

# PARLIAMENT OF KENYA

## THE SENATE

## THE HANSARD

Thursday, 30<sup>th</sup> April, 2015

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

*[The Deputy Speaker (Sen. Kembi-Gitura) in the Chair]*

### PRAYERS

### PAPERS LAID

#### REPORT ON THE PUBLIC FINANCE MANAGEMENT EQUALISATION FUND GUIDELINES 2015

**Sen. Sijeny:** Mr. Deputy Speaker, Sir, I beg to lay the following Paper on the Table of the Senate:-  
Report on the Public Finance Management Equalisation Fund Guidelines 2015.

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

#### REPORT ON THE PETITION ON MANAGEMENT OF REVENUE FROM MAASAI MARA GAME RESERVE

**Sen. Billow:** Mr. Deputy Speaker, Sir, I beg to lay the following Paper on the Table of the Senate:-  
Report on the Examination of the Petition by Mr. Joseph Tipanko ole Karia on the Management of Revenue from Maasai Mara Game Reserve by Narok County Government.

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

**Sen. Kagwe:** Mr. Deputy Speaker, Sir, I beg to lay the following Papers on the Table of the Senate:-

HALF YEAR REPORT OF THE MINISTRY OF INFORMATION,  
COMMUNICATIONS AND TECHNOLOGY

STATUS REPORT ON ANALOGUE DIGITAL MIGRATION PETITION  
BY AFRICA DIGITAL NETWORK LIMITED

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

**The Deputy Speaker** (Sen. Kembi-Gitura): Very well.

**Sen. Kagwe:** Mr. Deputy Speaker, Sir, the Status Report on Digital Migration tells the House that there was a petition that was directed to my Committee on Information and Technology. I want to report to the House that this petition has been withdrawn by the petitioners. The Report, therefore, is to table that withdrawal and the proceedings that went on thereof.

**The Deputy Speaker** (Sen. Kembi-Gitura): That settles the issue. I do not know whether in due course there will be need for a notice of Motion to be given on the same issue. For now, you have tabled the Report. That is it for now.

## STATEMENTS

CRITERIA FOR APPOINTMENT / REGIONAL DISTRIBUTION  
OF APPOINTMENT TO PARASTATALS

**The Deputy Speaker** (Sen. Kembi-Gitura): There are a few statements that should be given today. We will start with the Senators seeking Statements, if any. Why is it that I do not have any requests on the screen? Is the system not working?

**Sen. (Eng.) Muriuki:** Mr. Deputy Speaker, Sir, I would like to seek a statement from the Vice Chairman of the Joint Committee on Cohesion and Equal Opportunity regarding the criteria for appointment and the regional distribution of the recent appointment to parastatals. In the statement, the Vice Chairman should state;

- (a) the number of persons appointed from each of the 47 counties;
- (b) the criteria followed in arriving at the regional distribution;
- (c) names of all appointees per organization giving the county and the gender of each.

**The Deputy Speaker** (Sen. Kembi-Gitura): Who is the Vice Chairman of the Joint Committee on Cohesion and Equal Opportunity? It seems the Vice Chairman of the Joint Committee on Cohesion is not in. Is there any other Member of that Committee in the House?

**Sen. (Eng.) Muriuki:** Mr. Deputy Speaker, Sir, there is no other Member apart from me.

**The Deputy Speaker** (Sen. Kembi-Gitura): Sen. (Eng.) Muriuki, since there is no other Member of the Joint Committee on Cohesion and Equal Opportunity and I do not have an indication from you that you want to say a word, I will ask the Clerk to give a copy of the HANSARD to the Committee Chairman.

I order that the answer be given in the next seven days; that is, Thursday, next week.

In the meantime, Sen. (Eng.) Muriuki, as a Member of that Committee, you can report to your Chairman.

**Sen. (Eng.) Muriuki:** Mr. Deputy Speaker, Sir, I suggest that since the Chief Whip---

**The Deputy Speaker** (Sen. Kembi-Gitura): Order! I do not know the membership of the Committee. In fact, she has not indicated to me that she is a Member of that Committee. Therefore, I have no knowledge as to whether she is a Member of that Committee or not. However, I have already given a direction and that will be the position.

**Sen. (Eng.) Muriuki:** Mr. Deputy Speaker, Sir, should I inform the Vice Chairperson?

**The Deputy Speaker** (Sen. Kembi-Gitura): You do not have to. You have done your work. You are *functus officio*. The Clerks-at-the-Table will inform the Chairperson. We expect to have an answer next week on Thursday. May be, you could help to facilitate that.

Is there any other Senator seeking a Statement?

I am afraid that my screen is not working. It is an inconvenience, but we shall proceed that way.

Proceed, Sen. Njoroge.

**Sen. Njoroge:** Thank you, Mr. Deputy Speaker, Sir.

*(Sen. Murkomen stood up in his place)*

**The Deputy Speaker** (Sen. Kembi-Gitura): What is your point of order Sen. Murkomen?

**Sen. Murkomen:** Mr. Deputy Speaker, Sir, I suggest that in that regard, we can use the old analogue method where we just have to shout "point of order" or stand up in our places.

**The Deputy Speaker** (Sen. Kembi-Gitura): Is that your point of order?

Proceed, Sen. Njoroge.

#### ESTABLISHMENT OF A BATTERY ASSEMBLY FACTORY IN NAIVASHA

**Sen. Njoroge:** Thank you, Mr. Deputy Speaker, Sir. I rise to seek a Statement from the Chairperson of the Committee on Health regarding the opening of a new multi-million shillings Battery Assembly Factory in Naivasha that has raised concern among the residents of the area in Nyamathi which borders Maraigushu. This is in the backdrop of the negative effects of lead in a community in Mombasa. In the Statement, the Chairperson should address the following:-

(a) State whether the risks and dangers involved have been evaluated and explained to the residents?

(b) State whether the Environmental Impact Assessment (EIA) was exhaustively conducted by the National Environmental Management Authority (NEMA)?

(c) State whether in view of the health hazards posed by similar factories elsewhere in the country, a new factory should be allowed to commence operation?

**The Deputy Speaker** (Sen. Kembi-Gitura): Are you through, Sen. Njoroge?

**Sen. Njoroge:** Yes, I am Mr. Deputy Speaker, Sir.

**The Deputy Speaker** (Sen. Kembi-Gitura): The Chairman of the Committee on Health is not here.

Proceed, Sen. (Prof) Lesan.

**Sen. (Prof.) Lesan:** Thank you, Mr. Deputy Speaker, Sir. On behalf of the Chairperson who is not here at the moment, I rise to request that we be given about six weeks to respond to Sen. Njoroge's request. This is because we have gone through a similar exercise where we looked at another factory with similar problems. It has taken us close to four months to find out and establish a credible answer for the House.

**The Deputy Speaker** (Sen. Kembi-Gitura): Sen. Njoroge, is six weeks okay with you?

**Sen. Njoroge:** Mr. Deputy Speaker, Sir, six weeks will be too long considering that Naivasha is almost one hour drive from Nairobi. Given the fact that they carried out a similar exercise before in Mombasa, I do not think they will encounter many obstacles in Naivasha. Therefore, they do not need six weeks. This situation has far reaching effects to the residents of that area and needs to be addressed immediately. It cannot be left unattended for a long time.

**The Deputy Speaker** (Sen. Kembi-Gitura): Sen. Njoroge, I do not seem to have a copy of the Statement you are seeking.

*(The Clerk-at-the-Table handed the Deputy Speaker  
(Sen. Kembi-Gitura) a copy of the Statement)*

Hon. Senator, I have now seen the Statement. The Committee on Health has asked for six weeks. However, I would like to know whether the factory is already constructed and when it is being opened?

**Sen. Njoroge:** Mr. Deputy Speaker, Sir, the factory is already operating.

**The Deputy Speaker** (Sen. Kembi-Gitura): Sen. (Prof.) Lesan, we are reading about a similar issue from the press in Mombasa. However, I do not know whether it is a question of physical facility or policy to the effects that could be there. Is six weeks not too long, considering that it is operating and lives could be in danger?

**Sen. (Prof.) Lesan:** Mr. Deputy Speaker, Sir, from the face of it, this is a fairly complicated issue that involves dealing with other bodies like NEMA and other Ministries as well, including all the licensing agencies. It also includes many of the affected individuals having to give evidence as to what the consequences of the factory are. These are important in the answering of the question that has been asked. So, it is not really a question of the distance between here and Naivasha, but the complexity of the whole issue dealing with a factory or business interest that is going to hold its ground on

this and argue its case. That will, therefore, require a thorough investigation. I still think that six weeks is good enough time.

**The Deputy Speaker** (Sen. Kembi-Gitura): Personally, I take the view that your request for six weeks is reasonable. However, look at what is being sought in (b):-

State whether the Environmental Impact Assessment (EIA) was exhaustively conducted by the National Environmental Management Authority (NEMA)?

If NEMA says it has exhaustively conducted evaluation, it might have a bearing on your answer. So, I direct that you summon NEMA to your Committee in the course of next week to get an answer on (b) in the first instance. Let us know whether or not, any exhaustive Environmental Impact Assessment (EIA) was done by NEMA. Let us know on Thursday, next week, the position on (b) even as you wait to do an exhaustive investigation which could take six weeks. I think everything will very much hinge on the report that NEMA has made or would have made. Whether or not you are satisfied with that report, it will have a lot of impact on the answer that you give in due course.

Is that so, Sen. (Prof.) Lesan?

**Sen. (Prof.) Lesan:** Mr. Deputy Speaker, Sir, that is okay. It actually means that we are going to give an interim report on the first instance, then be allowed to carry out a thorough report.

**The Deputy Speaker** (Sen. Kembi-Gitura): You will give us an interim report on Thursday, next week, based on (b); only then you can proceed to the others.

Proceed, Sen. Billow.

**Sen. Billow:** Thank you, Mr. Deputy Speaker, Sir. Yesterday, the Senator for Wajir and I rose on a point of order---

**The Deputy Speaker** (Sen. Kembi-Gitura): Order, Sen. Billow! Let us finish with Statements first. Anybody else seeking for a Statement?

Yes, Sen. Musila?

#### STATUS OF CASH TRANSFER PROGRAMME

**Sen. Musila:** Mr. Deputy Speaker, Sir, just before we went on recess, I had sought a Statement on the matter of cash transfers. The Chair of the Committee on Labour and Social Welfare had unsuccessfully attempted to give a Statement which was rejected by the House and was required to come back with another Statement. We came back from recess. I think this is a matter that the House should take into account so that we do not lose focus because it is a very important matter for the nation. Therefore, it should be addressed.

**The Deputy Speaker** (Sen. Kembi-Gitura): Who is the Chairperson of the Committee on Labour and Social Welfare?

Sen. Njoroge, do you have any answer to Sen. Musila's request?

**Sen. Njoroge:** Mr. Deputy Speaker, Sir, we will address it on Tuesday, next week.

**The Deputy Speaker** (Sen. Kembi-Gitura): Yes, we can address it on Tuesday, Sen. Musila.

**Sen. Kanainza:** Mr. Deputy Speaker, Sir, I wanted to intervene on the issue of parastatals. Could I go ahead and do so?

**The Deputy Speaker** (Sen. Kembi-Gitura): Order! It is too late, Senator

**Sen. Kanainza:** Mr. Deputy Speaker, Sir, I rose earlier, but I did not get an opportunity. I do not have a screen now and I am now following what we call “catch the eye” approach.

Mr. Deputy Speaker, Sir, you were to alert us on that, but you never did so. That is why we are using these gadgets.

**The Deputy Speaker** (Sen. Kembi-Gitura): The first thing I did was to say that the screen system is not working, but let me hear you now.

**Sen. Kanainza:** Mr. Deputy Speaker, Sir, I wanted to add my voice on Sen. (Eng.) Muriuki’s request on parastatal appointments by His Excellency the President. I request the Vice Chairperson to tell us the number of women and youth whom I represent in this Senate – how many were appointed.

**The Deputy Speaker** (Sen. Kembi-Gitura): The Chairman of the Committee was not here so I asked the Clerk to give a copy of the HANSARD to him. What you are asking is reasonable and will be incorporated in that Statement.

My screen is now working.

#### ONGOING PROPERTY DEVELOPMENT AT THE JUNCTION OF LORESHO RIDGE ROAD AND KAPTAGAT ROAD

**Sen. Kivuti:** Mr. Deputy Speaker, Sir, there was communication from the Chair where it was ordered that I bring forth a Statement on the ongoing property development on land reference number Nairobi Block 90/599 situated at the junction of Loresho Ridge and Kiptagat Road. This instruction was given when you were not on the Chair. However, I do not know what direction you will give now that I may not give the answer when you are chairing. I seek your directions.

**The Deputy Speaker** (Sen. Kembi-Gitura): Sen. Kivuti, I am the one who had sought that Statement and the information I gave to the Speaker then is that I had seen your Statement, but in the form of a report. I do not know whether you now have a Statement or a report. What do you have?

**Sen. Kivuti:** Mr. Deputy Speaker, Sir, I have both. The report was as a result of the Statement which I gave, but required additional intervention. We, as a Committee, did so and came up with a report.

**The Deputy Speaker** (Sen. Kembi-Gitura): The Speaker directed that the report would be tabled and you know when you do so it can only be debated when a Notice of Motion is given. Since that is not the case, I would direct that the Statement be issued on Tuesday, next week, at 2.30 p.m. I hope I will not be sitting here because I need to interrogate that Statement since I am the one who sought it.

**Sen. Abdirahman:** Mr. Deputy Speaker, Sir, I rose on a point of order yesterday on the Floor of this House under Standing Order No. 94(1) regarding the contributions---

**The Deputy Speaker** (Sen. Kembi-Gitura): Order, Senator! Just before you came in, Sen. Billow----

**Sen. Abdirahman:** I can still allow him to do it.

**The Deputy Speaker** (Sen. Kembi-Gitura): Order! It is also good to communicate. Senator for Mandera rose on that issue and I informed him that we are still on Statements. We have not reached there yet. We are now dealing with people seeking and issuing Statements before we proceed with the Order of the day.

RECRUITMENT OF YOUTH FROM NYS TO  
WORK IN THE UNITED ARAB EMIRATES

**Sen. (Dr.) Khalwale:** Mr. Deputy Speaker, Sir, before we went on recess I sought two Statements; one from the Committee on Legal Affairs and Human Rights and the one from the Committee on Defence and Foreign Affairs. I had sought to be told the status of hiring youth from the National Youth Service (NYS) to go for jobs in the United Arab Emirates (UAE). I am still waiting for that.

STATUS OF MUMIAS SUGAR COMPANY

I had also sought to be informed on the promised funding of Mumias Sugar Company by the National Treasury and to be told why the KPMG audit report on Mumias Sugar Company which listed the managers who looted the company and why action has not been taken by either the Ethics and Anti-Corruption Commission (EACC), the Criminal Investigation Department (CID) or the Office of the DPP. I have been waiting for these answers.

**The Deputy Speaker** (Sen. Kembi-Gitura): When were you supposed to be given the response on the first one?

**Sen. (Dr.) Khalwale:** Before we went on recess. By that time, a timeline of two weeks had been given.

**The Deputy Speaker** (Sen. Kembi-Gitura): It was supposed to be issued on 11<sup>th</sup> March, 2015.

I thought I saw Sen. Murkomen here.

Do you have the Statement on the recruitment of youth to UAE? You were supposed to have issued it on 11<sup>th</sup> March, 2015.

**Sen. Murkomen:** Mr. Deputy Speaker, Sir, I do not have it.

**The Deputy Speaker** (Sen. Kembi-Gitura): Why do you not have it? It was supposed to be issued on the 11<sup>th</sup> March 2015. You undertook to give it then.

**Sen. Murkomen:** Mr. Deputy Speaker, Sir, it is because I had not been appraised that today the answer would be required. I will need to consult the secretariat.

**The Deputy Speaker** (Sen. Kembi-Gitura): Sen. Murkomen, I do not think you can afford to be so casual about such an important issue. A Statement was sought, you are the Chairman of the Committee, and it was supposed to have been given on the 11<sup>th</sup> March, 2015. Is it ready or not? That is the question. It is not a question of asking the secretariat. You are the Chairman of the Committee.

**Sen. Murkomen:** Mr. Deputy Speaker, Sir, one of the ways of alerting chairpersons to answer questions is when it is in the Order of Paper. Today it was not on

the Order Paper, but I am properly reminded and I will ensure that I follow up immediately I leave this House.

**The Deputy Speaker** (Sen. Kembi-Gitura): Could you give an indication on when you will issue that Statement?

**Sen. Murkomen:** Mr. Deputy Speaker, Sir, I will bring back an answer to this House by Tuesday as to whether or not the Statement is ready. I will know the status ---

**The Deputy Speaker** (Sen. Kembi-Gitura): Sen. Murkomen, this is serious business of the House. A Statement was sought by Sen. (Dr.) Khalwale – if my record is correct – on 25<sup>th</sup> February, 2015 and you undertook to issue it on 11<sup>th</sup> March, 2015. So, it is not enough for you to tell us that you will give us a status. If you can tell me that on Tuesday or Thursday, next week, you will issue the Statement, I will accept that.

**Sen. Murkomen:** Mr. Deputy Speaker, Sir, in that regard, if I can be given up to Thursday, next week.

**The Deputy Speaker** (Sen. Kembi-Gitura): It is so ordered; come up with a Statement or tell us why you are not issuing it.

Sen. (Dr.) Khalwale, the next one was on Mumias. Was it?

**Sen. (Dr.) Khalwale:** Yes, Mr. Deputy Speaker, Sir.

**The Deputy Speaker** (Sen. Kembi-Gitura): That is for the Chairman of the Committee of Legal Affairs and Human Rights.

Sen. Wako is not here and I cannot see any Member of the Committee.

Sen. (Dr.) Khalwale, that request will be put before the Chairman of the Committee to give us a status report on Wednesday, next week, on the issue of Mumias. Is that okay?

**Sen. (Dr.) Khalwale:** Mr. Deputy Speaker, Sir, most obliged.

#### INSECURITY IN SAMBURU NORTH, SAMBURU COUNTY

**Sen. Leshore:** Mr. Deputy Speaker, Sir, sometime in March, I sought two Statements; one was from the Chairman of the Committee on National Security and Foreign Relations on the Baragoi security situation.

#### REVENUE COLLECTION FROM SAMBURU GAME RESERVE

Mr. Deputy Speaker, Sir, the other one was from the Chairman of the Committee on Finance, Commerce and Budget about the revenue collection in Samburu Game Reserve.

**Sen. Haji:** Mr. Deputy Speaker, Sir, I will give the answer on Wednesday, next week.

**The Deputy Speaker** (Sen. Kembi-Gitura): Okay, Wednesday next week. The next one, Sen. Leshore was for which committee?

Sen. Billow, when are you going to issue that Statement to Sen. Leshore?

**Sen. Billow:** Mr. Deputy Speaker, Sir, I actually sought his indulgence yesterday that the Statement is not ready and I really appeal to him to give me another one week to get the Statement because it is a very important one.



**The Deputy Speaker** (Sen. Kembi-Gitura): Okay, next Thursday. Thank you.  
Sen. Kivuti.

**Sen. Kivuti:** On a point of order, Mr. Deputy Speaker, Sir. I remember I was talking and my name was not appearing on the screen. I am wondering whether the press is aware of my name in this Senate or not, including now. Other names are appearing, except mine.

**The Deputy Speaker** (Sen. Kembi-Gitura): Sorry, I did not get you. What has the press got to do or what have I got to do with the press? What is the question?

**Sen. Kivuti:** Mr. Deputy Speaker, Sir, if you look at the screen, my name is not on it. I am wondering if it is in order that my name is not on the screen when other names are appearing.

*(Sen. Kivuti looked at the screen)*

Now, they have put it.

**The Deputy Speaker** (Sen. Kembi-Gitura): That settles the issue. Does it not? Since I can see your name on the ---

**Sen. Kivuti:** Mr. Deputy Speaker, Sir, my name is Lenny Kivuti, not Maxwell Kivuti.

**The Deputy Speaker** (Sen. Kembi-Gitura): Sen. Kivuti, like I have said in the past, that can only be administrative. You need to sort it out with the Clerk's office to get your name correct so that it is done correctly.

There were some Statements to be issued. Is there any chairperson of a Committee who is ready to issue a Statement?

Sen. Ndiema.

#### IMPLEMENTATION OF MALKA DAKA IRRIGATION PROJECT IN GARBATULA

**Sen. Ndiema:** Thank you, Mr. Deputy Speaker, Sir. There is a Statement listed today. This is about Malka Daka Irrigation Project. The Statement was sought by Sen. Adan, but I do not see her today. I seek your guidance whether I should go ahead.

**The Deputy Speaker** (Sen. Kembi-Gitura): The Member is not here. I think the current rule and direction is that, in the first instance, if the Member is not in the House we defer the issuing of the Statement so that he or she can interrogate it properly.

**Sen. Ndiema:** Mr. Deputy Speaker, Sir, I am guided. I was ready and she had actually insisted that this Statement ---

**The Deputy Speaker** (Sen. Kembi-Gitura): She is not here. I request that you do it on Tuesday, next week. Thank you.

Very well. No more Statement apparently being sought.

**POINTS OF ORDER****SUBSTANTIATION OF ALLEGATIONS MADE AGAINST  
MEMBERS OF THE PSC BY SEN. (DR.) KHALWALE**

**Sen. Abdirahman:** On a point of order, Mr. Deputy Speaker, Sir. I rose on a point of order yesterday under Standing Order No.94 regarding allegations that were made by Sen.(Dr.) Khalwale that have serious implications on leaders of both Houses, on the Somali Community and, by extension, on the Muslim Community.

There are three issues he was expected to substantiate today. Yesterday, the Temporary Speaker had said that we wait for today to get the response. However, I want to point out three key issues which I feel must be responded to along with substantiation on a list of Somali employees by the Parliamentary Service Commission (PSC). I wonder loudly what the relationship is between the recruitment of the Somalis or Muslims and terrorism in this country. We know we have a national problem in our hands. What happened in Garissa has affected all of us, it pains us badly. I am surprised that a colleague can come out in this House and label us as terrorists---

**The Deputy Speaker (Sen. Kembi-Gitura):** Order, Senator! You know, that was a Motion on Adjournment on Tuesday. It canvassed the issue that Sen. (Dr.) Khalwale had sought to be canvassed. Certain directions were given during that Motion on what Sen. (Dr.) Khalwale should do regarding the list that he referred to. So, if that is what you are asking for, you ask for that. What we are not going to do is to reopen a debate on a Motion of Adjournment because it was dealt with and finalized on Tuesday.

However, there are some pending issues on that Motion - if you have a copy of the HANSARD - and that is the list that Sen. (Dr.) Khalwale referred to, and which he was directed to table in the House.

**Sen. Abdirahman:** Mr. Deputy Speaker, Sir, I have a copy of the HANSARD. I agree with you that what we expected today is the list. We demand the list to be tabled by Sen. (Dr.) Khalwale. This actually demands a public apology and withdrawal. We are not taking this lightly, I must say.

Mr. Temporary Speaker, I stand guided. If the list is not provided, we will ask you to follow up the issue with repercussions.

Mr. Deputy Speaker, Sir, thank you for guiding me.

**The Deputy Speaker (Sen. Kembi-Gitura):** Thank you, Sen. Abdirahman. My guidance which is according to the rules; the Standing Orders, is that - like I have just done - the Motion of Adjournment is finalized, except that Sen. (Dr.) Khalwale was ordered to make a certain substantiation which issue came up yesterday. As far as I am concerned, that is the only issue pending on that Motion of Adjournment.

**Sen. Billow:** Mr. Deputy Speaker, Sir, I rise on the same issue. This is a House of decorum. It is very important that the distinguished ladies and gentlemen who are in this House respect each one of us and also respect the values that are enshrined in our Constitution; values that are clearly set out in Article 10 of our Constitution.

Mr. Deputy Speaker, Sir, the National Cohesion and Integration Commission (NCIC) Act is very clear. It outlaws and, in fact, makes it an offence to engage in ethnic

discrimination. Ethnic discrimination and ethnic victimisation arises when you stand up in a House, mention a community and say very clearly – I want to read the HANSARD here that the proportion of the Somali youth---

**The Deputy Speaker** (Sen. Kembi-Gitura): What page are you reading?

**Sen. Billow:** Mr. Deputy Speaker, Sir, I am reading page 39 of the HANSARD. It says:-

“The proportion of the Somali youth who have been recruited into the Parliamentary Service Commission (PSC) is not proportionate to the rightful quota as per the statistics of the population of Kenya.”

Mr. Deputy Speaker, Sir, two issues arise: First, you are singling out discriminatively one community. That is outlawed and it should not be allowed in this House.

Secondly ---

**The Deputy Speaker** (Sen. Kembi-Gitura): Order, Sen. Billow! I made it clear and you are jumping the gun. I made it very clear that the Motion of Adjournment is finished. It will not be discussed again, except in so-far-as Sen. (Dr.) Khalwale is required to make a certain substantiation. That is what I said.

If you want to re-open that debate, you will not do it by a point of order. You have to come to the Speaker’s Office and ask for leave to bring another Motion of Adjournment in which then you can deal with issues that you want to deal with. However, there is no way we shall have one hour of a Motion of Adjournment at the direction of the Speaker, then you bring a point of order and expect us to deal with the Motion of Adjournment again. I shall not allow that because it then makes the rules of the House futile.

We will follow what is in the HANSARD or the direction I made which was reiterated yesterday by the Temporary Speaker who was here. We will then proceed from that point. However, you cannot do that now because you are neither on appeal nor review. You cannot possibly re-open a debate and expect me to allow it because I would not allow it. Therefore, the only thing anybody can do now is to ask what happened about the substantiation so that I can ask Sen. (Dr.) Khalwale to give us the substantiation. That is all.

**Sen. Haji:** Mr. Deputy Speaker, Sir, we are not asking for the debate to be opened. We go by your ruling and the ruling which was made by the former Speaker. While we demand that Sen. (Dr.) Khalwale substantiates, this issue is more than character assassination and insult. It is equal to murder.

**The Deputy Speaker** (Sen. Kembi-Gitura): Order, Sen. Haji. I have the greatest respect for all of you, Senators. I hope you will not make my work too difficult. I have made a ruling on that issue. The only thing pending, I have said, is what Sen. (Dr.) has to substantiate. I said this because – I want to be understood – all of you had a chance to be in the House and debate on the Motion of Adjournment. If you want to debate on a similar issue, you have to get the leave of the Speaker like Sen. (Dr.) Khalwale had the leave of the Speaker. You cannot say that the Speaker was possibly wrong in allowing that Motion. If you wanted to make a point of order when the Motion was being debated, you should have done it then, but not now. It is too late.

This is the same way that I do now allow you to make a point of order after the person contributing has sat down. If you want us to discuss this matter further, follow the Standing Orders. There is no debate that will be curtailed or stopped in the House as long as the Speaker has given permission or leave for it to be debated. That is the point I want everybody to understand.

Let me set the rules and make it clear from where I sit. All of you are now preempting debate. You are anticipating what Sen. (Dr.) Khalwale will say or how I will rule in that case. I do not think that is correct. If you want me to set the rules and make them clear, the point I am making - this should be clear from the outset - is that there will not be a Motion of Adjournment through points of order. That is the point I am making.

Therefore, Sen. Billow, if you want to re-open the issue, I will not allow it. If you want to bring it out again, I will not allow it. After Sen. (Dr.) Khalwale has substantiated and the matter is not concluded, then, at that point, you may intervene. However, that will depend on what and how this debate proceeds.

Sen. Billow, Do you still have a point of order? Could I here you?

**Sen. Billow:** Mr. Deputy Speaker, Sir, we are allowed to seek for a point of order. What I have is on a different perspective, but not on your ruling.

**The Deputy Speaker** (Sen. Kembi-Gitura): Go on.

#### GUIDANCE ON MEMBERS MAKING UNCONSTITUTIONAL STATEMENTS IN THE HOUSE

**Sen. Billow:** Mr. Deputy Speaker, Sir, I seek your guidance, as the Speaker of this House. If a statement which contravenes the law of this country is made in this House, what would be your guidance? Should we not have that matter discussed? This is a House that must, by all standards, respect the Constitution of this country. We all swore to respect the Constitution. Therefore, if I stand here and make a statement with legal implications or a statement that contravenes the Constitution, what would be your guidance? Can I not rise on a point of order and seek clarification? That is what we are doing, but not to debate. That is not the issue.

**The Deputy Speaker** (Sen. Kembi-Gitura): That is important, Sen. Billow. If a statement is made in the House by any Senator and the Speaker raises or comes up with that issue--- If, for instance, you want to discuss the National Assembly, a Judge, the President or the presidency, for that matter, I would stop you in your tracks because I would point out Standing Order No.90 to you. It says you cannot impute improper motive even on your own colleague.

However, I would like you to look at the HANSARD on the proceedings on Tuesday. I recall clearly - because I was chairing that debate - that Sen. Hassan rose on a point of order. It is pursuant to his rising on a point of order that I made the ruling which I made for Sen. (Dr.) Khalwale to either substantiate or withdraw and apologise which he undertook to do the following day, which was yesterday. So, that is where we are at the moment.

If you can show me a part of the HANSARD and tell me that you think that there is a point at which I ought to have stopped debate - But you must take cognizance of the

fact that there was leave from the Speaker for the Motion for Adjournment to proceed. We proceeded on that scale. Any Member who was here will bear it out that the points of order were raised, canvassed and the debate went on. What I remember is that neither Sen. Abdirahman nor Sen. Billow were here. So, if you are basing your arguments on what you have read in the HANSARD, it is extremely dangerous because then we will have a seesaw of a debate.

**Sen. Abdirahman:** On a point of order, Mr. Deputy Speaker, Sir. I will not want to defy your ruling, but since you have given a window, I was waiting actually to hear what Sen. Khalwale will say. But your last statement gives me a window to actually look at the HANSARD. What we anticipate from Sen. (Dr.) Khalwale today is only a list of employees, if he is able to do so. However, the issues that have far-reaching consequences on the lives of our people have not been addressed adequately. If you will allow us later on, as you say---

**The Deputy Speaker** (Sen. Kembi-Gitura): Order! Sen. Abdirahman, I do not know what is not clear from what I have said. If you want to debate an issue in this House, you come here and participate in the debate. However, you cannot go and read the HANSARD and then come and say: "This issue should have proceeded this way." It is wrong. We are not going to allow you, unless you bring a substantive Motion. I cannot allow you to possibly go and read the HANSARD and then come and try to make corrections of what has been said in the House. That is the point I am trying to make.

Sen. Halima Abdille.

**Sen. Mohamud:** Mr. Deputy Speaker, Sir, I appreciate your ruling, but want to inform Sen. (Dr.) Khalwale and the nation that two of the four terrorists that attacked Garissa are from---

**The Deputy Speaker** (Sen. Kembi-Gitura): Order, Sen. Abdille!

**The Senate Minority Leader** (Sen. Wetangula): Mr. Deputy Speaker, Sir, allow me to implore our distinguished colleagues – my elder brother, Sen. Haji, Sen. Billow, my very able deputy, Sen. Abdirahman and my dear daughter, Sen. Halima and all other Senators – that when this debate came to the Floor, the House was very thin on quorum. After Sen. (Dr.) Khalwale's moving of the Motion, Sen. Hassan Omar responded very boisterously, strongly and effectively. He literally and uninterruptedly answered Sen. (Dr.) Khalwale on all matters that he found or felt were not true and offensive to him.

Mr. Deputy Speaker, Sir, you were in the Chair and listened to both Senators. Sen. Hassan was almost emotional in the discharge of his speech.

*(Sen. Haji spoke off record)*

I am not complaining at all, but just informing you, Sen. Yusuf.

**The Deputy Speaker** (Sen. Kembi-Gitura): Order, Sen. Wetangula! I will not allow you to altercation across the Floor.

**The Senate Minority Leader** (Sen. Wetangula): I am sorry, Mr. Deputy Speaker, Sir.

Sen. Hassan was justifiably, I believe, emotional in his response and we listened to him in total silence. I want to urge my colleagues that two wrongs do not make a right.

Our continued escalation of this matter in the full glare of the country does not mitigate any wrong that may have been done. If anything, we are inflaming and raising passions. We are actually inciting even those who did not hear the speech to start thinking differently.

Many of us have been wronged many times and sometimes we let it pass for the good of everything. I want to implore our colleagues who feel strongly and offended that we have a different way of dealing with this matter than in the full glare of the country on a matter that can have far-reaching and unhelpful negative consequences that would hurt everybody. I urge your indulgence, hon. colleagues, because we are all very senior citizens and legislators in this country - However strongly we feel, there are times when we feel that it is easier and better to let go than continue rubbing each other, because it does not help us or the country.

**The Deputy Speaker** (Sen. Kembi-Gitura): Sen. (Dr.) Khalwale, it is now your turn. I am not going to keep this open forever.

**Sen. (Dr.) Khalwale:** Mr. Deputy Speaker, Sir, I rise to substantiate the statement that I made during the Motion for Adjournment, upon which, you directed me to table a list of the employees of 2013, 2014 and 2015.

Mr. Deputy Speaker, Sir, you will recall that earlier on, in the sittings of this House, a few weeks ago, I tabled a list here of how people have been employed in the public service. The list was rejected and returned to me because it was not signed and did not have a heading showing that it was a Government document. Upon that directive, I proceeded and wrote to the Clerk of the Senate to provide me with the authentic list of those employees. The Clerk responded by giving me a letter which I tabled in the House yesterday.

After the directives by the Temporary Speaker, Sen. (Dr.) Machage, I followed up that letter that the Clerk of the Senate had given me with another letter, requesting him to furnish me with those details before 2.30 p.m. today. I am pleased to give you a letter dated, today, 30<sup>th</sup> April, 2015 and signed by the Clerk of the Senate, Mr. Nyegenye, in which he requests me to allow the Parliamentary Service Commission to give him that list, for me to be able to table it.

I wish to table the letter.

*(Sen. (Dr.) Khalwale laid the document on the Table)*

**The Deputy Speaker** (Sen. Kembi-Gitura): I will allow everybody to say what they have to say today, but you have to say it correctly.

Sen. Khalwale, on Tuesday you made the statement that you made and you were challenged by Sen. Hassan. I said:-

“Sen. (Dr.) Khalwale, the challenge is directed to you.”

You said:-

“Mr. Deputy Speaker, Sir, indeed, I am a scientist and I speak from a point of knowledge. According to the Standing Orders, I will come here tomorrow to table the list of the new recruits because I will get the list from the Parliamentary Service Commission from the Office of the Clerk. I will serve you with that list;

there is no question about it. I have nothing against youth from any community getting jobs, but I am just asking---.

And then I stopped you. I said: Sen. (Dr.) Khalwale normal practice is that when a challenge like this one comes, it should be substantiated immediately; and you said: "Yes, Mr. Deputy Speaker, Sir. At the next sitting, I will table it because according to the Standing Orders, I can table them within 48 hours" - which is actually not correct because it should be the following day. Then I asked you for the HANSARD record, to state that you are giving that undertaking and you said: "yes I am giving that undertaking, I will go to the office of the Clerk to get it", then I said: "Failure to which I will require you to withdraw and apologize"; and you said: "Yes, Mr. Deputy Speaker, Sir." Then I said "it is so ordered, proceed". Then you made your final point.

The position here is that under Standing Order No.94, you are supposed to substantiate immediately. You are supposed to have that information with you or get it immediately. This is the 48<sup>th</sup> hour which Sen. (Dr.) Machage, the then Temporary Speaker gave you. Do you have that list or do you have a letter seeking to get that list?

**Sen. (Dr.) Khalwale:** Mr. Deputy Speaker, Sir, as I have demonstrated through the two letters that I have written, I want to appeal to you to join me in my understanding of the hierarchy of laws. The Constitution of Kenya provides in Article 35---

**The Deputy Speaker** (Sen. Kembi-Gitura): Sen. (Dr.) Khalwale, I know Article 35 and Standing Order No.94, I understand all that. The point I am making is that, you stood from where you are standing now and said that you have that list, I challenged you and you said that you will table it. This is in fairness to the House and to the Standing Orders because you cannot stand in the House and say that you have evidence, and then say that you are going to look for that evidence. You either have it, suspect you have it or you do not. The reason we are having all these exchanges now is because you undertook to table a list which you have not. My direction was that you either table it or withdraw and apologize. That is the Statement I made from where I am seated.

I am not in the least imputing any ill motive on Sen. (Dr.) Khalwale, but I am saying that everybody must be responsible for their Statements because if you had that list that day or you have it today, all I need is to authenticate whether it is the correct list or not. If you do not have it, then in fairness to your colleagues and to the House, then you must withdraw and apologize. To me, that is the only window, because even the 48 hours that you were given by Sen. (Dr.) Machage yesterday are over. Your undertaking was not to produce a letter seeking information, but to produce and table a list. So, unless you can do that Sen. (Dr.) Khalwale, I am afraid you will have to withdraw and apologize as regards that specific aspect of the list.

**Sen. Kagwe:** On a point of order, Mr. Deputy Speaker, Sir.

**The Deputy Speaker** (Sen. Kembi-Gitura): Sen. Kagwe, I have made a ruling. I do not know whether I am going to open that issue.

**Sen. (Dr.) Khalwale:** Mr. Deputy Speaker, Sir, I stand corrected and because of your legal mind as opposed to my otherwise scientific mind, I must agree with you.

**The Deputy Speaker** (Sen. Kembi-Gitura): You do not agree with me that even law is a science?

*(Laughter)*

**Sen. (Dr.) Khalwale:** Mr. Deputy Speaker, Sir that is for another day.

**The Deputy Speaker** (Sen. Kembi-Gitura): So be it.

**Sen. (Dr.) Khalwale:** Mr. Deputy Speaker, Sir, because of the seriousness of what we are now discussing this afternoon and because I would like the whole country to understand that I am merely in a House of equity, speaking on an issue of the right for all the youth of Kenya to be given equal opportunity, I regret that the Office to the Clerk and by extension the Parliamentary Service Commission (PSC) has denied me the right to enjoy Article 35 of the Constitution which gives every citizen the right of access to information held by the State. I have been denied this and because I was not misleading the Chair---

*(Loud Consultations)*

**The Deputy Speaker** (Sen. Kembi-Gitura): Order! Can Sen. (Dr.) Khalwale finish?

**Sen. (Dr.) Khalwale:** Mr. Deputy Speaker, Sir, because I was not misleading the House, I am glad to remember that even the other list where I have imagined all the appointments in the Public Service was rejected when I attempted to table it. So, I did not want to do that I again and this is why I went the official way. Having said that, I hope that in the coming days I will create an opportunity with the permission of the Speaker to table this list. For now, with those constraints, I wish to withdraw and apologize to you.

**The Deputy Speaker** (Sen. Kembi-Gitura): Thank you, Sen. (Dr.) Khalwale. That brings a close to the issue. Sen. (Dr.) Khalwale is not able to table the list that he said he would and, pursuant to the ruling that I made, he has withdrawn and apologized. That brings the debate to a close.

Next Order!

## STATEMENT

BUSINESS FOR THE WEEK COMMENCING  
TUESDAY, 5<sup>TH</sup> MAY, 2015

**The Senate Minority Leader** (Sen. Wetangula): Mr. Deputy Speaker, Sir, pursuant to the provisions of the Standing Order No.45, I want to present the Business of the Senate for the coming week, Tuesday 5<sup>th</sup> May, 2015.

The Rules and Business Committee (RBC) will meet on Tuesday, 5<sup>th</sup> May, 2015 at 12.00 noon to schedule Business for the week. Subject to further direction by the RBC, the Senate will continue with Business that will not be concluded in today's Order Paper, focusing on the consideration of Bills at the Second Reading Stage and Committee of the Whole, including the following: The Alcoholic Drinks Control (Amendment) Bill, Senate Bill No.5 of 2014---

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*(Loud Consultations)*

**The Deputy Speaker** (Sen. Kembi-Gitura): Order, Sen. Abdirahman and Sen. Bule! The House is still in Session, if you must consult, please, do it in low tones. Do not do it so loudly.

Proceed, Sen. Wetangula.

**The Senate Minority Leader** (Sen. Wetangula): Bill number two is the Potato Produce and Marketing Bill (Senate Bill No.22 of 2014) and the Public Fundraising Bill (Senate Bill No. 28 of 2014). Wednesday 6<sup>th</sup> May 2015, the Senate will continue with the Business not concluded during Tuesday sitting and consider any other Business scheduled by the RBC. Thursday 7<sup>th</sup> May, 2015, the Senate will consider Bills at Second Reading, deliberate on pending Motions and any other Business scheduled by the RBC.

Mr. Deputy Speaker, Sir, let me remind the Senators that we have come back to a very busy schedule of the Senate. There are many Bills, including the Bill that was read for the first time in today's Order Paper and other Bills that are at the various stages of consideration. We also have two Bills whose amendments by the Senate were rejected by the National Assembly, for example, The Division of Revenue Bill, (National Assembly Bill No.11 of 2015), that is being considered by a Mediation Committee and The Environmental Management and Coordination (Amendment) Bill (National Assembly Bill No.31of 2014) which will be considered by a similar Mediation Committee once your office appoints that Committee.

Mr. Deputy Speaker, Sir, we also have several Motions that are at various stages of consideration. You can see that our in-tray for the next few weeks is full. Considering the nature of business before us, I appeal to the Committees to finalise consideration of Bills within the said timelines and further request Senators to make themselves available to dispose of pending business before the Senate, especially Bills and particularly those with a constitutional deadline of 27<sup>th</sup> May, 2015.

I hereby lay the Statement on the table.

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

**The Deputy Speaker** (Sen. Kembi-Gitura): Thank you, Senate Minority Leader. Proceed, Sen. Wamatangi.

INCREASED COST OF BUSINESS PERMITS AND LICENCE  
FEES IN KIAMBU COUNTY

**Sen. Wamatangi:** Mr. Deputy Speaker, Sir, just before we went on recess, I sought a Statement from the Chairperson of the Committee on Finance, Commerce and Budget on the situation in Kiambu County pertaining to the Finance Bill which increased three-fold the charges and levies in the County. The Chairperson had promised to give an

answer on Tuesday upon commencement of the House. As of now, I have not got an answer and I seek your assistance on the same.

RELOCATION OF THE HEADQUARTERS OF KIAMBU  
COUNTY GOVERNMENT

Mr. Deputy Speaker, Sir, I had also sought a Statement from the Chairperson of the Committee on Devolved Government on the question of where the county headquarters of Kiambu should be situated. The Chairperson had promised to give an answer on Tuesday upon reopening of the House, which has not happened. I also seek your guidance and assistance on the same.

**The Deputy Speaker** (Sen. Kembi-Gitura): Sen. Billow, do you have the Statement ready? It was supposed to be given today.

Proceed, Sen. Billow. Can you give Sen. Billow the microphone?

**Sen. Billow:** Mr. Deputy Speaker, Sir, I have discussed with the Senator for Kiambu. I will table the Statement next week, but we have agreed on two actions that we are taking as a Committee. One, our Committee will on Monday visit Kiambu County. We will liaise with him because one of the requests he made is for us to visit.

Secondly, we, as the Committee, are directing that the County Government of Kiambu suspends the application of that law, the Finance Act of 2014, until this Committee is satisfied that it meets the requirements of the Constitution. On Monday, we will be in Kiambu and we will address that issue.

**The Deputy Speaker** (Sen. Kembi-Gitura): Very well, Sen. Billow.

**Sen. (Dr.) Khalwale:** On a point of order, Mr. Deputy Speaker, Sir.

**The Deputy Speaker** (Sen. Kembi-Gitura): On that point? Yes, Sen. (Dr.) Khalwale.

**Sen. (Dr.) Khalwale:** Mr. Deputy Speaker, Sir, this House made a resolution that we suspend funding to Kiambu, Murang'a, Kisumu and Bomet counties. The same assurance was made that we had made that recommendation, but it was not effected. Could the Chairperson confirm to this House that, that directive you have given has actually been effected by the National Treasury against the county Government of Kiambu?

**Sen. Billow:** Mr. Deputy Speaker, Sir, I did not say that the directive is coming from the National Treasury. As a House, the position is this: Under Section 161 of the Public Finance Management (PFM) Act, any Finance Act by a county government must be forwarded to the Treasury so that it complies with Article 207 in terms of the economic interests, business environment and so on and so forth, of the county. To an extent, that has not been complied with and there are questions on the legality of the Bill because of that.

As the Chairperson of the Committee, I am directing that they cannot implement that Bill until our Committee is satisfied that the Constitution has been complied with – this is the direction from the Senate.

**The Deputy Speaker** (Sen. Kembi-Gitura): Very well.

Proceed, Sen. Hassan.

**Sen. Hassan:** Mr. Deputy Speaker, Sir, this is a follow up to what the Chairperson of the Committee on County Public Accounts and Investments has said. When we, as a Senate, suspended the funding to the four counties, it was pursuant to a provision of the Constitution where a resolution to that effect could be made by Parliament. My question to you is: What provision either of law, Standing Order or Constitution have you pursued to effect that kind of a drastic resolution?

**Sen. Billow:** Mr. Deputy Speaker, Sir, in the case of the suspension of the accounts of those four counties, which was pursuant to Article 192 of the Constitution, that request to suspend those accounts came to the County Public Accounts and Investments Committee, it was not from our Committee. There is need for that Committee to follow up with the Treasury and the Controller of Budget to find out why the resolution of the Senate was not complied with in that respect.

**The Deputy Speaker** (Sen. Kembi-Gitura): Sen. Okong'o is it on that point.

**Sen. Okong'o:** Yes, Mr. Deputy Speaker, Sir. I think the most effective way for the Chairperson of the Committee on Finance, Commerce and Budget is to address the people of Kiambu directly on that directive so that if that Bill is illegal---

**The Deputy Speaker** (Sen. Kembi-Gitura): Order! What is your point of order?

**Sen. Okong'o:** Mr. Deputy Speaker, Sir, when the Chairperson of the Committee on Finance, Commerce and Budget says in this House that they are directing a suspension of that, which is not effective because it has been tried, maybe the best way is to address the people of Kiambu and tell them that is an illegal Act, and they should not put it in practice until the Committee goes there.

**The Deputy Speaker** (Sen. Kembi-Gitura): Order, Senator! If you listened to the Chairperson of the Committee, he said that he is pursuing the issue, he is visiting Kiambu on Monday and he will give an answer on Tuesday. So, may I request that we wait for Tuesday when we can then interrogate the Statement and you can say all the things that you wish to say about now? It is so ordered that the Statement be issued on Tuesday, next week.

Proceed, Chairperson of the Committee on Devolved Government, Sen. Murkomen. I think Sen. Wamatangi has abandoned it because I can see that he is leaving. Sen. Wamatangi, I thought you raised an issue on the relocation of the headquarters of Kiambu, but you do not want to pursue it now?

**Sen. Wamatangi:** Mr. Deputy Speaker, Sir, I was just going to consult with him, but I am interested in the issue.

**The Deputy Speaker** (Sen. Kembi-Gitura): Before he gives you an answer? Sen. Murkomen, what is the position? You were supposed to give an answer today.

**Sen. Murkomen:** Mr. Deputy Speaker, Sir, we were meant as a Committee to visit Kiambu, but coincidentally, it happened that we had two consecutive conferences, one in Mombasa and the other one in Kisumu.

**The Deputy Speaker** (Sen. Kembi-Gitura): When will you issue the Statement?

**Sen. Murkomen:** Mr. Deputy Speaker, Sir, we have consulted with the Senator and we hope to visit the County next week. If you can give us Tuesday, the week after, we can issue the Statement.

**The Deputy Speaker** (Sen. Kembi-Gitura): Is that okay, Sen. Wamatangi?

**Sen. Wamatangi:** Mr. Deputy Speaker, Sir, with your indulgence, could I request the Chairperson of the Committee on Devolved Government, since the Committee on Finance, Commerce and Budget will be visiting Kiambu on Monday, could you find a way to bend so that we combine the visit and we can address the twin issues at the same time.

**The Deputy Speaker** (Sen. Kembi-Gitura): Well, those are logistics; I cannot deal with them. So, is Tuesday the other week okay with you? Whether or not, they will come the following week is another issue.

**Sen. Wamatangi:** Mr. Deputy Speaker, Sir, that Tuesday maybe a bit far off. I would appreciate an earlier date.

**Sen. Murkomen:** Mr. Deputy Speaker, Sir, the question of Kiambu headquarters has been pending for two years. An extra one week does not cause great harm.

**The Deputy Speaker** (Sen. Kembi-Gitura): Okay, give us the Statement on Tuesday, the other Tuesday not the coming one.

Proceed, Sen. Mositet.

**Sen. Mositet:** Asante, Bw. Naibu Spika. Nimesimama kwa sababu ya jambo ambalo linaguza kaunti yangu. Hili ni jambo la usalama. Kuna gazeti la *Star* ambalo limesema kwamba Sen. Wamatangi anawahamisha watu kutoka upande wa Limuru na kuwapeleka upande wangu wa Suswa. Naona hili ni jambo ambalo linaloweza kusababisha hatari kwa usalama.

**The Deputy Speaker** (Sen. Kembi-Gitura): Order, what are you seeking? I will not rely on a newspaper report.

**Sen. Mositet:** Bw. Naibu Spika, ningependa kukuomba kama mwenyekiti na kama Naibu Spika ueleza Sen. Wamatangi kwamba jambo ambalo amelikeka kwa gazeti si nzuri. Anafaa kuwacha jambo hilo kwa sababu tulikuwa tumeongea mbeleni. Kuna njia ya kutatua mambo kama hayo. Alisema anataka kupeleka maombi---

**The Deputy Speaker** (Sen. Kembi-Gitura): Sen. Mositet, if you want to make a personal statement, there are procedures of doing so. If you want to seek a statement, there are also procedures of doing so. However, you cannot engage me in newspaper reports concerning boundaries. Issues concerning boundaries are very serious and must be brought here substantively. I advise that you either seek a statement or you come under the relevant Standing Order and make a statement and then we can proceed from that point.

**Sen. Mositet:** Mr. Deputy Speaker, Sir, I feel that your ruling is not very good with me. We are talking about an issue which is very important and which touches on the security of our people; both those represented by Sen. Wamatangi and those whom I represent. Some months before---

**The Deputy Speaker** (Sen. Kembi-Gitura): Order, I will not allow that. Sen. Mositet, if you want to discuss matters of security, you must take the proper route. That is a very serious issue. I do not want to start a debate which Sen. Wamatangi will make a reply on and everybody will also start talking about security at their borders. My advice to you is that you seek a statement. You should follow the Standing Orders and Rules of the House and bring that important issue. However, the route you have followed is completely out of order.

**Sen. Murkomen:** On a point of order, Mr. Deputy Speaker, Sir.

**The Deputy Speaker (Sen. Kembi-Gitura):** Is it on security? That matter is over.

## BILL

### *First Reading*

#### THE COUNTY ALLOCATION OF REVENUE BILL (SENATE BILL NO. 5 OF 2015)

*[Order for First Reading read - Read the First Time and  
Ordered to be referred to the relevant Senate Committee]*

## COMMITTEE OF THE WHOLE

*(Order for Committee read)*

*[The Deputy Speaker (Sen. Kembi-Gitura)  
left the Chair]*

## IN THE COMMITTEE

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

#### THE ALCOHOLIC DRINKS CONTROL (AMENDMENT) BILL (SENATE BILL NO.5 OF 2014)

**The Temporary Chairperson (Sen. Murkomen):** For us to conduct any division, we need numbers. I hope we have the necessary numbers to carry out the exercise. Where are the Whips of both sides?

Since we are supposed to go on division, I order that the Division Bell be rung for eight minutes so that we go into voting.

*(The Division Bell was rung)*

**The Temporary Chairperson (Sen. Murkomen):** What is it, Sen. (Dr.) Machage?

**Sen. (Dr.) Machage:** On a point of order, Mr. Temporary Chairman, Sir. There are many ways of expressing an opinion. One of the ways of refusing to accept a Bill is to deny it quorum or vote. This Bill has been with us for some time now. I plead that we continue with the numbers that we have and let justice prevail instead of postponing it. Maybe, Members do not want to vote on this Bill.

**Sen. Ndiema:** On a point of order, Mr. Temporary Chairman, Sir. Given the rate at which we are doing things, I think that we may not move very far. I suggest that in your discretion, you rule that we revert to the Roll Call Voting. That way, the public will know who is there to vote and who is not. In fact, when we had the Roll Call system, there was no shortage of quorum.

**Sen. Ongoro:** On a point of order, Mr. Temporary Chairman, Sir. In my opinion, this is a very important vote that we are about to take. If we proceed, and lose it, then we might not have enough time to present it again. We can skip it and reconsider it on Tuesday after thorough whipping.

**The Temporary Chairperson** (Sen. Murkomen): I would like to hear from the Whips.

Sen. Elachi, please come to the Dispatch Box.

*(Sen. Elachi approached the Dispatch Box)*

**Sen. Elachi:** Mr. Temporary Chairman, Sir, we had the numbers at the start of this Sitting. However, after debating for two hours, we are short of numbers. I can see six Members coming in. It is also important to note that our Muslim brothers feel a bit offended by the Alcohol Drinks Control (Amendment) Bill (Senate Bill No.5 of 2014). They have told me so.

*(Loud consultations)*

**The Temporary Chairperson** (Sen. Murkomen): Order! Proceed, Sen. Sang.

**Sen. Sang:** On a point of order, Mr. Temporary Chairman, Sir. Did you hear what the Whip said? That some Members of this House may have decided to abscond this sitting because of their divergent beliefs on the content of the Bill? Is that not in itself a statement that they are not happy with the Bill? Therefore, why can we not proceed and clear up this matter and move on. We cannot deal with one Bill all the time.

**The Temporary Chairperson** (Sen. Murkomen): Sen. Sang, I do not believe the reason we do not have the numbers is because of a vote by the others. The reason for my argument is that we had a Second Reading where we voted and passed the Bill. We are now in the Committee. There were numbers at that time and that can still be achieved.

**Sen. (Dr.) Khalwale:** On a point of order, Mr. Temporary Speaker, Sir. I just wanted to draw your attention to the fact that the proposal by Sen. (Dr.) Machage and Sen. Sang has actually been reaffirmed by none other than the Whip. The Whip has said that she is disclosing that the people who do not partake of alcohol have boycotted voting on this Bill. So, we just have to make a decision and we move on. She can be allowed to repeat the statement, if I heard her correctly.

**The Temporary Chairperson** (Sen. Murkomen): Sen. (Dr.) Khalwale, I was consulting and I know Senators who are seated here and they do not partake of alcohol, including Sen. Ongoro. There is also Sen. Fatuma Dullo. Let me rule so that we can move forward.

Unfortunately, we do not have the numbers. This is a very important Bill from the National Assembly. Let us not embarrass ourselves by the fact that we do not have numbers today. Even the subsequent Bills will require voting some day. The best thing to do is to proceed to report then the Speaker will give direction on the next two Bills. I think we will proceed and report progress.

I suggest that we report progress on Order No.9 and my suggestion will be that we proceed with Order No.10, come back to the Committee on the same Orders then voting will be put together for the three Bills at some day when it is appropriate. Let me consult. That being my considered opinion, I will now call upon the Mover.

### PROGRESS REPORTED

#### THE ALCOHOLIC DRINKS CONTROL (AMENDMENT) BILL (SENATE BILL NO.5 OF 2014)

**Sen. Adan:** Mr. Temporary Chairperson, Sir, pursuant to Standing Order No.139, I beg to move that the Committee of the Whole reports progress on its consideration of the Alcohol Drinks Control (Amendment) Bill (Senate Bill No.5 of 2014) and seeks leave to sit again tomorrow.

*(Question proposed)*

*(Question put and agreed to)*

*(The House resumed)*

*(The Temporary Speaker (Sen. Ongoro) in the Chair)*

### REPORT

**Sen. Murkomen:** Madam Temporary Speaker, I beg to report progress; that the Committee of the Whole has considered the Alcoholic Drinks Control (Amendment) Bill (Senate Bill No.5 of 2014) and seeks leave to sit again tomorrow or the next sitting of the Senate.

**Sen. Elachi** seconded.

*(Question proposed)*

**Sen. (Eng.) Muriuki:** On a point of order, Madam Temporary Speaker.

**The Temporary Speaker** (Sen. Ongoro): I am on my feet, what is out of order?

**Sen. (Eng.) Muriuki:** Madam Temporary Speaker, I expected that there would be a chance if someone wants to say something. I requested, but I was not given a chance.

**The Temporary Speaker** (Sen. Ongoro): Senator, there is a system that we are using here and your name is not reflecting anywhere. I have no other means of knowing that you have an intention to speak, unless you log in.

Do you wish to still speak?

**Sen. (Eng.) Muriuki:** Madam Temporary Speaker, it is not much, but I think it is important. When we were in the Committee Stage, we nearly made a decision that we go ahead with the voting knowing very well that we will lose because of lack of numbers. My sentiment is that as a matter of principle, I do not think that is a good procedure. We, as a House, must resolve that any voting, if we do not have the threshold of 24 Members, then we do not proceed. If the voting went ahead and was defeated, that is a different issue all together. However, we must not enter into voting if we do not have the requisite threshold.

**The Temporary Speaker** (Sen. Ongoro): There being no further requests to speak to this, I now put the question.

*(Question put and agreed to)*

### COMMITTEE OF THE WHOLE

*(Order for Committee read)*

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

### IN THE COMMITTEE

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

### THE POTATO PRODUCE AND MARKETING BILL (SENATE BILL NO. 22 OF 2014)

#### *Clause 3*

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

THAT, Clause 3 of the Bill be amended by deleting paragraph (f).

The amendment to Clause 3 seeks to remedy the contradiction that exists between paragraphs (a) and (f). While paragraph (a) provides that the object and purpose of the Bill is to regulate various processes in the potato industry, paragraph (f) provides that the object and purpose of the Bill is to introduce self-regulation across the industry which is not the case. Hence, the committee proposes to delete paragraph (f) in order to correct the anomaly.

*(Question of the amendment proposed)*

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

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*Clause 4*

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

THAT, Clause 4 of the Bill be amended-

(a) in sub-clause(1) by deleting the words “National Potato Council” appearing immediately after the words “known as the” and substituting therefor the words “Potato Board of Kenya”; and

(b) in sub-clause (2) by deleting the word “Council” appearing in the introductory clause and substituting therefor the word “Board”.

Mr. Temporary Chairman, Sir, the proposed amendment to Clause 4 seeks to review the name of the potato Council to the Potato Board of Kenya, particularly in view of the fact that it is a corporate body whose functions are expected to cut across the national and county levels of government. The subsequent amendments, therefore, seek to replace the word “Council” with “Board”, in order to take into account the change in the name of the council.

We also realised there is a private entity called “council” and we also wanted to avoid another “council”.

Thank you.

*(Question of the amendment proposed)*

**Sen. (Eng.) Muriuki:** Mr. Temporary Chairman, Sir, I stand to support that amendment and for the benefit of the House, I, as the sponsor of the Bill had written in the Bill that the body to run the affairs of the potato industry to be known as “The National Potato Council.” However, we realised somewhere along the way that there is an organization called “The National Potato Council of Kenya” and because of the name, I had actually thought it is an official body. But later on when seeking the views of the Ministry of Agriculture, we realised that this is actually a private company. So, this amendment is quite in order and the name proposed by the committee, “Potato Board of Kenya” is quite in order and I support.

**The Temporary Chairperson** (Sen. Murkomen): Now that there is no other intervention, I will put the question at the end.

*Clause 5*

**The Temporary Chairperson** (Sen. Murkomen): Before I propose the question, I have a suggestion for you, if it may help you move on faster, for you to just say that Clause 5 be amended as indicated in the Order Paper because we have the Order Paper, then you give a brief justification. You do not need to re-read the proposed amendment. I hope you get me, Chairman?

**Sen. Ndiema:** Thank you, Mr. Temporary Chairman, Sir. I beg to move:-

THAT, Clause 5 of the Bill be amended by-

(a) deleting sub-clause (1) and substituting therefor the following new sub-clause-

- (1) The Board shall comprise of-
- (a) a chairperson who shall be appointed by the President from among stakeholders in the potato industry with the relevant experience;
  - (b) the Principal Secretary in the ministry responsible for matters relating to Agriculture or an alternate designated in writing by the Principal Secretary;
  - (c) three representatives of farmers appointed by the Cabinet Secretary from organizations representing potato farmers;
  - (d) two persons appointed by the Cabinet Secretary to represent trading organizations;
  - (e) one person representing research institutions;
  - (f) one person representing seed producers; and
  - (g) the executive officer who shall be an *ex-officio* member and the secretary to the Board.
- (b) deleting sub-clause (2) and substituting therefor the following new sub-clause-
- (2) The Cabinet Secretary shall ensure that not more than two-thirds of the persons appointed under subsection (1) are of the same gender.
- (c) deleting sub-clause (3);
- (d) in sub-clause (4) by deleting the word “council” appearing immediately after the words “members of the” and substituting therefor the word “Board”;
- (e) in sub-clause (5) by deleting the word “council” appearing immediately after the words “constituting the first” and substituting therefor the word “Board”;
- (f) in sub-clause (6) by deleting the word “council” appearing immediately after the words “the members of the” and substituting therefor the word “Board”;
- (g) by deleting sub-clause (7) and substituting therefor the following new sub-clause-
- (7) The members of the Board shall, at the first meeting of the Board and whenever need arises, elect a vice-chairperson from amongst the members appointed under paragraphs (c), (d), (e) and (f) of subsection (1).
- (h) in sub-clause (8) by deleting the word “council” appearing immediately after the words “as a member of the” and substituting therefor the word “Board”;
- (i) in sub-clause (9) by deleting the word “council” appearing immediately after the words “a member of the” and substituting therefor the word “Board”;
- (j) in sub-clause (10) by deleting the word “council” appearing immediately after the words “a member of the” and substituting therefor the word “Board”;
- (k) by deleting sub-clause (11) and substituting therefor the following new sub-clause-
- (11) The Board may co-opt not more than two members, with no voting rights, who bring in special knowledge to further its mandate and who may serve for a specified time at the discretion of the Board.
- (l) in sub-clause (12) by deleting the word “council” appearing immediately after the words “a member of the” and substituting therefor the word “Board”.
- Mr. Temporary Chairman, Sir, the proposed amendment to sub-clause (1) seeks to review the composition of the board as currently constituted in the Bill. The Cabinet Secretary (CS) is responsible for the nomination of most of the members of the council

and hence there is likelihood to be a lot influence from the national Government on the operations of the board. In addition, it seeks to provide for the appointment, by the President, of the chairperson of the board as is the case with parastatals established pursuant to The State Corporations Act.

The amendment also takes into account the fact that the first and second schedules which set out the major potato producing and consuming counties in the country from which farmer representatives are to be nominated has been proposed to be repealed. This is owing to the fact that the board should cater for the interest of potato farmers, consumers and potato industry in the entire country and not just counties that currently undertake potato farming and consumption.

In addition, the fact that a county is a major producing or consuming county may change in the future and hence it would be inappropriate to list these counties in the Bill. The proposed amendment also seeks to ensure that there is representation from persons from various sectors within the potato industry, including potato farmers, research institutions, trading organizations and seed producers in order to ensure that the interest of persons involved in the potato industry are catered for.

Mr. Temporary Chairman, Sir, the amendment also compels the CS to take into account the one third gender rule in making the nominations which is the principle that is set out under the Constitution.

The amendment to paragraph 11 seeks to curb the number of persons who can be co-opted into the board, to two, in order to avoid having a board with too many persons.

Thank you.

*(Question of the amendment proposed)*

**Sen. (Eng.) Muriuki:** Mr. Temporary Chairman, Sir. I stand to support that amendment. The Bill, as it was constituted had a council and also took account what was then known as the main potato producing and consuming counties; the views of the committee are quite in order and I support.

Let me also inform the House that, this is one of the Bills which had a lot of interest during the public hearings and many views were taken into account by the Committee, coming from the various sectors, be it the research institutions, farmers and others. Most of these amendments came out of the very many views. Most important of all were the views given by the Government itself through the officers of the Ministry of Agriculture who even came up with the board from 15 to nine members.

With those sentiments, I beg to support.

Thank you.

**The Temporary Chairperson** (Sen. Murkomen): Let us be brief.

**Sen. (Prof.) Lesan:** Mr. Temporary Chairman, Sir, I am also in agreement with the amendments being made. However, I have a small problem with reference to Clauses in this amendment. For example, it will be difficult to refer to portions of this Bill if it becomes an Act. There is a Clause which states that, "The Board shall comprise of ---. Then, there is (a), (b), (c) (d) up to (g). Next to it, there is also the nomenclature (a), (b),

(c), (d) ---. It will be very difficult to refer to it. For example, if I am referring to Clause 1(b), there is also another 1(b).

**The Temporary Chairperson** (Sen. Murkomen): Sen. (Prof.) Lesan, numbering will be sorted out later. That is not an issue. However, it is a good issue for you to raise it. But definitely, it will be sorted out by the drafters finally when cleaning the Bill.

**Sen. Obure:** Mr. Temporary Chairman, Sir, I also support the amendments. In fact, I feel very happy because we are moving in the right direction in respect to this particular industry and the fact that we are putting in place a proper structure that will help streamline operations in this industry which has been in absolute chaos in the past.

Thank you, Mr. Temporary Chairman, Sir.

**The Temporary Chairperson** (Sen. Murkomen): There being no other contributor, let us move on. I propose that the Division be at the end.

Next Clause. Mr. Chairman, please, give brief explanations.

### *Clause 6*

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

THAT, Clause 6 of the Bill be amended in sub-clause (1) by deleting the word “council” appearing immediately after the words “function of the” and substituting therefor the word “Board”.

This is just a consequential amendment of the name from the “Council” to “Board”.

*(Question of the amendment proposed)*

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

### *Clause 7*

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

THAT, Clause 7 of the Bill be amended-

(a) by deleting sub-clause (1) and substituting therefor the following new sub-clause-

(1) There shall be an Executive Officer of the Board who shall be competitively recruited and appointed by the Board, in consultation with the Cabinet Secretary.

(b) in sub-clause (2) by deleting the word “council” appearing immediately after the words “Executive Officer of the” and substituting therefor the word “Board”.

(c) in sub-clause (3) by-

- (i) deleting the word “council” appearing immediately after the words “*ex-officio* member of the” in paragraph (a) and substituting therefor the word “Board”;
- (ii) deleting the word “council” appearing immediately after the words “employment as the” in paragraph (b) and substituting therefor the word “Board”;
- (iii) deleting paragraph (c) and substituting therefor the following new sub-clause-
  - (c) subject to the direction of the Board, be responsible for the day to day management of the Board; and
- (iv) deleting paragraph (d) and substituting therefor the following new paragraph-
  - (d) in consultation with the Board, be responsible for the performance of the functions of the Board and duties, and the general administration of the Board and its secretariat.

This is just a consequential amendment in order to reflect the new name of the Board.

*(Question of the amendment proposed)*

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

*Clause 8*

**Sen. Ndiema:** Mr. Temporary Chairman, Sir, I beg to move:-  
THAT, Clause 8 of the Bill be amended in the introductory clause by deleting the word “Council” and substituting therefor the word “Board”.  
This is for the same reason that it is a consequential amendment.

*(Question of the amendment proposed)*

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

*Clause 9*

**Sen. Ndiema:** Mr. Temporary Chairman, Sir, I beg to move:-  
THAT, the Bill be amended by deleting Clause 9 and substituting therefor the following new clause-  
9. The procedure of the conduct of affairs of the Board shall be as provided in the Third Schedule but subject thereto, the Board may regulate its own procedures.  
That is for the same reason that it is a consequential amendment.

*(Question of the amendment proposed)*

*Clause 10*

**Sen. Ndiema:** Mr. Temporary Chairman, Sir, I beg to move:-  
THAT, Clause 10 of the Bill be amended-

- (a) In sub-clause (1) by deleting the word “Council” appearing immediately before the words “shall gather” and substituting therefor the word “Board”.
- (b) In sub-clause (2) by deleting the word “Council” appearing immediately before the words “shall disseminate” and substituting therefor the word “Board”.

This is a consequential amendment to reflect the proper name.

*(Question of the amendment proposed)*

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

*Clause 11*

**Sen. Ndiema:** Mr. Temporary Chairman, Sir, I beg to move:-  
THAT, Clause 11 of the Bill be amended-

- (a) by deleting sub-clause (1) and substituting therefor the following new sub-clause-
  - (1) The Board may, with the approval of the Cabinet Secretary, impose such levies as it considers necessary in order to raise funds necessary for the performance of its functions.
- (b) in sub-clause (2) by deleting the word “Council” appearing immediately after the words “authority of the” and substituting therefor the word “Board”.

Mr. Temporary Chairman, Sir, the amendment to sub-clause 1 seeks to impose an obligation on the Board to obtain the approval of the Cabinet Secretary prior to imposing levies as a measure of raising funds to enable the Board carry out its functions. Imposing this obligation will ensure that the decisions of the Board are not arbitrary and that there is a system of checks and balances, particularly in view of the economic impact that the imposing of levies may have within the potato industry.

Mr. Temporary Chairman, Sir, the amendment to sub-clause 2 is a consequential amendment.

*(Question of the amendment proposed)*

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

*Clause 12*

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

THAT, Clause 12 be amended

(a) in sub-clause (1) by deleting the word “Council” appearing immediately before the words “shall within twelve” and substituting therefor the word “Board”;

(b) in sub-clause 2-

(i) in the introductory clause by deleting the word “Council” appearing immediately after the words “the goals of the” and substituting therefor the word “Board”;

(ii) by deleting the words “at least fifty percent” appearing immediately before the words “usage of certified” in paragraph (a) and substituting therefor the word “optimum”; and

(iii) by deleting the word “double” appearing immediately before the words “the quantities of potatoes” and substituting therefore the words “increase in quality and quantity” in paragraph (b).

Mr. Temporary Chairman, Sir, this is, again, a consequential amendment to reflect the proper name of the Board.

*(Question of the amendment proposed)*

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

**Sen. (Eng.) Muriuki:** Mr. Temporary Chairman, Sir, I just want to clarify a small matter. Whereas this Clause is in relation to the change of name, in (b)(ii), it is good to explain that we had suggested that the Board sets a milestone as to when it will achieve 50 per cent of the usage of certified seed which the Committee, in its wisdom, thought it is not a good idea. Nonetheless, I support.

*Clauses 13, 14 and 15*

*(Question that Clauses 13, 14 and 15 be part of the Bill proposed)*

**The Temporary Chairperson** (Sen. Murkomen): The above Clauses do not have amendments. The Division will be at the end.

*Clause 16*

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

THAT, the Bill be amended by deleting Clause 16 and substituting therefor the following new clause-

16. The Board shall, in the performance of its functions under section 10, obtain data on licensed seed producers and seed merchants from the Kenya Plant Health

Inspectorate Service and disseminate the information for general reference by potato farmers.

Mr. Temporary Chairman, Sir, the amendment on Clause 16 seeks to impose a specific obligation on the Board to obtain the necessary data on licensed seed producers and merchants. As currently phrased in the Bill, it will appear that the process of obtaining the data is to be carried out by a third party and not the Board.

Mr. Temporary Chairman, Sir, the amendment also seeks to ensure that the provision reflects the new name of the Board.

Thank you, Mr. Temporary Chairman, Sir.

*(Question of the amendment proposed)*

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

*Clause 17*

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

THAT, Clause 17 of the Bill be amended-

- (a) in sub-clause (1) by deleting the word “Council” appearing immediately before the words “shall promote the use of” and substituting therefor the word “Board”;
- (b) in sub-clause (2) by deleting the word “Council” appearing immediately before the words “shall take steps” and substituting therefor the word “Board”.

Mr. Temporary Chairman, Sir, this is a consequential amendment to reflect the change of name.

*(Question of the amendment proposed)*

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

*Clause 18*

*(Question that Clause 18 be part of the Bill proposed)*

**The Temporary Chairperson** (Sen. Murkomen): Clause 18 does not have amendments. The Division will be at the end.

*Clause 19*

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

THAT, Clause 19 be amended –



- (a) by deleting sub-clause (1) and substituting therefor the following new sub-clause-
  - (1) The Board may, in consultation with the council of governors, recommend to a Governor the establishment of a County Potato Committee.
- (b) by deleting sub-clause 2 and substituting therefor the following new sub-clause-
  - (2) A county committee established under subsection (1) shall comprise of-
    - (a) the county executive committee member responsible for matters relating to trade;
    - (b) three persons representing potato farmers in the county appointed by the county executive committee from amongst potato farmers' organizations in the county;
    - (c) two persons representing the potato trading fraternity including brokers and agents;
    - (d) one person representing consumer organizations in the county appointed by the County Executive Committee members; and
    - (e) one person with scientific knowledge of the potato industry who serves in the county government, who shall be the secretary and an *ex-officio* member of the committee and shall have no right to vote at the meetings of the committee.
- (c) by deleting sub-clause (3) and substituting therefor the following new sub-clause –
  - (3) In the case of the Capital City or an urban county in which there are no potato farmers, the membership to the county committee specified under sub-clause (2)(b) shall instead consist of three persons representing associations of processors of potato products and nominated by the Council of Governors.
- (d) in sub-clause (5) by deleting the word “Council” –
  - (i) appearing immediately after the words “issued by the” in paragraph (a) and substituting therefor the word “Board”;
  - (ii) appearing immediately after the words “help the” in paragraph (e) and substituting therefor the word “Board”;
- (e) in sub-clause (6) by deleting the words “or (3)(b)(c) and (d),” appearing immediately after the words “sections (2)(b) and (c)”;
- (f) in sub-clause (8) by deleting the words “National Potato Council” appearing immediately after the words “be a member of the” and substituting therefor the words “Board”; and
- (g) in sub-clause (9) by deleting the word “Council” appearing immediately after the words “subsection (3), the” and substituting therefor the word “Board”.

Mr. Temporary Chairman, Sir, the amendment to sub-clause 1 seeks to provide for the establishment of a Potato Committee by the Board on the recommendations of the Board and, in consultation with the Council of County Governors. The Bill currently sets

out a list of counties in the First and Second Schedules of major potato producing and consuming counties in which the committees will be established.

The proposed amendment will ensure that the committee is only established in the area where it is necessary to establish one. It also does away with the disadvantage that would arise of setting out, in the Bill, the major potato producing and consuming counties in which the committees will be established. This is owing to the fact that the status of a county as a major potato producing or consuming county may change with time. This would, therefore, necessitate an amendment to the Act to reflect the change. The best option would, therefore, be to leave it to the discretion of the Board, in consultation with the Council of County Governors, which would be best placed to advise given the fact that agriculture is now devolved.

Mr. Temporary Chairman, Sir, the amendment to sub-clause 2 seeks to reduce the number of members to the county potato committee from ten to eight members and to allow for representation in the committee of persons representing potato farmers and the County Executive Committee (CEC) Member responsible for trade. This would ensure that the major players in the potato industry within a county are adequately represented in the committee, hence, act as a way of ensuring that their interests are catered.

The amendment to sub-clause (3) seeks to ensure that where the board determines that it would be necessary to establish a county potato committee in an urban county, in which there are no potato farmers, but other players and stakeholders in the potato industry are found, then the membership of the committee consists of persons nominated by an association of caterers and processors found within the county in order to represent the interests of such stakeholders in the board.

The amendments to sub-clauses (5), (8) and (9) are consequential amendments to reflect the name.

*(Question of the amendment proposed)*

**The Temporary Chairperson** (Sen. Murkomen): The Division will come at the end.

I am sorry, Sen. Obure. You can combine your thoughts in the next clause.

*Clause 20*

**Sen. Ndiema:** Mr. Temporary Chairperson, Sir, I beg to move:-

THAT clause 20 of the Bill be amended-

(a) in subclause (3) by deleting the word “Council” appearing immediately before the words “ shall issue guidelines” and substituting therefor the word “Board”; and

(b) in subclause (5) by deleting the word “Council” appearing immediately after the words “committee members or” and substituting therefor the word “Board”.

Mr. Temporary Chairperson, Sir, this is a just a consequential amendment to reflect the new name of the organisation.

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*(Question of the amendment proposed)*

**Sen. Obure:** Mr. Temporary Chairperson, Sir, I was going to support that particular amendment and say that I am aware that in some counties the potato industry is the lifeline of many of our citizens. The fact that we are giving them an opportunity to form committees within the counties and address issues relating to potato farming and the challenges is an important provision.

I feel strongly that I should express these words in support.

**Sen. (Eng.) Muriuki:** Mr. Temporary Chairperson, Sir, first of all, I requested to comment on Clause 19, but I think you did not see my request. Allow me to take you back very briefly.

*(Resumption of consideration of Clause 19)*

In the Vice-Chairperson's verbal moving of the amendment on Clause 19 (c), where we are forming a committee of the consuming counties like Nairobi, he did mention caterers, which was in the proposal, but is not included in what is written here. In order to cure that, allow me to propose that minor amendment to Clause 19 (c).

**The Temporary Chairperson** (Sen. Murkomen): Order, Sen. Karue! Let me consult.

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

Vice-Chairperson of the Committee before I come to Eng. Karue.

**Sen. Ndiema:** Mr. Temporary Chairperson, Sir, it may not have specifically indicated the caterers, but if you look at Clause 19 (2) (c), it reads:-

“Two persons representing the potato trading fraternity including brokers and agents.”

Would it not include caterers?

**The Temporary Chairperson** (Sen. Murkomen): Sen. (Eng.) Karue, you can move your amendment if you are not convinced by the Vice-Chair and then when we come to Division, we will do two divisions.

**Sen. (Eng.) Muriuki:** Mr. Temporary Chairperson, Sir, first of all, give me a chance to convince the Vice-Chair that there is an omission. This is because what we are doing is to get committees for the potato industry in all the counties. By the way, the producing counties are 34 at the moment, but they could be more but when it comes to urban situations like in Nairobi or Mombasa, the fraternity heavily involves traders and association of caterers.

I wish to move an amendment in Clause 19 (c), so that the third line under (3) reads:-

“shall consist of three persons representing association of caterers and processors.”

**The Temporary Chairperson** (Sen. Murkomen): Sen. Karue, are you amending the clause?

**Sen. (Eng.) Muriuki:** Mr. Temporary Chairperson, Sir, it is a further amendment to the already moved amendment. In fact, we had agreed on it. When you are in an urban city like Nairobi in the association of hotel keepers and general catering industry, they are the main consumers. We do not want to leave them out in this committee which is in the county.

Mr. Temporary Chairperson, Sir, if you permit me now, I can propose my amendment to the amendment.

**The Temporary Chairperson** (Sen. Murkomen): Eng. Karue, you are too late. If you needed to move that amendment, you should have brought it for approval.

**Sen. (Eng.) Muriuki:** Mr. Temporary Chairperson, Sir, I have just noticed that it had been left out. In fact, I think the Vice-Chair also said it. Could you use your discretion so that we can insert it, because in future we shall still have to include it somehow?

**The Temporary Chairperson** (Sen. Murkomen): Do you have the amendment with you?

**Sen. (Eng.) Muriuki:** Mr. Temporary Chairperson, Sir, I will write it down and bring it to you.

**Sen. Ndiema:** Mr. Temporary Chairperson, Sir, while the Committee may not have used the name “caterers,” it is implied in one way or another. The amendment in Clause 19 (b) (2) (d) reads:-

“One person representing consumer organizations in the county appointed by the county executive committee members.”

Consumers include the caterers.

**Sen. Obure:** Mr. Temporary Chairperson, Sir, I have been listening and think that the point being pursued by Sen. (Eng.) Muriuki is very valid. Caterers are a very critical part of industry, because they are the main consumers. I would support Sen. Muriuki in ensuring that they are specifically included and provided for in this law.

**The Temporary Chairperson** (Sen. Murkomen): You are proposing an amendment in Clause 19 (3). So, it is a further amendment to the amendment.

Proceed and move the amendment since I have approved it.

**Sen. (Eng.) Muriuki:** Mr. Temporary Chairperson, Sir, I beg to move that Clause 19 be further amended by inserting the words “of caterers and” in (3).

It will now read as follows:-

“In the case of the capital city or an urban county in which there are no potato farmers, the membership to the county committee specified under sub-clause (2)(b) shall instead consist of three persons representing association of caterers and processors of potato products nominated by the Council of Governors.”

**The Temporary Chairperson** (Sen. Murkomen): What is the justification?

**Sen. (Eng.) Muriuki:** Mr. Temporary Chairman, Sir, the essence here was that we have a national body which is catering for the potato industry in various ways, which I am not going to repeat, but we also felt that it was important both in the formulation of

the Bill and later the discussion in the Committee and also the input by the people who came in the public hearing, that it is necessary to have a county committee even where we do not have potato growing. In that case then, the main stakeholders in the urban situation would be the traders and the brokers. More importantly, the consumers are in two classes; the individual consumer in their homes and the bulky consumers in the hotels. They have their association and interest.

As a matter of fact, the people who guide the type and the grading of the potato are the caterers. So, it is very important to make sure that they are included in this committee in the urban situation.

**The Temporary Chairperson** (Sen. Murkomen): Thank you, Sen. Karue

*(Question of the amendment proposed)*

At the end when we will be voting, there will be two questions. That is one of the further amendments and the one that is proposed by the Committee.

We will put the question of that amendment at the end. When we will be doing Division, there will be two amendments; one for further amendment and the one proposed by the Committee.

*Clause 20*

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

THAT, Clause 20 of the Bill be amended-

(a) in subclause (3) by deleting the word “Council” appearing immediately before the words “ shall issue guidelines” and substituting therefor the word “Board”; and

(b) in subclause (5) by deleting the word “Council” appearing immediately after the words “committee members or” and substituting therefor the word “Board”.

Mr. Temporary Chairman, Sir, This s a consequential amendment.

*(Question of the amendment proposed)*

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

**Sen. (Eng.) Muriuki:** Mr. Temporary Chairman, Sir, I needed to consult Senator number one. It is a small matter; for purposes of the HANSARD, for the records; the chairman is saying that he is proposing but I think he is moving.

**The Temporary Chairperson** (Sen. Murkomen): Yes, but in his moving— You are very correct.

*Clause 21*

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

THAT, Clause 21 of the Bill be amended-

- (a) in subclause (1) by deleting the words “National Potato Council” appearing immediately before the words “shall issue” and substituting therefor the word “Board”; and
- (b) in subclause (2) by deleting the word “Council” appearing immediately before the words “shall institute a mechanism” and substituting therefor the word “Board”

Mr. Temporary Chairman, Sir, for record purposes where I have indicated that I propose, it should reflect that I move.

*(Question of the amendment proposed)*

*Clause 22*

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

THAT, Clause 22 of the Bill be amended-

- (a) in subclause (1) by –
  - (i) deleting the word “Council” appearing in the introductory clause and substituting therefor the word “Board”;
  - (ii) deleting the word “Council” appearing immediately after the words “potato produce as the” in paragraph (b) and substituting therefor the word “Board” ;
  - (iii) deleting paragraph (c) and substituting therefor the following new paragraph-
    - (c) acquire such quantities of potato seeds for sale, storage or for such other purposes as the Board may from time to time decide and sell or otherwise dispose of such stocks in such manner as it considers appropriate;
    - (iv) inserting the following new paragraph immediately after paragraph (c)-
      - (d) promote value addition in potato farming.
  - (b) in subclause (2) by deleting the word “Council” appearing immediately before the words “may engage” and substituting therefor the word “Board”.

Mr. Temporary Chairman, Sir, amendments to Clause 22 are consequential in order to reflect the name. The amendment to sub-clause (1)(c) seeks to restrict the acquisition of stock for safe storage or such other purpose by the board to potato seeds and not potato produce. This will enable the board to ensure the implementation and achievement of the objects and purposes set out in Clause 3 of the Bill; promoting the production and use by farmers of high quality potato seeds, enhancing productivity and improving potato production in terms of quality and quantity. The achievement of these objectives would principally be achieved through the acquisition and dissemination to farmers of potato seeds that would be necessary for potato production.

*(Question of the amendment proposed)*

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

*Clause 23*

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

THAT, Clause 23 of the Bill be amended in subclause (1) by deleting the words “one hundred and ten” appearing immediately after the words “potatoes shall be” and substituting therefor the word “fifty”.

Mr. Temporary Chairman, Sir, the amendment to sub-clause one seeks to reduce the standard weight for a bag or package of potatoes from ten kilograms as set out in the Bill to 50 kilogrammes in order to align the provision to the international standards of packaging such wares

*(Question of the amendment proposed)*

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

*Clause 24*

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

THAT Clause 24 of the Bill be amended in subclause (1) by deleting the word “Council” appearing at the end of the subclause and substituting therefor the word “Board”

Mr. Temporary Chairman, Sir, this is a consequential amendment to reflect the new name of the Board.

*(Question of the amendment proposed)*

*Clause 25*

*(Question, that Clause 25 be part of the Bill proposed)*

*Clause 26*

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

THAT, Clause 26 of the Bill be amended-

(a) in subclause (1) by deleting the word “Council” appearing immediately after the words “shall be administered by the” and substituting therefor the word “Board”;

(b) in subclause (2) by –

(i) deleting the word “Council” appearing immediately after the words “accrue to the” in paragraph (c) and substituting therefor the word “Board”;

(ii) deleting the word “Council” appearing immediately after the words “may grant to the” in paragraph (d) and substituting therefor the word “Board”;

Mr. temporary Chairman, Sir, this again is a consequential amendment in order to reflect the new name of the board.

*(Question of the amendment proposed)*

*Clause 27*

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

THAT, Clause 27 of the Bill be amended in subclause (1) by-

(a) deleting the word “Council” appearing immediately after the words “expenses of the” in paragraph (a) and substituting therefor the word “Board”;  
and

(b) deleting the word “Council’s” appearing immediately after the words “necessary to fulfill the” in paragraph (b) and substituting therefor the word “Board’s”.

Mr. Temporary Chairman, Sir, again, this is a consequential amendment.

*(Question of the amendment proposed)*

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

*Clause 28*

*(Question, that Clause 28 be part of the Bill proposed)*

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

*Clause 29*

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

THAT, Clause 29 of the Bill be amended-

(a) in the introductory Clause by deleting the word “Council” appearing immediately after the words “finances of the” and substituting therefor the word “Board”;

(b) by deleting paragraph (b) and substituting therefor the following new paragraph-

(b) monies accruing to the Board out of levies that may be set by the Board as provided for under section 11;

Mr. Temporary Chairman, Sir, this is a consequential amendment to reflect the name of the board.



*(Question of the amendment proposed)*

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

*Clause 30*

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

THAT, Clause 30 of the Bill be amended by deleting the word “Council” appearing immediately after the words “year of the” and substituting therefor the word “Board”.

*(Question of the amendment proposed)*

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

*Clause 31*

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

THAT, Clause 31 of the Bill be amended-

(a) by deleting subclause (1) and substituting therefor the following new subclause-

(1) Before the commencement of each financial year, the Board shall cause to be prepared estimates of the revenue and expenditure of the Board for that financial year.

(b) in Clause (2) by deleting the word “Council” appearing immediately before the words “shall approve” and substituting therefor the word “Board”.

*(Question of the amendment proposed)*

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

*Clause 32*

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

THAT, Clause 32 of the Bill be amended-

(a) by deleting subclause (1) and substituting therefor the following new subclause-

(1) The Board shall cause to be kept all proper books and records of accounts of the income, expenditure, assets and liabilities of the Board.

(b) in subclause (2) by deleting the word “Council” appearing immediately after the words “appointed by the” and substituting therefor the word “Board”.

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

(3) Within a period of three months from the end of the financial year, the Board shall submit to the Auditor-General, or to an auditor appointed under subsection (2), the accounts of the Board.

(d) in subclause (4) by deleting the word “Council” appearing immediately after the words “audited accounts of the” and substituting therefor the word “Board”.

Mr. Temporary Chairman, Sir, this is a consequential amendment to reflect the name of the board.

*(Question of the amendment proposed)*

**The Temporary Chairperson** (Sen. Murkomen) The Division will be at the end.

*Clause 33*

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

THAT, Clause 33 of the Bill be amended-

(a) by deleting subclause (1) and substituting therefor the following new subclause-

(1) The Board shall, within three months after the end of a financial year, prepare and submit to Parliament an annual report on the operations of the Board for the preceding year.

(b) in subclause (2) by-

(i) deleting the word “council” appearing immediately after the words “statements of the” in paragraph (a) and substituting therefor the word “Board”; and

(ii) deleting the word “council” appearing immediately after the words “activities of the” in paragraph (b) and substituting therefor the word “Board”.

Mr. Temporary Chairman, Sir, this is a consequential amendment to reflect the name of the Board.

*(Question of the amendment proposed)*

**The Temporary Chairperson** (Sen. Murkomen) The Division will be at the end.

*Clause 34*

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

THAT, Clause 34 of the Bill be amended in subclause (1)-

(a) by deleting the word “council” appearing immediately after the words “consultation with the” in the introductory phrase and substituting therefor the word “Board”;

(b) by deleting the word “council” appearing immediately after the words “this Act by the” in paragraph (d) and substituting therefor the word “Board” .

Again, this is a consequential amendment to reflect the new name of the Board.

*(Question of the amendment proposed)*

**The Temporary Chairperson** (Sen. Murkomen): Hon Senators, Division on this clause will be at the end.

*Clause 35*

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

THAT, Clause 35 of the Bill be amended-

(a) in subclause (1) by deleting the word “council” appearing at the end of the subclause and substituting therefor the word “Board”;

(b) in subclause (2) by-

(i) deleting the word “council” appearing immediately after the words “criminal nature, the” and substituting therefor the word “Board” in paragraph (a);

(ii) deleting the word “council” appearing immediately after the words “civil nature, the” and substituting therefor the word “Board” in paragraph (b);

(iii) deleting the word “council” appearing immediately after the words “civil nature” and substituting therefor the word “Board” in paragraph (b);

(c) by deleting subclause (4) and substituting therefor the following new subclause-

(4) Where the complaint is against the Board, the matter shall be referred to the Cabinet Secretary who shall act in accordance with subsection (2) instead of the Board.

(d) in subclause (5) by deleting the word “council” appearing at the end of the subclause and substituting therefor the word “Board”.

Mr. Temporary Chairperson, Sir, this is a consequential amendment to reflect the new name of the Board.

*(Question of the amendment proposed)*

**The Temporary Chairperson** (Sen. Murkomen): Hon. Senators, Division will be at the end.

*Clauses 36, 37 and 38*

*(Question, that Clauses 36, 37 and 38  
be part of the Bill proposed)*

**The Temporary Chairperson** (Sen. Murkomen): There are no amendments on these Clauses. Division will be at the end.

*First Schedule*

**Sen. Ndiema:** Mr. Temporary Chairman, Sir, I beg to move:-  
THAT, the Bill be amended by deleting the First Schedule  
Mr. Temporary Chairperson, Sir, the deletion of the First Schedule reflects the amendments made to Clause 5 of the Bill, which has done away with the need for this Schedule

*(Question of the amendment proposed)*

**The Temporary Chairperson** (Sen. Murkomen): Division on this will be at the end.

*Second Schedule*

**Sen. Ndiema:** Mr. Temporary Chairman, Sir, I beg to move:-  
THAT, the Bill be amended by deleting the Second Schedule.  
The deletion of the Second Schedule reflects the amendments made to Clause 5 of the Bill which has done away with the need for this Schedule.

*(Question of the amendment proposed)*

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

*Third Schedule*

**Sen. Ndiema:** Mr. Temporary Chairman, Sir, I beg to move:-  
THAT, the Third Schedule be amended-

- (a) in paragraph 1 by-
  - (i) by deleting subparagraph (1) and substituting therefor the following new subparagraph-  
(1) The Board shall hold such number of meetings at such places and at such times as the Board shall consider necessary for the proper discharge of its functions, provided that a decision to hold a Board meeting other than at its designated headquarters shall only be made by a resolution of the Board.
  - (ii) deleting the word “council” appearing immediately after the words “notwithstanding subsection (1)” in subparagraph (2) and substituting therefore the word “Board”;

(iii) deleting the word “council” appearing at the end of subparagraph (3) and substituting therefor the word “Board”;

(b) in paragraph 2 by deleting the word “council” appearing immediately after the words “business of the” and substituting therefor the word “Board”;

(c) by deleting paragraph 3 and substituting therefor the following new paragraph-

Quorum at meetings

3. The quorum for the conduct of business at a meeting of the Board shall be half of the members of the Board, excluding ex-officio and co-opted members

(d) in paragraph 4 by deleting the word “council” appearing immediately after the words “matter before the” in subparagraph (1) and substituting therefor the word “Board”;

(e) in paragraph 5 by deleting the word “council” appearing immediately after the words “provisions of this Act the” and substituting therefor the word “Board”;

(f) by deleting paragraph 6 and substituting therefor the following new paragraph-

Vacancies and improper appointments

6. Proceedings of the Board shall not be invalid by reason only of a vacancy in the membership of the Board or by reason of a defect in the process of appointment of a member.

(g) by deleting paragraph 7 and substituting therefor the following new paragraph-

Disclosure of interest

7. (1) If a member of the Board has a direct or indirect interest in a contract, proposed contract or other matter before the Board, such member shall as soon as is practicable after the commencement of that meeting, disclose that fact.

(2) A member to whom subparagraph (1) applies shall not be present at a meeting of the Board, or a committee of the Board at which the matter in which the member has disclosed an interest is considered by the Board.

(h) in paragraph 8 by deleting the word “council” appearing immediately after the words “meeting of the” and substituting therefor the word “Board”

Mr. Temporary Chairman, Sir, all the amendments proposed to the Third Schedule seek to ensure that it reflects the new name of the Board.

*(Question of the amendment proposed)*

**The Temporary Chairperson** (Sen. Murkomen): Division on this will be at the end.

*Clause 2*

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

THAT, Clause 2 of the Bill be amended by-

(a) inserting the following new definitions in the correct alphabetical sequence-

“Board” means the Potato Board of Kenya established under section 4;

“county executive member” means the county executive member responsible for matters relating to Agriculture; and

(b) deleting the definition of the word “Council”

Mr. Temporary Chairperson, Sir, the amendments to Clause 2 seek to reflect the new name of the Board and introduce the definition of the term “County Executive Officer”, which had not been defined.

*(Question of the amendment proposed)*

**The Temporary Chairperson** (Sen. Murkomen): Division on this will be at the end.

*Long Title:*

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

THAT, the Bill be amended by deleting the Long Title and substituting therefore the following new title –

AN ACT of Parliament to establish the Potato Board of Kenya, to enhance productivity and income of potato farmers; to set standards to regulate the industry; and for connected purposes.

The amendment to the Long Title seeks to ensure that it reflects the objects and purpose of the Bill accurately, particularly in view of the amendments that have been proposed to the Bill. While the Bill will, if implemented, ensure that quality and quantity in potato production is improved, this is a secondary outcome that would be achieved through regulation and ensuring that the standards set are adhered to. Hence the principal aim of the Bill will be in enhancing productivity and therefore income to potato farmers.

*(Question of the amendment proposed)*

**The Temporary Chairperson** (Sen. Murkomen): Division on this will be at the end.

*Clause 1*

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

THAT, Clause 1 of the Bill be amended by deleting the words “sixty” appearing immediately after the words “on the expiry of” and substituting therefor the word “ninety”.

*(Question of the amendment proposed)*

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

We have finished the amendments. What is the point of order Sen. (Eng.) Muriuki?

### PROGRESS REPORTED

#### THE POTATO PRODUCE AND MARKETING BILL (SENATE BILL NO. 22 OF 2014)

**Sen. (Eng.) Muriuki:** Mr. Temporary Chairman, Sir, I beg to move:-

THAT, pursuant to Standing Order No. 139, the Committee of the Whole reports progress on its consideration of the Potato Produce and Marketing Bill (Senate Bill No. 28 of 2014), and seeks leave to sit again tomorrow.

*(Question proposed)*

*(Question put and agreed to)*

*(The House resumed)*

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

**The Temporary Speaker** (Sen. Ongoro): Proceed, Chairperson.

### REPORT

#### THE POTATO PRODUCE AND MARKETING BILL (SENATE BILL NO. 22 OF 2014)

**Sen. Murkomen:** Madam Temporary Speaker, I beg to report progress; that the Committee of the Whole has considered the Potato Produce and Marketing Bill (Senate Bill No. 28 of 2014), and seeks leave to sit again tomorrow or the next sitting of the House.

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

**The Temporary Speaker** (Sen. Ongoro): Where is the seconder? Sen. Obure? There is one intervention from Sen. (Prof.) Anyang'-Nyong'o.

**Sen. (Prof.) Anyang'-Nyong'o:** Madam Temporary Speaker, just some clarification. Is the Potato Produce and Marketing Bill, Senate Bill No. 28 or No. 22? In my Order Paper, it is listed as Bill No. 22 of 2014. I do not know what other Order Papers contain.

**The Temporary Speaker** (Sen. Ongoro): It is Senate Bill No. 22 of 2014; I think that was just a typo. There is even a typo on my Order Paper, it is reading No. 28. It is No. 22 of 2014.

*(Question proposed)*

Nobody wishes to make any contribution to that?

**The Temporary Speaker** (Sen. Ongoro): Therefore, I will put the question.

*(Question put and agreed to)*

Next Order!

## COMMITTEE OF THE WHOLE

*(Order for Committee read)*

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

### IN THE COMMITTEE

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

#### THE PUBLIC FUNDRAISING BILL (SENATE BILL NO. 28 OF 2014)

**The Temporary Chairperson** (Sen. Murkomen): Hon. Senators, We are in the Committee of the Whole to consider amendments to the Public Fundraising Bill (Senate Bill No. 28 of 2014). There are clauses without amendments. We will consider the clauses with amendments. We will start with Clause 4 as it has been indicated.

*Clause 4*

**Sen. (Prof.) Anyang'-Nyong'o:** Mr. Temporary Chairman, Sir, I beg to move:-



THAT, clause 4(1) of the Bill be amended in paragraph (e) by deleting the number “10” appearing immediately after the words “under section” and substituting therefor the number “11”.

*(Question of the amendment proposed)*

**The Temporary Chairperson** (Sen. Murkomen): The Division will be at the end.  
**Sen. (Prof.) Anyang’-Nyong’o**: Mr. Temporary Chairman, Sir, I beg to move:-

*Clause 5*

THAT, Clause 5 of the Bill be amended by inserting the following new paragraph immediately after paragraph (h) –

(ha) determine appeals from the county committee submitted to it under section 39;

*(Question of the amendment proposed)*

**The Temporary Chairperson** (Sen. Murkomen): Did I see a further amendment by Sen. Mutahi Kagwe? He is not here. Therefore, that amendment is dropped.

*(Proposed amendment by Sen. Kagwe dropped)*

*Clause 6*

*(Question that Clause 6 be part of the Bill proposed)*

**The Temporary Chairperson** (Sen. Murkomen): There is no amendment on that one.

*Clause 7*

**Sen. (Prof.) Anyang’-Nyong’o**: Mr. Temporary Chairman, Sir, I beg to move:-

THAT, Clause 7 of the Bill be amended –

(a) in subclause (1) by inserting the following new paragraph immediately after paragraph (e) –

(ea) is found to have violated Chapter Six of the Constitution;

(b) by inserting the following new subclause immediately after subclause (2) therefor–

(2A) The ad hoc committee appointed under subsection (2) shall consist of –

(a) a public officer serving in the Ministry responsible for matters relating to planning and social development nominated by the Cabinet Secretary;

No. 22 of 2011

- (b) one person nominated by the Ethics and Anti-Corruption Commission established under the Ethics and Anti-Corruption Commission Act, 2011 from amongst its members; and
- (c) one person nominated by the Law Society of Kenya from amongst its members.

*(Question of the amendment proposed)*

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

*Clauses 8 and 9*

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

*Clause 10*

**Sen. (Prof.) Anyang'-Nyong'o**: Mr. Temporary Chairman, Sir, I beg to move:-

THAT, clause 10 of the Bill be amended in subclause (2) by inserting the phrase "and such other matter related to the conduct of fundraising appeals that the National Committee shall consider necessary" immediately after the words "fundraising activities".

*(Question of the amendment proposed)*

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

*Clauses 11 and 12*

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

**The Temporary Chairperson** (Sen. Murkomen): There was a further amendment by Sen. Mutahi Kagwe to Clause 11 which is now dropped because he is not available.

*(Proposed amendment by Sen. Kagwe dropped)*

There are no amendments and the question will be put at the end.

*Clause 13*

**The Temporary Chairperson** (Sen. Murkomen): There was an amendment by Sen. Mutahi Kagwe to Clause 13. Since he is not here, the amendment is dropped.

*(Proposed amendment by Sen. Kagwe dropped)*

*(Question, that Clause 13 be part of the Bill proposed)*

*Clause 14*

**The Temporary Chairperson** (Sen. Murkomen): There was an amendment by Sen. Mutahi Kagwe to Clause 14

*(Question, that Clause 14 be part of the Bill proposed)*

*Clauses 15, 16 and 17*

*(Question that Clauses 15, 16 and 17  
be part of the Bill proposed)*

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

*Clause 18*

**Sen. (Prof.) Anyang'-Nyong'o**: Mr. Temporary Chairman, Sir, I beg to move:- THAT, Clause 18 of the Bill be amended –

(a) in subclause (1) by inserting the following new paragraph immediately after paragraph (e) –

(ea) is found to have violated Chapter Six of the Constitution;

(b) by inserting the following new subclause immediately after subclause (2)–

(2A) The ad hoc committee appointed by the Governor under subsection (2) shall consist of –

(a) a public officer serving in the department responsible for matters relating to planning and social development nominated by the Governor;

No. 22 of 2011 (b) one person nominated by the Ethics and Anti-Corruption Commission established under the Ethics and Anti-Corruption Commission Act, 2011 from amongst its members; and

(c) one person nominated by the Law Society of Kenya from amongst its members.

*(Question of the amendment proposed)*

*Clauses 19, 20, 21 and 22*

*(Question that Clauses 19, 20, 21 and 22 be  
part of the Bill proposed)*

**The Temporary Chairperson** (Sen. Murkomen): There are no amendments on that and the Division will be at the end.

*Clause 23*

**The Temporary Chairperson** (Sen. Murkomen): There was an amendment by Sen. Beth Mugo, but it has been withdrawn.

*(Question, that Clause 23 be part of the Bill proposed)*

*Clause 24*

**The Temporary Chairperson** (Sen. Murkomen): Since Sen. Mugo withdrew her amendment to Clause 24, therefore, no amendment to this clause. Division will be at the end.

*(Question that Clause 24 be part of the Bill proposed)*

*Clause 25*

**The Temporary Chairperson** (Sen. Murkomen): Mr. Chairman, I know that you want us to keep time but you may use one or two words to give justification.

**Sen. (Prof.) Anyang'-Nyong'o**: Mr. Temporary Chairman, Sir, I beg to move:- THAT, Clause 25 of the Bill be amended –

(a) by inserting the following new subclause immediately after clause (2) –  
(2A) The provisions of section 33 shall apply to the consideration of an application submitted to the county committee under subsection (2).

(b) in subsection (6) by inserting the following new paragraph immediately after paragraph (f) –

(fa) the promotion of education.

Rather than repeat the reasons why those considerations are being made, that is in Section 33. That makes it much clearer.

*(Question of the amendment proposed)*

**The Temporary Chairperson** (Sen. Murkomen): Since Sen. Mutahi Kagwe who had a further amendment is not here, unfortunately, we have to drop it. I thought that he would come as we progress to salvage his remaining amendments since he had applied a lot of thought and energy in them. He is not here and those amendments stand dropped.

*(Proposed further amendment by Sen. Kagwe withdrawn)*

*Clause 26*

**Sen. (Prof.) Anyang'-Nyong'o):** Mr. Temporary Chairman, Sir, I beg to move:-  
THAT, Clause 26 of the Bill be amended –  
(a) in subsection (2) by deleting the word “thirty” appearing immediately after the words “at least” and substituting therefor the word “twenty one”;  
(b) in subsection (3) by inserting the following new paragraph immediately after paragraph (g) –  
(ga) a statement regarding whether any monies have been received with respect to the matter pertaining to the fundraising appeal from any person prior to the date of the proposed fundraising appeal;  
This is simply for clarity in those particular sub sections.

*(Question of the amendment proposed)*

*Clause 27*

**Sen. (Prof.) Anyang'-Nyong'o):** Mr. Temporary Chairman, Sir, I beg to move:-  
THAT, Clause 27 of the Bill be amended in subclause (3) by inserting the word “conditions” immediately after the words “impose such”.  
This is just for clarity. The words “imposing such” must be followed by a specific word “conditions.”

*(Question of the amendment proposed)*

*Clause 28*

**The Temporary Chairperson** (Sen. Murkomen): There are no amendments to Clause 28. Therefore, we will vote on it at the end.

*(Question, that Clause 28 be part of the Bill, proposed)*

*Clause 29*

**Sen. (Prof.) Anyang-Nyong'o):** Mr. Temporary Chairman, Sir, I beg to move:-  
THAT, clause 29 of the Bill be amended –  
(a) by numbering the subclause appearing before subclause (2) as subclause (1);  
(b) in subclause (1) by inserting the words “solicit or” immediately after the words “shall not”.

This is a question of renumbering the clauses properly. In sub clause (1) by inserting the words “solicit or” immediately after the words “shall not”. These are issues of exactitude rather than leaving it vague.

*(Question of the amendment proposed)*

**The Temporary Chairperson** (Sen. Murkomen): There being no other amendment, since the further amendment by Sen. Kagwe has been dropped, that means that the Division will be at the end.

*(Proposed further amendment by Sen. Kagwe dropped)*

**The Temporary Chairperson** (Sen. Murkomen): There are no amendments to these Clauses 30 and 31. Therefore, we will vote on them at the end.

*Clauses 30 and 31*

*(Question, that Clauses 30 and 31 be part of the Bill, proposed)*

*Clause 32*

**The Temporary Chairperson** (Sen. Murkomen): Considering that Sen. Kagwe is not here to move his amendment, we will drop it. Therefore, we will vote on it at the end.

*(Proposed amendment by Sen. Kagwe dropped)*

*(Question, that Clause 32 be part of the Bill, proposed)*

*Clause 33*

**The Temporary Chairperson** (Sen. Murkomen): I propose the Question that Clause 33 be part of the Bill.

Please proceed, Sen. (Prof.) Anyang-Nyong'o

**Sen. (Prof.) Anyang-Nyong'o:** Mr. Temporary Speaker, Sir, I beg to move:-

THAT, clause 33 of the Bill be amended by inserting the following new subclause immediately after subclause (3) –

(4) The county committee shall, where it refuses to license a person, specify the reasons for such refusal in the notification issued to the applicant under subsection (3).

Mr. Temporary Chairman, Sir, I propose that a new sub-clause (4) in clause 33 be inserted so as to specify that when licenses are refused, the committee doing so should give reasons for such action. So, sub-clause (4) simply provides specification for providing reasons when licenses are not issued.

*(Question of the amendment proposed)*

**The Temporary Chairperson** (Sen. Murkomen): The amendment which was proposed by Sen. Kagwe is now dropped for there is no one to move it.

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*(Proposed further amendment by Sen. Kagwe dropped)*

*Clause 34*

**The Temporary Chairperson** (Sen. Murkomen): There are no amendments to Clause 34. Therefore, we will vote on it at the end.

*(Question, that Clause 34 be part of the Bill, proposed)*

*Clause 35*

**Sen. (Prof.) Anyang-Nyong'o:** Mr. Temporary Chairman, Sir, I beg to move:-  
THAT, clause 35 of the Bill be amended by inserting the following new paragraph immediately after paragraph (d) –

(e) the committee determines that the licence was obtained fraudulently or through a misrepresentation of facts.

A new clause is added after (d), which simply says that the committee determines that the license was obtained fraudulently or through a misrepresentation of facts. This particular Clause provides penalties to those who misrepresent reasons why they are seeking licenses or try to seek such licenses in fraudulent ways. It is for the committee to determine that.

*(Question of the amendment proposed)*

**The Temporary Chairperson** (Sen. Murkomen): The Division will be at the end. There are no amendments to Clause 36. Therefore, we will vote on it at the end.

*Clause 36*

*(Question, that Clause 36 be part of the Bill, proposed)*

*Clause 37*

**The Temporary Chairperson** (Sen. Murkomen): The amendment by Sen. Kagwe is dropped. Therefore, Division will be at the end.

*(Proposed amendment by Sen. Kagwe dropped)*

*(Question, that Clause 37 be part of the Bill, proposed)*

**The Temporary Chairperson** (Sen. Murkomen): There are no amendments to Clause 38. Therefore, we will vote on it at the end.

Clause 38

*(Question, that Clause 38 be part of the Bill, proposed)*

Clause 39

**The Temporary Chairperson** (Sen. Murkomen): The amendment by Sen. Kagwe is dropped. Therefore, there is no further amendment. The Division will be at the end.

*(Proposed amendment by Sen. Kagwe dropped)*

*(Question that Clause 39 be part of the Bill proposed)*

**The Temporary Chairperson** (Sen. Murkomen): There are no amendments to Clauses 40, 41, 42, 43 and 44. Therefore, we will vote on them at the end.

*Clauses 40, 41, 42, 43 and 44*

*(Question, that Clauses 40, 41, 42,43  
and 44 be part of the Bill, proposed)*

Clause 45

**Sen. (Prof.) Anyang-Nyong'o:** Mr. Temporary Chairman, Sir, I beg to move:-

THAT, clause 45(1) of the Bill be amended by inserting the following new paragraph immediately after paragraph (a) –

(aa) the name, number and address of the bank into which the monies raised in relation to the fundraising appeal were deposited;

The amendment simply brings into effect the fact that the records of the funds raised should include the name, number and address of the bank into which the monies raised in relation to fundraising appeal were deposited as part of the records

*(Question of the amendment proposed)*

**The Temporary Chairperson** (Sen. Murkomen): There being no further amendment, the Division will be at the end.

There are no amendments to Clauses 46 and 47. Therefore, we will vote on them at the end.

*Clauses 46 and 47*

*(Question, that Clauses 46 and  
47 be part of the Bill proposed)*



*Clause 48*

**Sen. (Prof.) Anyang-Nyong'o:** Mr. Temporary Chairman, Sir, I beg to move:-

THAT, Clause 48 of the Bill be amended in subclause (1) by deleting the words "three months" appearing immediately after the words "section 46 within" and substituting therefor the words "thirty days";

The amendment is to simply substitute the word "three months" limit and refers to the provisions in section 46, which makes the standard thirty days apply to this section too.

*(Question of the amendment proposed)*

**The Temporary Chairperson** (Sen. Murkomen): The amendment which was proposed by Sen. Kagwe is now dropped for there is no one to move it.

*(Proposed further amendment by Sen. Kagwe dropped)*

The Division will be at the end.

*Clause 49*

**Sen. (Prof.) Anyang-Nyong'o:** Mr. Temporary Chairman, Sir, I beg to move:-

THAT, clause 49 of the Bill be amended by inserting the following new subclause immediately after subclause (2) –

(3) The Kenya National Audit Office may carry out an inspection of the books and accounts in relation to a fundraising appeal carried out under this Act.

After subclause (2), there is a new a subclause (3) which brings in the role of the Kenya National Audit Office in carrying out inspection of the books of accounts of the records of fundraising appeal.

*(Question of the amendment proposed)*

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

*Clause 50*

**The Temporary Chairperson** (Sen. Murkomen): The amendment which was proposed by Sen. Kagwe is now dropped for there is no one to move it. We will vote at the end.

*(Proposed amendment by Sen. Kagwe dropped)*

*(Question, that Clause 50 be part of the Bill proposed)*

*Clause 51*

**The Temporary Chairperson** (Sen. Murkomen): The amendment which was proposed by Sen. Kagwe is now dropped because there is no one to move it.

*(Proposed amendment by Sen. Kagwe dropped)*

*(Question, that Clause 51 be part of the Bill, proposed)*

**Sen. (Prof.) Anyang-Nyong'o**: Mr. Temporary Chairman, Sir, we have a new Clause in 51. Sen. Kagwe had given notice of giving another amendment which is not here. However, I thought that the amendment in Clause 51 which was already discussed by the Committee should stay, that is, adding a new amendment 51(A) which says :-

“Misappropriation of funds. 51A. A person who applies the funds received pursuant to a fundraising appeal for a purpose other than which for which the appeal was held commits an offence.”

**The Temporary Chairperson** (Sen. Murkomen): That is an entirely new clause. We will come to that. We will propose the question at some point.

There are no amendments to the Clauses 52 and 53. Therefore, we will vote on them at the end.

*Clauses 52 and 53*

*(Question, that Clauses 52 and 53 be part of the Bill, proposed)*

*Clause 54*

**The Temporary Chairperson** (Sen. Murkomen): The amendment which was proposed by Sen. Kagwe is now dropped since there is no one to move it.

*(Proposed amendment by Sen. Kagwe dropped)*

There being no other amendment, I propose that Clause 54 be part of the Bill. Division will be at the end.

*(Question, that Clause 54 be part of the Bill, proposed)*

**The Temporary Chairperson** (Sen. Murkomen): There are no amendments to Clauses 55, 56, 57 and 58. Therefore, we will vote on them at the end.

*Clauses 55, 56, 57 and 58*

*(Question, that Clauses 55, 56, 57, and 58 be part of the Bill, proposed)*

*Clause 59*

**The Temporary Chairperson** (Sen. Murkomen): The amendment which was proposed by Sen. Kagwe is now dropped since there is no one to move it.

*(Proposed amendment by Sen. Kagwe dropped)*

There being no other amendment, I propose that Clause 59 be part of the Bill. Division will be at the end.

*(Question, that Clause 59 be part of the Bill, proposed)*

**The Temporary Chairperson** (Sen. Murkomen): The new Clause 25 (a) by Sen. Kagwe is dropped.

Order. Let me consult first.

Sorry, we were up to Clause 59, we are yet to do Clause 60 and 61.

*Clauses 60 and 61*

*(Question, that Clauses 60 and 61 be part of the Bill proposed)*

**The Temporary Chairperson** (Sen. Murkomen): Before we proceed beyond that, let us see if there is no one who can move the amendment by Sen. Kagwe. Chair, you cannot move the amendment by Sen. Kagwe?

**Sen.(Prof.) Anyang'- Nyong'o** : Mr. Temporary Chairman, Sir, I can easily move them but I need your permission.

**The Temporary Chairperson** (Sen. Murkomen): You did not seek it, it just came across my mind because all those amendment are very useful. Were these amendment that are fairly agreed?

**Sen.(Prof.) Anyang'- Nyong'o**: Well, I know that at least the ones related to regulation of fundraising at the county level of government, I hope we can retain them.

**The Temporary Chairperson** (Sen. Murkomen): What do you mean? Which clause is that?

**Sen.(Prof.) Anyang'- Nyong'o**: We have not come to them yet. This is the schedule.

**The Temporary Chairperson** (Sen. Murkomen): Which can only be retained if someone moves them.

Chair, can you confirm that when we reach there you will move them?

**Sen.(Prof.) Anyang'- Nyong'o**: Mr. Temporary Chairman, Sir, Yes, I will move them.

**The Temporary Chairperson** (Sen. Murkomen): Okay. So, we move to new clauses?

*New Clause 25(A)*

**The Temporary Chairperson** (Sen. Murkomen): There is an amendment by Sen. Kagwe? If you are in agreement, we just move that the clause as amended by Sen. Kagwe be part of the Bill and then we proceed.

**Sen.(Prof.) Anyang'- Nyong'o**: I do not have it with me here. Is it 25(A) or 55(A)? In my paper it is 25(A) and not 55(A)

**The Temporary Chairperson** (Sen. Murkomen): It is 25(A).

**Sen.(Prof.) Anyang'- Nyong'o**: Mr. Temporary Chairman, Sir, I beg to move:- THAT, the Bill be amended by inserting the following new clause immediately after Clause 25 –

Member of parliament

Not to participate in or

Conduct fundraising appeal

**25.A** (1) An elected or nominated Member of Parliament or of a County Assembly shall not actively participate in a fundraising function or conduct a fundraising appeal, whether directly or indirectly, during his or her term as a Member of Parliament.

(2) Notwithstanding subsection (1), a Member of Parliament may make an anonymous contribution to a fundraising appeal conducted in accordance with this Act.

(3) A person who contravenes the provisions of this section shall be liable to a fine not exceeding eight hundred thousand shillings.

**The Temporary Chairperson** (Sen. Murkomen): Basically, what you are moving, Chair, is that the clause be read a second time.

*(Question of the New Clause 25(A) proposed)*

*(New Clause 25A read the First Time)*

*(Question, that the new Clause 25(A) be read a Second Time proposed)*

*(Question, that the new Clause 25(A) be read a Second Time put and agreed to)*

*(The New Clause 25A was read a Second Time)*

*(Question, that the New Clause 25A be part of the Bill proposed)*

*New Clause 48 (A)*

**Sen.(Prof.) Anyang'- Nyong'o**: Mr. Temporary Chairman, Sir, I beg to move:-

THAT, the Bill be amended by inserting the following new clause immediately after Clause 48 -  
Declaration of  
source of  
contribution.

48.A A person who makes a contribution to a fundraising appeal shall –  
(a) specify the source of the contribution; and  
(b) declare such contribution in the income tax returns submitted by such person pursuant to the Income Tax Act.

*(Question of the New Clause 48A proposed)*

*(New Clause 48A read the First Time)*

*(Question, that the new Clause 48(A) be read  
a Second Time proposed)*

*(Question, that the new Clause 48(A) be read  
a Second Time put and agreed to)*

*(The New Clause 48A was read a Second Time)*

*(Question that the new Clause 48(A) be part  
of the Bill proposed)*

**Sen. (Eng.) Muriuki:** On a point of order, Mr. Temporary Chairman, Sir. This is a procedural matter and it has come severally in this House. When we say a new Clause will be read a Second Time, which procedurally we do not end up doing, in which case the meaning of it does not seem to make sense. So, the Mover is saying that it be part of the Bill and supposedly we had perused through it and agreed but if he says it be read a Second Time, that opportunity never comes, so it should not be there.

**The Temporary Chairperson** (Sen. Murkomen): It is being read a Second Time now. Anyone who wants to make a proposal can do it, then when we come to Division, these sections will come back for the Committee of the Whole.

**Sen. (Eng.) Muriuki:** I still have a quarrel with the terms “Second Reading” because once we do the Second Reading, there is no opportunity or a system where we shall then pick a particular clause because the person who reads the Bill is the Clerk. There is no opportunity where we shall take that particular clause and give the Clerk to read. So, I am saying that it does not seem to add up procedurally.

**The Temporary Chairperson** (Sen. Murkomen): I get what you are saying, that nomenclature and terminologies in the usual use of the word “Second Reading”, is something that we can pursue going forward.

**Sen. (Eng.) Muriuki:** Mr. Temporary Chairman, Sir, we have to agree on how to deal with a clause which is introduced to the House and whose amendment is totally new, subject to revisiting the Standing Orders. That is what is missing.

**The Temporary Chairperson** (Sen. Murkomen): Agreed, going forward that is a very good suggestion.

Proceed.

*New Clause 51A*

**The Temporary Chairperson**(Sen. Murkomen): This is an amendment by Sen. Kagwe. Sen.(Prof.) Anyang'-Nyong'o, can you move it on his behalf?

**Sen.(Prof.) Anyang'- Nyong'o:** Mr. Temporary Chairman, Sir, on behalf of Sen. Kagwe, I beg to move:-

THAT, the Bill be amended by inserting the following new clause immediately after clause 51—

Misappropriation  
of funds.

51A. A person who applies the funds received pursuant to a fundraising appeal for a purpose other than that for which the appeal was held commits an offence.

*Question of the New Clause 51A proposed)*

*(New Clause 51A read the First Time)*

*(Question, that the new Clause 51A be read a  
Second Time proposed)*

*(Question, that the new Clause 51A be read a  
Second Time put and agreed to)*

*(The New Clause 51A was read a Second Time)*

*(Question that the New Clause 51A be part of the Bill proposed)*

**The Temporary Chairperson** (Sen. Murkomen): If you do not mind, Chair, can you approach the seat of the Chair?

*Schedule*

**The Temporary Chairperson** (Sen. Murkomen): Mover, there is an amendment proposed by Sen. Kagwe there.

**Sen. (Prof.) Anyang'-Nyong'o:** Yes, Mr. Temporary Chairman, Sir. I beg to move:-

THAT, the Bill be amended in the Schedule -

(a) by deleting the words “and the county committees” appearing in the title to the Schedule;

(b) by deleting sub-paragraph (2) of paragraph 1; and

(c) by deleting paragraph 6.

*(Question of the amendment proposed)*

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

*Clause 2*

**Sen. (Prof.) Anyang’-Nyong’o:** Mr. Temporary Chairman, Sir, I beg to move:-  
THAT, Clause 2 of the Bill be amended –

(a) in paragraph (b) of the definition of the word “beneficiary” by inserting the words “referred to under paragraph (a)” immediately after the words “class of persons”; and

(b) in the definition of the word “fundraising appeal” by deleting the number “20” appearing immediately after the words “under section” and substituting therefor the number “21”.

*(Question of the amendment proposed)*

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

*Clause 3, Title and Clause 1*

*(Question, that Clause 3, Title and  
Clause 1 be part of the Bill proposed)*

**The Temporary Chairperson** (Sen. Murkomen): There being no amendments, Division will be at the end.

## PROGRESS REPORTED

THE PUBLIC FUNDRAISING AND APPEALS BILL  
(SENATE BILL NO. 28 OF 2014)

**Sen. (Prof.) Anyang’-Nyong’o:** Mr. Temporary Chairman, Sir, pursuant to Standing Order No.139, I beg to move that the Committee of the Whole reports progress on its consideration of The Public Fundraising and Appeals Bill (Senate Bill No. 28 of 2014) and seeks leave to sit again tomorrow, subject to the recommittal of clauses with proposed amendments by Sen. Kagwe.

*(Question proposed)*

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*(Question put and agreed to)*

*(The House resumed)*

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

## REPORT

### THE PUBLIC FUNDRAISING AND APPEALS BILL (SENATE BILL NO. 28 OF 2014)

**Sen. Murkomen:** Madam Temporary Speaker, I beg to report progress; that the Committee of the whole has considered the Public Fundraising and Appeals Bill (Senate Bill No. 28 of 2014) and seeks leave to sit again tomorrow subject, to recommittal of clauses with proposed amendments by Sen. Kagwe.

**Sen. (Prof.) Anyang'-Nyong'o:** Madam Temporary Speaker, I beg to move that the House do agree with the Committee in the said report.

**Sen. Obure** seconded

*(Question proposed)*

*(Question put and agreed to)*

## MOTIONS

### REVIEW OF EXISTING LEGISLATION ON HEALTH CARE TO MAINSTREAM AND ENHANCE CARE FOR PATIENTS WITH DEMENTIA

THAT, aware that currently there are approximately 44 million persons living with dementia worldwide, a figure that is expected to triple by 2050; acknowledging that caring for dementia patients can be a difficult experience; appreciating the contribution of family members and other care givers of people suffering from dementia across Kenya; noting with concern that mental healthcare does not seem to be a priority in the public health sector in Kenya since the allocation for mental healthcare is less than 1 percentage of the total public health budget; acknowledging the importance of raising awareness of dementia and ensuring that people with dementia are treated with dignity and respect; appreciating the contribution of nongovernmental organizations such as the Africa Mental Health Foundation and the International Institute for Legislative Affairs who provide a platform for sharing of views and experiences on care of



people with dementia; noting the need to enhance awareness on and provide better care for patients of dementia; the Senate directs the Standing Committee on Health to immediately initiate review of the existing legislation on health care in order to mainstream and enhance care for patients of dementia and further that the Committee submits a report to the House on the matter within ninety (90) days.

**The Temporary Speaker** (Sen. Ongoro): Sen. (Dr.) Machage is not in the House.

*(Motion deferred)*

ISSUANCE OF IDENTITY CARDS TO ORPHANS AND VULNERABLE  
CHILDREN ON ATTAINING 18 YEARS OF AGE

THAT, cognizant that Article 12 of the Constitution guarantees a right to citizenship; noting that it is the right of every Kenyan attaining 18 years to register and be issued with a National Identity Card ; further noting that the National Identity Card is at the core in determining the extent to which an individual enjoys his or her fundamental rights and freedoms; concerned that Orphans and Vulnerable Children attaining the age of 18 years in children's homes have difficulties obtaining the National Identity Cards, the Senate urges the National Government to take remedial, policy, administrative and legislative measures to improve and expedite the process of registration for National Identity Cards especially for the Orphans and Vulnerable Children who live in children's homes and have attained 18 years of age

**The Temporary Speaker** (Sen. Ongoro): Sen. Elachi is not in the House.

*(Motion deferred)*

ESTABLISHMENT OF NACC COUNTY OFFICES

THAT, cognizant that the core mandate of the National AIDS Control Council (NACC) is to develop strategies, policies and guidelines relevant to the prevention and control of HIV and AIDS in Kenya; noting that the operational structure of NACC has not been aligned to the Constitution of Kenya 2010; acknowledging the objects of devolution as set out under Article 174 of the Constitution; recognizing that under the Fourth Schedule, the health function has been devolved except for the health policy and referral hospitals; concerned that an estimated 1.2 million Kenyans are infected with HIV/AIDS and a 100,000 are infected annually; recognizing the need to achieve an "AIDS free society" by stepping up the fight against the pandemic at the County level, the Senate urges the National Government to set up the National AIDS Control Council (NACC) County offices in all County Headquarters with the

National Headquarters providing overall coordination and that the resources allocated for the fight against HIV/AIDS be disbursed and managed at the County level.

**The Temporary Speaker** (Sen. Ongoro): Sen. Leshore is not in the House.

*(Motion deferred)*

### ADJOURNMENT

**The Temporary Speaker** (Sen. Ongoro): Hon. Senators, there being no other business, it is now time to adjourn the Senate. Therefore, the House stands adjourned to Tuesday, 5<sup>th</sup> May, 2015 at 2.30 p.m.

The Senate rose at 5.46 p.m.