

# PARLIAMENT OF KENYA

## THE SENATE

## THE HANSARD

Thursday, 14<sup>th</sup> July, 2016

*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 SECURITY SITUATION IN PARLIAMENT

**The Speaker** (Hon. Ethuro): Hon Members, you will recall that yesterday, Wednesday 13<sup>th</sup> July, 2016, the Deputy Speaker who is also the distinguished Senator for Murang'a County, Sen. Kembi-Gitura, rose on a point of order and raised concerns on the existing security system within Parliament Buildings. The matter was also spoken to by several other Senators, including the Senate Minority Leader, Sen. Kagwe, Sen. (Eng.) Muriuki, Sen. (Dr.) Machage, Sen. Ong'era, Sen. Hassan, Sen. Okong'o, Sen. (Prof.) Anyang'-Nyong'o and Sen. Haji.

You will also recall that I undertook to issue a communication on the matter given that the concerns raised have far reaching consequences if not addressed promptly.

Hon. Senators, Parliament is a vital installation with high profile occupants and visitors, including a large number of members of the public, college students and school pupils, apart from suppliers and contractors who visit the precincts for various reasons on daily basis. We routinely also get international visitors, especially hon. Members from other parliaments.

To safeguard Members, staff, visitors and property of Parliament, Parliament security which is provided by Serjeant-at-Arms and agencies responsible for protection of Parliament, including the Kenya Police, have been directed to implement the following security controls at all access points into and within the precincts of Parliament:-

1. Only vehicles bearing valid security car stickers issued by Parliament security will be allowed access into the precincts of Parliament. Vehicles without valid car stickers shall be denied entry.

2. All vehicles will, at all times, be subjected to security search before entry into Parliament and drivers are required to fill the vehicle register at the entrance before entry.

Any driver or owner of a car who declines to have the vehicle searched shall be denied entry.

3. Upon the screening, only a Member of Parliament and his/her driver may proceed to the parking area within Parliament buildings, while bodyguards, visitors and passengers will be required to disembark and will be directed to the security screening booth at the gate for screening before being allowed entry. Any person who declines to be subjected to screening shall be denied entry.

4. In case of a vehicle with no Member of Parliament on board, only the driver shall proceed to the parking area after body search while all passengers, dignitaries, visitors and bodyguards will be required to disembark for appropriate screening.

5. All persons seeking entry into the buildings shall be subjected to body and baggage screening at the gates and control points and issued with visitors' passes which must be worn all the time and surrendered on leaving Parliament. Anyone with a permanent pass issued by the Chief Security Officer of Parliament must produce the pass to be allowed entry. Members of Parliament are informed that their spouses are entitled to permanent pass on application.

6. Persons who declare or are found in possession of firearms shall be required to show proof of authorised ownership. The firearm shall, thereafter, be surrendered for safe custody by the Serjeant-at-Arms and returned to the owner on exit.

7. The Serjeant-at-Arms shall screen all Members before entry into the Senate Chamber. All visitors, school pupils, dignitaries seeking access into the galleries shall be subjected to security screening by the Serjeant-at-Arms before entry. Any person who declines to be screened shall be denied access.

8. Members may entertain a maximum of two visitors within the precincts of Parliament at any time. Members and any officer of Parliament will be solely responsible for the conduct and behaviour of the visitors they have invited to the precincts of Parliament.

9. Members are requested to report any suspicious looking person or object observed to the security officers or Serjeant-at-Arms for immediate necessary action.

These security measures will be implemented in the precincts of Parliament which include main Parliament Buildings, KICC, Continental House, County Hall, Protection House and Harambee Plaza. All concerned persons are required to comply. These measures supplement Speaker's Rules on conduct of Members and admission and conduct of members of the public made under powers conferred by the National Assembly (Powers and Privileges Act).

Hon. Senators, security is a responsibility of everyone. Cooperation with security staff at the control points by Members and their visitors will go a long way in demonstrating how serious security is taken at Parliament. At no any one time will any Member both the Senators or Members of the National Assembly or visitors be allowed within the precincts of Parliament carrying guns even if they are authorized to do so.

Hon. Members, I, therefore, urge your full and maximum cooperation.

I thank you.

**Sen. Sang:** Mr. Speaker, Sir, I wish to thank you for the Communication that you have just made. I only need one assurance that the same measures being employed with

regard to the entry to the Senate should apply to the National Assembly. This is because if the same measures are not applied to the National Assembly entrance yet these are two entries to the same building, there is no barrier between the two Houses, then it does not make sense to subject us to those kind of strict regulations and rules if our counterparts on the other side do not adhere to the same for that will beat the logic.

**Sen. (Prof.) Lonyangapuo:** Mr. Speaker, Sir, I thank you for the detailed response that you have given and the directions on what Members of this House and any other visitor should follow as they come in.

I also stand to report what we have heard happened in Kapenguria this morning. We are told a suspected terrorist walked into the police station, caused mayhem and killed police officers. They walked in through the gate, went and killed people for there was nobody manning it. It is prudent that every Government office should be manned appropriately every other time. For example, every police station, administrative police post, the Chief's office and any other place where human beings are should be manned all the time and the people walking in should be searched. We should elevate whatever measures we have come up with as the Senate and Parliament in general to the county assemblies and anywhere else where people are walking; they should be thoroughly searched. These measures should be taken.

As the Senator for the affected County, West Pokot, I condemn the act that took place this morning where six police officers were murdered by that terrorist. It is good to report that our officers have taken control and removed the culprits by whatever means. Everything is now calm in that station.

**The Speaker** (Hon. Ethuro): Sen. Kembi-Gitura!

**Sen. Kembi-Gitura:** Mr. Speaker, Sir, right from the outset, let me thank you most sincerely for that very important communication that you have made and the promptness with which you have made it. That tells me that the issue of security was taken very seriously after I raised it in the House yesterday afternoon.

Mr. Speaker, Sir, I agree with you 100 per cent and I thank you. If we take that direction that you have given seriously, going forward, it will enhance the security of the Senate, the National Assembly and the whole of Parliament. I believe that the Serjeant-At-Arms will take it very seriously because you are the one who has given the ruling. It is going to be of great importance to us because you have mentioned all the buildings in which we are housed. I believe that there will not be any laxity.

Like I said yesterday, and I think the Senate Minority Leader also alluded to it, some of the committee meetings are becoming extremely heated and anything could happen. We would all live to regret what would happen in the heat of the moment particularly in the County Public Accounts and Investments Committee of the Senate where governors and other people are interrogated.

Therefore, I thank you sincerely.

I join hands with my colleague, Sen. (Prof.) Lonyangapuo, in mourning the unnecessary and wasteful deaths of six police officers at a police station in Kapenguria this morning. We do not know the full facts as of now. However, we know that six police officers lost their lives because of laxity in terms of security in that specific police station.

That enhances the direction that you have given this afternoon which will go a long way in the running and administration not just of Senate but of the Parliament of Kenya.

**The Speaker** (Hon. Ethuro): Sen. Wetangula!

**The Senate Leader of Minority** (Sen. Wetangula): Mr. Speaker, Sir, I listened to you very carefully - as I was driving here deliver- your ruling on the issue of security. I join the Deputy Speaker who raised the issue in lauding you and congratulating the management for at least stating in very clear terms as to what measures are being taken to secure the premises of Parliament and the occupants and even the visitors.

It should not be lost to us that in the very recent past, about 10 years ago, the entire Parliament of the Republic of Iran was wiped out by a terrorist attack. Everybody except about 10 Members who walked out of the premise of Parliament were wiped out. You may also recall that in Lebanon, a similar incident occurred and three-quarters of the leadership of the country was wiped out by a terrorist attack on Parliament. Therefore, it can happen and it has happened elsewhere.

We need to be very careful and submit ourselves to searches of ourselves, our bodies and vehicles. We should not look at our security operations as an inconvenience. That inconvenience may be life-saving in this Parliament.

I also join the distinguished Senator and my neighbour from West Pokot in sending condolences to the families and friends of the police officers who were gunned down this morning. Reports coming in indicate that the casualties are seven.

I also heard from the news that the terrorist who attacked and killed the police was, in fact, in custody in the same police station. He overpowered a police officer, took away his gun and used it to do what he did. This puts to question the manner in which our police officers are being trained. An officer who bears a weapon will under no circumstances, if properly trained, be disarmed by an unarmed person and then that weapon be used against him and many others. The committees for National Security and Foreign Relations in both Houses should start interrogating the manner, intensity and skills that our police officers are trained.

Mr. Speaker, Sir, I do not believe going to Kiganjo for a crash programme of six months will give you all the necessary know how on how to face the situations such as the one in Kapenguria. To be taught how to hold a gun and fire - anybody can do it, even fools. However, how to live with that gun, secure yourself and others is what we must train. I urge that as Kenyans, we must take our security seriously.

The Government, more than anybody else, must take the security of our country seriously. There are so many lapses and laxities. We may just wake up to something more serious than what happened in my neighbouring county of West Pokot. We collectively say *pole* to my brother Sen. (Prof.) Lonyangapuo and his people.

**The Speaker** (Hon. Ethuro): Sen. (Prof.) Lesan!

**Sen. (Prof.) Lesan:** Mr. Speaker, Sir, I thank you for the ruling that you have made. However, I want to point out that the other area we have a threat is the area of food and beverages that we use within Parliament. I have an office at the Kenyatta International Convention Center (KICC) and we hold a lot of meetings there. The food and beverages that are brought in are brought in across the streets. We do not know where they come from. We cannot have absolute security. However, if food is carried

around, this is a very soft spot in which anybody can interfere and cause a threat to the Members of Parliament. I suggest we look at this area a bit more closely.

**The Speaker** (Hon. Ethuro): Order, professor! Why are you giving opportunities to people? Some of those things you do not need to ventilate them in the plenary. You can make suggestions privately.

**Sen. Mutula Kilonzo jnr.:** Mr. Speaker, Sir, Sen. Wetangula brought out an issue I mentioned some time back. It will be abdication of duty as the Vice Chairperson of the Standing Committee on Information and Technology if we do not mention this; Close Circuit TV (CCTV) cameras around Parliament buildings are mandatory.

I was at the top floor today in a meeting and noticed some archaic cameras that appear not to be working. Therefore, to remove human error, even at the gate, your leadership is required, through the Parliamentary Service Commission to have CCTV.

**The Speaker** (Hon. Ethuro): Sen. Karaba!

**Sen. Karaba:** Mr. Speaker, Sir, as we talk about security in Parliament, sometimes one wonders whether these people are serious. All they ask us is to open the boot and the door for checking and that is all. They have no gadgets to really check whether there are gadgets that could be detonated such as hand grenades. They do not have that kind of expertise. One would not tell whether there is a grenade in somebody's vehicle which is either in front or behind them. It might explode in a place like this.

Secondly, I send my condolences to Kapenguria. That is very sad. If possible, some of the people who are arrested and put in custody should be classified, notorious, most notorious, *et cetera*. That way, the most notorious fellows can be put in the most segregated cells where they do not interfere with the ones who are simple criminals. That is what should happen. A person like the one who shot the police officers should have been in the most notorious cell so that he is guarded on a 36-hour basis rather than 24 hours.

**The Speaker** (Hon. Ethuro): Sen. (Dr.) Machage!

**Sen. Dr. Machage:** Mheshimiwa Spika, nikizitoa rambirambi zangu kwa maafisa wetu wa askari waliouawa huko Kapenguria, nina maswali kadhaa kichwani. Tunajifunza nini hapa Kenya kila tupatapo mkasa kama huu? Imekuwa desturi kwamba mkasa wa majambazi kama hawa ukitokea, kazi yetu ni kulia na kusaga meno. Tunapotoa rambirambi zetu na kuwazika walioaga, mambo yanaishia hapo.

Kwa hivyo, ni wajibu wa Serikali kwamba kila kutokeapo jambo kama hili, kuwe na funzo fulani ambalo litakumbukwa na kutoa tahadhari mkasa kama huo usitokee tena. Kama kituo cha polisi kinaweza kuvamiwa hivyo, mwananchi wa kawaida ana usalama? Hali ya usalama iko vipi? Hili ni jambo la kutia maanani; si jambo ndogo. Serikali iwe macho na ijipige konde kuchunguza panapo udhaifu katika uongozi na minajili ya mipango ya usalama nchini.

**The Speaker** (Hon. Ethuro): Sen. Kagwe!

**Sen. Kagwe:** Mr. Speaker, Sir, I join my colleagues in sending my condolences and those of the people of Nyeri County to the people of West Pokot County on the deaths that occurred there. While I appreciate what you have said, when one is attacked like West Pokot was, the Government must retaliate and hit back in such a vicious manner that people will realise that attacking police stations is not a good idea.

The justice system, as it exists today is insufficient to deal with the threats that are presently in the world. It was assumed that when you were arresting a person, they do not want to die. When you arrest a person that wants to die, do you treat them the same way as a person who does not want to? There are big questions that we need to ask ourselves.

As far as Parliament is concerned, I think three things. First, do those in charge of security have the capacity not only to invigilate those of us who come in and check whether or not we are carrying weapons but also repulse an attack on Parliament?

It is not enough that we know the Senators here are not carrying guns or their guns have been kept in safe custody. The question is, if somebody came in with a gun with the intent of attacking Parliament, would we have the capacity to repulse him?

Would the young boys and ladies checking vehicles there have the capacity to defend Parliament at a seconds' notice? The capacity should be enhanced and increased particularly by use of technology. These persons searching us there are not even trained to search. Is it not possible for us to have the kind of technology that is there in airports where as one walks in, it is very clear for somebody sitting in a room to check whether you have any weapons on you or not. We have to take the subject that you very ably demonstrated today a little more seriously and thank the Deputy Speaker for the same.

Further, the threat is not only those who are carrying guns from outside but internally. Those persons who are working in the premises of Parliament have to go through very thorough examinations and forensic audits on every individual. It can be the clerks, caterers or sweepers. It is necessary that each person be subjected to a background check to see whether, indeed, they are part of the groups that are a threat to this country. Therefore, it is both external and internal threats that we should be addressing and also the capacity that we have. As far as our policemen are concerned ---

**The Speaker** (Hon. Ethuro): Conclude, Senator.

**Sen. Kagwe:** Mr. Speaker, Sir, indeed. As far as our policemen are concerned, I think we have been accused by even some friends from the Israeli Government of taking our security too lightly. I think Sen. Wetangula is correct. He is right in proposing that we have to be constant and have demonstrated capacity training for our security apparatus, not just the policemen but the entire security apparatus in this country.

**The Speaker** (Hon. Ethuro): Before we move to the next Order, let me assure you that we had a meeting to review and audit our security arrangement yesterday afternoon. So, all I could give you is the feedback for the public. I do not think the other details are worth mentioning in public. So, be assured that all those contributions that you have made have been factored. It could be much better than before.

VISITING DELEGATIONS OF TEACHERS AND STUDENTS  
FROM MAKONGENI PRIMARY SCHOOL AND  
DAWAMU SECONDARY SCHOOL

Hon. Members, I wish to recognise the presence of visiting students and teachers from Makongeni Secondary School, Nairobi City County, and Dawamu Secondary School from Kajiado County. They are seated at the Public Gallery.

In our usual tradition of receiving and welcoming visitors to Parliament, I send a warm welcome to them. On behalf of the Senate and on my own behalf, I wish them a fruitful visit.

VISITING DELEGATION OF MCAs AND  
STAFF FROM MERU COUNTY ASSEMBLY  
POWERS AND PRIVILEGES COMMITTEE

I would like to acknowledge the presence, in the Speaker's Gallery this afternoon, of visiting Members and staff from Meru County Assembly. They are here on a one day benchmarking visit to the Senate.

I request each Member of the delegation to stand when called out so that he or she may be acknowledged in the usual Senate tradition.

1. Hon. Juliana Mugure Babu - Vice Chairperson
2. Hon. Duncan Kagwana
3. Hon. Julius K. Kirinya
4. Hon. Joyce Mukombaya Kirai
5. Hon. John Kithinji Ethiaba
6. Hon. Margaret Ntongai
7. Hon. Henry Mworira M'Mutia
8. Hon. Samason Thuranira Anampiu
9. Hon. Linus Athinya

They are accompanied by the following staff:-

1. Mr. J. K. Arithi - County Assembly Clerk
2. Mr. Benson Kinyua Ngure - Committee Clerk
3. Ms. Ann Mwarii Mpwi - Hansard Reporter

On behalf of the Senate and on my own behalf, I welcome them to the Senate and wish them a fruitful stay.

**Sen. Murungi:** Mr. Speaker, Sir, we are always very happy in the Senate to receive the kind of visitors that we have today, both from our schools but, more so, from the Meru County Assembly.

I join you in welcoming the very strong delegation from my county, Meru County. I am personally known to all the visitors in your Gallery today. I think this is a very important exercise where our Members of County Assemblies (MCAs) come to learn from the Senate how they should conduct their business within county assemblies.

This is one of the very many delegations which have visited the Senate. Those who have been here before have gone back to say that they learnt a lot in their visits to the Senate. I would like to send our visitors back to the county with greetings to the people of Meru but, more so, to play a greater oversight role because both the Senate and the assemblies are supposed to oversee governors.

Our greatest disappointment with some of the MCAs is that they are not playing their role. Some of them have become more "executive" than the executive itself and taken their role as that of defending governors or following them around wherever they go. I think they should learn from the Senate that our principal role in this House is to

oversight and take care of public funds and make sure people get value for their money. It does not matter what title you have. Even if you are a whip or whatever else, you are primarily an MCA and your primary role is oversight. It is never to defend the executive or oversee massive looting and plunder of the resources at the county level ---

**The Speaker** (Hon. Ethuro): Sen. Murungi, conclude.

**Sen. Murungi:** Mr. Speaker, Sir, I hope that they take their time to learn and tell their colleagues back at home that, indeed, they learnt from the Senate that the primary role of the MCA is that of oversight.

**The Speaker** (Hon. Ethuro): Next Order.

Let us move to Order No.8, 9, 10, 11, 12, 13 and 14 on the Supplementary Order Paper. They involve voting and we have the numbers.

### COMMITTEE OF THE WHOLE

*(Order for Committee read)*

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

#### IN THE COMMITTEE

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

#### THE ENERGY BILL (NATIONAL ASSEMBLY BILL NO.50 OF 2015

*(Resumption of Debate interrupted on 14.7.2016 –  
Morning Sitting)*

**The Temporary Chairperson** (Sen. (Dr.) Machage): Order, Members. We have a lot of business to transact. We are in the Committee of the Whole to consider Division on The Energy Bill (National Assembly Bill No.50 of 2015).

Hon. Members, I plead with you not to walk out, so that we can have quorum. We are short of one Member now. Ring the Division Bell for one minute.

*(The Division Bell was rung)*

Draw the Bar and close the doors.

*(The Bar was drawn and doors closed)*

I now put the Question, that Clauses 53, 57, 249 and Clause 2 be amended as proposed.

You have 30 seconds to vote. The assisted voters should come forward.



*(The Senators proceeded to vote)*

I will announce the results later. Let us proceed to the second Division on the same Order.

I now put the Question, that Clauses 3-52, 53 (as amended), 54-56, 57 (as amended), 58 – 248, 249 (as amended), 250 – 253, the First Schedule, the Second Schedule, the Third Schedule, the Fourth Schedule, the Fifth Schedule, Clause 2 (as amended), the Title and Clause 1 be part of the Bill.

You have 30 seconds to vote.

*(The Senators proceeded to vote)*

## **DIVISION**

### **ELECTRONIC VOTING**

*(Question, that Clause 53, Clause 57, Clause 249  
and Clause 2 be amended as proposed, put and the Senate  
proceeded to vote by County Delegations)*

**AYES:** Sen. (Prof.) Anyang'-Nyong'o, Kisumu County; Sen. Boy Juma Boy, Kwale County; Sen. Bule, Tana River County; Sen. Hargura County, Marsabit County; Sen. Kagwe, Nyeri County; Sen. (Dr.) Khalwale, Kakamega County; Sen. Khaniri, Vihiga County; Sen. (Prof.) Kindiki, Tharaka-Nithi County; Sen. Kisasa, Kilifi County; Sen. Kivuti, Embu County; Sen. (Prof.) Lesan, Bomet County; Sen. Lesuuda, Samburu County; Sen. (Prof.) Lonyangapuo, West Pokot County; Sen. M. Kajwang, Homa Bay County; Sen. (Dr.) Machage, Migori County; Sen. Melly, Uasin Gishu County; Sen. Mohamud, Wajir County; Sen. (Eng.) Muriuki, Nyandarua County; Sen. Murungi, Meru County; Sen. Mutula Kilonzo Jnr., Makueni County; Sen. Mwakulegwa, Taita Taveta County; Sen. Nabwala, Trans Nzoia County; Sen. Obure, Kisii County; Sen. Sang, Nandi County and Sen. Wetangula, Bungoma County.

**NOES:** Nil.

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

**AYES:** 25

**NOES:** Nil

**ABSENTIONS:** Nil

*(Question carried by 25 votes to 0)*

**DIVISION****ELECTRONIC VOTING**

*(Question, that Clauses 3 - 52, Clause 53 (as amended), Clauses 54 - 56, Clause 57 (as amended), Clauses 58 - 248, Clause 249 (as amended), Clauses 250 - 253, the First Schedule, the Second Schedule, the Third Schedule, the Fourth Schedule, the Fifth Schedule, Clause 2 (as amended), the Title and Clause 1, be part of the Bill, put and the Senate proceeded to vote by County Delegations)*

**AYES:** Sen. (Prof.) Anyang'-Nyong'o, Kisumu County; Sen. Boy Juma Boy, Kwale County; Sen. Bule, Tana River County; Sen. Hargura, Marsabit County; Sen. Kagwe, Nyeri County; Sen. (Dr.) Khalwale, Kakamega County; Sen. Khaniri, Vihiga County; Sen. (Prof.) Kindiki, Tharaka-Nithi County; Sen. Kisasa, Kilifi County; Sen. Kivuti, Embu County; Sen. (Prof.) Lesan, Bomet County; Sen. Lesuuda, Samburu County; Sen. (Prof.) Lonyangapuo, West Pokot County; Sen. M. Kajwang, Homa Bay County; Sen. (Dr.) Machage, Migori County; Sen. Melly, Uasin Gishu County; Sen. Mohamud, Wajir County; Sen. (Eng.) Muriuki, Nyandarua County; Sen. Murungi, Meru County; Sen. Mutula Kilonzo Jnr., Makueni County; Sen. Mwakulegwa, Taita Taveta County; Sen. Nabwala, Trans Nzoia; Sen. Obure, Kisii County; Sen. Sang, Nandi County and Sen. Wetangula, Bungoma County.

**NOES:** Nil.

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

**AYES:** 25

**NOES:** Nil

**ABSTENTIONS:** Nil

*(Question carried by 25 votes to 0)*

**THE PETROLEUM (EXPLORATION, DEVELOPMENT AND  
PRODUCTION) BILL (NATIONAL ASSEMBLY BILL  
No.44 OF 2015)**

*(Resumption of Debate interrupted on 14.7.2016 –  
Morning Sitting)*

**DIVISION****ELECTRONIC VOTING**

*(Question, that Clauses 5, 6, 10, 12, 15, 16, 17, 45, 48, 49, 50, 51, 53, 58, 60, 77, 86, 89, 100, 102 and 107, the Second Schedule and Clause 2 be amended as proposed, put and the Senate proceeded to vote by County Delegations)*

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**AYES:** Sen. (Prof.) Anyang'-Nyong'o, Kisumu County; Sen. Boy Juma Boy, Kwale County; Sen. Bule, Tana River County; Sen. Hargura, Marsabit County; Sen. Kagwe, Nyeri County; Sen. (Dr.) Khalwale, Kakamega County; Sen. Khaniri, Vihiga County; Sen. (Prof.) Kindiki, Tharaka-Nithi County; Sen. Kisasa, Kilifi County; Sen. Kivuti, Embu County; Sen. (Prof.) Lesan, Bomet County; Sen. Lesuuda, Samburu County; Sen. (Prof.) Lonyangapuo, West Pokot County; Sen. M. Kajwang, Homa Bay County; Sen. (Dr.) Machage, Migori County; Sen. Melly, Uasin Gishu County; Sen. Mohamud, Wajir County; Sen. (Eng.) Muriuki, Nyandarua County; Sen. Murungi, Meru County; Sen. Mutula Kilonzo Jnr., Makueni County; Sen. Mwakulegwa, Taita Taveta County; Sen. Nabwala, Trans Nzoia County; Sen. Obure, Kisii County; Sen. Sang, Nandi County and Sen. Wetangula, Bungoma County.

**NOES:** Nil.

**The Temporary Chairman** (Sen. (Dr.) Machage): Hon. Senators, the results of the Division are as follows:-

**AYES:** 25

**NOES:** Nil

**ABSENTIONS:** Nil

*(Question carried by 25 votes to 0)*

## **DIVISION**

### **ELECTRONIC VOTING**

*(Question, that Clauses 3, 4, 5 (as amended), 6 (as amended), 7,8,9,10 (as amended), 11, 12 (as amended), 13, 14, 15 (as amended), 16 (as amended), 17 (as amended) 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45 (as amended), 46, 47, 48 (as amended), 49 (as amended), 50 (as amended), 51 (as amended), 52, 53 (as amended), 54, 55, 56, 57, 58 (as amended), 59, 60 (as amended), 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77 (as amended), 78, 79, 80, 81, 82, 83, 84, 85, 86 (as amended), 87, 88, 89 (as amended), 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100 (as amended), 101, 102 (as amended), 103, 104, 105, 106, 107 (as amended), 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119 and 120, the First Schedule, the Second Schedule (as amended), Clause 2 (as amended), the Title and Clause 1 be part of the Bill, put and the Senate proceeded to vote by County Delegations)*

**AYES:** Sen. (Prof.) Anyang'-Nyong'o, Kisumu County; Sen. Boy Juma Boy, Kwale County; Sen. Bule, Tana River County; Sen. Hargura, Marsabit County; Sen. Kagwe, Nyeri County; Sen. (Dr.) Khalwale, Kakamega County; Sen. Khaniri, Vihiga County; Sen. (Prof.) Kindiki, Tharaka-Nithi County; Sen. Kisasa, Kilifi County; Sen. Kivuti, Embu County; Sen. (Prof.) Lesan, Bomet County; Sen. Lesuuda, Samburu County; Sen. (Prof.) Lonyangapuo, West Pokot County; Sen. M. Kajwang, Homa Bay County; Sen. (Dr.) Machage, Migori County; Sen. Melly, Uasin Gishu County; Sen.

Mohamud, Wajir County; Sen. (Eng.) Muriuki, Nyandarua County; Sen. Murungi, Meru County; Sen. Mutula Kilonzo Jnr., Makueni County; Sen. Mwakulegwa, Taita Taveta County; Sen. Nabwala, Trans Nzoia County; Sen. Obure, Kisii County; Sen. Sang, Nandi County, and; Sen. Wetangula, Bungoma County.

**NOES:** Nil.

**The Temporary Chairman** (Sen. (Dr.) Machage): Hon. Senators, the results of the Division are as follows:-

**AYES:** 25

**NOES:** Nil

**ABSTENTIONS:** Nil

*(Question carried by 25 votes to 0)*

THE PROTECTION OF TRADITIONAL KNOWLEDGE AND CULTURAL  
EXPRESSIONS BILL (NATIONAL ASSEMBLY BILL NO. 48 OF 2015)

*(Resumption of Debate interrupted on 14.7.2016 –  
Morning Sitting)*

**DIVISION**

**ELECTRONIC VOTING**

*(Question, that Clause 4, Clause 22, Clause 25, Clause 34  
and Clause 43 be amended as proposed, put and  
the Senate proceeded to vote by County Delegations)*

**AYES:** Sen. (Prof.) Anyang'-Nyong'o, Kisumu County; Sen. Boy Juma Boy, Kwale County; Sen. Bule, Tana River County; Sen. Hargura, Marsabit County; Sen. Kagwe, Nyeri County; Sen. (Dr.) Khalwale, Kakamega County; Sen. Khaniri, Vihiga County; Sen. (Prof.) Kindiki, Tharaka-Nithi County; Sen. Kisasa, Kilifi County; Sen. Kivuti, Embu County; Sen. (Prof.) Lesan, Bomet County; Sen. Lesuuda, Samburu County; Sen. (Prof.) Lonyangapuo; Sen. M. Kajwang, Homa Bay County; Sen. (Dr.) Machage, Migori County; Sen. Melly, Uasin Gishu County; Sen. Mohamud, Wajir County; Sen. (Eng.) Muriuki, Nyandarua County; Sen. Murungi, Meru County; Sen. Mutula Kilonzo Jnr., Makueni County; Sen. Mwakulegwa, Taita Taveta County; Sen. Nabwala, Trans Nzoia County; Sen. Obure, Kisii County; Sen. Sang, Nandi County; and, Sen. Wetangula, Bungoma County.

**NOES:** Nil.

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

**AYES:** 25

**NOES:** Nil

**ABSTENTIONS:** Nil

*(Question carried by 25 votes to 0)*

## DIVISION

### ELECTRONIC VOTING

*(Question, that Clause 3, clause 4(as amended), Clauses 5 - 21, Clause 22 (as amended), Clauses 23 and 24, Clause 25 (as amended), Clauses 26 -33, Clause 34(as amended), Clauses 35 – 42, Clause 43 (as amended), Clause 44, Clause 2, the Title and Clause 1 be part of the Bill, put and the Senate proceeded to vote by County Delegations)*

**AYES:** Sen. (Prof.) Anyang'-Nyong'o, Kisumu County; Sen. Boy Juma Boy, Kwale County; Sen. Bule, Tana River County; Sen. Hargura, Marsabit County; Sen. Kagwe, Nyeri County; Sen. (Dr.) Khalwale, Kakamega County; Sen. Khaniri, Vihiga County; Sen. (Prof.) Kindiki, Tharaka-Nithi County; Sen. Kisasa, Kilifi County; Sen. Kivuti, Embu County; Sen. (Prof.) Lesan, Bomet County; Sen. Lesuuda, Samburu County; Sen. (Prof.) Lonyangapuo; Sen. M. Kajwang, Homa Bay County; Sen. (Dr.) Machage, Migori County; Sen. Melly, Uasin Gishu County; Sen. Mohamud, Wajir County; Sen. (Eng.) Muriuki, Nyandarua County; Sen. Murungi, Meru County; Sen. Mutula Kilonzo Jnr., Makueni County; Sen. Mwakulegwa, Taita Taveta County; Sen. Nabwala, Trans Nzoia County; Sen. Obure, Kisii County; Sen. Sang, Nandi County; and Sen. Wetangula, Bungoma County.

**NOES:** Nil.

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

**AYES:** 25

**NOES:** Nil

**ABSTENTIONS:** Nil

*(Question carried by 25 votes to 0)*

## THE HEALTH BILL (NATIONAL ASSEMBLY BILL NO.14 OF 2015)

*(Resumption of Debate interrupted on 14.7.1016 –  
Morning Sitting)*

## DIVISION

### ELECTRONIC VOTING

*(Question, that Clauses 25, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 62, 63, 64, 65, 66, 67, 73, 89 and 91 be deleted, put and the Senate proceeded to vote by County Delegations)*

**AYES:** Sen. (Prof.) Anyang'-Nyong'o, Kisumu County; Sen. Boy Juma Boy, Kwale County; Sen. Bule, Tana River County; Sen. Hargura County, Marsabit County; Sen. Kagwe, Nyeri County; Sen. (Dr.) Khalwale, Kakamega County Sen. Khaniri, Vihiga County Sen. (Prof.) Kindiki, Tharaka-Nithi County; Sen. Kisasa, Kilifi County; Sen. Kivuti, Embu County; Sen. (Prof.) Lesan, Bomet County; Sen. Lesuuda, Samburu County; Sen. (Prof.) Lonyangapuo, West Pokot County; Sen. M. Kajwang, Homa Bay County; Sen. (Dr.) Machage, Migori County Sen. Melly, Uasin Gishu County; Sen. Mohamud, Wajir County; Sen. (Eng.) Muriuki, Nyandarua County; Sen. Murungi, Meru County; Sen. Mutula Kilonzo Jnr., Makueni County; Sen. Mwakulegwa, Taita Taveta County; Sen. Nabwala, Trans Nzoia; Sen. Obure, Kisii County; Sen. Sang, Nandi County; and, Sen. Wetangula, Bungoma County.

**NOES:** Nil.

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

**AYES:** 25

**NOES:** Nil

**ABSTENTIONS:** Nil

The "Ayes" have it.

*(Question carried by 25 votes to 0)*

## DIVISION

### ELECTRONIC VOTING

*(Question that, Clauses 5, 7, 12, 15, 16, 17, 18, 19, 20, 24, 25, 27, 28, 46, 49, the First Schedule and Clause 2 be amended as proposed put and the Senate proceeded to vote by County Delegations)*

**AYES:** Sen. (Prof.) Anyang'-Nyong'o, Kisumu County; Sen. Boy Juma Boy, Kwale County; Sen. Bule, Tana River County; Sen. Hargura County, Marsabit County; Sen. Kagwe, Nyeri County; Sen. (Dr.) Khalwale, Kakamega County Sen. Khaniri, Vihiga County Sen. (Prof.) Kindiki, Tharaka-Nithi County; Sen. Kisasa, Kilifi County; Sen. Kivuti Embu County; Sen. (Prof.) Lesan, Bomet County; Sen. Lesuuda, Samburu County; Sen. (Prof.) Lonyangapuo, West Pokot County; Sen. M. Kajwang, Homa Bay County; Sen. (Dr.) Machage, Migori County Sen. Melly, Uasin Gishu County; Sen. Mohamud, Wajir County; Sen. (Eng.) Muriuki, Nyandarua County; Sen. Murungi, Meru County; Sen. Mutula Kilonzo Jnr., Makueni County; Sen. Mwakulegwa, Taita Taveta

County; Sen. Nabwala, Trans Nzoia; Sen. Obure, Kisii County; Sen. Sang, Nandi County; and, Sen. Wetangula, Bungoma County.

**NOES:** Nil

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

**AYES:** 25

**NOES:** Nil

**ABSTENTIONS:** Nil

The “Ayes” have it.

*(Question carried by 25 votes to 0)*

## **DIVISION**

### **ELECTRONIC VOTING**

*(Question, that Clauses 3, 4, 5(as amended), 6, 7(as amended), 8, 9, 10, 11, 12(as amended), 13, 14, 15(as amended), 16(as amended), 17(as amended), 18(as amended), 19(as amended), 20(as amended) 21-23, 24(as amended), 26, 27(as amended), 28(as amended), 29, 45, 46(as amended), 47, 48, 49(as amended), 50-61, 68-72,74-88, 90, 92-112, the First Schedule (as amended), the Second Schedule, the Third Schedule, the Fourth Schedule, Clause 2 (as amended), the Title and Clause 1 be part of the Bill, put and the Senate proceeded to vote by County Delegations)*

**AYES:** Sen. (Prof.) Anyang’-Nyong’o, Kisumu County; Sen. Boy Juma Boy, Kwale County; Sen. Bule, Tana River County; Sen. Hargura County, Marsabit County; Sen. Kagwe, Nyeri County; Sen. (Dr.) Khalwale, Kakamega County Sen. Khaniri, Vihiga County Sen. (Prof.) Kindiki, Tharaka-Nithi County; Sen. Kisasa, Kilifi County; Sen. Kivuti Embu County; Sen. (Prof.) Lesan, Bomet County; Sen. Lesuuda, Samburu County; Sen. (Prof.) Lonyangapuo, West Pokot County; Sen. M. Kajwang, Homa Bay County; Sen. (Dr.) Machage, Migori County Sen. Melly, Uasin Gishu County; Sen. Mohamud, Wajir County; Sen. (Eng.) Muriuki, Nyandarua County; Sen. Murungi, Meru County; Sen. Mutula Kilonzo Jnr., Makueni County; Sen. Mwakulegwa, Taita Taveta County; Sen. Nabwala, Trans Nzoia; Sen. Obure, Kisii County; Sen. Sang, Nandi County and Sen. Wetangula, Bungoma County.

**NOES:** Nil

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

**AYES:** 25

**NOES:** Nil

**ABSENTIONS:** Nil

The “Ayes” have it.

*(Question carried by 25 votes to 0)*

Let us go to Order No.12, Committee of the Whole; The Forests Conservation and Management Bill (National Assembly Bill No.49 of 2015). There are two Divisions.

The first one is for Clauses with amendments.

THE FORESTS CONSERVATION AND MANAGEMENT BILL  
(NATIONAL ASSEMBLY BILL NO.49 OF 2015)

*(Resumption of Debate interrupted on 14.7.2016 –  
Morning Sitting)*

**DIVISION**

**ELECTRONIC VOTING**

*(Question, that Clauses 5, 6, 8, 9, 14, 20, 25, 26, 36, 39, 43, 45, 47, 48, 49, 50, 51, 53, 62, 63, 64, 72, 75, 77, the Third Schedule and Clause 2 be amended as proposed, put and the Senate proceeded to vote by County Delegations)*

**AYES:** Sen. (Prof.) Anyang'-Nyong'o, Kisumu County; Sen. Boy Juma Boy, Kwale County; Sen. Bule, Tana River County; Sen. Hargura County, Marsabit County; Sen. Kagwe, Nyeri County; Sen. (Dr.) Khalwale, Kakamega County; Sen. Khaniri, Vihiga County; Sen. (Prof.) Kindiki, Tharaka-Nithi County; Sen. Kisasa, Kilifi County; Sen. Kivuti Embu County; Sen. (Prof.) Lesan, Bomet County; Sen. Lesuuda, Samburu County; Sen. (Prof.) Lonyangapuo, West Pokot County; Sen. M. Kajwang, Homa Bay County; Sen. (Dr.) Machage, Migori County; Sen. Melly, Uasin Gishu County; Sen. Mohamud, Wajir County; Sen. (Eng.) Muriuki, Nyandarua County; Sen. Murungi, Meru County; Sen. Mutula Kilonzo Jnr., Makueni County; Sen. Mwakulegwa, Taita Taveta County; Sen. Nabwala, Trans Nzoia; Sen. Obure, Kisii County; Sen. Sang, Nandi County; and, Sen. Wetangula, Bungoma County.

**NOES:** Nil.

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

**AYES:** 25

**NOES:** Nil

**ABSENTIONS:** Nil

The "Ayes" have it.

*(Question carried by 25 votes to 0)*

We now go to the Second Division. This is Division on Clauses without amendments.



## DIVISION

## ELECTRONIC VOTING

*(Question, that Clauses 3, 4, 5(as amended), 6(as amended), 7, 8(as amended), 9(as amended), 10, 11, 12, 13, 14(as amended), 15, 16, 17, 18, 19, 20(as amended), 21, 22, 23, 24, 25(as amended), 26(as amended), 27, 28, 29, 30, 31, 32, 33, 34, 35, 36(as amended), 37, 38, 39(as amended), 40, 41, 42, 43(as amended), 44, 45(as amended), 46, 47 (as amended), 48 (as amended), 49 (as amended), 50 (as amended), 51(as amended), 52, 53(as amended), 54, 55, 56, 57, 58, 59, 60, 61, 62(as amended), 63(as amended) 64(as amended), 65, 66, 67, 68, 69, 70, 71, 72(as amended), 73, 74, 75(as amended), 76, 77(as amended), the First Schedule, the Second Schedule, the Third Schedule (as amended), Clause 2 (as amended), the Title and Clause 1 be part of the Bill, put and the Senate proceeded to vote by County Delegations)*

**AYES:** Sen. (Prof.) Anyang'-Nyong'o, Kisumu County; Sen. Boy Juma Boy, Kwale County; Sen. Bule, Tana River County; Sen. Hargura County, Marsabit County; Sen. Kagwe, Nyeri County; Sen. (Dr.) Khalwale, Kakamega County Sen. Khaniri, Vihiga County Sen. (Prof.) Kindiki, Tharaka-Nithi County; Sen. Kisasa, Kilifi County; Sen. Kivuti Embu County; Sen. (Prof.) Lesan, Bomet County; Sen. Lesuuda, Samburu County; Sen. (Prof.) Lonyangapuo, West Pokot County; Sen. M. Kajwang, Homa Bay County; Sen. (Dr.) Machage, Migori County Sen. Melly, Uasin Gishu County; Sen. Mohamud, Wajir County; Sen. (Eng.) Muriuki, Nyandarua County; Sen. Murungi, Meru County; Sen. Mutula Kilonzo Jr., Makueni County; Sen. Mwakulegwa, Taita Taveta County; Sen. Nabwala, Trans Nzoia; Sen. Obure, Kisii County; Sen. Sang, Nandi County and Sen. Wetangula, Bungoma County.

**NOES:** Nil.

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

**AYES:** 25

**NOES:** Nil

**ABSENTIONS:** Nil

The "Ayes" have it.

*(Question carried by 25 votes to 0)*

We now move to Order No.13; Committee of the Whole on the Access to Information Bill (National Assembly Bill No.36 of 2015). There are two Divisions. The first one will be on Clauses with amendments.

THE ACCESS TO INFORMATION BILL  
(NATIONAL ASSEMBLY BILL NO.43 OF 2015)

*(Resumption of Debate interrupted on 14.7.2016 –*

*Morning Sitting)*

## **DIVISION**

### **ELECTRONIC VOTING**

*(Question, that Clauses 3, 4,5, 6, 8 ,9, 10, 11, 14, 16, 23, 26, 28, the Schedule and Clause 2 be amended as proposed, put and the Senate proceeded to vote by County Delegations)*

**AYES:** Sen. (Prof.) Anyang'-Nyong'o, Kisumu County; Sen. Boy Juma Boy, Kwale County; Sen. Bule, Tana River County; Sen. Hargura, Marsabit County; Sen. Kagwe, Nyeri County; Sen. (Dr.) Khalwale, Kakamega County; Sen. Khaniri, Vihiga County; Sen. (Prof.) Kindiki. Tharaka-Nithi County; Sen. Kisasa, Kilifi County; Sen. Kivuti, Embu County; Sen. (Prof.) Lesan, Bomet County; Sen. Lesuuda, Samburu County; Sen. (Prof.) Lonyangapuo, West Pokot County; Sen. M. Kajwang, Homa Bay County; Sen. (Dr.) Machage, Migori County; Sen. Melly, Uasin Gishu County; Sen. Mohamud, Wajir County; Sen. (Eng.) Muriuki, Nyandarua County; Sen. Murungi, Meru County; Sen. Mutula Kilonzo Jnr., Makueni County; Sen. Mwakulegwa, Taita Taveta County; Sen. Nabwala, Trans Nzoia; Sen. Obure, Kisii County; Sen. Sang, Nandi County; and, Sen. Wetangula, Bungoma County.

**NOES:** Nil.

**The Temporary Chairperson** (Sen. (Dr.) Machage): Hon. Senators, the results of the first Division are as follows:-

**AYES:** 25

**NOES:** Nil

**ABSTENTIONS:** Nil

*(Question carried by 25 votes to 0)*

## **DIVISION**

### **ELECTRONIC VOTING**

*(Question, that Clauses 3(as amended), Clause 4(as amended), Clause 5(as amended), Clause 6(as amended), Clause 7, Clause 8 (as amended), Clause 9(as amended), Clause 10(as amended), Clause 11(as amended), Clause 12-13, Clause 14(as amended), Clause 15, Clause 16(as amended), Clauses 17-22, Clause 23(as amended), Clauses 24-25, Clause 26(as amended), Clause 27 Clause 28 (as amended), Clause 29, the schedule (as amended), Clause 2(as amended), the Title and Clause 1 be part of the Bill, put and the Senate proceeded to vote by County Delegations)*

**AYES:** Sen. (Prof.) Anyang'-Nyong'o, Kisumu County; Sen. Boy Juma Boy, Kwale County; Sen. Bule, Tana River County; Sen. Hargura, Marsabit County; Sen.

Kagwe, Nyeri County; Sen. (Dr.) Khalwale, Kakamega County; Sen. Khaniri, Vihiga County; Sen. (Prof.) Kindiki, Tharaka-Nithi County; Sen. Kisasa, Kilifi County; Sen. Kivuti, Embu County; Sen. (Prof.) Lesan, Bomet County; Sen. Lesuuda, Samburu County; Sen. (Prof.) Lonyangapuo, West Pokot County; Sen. M. Kajwang, Homa Bay County; Sen. (Dr.) Machage, Migori County; Sen. Melly, Uasin Gishu County; Sen. Mohamud, Wajir County; Sen. (Eng.) Muriuki, Nyandarua County; Sen. Murungi, Meru County; Sen. Mutula Kilonzo Jnr., Makueni County; Sen. Mwakulegwa, Taita Taveta County; Sen. Nabwala, Trans Nzoia; Sen. Obure, Kisii County; Sen. Sang, Nandi County; and, Sen. Wetangula, Bungoma County.

**NOES:** Nil.

**The Temporary Chairperson** (Sen. (Dr.) Machage): Hon. Senators, the results of the first Division are as follows:-

**AYES:** 25

**NOES:** Nil

**ABSTENTIONS:** Nil

*(Question carried by 25 votes to 0)*

**The Temporary Chairperson** (Sen. (Dr.) Machage): Let us move to the Seeds and Plant Varieties (Amendment) Bill (National Assembly Bill No. 43 of 2015)

Since there are no amendments, we have only one Division.

THE SEEDS AND PLANT VARIETIES (AMENDMENT) BILL  
(NATIONAL ASSEMBLY BILL NO. 43 OF 2015)

*(Resumption of Debate interrupted on 14.7.2016 –  
Morning Sitting)*

**DIVISION**

**ELECTRONIC VOTING**

*(Question, that Clause 2, 3 and 4, the Title and Clause 1 be part of  
the Bill, put and the Senate proceeded to vote by County Delegations)*

**AYES:** Sen. (Prof.) Anyang'-Nyong'o, Kisumu County; Sen. Boy Juma Boy, Kwale County; Sen. Bule, Tana River County; Sen. Hargura, Marsabit County; Sen. Kagwe, Nyeri County; Sen. (Dr.) Khalwale, Kakamega County; Sen. Khaniri, Vihiga County; Sen. (Prof.) Kindiki, Tharaka-Nithi County; Sen. Kisasa, Kilifi County; Sen. Kivuti Embu County; Sen. (Prof.) Lesan, Bomet County; Sen. Lesuuda, Samburu County; Sen. (Prof.) Lonyangapuo, West Pokot County; Sen. M. Kajwang, Homa Bay County; Sen. (Dr.) Machage, Migori County; Sen. Melly, Uasin Gishu County; Sen. Mohamud, Wajir County; Sen. (Eng.) Muriuki, Nyandarua County; Sen. Murungi, Meru County; Sen. Mutula Kilonzo Jnr., Makueni County; Sen. Mwakulegwa, Taita Taveta

County; Sen. Nabwala, Trans Nzoia; Sen. Obure, Kisii County; Sen. Sang, Nandi County and Sen. Wetangula, Bungoma County.

**NOES:** Nil.

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

**AYES:** 25

**NOES:** Nil

**ABSTENTIONS:** Nil

*(Question carried by 25 votes to 0)*

**The Temporary Chairperson** (Sen. (Dr.) Machage): Hon. Senators, since all these Bills are under the jurisdiction of the Senate Majority Leader, he will be the mover for all of them for the report.

I call upon the mover.

ENERGY BILL (NATIONAL ASSEMBLY BILL NO. 50 OF 2015)

**The Senate Majority Leader** (Sen. (Prof.) Kindiki): Mr. Temporary Chairperson, Sir, I beg to move that the Committee do report to the Senate its consideration of the Energy Bill (National Assembly Bill No. 50 of 2015) and its approval with amendments.

*(Question proposed)*

*(Question put and agreed to)*

THE PETROLEUM (EXPLORATION, DEVELOPMENT, AND PRODUCTION)  
BILL (NATIONAL ASSEMBLY BILL NO. 44 OF 2015)

**The Senate Majority Leader** (Sen. (Prof.) Kindiki): Mr. Temporary Chairperson, Sir, I beg to move that the Committee do report to the Senate its consideration of the Petroleum (Exploration, Development, and Production) Bill (National Assembly Bill No. 44 of 2015) and its approval thereof with amendments.

*(Question proposed)*

*(Question put and agreed to)*

THE PROTECTION AND TRADITIONAL KNOWLEDGE AND CULTURAL  
EXPRESSIONS BILL (NATIONAL ASSEMBLY BILL NO. 48 OF 2015)

**The Senate Majority Leader** (Sen. (Prof.) Kindiki): Mr. Temporary Chairperson, Sir, I beg to move that the Committee do report to the Senate its consideration of the Protection and Traditional Knowledge and Cultural Expressions Bill (National Assembly Bill No.48 of 2015) and its approval thereof with amendments.

*(Question proposed)*

*(Question put and agreed to)*

THE HEALTH BILL (NATIONAL ASSEMBLY BILL NO. 14 OF 2015)

**The Senate Majority Leader** (Sen. (Prof.) Kindiki): Mr. Temporary Chairperson, Sir, I beg to move that the Committee do report to the Senate its consideration of the Health Bill (National Assembly Bill No. 14 of 2015) and its approval thereof with amendments.

*(Question proposed)*

*(Question put and agreed to)*

THE FOREST CONSERVATION AND MANAGEMENT BILL  
(NATIONAL ASSEMBLY BILL NO. 49 OF 2015)

**The Senate Majority Leader** (Sen. (Prof.) Kindiki): Mr. Temporary Chairperson, Sir, I beg to move that the Committee do report to the Senate its consideration of the Forest Conservation and Management Bill (National Assembly Bill No. 49 of 2015) and its approval thereof with amendments.

*(Question proposed)*

*(Question put and agreed to)*

THE ACCESS TO INFORMATION BILL  
(NATIONAL ASSEMBLY BILL NO.36 OF 2015)

**The Senate Majority Leader** (Sen. (Prof.) Kindiki): Mr. Temporary Chairman, Sir, I beg to move that the Committee do report to the Senate its consideration of The Access to Information Bill (National Assembly Bill No.36 of 2015) and its approval, thereof, with amendments.

*(Question proposed)*

*(Question put and agreed to)*

THE SEEDS AND PLANT VARIETIES (AMENDMENT)  
BILL (NATIONAL ASSEMBLY BILL NO.43 OF 2015)

**The Senate Majority Leader** (Sen. (Prof.) Kindiki): Mr. Temporary Chairman, Sir, I beg to move that the Committee do report to the Senate its consideration of The Seeds and Plant Varieties (Amendment) Bill (National Assembly Bill No.43 of 2015) and its approval, thereof, without amendments.

*(Question proposed)*

*(Question put and agreed to)*

*[The House resumed]*

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

**The Temporary Speaker** (Sen. Sang): Order, Senators, I think we have made tremendous gains. Let us ensure that we keep the numbers until we finalise.

Hon. Senators, we will now proceed to reporting.

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

THE ENERGY BILL (NATIONAL ASSEMBLY BILL  
NO.50 OF 2015)

**Sen. (Dr.) Machage:** Mr. Temporary Speaker, Sir, I beg to report that the Committee of the Whole has considered The Energy Bill (National Assembly Bill No.50 of 2015) and its approval, thereof, with amendments.

**The Senate Majority Leader** (Sen. (Prof.) Kindiki): Mr. Temporary Speaker, Sir, I beg to move that the House do agree with the Committee on the said report. I request the Senate Minority Leader to second.

**Sen. Wetangula** seconded.

*(Question proposed)*

*(Loud consultations)*

**The Temporary Speaker** (Sen. Sang): Order, Senators!

*(Sen. Wamatangi and Sen. Chiaba entered the Chamber)*

Let me allow Sen. Wamatangi and Sen. Chiaba to sit.

*(Sen. Wamatangi and Sen. Chiaba  
proceeded to sit at their places)*

*(Sen. Murkomen spoke off record)*

Order, Sen. Murkomen. The House was quite orderly before you came in.

*(Laughter)*

*(Question put and agreed to)*

**The Senate Majority Leader** (Sen. (Prof.) Kindiki): Mr. Temporary Speaker, Sir, I beg to move that The Energy Bill (National Assembly Bill No.50 of 2015) be now read a Third Time.

**The Senate Minority Leader** (Sen. Wetangula) seconded.

*(Question proposed)*

**The Temporary Speaker** (Sen. Sang): Hon. Senators, I will defer the putting of the question so that we have all Divisions at the end.

Let us proceed to the next Bill.

THE PETROLEUM (EXPLORATION, DEVELOPMENT  
AND PRODUCTION) BILL (NATIONAL ASSEMBLY  
NO.44 OF 2015)

**Sen. (Dr.) Machage:** Mr. Temporary Speaker, Sir, I beg to report that the Committee of the Whole has considered The Petroleum (Exploration, Development and Production) Bill (National Assembly Bill No.44 of 2015) and its approval, thereof, with amendments.

**The Senate Majority Leader** (Sen. (Prof.) Kindiki): Mr. Temporary Speaker, Sir, I beg to move that the House do agree with the Committee on the said report. I request the Senate Minority Leader to second.

**The Senate Minority Leader** (Sen. Wetangula) seconded.

*(Question proposed)*

*(Question put and agreed to)*

**The Senate Majority Leader** (Sen. (Prof.) Kindiki): Mr. Temporary Speaker, Sir, I beg to move that The Petroleum (Exploration, Development and Production) Bill (National Assembly Bill No.44 of 2015) be now read a Third Time.

**The Senate Minority Leader** (Sen. Wetangula) seconded.

*(Question proposed)*

**The Temporary Speaker** (Sen. Sang): We will defer the putting of the question.

THE PROTECTION OF TRADITIONAL KNOWLEDGE  
AND CULTURAL EXPRESSIONS BILL  
(NATIONAL ASSEMBLY BILL NO.48 OF 2015)

**Sen. (Dr.) Machage:** Mr. Temporary Speaker, Sir, I beg to report that the Committee of the Whole has considered The Protection of Traditional Knowledge and Cultural Expressions Bill (National Assembly Bill No.48 of 2015) and its approval, thereof, with amendments.

**The Senate Majority Leader** (Sen. (Prof.) Kindiki): Mr. Temporary Speaker, Sir, I beg to move that the House do agree with the Committee on the said report.

**The Senate Minority Leader** (Sen. Wetangula) seconded.

*(Question proposed)*

*(Question put and agreed to)*

**The Senate Majority Leader** (Sen. (Prof.) Kindiki): Mr. Temporary Speaker, Sir, I beg to move that that The Protection of Traditional Knowledge and Cultural Expressions Bill (National Assembly Bill No.48 of 2015) be now read the Third Time

**The Senate Minority Leader** (Sen. Wetangula) seconded.

*(Question proposed)*

**The Temporary Speaker** (Sen. Sang): We will also defer the putting of the question.

Next Order.

THE HEALTH BILL (NATIONAL ASSEMBLY BILL  
No. 14 OF 2015)

**Sen (Dr.) Machage:** Mr. Temporary Speaker, Sir, I beg to report that the Committee of the Whole has considered The Health Bill (National Assembly Bill No. 14 of 2015) and its approval thereof with amendments.

**The Senate Majority Leader** (Sen. (Prof.) Kindiki): Mr. Temporary Speaker, Sir, I beg to move that the House do agree with the Committee on the said report. I request the Minority Leader to second.

**The Senate Minority Leader** (Sen. Wetangula): Mr. Temporary Speaker, Sir, I second.

*(Question proposed)*



*(Question put and agreed to)*

**The Senate Majority Leader** (Sen. (Prof.) Kindiki): Mr. Temporary Speaker, Sir, I beg to move that The Health Bill (National Assembly Bill No. 14 of 2015) be now read a Third Time. I request the Minority Leader to second.

**The Senate Minority Leader** (Sen. Wetangula): Mr. Temporary Speaker, Sir, I second.

*(Question proposed)*

**The Temporary Speaker** (Sen. Sang): We defer the putting of the question to the end.

Next Bill!

THE FOREST CONSERVATION AND MANAGEMENT BILL  
(NATIONAL ASSEMBLY BILL NO.49 OF 2015)

**Sen (Dr.) Machage**: Mr. Temporary Speaker, Sir, I beg to report that the Committee of the Whole has considered The Forest Conservation and Management Bill (National Assembly Bill No. 49 of 2015) and its approval thereof with amendments.

**The Senate Majority Leader** (Sen. (Prof.) Kindiki): Mr. Temporary Speaker, Sir, I beg to move that the House do agree with the Committee on the said report. I request the Minority Leader to second.

**The Senate Minority Leader** (Sen. Wetangula): Mr. Temporary Speaker, Sir, I beg to second.

*(Loud consultations)*

**The Temporary Speaker** (Sen. Sang): Order, Members! The consultations are a bit too loud.

*(Question proposed)*

*(Question put and agreed to)*

**The Senate Majority Leader** (Sen. (Prof.) Kindiki): Mr. Temporary Speaker, Sir, I beg to move that The Forest Conservation Management Bill (National Assembly Bill No. 49 of 2015) be now read a Third Time. I request the Minority Leader to second.

**The Senate Minority Leader** (Sen. Wetangula): Mr. Temporary Speaker, Sir, I beg to second.

*(Question proposed)*

**The Temporary Speaker** (Sen. Sang): We defer the putting of the question to the end.

Next Bill!

THE ACCESS TO INFORMATION BILL(NATIONAL ASSEMBLY  
BILL NO.36 OF 2015)

**Sen (Dr.) Machage:** Mr. Temporary Speaker, Sir, I beg to report that the Committee of the Whole has considered The Access to Information Bill (National Assembly Bill No. 36 of 2015) and its approval thereof with amendments.

**The Senate Majority Leader** (Sen. (Prof.) Kindiki): Mr. Temporary Speaker, Sir, I beg to move that the House do agree with the Committee on the said report. I request the Minority Leader to second.

**The Senate Minority Leader** (Sen. Wetangula): Mr. Temporary Speaker, Sir, I beg to second.

*(Question proposed)*

*(Question put and agreed to)*

**The Senate Majority Leader** (Sen. (Prof.) Kindiki): Mr. Temporary Speaker, Sir, I beg to move that The Access to Information Bill (National Assembly Bill No.36 of 2015) be now read a Third Time. I request the Minority Leader to second.

**The Senate Minority Leader** (Sen. Wetangula): Mr. Temporary Speaker, Sir, I beg to second.

*(Question proposed)*

**The Temporary Speaker** (Sen. Sang): We defer the putting of the question to the end.

Next Bill!

THE SEEDS AND PLANT VARIETIES (AMENDMENT)  
BILL (NATIONAL ASSEMBLY BILL NO.43 OF 2015)

**Sen (Dr.) Machage:** Mr. Temporary Speaker, Sir, I beg to report that the Committee of the Whole has considered The Seeds and Plant Varieties (Amendment) Bill (National Assembly Bill No. 43 of 2015) and its approval thereof without amendments.

**The Senate Majority Leader** (Sen. (Prof.) Kindiki): Mr. Temporary Speaker, Sir, I beg to move that the House do agree with the Committee on the said report. I request the Minority Leader to second.

**The Senate Minority Leader** (Sen. Wetangula): Mr. Temporary Speaker, Sir, I beg to second.

*(Question proposed)*

*(Question put and agreed to)*

**The Senate Majority Leader** (Sen. (Prof.) Kindiki): Mr. Temporary Speaker, Sir, I beg to move that The Seeds and Plant Varieties (Amendment) Bill (National Assembly Bill No. 43 of 2015) be now read a Third Time. I request the Minority Leader to second.

**The Senate Minority Leader** (Sen. Wetangula): Mr. Temporary Speaker, Sir, I beg to second.

*(Sen. Cheruiyot walked in the Chamber  
while the Temporary Speaker was on his feet)*

**The Temporary Speaker** (Sen. Sang): Sen. Cheruiyot, you know the rules by now. Go back to where you were and freeze. You can now freeze there.

*(Sen. Cheruiyot walked back to the Bar and Stood there)*

*(Question proposed)*

Again, we will defer the putting of the Question so that we do for all the Bills.  
Hon. Senators, we will proceed to division and we will ring the bell for 15 seconds.

*(The Division bell was rung)*

Who is voting for Nairobi County? Is it you, Sen. Gwendo?

**Sen. Gwendo:** No, Mr. Temporary Speaker, Sir.

**The Temporary Speaker** (Sen. Sang): Okay I understand it is Sen. Elachi. Close the doors and draw the Bar.

*(Voting in progress)*

## DIVISON

### ELECTRONIC VOTING

*(Question, that the Energy Bill (National Assembly  
Bill No. 50 Of 2015) be read a Third Time, put and  
the Senate proceeded to vote by County Delegations)*

**AYES:** Sen. (Prof.) Anyang'-Nyong'o, Kisumu County; Sen. Billow, Mandera County; Sen. Boy Juma Boy, Kwale County; Sen. Cheruiyot, Kericho County; Sen.

Chiaba, Lamu County; Sen. Elachi, Nairobi County; Sen. Hargura, Marsabit County; Sen. Kagwe, Nyeri County; Sen. Kajwang, Homa Bay County; Sen. (Dr.) Khalwale, Kakamega County; Sen. Khaniri, Vihiga County; Sen. (Prof.) Kindiki, Tharaka-Nithi County; Sen. Kisasa, Kilifi County; Sen. Kivuti, Embu County; Sen. (Prof.) Lesan, Bomet County; Sen. Lesuuda, Samburu County; Sen. (Prof.) Lonyangapuo, West Pokot County; Sen. (Dr.) Machage, Migori County; Sen. Melly, Uasin Gishu County; Sen. Mohamud, Wajir County; Sen. (Eng.) Muriuki, Nyandarua County; Sen. Murkomen, Elgeyo-Marakwet County; Sen. Murungi, Meru County; Sen. Mutula Kilonzo Jnr., Makueni County; Sen. Mwakulegwa Taita Taveta County; Sen. Obure, Kisii County; Sen. Sang, Nandi County; Sen. Wamatangi, Kiambu County; and Sen. Wetangula, Bungoma County;

**NOES:** 0

**ABSTENTIONS:** 0

**The Temporary Speaker** (Sen. Sang): Hon. Senators, I have the results of the outcome of the Division.

**AYES:** 29

**NOES:** Nil

**ABSTENTIONS:** Nil

The “Ayes” have it.

*(Question carried by 29 votes to 0)*

*(The Bill was accordingly read a Third Time and passed)*

## **DIVISION**

### **ELECTRONIC VOTING**

*(Question, that the Petroleum (Exploration, Development, and Production)*

*Bill (National Assembly Bill No. 44 of 2015) be now read a Third Time put and the Senate proceeded to vote by County Delegations)*

**AYES:** Sen. (Prof.) Anyang’-Nyong’o, Kisumu County; Sen. Billow, Mandera County; Sen. Boy Juma Boy, Kwale County; Sen. Bule, Tana River County; Sen. Cheruiyot, Kericho County; Sen. Chiaba, Lamu County; Sen. Elachi, Nairobi County; Sen. Hargura, Marsabit County; Sen. Kagwe, Nyeri County; Sen. M. Kajwang, Homa Bay County; Sen.(Dr.) Khalwale, Kakamega County; Sen. Khaniri, Vihiga County; Sen. (Prof.) Kindiki, Tharaka-Nithi County; Sen. Kisasa, Kilifi County; Sen. Kivuti, Embu County; Sen.(Prof.) Lesan, Bomet County; Sen. Lesuuda, Samburu County; Sen. (Prof.) Lonyangapuo, West Pokot County; Sen. (Dr.) Machage, Migori County; Sen. Melly, Uasin Gishu County; Sen. Mohamud, Wajir County; Sen. (Eng.) Muriuki, Nyandarua County; Sen. Murkomen, Elgeyo-Marakwet County; Sen. Murungi, Meru County; Sen. Mutula Kilonzo Jnr., Makueni County; Sen. Mwakulegwa, Taita-Taveta County; Sen.

Obure, Kisii County; Sen. Sang, Nandi County; Sen. Wamatangi, Kiambu County and Sen. Wetangula, Bungoma County.

**NOES:** Nil.

**The Temporary Speaker** (Sen. Sang): Hon. Senators, I wish to announce the results as follows:-

**AYES:** 30

**NOES:** 0

**ABSTENTION:** 0

*(Question carried by 30 votes to 0)*

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

## **DIVISION**

### **ELECTRONIC VOTING**

*(Question, that The Protection of Traditional Knowledge and Cultural Expression Bill (National Assembly Bill No. 48 of 2015) be now read a Third Time put and the Senate proceeded to vote by County Delegations)*

**AYES:** Sen. (Prof.) Anyang'-Nyong'o, Kisumu County; Sen. Billow, Mandera County; Sen. Boy Juma Boy, Kwale County; Sen. Cheruiyot, Kericho County; Sen. Chiaba, Lamu County; Sen. Elachi, Nairobi County; Sen. Hargura, Marsabit County; Sen. Kagwe, Nyeri County; Sen. M. Kajwang, Homa Bay County; Sen.(Dr.) Khalwale, Kakamega County; Sen. Khaniri, Vihiga County; Sen. (Prof.) Kindiki, Tharaka-Nithi County; Sen. Kisasa, Kilifi County; Sen. Kivuti, Embu County; Sen.(Prof.) Lesan, Bomet County; Sen. Lesuuda, Samburu County; Sen. (Prof.) Lonyangapuo, West Pokot County; Sen. (Dr.) Machage, Migori County; Sen. Melly, Uasin Gishu County; Sen. Mohamud, Wajir County; Sen. (Eng.) Muriuki, Nyandarua County; Sen. Murkomen, Elgeyo-Marakwet County; Sen. Murungi, Meru County; Sen. Mutula Kilonzo Jnr., Makueni County; Sen. Mwakulegwa, Taita-Taveta County; Sen. Obure, Kisii County; Sen. Sang, Nandi County; Sen. Wamatangi, Kiambu County and Sen. Wetangula, Bungoma County.

**NOES:** Nil.

**The Temporary Speaker** (Sen. Sang): Hon. Senators, I wish to announce the results as follows:-

**AYES:** 29

**NOES:** 0

**ABSTENTION:** 0

*(Question carried by 29 votes to 0)*

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

## DIVISION

## ELECTRONIC VOTING

*(Question, that The Health Bill (National Assembly Bill No. 14 of 2015)  
be now read a Third Time put and the Senate  
proceeded to vote by County Delegations)*

**AYES:** Sen. (Prof.) Anyang'-Nyong'o, Kisumu County; Sen. Billow, Mandera County; Sen. Boy Juma Boy, Kwale County; Sen. Cheruiyot, Kericho County; Sen. Chiaba, Lamu County; Sen. Elachi, Nairobi County; Sen. Hargura, Marsabit County; Sen. Kagwe, Nyeri County; Sen. M. Kajwang, Homa Bay County; Sen.(Dr.) Khalwale, Kakamega County; Sen. Khaniri, Vihiga County; Sen. (Prof.) Kindiki, Tharaka-Nithi County; Sen. Kisasa, Kilifi County; Sen. Kivuti, Embu County; Sen.(Prof.) Lesan, Bomet County; Sen. Lesuuda, Samburu County; Sen. (Prof.) Lonyangapuo, West Pokot County; Sen. (Dr.) Machage, Migori County; Sen. Melly, Uasin Gishu County; Sen. Mohamud, Wajir County; Sen. (Eng.) Muriuki, Nyandarua County; Sen. Murkomen, Elgeyo-Marakwet County; Sen. Murungi, Meru County; Sen. Mutula Kilonzo Jnr., Makueni County; Sen. Mwakulegwa, Taita-Taveta County; Sen. Obure, Kisii County; Sen. Sang, Nandi County; Sen. Wamatangi, Kiambu County and Sen. Wetangula, Bungoma County.

**NOES:** Nil.

**The Temporary Speaker** (Sen. Sang): Hon. Senators, I wish to announce the results as follows:-

**AYES:** 29

**NOES:** 0

**ABSTENTION:** 0

*(Question carried by 29 votes to 0)*

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

## DIVISION

## ELECTRONIC VOTING

*(Question, that The Forest Conservation and Management Bill  
(National Assembly Bill No. 49 of 2015) be now read a Third Time  
put and the Senate proceeded to vote by County Delegations)*

**AYES:** Sen. (Prof.) Anyang'-Nyong'o, Kisumu County; Sen. Billow, Mandera County; Sen. Boy Juma Boy, Kwale County; Sen. Cheruiyot, Kericho County; Sen. Chiaba, Lamu County; Sen. Elachi, Nairobi County; Sen. Hargura, Marsabit County; Sen. Kagwe, Nyeri County; Sen. M. Kajwang, Homa Bay County; Sen.(Dr.) Khalwale,

Kakamega County; Sen. Khaniri, Vihiga County; Sen. (Prof.) Kindiki, Tharaka-Nithi County; Sen. Kisasa, Kilifi County; Sen. Kivuti, Embu County; Sen.(Prof.) Lesan, Bomet County; Sen. Lesuuda, Samburu County; Sen. (Dr.) Machage, Migori County; Sen. Melly, Uasin Gishu County; Sen. Mohamud, Wajir County; Sen. (Eng.) Muriuki, Nyandarua County; Sen. Murkomen, Elgeyo-Marakwet County; Sen. Murungi, Meru County; Sen. Mutula Kilonzo Jnr., Makueni County; Sen. Mwakulegwa, Taita-Taveta County; Sen. Obure, Kisii County; Sen. Sang, Nandi County; Sen. Wamatangi, Kiambu County and Sen. Wetangula, Bungoma County.

**NOES:** Nil.

**The Temporary Speaker** (Sen. Sang): Hon. Senators, I wish to announce the results as follows:-

**AYES:** 28

**NOES:** 0

**ABSTENTION:** 0

*(Question carried by 28 votes to 0)*

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

## **DIVISION**

### **ELECTRONIC VOTING**

*(Question, that The Access to Information Bill (National Assembly Bill No. 36 of 2015) be now read a Third Time put and the Senate proceeded to vote by County Delegations)*

**AYES:** Sen. (Prof.) Anyang'-Nyong'o, Kisumu County; Sen. Billow, Mandera County; Sen. Boy Juma Boy, Kwale County; Sen. Chiaba, Lamu County; Sen. Elachi, Nairobi County; Sen. Hargura, Marsabit County; Sen. Kagwe, Nyeri County; Sen. M. Kajwang, Homa Bay County; Sen.(Dr.) Khalwale, Kakamega County; Sen. Khaniri, Vihiga County; Sen. (Prof.) Kindiki, Tharaka-Nithi County; Sen. Kisasa, Kilifi County; Sen. Kivuti, Embu County; Sen.(Prof.) Lesan, Bomet County; Sen. Lesuuda, Samburu County; Sen. (Prof.) Lonyangapuo, West Pokot County; Sen. (Dr.) Machage, Migori County; Sen. Melly, Uasin Gishu County; Sen. Mohamud, Wajir County; Sen. (Eng.) Muriuki, Nyandarua County; Sen. Murkomen, Elgeyo-Marakwet County; Sen. Murungi, Meru County; Sen. Mutula Kilonzo Jnr., Makueni County; Sen. Mwakulegwa, Taita-Taveta County; Sen. Obure, Kisii County; Sen. Sang, Nandi County; Sen. Wamatangi, Kiambu County and Sen. Wetangula, Bungoma County.

**NOES:** Nil.

**The Temporary Speaker** (Sen. Sang): Hon. Senators, I wish to announce the results as follows:-

**AYES:** 28

**NOES:** 0

**ABSTENTION:** 0

*(Question carried by 28 votes to 0)*

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

## **DIVISION**

### **ELECTRONIC VOTING**

*(Question, that The Seeds and Plant Varieties (Amendment)  
Bill (National Assembly Bill No. 43 of 2015) be now read a Third Time  
put and the Senate proceeded to vote by County Delegations)*

**AYES:** Sen. (Prof.) Anyang'-Nyong'o, Kisumu County; Sen. Billow, Mandera County; Sen. Boy Juma Boy, Kwale County; Sen. Cheruiyot, Kericho County; Sen. Chiaba, Lamu County; Sen. Elachi, Nairobi County; Sen. Hargura, Marsabit County; Sen. Kagwe, Nyeri County; Sen. M. Kajwang, Homa Bay County; Sen.(Dr.) Khalwale, Kakamega County; Sen. Khaniri, Vihiga County; Sen. (Prof.) Kindiki, Tharaka-Nithi County; Sen. Kisasa, Kilifi County; Sen. Kivuti, Embu County; Sen.(Prof.) Lesan, Bomet County; Sen. Lesuuda, Samburu County; Sen. (Dr.) Machage, Migori County; Sen. Melly, Uasin Gishu County; Sen. Mohamud, Wajir County; Sen. (Eng.) Muriuki, Nyandarua County; Sen. Murkomen, Elgeyo-Marakwet County; Sen. Murungi, Meru County; Sen. Mutula Kilonzo Jnr., Makueni County; Sen. Mwakulegwa, Taita-Taveta County; Sen. Obure, Kisii County; Sen. Sang, Nandi County; Sen. Wamatangi, Kiambu County and Sen. Wetangula, Bungoma County.

**NOES:** Nil.

**The Temporary Speaker** (Sen. Sang): Hon. Senators, I wish to announce the results as follows:-

**AYES:** 28

**NOES:** 0

**ABSTENTION:** 0

*(Question carried by 28 votes to 0)*

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

**The Temporary Speaker** (Sen. Sang): You can now draw the Bar and open the doors.

Hon. Senators, we are done with voting. We will now go back to Order No.5.



**PAPERS LAID**

REPORT OF THE STANDING COMMITTEE ON AGRICULTURE,  
LIVESTOCK AND FISHERIES ON THE SEEDS AND PLANT VARIETIES  
(AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO.43 OF 2015)

**Sen. Khaniri:** Mr. Temporary Speaker, Sir, I beg to lay the following Paper on the Table of the Senate today, Thursday 14<sup>th</sup> July, 2016:-

Report of the Standing Committee on Agriculture, Livestock and Fisheries on The Seeds and Plant Varieties (Amendment) Bill (National Assembly Bill No.43 of 2015).

*(Sen. Khaniri laid the document on the Table)*

REPORT ON THE ACCESS TO INFORMATION BILL  
(NATIONAL ASSEMBLY BILL NO.36 OF 2015)

**Sen. Kagwe:** Mr. Temporary Speaker, Sir, I beg to lay the following Paper on the Table of the Senate today, 14<sup>th</sup> July, 2016:-

Report on The Access to Information Bill (National Assembly Bill No.36 of 2015).

*(Sen. Kagwe laid the document on the Table)*

**The Temporary Speaker** (Sen. Sang): Next Order.

**NOTICE OF MOTION**

INSTALLATION OF CCTV CAMERAS IN  
POLICE STATIONS AND POSTS

**Sen. (Eng.) Muriuki:** Mr. Temporary Speaker, Sir, I beg to give notice of the following Motion:-

THAT, concerned about the numerous reports of the arbitrary arrests of innocent people by the police;

FURTHER concerned that a large number of those arrested are allegedly locked up in police cells without being recorded either in the Occurrence Book or elsewhere;

DEEPLY concerned that some of the arrested people disappear without a trace and that many who are subsequently traced are found dead, away from where they were locked up;

ALARMED by the recent incident where three young men were locked up for hours at Syokimau Police Post, without any record indicating that they had been at the police post, only for them to be found days later in another area far away from the police post having been brutally killed;

APPRECIATING that the Closed Circuit Television (CCTV) system installed by the Government in Nairobi has helped a lot in criminal investigations;

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

(a) install CCTV cameras in all police stations and police posts in order to record each and every person going in and out of the station;

(b) have the CCTV system designed in such a way that it is capable of capturing the Occurrence Book entries every 12 hours; and,

(c) ensure that the CCTV is connected to a central depository in order to minimize chances of subsequent tampering.

## STATEMENTS

### BUSINESS FOR THE WEEK COMMENCING TUESDAY, 19<sup>TH</sup> JULY, 2016

**The Senate Majority Leader** (Sen. (Prof) Kindiki): Mr. Temporary Speaker, Sir, this is a Statement for the business of next week. As usual, the Senate Business Committee (SBC) will meet at 12.30 p.m. That meeting will decide on the order of business that will be transacted on that day, including any business that is on today's Order Paper that may not be concluded.

On Wednesday, the Senate will continue with the business that will be scheduled by the SBC, including consideration of the following Bills which will be scheduled for the Committee of the Whole:-

- (1) The Alcoholic Drinks Control (Amendment) Bill (Senate Bill No.5 of 2014).
- (2) The Reproductive Health Care Bill (Senate Bill No.17 of 2014).
- (3) The County Governments (Amendment) Bill (No.4) (Senate Bill No.18 of 2014).
- (4) The Petition to County Assemblies Procedure Bill (Senate Bill No.35 of 2015).
- (5) The Employment (Amendment) Bill (Senate Bill No.1 of 2015).
- (6) The Persons with Disabilities (Amendment) Bill (National Assembly Bill No.43 of 2013).
- (7) The Preservation of Human Dignity and Enforcement of Economic and Social Rise Bill (Senate Bill No. 8 of 2015).
- (8) The County Library Services Bill (Senate Bill No.6 of 2015).
- (9) The National Cereals and Produce Board (Amendment) Bill (Senate No.15 of 2015).

The Senate will consider any other business that will be scheduled by the SBC.

On Thursday, the Senate will consider Bills at Second Reading, deliberate on Motions and any other business that will be scheduled by the SBC.

Mr. Temporary Speaker, Sir I thank Senators for a good job this week. This has been one of the most productive legislative weeks since this Senate started in 2013. I know that at a time like this, the pressure on us to conclude committee and county work is a lot. What we have done today has been possible because of the sacrifice and commitment of individual Senators. I thank them wholeheartedly and as the Senate Majority Leader and on behalf of the Senate Minority Leader, we truly appreciate the energy and the focus that each of us is putting into this business.

Mr. Temporary Speaker, Sir, allow me to also congratulate Senators for the just concluded passage of seven Bills which have constitutional deadlines. We know that two other Bills are going through mediation, and I have spoken to the Chairs of the Mediation Committees and I have been assured that next week, the land related legislation will also be before the House for disposal.

Therefore, I thank all the Members, particularly, I thank the Senate Minority Leader for being present and showing leadership from where he is because without his support and co-operation, this success could not have been possible.

Mr. Temporary Speaker, Sir, lastly, I urge the Chairs of the Mediation Committees and their membership on The Community Land (Amendment) Bill, The Land Laws (Amendment) Bill (National Assembly Bill No. 45 of 2015) and the Water Bill---. These three are under mediation.

I spoke to the Chair of the Mediation Committee, Sen. Kivuti, who assured me that by Wednesday next week, the process will be over. I thank him and the other Members who are sitting in the said committees, both in the Senate and the National Assembly.

I thank you and I now lay the Statement on the Table of the Senate

*(Sen. (Prof.) Kindiki laid the document on the Table)*

*(Loud consultations)*

**The Temporary Speaker** (Sen. Sang): Orders Senators. The Senate Majority Leader and the Senate Minority Leader, you cannot have a conversation across the Floor.

**Sen. Mutula Kilonzo Jnr.:** Mr. Temporary Speaker, Sir, the Senate Minority Leader was asking about the Physical Planning Bill. For record purposes-so that we plan for it-I have several amendments. We just want to know when it will come for Third Reading.

**The Temporary Speaker** (Sen. Sang): I hope that the Senate Majority Leader has noted the concern.

**The Senate Majority Leader** (Sen. (Prof.) Kindiki): Mr. Temporary Speaker, Sir, it is true that the Senate Minority Leader has raised the issue of the Physical Planning Bill together with Sen. Mutula Kilonzo Jnr. The Bill has been in the legislative freezer for a while but the process of bringing it back has begun. As far as I am concerned, I wrote a letter and by Tuesday next week, I am sure the Senate Rules and Business Committee will schedule it for conclusion and passage.

**The Temporary Speaker** (Sen. Sang): Do we have any other Statement being sought before we commence on the Statements to be issued?

There being no Statement to be sought, we now turn to the Statements to be issued.

#### FINANCING OF THE JARAMOGI OGINGA ODINGA HOSPITAL

**Sen. Mutula Kilonzo Jnr.:** Mr. Temporary Speaker, Sir, the response to the Statement sought by Sen. (Prof.) Anyang'-Nyong'o is ready. The Statement is in two

parts. So, I will read the Statement from the Cabinet Secretary for National Treasury if the Senator allows me. It was sent to the Senate on 20<sup>th</sup> June, 2016. The other from the County Government of Kisumu was forwarded to the Senate on 8<sup>th</sup> July, 2016. At the outset, the documents referred to in the Statement of the Kisumu County have not been sent to the Senate but I am told they are on the way. Therefore, that is a notification to Sen. (Prof.) Anyang'-Nyong'o.

This is the Statement of the Cabinet Secretary, Henry Rotich, signed on 29<sup>th</sup> June, 2016 with regard to Jaramogi Oginga Odinga Teaching and Referral Hospital.

Hon. Members, the Fourth Schedule of the Constitution assigned the health function to the county governments with an exception of the national referral hospitals which were assigned to the national Government. Accordingly, the Jaramogi Oginga Odinga Teaching and Referral Hospital was transferred to Kisumu County Government with effect from 1<sup>st</sup> July, 2013.

Once the national Government has transferred funds to Kisumu County Government, it is the responsibility of the county to fund the Jaramogi Oginga Odinga Teaching and Referral Hospital as the budget approved by the County Assembly of Kisumu. The National Treasury has transferred funds due to the County Revenue Fund of Kisumu County Government in accordance with the County Allocation of Revenue Act for 2013/2014, disbursements under the County Allocation of Revenue Act 2015 as at 31<sup>st</sup> May, 2016.

Mr. Temporary Speaker, Sir, there is table of figures and the copy of the Statement has been provided to Sen. (Prof.) Anyang'-Nyong'o. I do not think I have to read the details. On the overleaf, the Statement continues.

Hon. Members, as clearly stated, all the disbursements due to Kisumu County Government for the Financial Year 2013/2014 and 2014/2015 were fully disbursed. Whereas as shown in the table, the National Treasury has been on schedule in disbursing the funds due to Kisumu County Government for Financial Year 2015/2016 based on the County Allocation of Revenue Act 2015, and the balance due to Kisumu County Government will be disbursed before the end of financial year in line with the county governments disbursement schedule approved by the Senate and gazetted by the Cabinet Secretary, National Treasury.

Therefore, there is no reason as to why Kisumu County Government has not disbursed funds to Jaramogi Oginga Odinga Teaching and Referral Hospital since the Financial Year 2013/2014.

Hon. Members, regarding the information sought, on what the Government is doing to ensure that the hospital is properly financed to effectively deliver its services, this can only be addressed by Kisumu County Government, both the executive and the legislative arms, given that it is the responsibility of each county government to prioritise the needs of its citizens and residents to facilitate effective and efficient delivery of services.

However, hon. Members, in order to ensure the right response is received, I have written to the Governor for Kisumu County to respond to the two issues directly to this august House. As soon as I receive the response from the Governor for Kisumu County, I will issue a supplementary response on this matter.

Thank you, hon. Members. This Statement is dated 29<sup>th</sup> June, 2016.

Mr. Temporary Speaker, Sir, there is a second Statement issued by the County Government of Kisumu. I already mentioned that it does not appear as if it is a response to the one of the Cabinet Secretary but it appears as if it is a primary response to the original question.

By the receipt of the letter by the Clerk of the Senate, Mr. Jeremiah M. Nyegenye, we acknowledge the receipt of a copy of the question raised by a Member of the Senate on the above caption matter. We respond as follows:-

(i) The County Government of Kisumu has failed to remit funds meant for Level 5 Hospital, Jaramogi Oginga Odinga Teaching and Referral Hospital, since the 2013/2014 Financial Year. They have annexed a copy of the bank statement at the hospital confirming receipt of funds.

Mr. Temporary Speaker, Sir, I mentioned that the copy of the bank statement was not attached to the statement. I am reliably told that it will be sent.

(ii) The County Government of Kisumu remitted a total of Kshs129, 556,429 to the facility in 2013/2014 Financial Year compared to the allocated revenue of Kshs395,636,480 during that year, leaving a balance of Kshs266,080,051. The county government could not remit the said Kshs266,080,051 because the same was part of the amount withheld by the National Treasury during that financial year as part of the salaries paid to the devolved staff before the payroll was devolved to the county. As a matter of fact, the National Treasury over-recovered the salaries paid by Kshs279,942,690.16 thus affecting the funds for both equitable share and the Level 5 hospital. Our demand for the release of the over recovery has not been honoured to date by the National Treasury. (See correspondence). I have not seen it.

Mr. Temporary Speaker, Sir, immediately the Kshs266,080,051 is received, it shall be transferred to Jaramogi Oginga Odinga Teaching and Referral Hospital.

(iii) The amount allocated to the Level 5 Hospital during the 2014/2015 Financial Year was Kshs248,505,726.23 of which Kshs247,633,000.22 was transferred as scheduled below. It should be noted that the same facility has withheld funds of Kshs235million at the close of the 2014/2015 Financial Year which they will later transfer to them after the funds are released by the Controller of Budget.

Mr. Temporary Speaker, Sir, I think that they are saying that they will release the funds later. The table is shown.

(iv) The amount allocated to the Level 5 Hospital in the 2015/2016 Financial Year was Kshs338,616,571 and as the close of the financial year---

**The Temporary Speaker** (Sen. Sang): Sen. Mutula Kilonzo Jnr., do we have a copy of the response?

**Sen. Mutula Kilonzo Jnr.:** Mr. Temporary Speaker, Sir, the Clerks-at-Table have copies.

**The Temporary Speaker** (Sen. Sang): The Speaker has no copy of that reply. The Clerks-at-Table will organize for me to get a copy.

Please, proceed.

**Sen. Mutula Kilonzo Jnr.:** The amount allocated to the Level 5 Hospital in the 2015/2016 Financial Year was Kshs338,616,571 and as at the close of the financial year,

Kshs300 million had been released to the hospital. The balance that remained was due to the late disbursement by the National Treasury. By the last week of the financial year, the balance had been processed, but the county was frustrated by the Integrated Financial Management Information System (IFMIS) network challenges during the year end closing and delayed the approval of transfer of funds by the Controller of Budget. This amount will be transferred once the Controller of Budget Office completes the processing. Below is schedule of receipts and disbursements made.

Mr. Temporary Speaker, Sir, in conclusion, they say that they have and shall endeavour to channel the funds to the health facility promptly and when received.

**Sen. (Prof.) Anyang'-Nyong'o:** Mr. Temporary Speaker, Sir, I thank Sen. Mutula Kilonzo Jnr. on behalf of the Chairperson of the Committee on Finance, Commerce, Budget and Tourism Committee of the Senate. I would like to begin with a letter from the Principal Secretary, the National Treasury, Dr. Kamau Thugge, which was a preface to the letter by Mr. Henry Rotich, Cabinet Secretary, the National Treasury. These two letters are very serious. Mr. Thugge's letter clearly says that the purpose of this letter is to refer to the attached statement on the financing of Jaramogi Oginga Odinga Teaching and Referral Hospital.

It says that by a copy of this letter, we are requesting the Governor of Kisumu County to prepare a statement responding to the two issues raised by the hon. Senator. This letter was copied to the Governor and was dated 20<sup>th</sup> June. That means that the Governor should have responded to the Cabinet Secretary and, at the same time, responded to the Clerk of the Senate providing the same substance to the Clerk of the Senate as well as the National Treasury.

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

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

Secondly, if you look at the letter from the Cabinet Secretary, Mr. Henry Rotich, he says very clearly that the National Treasury has transferred funds due to the County Revenue Fund of Kisumu County Government in accordance with the County Allocation Revenue Act 2013/2014. They have gone ahead to give us the disbursement of the allocations, item by item. In this disbursement, Jaramogi Oginga Odinga Teaching and Referral Hospital, an amount of Kshs338,616,571 was due to the hospital in the 2013/2014 Financial Year. The Government disbursed Kshs294,437,920. There was a balance of Kshs54,178,65.

Madam Temporary Speaker, those figures appear nowhere in the response of the county government stating exactly what they received from the national Government with regard to Jaramogi Oginga Odinga Teaching and Referral Hospital. Instead, if you look at their response, they state that the county government remitted a total of Kshs129,556,429 to the facility in 2013/2014 compared to the located Kshs395,480,000, leaving a balance of Kshs266,080,051. The amount allocated to the hospital according to the National Treasury was Kshs38,616,571; a figure that differs.

**Sen. Mutula Kilonzo Jnr.:** On a point of order, Madam Temporary Speaker. I would like to guide Sen. (Prof.) Anyang'-Nyong'o. The figures you are reading on the statement of the National Treasury are for 2015. The second schedule, July, 2015 to 2016 is shown as No.338. So, we do not have the table for 2013/2014 Financial Year.

**Sen. (Prof.) Anyang'-Nyong'o:** Madam Temporary Speaker, we do not have the table for 2013/2014 Financial Year. We need the table for 2013/2014 Financial Year from the National Treasury to compare it with the figures that are given by the Governor for Kisumu County. The issue is the National Treasury has transferred funds due to the County Revenue Fund of Kisumu County Government in accordance with the County Allocation of Revenue Act for 2013/2014 Financial Year. For this question to be fully ventilated, we need to compare the figures from the National Treasury and the county government to see whether they converge and are one and the same thing.

The county government avers that it could not remit the said Kshs266 million because the same was part of the amount withheld by the National Treasury during that year as part of the salaries paid to devolved staff before the payrolls were devolved to the counties. We need to know whether that amount of money was withheld by the National Treasury or whether the county government is giving a different story to the matter.

Mr. Temporary Speaker, Sir, secondly, when the county government says that as a matter of fact the National Treasury over-recovered their salaries paid by Kshs279 million---

**The Temporary Speaker** (Sen. Ongoro): Wait a minute, Senator. There is a request from Sen. (Prof.) Lonyangapuo.

**Sen. (Prof.) Lonyangapuo:** On a point of order, Madam Temporary Speaker. Sen. (Prof.) Anyang'-Nyong'o has consistently not realised that you are Madam Temporary Speaker. Is he in order to continue referring to you as Mr. Temporary Speaker, Sir?

**The Temporary Speaker** (Sen. Ongoro): Sen. (Prof.) Anyang'-Nyong'o, you are completely out of order in case you have been referring to me as Mr. Temporary Speaker, Sir. Just correct that and proceed.

**Sen. (Prof.) Anyang'-Nyong'o:** Madam Temporary Speaker, I am much obliged. The Committee Executive Member (CEC) in charge of finance from Kisumu County Government then says that as a matter of fact, the National Treasury over-recovered the salaries paid by Kshs279 million thus affecting funds for both equitable share and level 5 hospitals. We need to see correspondence to this effect. If this was true, the National Treasury should have said so in their letter; that, one of the reasons the county government has not submitted that money to Jaramogi Oginga Odinga Teaching and Referral Hospital is because they withheld it. The National Treasury should then tell us when they will release this money.

This story has been there ever since the County Government of Kisumu held this money and not released it to Jaramogi Oginga Odinga Teaching and Referral Hospital. If the money was held by the National Treasury, there has been enough time for the county government to make presentations to the National Treasury to release this money. I do not think the National Treasury can be that mean to withhold this money when it is very

clear that conditional grants must be disbursed to particular entities in county governments to be spent in that financial year.

Madam Temporary Speaker, further, in the CEC's explanation in No.3, the amount allocated to a Level 5 Hospital during 2014/2015 Financial Year was Kshs248,505,726.23; of which, a sum of Kshs247 million was transferred as scheduled in the table. It should be noted that the same facility had withheld funds to the tune of Kshs235 million. There is something wrong. How could the fund have withheld Kshs235 million at the close of 2014/2015 Financial Year? What would they have been using? It withheld it from whom? So, the figures do not make sense.

In No.4, again, the CEC in charge of finance says the following: The amount allocated to a level 5 hospital in the Financial Year 2015/2016 which is what we have here was Kshs338 million; it is correct. At the close of the financial year, Kshs300 million had been released to the hospital which differs from the figures from the National Treasury. The balance that remained was due to late disbursement by the National Treasury. By the last week of the financial year, they had been processed. However, the county was frustrated by the Integrated Financial Management Information System (IFMIS) network during the year closing and delayed approval of the transfer of the funds. That explanation is not up to the mark. In other words, I would like to say the following:-

Now that the County Government of Kisumu has received the letter from the National Treasury dated 20<sup>th</sup> June which they should have used to frame their reply; now that they have failed to frame the reply or at least address the letter from the National Treasury in giving their reply, to what extent is their reply valid or useful?

It looks as if the CEC in charge of finance was on a fishing expedition to give the standard explanation they have been giving to Jaramogi Oginga Odinga Teaching and Referral Hospital all this while which is not in consonance with the National Treasury figures or explanations.

I would like, therefore, this question to be referred to the National Treasury for it to get a response for their letter dated 20<sup>th</sup> June, 2016 and interrogate it in one week. The information is there so that this Senate can be satisfied that Jaramogi Oginga Odinga Teaching and Referral Hospital has been getting the conditional grants from the national Government and that the county government has not been diverting it to something else and failing to satisfy this House with a proper explanation.

**Sen. M. Kajwang:** Madam Temporary Speaker, I wish to add my voice to this statement. First, I thank the Senator for being industrious enough to bring a statement from the Cabinet Secretary and the county government. My interest in this matter is that the Jaramogi Oginga Odinga Teaching and Referral Level 5 Hospital serves quite a huge catchment of which Homa Bay County that I represent is part of. I get quite dismayed by the level of service and facilities in this institution which has always been blamed on inadequate funding.

Madam Temporary Speaker, I do not have the benefit of the figures that Sen. Mutula Kilonzo Jnr. read out because I have not seen the hard copy of the response. However, I have seen the Allocation of Revenue Act of 2014. I have seen the amounts of



money that were allocated to this institution as conditional grants. According to that Act, Kshs395 million was allocated in the Financial Year 2013/2014 and Kshs248 million in Financial Year 2014/2015. There is an assumption that on these conditional grants the counties would also top up. In other words, when Kisumu County Government is given Kshs248 million in the Financial Year 2014/2015, there is an assumption that the county government would also top up. How much has the county Government topped up to boost the conditional grant that has come from the national Government?

Madam Temporary Speaker, secondly, the response from the Cabinet Secretary (CS) was quite *laissez-faire* because the CS says it is the responsibility of the County Government of Kisumu to see to it that the funds sent to the county are utilized. We know that there are usually conditions guiding the implementation of some of these grants.

When you have a conditional grant, be it for health centres, roads or for any other purpose, there are usually conditions attached to it. Who is responsible for ensuring that those conditions are met? Is it the CS, the Senate or is it the county that is the implementing agency?

**Sen. Mutula Kilonzo Jnr:** Madam Temporary Speaker, the points raised are valid. Three issues have arisen on which we will get clarification. I said at the beginning that it does not appear as if the County Government of Kisumu received the letter from the National Treasury. We will be seeking your direction so that the clerk to whom the letter was addressed can follow up with the response from the county government in respect of two issues: one, the Kshs235 million allegedly withheld by the referral hospital. The Senate can directly request for that information.

Secondly, the schedules with respect to 2013-2014 and 2014-2015 and thirdly, a very important issue was raised by Sen. M. Kajwang that the County Government of Kisumu has not disclosed the amounts they have budgeted for this referral hospital from 2013 to 2016, so that the queries as to how much money has been spent is clear here.

I undertake that this will be done in seven days.

**Sen. (Prof.) Anyang-Nyong'o:** On a point of order, Madam Temporary Speaker. I add to the demands by the Chairperson, Committee on Finance, Budget and Commerce that in responding to the CS's letter, the County Government of Kisumu states very clearly how much the Jaramogi Oginga Odinga Teaching and Referral hospital has been remitting to the county revenue account in terms of cost sharing revenue. This is because the regulation in that county is that the cost sharing revenue is put in the county revenue account and then sent back to the hospital. The hospital gets cost sharing and promptly banks it in the county revenue account.

The County Government of Kisumu should, therefore, know the amount of money raised from cost sharing that should supplement the county government budget to Jaramogi Oginga Odinga Teaching and Referral hospital. If you add that to the conditional grant, there is no reason the hospital should be so starved of funds.

We need to get those figures both the cost sharing, revenue from the county government and the conditional grant so that we have those figures year in, year out. We should also compare that finally to what data the Jaramogi Oginga Odinga Teaching and Referral Hospital has also in terms of getting cost sharing revenue.

**The Temporary Speaker** (Sen Ongoro): Sen. Mutula Kilonzo Jnr, is that an intervention?

**Sen. Mutula Kilonzo Jnr:** Madam Temporary Speaker, there was something that was left out. Sen. M. Kajwang raised an important point as to who is responsible for conditional grants. On the collaboration between national and county government on functions of health, I am particularly aware of the function of maternal healthcare. Certain minimal conditions are set by national Government to ensure that they remit the funds. However, from the schedule we have, it appears as if 2014/2015 and 2016 all the funds and conditional allocations have been released to the said County Government of Kisumu.

On the question raised by Sen. (Prof.) Anyang-Nyong'o, on cost sharing, we will also request the County Government of Kisumu to add that information in term of cost sharing. This is because what Sen. (Prof.) Anyang-Nyong'o raises is correct in terms of law, facts and otherwise.

**The Temporary Speaker** (Sen. Ongoro): Was that your response?

**Sen. Mutula Kilonzo Jnr:** Yes, Madam Temporary Speaker. We will endeavour to have that information in the Senate in seven days' time.

**The Temporary Speaker** (Sen. Ongoro): Who is responding on behalf of the chairperson since I am not seeing him?

You know I took over the Chair midstream so there was confusion, I thought he was still just contributing. I can see a request from Sen. (Prof.) Anyang-Nyong'o. Is that a mistake?

Before we move to the next Order, I order that this Statement be included in the Order Paper again next week on Thursday.

Next order!

## BILL

### *Second Reading*

#### THE COUNTY GOVERNMENTS (AMENDMENT) BILL (SENATE BILL NO. 21 OF 2015)

**Sen. (Prof.) Lonyangapuo:** Madam Temporary Speaker, I stand to present this Bill in which it is proposed that the offices that were created and identified under Section 50 of the County Governments Act, No.17 of 2012 are offices of sub-county, ward and village administrator.

In the Statement of the Objects and Reasons of the Bill, it seeks to amend this County Governments Act No.17 of 2012, where the main objective is to amend Sections 50, 51 and 52 in order to bind the County Public Service Board of every county to employ sub-county, ward and village administrators after every general election. This is as opposed to what is written today, which gives them the leeway to employ people permanently in those positions yet they are directly under the influence and under the office of the present governor.

The Bill also seeks to include academic qualifications for the offices of sub-county administrator, ward administrator and village administrator as I am going to mention in a short while, as opposed to today where you get different colours, styles and qualifications of people sitting in those offices.

Madam Temporary Speaker, in the statement on the delegation of legislative powers and limitation of fundamental rights and freedoms, this Bill does not delegate legislative powers nor does it limit fundamental rights and freedoms. This Bill concerns county governments in terms of Article 110 of the Constitution, but the sub-county administrator, ward administrator and village administrator are indicated as responsible for coordination, management and supervision of the general administration and functions in the sub-county, ward and village, respectively.

These are critical functions to be discharged in the county and provided for also in Paragraph 14(2) of the Fourth Schedule of the Constitution which enumerates all the devolved functions such as health, agriculture and so on, which require the county government and employees to implement.

It is also important to say that whether this Bill is a Money Bill within Article 114 of the Constitution or not, it is not a Money Bill within the meaning of Article 114 of the Constitution of Kenya.

Mr. Temporary Speaker, Sir, what I am presenting here is out of experience and I have also seen it in many counties. The key offices were nearly the last positions to be filled by the inaugural county governments. I know every employee in the county government must be interviewed by the respective County Public Service Boards (CPSBs).

You will be surprised to know that many county governors and executives simply reduced the CPSBs as mere appendages and tiny departments of county executives as opposed to what we see in the national Government where the Public Service Commission is rarely interfered with by the Executive.

I was a Permanent Secretary and I never heard of a President saying that this is the one we want. What was in our mind when we created the positions of sub-county administrators, ward administrators and village administrators? What did we intend them to do? Their functions are clearly indicated here, which is not a dispute, but the problem arises because of the choice of human beings that sit in those offices. Today, you will be surprised that almost all persons seated in the offices of village administrators, ward administrators and sub-county administrators are close to governors.

This is equivalent to the nine members that the Constitution attaches to the Office of the Governor to choose from whoever he wants, but qualifications should also be considered. For example, a political advisor of a governor can be a villager who knows a lot of politics in their vernacular because they are personal and private to him or her. We also have protocol officers. Even if you bring all your relatives and put them in that office, nobody quarrels you because they are your officers.

Madam Temporary Speaker, it is sad to say that when you go to the ground, you will find those people who sit in key offices such as sub-county administrators, ward administrators and village administrators are strictly agents of governors. If there is an opponent of the governor, whether elected or not, they cannot hold any function in a

village without going through those persons. So, it is like we have four levels of governance under one person where you will find that a person is a governor and he himself also does functions of a sub-county administrator, a ward administrator and a village administrator himself. I am talking of “himself” because we do not have any lady governor.

My colleagues who are here will attest that you will notice that some of them were picked from different places. Some of them were nursery school teachers, but as long as they are very good at defending the life of one man at night and during the day, they are given the position. Secondly, every project that takes place at that level will never be sanctioned unless and until the governor tells him or her. That then means that we are dealing with a governor who is one person in many positions.

I have called for functions, but at the moment, they hear that the Senator has organised something, first of all, they will make sure that the meeting is not allowed. I am using my own example as a case study. I want my colleague Senators to be very keen because if we must anchor devolution right, there are things that we must do right, however, painful they may be. When I arrive in my county, because I was also elected by the people, they take off. When they even see you greeting one of them, they are told that they will be sacked the following day in the morning. This practice has also extended to various places.

Today, Sen. (Prof.) Anyang'-Nyong'o who was chairing the County Public Accounts and Investments Committee (CPAIC) was surprised. We were given a document where the 47 CPSBs in the whole Republic have formed a forum to protect their lives and see how they can work. The Chairperson of the CPSB for Nairobi County is the Chairman of the forum.

They have petitioned the High Court saying that they are not able to perform because the governors and their extension in the executives give them no room to consider merit. They cited that a governor will simply say; this is what we are dealing with. Even if a million people apply for a job, they are told who to pick without following what is supposed to be done.

Madam Temporary Speaker, it is for that reason that I said that governors are not on a permanent and pensionable terms, just as Senators and the presidency of the Republic of Kenya are also not elected on a permanent and pensionable basis because elections are held after every five years. Members of County Assemblies (MCAs) also serve a contract of five years and so do the Permanent Secretaries who are also at the will of the employer. They cannot go beyond five years unless they have some excess favour.

Madam Temporary Speaker, a governor who has the power and choice to fix people to the positions of sub-county administrators, ward administrators and village administrators is on a contract himself for five years yet he has total influence on the choice of the people to be employed. Members, we come from different political arrangements in our counties. My brother from Kisii, Sen. Obure who was my boss when we were together at the Ministry of Public Works, can confirm whether anybody other than the person coming from the same political party and sometimes the clan of the boss could be employed. These positions should be available to everybody irrespective of their political affiliation, race, faith, age, gender and physical ability.

This County Governments Act says those people who have been brought in the manner in which I have described are declared permanent. How do you have a governor who is permanent when the physical boss is going to be changed in the next five years? If they are re-elected after five years, by law, they will never work more than two terms. Their lieutenants, relatives, friends, boyfriends and girlfriends are fixed on these positions which is key to serve the people of that sub-county, ward or village.

Madam Temporary Speaker, today, we had a tragedy in West Pokot County where we lost six of our prime policemen to a foolish killer just killing people like that. A suspect related to terror activities whose photograph has been put in the newspaper by police was teaching in the interior parts of West Pokot in a ward called Riwo Ward in Nakwichit village. The other teachers and the pupils suspected him and reported to the chief and the police. Why did they not report to the village administrator, ward administrator and sub-county administrator? It is because these are people who were imposed on them and nobody recognizes them. They are not known and they are a burden to the people.

Madam Temporary Speaker, if you look at the way chiefs are selected in a location and sub-location, it is indicated that you have to get people from around there, advertise and announce in a public *baraza*. How did the village administrator, ward administrator and the sub-county administrator come around? They came courtesy of the choice of the governor without consulting anybody. The MCA was not consulted. As a matter of fact, some of the ward administrators who were put in some of the wards where most of us come from were competitors for MCA positions in the 2013 election. Now, the governor goes for his friends. Out of the five or six fellows who competed, they go for the last competitor as long as he has enough linkage with the governor.

Madam Temporary Speaker, what am I proposing in this Bill? Now that the positions of the Senator, National Assembly and the MCAs are not permanent, they are on contract, and we have introduced performance contracting for which yesterday the Vihiga County Governor Hon. Moses Akaranga was calling and I was reminding him that when he was a Minister, I was the Permanent Secretary (PS). He was the Minister in charge of Public Service. He was the one who introduced performance contracting. Performance contracting is done so that you can gauge the level of performance. If it is not up to date, you go.

What did we really want in this devolution? We wanted better performance than the centralized government system. Now, we have taken kings and queens to go and settle in these three key positions that are supposed to make devolution work.

Madam Temporary Speaker, devolution is not the sitting governors. In fact, the Council of Governors (CoG) should be disbanded. We are going to introduce it in the next Bill. It should be disbanded because all bad manners collected in some counties is spread and shared among governors. Are you aware that governors have offices in Nairobi? The answer is yes, but do you know where they are? They are in a classroom-like building where the doors are facing one another for quick consultations. What do they consult about? They consult so that they may remain in office never to be threatened by anybody.

Madam Temporary Speaker, since these positions are strictly on contract and you are allowed to renew, based on your performance, rarely do Kenyans remove anybody unless you are terribly wrong. Why can we not change this issue of permanent and pensionable to become a contract? This is my proposal that we change it from permanent to become a contract. I have a classic example where in a sub-county; a candidate who stood as an MP last time and became the last out of seven was eventually picked by the governor and given a position. What can this person tell people? The candidate who was second was thrown away. If he really wanted politicians, why did he leave the second person? By the way, this is not a political position. Why does he go for politicians? We have many politicians, political agents and bouncers---

**The Temporary Speaker** (Sen. Ongoro): Senator, what is the role of bouncers in all these?

**Sen. (Prof.) Lonyangapuo:** Madam Temporary Speaker, it is true that these are people whose loyalty belongs to one person. My view is that we should have an independent County Public Service Board. As it is constituted today, it is almost null and void. Some of them are resigning and some of them are praying just to continue earning salary. If we do not have an independent body, then it means it is nothing. They should not wave to us saying that the law says it is a permanent position. What is the practice on the ground is that those boards were forced to employ people.

Madam Temporary Speaker, I am proposing that this Bill amends the County Governments Act to be enacted by this Parliament. This Act may be cited as the County Governments Amendment Act 2015 and the County Governments Act refers to as follows:-

“Should be amended in Section 50”

Madam Temporary Speaker, Section 50 is here. It is the office of the Sub-County Administrator which says:-

a) There shall be established at the level of each sub-county the office of the sub-county administrator.

b) The sub-county administrator shall have qualifications and knowledge in administration or management and shall be competitively appointed by the County Public Service Board in accordance with the provisions of this Act.

Madam Temporary Speaker, it is not telling us about qualification. I am introducing amendments to it, by saying that it should be amended:-

2 (a) by deleting the sub-section (2) and substituting therefore the following new sub-section:-

“The sub-count administrator shall be competitively appointed by the County Public Service Board after a general election is held for a county government”.

Madam Temporary Speaker, this is now removing where you say employing somebody “just like that”. This is to be done after every five years.

(b) have a minimum of a degree from a recognized institution in Kenya;

(c) have qualifications and knowledge in administration or management.

Madam Temporary Speaker, as opposed to what was written earlier which said “have knowledge in administration and qualification”. Now, we have to specify the qualification. Why am I saying this? It is because these people are in charge of a sub-county and a sub-county is led by an MP. By law, an MP must have a degree and so on. So, why would you have an administrator who has no qualification? Their compatriots in the national Government structure are called district commissioners. Nowadays, they have another name called assistant county commissioners or sub-county commissioners. All of them have a degree. So, why would you bring a form four graduate who got mean grade D plus to sit there? This is derailing and making life not easy. We are now worsening the original Constitution which said an administrator to be a degree holder at the sub-county level.

I propose to amend the Act by inserting the following new sub-section as well: “When a general election is held for a county government, the outgoing sub-county administrator shall remain in office until the next Sub-County Administrator is appointed”.

Madam Temporary Speaker, Section 51 is also amended to accommodate the ward administrator who I suggest must have a diploma. The same thing repeats itself. We are amending Section 52 by allowing them to employ the village administrator who must have a minimum qualification of a Form Four certificate. This means that the village boss should know a lot of English.

Lastly, this is what is indicated here now. In Section 35 which is the last one, the principal Act is amended by inserting the following new section immediately after this:

“Any person serving as a sub-county, ward or village administrator before the commencement of this Act, shall continue to serve as such until a General Election is held for a county government.”

This is to safeguard these people. They can even work until the new governor comes in two or three months later and so on. Until even their colleagues are employed, they can even go for six months or one more year. So, it does not really matter. What matters is that they are eligible for the same positions if they qualify and if they perform. Of course, performance is the first qualification. If they continue to perform very well, they may have favour from the new administration to remain. This will streamline and make sure efficient services are delivered and there are no people attached to one individual.

Madam Temporary Speaker, Sir, let me leave it at this point and ask my colleague, Sen. (Prof.) Anyang'-Nyong'o, to second.

**Sen. (Prof.) Anyang'-Nyong'o:** Madam Temporary Speaker, I rise to second. First of all, I thank Sen. (Prof.) Lonyangapuo for bringing this very important Bill to the Senate.

Before I say anything, I would like to refer the Senate to the Constitution of the Republic of Kenya. Let me draw your attention to Article 1(4) on Sovereignty of the People, which says:-

“The sovereign power of the people is exercised at –

- (a) the national level; and
- (b) the county level.”

Chapter 2 deals with the Republic. Article 6(2) is on devolution and access to services. It says:-

“The governments at the national and county levels are distinct and inter-dependent and shall conduct their mutual relations on the basis of consultation and cooperation.”

Article 175(a) and (b) on Principles of Devolved Government, says:-

“County Governments established under this Constitution shall reflect the following principles –

(a) County Governments shall be based on democratic principles and separation of powers.

(b) County government shall have reliable sources of revenue to enable them to govern and deliver services effectively.”

Madam Temporary Speaker, I am reading those two because I want to come to very important issues. That is the issue of ensuring that devolution goes up to the village level. The principle of having governments which are separate and interdependent is being hampered by the non-implementation of Section 17 of the Sixth Schedule of the Constitution, on Transitional and Consequential Provisions, which reads:-

“Within five years after the effective date, the national Government shall restructure the system of administration commonly known as the provincial administration to accord with and respect the system of devolved government established under this Constitution “

If you take all those parts of the Constitution that I have read to you, you will understand that all county governments in this Republic have not taken devolution to the village level. Sen. (Prof.) Lonyangapuo is not only amending the County Governments Act to accord with devolution, but also to give notice to the national Government that five years are over. If the provincial administration is not restructured to accord with the principle of devolution, they will be undermining devolution from the village level. The only effective administrator at the village level today is the assistant chief. There is no official of the county government equivalent to the assistant chief at the village.

Devolution ends at the ward level where there is the ward administrator and the ward representative. Below that, the local administration is left to the national Government in what was previously called provincial administration; what has still been maintained by the Government, contrary to Section 17 of the Sixth Schedule on Transitional and Consequential provisions. It is time the provincial administration is restructured to accord with devolution.

Madam Temporary Speaker, I want to make reference to the establishment of the village administration. I will tell you why I am emphatic about village administration as an aspect of devolution. Clause 52 (1) (2) and (3) on page 495 of this Bill reads:-

“(1) There is established the office of the village administrator for each village and unit established in a county.

(2) A village administrator shall have professional qualification and technical knowledge in administration and shall be appointed by the County Public Service Board in accordance with this Act.



(3) A village administrator shall coordinate, manage and supervise the general administrative functions in the village including-

(a) pursuant to paragraph 14 of part 11 of the Fourth Schedule to the Constitution-

(i) ensuring and coordinating the participation of the village unit in governance; and

(ii) assisting the village unit to develop the administrative capacity for effective exercise of the functions and powers and participation in governance at the local level; and,

(b) the exercise of any functions and powers delegated by the County Public Service Board under Section 86.”

Madam Temporary Speaker, the late Sen. Otieno Kajwang,’ whose brother sits where he used sit, used to tell us:-

“I welcome devolution because when it comes, power will be dispersed, spread, acquired at the local level; and some of that power will come to me, Sen. Otieno Kajwang.”

He was emphasizing that a Kenyan at the village level should feel devolution.

Madam Temporary Speaker, there is no unit of village administration under the devolved government; the villagers are still being controlled by the provincial administration. That is the only office you can go to when you have a problem at the local level. It means that devolution is not being felt at the village level.

Sen. (Prof.) Lonyangapuo has emphasised the fact that there should be village administration properly established under the Constitution and the County Governments Act. However, the village administrator should not be taken for granted. He should be someone qualified to administer a village.

Madam Temporary Speaker, you will recall that I said earlier on when I was reading the Constitution that these two levels of government are distinct and interdependent and shall conduct their mutual relations on the basis of consultation and co-operation. If there is a village administrator who cannot consult with his or her counterparts in the national government in English and Kiswahili; and the written word, what kind of administrator are we talking about?

Therefore, it is important that in appointing these administrators, they must have qualifications which are standard practices in public administration. At the national level, it is a Public Service Commission. The public service commission makes sure that all civil servants are properly qualified. If there are going to be two levels of governance in this Republic, the county government level cannot have practices that are inferior to the national government. It must have a public service board which is equivalent to the national public service commission with the same ethics, professional standards and the same level of performance that we can call interdependent with the other one.

Madam Temporary Speaker, the introduction of this Bill by Sen. (Prof.) Lonyangapuo - who is my Vice Chair in the Senate CPAIC - by bringing those standards that we have established in the Committee to the standards of running a county, is timely and apt.

Thirdly, if, indeed, the two levels of government are comparable, then there is no God given reason whatsoever why there is a new government led by a governor who depends on his senior officers from a previous government. When a new president is elected, he appoints his new cabinet, cabinet secretaries, and chairmen, among other baskets of appointments. At the same time, he must make sure that the public service commission appoints competent people in the public service without directing them because the public service commission is established by law.

Madam Temporary Speaker, in like manner, in the County Governments Act, there is established public service board. In the event that a governor interferes with the functions of the public service board, the board can, individually or in their collective national body, petition this Senate for action. Therefore, rather than wait for a petition from county public service boards nationally, Sen. (Prof.) Lonyangapuo has taken the necessary initiative to establish a law which will make sure that the public service boards in counties, perform their functions according to the Constitution and the law.

What Sen. (Prof.) Lonyangapuo is proposing should not in any way threaten either the sub-county, ward or village administrators who are yet to be appointed. I know that the sub-county and ward administrators are there, but the Bill states clearly that if they are qualified, they will be reappointed by the county public service board.

Madam Temporary Speaker, they were appointed as cronies under dubious circumstances. Of course, when they apply for those jobs, those details will be revealed and they will compete fairly with those candidates that have applied. However, they must be ready to renew their mandate based on their performance and competence. Therefore, the rumour going around that we, Senators, want to deprive county, sub-county and ward administrators their right, is incorrect. We just want to make sure that they are appointed according to law through the public service boards. If they are, indeed, competent, they can serve under a new government given the fact that they have gone through the mill of the county public service boards.

Sen. (Prof.) Lonyangapuo has brought in a very important factor in this Bill which is not well explained or articulated in the County Governments Act: To make a difference in terms of qualifications between the village administrators, ward administrators and the sub-county administrators. If you have a sub-county administrator who never went beyond Form Four, and a village administrator who, not only went beyond Form Four, but has a diploma; how will the village administrator take directions from the sub-county administrator?

A sub-county administrator is of a much higher position than a village administrator. That is like saying that a District Officer (DO) should have the same qualification as a sub-chief. That does not happen in the Civil Service. The qualifications among the civil servants are very different depending on their rank and the functions that they perform.

Madam Temporary Speaker, Sen. (Prof.) Lonyangapuo has stated the qualifications of the officials at the county level depending on their level of responsibility in the county and the size of the unit that they administer.

I, therefore, fully support Sen. (Prof.) Lonyangapuo's proposal to specify clearly the qualifications of these officials from the village to the sub-county administration.

There is something in the Constitution and the County Governments Act called a village council. I submit to the Senate that not a single county government has established a village council in as much as they have not established village administrators. The Constitution under the County Governments Act clearly says that a village administrator should have a village council to work with. It is stated that a village council will comprise five persons; two thirds of which must be of either gender. In order for villagers to be engaged in full public participation in the running of a county government, devolution must go to the village level. Village councils must be established according to the County Governments Act and a village administrator should be there to ensure that the village is administered properly.

Madam Temporary Speaker, I beg to second.

**The Temporary Speaker** (Sen. Ongoro): Thank you, Sen. (Prof.) Anyang'-Nyong'o. This is quite an interesting Bill.

*(Question proposed)*

**Sen. Obure:** Madam Temporary Speaker, this Bill is being sponsored by Sen. (Prof.) Lonyangapuo, a close personal friend of mine. He is also one of the most effective permanent secretaries that I had the privilege to work with. He is very active, resourceful and a respected Member of the Senate. He moved this Bill very eloquently and he has been supported by Sen. (Prof.) Anyang'-Nyong'o, whom I highly respect. He is in many ways an exemplary person. However, I am unable to support the amendments proposed in this Bill. I do not support the amendments proposed in this Bill. Therefore, I oppose the Bill.

Madam Temporary Speaker, the object of the Bill is to amend the County Governments Act in order to compel County Governments Public Service Boards (CPSBs) to employ sub-county administrators, ward administrators, village administrators after every five years; after every general election.

In other words, this Bill links the tenure of these officers to the fate of the governor. The passage of this Bill into law will profoundly change the terms of service and adversely so, in fact, almost fatally affect the current holders of these positions. Many holders of these positions were competitively recruited. At least, in my county they went through a very rigorous process. They responded to advertisements, went for interviews and emerged as successful candidates. They were then given appointments by the County Public Service Board (CPSB) based on permanent and pensionable terms in line with and similar to terms offered to holders of equivalent positions in the national Government.

Madam Temporary Speaker, many of these people left their positions in the national Government where they were already enjoying permanent and pensionable terms to take up these offers at the county governments. I do not believe that it should be our business in this House to make any Kenyan or group of Kenyans worse off than they should be; rather, it should be our business to be in the forefront to improve the welfare of Kenyans everywhere. This Bill is tying these three categories of administrators to the tenure of governors.

This means that for every governor who loses an election – there would be very many of them – all the administrators, the sub-county administrator, the ward administrator and the village administrator - if they exist - will also go home with him.

This is very dangerous. We are unnecessarily politicizing these positions and exposing the holders of these positions unnecessarily. Many of these are young people who have a future to look forward to and protect. They should not be treated this way. Why do we not ask other administrators; the county commissioners, assistant county commissioners, the chiefs, the assistant chiefs and all these people to go home each time the President ends his tenure of service? Therefore, this Bill is discriminatory. It will discriminate against these officers of the county governments. It should not be allowed to pass.

Madam Temporary Speaker, administrators execute orders. They are not involved in policy formulation. They are not involved in formulating policy which in the long run affects the lives of the people. Their work is to do what they are told to do by their seniors. They should not, therefore, be linked to the tenure of governors.

**Sen. (Dr.) Zani:** On a point of order, Madam Temporary Speaker. Is Sen. Obure in order to mislead us that some of these officers do not have power in the development of policies and plans? This is because if we look at the jurisdiction and what has been given in the County Government Act, the sub-county administrator and ward administrator have specific functions that have been given.

The sub-county administrator is responsible for the coordination of various things, including the development of policies and plans. The same is also given for the ward administrator.

**The Temporary Speaker** (Sen. Ongoro): What was originally provided for is slightly different from what is proposed in the amendment. Sen. Obure, can you clarify what you meant in your contribution?

**Sen. Obure:** Madam Temporary Speaker, the Governor and his own Executive Members of Committees are the people who formulate the policies that are executed in the county. The sub-county administrator and ward administrator are placed way out in the villages. They work upon instructions and orders given by the executive who is the governor, his deputy and members of the executive committee responsible for the various ministries.

Madam Temporary Speaker, I feel strongly that the terms of service of these officers should not in any way be linked to the tenure of the governors. What we need to do, on the contrary, is to ensure that we have strong public and civil services to make sure that service delivery is given out consistently and that it is not necessarily linked to the tenure of service of the governor.

I, therefore, feel strongly that this Bill should not be passed. It will be discriminatory and will affect Kenyans in very fundamental ways. It should, therefore, be rejected.

I oppose.

**The Temporary Speaker** (Sen. Ongoro): Thank you, Senator. Sen. (Dr.) Zani. I can see that you have logged out, but you were next on line.

Proceed to give your contribution.

**Sen. (Dr.) Zani:** Madam Temporary Speaker, I support this Bill by saying that the promise of devolution which is the cascading of resources, as we have said here consistently, has been so important. It is unfortunate that certain administrative functions of devolution are not working to the level that we expected. However, at least, that promise was there.

The second aspect where this Bill comes in is the devolution of systems and operations which is key so that the cascading does not just end. A lot of information on the structuring happened up to the county level. However, at the sub-county and ward levels, all these considerations were not put in place. That is what makes it very important that the key offices of sub-county, ward and village administrators are given the power that they are expected to have. This is because they have a very key role to play. As has been mentioned in that paragraph, they are meant to coordinate the participation of communities and locations in governance at the local level.

Madam Temporary Speaker, three years into devolution, there are certain parts of this country that have not heard what devolution is all about, at the lowest village level. This is why we have had a problem because civic education has not cascaded down as it ought to. Remember, we had a centralized system of Government for so long. So, all the time, people still have expectations from the central Government yet we have county governments that are independent. Some of these services can actually be cascaded at that particular level.

Madam Temporary Speaker, some of the roles that are meant to be played by ward administrators, village administrators and sub-county administrators are very key. Some of them touch on issues like service delivery, empowering of the community, ensuring that the public service is provided at the lowest level, where possible, and ensuring coordination and public participation. Part of the problems of accountability that we have had at county governments level have to do with public participation and the citizens still cannot actively play their part. If they were empowered to know what questions to ask and how to ask them, that would be very key because they would be able to hold the county governments accountable to ensure resources are well utilised. Since we cannot directly get down to a villager, I am sure the sub-county administrator, ward administrator and the village administrator has a very important role to play. So, these administrative functions are very key and they need to be played too.

Secondly, the Bill addresses the issue of qualifications, which is also very key. As Sen. (Prof.) Lonyangapuo was moving this amendment Bill, he mentioned the bit about governors just giving jobs to their cronies, relatives and “this one and that one” and that really undermines the functions. I was listening to an audio tape that was correlating development and the problems with development. One of the issues that came out was the culture of nepotism because jobs are given to people who might not be qualified. So, the section on qualifications is very key. People should get jobs with the right qualifications so that they do what is expected to be done.

Madam Temporary Speaker, the Bill goes ahead to address how this should be competitively done by the CPSB. That is very critical. It gives the minimum levels of education for the various positions and also qualifications in terms of having knowledge,

administration and management. You can never undermine these specific aspects especially for management at the county level.

I think the contention in this Bill is on the clauses that sort of tie the tenure of these officers with those of governors. I have just had a quick check to confirm that. Those who were employed by the CPSB should be on permanent and pensionable terms. Therefore, we should not have a situation where we have these terms attached to a particular governor. If that is the case, it will undermine the whole issue of transition from one governor to the other and we will be having different people all the time and that will create problems. As we continue with this debate, I hope we will have consensus about this and look at it again as we move to the amendments.

We want to understand what ails this process so that we solve the problem. We have to amend this so that we follow what is provided by the CPSB. We should also ensure that people who are employed are qualified and they can do the job well on a long term basis. Looking at the role that these particular office bearers should play, including service delivery, provision of infrastructure, reaching out to the community and ensuring participation, this becomes a key amendment to this Bill which will help structures at counties such as wards and villages. That is key for devolution to succeed.

Madam Temporary Speaker, thank you.

**Sen. Ong'era:** Madam Temporary Speaker, thank you for giving me this opportunity so that I may also contribute to this Bill. Let me start from the outset by saying that I rise to oppose this Bill. I want to oppose it very strongly on the basis that I feel that the timing of this Bill is ill conceived and very mischievous at this time, particularly when we know that there are a number of distinguished honourable Senators in this House who would like to be governors. Has this Bill been brought so that these Senators may create jobs so that they can also give their people? I know that quite a number of these Senators are going to become governors, but this is not the way to go about it.

Madam Temporary Speaker, I rise to oppose the main object of this Bill and that is Sections 50, 51 and 52 which wants to send some people home, particularly sub-county administrators, ward administrators and village administrators. These are public servants who were appointed on the basis of merit. They have not been appointed on the basis of political gerrymandering. They have been appointed by a competent public service. I want to remind the Mover of this Bill that governors do not, in the County Governments Act or the Constitution, appoint any employee. It is the County Public Service Board that appoints.

Madam Temporary Speaker, I feel that this is ill conceived. Is the Mover trying to tell us, for example, when the President appoints civil servants, when the term of the President ends, will all these civil servants in the national Government go home? We need to create stability in this country. We need to create a system of employment. If there is a problem on how these officers are employed, talk about amendments to the law that can ensure that the manner in which the recruitment and appointment of civil servants is done is fair and equitable.

The law should ensure that the appointment of public servants is streamlined with regard to public participation, diversity of communities, inclusion of all clans or

communities, minorities, persons with disability, gender and the marginalized. These are the issues that we would be considering, but not on the basis that these officers are illiterate or have been appointed irregularly. Therefore, after every five years or 10 years when a governor finishes his term, they go home and we create more space.

Madam Temporary Speaker, these are neither Ugandans nor Tanzanians. They are Kenyans. Therefore, I feel that the timing of this Bill is ill conceived, with due respect, to the distinguished senator who I have a lot of respect for.

I, therefore, strongly oppose it.

**Sen. Okong'o:** Madam Temporary Speaker, I also rise to oppose this amendment, for the same reasons that have been proposed by the Senator from this side of the House. Most specifically, the biggest problem has been that the governors have become everything in the counties. They have not given powers to these men and women to do their duties as envisaged in the County Governments Act. For instance, you have heard that the ward administrators have powers to formulate policies. They have not been mandated to do that. The people to be blamed for this are the governors and not the holders of the office.

Madam Temporary Speaker, where I come from, this work was done competitively by the County Public Service Board. In most cases ward administrators hold master's degrees and some have doctorate degrees. So, it is important that we differentiate political expediency and professionalism. Therefore, I reiterate the contents of those who have opposed.

I beg to oppose.

**Sen. Hargura:** Madam Temporary Speaker, Sir, I would like to join my colleagues in opposing this Bill because the spirit is---

**The Temporary Speaker** (Sen. Ongoro): Order Senator! This seems to be a very interesting Bill and it is true that it touches on the core mandates of the Senate. I, therefore, order that it should be considered for inclusion in the order paper on Tuesday so that we can continue with this interesting debate.

### ADJOURNMENT

Hon. Senators, it is now time to interrupt the business of the Senate. The Senate therefore, stands adjourned until Tuesday, 19<sup>th</sup> July, 2016, at 2.30 p.m.

The Senate rose at 6.30 p.m.