

PARLIAMENT OF KENYA

THE SENATE

THE HANSARD

Thursday, 28th November, 2013

*The Senate met at the Kenyatta International
Conference Centre at 2.30 p.m.*

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

PRAYERS

QUORUM CALL AT COMMENCEMENT OF SITTING

*(The Temporary Speaker (Sen. Murkomen)
consulted with the Clerk-at-the-Table)*

The Temporary Speaker (Sen. Murkomen): Hon. Senators, I am informed that we have a quorum.

COMMUNICATION FROM THE CHAIR

INVITATION TO SPEAKER'S KAMUKUNJI TO BE HELD ON 3RD DECEMBER, 2013

The Temporary Speaker (Sen. Murkomen): Hon. Senators, as you are aware, the Senators concluded the countrywide public hearing exercise on the county appeals on transfer of functions. This exercise was spearheaded by the Sessional Committee on Devolved Government under whose mandate the matter falls. Consequently, the Chairperson of the Sessional Committee on Devolved Government has requested the Speaker to convene a Kamukunji, and you all know what a Kamukunji is in line with the traditions of this House, which will serve as a forum for all Senators to chart the way forward on the matter.

Hon. Senators, this is, therefore, to invite all of you to a Kamukunji which will be held on Tuesday, 3rd December, 2013 at 11.00 a.m. in the Senate Chamber at KICC. I

Disclaimer: *The electronic version of the Senate Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Hansard Editor, Senate.*

appeal to all Senators to attend this very important forum as we jointly seek solutions for the betterment of our counties.

Thank you.

STATEMENT

ESTABLISHMENT OF CITIES, MUNICIPALITIES AND TOWNS

Sen. Kanainza: Mr. Temporary Speaker, Sir, I rise to seek a Statement from the Chairperson of the Sessional Committee on Devolved Government on the establishment of cities, municipalities and towns under the Urban Areas and Cities Act. In the Statement, the Chairperson should address the following:

- (i) Which counties have operationalised the Act by establishing management of cities and urban areas;
- (ii) why it has taken so long to operationalise the Act; and,
- (ii) how long it will take to operationalise the Act in all the counties.

The Temporary Speaker (Sen. Murkomen): Is the Chairman of the Sessional Committee in the House? Any Member? Majority Leader?

The Senate Majority Leader (Sen. (Prof.) Kindiki: Mr. Temporary Speaker, Sir, I think the Statement can be availed within a week.

The Temporary Speaker (Sen. Murkomen): Thank you.
Next Order.

BILLS

First Readings

THE KENYA MEDICAL SUPPLIES AUTHORITY (AMENDMENT) BILL, 2013

THE ALCOHOLIC DRINKS CONTROL (AMENDMENT) BILL, 2013

THE COMMUNITY LAND BILL, 2013

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

The Temporary Speaker (Sen. Murkomen): Hon. Senators, as you can see from the Order Paper, the Senate Majority Leader was overtaken during Statements and he has requested to basically lay the Statement on the Table but at the same time I have given leeway to go back to Order No.6 to give Notices of Motion on behalf of Sen. Wako and

Disclaimer: *The electronic version of the Senate Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Hansard Editor, Senate.*

Sen. Lesuuda as provided for in the Order. So, we will start with Order No.6 and then lay the Statements.

NOTICES OF MOTIONS

The Senate Majority Leader (Sen. (Prof.) Kindiki: Mr. Temporary Speaker, Sir, I beg to give notice of the following two Motions.

COUNTRYWIDE CIVIC EDUCATION ON NEW DEVOLVED SYSTEM

THAT, noting that the Constitution of Kenya, 2010 fundamentally changed the architecture of government in the country; aware that many people in Kenya including elected leaders are not conversant with the new structure and especially the devolved system, the Senate urges the national executive to undertake comprehensive well-structured and systematic civic education countrywide on the new system so that the Kenyan people can understand and positively participate in its implementation.

This Notice of Motion is given on behalf of Sen. Wako.

IMPLEMENTATION OF THE PROHIBITION OF FEMALE GENITAL MUTILATION ACT, 2011

I beg to give Notice of the second Motion given on behalf of Sen. Lesuuda.

THAT, noting that Article 25 of the Constitution recognizes freedom from torture and cruel, inhuman or degrading treatment or punishment as a fundamental right that may not be limited; also aware that Article 28 provides that every person has inherent dignity and the right to have that dignity respected and protected; further aware that the prohibition of Female Genital Mutilation Act, 2011 was aimed at prohibiting the practice of Female Genital Mutilation (FGM) to, among others, safeguard against violation of a person's mental or physical integrity; concerned that the Act has not been fully operationalised, the Senate calls on the national executive, to take immediate measures to fully implement the prohibition of FGM Act, 2011 especially the creation and funding of the Anti-Female Genital Mutilation Board to lead and coordinate efforts against rights abuses, particularly of children.

(Consideration of Statements resumed)

STATEMENT

BUSINESS FOR THE WEEK COMMENCING
3RD DECEMBER, 2013

The Senate Majority Leader (Sen. (Prof.) Kindki): Hon. Senators, pursuant to the provisions of Standing Order No.43(2), I wish to present business for the coming week as follows:

(i) Tuesday, 3rd December, 2013 – The Rules and Business Committee will meet on Tuesday, 3rd December at 12.00 noon to schedule business of the Senate for the coming week. On that day, the Senate will continue with the business in today's Order Paper that would not have been concluded and consider a Motion by Sen. Wako urging the national executive to carry out countrywide civic education on the new system of Government in order for Kenyans to understand and positively participate in the implementation of the Constitution. Further, the Senate will continue deliberating on reports of familiarization visits by the Standing Committee on Energy, Roads and Transportation. The Senate will also consider a Motion by the Senate Majority Leader to approve the National Honours Regulations, 2013.

(ii) On Wednesday, 4th December, 2013, during the morning sitting, the Senate will continue with business not concluded on Tuesday 3rd December, 2013 and consider a Motion by Sen. Lesuuda on Implementation of Prohibition of FGM Act, 2011. The Senate will also consider a Motion by Sen. (Dr.) Khalwale calling upon the national Government to comprehensively deal with the compensation of former detainees and those unfairly dismissed after the 1982 coup.

(iii) On Wednesday, 4th December, 2013 the same day in the afternoon, the Senate will continue with the business not concluded on Tuesday and Wednesday morning and consider any other business scheduled by the Rules and Business Committee. The Senate will also consider a Motion by Sen. G. G. Kariuki urging the national Government to constitute a Committee to undertake a comprehensive security review with a view of formulating modern strategies capable of containing crime and safeguarding national security interests. In addition, the Senate will consider Motions by the Senate Majority Leader to concur with the National Assembly on the appointment of Members to the Pan-African Parliament and to Note the Advisory Opinion by the Supreme Court of Kenya in Advisory Opinion reference No.2 of 2013 of 1st November, 2013.

(iv) On Thursday, 5th December, 2013 the Senate will continue with business not concluded on Wednesday afternoon and consider any other business scheduled by the Rules and Business Committee. The Senate Majority Leader will also move a Motion of Adjournment of the Senate for the recess in accordance with the calendar of the Senate.

Mr. Speaker, Sir, I hereby lay the Statement on the Table.

Disclaimer: *The electronic version of the Senate Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Hansard Editor, Senate.*

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

The Temporary Speaker (Sen. Murkomen): Hon. Senators, under Standing Order No.39(2), since the time designated for Order No.11 has not reached and we still have about ten minutes, I rule that we can skip temporarily the business of Order No.11 and move to Order No.12.

(Loud consultations)

The Temporary Speaker (Sen. Murkomen): Order, Senators! The consultations are too high.

For avoidance of doubt, the business in Order No.11 will resume in the next ten minutes.

MOTION

CONSTITUTION OF COMMITTEE TO UNDERTAKE SECURITY REVIEW IN KENYA

Sen. G. G. Kariuki: Mr. Speaker, Sir, I beg to move:-

THAT, aware that national security is prerequisite for maintaining a stable nation state; concerned that Kenya continues to be confronted by factors that threaten national security such as terrorist attacks, road carnage, cattle rustling, inter-ethnic conflicts, food shortage and floods; further concerned that various forms of threats to national security, such as cyber-crime and terrorism, constantly mutate thereby posing a challenge to security organs; appreciating the efforts of successive governments to safeguard national security; noting with concern that despite the efforts insecurity continues to increase; further noting that no security review has been carried out since independence to forge a common strategy on safeguarding national security; the Senate urges the national Government to constitute a Committee to undertake a comprehensive security review with a view to formulating modern strategies capable of containing crime and safeguarding national security interests.

Mr. Temporary Speaker, Sir, the way this Motion is framed is self-explanatory but because we have to debate it and go further to some points that may not have been raised in the Motion, I beg your permission now to move on and discuss national security. I am using the definition as authored by Prof. Charles Maier of Harvard University, who described national security as capacity to control those domestic or foreign conditions and public opinion of a given community which are believed to be necessary to enjoy its own self-determination or autonomy, prosperity and well-being. Another definition which is also relevant to this Motion, before we move on is from

Disclaimer: *The electronic version of the Senate Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Hansard Editor, Senate.*

Probakaras Parell, author of the book; *The National Security, Imperatives and Challenges*. It is also useful because it defines national security as a state of capability of a nation to overcome the most dimensional threat to the apparent well-being of its people and its survival as a nation or state at any given time by balancing all these instruments, state policy, through governance.

This is not the end of the people I would like to refer to. There are others like Hann Morgan, which I am sure having read constitutional law, you may be familiar with, and also my colleague here, the Majority Leader, I am sure he is familiar what Hann Morgan and his beliefs on national security. A nation that is confronted with hostile aspirations of other nations has the prime obligation of taking care of its own interests. This is a moral right but also a moral obligation.

Sen. Billow: On a point of order, Mr. Temporary Speaker, Sir. I rise on this point of order to seek your guidance on the constitutionality of this Motion. The Motion calls for specifically the constitution of a committee to undertake security review and formulate security strategies on security matters. The Constitution provides for the National Security Council which is in effect a committee of experts. I do not understand how we can set up a committee of sorts to undertake the role of a constitutional organ. So, I wanted your guidance whether indeed in looking at this, we are not treading on dangerous grounds with regard to the Constitution.

Sen. G. G. Kariuki: Mr. Temporary Speaker, I am very well aware that this Motion was approved by the Speaker and the entire House in terms of the Clerk and the Speaker. So, I am sure they consulted the Constitution. I am also very well aware that this is not infringing on the Constitution because national security does not know experts who are engaged outside the national security committee. I am very much aware of that. If you want to bring in other experts, you can do anything you want in terms of appointing any person from outside or inside to come and give advice. So, I am very much aware that I am still within the Constitution in moving this Motion.

Sen. Billow: On a point of order, Mr. Temporary Speaker, Sir. I think security matters are not the same as other matters. The import of this Motion is that a committee has to be constituted nationally by the national Government. Is it the understanding of this House that we have lost faith in the National Security Council which is a committee mandated by the Constitution to specifically deal with this aspect? When we urge the national Government, what message are we sending? That the national Government has failed, through the National Security Council and the National Intelligence Security and so forth---

(Several hon. Senators stood up in their places)

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

Disclaimer: *The electronic version of the Senate Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Hansard Editor, Senate.*

The Temporary Speaker (Sen. Murkomen): Order, Acting Minority Leader. I have seen the debate and the point of order raised by Sen. Billow. Whereas Sen. Billow has issues to do with security and formation of a committee, he also goes ahead to refer to the National Security Council as a committee. It is not a committee. In my estimation and decision, I would like to rule that the Mover of the Motion continues with moving the Motion and if Sen. Billow has specific issues to the Motion, he can introduce an amendment at an appropriate stage.

The Acting Senate Minority Leader (Sen. Abdirahman): Mr. Temporary Speaker, Sir, you have correctly ruled, but currently, there are challenges that the country is facing. This Motion gives us an opportunity to explain ways in which the rising insecurity can actually be handled. The national Government should develop a committee. So, it is a proposal which I think is in order.

Sen. (Dr.) Machage: Mr. Temporary Speaker, Sir, I personally think Sen. G.G. Kariuki has every right to move this Motion because any legislator can move an amendment to the National Security Act. It is the prerogative of this House to make observations or make a precursor of a situation that will enforce or enhance the movement of the amendment of the National Security Act, which I think is defective.

The Temporary Speaker (Sen. Murkomen): I think the two Senators who spoke after my ruling were just affirming what I had already decided.

Proceed, Sen. G.G. Kariuki.

Sen. G.G. Kariuki: Mr. Temporary Speaker, Sir, I will not go back to what you have just ruled, but I think as Members of this House, we have to educate each other. When one thinks that he has a point that he wants to raise and the Speaker agrees with it, I think our duty is now to debate. I want to agree with my friend, Sen. Hassan, who has just said that this is a very good opportunity for all of us to discuss security in this country. It is only two days ago that we met all the national officials who deal with security matters, and in that meeting, I want to say on my behalf and on behalf of other Senators that it was not what we really expected because it was a question and answer session. Here we are concerned with the national strategic policy of dealing with security matters in this country.

Mr. Temporary Speaker, Sir, we know very well that security matters have never been reviewed since Independence. Whatever we borrowed from the British in the way of fighting crime and whatever goes with it, we have never changed. The current Constitution does not stop any one of us to be concerned about the security of Kenyans and that is why we are here. In fact, if we can convince the Government---, and everybody is aware, it is difficult to sustain ourselves even in our own homes. We should be very frank. This is a matter I thought no Senator will doubt what we are trying to say. Of course, every Senator has his or her own views on any Motion. We must not all agree on every issue. We could have conflicting opinions and we should be given that latitude to make our own personal and independent feelings.

I have indicated in this Motion that in this Committee, we should try to find out whether there is need for a new security doctrine. Those who read the American Constitution many years ago, in 1823, there was a crisis in America when colonization was taking place in north and southern Africa, and the President at that time, James Monroe, decided to issue a declaration that no European country will be allowed to colonize America. Here, we need to change the mentality of the country because security belongs to all of us. The moment you continue keeping security matters secret, claiming that it is a national issue and people will think that you are talking against the national Government, I think this is a big mistake. The Government has the right to deal with issues the way it feels but this House also has a legitimate right to stand firm and sometimes direct the Government on issues of national importance because I do not think there is any other important issue like this one.

Mr. Temporary Speaker, Sir, our country will get investments as and when people will feel secure with their investments and in whatever they do in this country. Right now, you are aware that people are becoming very worried even in their own houses. I am very sure there are areas where---

Sen. Keter: On a point of order, Mr. Temporary Speaker, Sir. With due respect to Sen. G.G. Kariuki, I did not intend to interrupt him but I just want to remind you that you had said that we will go to the next order after ten minutes. It is now after 20 minutes. This is just to remind you so that as he continues to contribute, we are mindful of the next order which is very crucial.

The Temporary Speaker (Sen. Murkomen): Sen. G.G. Kariuki indeed, the Speaker ruled as such but again we consider your Motion very important when it comes to matters of security. How much more time would you need to move this Motion before the Speaker can make a decision?

Sen. G.G. Kariuki: Mr. Temporary Speaker, Sir, if I am given all my time, you know I have enough to say about it unless the House wants to request for some of my time. If it is the question of moving the Motion, I have already done it.

The Temporary Speaker (Sen. Murkomen): Anyway, you still have 20 more minutes, so you can proceed to move the Motion and invite the Senator who is seconding it.

Sen. G.G. Kariuki: Mr. Temporary Speaker, Sir, with due respect, where is this confusion coming from?

The Temporary Speaker (Mr. Murkomen): I am saying that you still have a balance of 20 minutes to move your Motion

Sen. G.G. Kariuki: Mr. Temporary Speaker, Sir, I am sorry for what is happening.

Sen. Wako: On a point of order, Mr. Temporary Speaker, Sir.

The Temporary Speaker (Sen. Murkomen): Overruled. Proceed, Sen. G.G. Kariuki.

Sen. G.G. Kariuki: Mr. Temporary Speaker, Sir, maybe I am not quite clear. My political understanding must be failing, if I do not understand the politics of this House.

Mr. Temporary Speaker, Sir, Kenya, including Parliament---

Sen. Keter: On a point of order, Mr. Temporary Speaker, Sir.

The Temporary Speaker (Sen. Murkomen): Overruled. Hon. Senators, you must all realize that we are constrained with time and for that reason, the more you interrupt Sen. G.G. Kariuki, the more we will spend more time---

Sen. Wako: On a point of order, Mr. Temporary Speaker, Sir. This is a very important Motion touching on the national security of this country and it deserves a proper hearing when there is complete silence and so on. But in the light of the constraints of time, I would rather that Sen. G.G. Kariuki stops now, we know he has 20 minutes to go and when we have finished those other matters which are the subject of discussions around here, then people will be able to listen to him very carefully and contribute very constructively on this important issue of national security. I beg that you go by your prior ruling that we now go to the other Order and we note that Sen. G.G. Kariuki has 20 minutes to go.

The Temporary Speaker (Sen. Murkomen): Order, Sen. Wako. You are not the Chair. Where did you get the 20 minutes?

Sen. Wako: I heard you say that he is remaining with 20 more minutes.

The Temporary Speaker (Sen. Murkomen): Sen. Wako, this is a House of rules; until I give you the opportunity to say anything---

Hon. Senators, Sen. G.G. Kariuki is remaining with five minutes and it is important that we do not interrupt his remaining five minutes so that he can complete moving the Motion and we move to the next business.

Sen. G.G. Kariuki: Mr. Temporary Speaker, Sir, I would like to concur with the wishes of this House, that they would want me to give my time for the sake of the next business and I am happy to accept. I have already moved the Motion and I will have enough time later on.

The Temporary Speaker (Sen. Murkomen): Now, you know the rules; when you make such a move, you have to look for someone to second you.

Sen. G.G. Kariuki: Mr. Temporary Speaker, Sir, I will ask Sen. (Prof.) Lonyangapuo to second.

Sen. (Prof.) Lonyangapuo: Mr. Temporary Speaker, Sir, I stand to second--

The Temporary Speaker (Sen. Murkomen): Sen. (Prof.) Lonyangapuo, what are you standing to second?

Sen. (Prof.) Lonyangapuo: I am seconding the Motion, Sir.

The Temporary Speaker (Sen. Murkomen): No, that is not what I requested. Sen. G.G. Kariuki made a request that his Motion be deferred. So, he needed somebody to second that particular request. Hon. Senators, you know the Standing Orders are very clear. There is no Motion in the House until that Motion is moved and someone seconds it before then we can move a dilatory Motion by anyone. So, as it stands, we need to

allow Sen. G.G. Kariuki to complete his five minutes, then his Motion can be seconded before we defer it. If the Senators are saying that security matters are very important, then it is important that it be moved at this time when everybody is here for the remaining five minutes.

Sen. G.G. Kariuki: Mr. Temporary Speaker, Sir, I beg to move.

Sen. (Prof.) Lonyangapuo: Mr. Temporary Speaker, Sir, I stand to second this Motion and in doing so, I want to thank Sen. G.G. Kariuki and all of us for agreeing to listen and speak to this Motion in detail, given the nature of security demands in this country. Security is very paramount and we need to thoroughly look at those aspects and ask the national Government as indicated in the Motion, to constitute a committee that will enrich the National Security Committee. As legislators, we are asking that this is harnessed because of the threats that we are experiencing in our country. All the problems we are experiencing have been enlisted here. It is not fair to continue using the old tactics and regulations that were in place long before Independence as enumerated by Sen. G.G. Kariuki, given his history as one of the longest serving Ministers for Internal Security.

Mr. Temporary Speaker, Sir, the external threats that we are experiencing from our neighbours demand that we look at our borders so keenly. It necessitates that we put a lot of efforts as Senators into looking at this situation and asking the national Government to deal with it as a priority on top of the other development agenda that we have. What does it profit us to move into any development without dealing with the security of our country?

Mr. Temporary Speaker, Sir, I ask my colleagues to thoroughly look at this when we resume debate on the same. They should be able to speak to it and enrich this, so that we do not come to talk about security matters every now and then, given the challenges that we face.

Mr. Temporary Speaker, Sir, I beg to second.

(Question proposed)

Sen. Murungi: On a point of order, Mr. Temporary Speaker, Sir. We appreciate the importance of the Motion before the House. I also do agree with Sen. Wako that this is a matter which needs to be debated and given a lot of time, when the House has all the time and mind for this Motion. Some of us were supposed to go to Mombasa today, but we were requested to stay behind because of the other business which is pending before the House. I think that, that is why most of the Members have made the effort to be here. Therefore, I would like to move, under Standing Order No.97, that the debate on this Motion be now adjourned, so that the House can discuss the next business of this House. We will come to this debate after we dispose of the other business for which we had been requested to be in the House today.

Mr. Temporary Speaker, Sir, I would like to ask Sen. Keter to second the Motion.

Disclaimer: *The electronic version of the Senate Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Hansard Editor, Senate.*

Sen. (Dr.) Machage: On a point of order, Mr. Temporary Speaker, Sir.

The Temporary Speaker (Sen. Murkomen): What is it, Sen. Machage? A Motion is being seconded.

Sen. (Dr.) Machage: Mr. Temporary Speaker, Sir, that is why this point of order has to be listened to. Did you notice that the Seconder of Sen. G.G. Kariuki's Motion actually seconded the Motion of enriching the National Security Council and not the Motion that was moved by Sen. G.G. Kariuki?

The Temporary Speaker (Sen. Murkomen): Sen. Machage, as far as I am concerned, he seconded a Motion with his own contributions to the same Motion. So, his contribution included enriching the National Security Council and there is nothing wrong with that. It is perfect.

Sen. Keter: Mr. Temporary Speaker, Sir, I wish to second the Motion by my former boss and senior, Sen. Kiraitu Murungi, because of the urgency of the next business. Some of us did not travel to Mombasa and are here purposely for this business.

Mr. Temporary Speaker, Sir, we are aware that the Motion by Sen. G.G. Kariuki is also very important, even though we are going to make amendments to it at the right time. I saw him getting agitated, but I wish to assure him that I will support him on this Motion, though with some amendments. So, he should be assured of my vote on this Motion.

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

(Question proposed)

*(Question, that Debate be now
adjourned put and agreed to)*

The Temporary Speaker (Sen. Murkomen): Hon. Senators, I do not know if you are aware that we have a Supplementary Order Paper. We will use it when we move to Order No.11.

Next Order!

COMMITTEE OF THE WHOLE

(Order for Committee read)

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

IN THE COMMITTEE

Disclaimer: *The electronic version of the Senate Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Hansard Editor, Senate.*

*[The Temporary Chairman
(Sen. Murkomen) took the Chair]*

THE COUNTY GOVERNMENTS (AMENDMENT) (NO.2) BILL

Sen. (Dr.) Machage: On a point of order, Mr. Temporary Chairman, Sir. We have noticed that a few minutes ago, you were the presiding Temporary Speaker, and now you are the Chair of the Committee. How will you report to yourself?

The Temporary Chairman (Sen. Murkomen): Sen. Machage, you are aware that the Members would like to go to the main business. They would not want their Chair to give a lecture on the Standing Orders. So, I will ask you to revise the Standing Orders as we continue. There is a mechanism of doing that. I will let you know when the time comes.

Hon. Senators, we are now in the Committee of the Whole to deliberate on the County Governments (Amendment) (No.2) Bill, 2013, Senate Bills No.4. All the amendments are in the Supplementary Order Paper. Can the Supplementary Order Paper be given to all the Members?

While the Supplementary Order Paper is being circulated, we will allow Sen. Sang to proceed, because of time.

*(The Supplementary Order Paper was
circulated to the hon. Senators)*

Clause 2

Sen. Sang: Mr. Temporary Chairperson, I beg to move:-

THAT, Clause 2 of the Bill be amended-

- (a) in the opening paragraph by deleting the words “new section immediately after section 111-” and substituting therefor the words “new sections immediately after section 91-”;
- (b) in sub-clause (1)-
 - (i) by renumbering the proposed new section 111A as section 91A;
 - (ii) by deleting paragraph (f) and substituting it with the following new paragraph-
 - (f) the governor, as the Chief Executive Officer of the County, who shall be the secretary to the Board, and in his absence, the deputy governor of the county shall be the secretary;
 - (iii) by deleting paragraphs (h) and (i);

Disclaimer: *The electronic version of the Senate Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Hansard Editor, Senate.*

- (iv) in paragraph (n), by inserting the following words, “who shall be an *ex-officio* member” immediately after the words “Public Service Board”;
- (v) by inserting the following new paragraphs immediately after paragraph (n)-
 - (o) the County Commissioner, as an *ex-officio* member;
 - (p) any departmental head of the national and county government may attend the county development board meeting as an *ex-officio* member at the invitation of the Board.
- (c) in sub-clause (2)-
 - (i) by deleting the word “adopt” appearing in paragraph (c) and substituting therefor the words “make recommendations on”;
 - (ii) by deleting the word “adopt” appearing in paragraph (d) and substituting therefor the words “make recommendations on”;
 - (iii) by deleting the word “adopt” appearing in paragraph (e) and substituting therefor the words “make recommendations on”;
 - (iv) by inserting the following new paragraph immediately after paragraph (e)-
 - (ea) to consider and make recommendations on any issues of concern that may arise within the county;
- (d) in sub-clause (4) by inserting the words “at the County headquarters” immediately after the words “shall be held”; and
- (e) by inserting the following new clauses immediately after the proposed new clause 91A-

Mr. Temporary Chairman, Sir, the import of this amendment is that the initial proposed Amendment Bill was anchored on Section 111 of the County Governments Act, but as a Committee, having studied the same provisions, we are proposing that they be anchored under Section 91 of the County Governments Act. So, we are anchoring the amendment under Section 91 instead of Section 111.

Mr. Temporary Chairman, Sir, one of the challenges that we had initially was that certain members of the public and the Council of Governors thought that this Bill sought to give the Senators executive authority. We have made an amendment to the same Bill to provide that the Governor, recognizing that he is the Chief Executive Officer of the county, shall be the secretary. So, being able to capture that he is the Chief Executive Officer of the county, that deals with the fears that some of the Governors had.

Mr. Temporary Chairman, Sir, we have also provided that the member of the public service board, County Commissioner and departments would be members of this board as *ex-officio* members. This means that they do not have a vote when it comes to the decisions of the Board.

Mr. Temporary Chairman, Sir, further, with regard to part “c”---

An hon. Senator: On a point of order!

The Temporary Chairperson (Sen. Murkomen)]: It is only one clause. So, let him complete and then I will open the Floor.

Sen. Sang: Mr. Temporary Chairperson, Sir, it is Clause 2 with various sub-sections. Under Sub-section (c) of the same Clause, we are proposing that we delete the word “adopt;” and this comes after discussions where we agreed that the work of the Board will be to consider and recommend and, therefore, we are substituting the word “adopt” so that, then, the Board remains an advisory one and not an executive one as it had initially been misconstrued.

Mr. Temporary Chairperson, Sir, we also have some amendments with regard to Sub-Clause (d). The amendment seeks to state that the meetings of the Board shall be at the county headquarters. We had not provided where the meetings will be held and we found it necessary as a Committee to propose that the meetings of the Board shall be held at the county headquarters. Therefore, those are the amendments that the Committee is proposing with regard to Clause 2.

Mr. Temporary Chairperson, Sir, I beg to move.

(Question of the amendments proposed)

The Temporary Chairperson (Sen. Murkomen): Sen. Billow Kerrow.

Sen. Billow: Mr. Temporary Chairperson, Sir, I have a problem with the amendment proposed in Clause 2(v), which reads:

“by inserting the following new paragraphs immediately after paragraph (n)- the County Commissioner, as an *ex-officio* member;”

That is okay; but the next one in sub-clause (p), which reads:

“Any departmental head of the national and county government may attend---”

Mr. Temporary Chairperson, Sir, I am---

The Temporary Chairperson (Sen. Murkomen): For the sake of those who do not have the Order Paper, please read all of it.

Sen. Billow: Mr. Temporary Chairperson, Sir, it says:-

“any departmental head of the national and county government may attend the county development board meeting as an *ex-officio* member at the invitation of the Board.”

Mr. Temporary Chairperson, Sir, I think we are creating a very bloated Board by inviting all departmental heads of the national and county governments; we are talking of 40 or 50 people and we lose the strategic intention of having the Board.

Disclaimer: *The electronic version of the Senate Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Hansard Editor, Senate.*

The Temporary Chairperson (Sen. Murkomen): Sen. Keter.

Sen. Keter: Mr. Temporary Chairperson, Sir, I think part (v) is very clear; it says “at the invitation of the Board.” There could be specialization which we require the head of a section to appear before that advisory board. Hence, it is not the whole section but only those who are heading those sections, and only at the invitation of the Board. That is very clear. I do not know whether Sen. Kerrow has this document, because it is indicated “at the invitation of the Board.” So, it is very clear.

The Temporary Chairperson (Sen. Murkomen): Sen. (Dr.) Machage.

Sen. (Dr.) Machage: Mr. Temporary Chairperson, Sir, I wanted to stress on the point that has just been raised by Sen. Keter. This is a very important clause “at the invitation of the Board;” because sometimes we need professional input on some of the deliberations in that Board. So, this clause is quite okay; I do not agree with Sen. Billow Kerrow.

The Temporary Chairperson (Sen. Murkomen): Sen. Billow Kerrow, have you changed your mind?

Sen. Billow: Yes, Mr. Temporary Chairperson.

The Temporary Chairperson (Sen. Murkomen): Okay.

Sen. Sang, let us proceed to the next clause.

Sen. Sang: Thank you, Mr. Temporary Chairperson, Sir. I propose that Clause 3 be amended---

The Temporary Chairperson (Sen. Murkomen): Order, Sen. Sang! Order! Just pause briefly. You are saying that Clauses 3 and 4 are new clauses, right? That means that they will have to go through the Second Reading. So, for that reason, we would like you to respond to Clause 2 in terms of the debate that has taken place and then we will dispose of Clause 2 before I put the question, we will then combine the New Clauses; Clauses 3 and 4.

Sen. Sang: Thank you, Mr. Temporary Chairperson, Sir. I think the issue raised by Sen. Billow with regard to the aspect of some of the departmental heads within the national and county governments - the key point was responded to by Sen. Keter and Sen. (Dr.) Machage. The fact is that we will only invite the departmental heads when we think we need to discuss a particular issue. So, any of those departmental heads could be invited only when we are transacting business that relates to their departments, and I think that should address the concerns of a bloated membership of the Board. That is as far as I would want to respond.

The Temporary Chairperson (Sen. Murkomen): Thank you.

Hon. Senators, let us go to Division. So, I will put the Question, that Clause 2 be amended as proposed in the Order Paper.

Hon. Senators, we have already explained that--- We are actually in Division; so why are we even making this explanation? But the point is that the others are new clauses, which will go to Second Reading. So, we are only doing this one and then the others will be done together.

Disclaimer: *The electronic version of the Senate Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Hansard Editor, Senate.*

Ring the Division Bell.

(The Division Bell was rung)

Hon. Senators, we are now in Division on Clause 2. Can we have the tellers for the Ayes and for the Noes? For the Ayes it is Sen. Njoroge and for the Noes it is Sen. Gwendo. The Clerk will read the names when they are ready; the Tellers are ready.

For avoidance of doubt, I put the Question; that Clause 2 as amended be part of the Bill.

Hon. Senators, you remember the Speaker ruled yesterday that when we are voting, we should be calm, orderly and sit at our designated positions until the voting is completed.

DIVISION

ROLL CALL VOTING

(Question of the amendment to Clause 2, put and the Senate proceeded to vote by County Delegations)

AYES: Sen. Abdirahman, Wajir County; Sen. Billow, Mandera County; Sen. Boy, Kwale County; Sen. Hargura, Marsabit County; Sen. Hassan, Mombasa County; Sen. Karaba, Kirinyaga County; Sen. G. G. Kariuki, Laikipia County; Sen. Keter, Kericho County; Sen. (Prof.) Kindiki, Tharaka Nithi County; Sen.(Prof.) Lonyangapuo, West Pokot County; Sen. (Dr.) Machage, Migori County; Sen. Mungai, Nakuru County; Sen. (Eng.) Muriuki, Nyandarua County; Sen. Murkomen, Elgeyo-Marakwet County; Sen. Murungi, Meru County; Sen. Musila, Kitui County; Sen. Muthama, Machakos County; Sen. Mutula Kilonzo Jnr. Makueni County; Sen. Ndiema, Trans Nzoia County; Sen. Ntutu, Narok County; Sen. Okong'o, Nyamira County; Sen. Orengo, Siaya County; Sen. Sang, Nandi County; Sen. Wako, Busia County; Sen. Wamatangi, Kiambu County and Sen. Wangari, Nairobi County.

Teller of the Ayes: Sen. Njoroge

Noes: Nil

Teller of the Noes: Sen. Ong'era

The Temporary Chairman (Sen. Murkomen): Hon. Senators, the results are in for new clause 2. They are as follows:-

AYES: 31

NOES: Nil

ABSENTIONS: Nil

(Question carried by 31 votes to nil)

Disclaimer: *The electronic version of the Senate Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Hansard Editor, Senate.*

(Question, that the words to be left out
be left out, put and agreed to)

(Question, that the words to be inserted in place thereof
be inserted, put and agreed to)

(Clause 2 as amended agreed to)

New Clause 3

Sen. Sang: Mr. Temporary Chairman, Sir, I beg to move:-

THAT, the Bill be amended by inserting the following new clause immediately after clause 2-

3. The principal Act is amended in section 91 by deleting paragraph (f).

The principal Act, which is the County Government Act, under Section 91 (f) provides that the county Government will establish avenues for elected leaders not limited to Senators and Members of the National Assembly to contribute in the running of the county Government. The clause in the principal Act suggests that the responsibility of bringing together all the elected leaders to contribute on matters affecting counties would be the responsibility of the county Government itself. If you remember, when we discussed this Bill during the Second Reading, we all agreed that nine months down the line, no county Government has already established a framework for all the elected leaders in the counties.

Therefore, the importance of this amendment is to establish this platform for elected leaders at the county level to discuss and contribute to the running of counties, and to exclude it from being the responsibility of the county Government. We as a House are providing the platform in this amendment through the County Development Board. So, we do not want a situation whereby we have established the County Development Board and tomorrow, a county Government out there decides to create another parallel platform for all the other elected leaders. So, we are amending this to provide that the County Government Development Board as proposed in this amendment will be the only platform for all the elected leaders at the county level to the exclusion of any other platform that the county Government may mischievously decide to establish. That is the import of the new clause.

*(Question, that the New Clause 3 be read a
Second Time proposed)*

New Clause 4

Disclaimer: *The electronic version of the Senate Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Hansard Editor, Senate.*

Sen. Sang: Mr. Temporary Chairman, Sir, I beg to move that the Bill be amended by inserting the following new sections immediately after the proposed new section 91A

New Clause 4

Sen. Sang: Mr. Temporary Chairman, Sir, I beg to move:

That the Bill be amended by inserting the following new sections immediately after the proposed new section 91A

Establishment Sub-County Development Boards	of	91B (1). There is established, for each sub-county, a board to be known as the Sub-County Development Board, consisting of the following persons- the member of the National Assembly elected under Article 97(1)(a) of the Constitution representing the sub-county, who shall be the chairperson of the board; the sub-county administrator, who shall be the secretary; the members of the National Assembly nominated under Article 97(1)(c) of the Constitution who were, in the immediately preceding general election, registered as voters in the sub-county; the Deputy County Commissioner, who shall be an <i>ex-officio</i> member; all the Assistant Deputy County Commissioners in the sub-county, who shall be <i>ex-officio</i> members; all the ward and town administrators in the sub-county; one male community leader in the sub-county; one female community leader in the sub-county; one youth community leader in the sub-county; one person representing persons with disabilities in the sub-county; the member of the Senate for the County elected under Article 98(1)(a) of the Constitution, who shall be an <i>ex-officio</i> member; the Governor of the county as an <i>ex-officio</i> member; the members of the Senate nominated under
--	----	---

Disclaimer: *The electronic version of the Senate Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Hansard Editor, Senate.*

Article 98(1)(b), (c) and (d) of the Constitution, and who were, in the immediately preceding general election, registered as voters in the county who shall be an *ex-officio* member; the woman member of the National Assembly for the county elected under Article 97(1)(b) of the Constitution, as an *ex-officio* member; and any departmental head of the national and county government who may attend the county development board meeting as *ex-officio* member at the invitation of the Board.

(2) The Chair of the Board in appointing the members of the board under paragraphs (g), (h), (i) and (j) of subsection (1), the chairperson of the board shall ensure that the appointments reflect the various diversities among the people in the sub-county.

(3) The functions of the sub-county development boards and the procedures applicable to the conduct of their meetings and affairs shall be the same as that of the County Development Boards established under section 91A, with any necessary modifications.

Establishment of
Ward development
Boards

91C (1). There is established, for each ward, a board to be known as the Ward Development Board, consisting of the following persons-

the member of the county assembly elected under Article 177(1)(a) of the Constitution representing the ward, who shall be the chairperson of the board;
the ward administrator, who shall be the secretary; the members of the county assembly nominated under Article 177(1)(b) and (c) of the Constitution who were, in the immediately preceding general

election, registered as voters in the ward; the Assistant Sub-county Commissioner, who shall be an *ex-officio* member; all the chiefs in the ward, who shall be *ex-officio* members; all the village administrators in the ward, who shall be *ex-officio* members; one male community leader in the ward; one female community leader in the ward; one youth community leader in the sub-county; one person representing persons with disabilities in the ward; the member of the Senate for the County elected under Article 98(1)(a) of the Constitution, who shall be an *ex-officio* member; the Governor of the county as an *ex-officio* member; the members of the Senate nominated under Article 98(1)(b), (c) and (d) of the Constitution, and who were, in the immediately preceding general election, registered as voters in the county who shall be an *ex-officio* member; the woman member of the National Assembly for the county elected under Article 97(1)(b) of the Constitution, as an *ex-officio* member; and any departmental head of the national and county government who may attend the county development board meeting as *ex-officio* member at the invitation of the Board.

(2) In appointing the members of the board under paragraphs (g), (h), (i) and (j) of sub-section (1), the chairperson of the board shall ensure that the appointments reflect the various diversities among the people in the ward.

(3) The functions of the ward development boards and the procedures applicable to the conduct of their meetings and affairs shall be the same as that of the County Development Boards established

under section 91A, with any necessary modifications.

91D. The operational expenses in respect of the County Development Board, the Sub-County Development Board and the Ward Development Board shall be provided for in the annual estimates of the revenue and expenditure of the respective county government.

(Question, that the New Clause 4 be read a Second Time proposed)

Sen. (Eng.) Muriuki: On a point of order, Mr. Temporary Chairman, Sir. With all due respect, we are through with the Second Reading. Here, we are at the Committee Stage and I stand corrected, because we finished the First Reading and the Second Reading and what we are now doing is moving amendments to the Bill already accepted at the Second Reading which we completed.

The Temporary Chairman (Sen. Murkomen): Basically this is a new clause which was not inserted during the Second Reading and that is why we have to go through it in the Second Reading. It was not there during the Second Reading. It came later after the Second Reading.

Sen. Sang: Mr. Temporary Chairman, Sir, maybe if the Senator had waited a little bit for me to explain, we would be on the same page. You remember that the initial amendment did not contain or did not have provisions for the establishment of the sub-county development Boards and the Ward Development Boards, but from the discussions during the Second Reading of the Bill and within our Committee, we agreed that we cascade the same County Development Board at the county level down to the sub-county level so that we have the Sub-county Development Board and the Ward Development Board.

This is exactly the same rationale that we have for the County Development Board. We need discussions and a platform for elected leaders at the sub-county level. At the sub-county level, we have a Member of the National Assembly and all the other elected leaders. We propose that we establish the Sub-county Development Boards that will be chaired by the Member of the National Assembly elected in that constituency. The Sub-county administrator will be the Secretary and the membership of the Sub-county Development Board will include the elected Members of the County Assembly within that particular sub-county. We also have the Deputy County Commissioner as an *ex-officio* member, we have the Assistant Commissioners as *ex-officio* members. We also have the ward and the town administrators within the sub-county and others.

Disclaimer: *The electronic version of the Senate Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Hansard Editor, Senate.*

Most critical is that we are also proposing that elected and nominated Senators within the counties that they come from and also the Governor and the women representative will be *ex-officio* members in each of those sub-county boards. This provides an opportunity for elected leaders. When a sub-county is holding their Sub-county Development Board meeting, as a Senator, you have the liberty to attend some of those deliberations. So, that is with regard to the sub-county.

More importantly at this level, we are also proposing that we will have people being nominated into the Sub-county Board to represent persons with disabilities, women, community leaders, men, youth *et cetera*, so that we have an all inclusive Board at the sub-county level.

Finally, we are proposing that we establish a Ward Development Board in each of the wards. This will be chaired by the elected Member of the County Assembly and the ward administrator will be the secretary. Chiefs will be *ex-officio* members as captured within the proposed amendments. At this level, we are proposing, as a Committee, that we also have the Senator and women representative as *ex-officio* members, so that when you feel like attending some of these ward development meetings as a Senator, you have the opportunity to attend. In this case, you will attend as an *ex-officio* member.

Mr. Temporary Chairman, Sir, any departmental head of the national and county Government who may attend the ward development board – we have a typographical problem at (o) and we intended it to be a ward development meeting on invitation is the same rationale as it were. I am moving this particular one in an amended version because of that typographical error. Instead of the word “county”, we have the “ward”.

We are also providing that the Chairman of the sub-county and ward development boards are the persons who will appoint the other representatives. Representative of persons with disabilities, community leaders, women and all the others will be appointed by the chairperson of the board, but it should conform and reflect the various diversities among the people within that ward. So, I think that, that is fairly important.

Mr. Temporary Chairman, Sir, in terms of the clause regarding the functions, the functions are exactly the same as those of the county development board, only that this relates to the sub-county, if you are talking about the sub-county development board or the ward, if you are discussing the ward development board-

Mr. Temporary Chairman, Sir, the final element is that the operational expenses in respect to the county development board, sub-county development board and ward development board shall be provided for in the annual estimates of revenue and expenditure for each of the respective county governments. So, we are providing that at the end of the day, if a board meeting is going to be held and we need water, tea and some small facilitation, this will be provided within the budget of each of the counties. That will help us to operationalize this.

Mr. Temporary Chairman, Sir, I beg to move.

Sen. Wako: Mr. Temporary Chairman, Sir, I agree entirely with what Sen. Sang has said and have really no useful words to add, in justification for these new clauses.

However, under the proposed Clause 91 (c), we appear to have forgotten that a Member of Parliament should be an *ex-officio* member of the ward. So, I propose that we amend it using the same words which are in 91 B (a), to read:-

“The Member of the National Assembly elected under Article 97 (1) (a) of the Constitution, representing the sub-county, who shall be an *ex-officio* member.”

The Temporary Chairman (Sen. Murkomen): Sen. Wako, that is a good proposal, but we are in the Second Reading. We will deal with that at the Committee Stage.

Sen. (Prof.) Lonyangapuo: Mr. Temporary Chairman, Sir, under New Clause 4, Section 91B (2), there is a repetition. It reads:-

“The Chair of the Board in appointing the members of the board under paragraphs (g), (h), (i) and (j) of sub-section (1), the chairperson of the board shall ensure that the appointments reflect the various diversities among the people in the sub-county.”

Mr. Temporary Chairman, Sir, I propose that we delete the words “the Chair of the Board” so that it reads:-

“In appointing the members of the board under paragraphs (g), (h), (i) and (j) of sub-section (1), the chairperson of the board shall ensure that the appointments reflect the various diversities among the people in the sub-county.”

The Temporary Chairman (Sen. Murkomen): Okay. That will also be dealt with at the Committee stage.

Sen. (Dr.) Machage: Mr. Temporary Chairman, Sir, in appreciating the drafters of this Bill, I beg to be corrected if my memory serves me wrong. I did not see in the main Bill, whether there was an indication of how many times the boards can meet and what the number of mandatory boards is. If the convener refuses to call any board meeting at all, what happens?

Sen. Billow: Mr. Temporary Chairman, Sir, I rise to oppose the insertion of New Clause 4. If you look at the objects of this Bill, it is to provide a forum for consultation between the national Government and the county governments at the county level. My concern is that if we cascade these functions over a forum to the ward and the constituency, in my view, we are going to lose the strategic direction that we want to set for the county.

I thought that the objective of having this forum was to create a direction for this county. Now, if you bring this to the constituency level, with all the conflict of interests over the projects that will be identified and proposals about funding at the ward level and they confirm and completely make it as their position and bring it to the county, really at the county level, we will get into a situation where all we will be doing is rubberstamping positions that are taken at county level and constituency level.

Mr. Temporary Chairman, Sir, whilst I am not opposed, the Constitution does provide for an input through public participation at those levels. But I really think that,

that concept of having a board at the county level to give that direction will be lost by creating a huge board in the constituency. So, in my view, really, it does not add value to the process.

Sen. Murungi: Mr. Temporary Chairman, Sir, with all due respect, allow me to disagree with my very able colleague, Sen. Billow Kerrow. Our Constitution is based on the theory of participation. Indeed, it even provides for further structures of devolution, even below the ward level.

Mr. Temporary Chairman, Sir, it is very important that the leaders at the ward level meet to discuss development within the ward. This is because they have elected a Member of the County Assembly (MCA) at the ward level and that MCA has made certain promises to these people. It could be a very small road connecting one school to another one or one village to another, which might not be captured in the big plans that we make at the county level. So, I think that it is important for the leaders at the ward level to meet, so that they can prioritize and agree on what they want to do at the ward level.

Then, all those development plans at the ward level will be further discussed at the sub-county level, because the MCAs will be meeting at the sub-county level. When they meet they will be able to do a constituency development plan comprising of all those other plans. Then, when we meet at the county development board, we shall also be looking at what the various sub-county boards have considered. Maybe there will be other flagship projects which will not have been considered in any sub-county forum, which we can also introduce at the county level.

Mr. Temporary Chairman, Sir, I think this is a very good idea that we have the boards at the county, sub-county and ward levels.

I beg to support.

Sen. (Eng.) Muriuki: Mr. Temporary Chairman, Sir, I rise to support the inclusion of this New Clause.

Mr. Temporary Chairman, Sir, first of all, I would wish to disagree with Sen. Billow Kerrow. There is need to have this forum at the constituency and ward level. However, where it says that the meetings will take place quarterly in the county, I think that needs to be amended so that the meetings at the ward level do not happen quarterly. This is because I think we shall be overdoing things. If you collect the views at the ward level maybe once every year or two years and at the constituency level, once a year, then it will make sense, otherwise, there will be too many meetings in the wards, constituencies and counties. That is my substantive contribution to this.

Thank you, Mr. Temporary Chairman, Sir.

Sen. Wako: Mr. Temporary Chairman, Sir, I support all that has been said by Sen. Murungi, in support of this particular amendment. But I just want to add the legalistic perspective to this. This is because Sen. Billow Kerrow quoted only one function of the Board, which is to facilitate consultations between the national Government and county governments. Because of that, he said that boards are not

necessary. But I want to explain to you legally. For example, if you come to the ward development board, the proposed Section 91 C (3) reads:

“The functions of the ward development boards and the procedures applicable to the conduct of their meetings and affairs shall be the same as that of the County Development Boards established under Section 91A, with necessary modifications.”

When it reads “with necessary modifications,” it means that those other functions are the ones which will really be discussed at that level.

Sen. Wamatangi: Mr. Temporary Chairman, Sir, I also stand to support Sen. Kiraitu. I believe that for any county board to hold a meeting, it must have recommendations from the sub-county boards. So, the sub-county again cannot hold meetings when the wards have not made recommendations. This is because the beneficiaries of these meetings actually are *wananchi* on the ground. In order for the boards to come up with sufficient conclusions of their meetings, the sub-county and ward boards have to meet quarterly, so that they would have enough recommendations which can be discussed at the county level.

The Temporary Chairman (Sen. Murkomen): Finally, Sen. Godana and then the Acting Senate Minority Leader.

Sen. Hargura: Thank you, Mr. Temporary Chairman, Sir. I stand to support the two clauses; Clauses 3 and 4, which are additional clauses, because for a long time, we have not actually been capturing what our people want in terms of development. The closer we get to them, the better, and this is one way of doing it. Mine is also just to stress that for the smooth working of these Boards, at least, the ward and the sub-county could meet only once in a year and present their proposals so that we can do the actual supervision at the county level, and that is where we need to meet at least quarterly.

Thank you, Mr. Temporary Chairman, Sir.

The Temporary Chairman (Sen. Murkomen): Finally, the Acting Senate Minority Leader.

The Acting Senate Minority Leader (Sen. Abdirahman): Thank you, Mr. Temporary Chairman, Sir. I also stand to support the amendments, and I would want to make one thing clear. One is the fact that when people plan at ward level, they will identify their priorities, as rightly said by many other speakers before me. The fact that we may not face what we have faced in the past in terms of identifying the actual projects – you know there are many white elephant projects that existed because people at the lower levels were not involved – thus bringing in the element of participation. The fear that a few people are now trying to express, in terms of wards or representatives of those communities, forming rigid positions; the fact that their priorities may not be considered at the highest level, does not arise because I think the final position lies with the county boards, who will harmonize those projects and even remove some of them, because you are not obliged to accommodate all their proposals. So, the fear that people will take rigid positions from the lower levels may not occur. This is what I think.

Thank you, Mr. Temporary Chairman, Sir.

(Sen. G.G. Kariuki stood up in his place)

The Temporary Chairman (Sen. Murkomen): Sen. G.G. Kariuki, that was the last contribution, in the interest of time. But since you are Number One, we will give you an opportunity to contribute.

Sen. G.G. Kariuki: Mr. Temporary Chairman, Sir, I am just a Senator, just like any other Senator here. What I am trying to reason, by standing here, was to support this amendment because it is very good for all the politicians, especially the Chair of that Board. He will be more comfortable that what he is saying is also said at the grassroots level, because if you want positive politics, we need to have a reason of talking to the very low people in the villages. But if you deny them the opportunity to have these committees, you will always be confronted with a lot of requests. They will always disturb you and say that you did not give us the opportunity to do what we want.

In any case, Mr. Temporary Chairman, Sir, the development that we are anticipating is supposed to start from the grassroots, and that is where the people will be very satisfied that they were also consulted. The Board can say no to their thinking with reasons. But without involving them, we are heading for problems. It is going to be a big problem and that is why I support this new clause.

The Temporary Chairman (Sen. Murkomen): Thank you very much. I want to put the Question; that the New Clauses 3 and 4 be read a second time.

Ring the Division Bell.

So, basically, we will vote for the 3rd and the 4th amendments together and then we will go to the Committee Stage to complete.

(The Division Bell was rung)

Let us have the same tellers so that we move very fast. Sen. Halima is not there; can anyone else volunteer to be the teller, somebody like Sen. Orengo, for example?

(Laughter)

Okay, Sen. (Prof.) Kindiki has volunteered. That is called servant leadership.

Okay, lock the doors.

Hon. Senators, I now put the Question; that clauses 3 and 4 be read a Second Time. Before the names are called, I want to remind you that when you vote, you say “I vote yes or no to Clause 3; I vote yes to Clause 4.” We have to be specific in both clauses.

DIVISION

ROLL CALL VOTING

(Question, that the New Clause 3 be read a Second Time put and the Senate proceeded to vote by County Delegations)

AYES: Sen. Abdirahman, Wajir County; Sen. Billow, Mandera County; Sen. Boy Juma Boy, Kwale County; Sen. Hargura, Marsabit County; Sen. Hassan, Mombasa County; Sen. Karaba, Kirinyaga County; Sen. G. G. Kariuki, Laikipia County; Sen. Keter, Kericho County; Sen. (Prof.) Kindiki, Tharaka Nithi County; Sen.(Prof.) Lonyangapuo, West Pokot County; Sen. (Dr.) Machage, Migori County; Sen. Mungai, Nakuru County; Sen. (Eng.) Muriuki, Nyandarua County; Sen. Murkomen, Elgeyo-Marakwet County; Sen. Murungi, Meru County; Sen. Musila, Kitui County; Sen. Muthama, Machakos County; Sen. Mutula Kilonzo Jnr. Makueni County; Sen. Ndiema, Trans Nzoia County; Sen. Ntutu, Narok County; Sen. Okong'o, Nyamira County; Sen. Orengo, Siaya County; Sen. Sang, Nandi County; Sen. Wako, Busia County; Sen. Wamatangi, Kiambu County and Sen. Wangari, Nairobi County.

Teller of the Ayes: Sen. Njoroge

Noes: Nil

Teller of the Noes: Sen. Ong'era

The Temporary Chairman (Sen. Murkomen): Hon. Senators, the results are in for New clause 3. They are as follows:-

AYES: 29

NOES: Nil

ABSENTIONS: Nil

(Question carried by 29 votes to 0)

(Question, that New Clause 3 be read a Second Time, put and agreed to)

(New Clause 3 was read a Second Time)

(Question that New Clause 3 be part of the Bill proposed)

New Clause 4

DIVISION**ROLL CALL VOTING**

*(Question, that the new Clause 4 be read a
Second Time put and the Senate proceeded
to vote by County Delegations)*

AYES: Sen. Abdirahman, Wajir County; Sen. Boy, Kwale County; Sen. Hargura, Marsabit County; Sen. Hassan, Mombasa County; Sen. Karaba, Kirinyaga County; Sen. G. G. Kariuki, Laikipia County; Sen. Keter, Kericho County; Sen. (Prof.) Kindiki, Tharaka Nithi County; Sen.(Prof.) Lonyangapuo, West Pokot County; Sen. (Dr.) Machage, Migori County; Sen. Mungai, Nakuru County; Sen. (Eng.) Muriuki, Nyandarua County; Sen. Murkomen, Elgeyo-Marakwet County; Sen. Murungi, Meru County; Sen. Musila, Kitui County; Sen. Muthama, Machakos County; Sen. Mutula Kilonzo Jnr. Makueni County; Sen. Ndiema, Trans Nzoia County; Sen. Ntutu, Narok County; Sen. Okong'o, Nyamira County; Sen. Orenge, Siaya County; Sen. Sang, Nandi County; Sen. Wako, Busia County; Sen. Wamatangi, Kiambu County and Sen. Wangari, Nairobi County.

Teller of the Ayes: Sen. Njoroge

NOES: Sen. Billow, Mandera County.

Teller of the Noes: Sen. Ong'era

The Temporary Chairman (Sen. Murkomen): Hon. Senators, the results are in for New clause 4. They are as follows:-

AYES: 28

NOES: 1

ABSENTIONS: Nil

(Question carried by 28 votes to 1)

*(Question, that New Clause 4 be read a
Second Time, put and agreed to)*

(New Clause 4 was read a Second Time)

*(Question, that new Clause 4 be part
of the Bill proposed)*

Sen. Sang: Mr. Temporary Chairman, Sir, I propose that New Clause 4 be part of the Bill but with the following amendments.

In 91 (b) (2), there are some repetitions there that were pointed out by Sen. (Prof.) Lonyangapuo and, therefore, the words “the chair of the Board” should be deleted so that the sentence begins, “in the appointment of the members of the Board---“.

Further, under (o) that any departmental head of the national and county governments who may attend the Ward Development Board. I am proposing the substitution of the word “county” with the words “Ward Development Board” and further as pointed out by the Chairman of the Committee on Legal Affairs and Human Rights, is that the elected and the nominated Members of the National Assembly and the Nominated Senators shall be ex-officio Members of the Ward Development Board as provided. It is technically the same explanation that we gave at the Second Reading of this Bill.

The Temporary Chairman (Sen. Murkomen): Hon. Senators, I put the Question that the New Clause 4 be part of the Bill as amended by the Mover.

*(Question of the amendment to
New Clause 4 proposed)*

Sen. Keter: Mr. Temporary Chairman, put the Question on all of them, including the title and the recital.

The Temporary Chairman (Sen. Murkomen): Hon. Senators, we will go to Division on the two clauses. We are unable to go to the title and recital because we have not agreed to the new clauses. So, we will go into Division. I am sorry, it is a technicality in the Standing Orders. Cognizant of the fact that all the Senators are present, we will ring the Division Bell.

Sen. Keter: On a point of order, Mr. Temporary Chairman, Sir. The Title will not change since there is no amendment to it. So, we could vote for all of them at one go.

The Temporary Chairman (Sen. Murkomen): Sen. Keter is right. The provided amendments do not change the title and neither will they change Clause 1. So, we can do the two clauses, together with the title and Clause 1 in one division.

Title

(Question, that the Title be part of the Bill, proposed)

Clause 1

(Question, that Clause 1 be part of the Bill, proposed)

Disclaimer: *The electronic version of the Senate Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Hansard Editor, Senate.*

The Temporary Chairman (Sen. Murkomen): Hon. Senators, since there are no proposed amendments to the Title and to Clause 1, we are going to have one division for all of them. So, when you vote, you will be voting for all of them; you say I vote “aye” to all of them, I vote “Nay” to all of them or you abstain. Are we clear?

Hon. Senators: Yes.

The Temporary Chairman (Sen. Murkomen): Therefore, I put the Question that New Clause 3, New Clause 4, Title and Clause 1 be part of the Bill.

Ring the Division Bell

(The Division Bell was rung)

DIVISION

ROLL CALL VOTING

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

AYES: Sen. Abdirahman, Wajir County; Sen. Billow, Mandera County; Sen. Boy Juma Boy, Kwale County; Sen. Haji, Garissa County, Sen. Karaba, Kirinyaga County; Sen. G. G. Kariuki, Laikipia County; Sen. Keter, Kericho County; Sen. (Prof.) Kindiki, Tharaka Nithi County; Sen. (Dr.) Kuti, Isiolo County; Sen.(Prof.) Lesan, Bomet County; Sen. Leshore, Samburu County; Sen. (Prof.) Lonyangapuo, West Pokot County; Sen. (Dr.) Machage, Migori County; Sen. Mungai, Nakuru County; Sen. (Eng.) Muriuki, Nyandarua County; Sen. Murkomen, Elgeyo-Marakwet County; Sen. Murungi, Meru County; Sen. Musila, Kitui County; Sen. Muthama, Machakos County; Sen. Mutula Kilonzo Jnr. Makueni County; Sen. Ndiema, Trans Nzoia County; Sen. Ntutu, Narok County; Sen. Okong’o, Nyamira County; Sen. Ong’era, Kisii County; Orengo, Siaya County; Sen. Sang, Nandi County; Sen. Wako, Busia County; Sen. Wamatangi, Kiambu County and Sen. Wangari, Nairobi County.

Teller of the Ayes: Sen. Njoroge

NOES: Nil

Teller of the Noes: Sen. Keter

The Temporary Chairman (Sen. Murkomen): Hon. Senators, the results of the Division on all the clauses are in and they are as follows:-

AYES: 29

NOES: Nil

ABSENTIONS: Nil

(Question carried by 29 votes to nil)

Disclaimer: *The electronic version of the Senate Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Hansard Editor, Senate.*

*(Question, that the New Clause 3 be part part
of the Bill, put and agreed to)*

*(Question, that the New Clause 4 as amended be part
of the Bill, put and agreed to)*

(New Clause 4 as amended agreed to)

(Title agreed to)

(Clause 1 agreed)

Sen. Sang: Mr. Temporary Chairman, Sir, I beg to move that the Committee doth report to the House its consideration of The County Governments (Amendment) (No.2) Bill (Senate Bill No. 4 of 2013) and its approval thereof with amendments.

The Temporary Chairman (Sen. Murkomen): Hon. Senators, I decline to put the Question at this point until we finish the business on the Order No.11 (b). The doors can now be opened.

(The doors were opened)

THE NATIONAL FLAG, EMBLEMS
AND NAMES (AMENDMENT) BILL

Clause 3

Sen. Mutula Kilonzo Jnr.: Mr. Temporary Chairman, Sir, on behalf of my Chair, Sen. Wako, who is taking responsibility on behalf of the effervescent Sen. Boni Khalwale, I beg to move:-

THAT Clause 3 of the Bill be amended-

(a) in the proposed new section 2AA(1) by deleting paragraphs (a) to (g) and substituting therefore the following new paragraphs-

- (a) the President;
- (b) the Deputy President;
- (c) a Speaker of a House of Parliament; and
- (d) the Chief Justice.

(b) by deleting the proposed new sub-section 2AA(2);

(c) in the proposed new section 2AC by deleting paragraphs (a) to (k) and substituting therefor the following new paragraphs-

- (a) the President;

Disclaimer: *The electronic version of the Senate Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Hansard Editor, Senate.*

- (b) the Deputy President;
- (c) a Speaker of a House of Parliament;
- (d) the Chief Justice;
- (e) a Senator;
- (f) a Governor;
- (g) a Member of the National Assembly;
- (h) a Cabinet Secretary;
- (i) the Attorney-General;
- (j) the Auditor-General;
- (k) a Speaker of a County Assembly; and
- (l) a Member of a County Assembly

Mr. Temporary Chairman, Sir, the amendments on Clause 3 seek to change the order as it appears in the Bill, so that the Speaker of a House of Parliament appears before the Chief Justice. The new order will read: The President, the Deputy President, the Speaker of a House of parliament, the Chief Justice---. The amendment also deletes the Attorney-General and the Governor, and in effect also amends sub-section 2AA to remove the Clause in so far as the Governor was proposed to fly the flag on his official motor vehicle within the boundaries of the county.

Mr. Temporary Chairman, Sir, part “c” similarly proposes to amend the order, so that the Speaker of a House of Parliament comes before the Chief Justice in so far as protocol is concerned and the Senator appears before the Cabinet Secretary and the Attorney-General.

(Question of the amendment proposed)

Sen. Billow: Mr. Temporary Chairman, Sir, I think it is important that we have this pecking order established in law. This is a very important amendment *na tuiunge mkono*, so that when we go to functions, we know who is who and who sits where. We should not have Members of Parliament struggling to find where to sit.

Sen. Orengo: Thank you, Mr. Temporary Chairman, Sir, I just wanted to make the point that this amendment is in compliance with the Constitution. Article 1 of the Constitution is very important and talks about the sovereignty of the people. Article 1 (2) and (3) reads:-

“(1) All the sovereign power belongs to the people of Kenya and shall be exercised only in accordance with this Constitution.

(2) The people may exercise their sovereign power either directly or through their democratically elected representatives.”

So, in the order of things, as this Bill proposes and as amended, the elected representatives should come before the appointed public officials.”

Hon. Senators: Put the Question!

The Temporary Chairperson (Sen. Murkomen): I decline to put the Question.

Sen. Janet Ong'era.

Sen. Ong'era: Mr. Temporary Chairman, Sir, I do not know whether I can propose an amendment.

Hon. Senators: No.

Sen. Ong'era: Okay, Mr. Temporary Chairman, Sir, I just want to make an observation. I wanted to propose that the Chief Justice should come down; going by the order that Sen. Orengo just read to us from the Constitution. Because I do not think it will be proper, having read the Constitution, that the elected representatives who represent the interest of the sovereign people of Kenya---

(Loud consultations)

The Temporary Chairperson (Sen. Murkomen): Order!

What is it, Sen. (Prof.) Kindiki, the Senate Majority Leader.

The Senate Majority Leader (Sen. (Prof.) Kindiki): Mr. Temporary Chairman, Sir, in light of the sentiments of my sister, Sen. Janet Ong'era, I just wanted to say that for the Chief Justice – and I wanted to support fully my senior, Sen. James Orengo, on the question of the exercise of sovereign will – but the Chief Justice heads an institution which is one of the three arms of Government. So, whether they are elected or not, it is overcome by that fact; that he is the head of one of the three arms of Government.

The Temporary Chairperson (Sen. Murkomen): Sen. Sang?

Sen. Sang: Mr. Temporary Chairman, Sir, further to the point raised by our Senate Majority Leader, it is important to also note that we have three arms of Government; the Executive, the Legislature and the Judiciary. I think we have placed the Chief Justice as the head of an arm of Government that is not elective as the third in rank--

Hon. Senators: The fourth!

Sen. Sang: Yes; third in terms of--- Yes, I know the Deputy President sits in there; but the President and the Deputy President head the Executive, then you have the Speakers of both Houses coming in second; then you have the Chief Justice. I think it sits well in that line.

The Temporary Chairperson (Sen. Murkomen): Lastly Sen. Orengo.

Sen. Orengo: Mr. Temporary Chairman, Sir, the only reason I will support where you have placed the Chief Justice is that, if he is a good Chief Justice; the less he is seen in the public, the better.

(Laughter)

But he can appear on exceptional national days; but otherwise, the Chief Justice is better out of the way.

Disclaimer: *The electronic version of the Senate Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Hansard Editor, Senate.*

(Laughter)

No; let me tell you; there have been instances where if the Chief Justice gets too much involved in the daily affairs of politics or even appearances, it can also get into the head of the Chief Justice, and he begins to imagine that sitting next to him is valuable in certain circumstances.

Thank you, Mr. Temporary Chairman, Sir.

Hon. Senators: Put the Question!

The Temporary Chairperson (Sen. Murkomen): Okay. Hon. Senators, I decline to put the Question until the final Clause.

Clause 4

(Question, that Clause 4 be part of the Bill proposed)

There is no amendment to Clause 4. So, I propose that Clause 4 be part of the Bill.

(The Clerk-at-the-Table consulted the Speaker)

Basically, Clause 4 is the one that provides the Schedule.

Sen. Mutula Kilonzo Jnr.: Mr. Temporary Chairman, Sir, I propose the amendment is as it appears in the Schedule of the Order Paper; by inserting the new row after the row immediately after “a member of the National Assembly.” We have proposed to include---

The Temporary Chairperson (Sen. Murkomen): Order! Order, Sen. Mutula Kilonzo Jnr.! You are moving just Clause 4; then I will call you for the Schedule.

(The Clerk-at-the-Table consulted the Speaker)

I propose the Question; that the Fourth Schedule be part of the Bill. Remember, hon. Senators, that the Fourth Schedule is domesticated under Clause 4 and not 5, if you have the original Bill. There is a typing error; so, you will see Clause 3 and then you move to Clause 5, but which is not Clause 5; it is Clause 4. That is why you find Clause 4. That was an amendment; if you see Clause 4 being part of the Bill; it is so that it becomes Clause 4 and not Clause 5. Then we will move to the Fourth Schedule, which I have proposed to be part of the Bill.

Sen. Mutula Kilonzo Jnr.

Schedule

Sen. Mutula Kilonzo Jnr.: I beg to move:-

Disclaimer: *The electronic version of the Senate Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Hansard Editor, Senate.*

SCHEDULE

THAT the Schedule be amended-

- (a) by inserting the following new row immediately after the row providing for “Member of the National Assembly”-

Speaker of a County Assembly	Honourable Speaker
------------------------------	--------------------

- (b) in the row providing for the “Member of a County Assembly” by-

- (i) deleting the word “Honourable” appearing immediately before the word “Assemblyman; and
- (ii) deleting the word “Honourable” appearing immediately before the word “Assemblywoman”.

The proposal is as it appears in the Schedule. Under (a), we had omitted the Speaker of the county assembly and we have replaced it in part (a) with the title “Honourable Speaker.” In part (b), in the row providing for the “Member of a County Assembly,” we have proposed to delete the word “Honourable” appearing immediately before the word “Assemblyman; and, in part (ii), delete the word “Honourable” appearing immediately before the word “Assemblywoman”. The proposal herein was predicated on the fact that between the Member of Parliament and the Members of County Assembly (MCAs), there are too many honourables and, therefore, it was proposed that the title “honourable” in so far as the Member of the National Assembly and the MCAs remains uniform. The Speaker of the county assembly be referred to as “Honourable Speaker.”

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Murkomen): Acting Senate Minority Leader.

The Acting Senate Minority Leader (Sen. Abdirahman): Mr. Temporary Chairman, Sir, I support the amendment mainly because it will help us really reduce the whole conflict we have experienced in the past; and it makes a clear distinction between the MPs and the MCAs elected at ward level. I think it will create some order in terms of ensuring that we have harmony between the various levels of representation.

Thank you very much, Mr. Temporary Chairman, Sir.

The Temporary Chairperson (Sen. Murkomen): Sen. Billow Kerrow.

Sen. Billow Kerrow: Mr. Temporary Chairman, Sir, I rise to oppose this amendment. The County Assembly Woman and the County Assembly Man are people who were elected. They are elected with a mandate far much greater than what the local authority leaders used to have. They, in fact, represent an assembly – not a national one, but the county one – and in that regard, they are respectable honorable people in the sense

Disclaimer: *The electronic version of the Senate Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Hansard Editor, Senate.*

that they do exactly the same functions that the other honorable Members in the National Assembly do; they approve budgets, they consider plans and policies of the government.

In my view, it would be in order to retain the title “honorable assembly man” and “honorable assembly woman” to these people because of the roles that they do in terms of oversight, representation and legislation, approving budgets and drawing up plans. In my view, I want to oppose the amendment and retain the title “honorable assembly man” and “honorable assembly woman.”

The Temporary Chairperson (Sen. Murkomen): Sen. Kiraitu.

Sen. Murungi: I want to thank you, Mr. Temporary Chairman, Sir. I am speaking here now with the authority of the Chairman of the Committee on Legal Affairs and Human Rights. This amendment came from Sen. (Dr.) Khalwale, and we, as the Committee, looked at it and we had our own feelings, but we let it go. But due to the feelings that have been expressed in the House, especially by Sen. Billow Kerrow, I think they are persuasive enough and, as Committee, we are really not taking a very hard position on this. We are being guided by the wisdom of the House and I think it is important that the ward representatives, who are playing a very important role, feel recognized since we know that they are different from the former councilors. So, I think they can retain the title “honourable” if the House feels that is important.

The Temporary Chairperson (Sen. Murkomen): Chairman, Sen. Musila.

Sen. Musila: Mr. Temporary Chairman, Sir, I want to support the views expressed by Sen. Billow Kerrow. These are people who are elected with a mandate to legislate. You see, even if you call him “assembly woman,” would those people down there be able to pronounce the title “assembly woman” or “assembly man?” Again, why deny these guys a title which I think they deserve? I, therefore, oppose the amendment.

The Temporary Chairperson (Sen. Murkomen): Hon. Senators, there is a compromise emerging, and therefore, I will give a chance to the Senate Majority Leader to express that compromise. Unless someone has a contrary opinion, then we will give you a chance to air it.

The Senate Majority Leader (Sen. (Prof.) Kindiki): Thank you, Mr. Temporary Chairman, Sir. In support of Sen. Billow Kerrow and Sen. Musila, the term “honorable” is associated with holding elected office. It would be a great injustice if you say Members of the National Assembly are honorable, but MCAs are not honorable. So, it is a contradiction if we do not allow that. I even had a view that even Senators and Governors could still retain the term honorable; the same way we have the title “Right Honorable Speaker.” But that is something I am willing to cede ground on the issue of Senators and Governors; but for the MCAs, I think there is consensus and I want to support fully that they must retain the title honorable.

(Applause)

The Temporary Chairperson (Sen. Murkomen): Sen. Mutula Kilonzo Jnr.

Disclaimer: *The electronic version of the Senate Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Hansard Editor, Senate.*

Sen. Mutula Kilonzo Jnr.: Mr. Temporary Chairman, Sir, this is a fortunate House because it is a House of good ideas and not just tyranny of numbers. In view of the sentiments expressed, I wish to withdraw paragraph (b)(i) and (ii) of the proposed amendment.

Thank you, Mr. Temporary Chairman, Sir.

The Temporary Chairperson (Sen. Murkomen): Sen. (Eng.) Karue and then Sen. Wamatangi.

(Several hon. Senators consulted loudly)

What is your point of order, Sen. Orengo?

Sen. Orengo: On a point of order, Mr. Temporary Chairman, Sir. Once a matter has been proposed by the Chair, you cannot withdraw it. It would be very bad practice that you bring a matter and you wait until it is proposed, and there may be some contrary views. We cannot assume that this decision is unanimous. I think the best thing to do, once a matter has been proposed, is to show whether we agree with it or not. This is not a *Baraza*; this is an honorable House.

Mr. Temporary Chairman, Sir, the reason why you go out of your way to say “I propose the Question;” is because it now becomes the Business of the House to make a decision on it. If the person moving it wanted to withdraw it, he should withdraw it before he has moved it. So, as a matter of procedure, I am not taking any side as yet; but I think it would be wrong for a matter to be withdrawn after it has been proposed.

The Temporary Chairman (Sen. Murkomen): Let us first dispose of the question by Sen. Orengo. You are an expert in the Standing Orders, and Standing Order No.56 provides that after the Question has been proposed on a Motion, the Motion shall be deemed to be in possession of the Senate and as such, a Motion shall not be withdrawn without the leave of the Senate. So, I believe by interpretation, leave of the Senate means there being no objection by any Senator either with the sympathy of the Speaker or the support of at least two other Senators. Already there is the sympathy of the Speaker and I hope there is no objection to withdrawal.

The reason why the Chair was sympathetic to that position was not because there was absence of opposition, but basically, considering the voting procedure and the general consensus that has been built in the House, the Chair thought that the request by the Mover to withdraw was in order for the purpose of saving time for the Senators and considering that there is growing consensus. If there is any objection, we will follow our Standing Orders.

Hon. Senators: There is nobody who is against it.

The Temporary Chairman (Sen. Murkomen): So, there being no objection, the withdrawal is upheld.

(Proposed amendment (b) (i) and (ii) withdrawn)

Disclaimer: *The electronic version of the Senate Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Hansard Editor, Senate.*

Sen. (Eng.) Muriuki: Mr. Temporary Chairman, Sir, the amendments were not brought in time for us to digest, but I am happy we have been able to save time. My comment is on Schedule on No.4 and No.5 where the first one is His Excellency, second His Excellency and number three is the Right Honourable Speaker, but when it comes to the Senator, we are only referring to them as Senator. We also want to be referred to as Honourable Senators.

Hon. Senators: No! We changed that!

Sen. Eng. Muriuki: When? Yes, but it should be official!

The Temporary Chairman (Sen. Murkomen): Order! Sen. Karue, do not engage in a shouting match. Address the Chair.

Sen. (Eng.) Muriuki: My apologies, Mr. Temporary Chairman; this is my proposal. I would have thought, that we be addressed as Honourable Senators and also the Governor should have a title like Honourable Governor. That is my proposal. I know they prefer to be known as Your Excellency. So, instead of referring to them as Your Excellency, Governor, it should be Honourable Governor.

Hon. Senators: On a point of order!

The Temporary Chairman (Sen. Murkomen): Order! Before you say anything, all of you know that Sen. (Eng.) Karue has not been around. He was also not there when the whole debate took place. Sen. (Eng.) Karue, the reason there is that general consensus is because there was an extensive debate and consensus building. Some Senators had your proposal initially but it changed.

Sen. (Eng.) Muriuki: Mr. Temporary Chairman, Sir, I then move with the House.

The Temporary Chairman (Sen. Murkomen): That is right.

Clause 2

(Question, that Clause 2 be part of the Bill proposed)

Title

(Question, that the Title be part of the Bill proposed)

Clasue 1

(Question, that the Title be part of the Bill proposed)

Disclaimer: *The electronic version of the Senate Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Hansard Editor, Senate.*

The Temporary Deputy Speaker (Sen. Murkomen): Hon. Senators, we are going to have one Division Bell for all of these clauses; Clauses 3, Clause 4, Schedule, Clause 2, Title and Clause 1. So, if you support all of them, say I vote yes to all of them, I vote yes except for a particular clause.

So, I put the question that Clause 3, Clause 4, Schedule, Clause 2, Title and Clause 1 be part of the Bill.

Ring the Division Bell and close the doors.

After this Bill, you will no longer be “hon.” Senators. So, for avoidance of doubt, I will put the question again and if you support, you say “I vote yes for all”.

(The Division Bell was rung)

DIVISION

ROLL CALL VOTING

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

AYES: Sen. Abdirahman, Wajir County; Sen. Billow, Mandera County; Sen. Boy, Kwale County; Sen. Haji, Garissa County, Sen. Hargura, Marsabit County; Sen. Karaba, Kirinyaga County; Sen. G. G. Kariuki, Laikipia County; Sen. (Prof.) Kindiki, Tharaka Nithi County; Sen. (Dr.) Kuti, Isiolo County; Sen.(Prof.) Lesan, Bomet County; Sen. Leshore, Samburu County; Sen. (Prof.) Lonyangapuo, West Pokot County; Sen. (Dr.) Machage, Migori County; Sen. Mungai, Nakuru County; Sen. (Eng.) Muriuki, Nyandarua County; Sen. Murkomen, Elgeyo-Marakwet County; Sen. Murungi, Meru County; Sen. Musila, Kitui County; Sen. Muthama, Machakos County; Sen. Mutula Kilonzo Jnr. Makueni County; Sen. Ndiema, Trans Nzoia County; Sen. Ntutu, Narok County; Sen. Okong'o, Nyamira County; Sen. Ong'era, Kisii County; Orenge, Siaya County; Sen. Sang, Nandi County; Sen. Wako, Busia County; Sen. Wamatangi, Kiambu County and Sen. Wangari, Nairobi County.

Teller of the Ayes: Sen. Njoroge

NOES: Nil

Teller of the Noes: Sen. Elachi

Disclaimer: *The electronic version of the Senate Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Hansard Editor, Senate.*

The Temporary Chairman (Sen. Murkomen): Hon. Senators, the results of the Division on all the Clauses are as follows:-

AYES: 29

NOES: Nil

ABSENTIONS: Nil

(Question carried by 29 votes to nil)

(Clause 3 as amended agreed to)

(Clause 4 agreed to)

(Schedule as amended agreed to)

(Clause 2 agreed to)

(Title agreed to)

(Clause 1 agreed to)

The Temporary Chairman (Sen. Murkomen): Sen. Mutula Kilonzo Junior!

Sen. Mutula Kilonzo Jnr.: Mr. Temporary Chairman, Sir, I beg to move that the Committee doth report to the House its consideration of The National Flag, Emblems and Names (Amendment) Bill, Senate Bills No.2 of 2013 and its approval thereof with amendments.

Sen. Wako seconded

(Question proposed)

The Temporary Chairman (Sen. Kipchumba): Hon. Senators, I wish to put the Question; that the Committee doth report to the House its consideration of The County Governments (Amendment) (No.2) Bill, Senate Bills No.4 of 2013 and The National Flag, Emblems and Names (Amendment) Bill, Senate Bills No.2 of 2013 and their approval thereof with amendments.

We will now go for Division on the two Bills and the same Division Bell applies to both Bills. Ring the Division Bell for two minutes.

By the leave of the Chair, Sen. (Eng.) Karue can go out, and he will be allowed to come back in. Ring the division door and close the doors.

Disclaimer: *The electronic version of the Senate Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Hansard Editor, Senate.*

Hon. Senators, we have three more votes to taken. So I request you to remain in the House.

Hon. Senators. I had already put the question on the two Bills. You can vote yes to both, no to both or whatever you choose.

(The Division Bell was rung)

DIVISION

ROLL CALL VOTING

*(Question, that the Committee doth report to the
House its consideration of The County Governments
(Amendment) (No.2) Bill, Senate Bills No.4 of
2013 and The National Flag, Emblems and Names
(Amendment) Bill, Senate Bills No.2 of 2013 and their
approval thereof with amendments, put and the
Senate proceeded to Vote by County Delegations.)*

AYES: Sen. Abdirahman, Wajir County; Sen. Billow, Mandera County; Sen. Boy, Kwale County; Sen. Haji, Garissa County; Sen. Karaba, Kirinyaga County; Sen. G. G. Kariuki, Laikipia County; Sen. Keter, Kericho County; Sen. (Prof.) Kindiki, Tharaka Nithi County; Sen. (Dr.) Kuti, Isiolo County; Sen.(Prof.) Lesan, Bomet County; Sen. Leshore, Samburu County; Sen. (Prof.) Lonyangapuo, West Pokot County; Sen. (Dr.) Machage, Migori County; Sen. Mungai, Nakuru County; Sen. (Eng.) Muriuki, Nyandarua County; Sen. Murkomen, Elgeyo-Marakwet County; Sen. Murungi, Meru County; Sen. Musila, Kitui County; Sen. Muthama, Machakos County; Sen. Mutula Kilonzo Jnr. Makueni County; Sen. Ndiema, Trans Nzoia County; Sen. Ntutu, Narok County; Sen. Okong'o, Nyamira County; Sen. Ong'era, Kisii County; Orengo, Siaya County; Sen. Sang, Nandi County; Sen. Wako, Busia County; Sen. Wamatangi, Kiambu County and Sen. Wangari, Nairobi County.

Teller of the Ayes: Sen. Njoroge

NOES: Nil

Teller of the Noes: Sen. Keter

Disclaimer: *The electronic version of the Senate Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Hansard Editor, Senate.*

The Temporary Chairman (Sen. Murkomen): Hon. Senators, the results of the Division on both Bills are as follows:-

AYES: 30

NOES: Nil

ABSENTIONS: Nil

(Question carried by 30 votes to nil)

(Question put and agreed to)

(The House resumed)

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

The Temporary Speaker (Sen. Murkomen): Hon. Senators, we have two more Divisions which will hopefully run concurrently.

REPORTS, CONSIDERATION OF REPORTS AND THIRD READINGS

THE COUNTY GOVERNMENTS (AMENDMENT) BILL

Sen. Sang: Mr. Temporary Speaker, Sir, I beg to report that a Committee of the Whole has considered The County Governments (Amendment) (No.1) Bill (Senate Bills No.4 of 2013), and approved the same with amendments.

Mr. Temporary Speaker, Sir, I beg to move that the House doth agree with the Committee in the said Report.

Sen. Mutula Kilonzo Jnr. seconded.

The Temporary Speaker (Sen. Murkomen): Hon. Senators, before I propose the Question, I would like to have the two Bills considered together as we agreed earlier. So, we will listen to the next Mover, Sen. Mutula Kilonzo Jnr.

THE NATIONAL FLAG, EMBLEMS AND NAMES (AMENDMENT) BILL

Sen. Mutula Kilonzo Jnr.: Mr. Temporary Speaker, Sir, I beg to report that a Committee of the Whole has considered The National Flag, Emblems and Names (Amendment) Bill, Senate Bills No.2 of 2013 and approved the same with amendments.

Mr. Temporary Speaker, Sir, I beg to move that the House doth agree with the Committee in the said Report.

Disclaimer: *The electronic version of the Senate Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Hansard Editor, Senate.*

Sen. Sang seconded.

THE COUNTY GOVERNMENTS (AMENDMENT) BILL

The Temporary Speaker (Sen. Murkomen): Hon. Senators, the two acting as chairpersons have already reported but we need a third person to move that the House doth agree with the Committee in the two Reports separately.

Sen. Wako: Mr. Temporary Speaker, Sir, I beg to move that the House doth agree with the Committee in the said Report.

Sen. (Dr.) Machage seconded.

(Question proposed)

The Temporary Speaker (Sen. Murkomen): Hon. Senators, I decline to put the Question so that we can put together in the two Reports.

Okay. Can we have the next report?

THE NATIONAL FLAG, EMBLEMS AND NAMES (AMENDMENT) BILL

Sen. Wako: Hon. Senators, I beg to move that the House doth agree with the Committee in the said Report

Sen. (Eng.) Karue seconded.

(Question proposed)

The Temporary Speaker (Sen. Murkomen): Hon. Senators as I explained, we will do the Division for both Bills.

As I had already explained to you, after this one we will have the final vote. After this we will remain with one.

Let the Division Bell be rung.

After this Vote, we will have the final vote.

(The Division Bell was rung)

Close the doors, please. It is now Division.

DIVISION

ROLL CALL VOTING

Disclaimer: *The electronic version of the Senate Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Hansard Editor, Senate.*

(Question, that the House doth agree with Committee in the Reports of the County Governments (Amendment) Bill and the National Flag, Emblems and Names (Amendment) Bill, put and the Senate Proceeded to vote by County Delegations)

AYES: Sen. Abdirahman, Wajir County; Sen. Billoo, Mandera County; Sen. Boy, Kwale County; Sen. Haji, Garissa County; Sen. Hargura, Marsabit County; Sen. Karaba, Kirinyaga County; Sen. G. G. Kariuki, Laikipia County; Sen. Kembi-Gitura, Murang'a County; Sen. (Prof.) Kindiki, Tharaka Nithi County; Sen. (Dr.) Kuti, Isiolo County; Sen. (Prof.) Lesan, Bomet County; Sen. Leshore, Samburu County; Sen. (Prof.) Lonyangapuo, West Pokot County; Sen. (Dr.) Machage, Migori County; Sen. Mungai, Nakuru County; Sen. (Eng.) Muriuki, Nyandarua County; Sen. Murkomen, Elgeyo-Marakwet County; Sen. Murungi, Meru County; Sen. Musila, Kitui County; Sen. Muthama, Machakos County; Sen. Mutula Kilonzo Jnr. Makueni County; Sen. Ndiema, Trans Nzoia County; Sen. Ntutu, Narok County; Sen. Okong'o, Nyamira County; Sen. Ong'era, Kisii County; Orenge, Siaya County; Sen. Sang, Nandi County; Sen. Wako, Busia County; Sen. Wamatangi, Kiambu County and Sen. Wangari, Nairobi County.

Teller of the Ayes: Sen. Njoroge

NOES: Nil

Teller of the Noes: Sen. Elachi

The Temporary Chairman (Sen. Murkomen): Hon. Senators, the results of the Division on the Reports of the two Bills are as follows:-

AYES: 28

NOES: Nil

ABSENTIONS: Nil

(Questions carried by 28 votes to nil)

(Question put and agreed to)

The Temporary Speaker (Sen. Murkomen): Hon. Senators, we will have the last vote.

Sen. Wako.

Sen. Wako: Mr. Temporary Speaker, Sir, I beg to move that the County Governments (Amendment) Bill be now read the Third Time.

Sen. (Dr.) Machage seconded.

(Question proposed)

The Temporary Speaker (Sen. Murkomen): Hon. Senators, we agreed that we will put the Question for both.

Disclaimer: *The electronic version of the Senate Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Hansard Editor, Senate.*

Sen. Wako: Mr. Temporary Speaker, Sir, I beg to move that the National Flag, Emblems and Names (Amendment) Bill, 2013, be now read the Third Time.

Sen. (Dr.) Machage seconded.

(Question proposed)

The Temporary Speaker (Sen. Murkomen): Hon. Senators, we are now going into Division.

Let the Division Bell be rung.

(The Division Bell was rung)

The Temporary Chairperson (Sen. Murkomen): Order! Lock the doors and the Tellers can approach the podium.

DIVISION

ROLL CALL VOTING

*(Question, that the County Governments (Amendment) Bill and the National Flag, Emblems and Names (Amendment) Bill,
Be now Read the Third Time, put and the Senate
Proceeded to vote by County Delegations)*

AYES: Sen. Abdirahman, Wajir County; Sen. Billow, Mandera County; Sen. Boy, Kwale County; Sen. Haji, Garissa County; Sen. Hargura, Marsabit County; Sen. Karaba, Kirinyaga County; Sen. G. G. Kariuki, Laikipia County; Sen. Kembu-Gitura, Murang'a County; Sen. (Prof) Kindiki, Tharaka-Nithi County; Sen. Murungi, Meru County; Sen. (Dr.) Kuti, Marsabit County; Sen.(Prof.) Lesan, Bomet County; Sen. (Prof.) Lonyangapuo, West Pokot County; Sen. (Dr.) Machage, Migori County; Sen. Mungai, Nakuru County; Sen. Muthama, Machakos County; Sen. Mutula Kilonzo Jnr., Makueni County; Sen. (Eng.) Muriuki, Nyandarua County; Sen. Murkomen, Elgeyo-Marakwet County; Sen. Ndiema, Trans Nzoia County; Sen. Ntutu, Narok County; Sen. Okong'o, Nyamira County; Sen. Ong'era, Kisii County; Sen. Orengo, Siaya County; Sen. Sang, Nandi County; Sen. Wako, Busia County; Sen. Wamatangi, Kiambu County and Sen. Wangari, Nairobi County.

Teller of the Ayes: Sen. Wamatangi

NOES: Nil

Teller of the Noes: Sen. Elachi

The Temporary Speaker (Sen. Murkomen): Finally, hon. Senators, the results of the vote on the County Government (Amendment) Bill No.2, Senate Bill No.4 of 2013;

Disclaimer: *The electronic version of the Senate Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Hansard Editor, Senate.*

and The National Flag, Emblems and Names (Amendment) Bill, Senate Bill No.2 of 2013, are as follows.

AYES: 28

NOES: Nil

Abstention: Nil

Hon. Senators, the Ayes have it.

(Question carried by 28 votes to nil)

(Question put and agreed to)

(Applause)

*(The Bills were accordingly read
the Third Time and passed)*

The Temporary Chairperson (Sen. Murkomen): Next Order!

MOTIONS

CONSTITUTION OF COMMITTEE TO UNDERTAKE SECURITY REVIEW IN KENYA

THAT, aware that national security is prerequisite for maintaining a stable nation state; concerned that Kenya continues to be confronted by factors that threaten national security such as terrorist attacks, road carnage, cattle rustling, inter-ethnic conflicts, food shortage and floods; further concerned that various forms of threats to national security, such as cyber-crime and terrorism, constantly mutate thereby posing a challenge to security organs; appreciating the efforts of successive governments to safeguard national security; noting with concern that despite the efforts insecurity continues to increase; further noting that no security review has been carried out since independence to forge a common strategy on safeguarding national security; the Senate urges the National Government to constitute a Committee to undertake a comprehensive security review with a view to formulating modern strategies capable of containing crime and safeguarding national security interests.

The Temporary Chairperson (Sen. Murkomen): Hon. Senators, I have received a request that the Motion by Sen. G.G. Kariuki be deferred. We had already voted on the adjournment of debate on this Motion. It will be in the Order Paper next week. I have also received a request from Sen. (Prof.) John

Lonyangapuo that the Motion appearing as Order No.13 should also be postponed to next week.

(Motion deferred)

DEVELOPMENT OF RESEARCH POLICY

THAT, aware that research is a mystified domain which remains a preserve of selected Government agencies, academic institutions of higher learning and a few other organizations; concerned that even in the said institutions of learning, research is usually introduced at postgraduate level; further concerned that research has not been prioritized and very low funding is channeled towards it; the Senate calls upon the National Government to:-

- (a) take deliberate measures to cascade research to lower level of education right from early childhood education level;
- (b) inculcate and institutionalize research by introducing it as a compulsory discipline at all levels of education;
- (c) develop a clear policy and legal framework to guide the development and sustainability of research at all levels of education; and
- (d) increase funding for research by allocating at least 1% of the National budget to research.

(Motion deferred)

ADJOURNMENT

The Temporary Chairperson (Sen. Murkomen): Order, hon. Senators! There being no other Business, the Senate stands adjourned until Tuesday, 3rd December, 2013, at 2.30 p.m.

The Senate rose at 6.10 p.m.