The Temporary Chairman (Sen. (Dr.) Machage): Mover!

Sen. (Prof.) Lonyangapuo: Mr. Temporary Chairperson, Sir, I beg to move that the Committee do report to the Senate its consideration of The Food Security Bill (Senate Bill No. 23 of 2014) and its approval thereof with amendments.

(Question proposed)

(Question put and agreed to)

The Temporary Chairman (Sen. (Dr.) Machage): We will report to the House later.

THE MINING BILL (NATIONAL ASSEMBLY BILL NO. 8 OF 2014)

(Resumption of consideration interrupted on 29.7.2015)

The next Bill is The Mining Bill (National Assembly Bill No. 8 of 2014). These are clauses without amendments.

Sen. Kivuti: On a point of order, Mr. Temporary Chairperson, Sir. May I make you aware that all the Committee proceedings and the Committee of the Whole for this particular Bill were actually done the last two days before we went on recess. We lacked numbers for the Division. So, I believe the HANSARD will bear me witness---

The Temporary Chairman (Sen. (Dr.) Machage): Order, Senator! I have heard that song before. Let me remind you of the Standing Orders; that you do not rise on a point of order when voting is being executed. What we are doing is exactly what you are trying to remind me. We are now going to division.

DIVISION

ELECTRONIC VOTING

*(Question that, Clauses 6,8,10,11,12,13,14,15,17,
18,19,22,23,24,25,26,27,28,29,31,32,35,36,39,42,
43,44,45,48,52,54,55,56,57,58,59,60,61,62,63,64,65*

*66,78,79,80,81,82,83,84,85,86,87,88,89,90,91,92,93,94,
95,96,97,98,99,100,101,102,103,104,105,107,108,109,
110,111,112,113,114,115,116,118, 119,121,122,123,124,125,126,127,128,
129,130,131,132,133,134,135,136,137,138,139,140,141,142,
143,144,145,146,147,148,150,151,152,
153,154,155,156,157,158,159,160,161,162,163,164,165,166,
167,168,169,170,171,172,173,174,175,176,177,178,179,
180,181,182,183,184,185,186,187,188,189,190,191,192,193,194,
195,196,197,198,199,200,201,202,203,204,205,206,207,208,209,
210,211,212,213,214,215,216,217,218,
219,220,221,222,223,224 and 225 be part of the Bill
put and the Senate proceeded to vote by County Delegations)*

AYES: Sen. Abdirahman, Wajir County; Sen. (Prof.) Anyang'-Nyong'o, Kisumu County; Sen. Billow, Mandera County; Sen. Boy Juma Boy, Kwale County; Sen. Chelule, Nakuru County; Sen. Chiaba, Lamu County; Sen. M. Kajwang, Homa Bay County; Sen. Karaba, Kirinyaga County; Sen.(Dr.) Khalwale, Sen. Khaniri, Vihiga County; Sen. (Prof.) Kindiki, Tharaka-Nithi County; Sen. Kivuti, Embu County; Sen. Lesuuda, Samburu County; Sen.(Prof.) Lonyangapuo, West Pokot County; Sen. (Dr.) Machage, Migori County; Sen. Mositet, Kajiado County; Sen. (Eng.) Muriuki, Nyandarua County; Sen. Murkomen, Elgeyo-Marakwet County; Sen. Murungi, Meru County; Sen. Musila, Kitui County; Sen. Muthama, Machakos County; Sen. Mutula Kilonzo Jnr., Makueni County; Sen. Mwakulegwa, Taita-Taveta County; Sen. Ndiema, Trans Nzoia County; Sen. Ntutu, Narok County; Sen. Obure, Kisii County; Sen. Okong'o, Nyamira County; Sen. Orengo, Siaya County; Sen. Sang, Nandi County; Sen. Wako, Busia County; and Sen. Wetangula, Bungoma County;

NOES: Nil

The Temporary Chairperson (Sen. (Dr.) Machage): The results are as follows

AYES: 31

NOES: 0

ABSTENTIONS: 0

(Question carried by 31 votes to 0)

*(Clauses 6,8,10,11,12,13,14,15,17,18,19,22,23,24,
25,26,27,28,29,31,32,35,36,39, 42,43,44,45,48,52,54,55,56,57,
58,59,60,61,62,63,64,65,66,68,69,70,71,72,73,74,75,76,78,79,80,8,
82,83,84,85,86,87,88,89,90,91,92,93,94,95,96,97,98,99,100,101,
102,103,104,105,107,108,109,110,111,112,113,114,115,116,118,119,121,122,123,124,12
5,126,127,128,129,130,131,132,133,134,135,136,137,138,139,140,141,142,143,144,145,
146,147,148,150,151,152,153,154,155,156,157,158,159,160,161,162,163,164,165,166,
167,168,169,170,171,172,173,174,175,176,177,178,179,
180,181,182,183,184,185,186,187,188,189,190,191,192,193,194,195,196,197,198,199,20
0,201,20,203,204,205,206,207,208,209,210,211,212,213,214,215,216,217,218,219,220,2
21,222,223,224 and 225 agreed to)*

DIVISION

ELECTRONIC VOTING

*(Question that Clauses 5,7,9,16,20,21,30,33,34,37,
38,40,41,46,47,49,50,51,53, 67,106,117 120,149 and 4 be
amended as proposed and be part of the Bill put and the Senate proceeded to vote by
County Delegations)*

AYES: Sen. Abdirahman, Wajir County; Sen. (Prof.) Anyang'-Nyong'o, Kisumu County; Sen. Billow, Mandera County; Sen. Boy Juma Boy, Kwale County; Sen. Chiaba, Lamu County; Sen. Chelule, Nakuru County; Sen. M. Kajwang, Homa Bay County; Sen. Karaba, Kirinyaga County; Sen.(Dr.) Khalwale, Kakamega County; Sen. Khaniri, Vihiga County; Sen. (Prof.) Kindiki, Tharaka-Nithi County; Sen. Kivuti, Embu County; Sen. Lesuuda, Samburu County; Sen.(Prof.) Lonyangapuo, West Pokot County; Sen.(Dr.) Machage, Migori County; Sen. Mositet, Kajiado County; Sen. Murkomen, Elgeyo-Marakwet County; Sen. Murungi, Meru County; Sen. Musila, Kitui County; Sen. Muthama, Machakos County; Sen. Mutula Kilonzo Jnr., Makueni County; Sen. Mwakulegwa, Taita-Taveta County; Sen. Ndiema, Trans Nzoia County; Sen. Ntutu, Narok County; Sen. Obure, Kisii County; Sen. Okong'o, Nyamira County; Sen. Orengo, Siaya County; Sen. Sang, Nandi County; Sen. Wako, Busia County; and Sen. Wetangula, Bungoma County;

NOES: 0

The Temporary Chairperson (Sen. (Dr.) Machage): The results are as follows:-

AYES: 31

NOES: 0

ABSTENTIONS: 0

(Question carried by 31 votes to 0)

*(Clauses 5,7,9,16,20,21,30,33,34,37,38,40,41
,46,47,459,50,51,53, 67,106,117 120,149 and 4 as amended agreed to)*

DIVISION

ELECTRONIC VOTING

(Question, that the First Schedule, Second Schedule, Clause 2, Clause 3, the Title and Clause 1 be part of the Bill put and the Senate proceeded to vote by County Delegations)

AYES: Sen. Abdirahman, Wajir County; Sen. (Prof.) Anyang'-Nyong'o, Kisumu County; Sen. Billow, Mandera County; Sen. Boy Juma Boy, Kwale County; Sen. Chelule, Nakuru County; Sen. Chiaba, Lamu County; Sen. Karaba, Kirinyaga County; Sen. M. Kajwang, Homa Bay County; Sen.(Dr.) Khalwale, Kakamega County; Sen. Khaniri, Vihiga County; Sen.(Prof.) Kindiki, Tharaka-Nithi County; Sen. Kivuti, Embu County; Sen. Lesuuda, Samburu County; Sen.(Prof.) Lonyangapuo, West Pokot County; Sen. (Dr.) Machage, Migori County; Sen. Mositet, Kajiado County; Sen. (Eng.) Muriuki, Nyandarua County; Sen. Murkomen, Elgeyo Marakwet County; Sen. Murungi, Meru County; Sen. Musila, Kitui County; Sen. Muthama, Machakos County; Sen. Mutula Kilonzo Jnr., Makueni County; Sen. Mwakulegwa, Taita-Taveta County; Sen. Ndiema, Trans Nzoia County; Sen. Ntutu, Narok County; Sen. Obure, Kisii County; Sen. Okong'o, Nyamira County; Sen. Orenge, Siaya County; Sen. Sang, Nandi County; Sen. Wako, Busia County; and Sen. Wetangula, Bungoma County;

NOES: 0

The Temporary Chairperson (Sen. (Dr.) Machage): The results of the Division are as follows:-

AYES: 31

NOES: 0

ABSENTIONS: 0

(Question carried by 31 votes to 0)

(The First Schedule, Second Schedule, Clause 2, Clause 3, the Title and Clause 1 agreed to)

Sen. Kivuti: Mr. Temporary Chairman, Sir, I beg to move that the Committee do report to the House its consideration of The Mining Bill (National Assembly Bill No. 8 of 2014) and its approval thereof with amendments.

(Question proposed)

(Question put and agreed to)

(The House resumed)

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

The Temporary Speaker (Sen. Ongoro): I call upon the Chairperson to report on the first Bill; The Food Security Bill (Senate Bill No. 23 of 2014).

**REPORTS, CONSIDERATION OF REPORTS AND
THIRD READINGS**

THE FOOD SECURITY BILL
(SENATE BILL NO. 23 OF 2014)

Sen. (Dr.) Machage: Madam Temporary Speaker, I beg to report that the Committee of the Whole has considered The Food Security Bill (Senate Bill No.23 of 2014) and its approval, thereof, with amendments.

*(The Temporary Speaker (Sen. Ongoro) consulted
with the Clerks-at-the-Table)*

The Temporary Speaker (Sen. Ongoro): Let us give the clerks one minute to put certain papers in order.

I now call upon the Mover to move.

Sen. (Prof.) Lonyangapuo: Madam Temporary Speaker, I beg to move that the House do agree with the Committee in the said Report.

Sen. Boy Juma Boy seconded.

(Question proposed)

The Temporary Speaker (Sen. Ongoro): This is not a county matter but an internal reporting.

(Question put and agreed to)

I now call upon Sen. (Dr.) Machage who was the Chairman of the Committee to give the next report.

THE MINING BILL (NATIONAL ASSEMBLY BILL NO.8 OF 2014)

Sen. (Dr.) Machage: Madam Temporary Speaker, I beg to report that the Committee of the Whole has considered The Mining Bill (National Assembly Bill No.8 of 2014) and its approval, thereof, with amendments.

Thank you, Madam Temporary Speaker.

The Temporary Speaker (Sen. Ongoro): I now call upon the Mover.

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

The Temporary Speaker (Sen. Ongoro): Who is your seconder?

Sen. Khaniri seconded.

(Question proposed)

(Question put and agreed to)

The Temporary Speaker (Sen. Ongoro): Let us now proceed to the Third Readings for both Bills.

THE FOOD SECURITY BILL (SENATE BILL NO. 23 OF 2014)

Sen. (Prof.) Lonyangapuo: Madam Temporary Speaker, I beg to move that The Food Security Bill (Senate Bill No.23 of 2014) be now read a Third Time.

Sen. Boy Juma Boy seconded.

(Question proposed)

The Temporary Speaker (Sen. Ongoro): The Floor is open. Let me see if there is anybody willing to contribute. Since there is nobody willing to contribute, I will now put the question; that The Food Security Bill (Senate Bill No.23 of 2014) be now read a Third Time.

We will have to do a division. However, I would rather we proceed and then we will have one division for both of them.

Let us move to the next one.

Sen. Kivuti: Madam Temporary Speaker, I beg to move that The Mining Bill (National Assembly Bill No.8 of 2014) be now read a Third Time.

Sen. Khaniri seconded.

(Question proposed)

The Temporary Speaker (Sen. Ongoro): Hon. Senators, I will now put the question; that The Mining Bill (National Assembly Bill No.8 of 2014) be now read a Third Time. We will then proceed to do the two divisions together.

The Bars are already drawn. Therefore, let us proceed to Division. Let us start with the first one which is The Food Security Bill (Senate Bill No.23 of 2014).

You should now log in.

DIVISION

ELECTRONIC VOTING

*(Question, that the Food Security Bill (Senate Bill No. 23 of 2014)
be now read a Third Time, put and the Senate proceeded
to vote by County Delegations)*

AYES: Sen. Abdirahman, Wajir County; Sen. (Prof.) Anyang'-Nyong'o, Kisumu County; Sen. Billow, Mandera County; Sen. Boy Juma Boy, Kwale County; Sen. Chelule, Nakuru County; Sen. Chiaba, Lamu County; Sen. M. Kajwang, Homa Bay, Sen. Karaba, Kirinyaga County; Sen. (Dr.) Khalwale, Kakamega County; Sen. Khaniri, Vihiga

County; Sen. (Prof.) Kindiki, Tharaka-Nithi County; Sen. Kivuti, Embu County; Sen. Lesuuda, Samburu County; Sen. (Prof.) Lonyangapuo, West Pokot County; Sen. (Dr.) Mchage, Migori County; Sen. Mositet, Kajiado County; Sen. (Eng.) Muriuki, Nyandarua County; Sen. Murkomen, Elgeyo-Marakwet County; Sen. Murungi, Meru County; Sen. Musila, Kitui County; Sen. Muthama, Machakos County; Sen. Mutula Kilonzo Jnr., Makueni County; Sen. Mwakulegwa, Taita- Taveta County; Sen. Ndiema, Trans Nzoia County; Sen. Ntutu, Narok County; Sen. Obure, Kisii County; Sen. Okong'o, Nyamira County; Sen. Orenge, Siaya County; Sen. Sang, Nandi County; Sen. Wako, Busia County; Sen. Wetangula, Bungoma County;

The Temporary Speaker (Sen. Ongoro): Please process the results.

Hon. Senators, please take your seats. The results of the Division on The Food Security Bill (Senate Bill No. 23 of 2014) are as follows:-

AYES: 31

NOES: 0

ABSTENTIONS: 0

The "Ayes" have it.

(Question carried by 31 votes to nil)

(Applause)

(The Bill was accordingly read the Third Time and passed)

The Temporary Speaker (Sen. Ongoro): We are proceeding now to vote on the Mining Bill (National Assembly Bill No.8 of 2014). For the avoidance of doubt, I will put the question one more time. You can vote now.

DIVISION

ELETRONIC VOTING

*(Question, that the Mining Bill (National Assembly Bill No.8 of 2014)
be now read a Third Time, put and the Senate proceeded
to vote by County Delegations)*

AYES: Sen. Abdirahman, Wajir County; Sen. (Prof.) Anyang'-Nyong'o, Kisumu County; Sen. Billow, Mandera County; Sen. Boy Juma Boy, Kwale County; Sen. Chelule, Nakuru County; Sen. Chiaba, Lamu County; Sen. M. Kajwang, Homa Bay; Sen. Karaba, Kirinyaga County; Sen. (Dr.) Khalwale, Kakamega County; Sen. Khaniri, Vihiga County; Sen. (Prof.) Kindiki, Tharaka-Nithi County; Sen. Kivuti, Embu County; Sen. Lesuuda, Samburu County; Sen. (Prof.) Lonyangapuo, West Pokot County; Sen. (Dr.) Mchage, Migori County; Sen. Mositet, Kajiado County; Sen. (Eng.) Muriuki, Nyandarua County; Sen. Murkomen, Elgeyo-Marakwet County; Sen. Murungi, Meru County; Sen. Musila, Kitui County; Sen. Muthama, Machakos County; Sen. Mutula Kilonzo Jnr., Makueni County; Sen. Mwakulegwa, Taita-Taveta County; Sen. Ndiema, Trans Nzoia County; Sen. Ntutu, Narok County; Sen. Obure, Kisii County; Sen.

Okong'o, Nyamira County; Sen. Orenge, Siaya County; Sen. Sang, Nandi County; Sen. Wako, Busia County and Sen. Wetangula, Bungoma County;

The Temporary Speaker (Sen. Ongoro): Order, Hon. Senators! The results of the vote on the Mining Bill (National Assembly Bill No.8 of 2014) are as follows:-

AYES: 31

NOES: 0

ABSTENTIONS: 0

The "Ayes" have it.

(Question carried by 31 votes to nil)

(Applause)

(The Bill was accordingly read the Third Time and passed)

The Temporary Speaker (Sen. Ongoro): The Bars should now be withdrawn.

(The Bars were withdrawn and Doors opened)

Hon. Senators, the Speaker had ruled earlier on a Motion for Adjournment. I, therefore, call upon the Mover, the Senate Minority Leader, to proceed.

MOTION FOR ADJOURNMENT UNDER STANDING ORDER NO.33

CRISIS OF TEACHERS' STRIKE IN KENYA

The Senate Minority Leader (Sen. Wetangula): Madam Temporary Speaker, I beg to move that the House do now adjourn.

Everybody in this country knows what is going on in the teaching fraternity and in our schools.

Madam Temporary Speaker, since I have only ten minutes, I will be very quick. It is the Teachers Service Commission (TSC) that took the teachers to court and it ended up losing at every stage up to the Supreme Court. Teachers have been asking for a nominal salary increment that is not even commensurate or comparable with the workload they have or salaries paid to other Kenyans in similar positions.

A quick example will show that a junior clerk at the TSC at job Group G earns Kshs35,353. An equivalent P1 teacher earns only Kshs16, 692. A graduate teacher earns Kshs31,020, his or her equivalent working at TSC earns Kshs55,659. Down the line, there is the Chief Principal, the highest a teacher can be in this country who earns Kshs109,089. The Secretary to the TSC which is the highest someone can go, earns Kshs526, 057. Look at that disparity!

What the teachers are asking for is not even astronomical. A calculation of what would aggregate the salary increment to teachers is not astronomical figures that we have been hearing from the Government. If the Government was to agree to pay the teachers the contested salaries, it is going to cost the exchequer Kshs17 billion per annum, no

more than that. It is not the Kshs98 billion you have been hearing, the over Kshs80 billion you have been hearing, it is only Kshs17 billion per annum.

Madam Temporary Speaker, this is the kind of money this country can afford. This is the kind of money that we are seeing being pilfered, misapplied, mismanaged and stolen in public service. We have just witnessed an allocation of Kshs25 billion to the National Youth Service (NYS), money that is being handled in a very shrouded manner.

Everybody in this country knows that health is a devolved function. The national Government has only 5 per cent of the health services in this country, in Kenyatta National Hospital (KNH), Moi Teaching and Referral Hospital, Eldoret and a few other smaller hospitals like the National Spinal Injury Hospital, Mathari National Teaching and Referral Hospital and Port Reitz District Hospital in Mombasa. In this year's budget, the Ministry of Health has a whopping Kshs110 billion. We can trim off Kshs17 billion out of that and pay the teachers. The amount of money being wasted through corruption and other malpractices in the Government is massive and even the President has said that corruption is uncontrollable in his Government.

Madam Temporary Speaker, if this country does not respect and honour teachers, there is nobody else we can respect and honour. We are dismayed as a House for what we have been seeing the TSC doing; that is issuing threats upon threats instead of sitting down with teachers to talk. I do not think that my friend, Mr. Sossion, and his colleagues are unreasonable. I remember when the retired President Moi was faced by a similar position, he sat down with the teachers and talked and they agreed on a staggered implementation of the award that they had been given. What we are hearing today is the height of arrogance from the highest of office in the land; that is; "can't pay; won't pay."

This kind of idle and arrogant talk does not augur well for a country that is seeking to be at peace with itself. When you allow teachers to reach the level that they have reached, you are destroying an entire generation. Children are not in school, exams are around the corner and it is the teachers who are going to preside over and mark those exams yet there is an arrogant man in Jogoo House called Prof. Kaimenyi saying examination will go on regardless. Who is going to preside, invigilate and mark those examinations? This is what we call the arrogance and stupidity of a person who thinks that he is so courageous that he can knock his head against the wall ending up hurting himself. I have no doubt that at the end of the day, it is the Government that will eat humble pie because the teachers are right, the courts have said so and Kenyans in public opinion have said so.

I want to encourage the Jubilee Government that we on this side; I know that my colleagues who are sitting in front of me - the distinguished Senator of West Pokot who will second this Motion - are all reading from the same page.

Madam Temporary Speaker, after election, we went to court to challenge the outcome. The court decided that Jubilee had won. We did not agree with it but we respected the decision of the court. That is why we are where we are but when the Supreme Court which is the highest court in the land has made a decision and none other than the President says that he will not abide with what they have said; will not pay and cannot pay and teachers can do what they want, then we are not doing the right thing for the country.

We must remember that each one of us in whatever station in life have passed through the hands of a teacher. Whether you are an engineer, a doctor or professor, you

started and passed through the tutorage and nursing care of a teacher yet in our pecking order, the last persons we think about are teachers. The Kshs17 billion that we are talking about which should be given to teachers in the award that has been given, if it is available, it automatically spurs activity in the rural economy. In the village, when a teacher earns a salary, a grass slasher earns a salary, a person who looks after his cattle earns a salary, the local bars and the local kiosks will have business. In this country, the biggest workforce is that of teachers.

As a country, we should not treat teachers the way we are treating them. That is why we are saying that we and all Kenyans of goodwill; I have no doubt that in this Senate, this is a bi-partisan matter. I see the Chairman of the Committee on Education who is a distinguished teacher in his earlier life, a head teacher who has brought very many people including Members of Parliament (MPs) to the limelight. The professor is a Chancellor of a university and he knows the value of teaching. We have Sen. (Prof.) Anyang'-Nyong'o who was a lecturer at the university and he has probably gone to teach.

We want the Jubilee Government to understand that this is not a matter of chest-thumping, displaying arrogance or threatening teachers with arrest. You can arrest some teachers but you will not be able to arrest all the teachers. If you arrest them, we have told Mr. Sossion, Mr. Mudzo Nzili and others that some of us who are lawyers with practicing certificates like Sen. Orengo, Sen. Mutula Kilonzo Jnr., myself and others, are available and willing to go to court for them for free to help them meet and realize the dreams of the Kenyan teachers.

Madam Temporary Speaker, I am a son of a teacher. My father was a headmaster of a primary school. It is a scandal to see what teachers earn. As a headmaster of a primary school, I looked at his pay slip and his responsibility allowance as a headmaster of a primary school was Kshs300. I have a brother who was a deputy head teacher of a primary school and his responsibility allowance as a deputy head teacher of a primary school was Kshs230 a month. What can one do with this? We have a noisy lady called Sarah Serem who has been wobbling all over talking about income, salaries and how the wage bill has run away and so on. She has not uttered word about the teacher's salaries. The teachers are employed by a constitutional commission.

It is Sarah Serem who awarded the salaries that the TSC (Teachers' Service Commission) earns where the lowest is Kshs35,000 and the highest is Kshs526,000. These are the employers of the teachers; many of them much more junior than the teacher they superintend over. What do we see today? They are busy telling teachers that if they do not go to school, they will be fired or locked up. We dare TSC to sack teachers today and they will see what will happen to this country. We dare the TSC to cause teachers to be arrested and locked up, and they will see what will happen to this country.

This long protected winding ping pong about the teachers is not doing well in this country. We urge the Government to come down the ladder, stop the brinkmanship that we are seeing and the display of arrogance that is totally unhelpful to any government on earth and listen to teachers, obey, the court order, pay the teachers, have the teachers go back to school and help the country go through the examination season that is around the corner so that we do not destroy our children. These are children whose parents have sold property including animals, personal and family possessions and so on, so that they can take them to school.

Madam Temporary Speaker, if they miss examinations, probably we are talking of next year and remember what we went through during the double in-take in the universities, where through mismanagement you had to bring in two lots of intake into the university. There were no facilities, no enough teachers and you end up churning out half-baked students.

As I conclude, I want to encourage that this distinguished Senate speaks with one voice and urges the Government to stop acting deaf and dumb, listen to Kenyans, respect what the court has said and pay the teachers.

I invite the distinguished Senator for West Pokot, Sen. (Prof) Lonyangapuo to second this Motion. As I do so, allow me to acknowledge the fact that the distinguished Senator for Kakamega, Sen. (Dr.) Khalwale had also filed a similar Motion before I filled mine, and he dutifully and respectfully gave way to me as his leader to move the Motion. I want to thank him for that.

The Temporary Speaker (Sen. Ongoro): This Motion does not need a seconder, and I have a special request from Sen Hassan Omar, who is travelling, so I will give him the floor and then we will give a chance to Sen. (Prof.) Lonyangapuo.

Sen Hassan: Madam Temporary Speaker, thank you for your kind consideration. I want to send an apology to Sen. (Prof.) Lonyangapuo. I have a flight to catch to Mombasa and I requested the Chair to give me a chance on a matter of priority. The children of poor Kenyans are all at home.

Sen. (Dr) Khalwale: On a point of order, Madam Temporary Speaker. I just wanted you to guide us a little bit in terms of traditions and practices. Until now, we thought that a Member gets an opportunity to speak after catching the Speaker's eye.

The Speaker (Sen. Ongoro): This is what he did

Sen (Dr) Khalwale: From the communication from the Chair, if you can clarify apparently he did not catch your eye, but he---

The Temporary Speaker (Sen. Ongoro): He caught my eye and my eyes can be caught in many different ways. So, the honourable Senator has caught my eye.

Sen. Hassan: Thank you for that opportunity. I am here to support this Motion---

Sen Orenge: On a point of order, Madam Temporary Speaker. This is a serious matter and it has been made serious by the honourable Senator for Mombasa. If it is true that probably he caught your eye but he made it worse by saying he negotiated with you because he has to catch a flight---. If that is a tradition, then it means, every time we want to speak we have to negotiate.

I can tell you that all of us have many problems. I have been sitting here waiting to go and meet somebody I am representing in court tomorrow where I have to do an affidavit before Seven o'clock this evening. I am doing this with a lot of respect for the Senator from Mombasa, but it is a tradition that normally you are allowed to speak when you catch the Speaker's eye. The honourable Senator for Mombasa made it worse by saying that it is not because he caught your eye but because he has a flight to catch to Mombasa. We all have a place to run to.

The Temporary Speaker (Sen. Ongoro): The Senator for Mombasa, could you correct that misconception. You caught my eye and it stops at that. There is nothing else.

Sen Hassan: Madam Temporary Speaker, I caught your eye and therefore I want to proceed.

I want to thank you for this opportunity and equally support this Motion. At this point in time, as we speak, the young poor Kenyans are out of school in their homes. I passed by few areas in Nairobi and I saw most of the private school are in session. That gives us great pain because it is only through education that we can bridge the gap of inequality and give meaningful opportunities to people who were born in poor families so that we can advance the development agenda for this country.

The grand standing that we see particularly with the national Government is not helpful in any circumstances. On one side, the national Government purports that it can handle the health docket and on another side, it demonstrates that it is incapable of handling some of this professional associations or groups that are organized to impact positively on the development of the county.

The right to education is being denied to every Kenyan child today; those who particularly seek education from public schools. The commitments that we made to teachers must be honoured. These are commitments that are have been inherited by successive governments. Therefore, it is incumbent on the Government of the day to ensure that they discharge their responsibility by paying teachers in a timely and a proper manner.

I want to agree with Sen. Wetangula that this idea of “can’t pay, won’t pay” is a direct abrogation or violation of the Constitution and the very authority of Supreme Court. As it has been said, previously in and out of this Senate, you cannot selectively choose to respect the Supreme Court. When it suits you and it affirms you as president, you say you respect the authority of the court. When it tells you to discharge an obligation that is inherently within the law, you say that you do not have money.

Madam Temporary Speaker, there is a lot of money in this country. This money, unfortunately, has been committed to a lot of wastage. We have undertaken programmes that are not a priority. This country is in huge debt. This country has been put on the cross-road of almost bankruptcy. Look at it the way we manage our own institutions here. Parliament as an institution takes time before it gets its own allocation and other institutions appear to have a similar kind of fate. For the first time, pensioners have not been paid; therefore it shows that there is a general state of incompetence. Did you hold my time?

The Speaker (Sen. Ongoro): Your time is up. Please, conclude.

Sen. Hassan: I support.

The Speaker (Sen. Ongoro): Sen. Wangari is not there? She has since left the House. I will give this chance to Sen. (Prof.) Lonyangapuo.

Sen. (Prof.) Lonyangapuo: Madam Temporary Speaker, as I join the Mover of this Motion, Sen. Wetangula, I want to urge all Senators present and every Kenyan of goodwill to stand and say that the teachers are asking for a just cause which was already approved. Most of what the teachers are asking for is contained in their Collective Bargaining Agreement (CBA). It is not something that has just been dropped from the blues. There is a difference between something that you are demanding and something that has already been programmed by law to be given.

Madam Temporary Speaker, even the highest court in the land has declared that teachers have a right to be paid their salaries including an increment of 50 to 60 percent. Any nation that does not look after the welfare of its people or any nation that does not look at the key human resource is headed for disaster. When teachers have come to a

standstill the way they are today, where will we be in the years to come if the children are not going to be taken through the system. Academia is the only hope left because agriculture is almost dead, most of the other hopes that we had like industries are going down. The last one which we were now depending on is in academia – in primary and secondary schools and universities. It is not a good indicator for our country. So, this one needs to be paid.

Madam Temporary Speaker, you remember, recently, we sent staff to new employment units called counties. Every county ended up going on an employment spree and so many employees are there. Do you know the amount of money that they are being paid? A driver in the county government is earning not less than Kshs40,000 and this fellow has not gone to school. Some of them reached Class Seven. The same Mrs. Serem who is pretending to know everything has also not gone to evaluate them. Do you know how much the gardeners of governors earn? If I mention it here you will be shocked, because it is almost close to what you are earning yourself. Teachers are justified and they need to be paid.

We are building the Standard Gauge Railway (SGR) all the way from Mombasa to Malaba. However, do you also know that we have trucks? How many years will it take to phase them out and for people to start using the railway and the train which has not yet been bought? It will take time. For that reason, we can go slow as we continue building the SGR and get some of the money quickly to pay the teachers.

Madam Temporary Speaker, there are one million acres being ploughed and purportedly irrigated in Tana River County for Kenyans who are hungry in north eastern counties, West Pokot and Turkana. How will you carry all that food from Kilifi and Tana River counties all the way to the affected counties? We could stop some of those interesting projects, get this money and pay teachers. The little money that is left can be given to counties to set up their own irrigation schemes, small as they are, to stop hunger rather than doing things which do not make sense.

Where are the laptops that will cost the taxpayer Kshs17 billion, equivalent to what teachers want? We can simply use this money to pay teachers what they are asking for and no child will complain if we just tell them: “Your teachers were paid for the sake of your training by a competent teacher.” This is just what we really need today.

The Teachers Service Commission (TSC) employees are a collection of most of the teachers. How can a teacher move to TSC and pay him or herself while the colleagues who are labouring in the classroom are underpaid? These are some of the things which do not add up. Does the Ministry of Education, Science and Technology exist? Do they also see these anomalies? Why is the Cabinet Secretary (CS), the Principal Secretary (PS) and company not bringing up these things so that we do not have a distorted workforce in the Ministry? This brings a lot of issues to the fore.

Madam Temporary Speaker, remember we have so many commissions today which were created by the Constitution. Commissioners are earning over Kshs600,000 and others Kshs1 million and most of them are retirees. The total sum of what we are paying them is over Kshs100 billion per year, excluding TSC which is given the biggest chunk of the budget amounting to Kshs140 billion. This is small money that can be paid today if there is goodwill.

I support.

Sen. Mutula Kilonzo Jnr.: Thank you, Madam Temporary Speaker. Let me raise an issue which has not been discussed even in the public domain and I think it is something which we ought to consider in future. The TSC, through the Chair, has failed the teachers of this Republic. Even if the teachers are eventually paid – which they will – the Chair ought to be removed from that position.

I say so because one of the gains of this Constitution is that the TSC is anchored in the Constitution under Article 237. The work of the TSC, amongst other things, is to advise the national Government on matters relating to the teaching profession. The TSC was a party to the suit that was filed both in the Supreme Court, High Court and all the courts where teachers have been to. Therefore, it is incorrect for His Excellency the President and his Deputy to state that they were not advised about this suit. This is something that they should have anticipated and factored in the Budget. If they did not, it means that TSC failed in that mandate. It is a contradiction under the new Constitution for TSC and teachers to appear as if they are adversaries in this process, because the Constitution contemplated that TSC ought to protest the same way the teachers are protesting.

Madam Temporary Speaker, it is also a contradiction for the Executive to appear as if they are giving advice and complaining about the wage bill. This sort of argument that is advanced in the public fora should have been advanced in the court case where the Government and TSC lost. The argument that there are no funds and that they cannot pay and yet it is an equivalent of Kshs1.3 billion a month is a tragedy.

Sen. Billow and I wanted to know from the PS to the Treasury the carryover of the Kshs17 billion in the case of the laptops. Laptops will not vote in 2017; teachers will. We remind the national Government that these principals and headteachers are the returning officers in all the polling stations where Jubilee got votes. Therefore, mistreating our teachers is equivalent to mistreating our children. The President and his Deputy are famous for taking photographs with children. Why can they not contemplate that these children are suffering? They have been at home for three weeks and parents have paid their school fees but it is business as usual. Nobody is doing anything.

What you hear is the Majority Leader of the National Assembly saying that they will cut Constituencies Development Fund (CDF) and the Speaker saying that there is no reason to recall the House. What is that person in the village thinking, that the leaders do not even seem to know where this country is going? The Majority Leader seems to have a different view from his boss. The Deputy President seems to have a different view from the Chairman of the Committee of Education, Research and Technology, Kabando wa Kabando. Where is this country going? There have been many violations of the Constitution.

(Sen. Karaba stood in his place and spoke off record)

The Temporary Speaker (Sen. Ongoro): Order, Senator! You have not yet made a request for any intervention according to the screen here. You have to properly make a request.

Sen. Mutula Kilonzo Jnr.: Madam Temporary Speaker, the fact of the matter is that this country will not suffer anything if we paid the teachers 50 to 60 per cent that they were awarded by the court. We will pay more in the SGR passing through Makueni

coming to Nairobi where we have committed ourselves. In fact, every kilometre is costing Kshs500 million. This is money that you, your grandchildren and great great grandchildren will pay in a long time to come.

What we are doing today was done in Greece when they hosted the Olympics and thought that if you build infrastructure, you will build the economy. It was done again in South Africa when they built stadiums to host the Football World Cup, thinking that they would have a better economy. The same happened in Brazil. The economies of South Africa and Greece are now failing and you know what is happening in Brazil. So, the Jubilee Government is leading us through ---

I support.

The Temporary Speaker (Sen. Ongoro): Thank you, Senator. Before I give the Floor to the next Speaker, let me make a statement, considering the importance of the matter on the Floor of the Senate. For the convenience of the Senate, under Standing Order No. 30, I direct that all Senators who have expressed interest to contribute will be given an opportunity to do so before the Senate adjourns.

The next speaker is Sen. Khalwale.

Sen. (Dr.) Khalwale: Madam Temporary Speaker, I support and congratulate the Leader of the Minority for leading us in this Motion. I want to start by saying that the award of 50 to 60 percent by the High Court of Kenya which was challenged by the Government in the Court of Appeal and the Court of Appeal agreed with the High Court, which was again challenged by the Government in the Supreme Court, and the Supreme Court agreed with the High Court. The President has set a precedent by challenging that decision of the Supreme Court.

This will go down in history as the most dangerous President. I wish to inform my brothers and sisters on the other side of this House to make time and inform the President that the Members of the National Assembly under which the responsibility to initiate a Motion of impeachment, are equally pissed off with what the Government is doing and therefore, he is preparing himself for a successful impeachment. We will not allow the children of the rich to be in school while the children of the poor who are in public schools remain at home.

Today, as I woke up, I did not know what to tell my daughter, Inga Imbuyira Khalwale, who is in Form Three. She does not know why she is not in school because she is in a public school. We must oppose this. The Teachers Service Commission is led by a responsible woman in Kenya, the Secretary of the Commission, a responsible woman! We also have a responsible woman leading the Salaries and Remuneration Commission. The President is bringing shame to the women fraternity through this interference because it is being alleged that the three women have connived not to give teachers what they deserve.

Madam Temporary Speaker, on the issue of where the money is - Mr. President, the money is there. According to the Auditor-General, Kshs67 billion was wasted. The President should cut on wastage in his Government contained in unnecessary foreign travels, unnecessary workshops and conferences in Five star hotels by the Jubilee Members of the Executive. There is money in the so called Laptop Project which we opposed three years ago and told them that they are going nowhere. It is now three years later, the money has never been spent. There is money, Leader of the Majority, you

forgot what you reminded me of yesterday; that there is money in the so-called the International Euro Bond that was floated.

We would like to know how much money was used in the Euro Bond and whether that money was banked in Kenya. If it is banked in Kenya, we would like that money to be utilized. We want Kenyans to know that these days there are shopping malls in about all the towns in our counties. When our wives, your children go for shopping in the mall, it is embarrassing that the wives of Senators, Members of Parliament, Cabinet Secretaries and Permanent Secretaries, drive trolleys of shopping worth Kshs 20,000 while a primary school teacher carries in her hand some little things not because she does not need them in a trolley but because she cannot afford.

I tell you, the leaders of Kenya, when you look in that trolley, you find there is dog food, cat food, chicken feed, rabbit feed and horse feed that is going to feed the homes of the rich. These feeds are worth Kshs10,000. We have to stop pretending that we are feeding the dogs and cats better than we feed the children of this country.

The Temporary Speaker (Sen. Ongoro): Senator, your time is up. Please conclude.

Sen. (Dr.) Khalwale: Thank you, Madam Temporary Speaker, for giving me more time.

I would like to conclude by saying that this is a Government of tenders. If the teachers' issue was an issue of tenders, the money would have been found the same way they found money for kickbacks in the Standard Gauge Railway Line project, Laptop project, Pipeline project and Moi Teaching and Referral Hospital.

The Temporary Speaker (Sen. Ongoro): Your time is up, Senator.

Please, proceed, Senator for Busia County, Sen. Wako.

Sen. Wako: Thank you, Madam Temporary Speaker, for giving me this opportunity. Five minutes is too short but I would say that on an issue that has gone on for more than 18 years, it is time to make a closure. The time to make the closure was the final verdict of the Supreme Court, the highest court of this land. That should have been the final determination by closing the matter, teachers get paid and we move on.

One thing that I do not quite understand is the fact that when I read the various documents – and I have been following this dispute very closely – is the order of the Industrial Court which was subsequently confirmed in the Court of Appeal and the Supreme Court was actually based on the document produced by the economists of Government, the Teachers Service Commission (TSC) and the Treasury. That document was called the working document. If I remember correctly, the initial claim of the teachers was 150 to 300 percent. However, when the teachers saw that document, and the validity of it, they reduced their demands to 150 percent. When they went to the Industrial Court, it simply gave effect to that working document by the Government.

Madam Temporary Speaker, the working document was based on the following; the need to ensure that a total wage bill is sustainable, the need to ensure that the teaching fraternity retains the skills required to execute its functions, the need to recognize productivity and performance. It made comparisons with Tanzania, South Africa, Kenya, Uganda and the United States of America (USA). The document took into account the inflation trends.

Therefore, the Industrial Court in more or less adopting the Government working document agreed with them, that 50 to 60 percent is sustainable because that was the

basis of that document. We cannot have obtained an order based on a Government document for the Government to now turn around and go into a charade of challenging that order through the Court of Appeal and Supreme Court and now they want us to start all over again on the basis that it is not sustainable. The Government's own document said that it was sustainable and justified it to the extent that even the TSC recognized in a document signed by the Economic Secretary of the Government that the teachers had not received the automatic 4 percent per annum increase which is enjoyed by civil servants. The argument that this is not sustainable is not correct and, therefore, the teachers should be paid.

The second issue is about constitutionality and the rule of law. I was very pleased when I read the various documents that have been filed before the Industrial Court, the Court of Appeal and so on. The advocates acting for the Teachers Service Commission (TSC) undertook to abide by the court decision. Under the Constitution, we must in any event abide by the court's decision. The advocates went a step forward and reasserted that the TSC was committed to that and they stated so in court. The representative of the Attorney-General on behalf of himself, the Chief Secretary and the Cabinet Secretary (CS) for Labour and Social Welfare resubmitted and stated that they shall abide by the decision of the court.

Madam Temporary Speaker, even the CS for Labour and Social Welfare went further and thanked the court for bringing sanity to the issue. All that is before the courts in black and white.

Our Constitution requires that we obey court orders---

(Sen. Wako's microphone went off)

The Temporary Speaker (Sen. Ongoro): Sen. Wako, you should conclude.

(Loud consultations)

Order! Give him 30 seconds to conclude. Please turn on his microphone.

(Sen. Wako's microphone was turned on)

Sen. Wako: Madam Temporary Speaker, having confirmed that, how then do they start saying that they cannot pay teachers because it is not sustainable when they – in their own documents – stated that it is sustainable? How then can they stand up and say that they will not obey court orders when they reconfirmed that they will do so?

The Temporary Speaker (Sen. Ongoro): Sen. Wako, please, conclude.

Sen. Wako: They now claim that they are concerned with the constitutional principle and the rule of law which demands that we obey court orders. Therefore, people who are in breach of the court order cannot assume in their negotiations and intimidatory approach to the teachers. They threaten that teachers will not be paid and that they will be sacked. In fact, they should be trembling and stating that unless they are careful, they shall be committed to civil jail because of contempt of court orders.

The Temporary Speaker (Sen. Ongoro): Order, Senator. Your time is up Senator for Samburu County, Sen. Leshore!

Sen. Leshore: Thank you, Madam Temporary Speaker for giving me this opportunity to contribute to this very important Motion.

Madam Temporary Speaker, I am not a spokesman of the Jubilee Government. However, I can honestly say that the Jubilee Government respects the rule of law. We respect what the Supreme Court said and we will abide by that. I am sure that the Government is short of money otherwise, it would have paid teachers.

Madam Temporary Speaker, as I sit here, I weep for the children and parents of Mandera, Wajir, Garissa, Lamu, Kakamega, Samburu and, of course Bungoma County where my good friend comes from and the rest of Kenyans. I also weep for teachers of this nation.

Madam Temporary Speaker, after completing O-Levels, P1 teachers undertake at least a two-year training course. After training and getting a certificate or a diploma, they earn Kshs16,000 while a cook in my good friend's house, the Senator for Bungoma County, earns almost Kshs18,000 or Kshs20,000. I am appealing to the Government to solve this issue of teachers once and for all. We are tired, year-in, year-out, teachers go on strike yet we are here for the sake of our nation. We want it to prosper. We do not want, day-in, day-out, nurses, teachers, the Central Organisation of Trade Union (COTU) and other workers to go on strike. We must come together as a country and see how to solve these issues. I appeal to my colleagues on the other side that we should go by the rule of the law. If teachers have gone to court, why do they not allow the Jubilee Government or the Teachers Service Commission (TSC) to appeal against that issue? Let us just give it some time. I know that we will pay the teachers.

As Senators and Members of Parliament, let us sacrifice for this nation. Let us stand up together and follow what hon. Duale said the other day. We should take half of the Kshs35 billion meant for the Constituencies Development Fund (CDF) to pay teachers. I do not want to talk about the Euro bond because I do not know where that money is. I know that CDF is in Parliament. We have a voice if we stand together and say that half of the CDF money should be used to pay the teachers. Why do you build classrooms and teachers houses yet nobody will use them? There are no pupils and teachers. What will you do with them?

I stand for those children from the arid areas. Children in Central Kenya and Nairobi are enjoying because there are many private schools. Their parents can pay the teachers while those children in arid and semi-arid areas are at home looking after cattle or goats.

Madam Temporary Speaker, I appeal to all my colleagues both within and outside this House that we stand together and look for ways on how we will pay the teachers. I do not want my good friend from Bungoma to talk ill about Sarah Serem. I am sure that he was one of those Members of Parliament in the last Parliament, who stood and said that the Salaries and Remuneration Commission (SRC) must be there to tame the rogue Executive or the rogue Parliament. I wish he would be given time to say why he did so. They gave Sarah Serem a lot of powers even to control the elected leaders. Now, we cannot increase MPs allowances or any other benefits because of the SRC. We, as Senators, must stand together and come up with a solution which will solve this issue once and for all. We do not want our teachers to suffer.

The Temporary Speaker (Sen. Ongoro): Thank you, Senator. Proceed, Sen. Orengo.

Sen. Orengo: Madam Temporary Speaker, I will try to finish what I have to say in the next five minutes. What is worrying me about this resolution by the President and the people who work around him, under the slogan “can’t pay, won’t pay” when there is a court order. If you say that you cannot pay, and there is a court order; those who are lawyers here know the consequences of saying “I can’t pay, won’t pay” when there is a court order. It means that you are disobeying a court order and, therefore, should be compelled. One of the ways that you can be compelled is attaching your property or being committed to civil jail.

The other point which, maybe, that the President is speaking loudly, but he is not speaking directly to us, by telling us that Kenya is indeed bankrupt. You have seen some Government assets being seized overseas because people could not pay. I tend to believe that the President is telling us that Kenya is bankrupt; we have lived beyond our means. Probably we are borrowing too much and, therefore, we are not in a position to pay and instead of going for orders of contempt; if it were possible to undertake bankruptcy proceedings against the Republic of Kenya, probably that could be a better way of ensuring payment.

However, what is more worrying is that this argument that we have got a big wage bill; this narrative cannot be correct because this country does not have enough teachers. We should be employing more teachers. In fact, if you go to every ward and constituency, people are demanding for more teachers. The teachers that we have to pay are not more than 200,000. What they are demanding is not pay as it were but an increment which has been worked out through a court process. As an economy that is growing, we need to have people in the education sector, particularly teachers. A nation that is not properly educated cannot be turned into a middle income economy.

Madam Temporary Speaker, I know that in this country, we are going through a difficult time. When we talk about this issue of teachers, in respect to the rest of Kenyans, it is probably an affair that we can debate in a little leisure but when we are talking about teachers in north eastern or northern part of Kenya, there is another angle that is brought into play. The teachers are not working because they are not paid but teachers are not going to the north eastern because there is no security. This shows that there is total failure.

I want to conclude by saying that the other day, we had the President of South Africa being impeached because of disobedience of a court order. We will bring governors here because they have sworn to protect and defend the Constitution. One of the foundation values of a republic is the rule of law. The President is a defender of the Constitution. If the President himself is saying “cannot pay and will not pay” and he is the protector and defender of the Constitution, then we are becoming a banana republic. I better put it as bluntly as that. Those words cannot be heard in a serious democratic and constitutional nation that is guided by laws.

Madam Temporary Speaker, I hope that teachers will not give up because the law allows them to demand for their right so long as they are doing it in accordance with the law. So far, teachers have continued to make their demands in accordance with law. Once they relent, I am sure that the Government will fall back and not pay them. If you want to know that there is a lot of money around, take a ride in the morning. When I take I ride in the morning to my office, I find State Cabinet Secretaries in lead cars, escorts and chasers. They have nothing to fear.

If Sen. Sang has nothing to fear, what about a Cabinet Secretary who does not have to go back to the people for votes? There is a lot of money lying around in this country. We must make sure that teachers get their right.

Sen. Karaba: Madam Temporary Speaker, I am in total support of this Motion. I address this House when I am mourning for over 280,000 teachers who are spread all over the country. They are in every part of this country. They live in desperate situations, they work in very awkward areas and nobody seems to understand their working conditions until you get there.

I am saying this through experience because I have been to places like Kilifi, Nyanza, Turkana and parts of north eastern. Teachers have no decent houses. They do not have offices. The classrooms have no doors or windows and boys can jump through them. When it rains, it is the teachers who take care of the kids. Teachers are like maids and they accompany the pupils everywhere. The other day there was an incident in Mombasa where some seven students died and the teachers were blamed that they could have prevented the death.

The teacher has to make sure that the students are contained. This is the work of a teacher. That is why we are saying the pay rise of 50 to 60 per cent that is being demanded by the teachers is even little. They should have gone for more because the kind of work they do is not comparable to any other profession. I have been a teacher for 30 years. Of course, I would have been a very rich person if I was in another profession. But after I left the university in those early years, my first salary was Ksh2,000, yet I was at the university like everyone else who was doing Commerce, Engineering and so forth.

I was discriminated against as a teacher and given a little salary. The other students who did Engineering, Law and so on that I left university with were earning between Kshs30,000 and Kshs40,000. So, the problem even starts at the training colleges. That is why even with harmonization which was sealed in 2012, it was just by sheer luck that others were already earning very high salaries. For Sarah Serem to say that harmonization was done in 2012, to me, that is a drop in the ocean. We need to treat teachers well because it is only through education that we can talk of development. So, unless we have a sound education system and background, we will lose it.

If you are not aware, the exams are at the corner. This Friday, the Cabinet Secretary (CS) will be launching the stakeholders meeting, to tell them about how the exams will be conducted. How can you carry out examinations without teachers to supervise and invigilate them? They are the ones who know the tricks that the boys and girls use to cheat in exams. So when you get, say, a policeman or a housewife who does not even know how cheating happens in an examination room, there will a lot of cheating. When cheating happens, we will be condemned internationally, because of conducting exams which are not standardized. So we will be blamed and Kenya will be singled out as a country which will have conducted examinations which are not credible.

So, to have reliable and dependable exams, we must depend on teachers, and that is why we have to pay them. After the examinations are done, the marking is done by the teachers. Who will mark the exams? If the marking is not done on time, so that the Kenya Certificate for Primary Education (KCPE) results are out by 30th December and the Kenya Certificate of Secondary Education (KCSE) results are out by maybe January or February next year, there will be double intake in universities---

Temporary Speaker (Sen. Ongoro): Senator, since you are also the Chairman of the Committee on Education, you have two minutes to conclude.

Sen. Karaba: Thank you very much, Madam Temporary Speaker for the recognition.

We must support teachers because this is a service Ministry. It is not like infrastructure or maybe the construction industry. It deals with people from the lowest level up to the university. If we do not reward the teacher, how can we develop skilled manpower that is better than anybody else in East Africa? This is why we are saying that the teachers' salaries must be paid according to what the TSC promised them. We must also take that into consideration what this 50 to 60 per cent translates to. If it was the Members of the National Assembly or the Senators, 50 per cent of their salary could be Ksh500,000. But for a P1 teacher, 50 per cent of Kshs16,000 is Kshs8,000. So, an additional Kshs8,000 amounts to Kshs24,000. Is this what we are saying is a lot, when other people are getting so much money, driving very big cars and doing a lot of things? An amount Kshs30,000 cannot do much, like my friend Khalwale said. You need to shop, take children to school and live a decent life. So we should look into this crisis and address it.

Temporary Speaker (Sen. Ongoro): Please, conclude now.

Sen. Karaba: I beg to support.

Sen. Muthama: Madam Temporary Speaker, I stand to support this Motion because of what I have been agitating for as the Senator for Machakos. I have stood by the teachers and will always stand with them.

Madam Temporary Speaker, Sir, if there is one sector of society that has suffered in this country, it is the teachers. They started raising their issues during Moi's Government. President Moi retired and the teachers are still suffering. When the NARC came into power, the expectation of every Kenyan was that since President Kibaki was an economist, he would deal with the problem of teachers. They were left hanging. Then the Jubilee Government came into power with the promise of creating jobs but it has made things worse for the teachers and this country.

Madam Temporary Speaker, there are 285,000 teachers under the Teachers Service Commission (TSC). If we just take a small portion, just 2 per cent of the national Budget and pay the teachers, each of them will employ two people. That translates to close to 600,000 jobs but the Government is not ready to pay even a coin. We are taking it as a joke here, but Kenyans are getting poorer. Today, the children of the poor are at home, as I speak. But none of the children of the Members who sit in this House or the President, Deputy President and senior civil servants children are at home. At the end of the day, those who will be educated are the children of the most privileged. The poor will continue to languish in poverty.

When a teacher is paid Ksh15,000, it is taxed. So, he or she cannot even afford to educate his or her children up to university level, yet that person is expected to put a lot of effort in his or her work, in the name of serving their country. Which country is this that you serve to promote the lives of those who kill your children directly and indirectly? You sit and watch your children being maimed by those who carry the power.

Madam Temporary Speaker, if the Jubilee Government is not ready to obey the rule of law, which put them where they are, we will take the law into our hands and save this country.

Sen. Leshore: On a point of order, Madam Temporary Speaker. I do not want to interrupt my good friend, but is he in order to say or show signs of waging a war against Jubilee Government? What does he mean?

The Temporary Speaker (Sen. Ongoro): Senator proceed, and elaborate your statement.

Sen. Muthama: Madam Temporary Speaker, when Jubilee came into power after the ruling by the Supreme Court - whether or not they stole the votes - we obeyed the law. If we resisted, what would have been the outcome? They would have sent police officers to the streets to clobber and arrest us. But since we do not have the police officers in our capacity as Kenyans, we are ready to walk on the streets, go without food and make sure no car even leaves State House for Jogoo House.

The Temporary Speaker (Sen. Ongoro): Please, conclude.

(Loud consultations)

Sen. Muthama: Madam Temporary Speaker, let the Jubilee Government obey court orders and pay the teachers that increment which they were awarded by the courts.

Sen. Billow: Madam Temporary Speaker, I rise to support this Motion. I think as a nation, for the last 50 years, if there is one thing that Kenyans have agreed on, in all our successive governments, is to give education a priority. So, that in all our financing, in all budgetary allocations in this country for the last 50 years, nearly a third of our national revenue has always gone to education. This is the seriousness with which the successive governments have taken education, as our top priority national interest.

However, the need to address this issue is a national one. I think we all have a collective responsibility as Kenyans to address this issue of teachers once and for all. This is not a problem that started this year. The Collective Bargaining Agreement (CBA) has been in place since 1997. In fact, one of the longest strikes was during the Grand Coalition government. As a matter of fact, some of my colleagues sitting across were in that Government.

I think it is, therefore, imperative that we find a solution as Kenyans to this matter. I think there's no doubt teachers need to be paid. There is also no doubt that we need to harmonize the remuneration of public servants through an appropriate scheme adopted by the Salaries and Remuneration Commission. However, when the matter has reached where it has; when this matter has been protracted for a very long time and has ultimately ended up in court, with the consent of both parties, the employer and the employees, and the court has ruled, I think it is only proper that the Government seriously considers how to raise money to address that issue, because there are no two ways about a court decision.

However, I also think, that it should not be lost on the Government that you can achieve much more through dialogue than non-dialogue. I think there is no better way than for His Excellency the President to actually sit with the leaders of these teachers. It is not late even today to sit with them, as the other leaders have done before him, and explain to them the need to address this issue in a progressive and gradual manner.

The teachers need to be paid but looking at the capacity of the Government, unless we do that, we are going to have a serious problem, because we cannot afford to have 10 million primary and secondary school students in this country staying at home.

That is a disaster. In fact, it is a matter of national interest that should be an emergency for the Government to sit and discuss at the earliest opportunity. I do not think this is a matter that should have been left to go this far. It is a matter that the Government should have burnt the midnight oil to address.

Madam Temporary Speaker, I think there are also concerns which have been raised by TSC which are genuine. There are concerns about the productivity of teachers and lack of professionalism in some of the teachers. I think it is time the Kenya National Union of Teachers (KNUT) looks at those issues critically. As Kenyans, we went ahead in broad daylight and voted in a Constitution which allowed teachers, who are professionals to be unionized. Once we agreed that they should be unionized, there are no two-ways about it, we have to negotiate their terms. These are some of the realities we have to live with. If we do not want them to take that route, then we should not have allowed them to be unionized. Otherwise, when we allow unions, then we have talk through the Collective Bargaining Agreement (CBA) and negotiate. Unfortunately, that is the situation we are in.

Madam Temporary Speaker, regarding affordability, this is a matter we have discussed. As a nation, we must look at our priorities. There are no greater national interests today than the education of our children. It should come ahead of any other thing. When there is a crisis or an emergency, the Government needs to go back, look at the Budget, take a pen and a pencil and defer some expenditure. One of the most important expenditures that can be deferred and which has been raised by many people is the Constituencies Development Fund (CDF).

Primarily, CDF is used for building classrooms but when there is a crisis of lack of teachers, we can defer building of additional schools and classrooms and pay the teachers. In the last ten years, the Government has increased CDF and other funds significantly. These are kind of increments that these people are asking for. It is not a lot of money, and I am sure if there is goodwill, I have no doubt that the money can be found today and not even tomorrow.

The Senate Minority Leader (Sen. Wetangula): On a point of information, Madam Temporary Speaker, Sir.

Sen. Billow: I will take it.

The Senate Minority Leader (Sen. Wetangula): May I inform the distinguished Senator for Mandera, who I respect tremendously for his acumen on accounts and figures, that, in fact, in the National Assembly, close to Kshs10 billion has been allocated by Treasury that Members of Committees that they think will help the Ministry are just sharing and taking to the constituencies without any order, any structure or procedure.

Sen. Billow: Madam Temporary Speaker, that Statement is a fact because the issue about the improprieties in the Budget-making process by the National Assembly in which the Budget was based on political and other patronage other than---- I agree with him.

I support.

Sen. Ong'era: Madam Temporary Speaker, Sir, thank you for giving me the opportunity so that I may also stand in solidarity with the teachers of this nation.

Let me congratulate the Mover of this Motion, the Senate Minority Leader, for rising up to the occasion by bringing up this very important and urgent national matter that need to be discussed and dealt with.

We have heard that over the last 18 years teachers have been negotiating for their salaries in vain. You cannot negotiate for salaries for 18 years. It is unheard of and it is a practice that is never done in labour laws. It is time the Government brings this matter to an end. This matter needs urgent resolutions. The teachers are the foundation of this nation. We know that they take care of our children. They bring them up and nevertheless, all of us in this distinguished House, at one stage or another, have been under the care of teachers. Therefore, we know their value in the society. If you remunerate one teacher, it is said that, that teacher takes care of ten other people behind the scenes. Therefore, it need not be said the important value that teachers have.

Madam Temporary Speaker, when you hear some careless statements being made, like “can’t pay, won’t pay,” to people who have waited for 18 years to get their salary increment, it grieves me. It just makes me realize that this Government does not have any feelings for the plight of the Kenyan workers.

Madam Temporary Speaker, respect for the rule of law is very important. The decision of the Supreme Court must be respected. You have heard the Attorney General *Emeritus* say that actually this is an issue of constitutionality. The rule of law must be respected. If in 2013, the other presidential candidates, led by the Rt. Hon. Raila Amolo Odinga, were able to respect the decision of the Supreme Court, it behooves this same Government – the President and his deputy – to respect that rule of law that brought them to power. It is said that the sword that is sharpened is the very same sword that will hit you. In fact, in Kiswahili, it says: “*Wembe ni ule ule.*” Therefore, we demand that these teachers must be paid their dues immediately.

Madam Temporary Speaker, the Government has a lot of money. We know that in the just concluded Budget that was approved by the National Assembly, there was a contingency fund of Kshs5 billion. We know that the National Intelligence Service (NIS) was given over Kshs20 billion. We also know that billions of shillings are being spent in the useless expeditions in Somalia, yet they are not bearing fruits in this nation. In fact, they are destroying this nation.

Our people have been butchered. The recent example was in Garissa where our children in Garissa University were butchered. We also know that in the National Youth Service (NYS), Kshs971 million has been given out in kickbacks. I demand that the Cabinet Secretary for the Ministry of Devolution and Planning, Anne Waiguru, takes political responsibility just like other Cabinet colleagues who stepped aside. It is known in law that it is “respondent superior.” She should actually take political responsibility and step aside.

Madam Temporary Speaker, finally, if teachers are not paid in this country, we would be setting a very dangerous precedent, that this country does not respect labour laws and has no due regard for people. I am passionate about this matter because I was taken to school in the 1970s at a time when a teacher was earning Kshs300 and taking care of “ten mouths.” I rest my case.

I beg to support.

Sen. Sang: Thank you, Madam Temporary Speaker. I rise to support this very important Motion. It is a sad moment in this country that as students prepare for exams, they now find themselves out of class.

We see a lot of laxity from members within the Executive, the Teachers Service Commission (TSC) and the various stakeholders who are supposed to help us sort out the

problem regarding teachers' salaries. They are not so interested because maybe the children who are affected right now are those of poor parents. The children of the well-to-do are in private schools and academies and they may not feel that pain.

The issue at hand is not whether or not teachers deserve salary. It is about the implementation of a court order. I want to persuade and urge the Executive together with the various institutions to sit down and organize themselves because this is about the rule of law. They should sit down and agree with the teachers' unions on an implementation mechanism over a period that they will agree so that we sort out this particular problem once and for all.

Madam Temporary Speaker, if you look at the Constitution, in Article 53, it says that every child has a right to a name and nationality at birth and, more importantly, to free and basic education. As we speak right now, we are denying these children in public schools their right to basic education. Therefore, I think it is important for us to sit down and agree on an implementation framework.

If we sit down and look at the resources in the current budget, you will realize that we have a lot of resources locked up in national parastatals and authorities that are doing functions that are already devolved. If we have goodwill to sort out this problem, we will sit down and look at some of those allocations that we gave to institutions that are doing work that is already devolved. This will enable us get the Kshs1.5 billion that is required per month to ensure that children of poor Kenyans are able to go back to class.

One of the shocking things we keep on hearing from the Cabinet Secretary (CS) for Education – it shocks that this is somebody who worked within the education sector. You would expect better performance from a professional who was within the academia. But the kind of arrogance that we keep on seeing from this CS is shocking. All these institutions are supposed to be held accountable by the National Assembly. The Teachers Service Commission (TSC), the Cabinet Secretary for National Treasury and the CS Education, Science and Technology should be summoned to tell us why they are not taking steps to ensure that teachers' problems are sorted out in this country. I urge the Members of the National Assembly and especially the relevant committees that they should realize that this is a national crisis that we should address.

Madam Temporary Speaker, I think we can actually get between Kshs5 billion and Kshs10 billion from the Constituencies Development Fund. In any case, we do not need CDF in the first place because it is unconstitutional. The courts have already declared it unconstitutional, why are we still keeping CDF when we can take part of that money and ensure that we go pay the teachers to ensure that the greatest equalizer in the entire world, which is education, is not jeopardized? This will enable children of all and sundry to access education in our counties.

I support and urge all the relevant stakeholders to come together and ensure that the education sector is sorted out in this country.

Sen. (Dr.) Machage: Thank you, Madam Temporary Speaker. As we ponder and think of what is going on in the country right now, I get worried on the sort of advisors our President may be having. At one time, I thought that the second generation alcoholic drinks were dealt with by the same President, but I wonder whether his advisors are not on this stuff.

When the President was in Italy, Kenyans and more so the teaching fraternity, thought that his arrival in the country will blow wisdom into the whole saga. Everybody

kept waiting for the President to give direction because we thought he would come up with a tangible solution. On arrival, he should not have said that he will not pay and he cannot pay. He would have bought time and listened to the TSC and the KNUT. They would have had a very strong stand but it was his duty to listen.

Listening is a virtue of wisdom. The only forum that was open as a solution to this crisis was the National Assembly. However, the Speaker and the Majority Leader of the National Assembly said that this matter cannot go to the National Assembly yet that is the only forum that is open to the Head of State to solve this crisis. It is now being closed by his henchmen because the decision on how to reorganize finances is a prerogative of the National Assembly.

Madam Temporary Speaker, the President should actually rethink on who his people are; who are his advisors? That is the question that he should think about and ask himself. At one time, Mr. Charles Njonjo said, "God, help me for I know my enemies but I do not know who my friends are." I think that the President needs to make that prayer. I am worried because as a Head of State, he is supposed to have wise advisors on such a situation that I thought was a small issue for him to solve.

Of course, he has the fear that by increasing the salaries of teachers, it may enhance the start of another crisis for demand of salaries by the civil servants. Yes, that is true. However, if the President came and said, "I have listened to the plight of teachers, our resources are very minimal but let me ask Kenyans to accept a slight increase of taxes and let us reward all the workers of this county across the board, what would we have done? The teachers may not get the 50 percent increase but he would have now made another group supporting him from the Civil Service to hummer the teachers to keep quiet and not demand for more. That is what wisdom is all about. However, he has clogged and blocked that.

The Opposition in this country is so good that they are awakening the President to the fact that there is a crisis. We should keep quiet and let him make those mistakes. Those teachers should now move to court and support us for at least thinking of their plight because that is the truth. There are many ways that the President could have used to pay the teachers whose demands as has been eloquently put by the Members of this House is not so much for 288,000 teachers for just a token increase of their salaries. What is 50 or 60 percent of Kshs 19,000? It is so little. We only need to look at our holes of loss; corruption. The Ministry of Health has Kshs 280 billion at the headquarters that only manages two hospitals; Kenyatta National Hospital and Moi Teaching and Referral Hospital yet, how much is being sent to the county governments?

Madam Temporary Speaker, that kind of money is left in such places and not accounted for. We should close those loopholes and then raise some money. Kenyans will agree to be taxed a little more to pay for their teachers. That is the way to go. As I conclude, I advise the President to watch out as he is being misled.

The Temporary Speaker (Sen. Ongoro): Please proceed, Sen. Elachi.

Sen. Elachi: Madam Temporary Speaker, I also rise to support this Motion. For the first time, the Jubilee Government has let us down.

(Applause)

In the education sector, we promised our children laptops, however, we never fulfilled our promise. We have again left teachers hanging yet examinations are about to start. It is time women of this country who are the majority and have seen challenges of taking children to school did something. One feels pain when they sell their land, cow or vegetables to enable them send their children to go to school. When your son or daughter sits for Standard 8 or Form 4 examinations, you have no idea whether he or she will pass or will be accused of cheating when results are released the following year by the Kenya National Examinations Council (KNEC). Their results could be cancelled and leave them hanging.

Madam Temporary Speaker, the biggest challenge is the Cabinet Secretary (CS) for Education, Science and Technology and the Chairperson of the TSC. They went to court and decided on the figure. Did they not figure out that they were going to court but could lose the case? That bothers many parents yet they go on with normal business assuming that all is well.

Another challenge is the issue of the Government not being very firm on Members of the National Assembly. You cannot continue building schools yet you have no idea where you will get the human resource, how to manage and even get salaries for them. Now we are in a crisis. The best we can do as Parliament is to ensure that Kshs25 billion is taken from the Constituencies Development Fund (CDF) to the national Government. The money should go across the board to ensure that all civil servants get a pay rise. The Constitution states that Parliament shall monitor projects being done but not to implement the same projects.

Madam Temporary Speaker, it is time we stood with that. I support the Majority Leader in the National Assembly for saying that it is time the CDF cleared this mess. However, the President should let people know that we have small budgets although the Government has an obligation to ensure that the CDF is used. Every year, Kshs10 billion is added to the CDF. Why do you increase the CDF while governors are also doing the same work? There is no need for the Government to build roads and classrooms and give out bursaries when governors are doing the same. This is duplication and waste of resources which we work hard for.

If we used resources that we have in this country well, no Kenyan would cry for a better salary. We have decided to misuse our own public resources. We go for trips which are not even necessary. Why should we benchmark while we can do most of the things in our country? Uganda should benchmark in Kenya because we are better off. It does not make sense to go to Uganda and Tanzania to benchmark yet we are more advanced than them.

Madam Temporary Speaker, Members of the National Assembly should have called for a meeting very fast because the Constitution has given them the mandate to ensure that every budget in this country works. They should have called for a meeting to decide where money would come from. They unnecessarily allocated Kshs13 billion for irrigation. We reminded them that that was unnecessary because for the last three years, only Kshs3 billion has been spent. However, no one and especially the national Treasury listened. That money should be given to teachers. There are many areas in the Budget we could get money to do what is right. As Parliament, it is time we agreed that our duty is to legislate.

With those few remarks, I beg to support.

The Temporary Speaker (Sen. Ongoro): Senator for Nyamira County, Sen. Okong'o.

Sen. Okong'o: Madam Temporary Speaker, thank you for this opportunity. From the outset, I also support this Motion. Since 1997, teachers have been tossed left, right and centre. However, with the new constitutional dispensation, they have been given what is rightfully theirs. It is very important that this Government honours the Supreme Court verdict.

The cost implication of teachers and children staying out of school is far reaching. If the President of the Republic of Kenya does not have an advisor on that, let me tell him what could happen. There will be drug abuse among our young children and illicit pregnancies. In other areas, funny religious doctrines will be inculcated in these children who are helpless. So, the President must reassess who supports him on these areas. The threats by the Cabinet Secretary for Education and the Teachers Service Commission (TSC) that they will arrest and sack teachers are things of the past century. First, I come from a family of teachers, almost seven of them, who made me who I am.

Madam Temporary Speaker, to be in the Senate, I am a beneficiary of teachers of Nyamira County whom I shared with the issues affecting education. Four years ago, I did a survey on the salaries of teachers. When I looked at the pay slips of those teachers, some had minus 600 or 700. These teachers have families, and the same family has a child in the university or polytechnic and is even struggling to assist the children where he or she works as a head teacher to make them pass their exams.

Madam Temporary Speaker, Kshs15 billion was allocated to the laptop project which never came to be. That money is lying somewhere. Let it be reallocated. It can solve a problem of the teachers' pay for about six or seven months. This is very important. Time has come for us as leaders of this country to consult effectively rather than giving directives and threats from the rooftops. It is important that those who were arguing about issues of productivity, for instance, the TSC; they should know that you cannot tell a teacher who earns peanuts to be productive; a teacher who does not have breakfast, cannot afford lunch or a book costing Ksh1200 to enable him or her to be productive. All those issues were fallacies. It is important that all leaders of this country look for a way of raising funds to pay teachers.

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

ADJOURNMENT

The Temporary Speaker (Sen. Ongoro): Hon. Senators, it is now time to adjourn the Senate. The Senate stands adjourned until tomorrow 17th September, 2015, at 2.30 p.m.

The Senate rose at 7.10 p.m.