

PARLIAMENT OF KENYA

THE SENATE

THE HANSARD

Tuesday, 15th March, 2016

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

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

PRAYERS

ADMINISTRATION OF OATH

*(The Senator-Elect for Kericho County entered the
Chamber escorted by the Senate Majority Leader
(Sen. (Prof.) Kindiki) and Sen. Sang)*

The Senate Majority Leader (Sen. (Prof.) Kindiki): Mr. Speaker, Sir, it is my pleasure to introduce the Senator-Elect for Kericho County, Aaron Kipkirui Cheruiyot, for swearing-in.

(Applause)

The Speaker (Hon. Ethuro): Welcome, Senator. Which is your faith?

The Senator-Elect for Kericho County (Mr. Cheruiyot): I am a Christian.

The Speaker (Hon. Ethuro): So, would you like to swear-in or to affirm?

The Senator-Elect for Kericho County (Mr. Cheruiyot): I would like to swear-in.

The Speaker (Hon. Ethuro): Okay. Let us proceed.

The Oath of Allegiance was administered to the following Senator:-

Sen. Aaron Kipkirui Cheruiyot.

(Applause)

*(Sen. Cheruiyot approached the Bar, bowed at
the Chair and took his seat)*

(Applause)

Sen. Murkomen: On a point of order, Mr. Speaker, Sir. Please, allow me in one or two minutes to congratulate the new Senator for Kericho County, Sen. Aaron Kipkirui Cheruiyot. On behalf of our Coalition; the team that believes in change and the future of this country, I would like to congratulate the new Senator who was elected overwhelmingly by the people of Kericho County.

(Applause)

Mr. Speaker, Sir, never before has a young person introduced himself to politics and been thrown in the deep end from the word go. Sen. Cheruiyot has become such a person; baptized by fire, through strong politics in Kericho and triumphed against all expectations. As one of the people who attended and accompanied him in many of his campaigns, this young man, who is barely 30 years old, is eloquent, visionary, was committed to the cause and is loved by his people. He is famously known as *kptoyot komas kasit*.

(Applause)

Mr. Speaker, Sir, many have propagated lies out there about his election. For those of us who have faith in the institutions and the future of this country, this nation has moved from the days of *mlolongo* of 1998 where in the KANU nominations, the shortest queue was declared the longest.

Those who are still dreaming by propagating lies that the shortest queue, more than 30 years down line, should be declared the longest, must be told this country has changed. We have moved to a new constitutional order and have new ways of doing things. The future of this country is based on constitutional order.

Sen. Cheruiyot, you are welcome to this House. This is a strong House of elders. We have elders here like Sen. Wako, Sen. Anyang'-Nyong'o, Sen. Obure, Sen. Murungi, Sen. Leshore and Sen. (Prof.) Lonyangapuo, who is somewhere in between and who is gladly welcoming you. However, we also have strong "elders" like Sang and Sen. (Prof.) Kindiki and myself. This is a House of wisdom where we defend county governments and the Constitution. In most cases, we do so in a bipartisan manner. We welcome you here so that you can contribute to, not just making Kericho a better county, but also making this Senate and this country a better nation. We believe that in the next one year, together, we shall do more and change the course of history by investing in devolution which is the most successful and innovative chapter in our Constitution.

Mr. Speaker, Sir, I thank you for giving me this moment. I wish the young Senator a bright future. I also thank the people of Kericho County for speaking in one voice. I also want to thank the former Senator, Sen. Keter, who is now a Cabinet Secretary. I can see him seated at the Speaker's Gallery. He was my predecessor as the Deputy Majority Leader. I thank him for the great job he did for this House and his

county. I also thank all other colleagues from the Jubilee Coalition and other political parties that I see here. They tirelessly worked with the Senator.

Mr. Speaker, Sir, I have seen many young people seated at the galleries, who have a hope for tomorrow. I want to tell them that Sen. Cheruiyot is their trail blazer just like Sen. (Prof.) Kindiki, Sen. M. Kajwang, Sen. M. Kilonzo Jnr, Sen. Hassan Omar and myself. You have a future!

(The visitors at the gallery applauded)

The Speaker (Hon. Ethuro): Order, Sen. Murkomen. I know you have been carried away, but you cannot carry away our Standing Orders. You should not address yourself to the gallery. The people at the gallery should not applaud or else, I will not hesitate, including the former Senator, to eject them from the building.

(Laughter)

Proceed, Sen. Wangari.

Sen. Wangari: Nakushukuru, Bw. Spika. Nachukua nafasi hii kumkaribisha Sen. Aaron Cheruiyot katika Seneti hii. Nderemo na vifijo katika Seneti hii ni dhihirisho tosha kuwa Sen. Cheruiyot ni mashuhuri sana katika Kaunti ya Kericho. Hatuna shaka kuwa atawaakilsha vilivyo wananchi wa hiyo kaunti na Kenya kwa jumla.

Ningetaka kumpongeza aliyekuwa Seneta wa Kericho na sasa ni Waziri wa Kawi kwa kazi yake nzuri. Hatuna budi kuwa atafanya kazi nzuri katika Wizara ya Kawi.

Ningetaka kumkaribisha Sen. Cheruiyot kwa kikundi cha “Vijana wa Bunge”. Sisi ni Wabunge chipukizi kutoka Seneti na Bunge la Kitaifa ambao umri wetu ni kati ya miaka 18 na 35. Kikundi hiki kina waheshimiwa Wabunge 47. Sasa tumefika 48. Ninakukaribisha kwa moyo mkunjufu katika kikundi hiki ambacho huongozwa na Mwenyekiti wa TNA, Mhe. Sakaja. Sisi katika kikundi hiki hatuna mipaka kati ya Bunge zetu mbili.

Ningetaka kuwashukuru watu wa Kericho kwa kufanya uchanguzi wa haki na amani. Hatukushuhudia vituko au vita kama mahali kwingine. Hatukuwaona wanawake walio vuliwa nguo kama ilivyofanyika kule Malindi. Hawa ni watu wa heshima. Ningetaka kuwahimiza waendelea na moyo huo ili tujenge nchi yetu.

Sen. Elachi: Mr. Speaker, Sir, I also want to welcome the Senator for Kericho. I would like to thank the young people because they have proved to us that they can overcome all the odds and ensure one of their own is elected. The 2017 General Election will see a change in this country. Sen. Cheruiyot has paved a way for the youth. I hope many young people will join politics and declare their candidature. The election of Sen. Cheruiyot to this House is a clear proof that in politics, you do not need a lot of money to win; all that you need is the support of your people. Over 70 per cent of our population is made up of the youth. The youth will change this country for the better.

I also want to address the women of this country. Looking at Cheruiyot, you will see we have political parties that can accommodate all of us and ensure we are elected to Parliament---

The Speaker (Hon. Ethuro): Order, Sen. Elachi. Sen. Cheruiyot has been sworn-in. He is now Sen. Cheruiyot. Start addressing him that way so that he gets used to the name.

Sen. Elachi: Thank you, Mr. Speaker. Sen. Cheruiyot, you are an example for women, that we can go through an election---

Sen. (Dr.) Khalwale: He is not a woman!

Sen. Elachi: Boni, stop bringing your theatrics here. There are no theatrics here. He is an example that can make women in this country---

Sen. (Dr.) Khalwale: On a point of order, Mr. Speaker, Sir. There is no doubt whatsoever that the newly sworn-in Senator is a man. Is Sen. Elachi in order to impute improper motives to the new Senator that he is a woman?

(Laughter)

Sen. Elachi: He is a man who protects women. In his election, we did not see women being stripped naked and I thank him for that. He also does not fight women, he takes care of them. That is why women were able to come out and vote for him.

(Applause)

I would like thank the people of Kericho County for electing a young Senator.

Sen. Cheruiyot, with your famous *kiptoyot komas kasit*, welcome to the Senate.

The Speaker (Hon. Ethuro): Hon. Senators, there is a lot of interest in this matter. Restrict yourself to not more than two minutes.

Proceed, Sen. Kajwang.

Sen. M. Kajwang: Mr. Speaker, Sir, thank you for the opportunity to welcome Sen. Cheruiyot. He was elected by the people of Kericho. I heard some people say that he was elected by a computer. But I know he was elected by people of Kericho. It is them who went to the polls to elect their Senator.

With his election, the average age of this Senate has suddenly dropped. He brings in some freshness and vigour. Whereas the average age could have been 65, it has suddenly dropped to about 60 by the arrival of Sen. Cheruiyot.

(Laughter)

Therefore, I welcome him. I ask him to feel at home. In a reversal of the Biblical trend---

The Speaker (Hon. Ethuro): Order, Sen. M. Kajwang! On what basis is it? The first person to attribute to age talked of about 30. Age is a precise number.

Proceed, Sen. M. Kajwang.

Sen. M. Kajwang: Mr. Speaker, Sir, when age is used politically, it stops being precise; just like politics.

(Laughter)

In the Bible, Aaron was the elder brother of Moses. In this Chamber today, Moses becomes the elder brother of Aaron. Therefore, I welcome Sen. Aaron Cheruiyot.

Sen. Cheruiyot, this House has got good people. When we fight in rallies and funerals out there, that does not get translated to a fight in this House. I was taken aback when I saw the comradeship amongst the Members of this House. I encourage him that whatever we do out there in the rallies, let it remain in the rallies. When we come to this House, we live to its billing that it is the “upper” House. We should also prove to the world that young Senators can make a difference to the legislative agenda of this nation.

Above all, I encourage him, as a young man, to exercise simplicity and humility. Our elders say that if you wash your hands clean, you can sit and eat with them. That is what has enabled us to sit, merge and work very well with our senior citizens and Senators who are here.

Finally, on the day I was sworn in and welcomed to this House, Sen. Murkomen promised to buy me a cup of tea. That cup of tea promise has never been kept by the Senator.

(Laughter)

I, therefore, undertake that I will buy Sen. Aaron Cheruiyot a cup of tea. Unlike Sen. Murkomen, who does not keep his promise, I will keep my promise.

Karibu sana Seneta.

(Laughter)

The Speaker (Hon. Ethuro): Order, Sen. M. Kajwang’! Promises are made. I am waiting for the confirmation.

Sen. (Prof.) Lonyangapuo: Mr. Speaker, Sir, I join my colleagues in welcoming the new Senator for Kericho, Aaron Cheruiyot. We had a very healthy competition in Kericho County. May I state here that KANU is a member of the Jubilee Coalition, unlike some lies that were peddled around in some villages that KANU is in the Opposition. KANU is not in the Opposition and that is why you, Sen. Cheruiyot, are seated next to me. I can assure you that you will get a lot of coaching from me. You only need to believe in yourself.

KANU is the oldest political party in the Republic. As you may have noted, there are issues that we raised which did not stop you from coming here. We believe there are channels which we can follow to challenge your election if we think we have credible evidence. We did not want to stop the people of Kericho from being represented here because Hon. Keter was appointed to the Cabinet. This seat has been vacant for some time, but I am glad you are now here to represent Kericho people.

We came to assist the people of Kericho. KANU stood firm with people of Kericho County. There were issues that had stagnated for a long time without the attention of the Government. There was a song that was sung that “*tumetenga, tumetenga*”, but without tangible evidence of what they were doing for Kericho people. For example, the construction of the famous stadium in Kericho Town had stalled for two

years ago. As a result of our stiff competition from this side of the House, the construction works resumed earnestly. If we did not declare our candidature, the people of Kericho would not have witnessed any development in the near future. We hope they will not stop tomorrow now that you are here. Our Government must not promise things which they cannot deliver. We want to see them delivering on their promises so that we improve the lives of the people of Kenya.

I wish you well as you begin to represent your people in this House. Representation is the key thing here.

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

The Senate Minority Leader (Sen. Wetangula): On a point of order, Mr. Speaker, Sir. I appreciate the accolades being given to our newest Member and I congratulate him too. However, I have looked at the Standing Orders with regard to Administration of Oath. Administration of Oath is a very solemn moment for the House. Under what Standing Order are we degenerating into debate under Administration of Oath?

I have been in Parliament since 1993. I have never seen on any occasion when an oath is been administered to a new Member followed by a speech from anybody. We have just witnessed the swearing in of Barrack William Mtengo in the “lower” House. As soon as they finished, they went on to the next Order.

I am just at a loss as to whether we are right in debating the swearing in of a Member. There will be an opportunity to congratulate him through other Business of the House.

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

Sen. Orengo: On a point of order, Mr. Speaker, Sir. I was not going to contribute to a point of order. However, I will go ahead now that Sen. Wetangula has raised this very important issue. The Administration of Oath is a very solemn process. It is normally undertaken with silence. I just witnessed the Administration of Oath in the other House and all Members were standing up.

The problem is when you start to invite comments, debate will come which may contaminate the oath that has been taken. For example, if Sen. (Prof.) Lonyangapuo had stood up and said that, as KANU, they do not recognize that election; he would be quite in order to make those statements in the way everyone else is. However, now that Sen. Cheruiyot has been elected and sworn in as a Member of this House, he should subscribe to the oath and become a Member of the Senate.

In my comments on the Standing Orders, there are certain things I would have said which may have been unpalatable now that we have opened up a debate. However, now that we have recognized him as one of us, at the first instance, it should be a solemn oath and it should rest at that. If a judge is being sworn in, you do not invite lawyers who are present to make comments about the judge. One can say that they saw the judge receive bribes and such things.

Sen. Elachi has said very good things, including the issue of gender. I was once with Hon. Chelangat Mutai. A member rose to determine whether or not she should be called a woman. That is not a basis upon which somebody qualifies to be a Member of Parliament (MP). There is nothing in the Constitution that says one qualifies to be an MP

by being a woman other than nominated Senators. Therefore, we should restrain ourselves a little bit in trying to turn this into a debate. However, if you allow for debate, then we must take the consequences. We must be allowed to say everything that we want to say.

The Speaker (Hon. Ethuro): Order, Senators! We do not have to flog a dead horse. Any Member can rise on a point of order at any one time and we have done it before. We did it with Sen. M. Kajwang when he came. As far as I am concerned, you cannot undo the swearing ceremony. It was concluded. The Member went to the bar and came and took his place.

Therefore, what I am hearing from the leader of minority is that we are using this opportunity to raise many other issues. We should instead stick to the point of just congratulating the new Member. It should be done in less than a minute. I, therefore, direct that nobody should debate. Congratulate the Member in a maximum of one minute and we proceed. I will restrict it to two-two minutes from either side.

What is it, Sen. (Dr.) Khalwale?

Sen. (Dr.) Khalwale: On a point of order, Mr. Speaker, Sir. I had joined the Senate Minority Leader and the former Prime Minister in the other House to witness the swearing in of our elected Member of Parliament for Malindi Constituency. While there, I noticed something very strange. During that swearing in moment, it was the Members of the Opposition who were standing in honour of that swearing in ceremony.

There is need for the two Speakers to consult. In this House, when the Senator was taking oath, the Senators were seated and doing their thing. Procedure would have required that both sides of the House stand to respect the new Senator in keeping with the traditions, not just of this House, but of the Commonwealth Parliaments.

The Speaker (Hon. Ethuro): Order, Senators! Sen. (Dr.) Khalwale has raised a very fundamental point. I will make a substantive ruling on this particular issue. However, we cannot allow a situation where one side of the House behaves differently on a procedural matter, honouring a Member. My feeling is that we should all have been upstanding in order to receive the new Member. However, there was a divided opinion thus we decide not to enforce it. It is good you are raising it so that we can clarify it, once and for all.

Sen. (Prof.) Lonyangapuo, you may conclude.

Sen. (Prof.) Lonyangapuo: Mr. Speaker, Sir, as I conclude, competition is the key in this game of politics. Therefore, next year, we will be preparing ourselves and we will meet on the ground.

The Speaker (Hon. Ethuro): Order! Now that is what I described as a debate.

Sen. (Prof.) Lonyangapuo: Mr. Speaker, Sir, I thank the people of Kericho County. We will represent them here with the new Senator.

(Sen. Orenge spoke off the record)

The Speaker (Hon. Ethuro): Sen. Orenge, there is no harm in you resuming your seat and raising your point of order.

Sen. Orenge, you may proceed.

Sen. Orenge: On a point of order, Mr. Speaker, Sir. You have said that you will give a substantive ruling. If there is anything which is on record which had nothing to do with congratulating the new Senator, I think that record should be expunged. For example, there was a reference to what happened in Malindi. In order to give solemnity to this occasion, anything that had nothing to do with the distinguished Senator from Kericho County, should be expunged---

(Loud consultations)

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

Sen. Orenge: Mr. Speaker, Sir, in order to ensure that future generations of people do not take the bad examples that we set on the first day of a Senator, all that should be expunged so that all that is left on record, is how this Senate received and congratulated the new Senator. Otherwise, if there is something ---

The Speaker (Hon. Ethuro): Order, Sen. Orenge! You have made your point. That is one of the issues that we will be looking into.

Next Order!

PAPERS LAID

REPORT OF THE COMMITTEE ON NATIONAL SECURITY AND FOREIGN RELATIONS ON A STUDY VISIT TO RUSSIA

Sen Adan: Mr. Speaker, Sir, I beg to lay the following Paper on the Table of Senate today, Tuesday, 15th March, 2016:-

Report of the Standing Committee on National Security and Foreign Relations on a study visit to Russia.

(Sen. Adan laid the document on the Table)

(Sen. Ndiema and Sen. Karaba stood up in their places)

The Speaker (Hon. Ethuro): Order, Members! Could you clear your requests so that we only deal with relevant orders?

REPORT OF THE MEDIATION COMMITTEE ON THE MINING BILL (NATIONAL ASSEMBLY BILL NO. 9 OF 2014).

Sen. Ndiema: Mr. Speaker, Sir, I beg to lay the following Paper on the Table of Senate today, Tuesday 15th March, 2016:-

Report of the Mediation Committee on the Mining Bill (National Assembly Bill No. 9 of 2014).

(Sen. Ndiema laid the document on the Table)

The Speaker (Hon. Ethuro): Next Order.

(Sen. Karaba stood in his place)

REPORT OF THE EDUCATION COMMITTEE ON THE KENYA
NATIONAL EXAMINATIONS COUNCIL (AMENDMENT)
(No. 2) BILL, 2015

Sen. Karaba: Mr. Speaker, Sir, I beg to lay the following Paper on the Table of Senate today, Tuesday 15th March, 2016:-

Report of the Standing Committee on Education on the Kenya National Examination Council (Amendment) (No.2) Bill, 2015.

(Sen. Karaba laid the document on the Table)

The Speaker (Hon. Ethuro): Any other Paper to be laid on the Table?
Next Order!

NOTICES OF MOTIONS

ADOPTION OF REPORT OF THE NATIONAL SECURITY
COMMITTEE ON STUDY VISIT TO RUSSIA

Sen. Adan: Mr. Speaker, Sir, I beg to give notice of the following Motion:-

THAT, the Senate adopts the Report of the Standing Committee on National Security and Foreign Relations on a study visit to Russia, laid on the Table of the Senate on Tuesday, 15th March, 2016.

(Sen. Chelule inserted her card)

Sen. Ndiema: Thank you, Mr. Speaker, Sir.

The Speaker (Hon. Ethuro): Order! Sen. Chelule, you may wish to keep your card off for now or, at least, do not put the request.

Proceed, Sen. Ndiema.

ADOPTION OF MEDIATION COMMITTEE REPORT
ON THE MINING BILL (NATIONAL ASSEMBLY
BILL No.9 OF 2014)

Sen. Ndiema: Mr. Speaker, Sir, I beg to give notice of the following Motion:-

THAT, the Senate adopts the Report of the Mediation Committee on the Mining Bill (National Assembly Bill No.9 of 2014), laid on the Table of the Senate on Tuesday, 15th March, 2016.

The Speaker (Hon. Ethuro): Order, Senators! I hope everybody has the Supplementary Order Paper. We will skip statements for now and go to Order Nos. 8 and 9 because Order No.10 is Committee of the Whole.

BILLS

Second Reading

THE NATIONAL CEREALS AND PRODUCE BOARD (AMENDMENT) BILL (SENATE BILL NO.15 OF 2015)

(Sen. (Dr.) Zipporah Kittony on 25.2.2016)

(Resumption of Debate interrupted on 8.3.2016)

The Speaker (Hon. Ethuro): Order, Members! We will ring the Division Bell for 30 seconds.

(The Division Bell was rung)

(Voting in progress)

The Speaker (Hon. Ethuro): Order Members. I propose that we proceed with the next vote.

Next order!

DIVISION

ELECTRONIC VOTING

*(Question, that the National Cereals and Produce Board (Amendment)
Bill (Senate Bill No.15 of 2015) be now read a Second Time,
put and the Senate proceeded to vote by County Delegations)*

AYES:Sen. (Prof.) Anyang'-Nyong'o, Kisumu County; Sen. Bule, Tana River County; Sen. Chelule, Nakuru County; Sen. Cheruiyot, Kericho County; Sen. Gwendo, Nairobi County; Sen. Hargura, Marsabit County; Sen. Kagwe, Nyeri County; Sen. Karaba, Kirinyaga County; Sen. (Dr.) Khalwale, Kakamega County; Sen. Khaniri, Vihiga County; Sen. (Prof.) Kindiki, Tharaka Nithi County; Sen. (Dr.) Kuti, Isiolo County; Sen. Leshore, Samburu County; Sen. (Prof.) Lonyangapuo, West Pokot County; Sen. M. Kajwang, Homa Bay County; Sen. Madzayo, Kilifi County; Sen. Melly, Uasin Gishu County; Sen. Mohamud, Wajir County; Sen. Mositet, Kajiado County; Sen. Munyes, Turkana County; Sen. Murungi, Meru County; Sen. Musila, Kitui County; Sen. Muthama, Machakos County; Sen. Ndiema, Trans Nzoia County; Sen. Ntutu, Narok

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

NOES: Nil

The Speaker (Hon. Ethuro): Hon. Senators, the results of the Division are as follows:-

AYES: 29

NOES: Nil

ABSENTIONS: Nil

(Question carried by 29 votes to nil)

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

Second Reading

THE COUNTY LIBRARY SERVICES BILL (SENATE BILL NO. 6 OF 2015)

(Sen. Gwendo on 1.3.2016)

(Resumption of Debate interrupted on 8.3.2016)

DIVISION

ELECTRONIC VOTING

(Question, that the County Library Services Bill (Senate Bill No.6 of 2015) be now read a Second Time, put and the Senate proceeded to vote by County Delegations)

AYES: Sen. (Prof.) Anyang'-Nyong'o, Kisumu County; Sen. Bule, Tana River County; Sen. Chelule, Nakuru County; Sen. Cheruiyot, Kericho County; Sen. Elachi, Nairobi County; Sen. Hargura, Marsabit County; Sen. Kagwe, Nyeri County; Sen. Karaba, Kirinyaga County; Sen. (Dr.) Khalwale, Kakamega County; Sen. Khaniri, Vihiga County; Sen. (Prof.) Kindiki, Tharaka Nithi County; Sen. (Dr.) Kuti, Isiolo County; Sen. Leshore, Samburu County; Sen. (Prof.) Lonyangapuo, West Pokot County; Sen. M. Kajwang, Homa Bay County; Sen. Madzayo, Kilifi County; Sen. Melly, Uasin Gishu County; Sen. Mohamud, Wajir County; Sen. Mositet, Kajiado County; Sen. Munyes, Turkana County; Sen. Murungi, Meru County; Sen. Murkomen, Elgeyo Marakwet County; Sen. Musila, Kitui County; Sen. Muthama, Machakos County; Sen. Ndiema, Trans Nzoia County; Sen. Ntutu, Narok County; Sen. Obure, Kisii County; Sen. Sang, Nandi County; and, Sen. Wamatangi, Kiambu County.

NOES: Nil

The Speaker (Hon. Ethuro): Hon. Senators, the results of the Division are as follows:-

AYES: 29

NOES: Nil

ABSENTIONS: Nil

(Question carried by 29 votes to nil)

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

(The bar was drawn and doors opened)

The Speaker (Hon. Ethuro): Hon. Senators, as you move to the Committee of the Whole, if you look at the Supplementary Order Paper, you will notice that Order Nos.10, 11, 12 and 13 are all divisions. I encourage that you take the divisions all at ago so that you can conclude that business and then go back to the statements.

Next Order!

COMMITTEE OF THE WHOLE

(Order for Committee read)

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

IN THE COMMITTEE

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

THE KENYA NATIONAL EXAMINATIONS COUNCIL (AMENDMENT) BILL (SENATE BILL NO.7 OF 2015)

The Temporary Chairperson (Sen. Mositet): Hon. Senators, we are now in the Committee of the Whole. We are moving straight to divisions.

Sen. (Dr.) Khalwale: On a point of order, Mr. Temporary Chairman, Sir. When you stood, you bowed on your right and then on your left. It is only upon bowing on your left that this side responded, but the other side did not bow as expected of them. Could you make a decision on what you will do to them since they did not respect your bowing? I watched them and the video machine can attest to my assertion.

Mr. Chairman Chairperson, if you do not take action, the House will become very casual and it will no longer be a House of rules.

The Temporary Chairperson (Sen. Mositet): Sen. (Dr.) Khalwale has raised a very important issue. Since I did not see what happened, I advise hon. Senators to follow the rules and orders of this House next time.

Could the Whips confirm the numbers of the Senators so that we move on to Division?

(The Temporary Chairman consulted the Clerk-at-the Table)

Order, Senators! I am advised we do not have the requisite number. I order that the Division Bell be rang for one minute.

(The Division Bell was rung)

Hon. Senators, since we do not have the numbers, I call upon the Mover to seek leave of the House so that we consider this Bill when we get the requisite numbers tomorrow.

Proceed, Sen. Musila.

Sen. Musila: Mr. Temporary Chairman, Sir, pursuant to Standing Order No.139, I beg to move that the Committee of the Whole report progress and its consideration of The Kenya National Examinations Council (Amendment) Bill (Senate Bill No.7 Of 2015) and seek leave to sit again tomorrow.

(Question proposed)

(Question put and agreed to)

(The House resumed)

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

PROGRESS REPORTED

THE KENYA NATIONAL EXAMINATIONS COUNCIL (AMENDMENT) BILL (SENATE BILL NO.7 OF 2015)

Sen. Mositet: Mr. Temporary Speaker, Sir, I beg to report progress that the Committee of the Whole has considered The Kenya National Examinations Council (Amendment) Bill (Senate Bill No. 7 of 2015) and seeks leave to sit again tomorrow.

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

Sen. Obure seconded.

(Question proposed)

(Question put and agreed to)

The Temporary Speaker (Sen. Sang): Hon. Senators, we move on to Order No.11.

COMMITTEE OF THE WHOLE

THE OFFICE OF THE COUNTY ATTORNEY BILL
(SENATE BILL NO.37 OF 2014)

THE OFFICE OF THE COUNTY PRINTER BILL
(SENATE BILL NO.42 OF 2014)

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

(Committee of the Whole deferred)

COMMITTEE OF THE WHOLE

(Order for Committee read)

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

IN THE COMMITTEE

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

THE UNIVERSITIES (AMENDMENT) BILL
(SENATE BILL NO.31 OF 2014)

Clauses 2, 3 and 4

(Question, that Clauses 2, 3 and 4 be part of the Bill proposed)

New Clause 3A

Sen. Muthama: On a point of order, Mr. Temporary Chairperson, Sir. If I remember well, the Speaker ruled that we would revert to Statements once we were through with the Divisions. Since we do not have the requisite number to deal with Order No.14, I thought we would defer it and revert to Statements.

The Temporary Chairperson (Sen. Mositet): You are right, Sen. Muthama. But since the Order we are now dealing with will take a few minutes, I suggest that we finish it and go back to Statements.

Sen. Muthama: Much obliged, Mr. Temporary Chairperson, Sir.

Sen. Mohamud: Mr. Temporary Chairperson, Sir, I beg to move:-
THAT, the Bill be amended by inserting the following new clauses immediately after Clause 3-

Amendment of section 14

of No. 42 of 2012

3A. Section 14 of the principal Act is amended by inserting the following new subsection immediately after subsection (3)-

(4) The Commission shall not issue to an applicant a letter of interim authority where that applicant is a public mid-level learning institution.

(Question of the New Clause 3A proposed)

(New Clause 3A read the First Time)

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

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

New Clause 3B

Sen. Mohamud: Mr. Temporary Chairperson, Sir, I beg to move:-
THAT the Bill be amended by inserting the following new clauses immediately after clause 3-

Amendment of section

19 of No. 42 of 2012

3B. Section 19 of the principal Act is amended-
(a) in subsection (1) by deleting paragraph (c) and substituting therefore the following new paragraph-

(c) reject the application if satisfied that the applicant-

(i) is a public mid-level learning institution; or

(ii) does not meet the requirements for the establishment of a university.

(b) by inserting the following new sub-section immediately after sub-section (3)-

(4) The President shall not grant a Charter where such a grant would result in the conversion of a public mid-level institution to a university.

(Question of the New Clause 3B proposed)

(New Clause 3B read the First Time)

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

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

New Clause 3C

Sen. Mohamud: Mr. Temporary Chairperson, Sir, I beg to move:-
THAT the Bill be amended by inserting the following new clauses immediately after clause 3-

Repeal of Section 25

of No. 42 of 2012.

3C. The principal Act is amended by deleting section 25.

(Question of the New Clause 3C proposed)

(New Clause 3C read the First Time)

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

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

New Clause 1A

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

THAT, the Bill be amended by inserting the following new clause immediately after clause 1-

1A. The Universities Act, in this Act referred to as “the principal Act” is amended in section 2 by inserting the following new definition immediately after the definition of the word “institution”-

“mid-level institution” means a post-secondary school learning institution that offers a certification below that of a degree;

(Question of the New Clause 1A proposed)

(New Clause 1A read the First Time)

*(Question, that the New Clause 1A be read
a Second Time proposed)*

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

New Clause 5

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

THAT, the clause where university council chairpersons are university professors be amended so that the council chairpersons are persons experienced in Business Management Law, up to the Masters Degree level, with not less than 10 years experience.

(Question of the New Clause 5 proposed)

(New Clause 5 read the First Time)

*(Question, that the New Clause 5 be read
a Second Time proposed)*

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

Title and Clause 1

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

Sen. Mohamud: 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 Universities (Amendment) Bill (Senate Bill No.31 of 2014) and seeks leave to sit again tomorrow.

(Question proposed)

(Question put and agreed to)

(The House resumed)

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

Sen. (Prof.) Lonyangapuo: On a point of order, Mr. Temporary Speaker, Sir. Have you noted that our new Senator who is supposed to be seated here has been taken out by colleagues? He should be returned back to the House.

The Temporary Speaker (Sen. Mositet): Senator, you are completely out of order. I believe the Senator is still around. Maybe he is being oriented in the House. There are many rooms in this House where you can consult and get the wisdom you may need.

PROGRESS REPORTED

THE UNIVERSITIES (AMENDMENT) BILL (SENATE BILL NO. 31 OF 2014)

Sen. Karaba: Mr. Temporary Speaker, Sir, I beg to report progress that the Committee of the Whole has considered The Universities (Amendment) Bill (Senate Bill No.31 of 2014) and seeks leave to sit again tomorrow.

Sen. Mohamud: Mr. Temporary Speaker, Sir, I beg to move that the House do agree with the Committee in the said report. I request Sen. Karaba to second.

Sen. Karaba seconded.

The Temporary Speaker (Sen. Mositet): Order, Senators. I now propose the question.

(Question proposed)

(Question put and agreed to)

We shall go back to Statements. I am doing that since there was a ruling by the Speaker that we go back to Statements after the Committee of the Whole. I thank Members because we have at least dealt with Order No.14 and disposed of it.

STATEMENTS

MANAGEMENT OF COMMUNITY AND PUBLIC LAND IN MACHAKOS COUNTY

Sen. Muthama: On a point of order, Mr. Temporary Speaker, Sir. This is a Statement that I sought. I am quite familiar with the Chairperson of the Committee. However, I cannot see him.

Secondly, I am aware that Sen. Khaniri was the Vice Chairperson of the Committee but he was de-whipped from the position. My understanding is that it is most likely that the Committee does not have the Vice Chairperson at the moment. So, I wish to seek your guidance on that because the chairperson is not here yet the Statement is listed for today. Furthermore, I am yet to receive a copy of the said Statement that was to be delivered today.

The Temporary Speaker (Sen. Mositet): At least, the Committee is still in existence since there is a Chairman and other Members. In the absence of the Chairperson and the Vice Chairperson - going by the words of Sen. Muthama that the Vice Chairperson was de-whipped - we still have Members of the Committee. If there is any Member of the Committee on Land and Natural Resources around, could we have them giving us the Statement?

Sen. Wangari, are you a Member of the Committee? Would you know the status of that Statement?

Sen. Wangari: Mr. Temporary Speaker, Sir, I am sorry I have come in late. However, I will undertake to check the status of the Statement that was sought by Sen. Muthama and give a response to the House next week on Tuesday.

The Temporary Speaker (Sen. Mositet): Since Sen. Muthama has already said that there has not been any communication; I direct that we go by the words of Sen. Wangari, that the Statement be issued within one week.

Sen. Muthama: Mr. Temporary Speaker, Sir, I have no problem with that. However, the point that should be noted by the House, through the Chair, is that the

Statement is already listed on Order Paper. Going by the tradition of this House, there is no way a statement can be placed on the Order Paper if a copy has not reached the Office of the Clerk and the Speaker. Even if it will be brought next week, I have no problem with that since we have to work as a team and I would like to allow the Committee that time. However, could I have a copy of the Statement that was listed to be given?

The Temporary Speaker (Sen. Mositet): Sen. Muthama, I just want to bring to your attention that when statements are sought, a particular period of time is allowed before a response is given in this House. That is the reason it was scheduled to be issued today as per the time you had requested for it. It was expected the answer should be ready today. However, I do not think the answer is ready up to now. So, let us allow Sen. Wangari at least one more week.

Sen. Muthama: On a point of order, Mr. Temporary Speaker, Sir. I am still on top of that issue because I sought two statements. One was directed to the Committee on National Security and Foreign Relations and another one to the Committee on Land and Natural Resources. I have communicated to the Vice Chairperson of the Committee on National Security and Foreign Relations. Although the statement is not listed here, she is ready to deliver it.

So, it is not just by listing it that means that---. Yes it is a tradition but for a statement to be listed, a copy must have been submitted to the Speaker. Therefore, the chairperson could have reported to the Speaker in advance that he is not ready with the report and that could have been deliberated here openly.

The Temporary Speaker (Sen. Mositet): Do you mean that there was another statement that you sought and it is ready to be given?

Sen. Muthama: Mr. Temporary Speaker, Sir, I have the answer from the Vice Chairperson of the Committee on National Security and Foreign Relations. That is what I am saying. By listing a statement, it means there is confirmation that the report is ready. However, I have no problem and I will wait up to Tuesday. I am just asking the Chair to direct that I be given a copy of the response in advance before Tuesday. That is if it is there.

The Temporary Speaker (Sen. Mositet): For the benefit of other Members, so that they can also know the statement you had sought, I direct that the Chairperson issues it tomorrow afternoon.

Sen. Adan: Mr. Temporary Speaker, Sir, with your permission, I had requested, Sen. Muthama to allow me to issue the statement on Thursday. I will not be around tomorrow because I have another engagement.

Sen. Muthama: Mr. Temporary Speaker, Sir, that is the true position. I consulted with the Vice Chairperson of the Committee on National Security and Foreign Relations and we agreed that the statement be delivered on Thursday. I wish to thank her in advance for giving me a copy of the statement last week on Wednesday. Since she has commitments, I accept that.

(Statement deferred)

The Temporary Speaker (Sen. Mositet): Okay. Next we have Statement (b) that was directed to the Chairperson of the Standing Committee on Education.

IMPLEMENTATION OF THE BASIC EDUCATION ACT (2013)
ON OUTLAWING CORPORAL PUNISHMENT IN SCHOOLS

Sen. Karaba: Mr. Temporary Speaker, Sir, I am yet to receive a new Statement from the Cabinet Secretary (CS) for Education. As soon as I receive it, I will present it to the House. However, it will be ready by Thursday, this week. We are still trying to get it.

Sen. Wangari: Mr. Temporary Speaker, Sir, I impress on the Chairman of the Committee on Education to take this Statement seriously. We had a school in Vihiga County where girls are being seriously caned as corporal punishment. We need to guide the country on where we stand on the implementation of this Basic Education Act 2013. I pray that you direct that we get this Statement by the end of the week and not later than that.

The Temporary Speaker (Sen. Mositet): Sen. Karaba, did you say you would be ready by Thursday this week?

Sen. Karaba: Yes, Mr. Temporary Speaker, Sir. As soon as I receive it, I will issue it. I am sure it will be ready by Thursday.

Sen. Muthama: On a point of order, Mr. Temporary Speaker, Sir. Sen Wangari wants an undertaking from the Chairperson of the Committee. However, he says that if he will have the statement, he will deliver it. He is not giving a commitment as the Chairperson of that Committee that he will deliver it on Thursday. He is putting a rider on it that if he will receive it, he will deliver it.

The Temporary Speaker (Sen. Mositet): Sen. Karaba, I direct that you use all the machineries of this House to ensure that you issue the statement by Thursday afternoon.

Sen. Sang: On a point of order, Mr. Temporary Speaker, Sir. Did you even notice that in his demeanor, he casually makes a statement that even if he receives it at night, he will deliver it? That casual way of handling things by the Committee Chair is totally out of order.

(Statement deferred)

The Temporary Speaker (Sen. Mositet): Order! You are completely out of order. I never heard him say so.

Next Statement by the Chairperson of the Standing Committee on Roads and Transportation.

TARMACKING OF ROADS IN MERU COUNTY

Sen. Sijeny: Mr. Temporary Speaker, Sir, I have not seen Sen. Kiraitu here. He is not in at the moment. However, I had already informed him that the statement is not ready. I further informed him that the Cabinet Secretary, Ministry of Transport and

Infrastructure will be appearing next week on 22nd March at 11 a.m. Therefore, any Senators who will be available could come and articulate all issues concerning roads.

The Temporary Speaker (Sen. Mositet): Will the CS be coming to your committee or a *Kamukunji*?

Sen. Sijeny: Mr. Temporary Speaker, Sir, he will be coming to our Senate committee. However, I had already requested the Senators who have issues to attend. We will, probably, make it a *Kamukunji* before the House *Kamukunji* that is scheduled for later on.

The Temporary Speaker (Sen. Mositet): Then you should let the Speaker have it so that he can communicate from the Chair.

Sen. Sijeny: I will, Mr. Temporary Speaker, Sir.

(Statement deferred)

REPORT OF THE SPECIAL COMMITTEE ON THE PROPOSED
REMOVAL FROM OFFICE OF THE GOVERNOR OF
MURANG'A COUNTY

The Temporary Speaker (Sen. Mositet): Next Statement! Chairperson of the Sessional Committee on County Public Accounts and Investments to issue a Statement on Report of the Special Committee on the proposed removal from office of Governor of Murang'a County.

We can defer that, not because of the technical hitch with the Committee, but because the seeker of the Statement is not around. Were there Senators who were seeking for new statements?

SENATORS' GENERAL STATEMENT

SOCIETAL MORAL DECAY- PROJECT 'X'

Sen. Gwendo: Mr. Temporary Speaker, Sir, pursuant to Standing Order No.45(2)(a) I would like to make a Statement on an issue of general topical concern relating to societal moral decay, specifically the so-called project 'x'. My concern has arisen due to the current surge in wild parties bordering on orgies which all of us, as leaders and parents, have reason to be concerned about. Kenyans should speak against this. Our very social fabric is under attack.

Temporary Speaker (Sen. Mositet): If you are seeking the statement, it must have been approved. You should be reading it not debating.

Sen. Gwendo: I am reading the statement, Mr. Temporary Speaker, Sir.

Temporary Speaker (Sen. Mositet): Okay, continue if you are reading it.

Sen. Gwendo: Mr. Temporary Speaker, Sir, my attention has been drawn to a story that is trending online about an orgy infamously known as project 'x'. It was scheduled to take place on 12th March, 2016, somewhere in Kileleshwa. Such things have been happening for a while. However, thanks to new media, they are being amplified.

In spite of them having happened before, I am of the view that we need to speak out against them and have a conversation on the matter with a view of finding a solution to this challenge. For a start, we could use our campaign platforms as we gear ourselves towards 2017 general elections, to urge our youth to be mindful of their actions and not expose themselves to vices such as drugs, cliché as it may sound.

We also need to seize any other available opportunity to inspire our youth to aspire to uphold the highest standards of ideals. I believe that for Kenya to move forward, we not only need the human resource capital provided by these young people, but also their right frame of mind. I urge our young people to do everything in moderation and not to give in to the proverbial peer pressure.

Proverbs 9:10 says that:-

“The fear of the LORD is the beginning of wisdom, and knowledge of the Holy One is understanding.”

As leaders, let us instill God’s fear in our young people so that they have wisdom not to engage in such things.

The Temporary Speaker (Sen. Mositet): What is your point of order, Sen. Sijeny?

Sen. Sijeny: On a point of order, Mr. Temporary Speaker, Sir. I wish to ride on Sen. Gwendu’s Statement. Whereas it is very sad that these things are happening, I have already been vindicated. When I alerted the nation that we have a serious problem with a certain constituent, our youth, especially the adolescents, I was called names. I am glad that now the society is taking this issue seriously.

The Government, churches and the parents are taking the initiatives. I just want that there be proper policies, guidelines and a legal framework to ensure that our youth are well-taken care of. They should be given all the moral support that they need.

I urge this House to fast track and pass the Reproductive Healthcare Bill which gives modalities of how these youngsters can be mentored and made to fit in the society without necessarily using the rod.

Temporary Speaker (Sen. Mositet): Sen. (Prof.) Lonyangapuo, what is your point of order?

Sen. (Prof.) Lonyangapuo: On a point of order, Mr. Temporary Speaker, Sir. I laud Sen. Gwendu for pointing out this issue that was printed in the newspapers the other day. It is time we asked every Government Agency that relates to release of permits to go further than that and detect what type of activities are supposed to be taking place. They should not just give out permits for such activities to take place.

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

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

Madam Temporary Speaker, on what Sen. Sijeny from USA (Ugenya, Siaya, Alego) has said, this issue has no relationship with the Bill she has. The one she has encourages these activities. We do not want to mix the two.

(Laughter)

Sen. Sang: “Mr. Speaker, Sir ---“

The Temporary Speaker (Sen. Ongoro): Order! I am not a Mr.

Sen. Sang: On a point of order, Madam Temporary Speaker. Is the Senator for West Pokot really in order to give an indication without substantiating how Sen. Sijeny’s Bill promotes the kind of immorality that is being pointed out by Sen. Gwendu in relation to Project X issue?

Sen. Sijeny: On a point of order, Madam Temporary Speaker. Is Sen. (Prof.) Lonyangapuo in order to mislead the nation when it is very clear? He has gone through the Bill and even contributed and debated on it. He knows the Bill is about adolescent friendly reproductive health care services. This is supposed to mentor and give them moral and spiritual guidance and proper mentorship. It is a programme with a legal framework on those learning skill and many others. For those who are unable to go to the next level of studies, those life skills, training and what have you will keep them away from even thinking about these vices. It does not talk about parties or anything. He should read the Bill properly.

The Temporary Speaker (Sen. Ongoro): Sen. (Prof.) Lonyangapuo, are you convinced?

Sen. (Prof.) Lonyangapuo: Madam Temporary Speaker, Sen. Sijeny’s Bill promotes the use of condoms ---

(Sen. Sijeny spoke off record)

It is not. The issue that Sen. Gwendu has raised is an acute emergency. It is an issue that was going to propagate orgies as she had said. That does not allow kids to walk around with condoms. Like somebody said, your Bill is so different from this issue.

The Temporary Speaker (Sen. Ongoro): Sen. Sijeny, is that the true position?

Sen. Sijeny: Madam Temporary Speaker, I am even shocked and I do not know what Sen. (Prof.) Lonyangapuo is up to. This debate has been there several times. I have held workshops and said that it does not give condoms to children. In fact, when the Bill is properly read, interpreted and enacted, it will make them not to think about such things. We were once children and we were not given condoms. We participated in life skills and also had fun. We played debate and sports. We did agriculture. You do not dig or swim with condoms. The Senator should stop misguiding the nation. He should read the Bill. I am thoroughly shocked and disappointed about your assertions.

(Sen. (Prof.) Lonyangapuo spoke off record)

Sen. Sang: Madam Temporary Speaker, the tragedy of what Sen. (Prof.) Lonyangapuo is trying to suggest is that this House has entertained – from the First Reading to the Second Reading and now under the Third Reading – a Bill that he seems to suggest promotes immorality. That is an affront to this House. For him to make these kind of allegations without giving provisions in Sen. Sijeny’s Bill that seem to support

what he is saying, is really being dishonest to Kenyans and also trying to undermine the integrity of this House. Can he apologise or substantiate?

(Loud consultations)

Sen. (Prof.) Anyang'-Nyong'o: On a point of order, Madam Temporary Speaker. I seconded the Bill that Sen. Sijeny moved in this House. I would like to plead with my colleague and fellow professor, Sen. (Prof.) Lonyangapuo, that it is in the tradition of Parliament that once a Bill is debated and passed, you cannot go back on the same and begin criticizing or revising in retrospect. It is not good parliamentary culture.

Having said that, the issue that Sen. Gwendo has brought to this House is extremely important. I think we should not just treat this particular incident as an isolated one but look at it as part of a youth culture that is emerging in this country which should be stopped forthwith. If we do not, the kind of issues that Sen. Sijeny raised in her Bill would be compounded and we will have health problems and demographic issues that we cannot really handle as a nation.

I commend Sen. Gwendo. I also think that we should go further as the Senate and find out how we can establish rules, laws, regulations and procedures that make any youth gathering for a party be accompanied by parental guidance.

(Laughter)

No! This is very important. When you go to watch a movie, there are certain movies which say: "This movie requires parental guidance". When we were in high school and going for certain activities, you had to have teachers with you. Those activities involved dancing, entertainment and so on. They are not different from the parties that these kids go to. However, if we allow a culture that assumes that kids can do that without some kind of parental guidance, we are entering an extremely dangerous zone. I am for looking for cure to the problem and not just describing the problem. You remember Karl Marx once said that: "Philosophers have described the world in various ways. The point, however, is to change it." So, in order to change the thing, we must come up with rules, regulations and processes that will allow kids to entertain themselves but with some kind of guidance.

Thank you.

The Temporary Speaker (Sen. Ongoro): I think those are enough interventions. I will allow Sen. (Prof.) Lonyangapuo to conclude.

Sen. (Prof.) Lonyangapuo: Madam Temporary Speaker, it is true what Sen. (Prof.) Anyang'-Nyong'o has said. Today, we have programmes late in the evening where they run a warning on your television saying: "Parental guidance required". There are families that have one or two television sets in different rooms. So, I think we need to go further than that. We have two parastatals; one is called the Kenya Film Classification Board (KFCB). They are supposed to regulate and check these things. They are not doing their work to the extent that this new phenomenon has now arrived, where you hear somebody just advertises that youth are meeting somewhere.

I think the issue that the Senator has raised is quite key and we need to move further than that. We want to know what the Government has done for the last one week to forestall and check on most of our cities and counties in general.

The Temporary Speaker (Sen. Ongoro): Sen. Hargura!

Sen. Hargura: Madam Temporary Speaker, I wanted to request for a statement.

The Temporary Speaker (Sen. Ongoro): Okay. Your name was first on the list for requests to contribute. So, we will consider that later.

Again, you have just removed your name from the request.

(Sen. Wangari stood up in her place)

Do you still want to contribute?

Sen. Wangari: Madam Temporary Speaker, yes. I also thank Sen. Gwendu for that Statement. Indeed, it is quite appalling that we have got to a situation where we put it out there in the media that we have a party and nobody goes home a virgin. I think we have lost it. I also think that we must also interact with the fact that if you look at the Ministry of Education in terms of guidelines on age, you will see that there have been very many cases of under age children that are finishing school before they are 12 years old. It has a direct correlation, according to me, that at least by the time you are finishing Form 4, you should be 17 heading to 18 years. I think there was some wisdom in that.

I think we also need to have a Motion in terms of implementers of the law because the law is not the problem. We have the law and we know clearly that even in terms of consent, what that means is that one has to be an adult. The question is: Who implements the law?

I also thank the media because we nipped this in the bud. It was reported through social media and implementers picked it up from *WhatsApp* groups, *Facebook* and *Twitter* and acted on it. I congratulate those who act as responsible citizens in their areas.

Madam Temporary Speaker, I would also want to know what exactly happens to the people holding these parties. In the recent crackdown in Phenom Estate in Lang'ata, such a party was being hosted by a lady who is the wife of a general in Southern Sudan. She was released without conditions in terms of responsibility. Adults aiding this must bear the consequences. There must be thorough punishment for the same so that whenever you do it, you know where to stop. If you are holding a normal children's party, you know what it entails and that it should not include cigarettes, bang and free sex for all. It must be very clear that the responsibility is vested on the adults aiding this.

Thank you.

Sen. M. Kajwang: Madam Temporary Speaker, I thank Sen. Gwendu for bringing up this particular matter. Sometimes, I get the feeling that we do not get or understand the youth. All of us were youth at some point in our lives. In the villages of Homa Bay where I come from, during my childhood days, we used to have things called "disco *matangas*". These were dances that were organized after the burial of anyone in the village who was prominent. Sometimes, we used to do some things that bordered on the immoral, at that point in time but it was not as bad as it is today. Our definition of morality seems to be shifting and changing with time.

Madam Temporary Speaker, it will interest you to know that the average age of sexual debut for young people in Kenya is 14 years. At 14 years on average, our children are having sex. Things have changed because back in the days, sexual debut would be 16 or 18 years when people get married. I do not think the solution lies in imposing bans. As a nation, we should wake up.

I want to talk about the Kenya Film Classification Board (KFCB). I do not know who appointed them to be the moral police of this nation. This board is anchored on an Act of Parliament that is completely outdated. The only other time you legitimately see the KFCB is when you go to the cinemas. I can bet that 99 per cent of Members in this House have not been to the cinema of late, with the exception of Sen.(Prof.) Anyang'-Nyong'o, who I know went to the cinema quite recently. When they are showing a movie, they put parental advice. I am sure Sen. (Prof.) Anyang'-Nyong'o watches *Star Wars* for obvious reasons. They put an advisory when there is a movie on television and that is where they make money. They cannot go ahead and purport to be the moral police of this nation. They have banned the Project X party. In fact, the grapevine is that it was a fake, a phony and a setup. The KFCB went ahead and banned it and the police were also roped in. They are banning Netflix.

Those of us in Coalition for Reforms and Democracy (CORD) keep on saying that someone cannot stop an idea whose time has come. Like CORD, Netflix is an idea whose time has come and which cannot be banned through an edict like the way the KFCB is doing.

In contribution to this Statement, I urge Sen. Gwendo to progress this so that it becomes a Motion which will then lead to amendments to laws that were used to set up some of the agencies that promote morality and uprightness in our young people in this nation. It should not end at the level of a Statement.

Madam Temporary Speaker, allow me to share some experience in neighbouring countries. In Uganda, they still have some cultural practices. There is an institution called the *senga*, who is an aunt or an elderly person who takes a young girl under her wing and teaches her everything to do with being lady, a woman, a wife, a mother, a cook; including how to take care of the husband in the sitting room and in the bedroom. In Kenya, we lack such institutions. We need to have a national re-awakening and project to revive the *Senga* or to replicate the *Senga* movement. I am told that certain communities in coastal Kenya have similar arrangements. That is why you find that ladies coming from the coastal part of Kenya - not all of them but some of them - have got a higher level of fidelity and are much more excitable to their spouses.

The Temporary Speaker (Sen. Ongoro): There is an intervention from Sen. Wangari.

Sen. Wangari: On a point of order, Madam Temporary Speaker. Is Sen. M. Kajwang in order to educate this House on matters of becoming a good wife? Is it in order for him to omit on matters of becoming a good husband? Could he separate the two?

The Temporary Speaker (Sen. Ongoro): Sen. M. Kajwang, what exactly are you trying to tell this House and the nation; that we should prioritize on educating our girls on becoming good wives or how to become good citizens and successful women?

Sen. M. Kajwang: Madam Temporary Speaker, I do not insinuate that it is only women who need to be taught these things. In fact, in an environment where there are *sengas*, the women are much better than the men by far. If we were to bring a *senga* arrangement, it should also apply to men. Men sometimes assume that they know everything by instinct but that leads to terrible mishaps. In no way would I be insinuating that Kenyan women, as compared to Uganda women, are in any way inferior because they do not have *sengas*.

In conclusion, today there was an interesting article that touches on the same subject that Sen. Gwendu has brought up. An author reminded us of a sad story of Tamar, the story of rape in the book of Samuel in the Bible. The conclusion that is drawn from this story is that this son of a king - a king who was always busy in military campaigns - was an adolescent living in a vacuum and without a role model. That is the problem that our youth have. Parents have abdicated the role of parenthood to our nannies, teachers and the church and are not taking responsibility.

As we discuss this matter, I urge us to think about whether there is anything good and positive about the young people who are promoting Project X - assuming that it was real - so that we focus on the positives and attempt to build the positives. I urge Sen. Gwendu to advance this so that we can have a debate on morality and on the agency that is best placed to play the role of "moral police". Definitely, it is not the KFCB as is currently constituted, not the police and definitely, not Gen. Nkaissery.

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

Sen. (Dr.) Khalwale: Madam Temporary Speaker, I want to associate myself with the remarks that have been made by Sen. Gwendu. However, listening to her, may be, the best way to have moved forward is not to come under Standing Order No. 45 2(a). She can easily convert that into Standing Order No. 45 2(b), so that we compel the chairperson of the committee to come with a statement from the Government to respond to all those issues that she has raised so eloquently. It is important that we put the Ministry of Interior and Coordination of National Government to task so that they respond to those issues. If it is fiction, the Government will tell us that Project X is fiction and is not real. I request that you consider that as being a useful way to proceed.

In conclusion, Mrs. Speaker Madam, allow me to---

The Temporary Speaker (Sen. Ongoro): Sen. (Dr.) Khalwale, which kind of title is that? We do not have anybody referred to as Mrs. Speaker.

Sen. (Dr.) Khalwale: Ms. Speaker, Madam.

The Temporary Speaker (Sen. Ongoro): It is Mr. Speaker, Sir, or Madam Temporary Speaker.

Sen. (Dr.) Khalwale: Madam Temporary Speaker, if we just think about it quickly, if we are right to say Mr. Speaker, Sir, then we are also right to say Ms. Speaker, Madam.

The Temporary Speaker (Sen. Ongoro): Proceed with your contribution.

Sen. (Dr.) Khalwale: Thank you, Ms. Speaker, Madam.

The Temporary Speaker (Sen. Ongoro): That is a non-issue.

Sen. (Dr.) Khalwale: Madam Temporary Speaker, it is a non-issue but I am allowed.

I want to bring to the attention of Sen. M. Kajwang, that the so called *senga*, is referred to as *senje* in Luhya. This is not something which is not there; it is actually there only that people do not go public about it. *Senje* is basically your sister who talks to your daughter who has come of age. Usually, it is your sister who is usually free to talk to your daughter. For purposes of the concerns of Sen. Wangari, it is true that boys are not left to freelance.

During the rites of passage when boys graduate to manhood, they are trained on how to take care of their families. Therefore, we should not look desperate because Africa is very rich. The children in the estates who are keen to take the shortcut of “Project X” if it is real, is because they have no access to the collective community calling that the people in the rural areas enjoy. Maybe, we can encourage what Sen. M. Kajwang said; that parents should be forced or be guided to make time for their children and thus, enable them to get an exposure to this kind of rich culture.

Looking at my brother-in-law here, Sen. Mositet, this is not a problem amongst the Maasai. It is there. It is provided for because the community still lives together.

I thank you and urge Sen. Gwendu to consider moving into Standing Order No. 45(2) (b).

Sen. Mositet: Madam Temporary Speaker, let me also join other Senators in congratulating Sen. Gwendu for bringing this concern. Truly, our country is at cross-roads. Young people are coming up with a new culture which is completely different from the African culture which is quite rich. I know my in-law said that, as Maasais, we do not have a problem with maybe a “Project X” of some sort, but I can tell him that in our culture, the issue of the spear has been talked about, where I can go to my age-mate’s home and place the spear in front of the house. So, he will have to shift. It does not mean that when you go there, you have to do wrong things. It is just out of respect, as an age-mate that when you go there you are taken care of, you are fed and given water to wash your feet but the following morning, you bless the home and go. The other issues you are imagining never arise.

(Laughter)

Madam Temporary Speaker, I seriously feel that this issue needs to be discussed by the whole country. The religious groups must take it up also. Quite a number of Kenyans subscribe to one religion or the other. On the other hand, we have those who subscribe to tradition. We fully know that we are supposed to take care of our children and at a particular point when a girl tells you that she needs to get married, it is at the right age. The religious groups are important because at adolescent, youngsters do not necessarily want to be with their parents but the pastors can talk to them. At that age, it would be important if they are taught good morals and a follow up is made. As leaders, we should also not shy away from talking about it. Sen. Wangari said that there is a club for young people where they are taught not to lose their virginity, for instance, and to also create a good relationship with them.

I want to congratulate Sen. Gwendo and urge her to move further and come up with a Motion to encourage the relevant Chairperson to come up with solutions and also inform us what the Ministry of Youth Affairs is doing about the issue.

Sen. Karaba: Madam Temporary Speaker, it is like the world has come to an end. We are seeing the signs of the end of the world. These signs are there in the Bible. If you read Revelations keenly, these could be the end times. I want to tell my fellow Senators that as a former teacher, principal and the Chairman of the Committee on Education, this thing is widespread. It is not only “Project X”. There are many projects everywhere and not only in Nairobi but all over the country. We should not single out the Lang’ata incident and treat it as isolated. It is happening in all county headquarters, especially in big bars in towns like Embu, Nyeri or Mombasa. It increases after the end of the Kenya Certificate of Secondary Education (KCSE). The girls and boys have networks and assemble in places to celebrate the leavers’ bash. These bashes are sponsored by tycoons and owners of these bars. If you happen to be in one of these places, what you see there is unimaginable. Therefore, it should be banned.

What is happening now seems like a legalized event. Sometimes, even governors who own bars authorize and allow these things to happen in their premises. “Project X” is just one but there are others going on and we should condemn them especially if school leavers are involved. This is the time for us to crush these activities called “leavers’ bash”. It usually happens a week after form fours leave school. This is serious, please take note.

The Temporary Speaker (Sen. Ongoro): Sen. Wangari, do you still want to speak? Then let me give to Sen. Leshore.

Sen. Leshore: Madam Temporary Speaker, I want to seek for a statement.

The Temporary Speaker (Sen. Ongoro): Proceed then.

STATUS OF PUBLIC-PRIVATE PARTNERSHIP PROJECTS

Sen. Leshore: Madam Temporary Speaker, pursuant to Standing Order No.45(2)(b), I rise to seek a statement from the Chairperson of the Standing Committee on Finance, Commerce and Budget regarding the Public-Private Partnership Projects (PPPP).

In the statement,

(i)The Chairperson should state the number of public-private partnership projects undertaken across the country in the last three years and also give the status of each project.

(ii)The Chairperson should also state the cost of each public-private partnership projects undertaken.

(iii)The Chairperson should also explain the legal framework safeguarding the interest of both the public and private investors in the public-private partnership projects.

The Temporary Speaker (Sen. Ongoro): The Chairperson of that particular Committee is not in the House. Any Member of that Committee in the House?

Sen. (Prof.) Lonyangapuo: Madam Temporary Speaker, the question that was raised by Senator for Samburu County on the PPPs that have been signed and given out

to the entire country is important to us. We want to know what projects have been initiated or completed in each of the counties.

The Temporary Speaker (Sen. Ongoro): Order, Senator! You are supposed to give an undertaking on behalf of your Committee when the information sought will be availed to us. Instead of doing so, you asked an additional question to Sen. Leshore's request. You must confine yourself to speaking on behalf of your Committee and tell us when you will give a response to that request for a statement.

Sen. (Prof.) Lonyangapuo: Madam Temporary Speaker, I thought we had first to exhaust all questions and then I make an undertaking on behalf my Committee.

The Temporary Speaker (Sen. Ongoro): Order! That is not the right procedure. First of all, you must give an undertaking and wait for the matter to come on the Floor of this House then you interrogate it further. Right now, you are supposed to give us an undertaking on when the Committee will address this matter.

Sen. (Prof.) Lonyangapuo: Madam Temporary Speaker, on behalf of the Chairperson of our Committee, I request for two weeks.

The Temporary Speaker (Sen. Ongoro): We could be going on recess in two weeks' time yet this is a very important issue, as you have rightfully put it. Therefore, one week should be sufficient for you to bring the response to the House.

Sen. (Prof.) Lonyangapuo: Madam Temporary Speaker, we will bring the response in one week's time.

The Temporary Speaker (Sen. Ongoro): Sen. Leshore, are you fine with one week?

Sen. Leshore: Yes, Madam Temporary Speaker.

Sen. (Prof.) Lonyangapuo: On a point of order, Madam Temporary Speaker. I had requested for a statement which was to be issued last week, but the Chairperson of the Committee on Education indicated that it was not ready by then. It is now ready. In fact, he has given me a copy of the response.

The Temporary Speaker (Sen. Ongoro): Thank you for bringing that to my attention. I will give the Floor to Sen. Hargura to request his statement as I consult with the Chairperson of the Committee on Education.

Please, Sen. Sen. Karaba, approach the Chair.

Sen. Hargura: Madam Temporary Speaker, I have three statements to request, but since they are directed to different Committees I will ask them one by one.

CONSTRUCTION OF BADASA DAM IN MARSABIT COUNTY

Pursuant to the Standing Order No.45(2)(b), I rise to seek a Statement from the Chairperson of the Standing Committee on Land and Natural Resources regarding the construction of Badasa Dam in Marsabit County. In the Statement, the Chairperson should state:-

- (1) Whether the Government is aware that the project has stalled.
- (2) The circumstances that led to the stalling of the construction works.
- (3) The status of the construction in terms of the progress of the dam to date.

- (4) The plans that the Government has to complete the dam as well as the completion date of the project.

The Temporary Speaker (Sen. Ongoro): Is the Chairperson or any Member of that Committee here in the House?

Sen. Wangari: Madam Temporary Speaker, on behalf of the Chairperson of the Committee on Land and Natural Resources, I would like to state that we will bring an answer to the House in two weeks' time.

The Temporary Speaker (Sen. Ongoro): Let us confine the response to one week so that we have the response before we proceed on recess.

Sen. Wangari: I am obliged, Madam Temporary Speaker.

ALLOCATION OF CDF TO MARSABIT COUNTY

Sen. Hargura: Madam Temporary Speaker, pursuant to the Standing Order No.45(2)(b), I rise to seek a Statement from the Chairperson of the Standing Committee on Finance, Commerce and Budget regarding the allocation of Constituency Development Fund (CDF) to Marsabit County.

In the Statement, the Chairperson should state who the CDF Committee members for each constituency are and how much CDF funds were allocated to Marsabit County from the Financial Year 2013/2014 to date, the approved work plan for the CDF projects for the Financial Year 2013/2014 and the status of implementation of the CDF projects per constituency for the Financial Year 2013/2014 to date.

Sen. (Prof.) Lonyangapuo: Madam Temporary Speaker, that question is very detailed. It requires more than one week to get a response.

The Temporary Speaker (Sen. Ongoro): I am in agreement that we give two weeks' for that particular statement.

Sen. Hargura: Madam Temporary Speaker, I am obliged.

ALLOCATION OF UWEZO YOUTH FUND TO MARSABIT

Sen. Hargura: Madam Temporary Speaker, my statement is a repeat of a question I asked during the third Session. So, I am sure this information is available.

Pursuant to the Standing Order No.45(2)(b), I rise to seek a Statement from the Chairperson of the Standing Committee on Finance, Commerce and Budget regarding the allocation of Uwezo Youth Fund to Marsabit County.

In the Statement, the Chairperson should:

- (a) State the list of the Uwezo Youth Fund committee members for each constituency;
- (b) Allocation of Uwezo Youth Fund since Financial Year 2013/2014 to date, per constituency;
- (c) The uptake of the funds since Financial Year 2013/2014 to date, per constituency
- (d) List of the applicants for each fund since Financial Year 2013/2014 to date per constituency and the beneficiaries from the respective funds since Financial Year 2013/2014 to date per constituency.

It has been clearly stated here by the Speaker's Office that this statement was sought last session. Therefore, this information could be readily available with the Committee.

The Temporary Speaker (Sen. Ongoro): Is the Chairperson or any Member of that Committee available in the House?

Sen. (Prof.) Lonyangapuo: Madam Temporary Speaker, as my colleague has indicated, this request was sought last session, therefore, the information is readily available. I will request for a week to get the response.

The Temporary Speaker (Sen. Ongoro): The Chairperson of the Committee on Education has a Statement that was asked by Sen. (Prof.) Lonyangapuo.

Can the Chairperson of the Committee on Education respond to a Statement that was asked by Sen. (Prof.) Lonyangapuo.

REMITTANCE OF TEACHERS' SACCO DEDUCTIONS BY THE TSC

Sen. Karaba: Madam Temporary Speaker, the statement that was asked by Sen. (Prof.) Lonyangapuo was on the remittance of the teachers' Sacco deductions by the Teachers Service Commission (TSC). The response from TSC is that;

(1) The TSC experienced delays in remitting teachers' salary deductions to SACCOs up to September 2015 due to the National Treasury release of insufficient funds to cover the full payroll.

(2) This is to confirm that the situation was remedied through timely exchequer releases with effect from October 2015. We further confirm that all teachers' SACCO deductions have since been remitted in full and within statutory deadlines.

Sen. (Prof.) Lonyangapuo: Madam Temporary Speaker, I thank my colleague for the answers although they are very brief. He has confessed that the deductions were not remitted. The National Treasury releases full amount of money to TSC in terms of salaries for them to pay and do deductions. How do they then claim deductions were not done by the employer? That situation brought a lot of suffering to teachers because some of them sold their properties. What mechanisms are there in place to compensate teachers who suffered in the process? I hope such an incident will not be repeated.

The Temporary Speaker (Sen. Ongoro): I agree with Sen. (Prof.) Lonyangapuo. Could you elaborate and tell us where these deductions are? It looks like they did not reach the intended recipients. Where are these monies being withheld?

Sen. Karaba: Madam Temporary Speaker, the problem is not the Teachers Service Commission (TSC). It is where the money comes from; the National Treasury. If the National Treasury is short of funds which are normally obtained from the national revenue, then it would be difficult for the TSC to get its remittance from the Treasury. That is what this Statement is all about.

Since the time in question was affected by the TSC not receiving adequate remittances, therefore, it was not possible for the TSC to release the same to the Savings and Credit Cooperative Organizations (SACCOs). That is the logic behind the Statement. Once the National Treasury collects all the money - it is not possible for it to collect all the monies - even in budgets, the budgetary allocation will not be met at once, it comes in

doses, and especially after the money has been collected by the Kenya Revenue Authority (KRA), then given to the National Treasury, then the National Treasury gives it to the TSC so that it can give remittances to the SACCOs. That is what the Statement states. I believe professor has understood.

The Temporary Speaker (Sen. Ongoro): Do not speak for him. Professor, have you understood? Are you convinced that the response is appropriate?

Sen. (Prof.) Lonyangapuo: Madam Temporary Speaker, I am not convinced. If, for example, as a Senator, I get my salary and it comes from Treasury as a whole, then I take a loan from a bank and suddenly my employer, the Parliamentary Service Commission (PSC) refuses to remit the deductions that are supposed to go directly to the cooperative or the bank - the Chairman is not telling us the truth. He needs to inform us properly. It has nothing to do with the National Treasury any more. If it had anything to do with the National Treasury, it would not even give salary, it would have just remained at the National Treasury till they get the money then they give you.

In this scenario, there are deductions which are done and retained at the TSC. So, the National Treasury should not come in here.

The Temporary Speaker (Sen. Ongoro): Chairman, Committee on Education, quite apparently the Senator is not convinced with your answer. I will take one intervention before I give a ruling on that.

Proceed, Senate Deputy Minority Leader.

Sen. Abdirahman: Madam Temporary Speaker, it is not only Sen. (Prof.) Lonyangapuo who is not convinced, we are equally not convinced. I say so because the National Treasury normally gives lump sum payment. If the TSC had prioritized payment of teachers' salaries inclusive of deductions for SACCOs, then the problem we experienced would not have occurred. The TSC was a very good employer, but it now seems to be adopting what the county councils or the City Council of Nairobi used to do; sitting on statutory deductions which we saw in the past. So, it is not convincing.

Could the Chairperson admit that there was an anomaly at the TSC and not at the National Treasury and that this bad tendency will not be repeated in the future?

The Temporary Speaker (Sen. Ongoro): Chairman, Senators are not convinced at all with the brief answer. I give you one more week to give an elaborate, convincing and detailed answer to the Senate.

Do we have an intervention from Sen. M. Kajwang?

Sen. M. Kajwang: Madam Temporary Speaker, you have given directions on a matter that I wanted to raise.

The Temporary Speaker (Sen. Ongoro): Has that not already been overtaken by events?

Sen. M. Kajwang: Yes, Madam Temporary Speaker.

The Temporary Speaker (Sen. Ongoro): Thank you very much. We have a request which has also been overtaken.

Proceed, Chairman, Committee on Education.

Sen. Karaba: Madam Temporary Speaker, it will be done within one week. I will seek more clarifications.

The Temporary Speaker (Sen. Ongoro): That is fine.

Sen. Wangari, is that an intervention? I hope it is not on the matter on which I have already given the ruling.

Sen. Wangari: Definitely, no, Madam Temporary Speaker. You have already given a way forward. I have another Statement request.

The Temporary Speaker (Sen. Ongoro): Do we have your request here? Let me consult the Clerks-at-the-Table. Please give us one minute.

They had not forwarded it on time but I will allow that before we close the issue on statements.

Proceed, Sen. Wangari.

HUMAN-WILDLIFE CONFLICT AROUND THE KIGIO WILDLIFE CONSERVANCY

Sen. Wangari: Madam Temporary Speaker, I rise pursuant to Standing Order No.45(2)(b) to seek a statement from the Chairperson of the Standing Committee on Land and Natural Resources regarding the rampant human-wildlife conflict around the Kigio Wildlife Conservancy in Gilgil Sub-County, Nakuru County.

In the Statement, the Chairperson should state:-

(a) If the Government is aware of the rampant attacks against domesticated animals by wildlife from Kigio Wildlife Conservancy in Gilgil sub-County, Nakuru County.

(b) The statistics of the human lives lost or maimed due to human-wildlife conflict around the conservancy in the last two years and the action taken in each case.

(c) The statistics of domestic animals killed or maimed by wild animals from Kigio Wildlife Conservancy in the last two years and the action taken in each case.

(d) The human-wildlife conflict compensation claims that the Government has settled in the conservancy for the last two years.

(e) The percentage of local content in the ownership of the Kigio Wildlife Conservancy given the fact that it is registered as a community conservancy.

The Temporary Speaker (Sen. Ongoro): Thank you, Senator. The Chairperson of that Committee is not in the House. Do we have any Member of the Committee? We do not seem to have the Chairperson or any Member.

Sen. Sijeny, are you a Member?

Sen. Sijeny: Madam Temporary Speaker, I would like to add a rejoinder to that. Further to that Statement, I have more requests to the Chairperson.

The Temporary Speaker (Sen. Ongoro): Well, before I give a ruling on that, approach Sen. Wangari and consolidate that so that when it is on the Floor of the House it will be a comprehensive request. However, in view of the fact that we do not have anybody to undertake---

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

The Temporary Speaker (Sen. Ongoro): Sen. Wangari, are you also a Member of that Committee? That puts you in an awkward situation. Do you want to undertake to give a response to your Statement?

Sen. Wangari: On a point of order, Madam Temporary Speaker. Since my Chairperson, the Vice Chairperson and no other Member is in, I will definitely undertake to inform the Chairperson and have the advantage of requesting for it to be issued in a week.

The Temporary Speaker (Sen. Ongoro): What is it, Sen. (Dr.) Khalwale?

Sen. (Dr.) Khalwale: On a point of order, Madam Temporary Speaker. The leadership of this House is still here. We have Sen. (Prof.) Lonyangapuo who is a Member of the Rules and Business Committee (RBC) and Sen. Abdirahman. He can undertake. She cannot possibly---

The Temporary Speaker (Sen. Ongoro): That is in order. The senior-most Member in the Senate right now is the Senate Deputy Minority Leader. Can you give an undertaking on that?

Sen. Abdirahman: Madam Temporary Speaker, I undertake to communicate to the relevant Committee to see that this is responded to.

The Temporary Speaker (Sen. Ongoro): In a week's time.

Sen. Abdirahman: Madam Temporary Speaker, a week is too close.

The Temporary Speaker (Sen. Ongoro): In view of the request and that human life is involved, a week is adequate.

Sen. Abdirahman: Most obliged, Madam.

The Temporary Speaker (Sen. Ongoro): Sen. Wangari, I think you are okay with that.

At this stage, we will have to put a close to Statements and move to the next order. We will resume debate interrupted on Thursday, 10th March, 2016 on The County Statutory Instruments Bill (Senate Bill No.10 of 2015).

BILLS

Second Reading

THE COUNTY STATUTORY INSTRUMENTS BILL (SENATE BILL NO.10 OF 2015)

(Sen. Sang on 10.3.2016)

(Resumption of Debate interrupted on 10.3.2016)

The Temporary Speaker (Sen. Ongoro): Sen. (Prof.) Lonyangapuo was on the Floor of the House. You have 12 minutes remaining.

Sen. (Prof.) Lonyangapuo: Thank you, Madam Temporary Speaker. I was contributing to the County Statutory Instruments Bill, 2015, which will assist the county assemblies to follow the right procedures. Whenever they get Bills and regulations from the county executive, the Members of the County Assembly (MCAs) should have a procedure of ensuring that they do not contradict one another.

As the Mover said last week, since most MCAs are not aware of the procedures, they have passed a number of regulations that are not in tandem with the needs of the residents. In my county, for example, due to lack of statutory instruments or law to guide the distribution of bursaries, there is total interference by the county executive. The executive connives with members of the committee in charge of those bursaries. The MCAs wanted committees set up in every ward to consider applications for bursaries and vet the beneficiaries, but they were overruled and only one committee, which is only known to the Governor was set up at the county level.

When that kind of law is passed, it is prone to abuse. A few people will benefit from these funds. It is, therefore, important to have a law that stipulates what is supposed to be done and how regulations can be tested to meet the standards and needs of the communities. Since we have MCAs who have never served in the defunct local authorities, they do not know these processes and procedures. We only have a few former Members of Parliament who serve as speakers of the county assemblies. Therefore, there is need to have an instrument that guides them.

Page 168 of this Bill talks about taxes imposed on businesses. Yesterday as I was travelling through Kitale and Eldoret, I learnt about huge taxes that are imposed on hotels. A three-storied hotel is charged Kshs46,000 yearly for the business. In addition to this amount, there is a charge of Kshs16,000 for the boardroom and Kshs16,000 for the verandah. Such charges never existed under the defunct local authorities and the Kenya Revenue Authority (KRA) charges have not changed. These taxes imposed by the county executive to mitigate their own problems end up ruining businesses. Therefore, there is need for an instrument that can guide and regulate some of these excesses. The MCAs should have a procedure to follow and ensure that the rights and liberties of people are not interfered with.

Madam Temporary Speaker, the Committee has included a very detailed procedure. For example, under Part V of the Bill on General Provisions, there is a list of what is supposed to be done.

Clause 18 (2) reads:-

“The responsible county executive committee member may in consultation with the committee, make a regulation under this Act extending the operation of a statutory instrument that would otherwise be revoked by virtue of this section.”

Page 171 of the Bill talks about powers to impose fees or charges. It covers specific fees, minimum fees, maximum fees, *ad valorem* fees and so on. If we have these statutory instruments, we will control many things that are happening on the ground. You may already be aware that the county executives do not implement some provisions of the Bills that have been passed by the county assemblies.

The recommendations from public participation are also not adhered to, amounting to a waste of money and time. I read in the newspapers today about the county executive of West Pokot; that a lot of development has been done. For example, the county executive says that 30 secondary schools have been built, yet that is the function of the national Government under the Fourth Schedule of the Constitution. It means that the money that we have been allocating in this House for health, water and nursery schools has been diverted.

Madam Temporary Speaker, nursery schools have been ignored due to lack of procedures. Whenever they attempt to build nursery schools, very interesting things take place. For example, they buy plastic chairs for children at exorbitant rates. Instead of the actual average cost of between Kshs180 to Kshs250 per chair, depending on where you buy them from, they are spending Kshs649 per chair. Sen. (Dr.) Khalwale chaired the County Public Accounts and Investments Committee and can attest to that.

Whenever we raise such issues, the county executives go round complaining that the Senators are oppressing them because they do not want development. We know that oversight is our duty under Article 96 (3). Our work will, therefore, be easier if we have statutory instruments in the counties. Unfortunately, some county assemblies have gone to sleep. Some MCAs almost 'worship' the governors, instead of putting them on their toes to do what is required in their wards. That is a tragedy; we must enable them to have the teeth and autonomy to perform.

I beg to support.

The Temporary Speaker (Sen. Ongoro): Sen. Sijeny.

Sen. Sijeny: Madam Temporary Speaker, thank you for giving me the opportunity to contribute to this Bill. As the Vice Chairperson of the Committee on Delegated Legislation, I know we have done a tremendous job conducting our oversight role on the counties. As a Committee, we have tried and invited many of our counterparts in the counties. We have only a quarter of the committees on delegated legislation from counties left.

During our first interaction, we discovered that not many of our colleagues understood, first and foremost, their mandate within the committees and statutory instruments. We also had the dilemma and, therefore, we cannot say that they are not empowered. We had to interact with our predecessors of the 10th Parliament and our colleagues from the National Assembly. Hon. Amina who served in the previous Parliament is one of the brainchildren behind the Committee on Delegated Legislation.

Having interacted with our peers, we understand our mandate as the Committee on Delegated Legislation. We have given the information and empowered our colleagues at the county level. To our surprise, they have caught up very fast. We have some counties like Bungoma County which are very much ahead of others and everything is in order. They have also interacted with others within the regions and have been encouraged. They meet within the regions and compare notes. The most important thing is to ensure legislation especially statutory instruments are harmonized within the entire country.

Madam Temporary Speaker, it has also necessitated the need to empower the County Executive Committee (CEC) members who deal with drafting of statutory legislations because some of them were not clear on what to do. As we all know, statutory instruments should not be done while you are hiding behind the process because you do not want to do the lengthy process of enacting a law. So, our colleagues at the counties are now alert. When a Bill comes up, they know which relevant CEC member is supposed to prepare the necessary statutory instruments and, more particularly, regulations, policies and guidelines that will help to make the mother Act operational. This was not clear before. We found that some of our colleagues were given the role of

the Committee on Legal Affairs and Human Rights, for example, scrutinising all the Bills instead of concentrating on the statutory instruments only.

Madam Temporary Speaker, the main object of this Bill is to ensure that all the regulatory making authorities undertake appropriate consultations because consultation was lacking. Through this Bill, the culture of public awareness or public participation will be enhanced because it is not only done at the national level in the Senate or the National Assembly. This will go down to the county level and everybody will have a say when any law is brought up or is being enacted. They will scrutinize and find out if it is aligned to our Constitution, values of Kenyans or what the authors of the mother Act wanted. This will protect the nation and ensure that we have high quality standard of drafting of legislations to ensure legal effectiveness, clarity and intelligibility to the anticipated users.

That means that wherever the drafters are, whether in local or international arena, they can wake up and say that these are the legislations we have. When people compare notes, they could say they participated in drafting certain legislations in our country which is Kenya. I am very proud to state that most countries especially in Africa look up to the Constitution of Kenya which is the mother-law of all the laws in this country when coming up with their legislations.

Madam Temporary Speaker, procedure is very important because statutory instruments are very legal and get technical at times. When you omit one procedure it becomes challengeable. I have stated that if you did not do consultation then that could be challenged in court. You will find that if a regulation is not presented for scrutiny before committees on delegated legislation at the county level in charge of these Bills or statutory instruments, then that on its own could be challengeable.

It could be challenged in a court of law after having a law which has been properly enacted. A good example is regulations which were brought by the former Cabinet Secretary for Education, Prof. Kaimenyi. There was hue and cry and they had to be withdrawn. Even the regulations that concerned churches or religious groups were affected since there was no proper public participation and they had to be withdrawn.

These are some of the things that could be prevented to ensure that the Government does not waste resources because coming up with legislation is not easy. It takes a lot of time, money and many other things. It becomes an embarrassment and waste of time for people to use resources and then something is challenged and withdrawn. That was the reason why the Committee on Delegated Legislation of the Senate had to come up with this Bill, because there is the Statutory Instruments Act which governs all the regulations and the statutory instruments that we as the Senate will be looking at. So, our counterparts at county assemblies also required legislation which will enable them perform their duties and conduct the oversight of the executive properly.

I beg to support.

Sen. (Dr.) Khalwale: Madam Temporary Speaker, I rise to support the Motion that The County Statutory Instruments Bill (Senate Bill No.10 of 2015) be read a Second Time. My support - I am glad to report to this House - is partly because of my experience as a Member of the Committee. When we joined the Committee, obviously, we were the

pioneers. When we went around county assemblies we found that this is something which was completely alien.

I am glad to hear previous Members of the Committee, Sen. Sijeny being one of them, reporting that county assemblies are now up to date. I am, therefore, pleased to comment on the provisions of this Bill starting with Clause 3. Clause 3(2) refers to the application of this Bill and states that nothing under this section may be construed as precluding a county assembly from applying the provisions of this Act to any published Bills awaiting consideration by a county assembly.

This is laudable for the reason that there are many Bills that have been passed by several county assemblies and which are now law. However, these Bills do not have any accompanying subsidiary legislation, rules and regulations. That we have allowed this Bill when it becomes law to also apply to those ones that were passed earlier on is recognizing that we have had this vacuum in the current set up of the county assembly legislation. Therefore, we must laud the Committee for Clause 3(2).

Madam Temporary Speaker, Clause 5 speaks to the consultations that are necessary before making statutory instruments. This is something which must be supported and emphasized. We have critical Bills that are passed by county assemblies, for example, the most critical being the Finance Bill. It usually has far reaching recommendations that affect the way business is done and the cost of doing business.

The country will recall when the Kiambu and Kakamega county executives were at one time misguided to bring Finance Bills that brought unreasonable and archaic provisions that include amongst other things, taxing of the dead, chicken, goats and hens. It was crazy. I am glad that the people came out strongly and did public picketing. Some of them were joined by their respective Senators and this is a Statement that is now being addressed by Clause 5. It now ensures that before any regulation or rule becomes law, it should have attracted public participation.

One of the areas where county executives want to make some money through the Finance Bill is the use of public institutions like stadia and open grounds. I know you as an agile politician and when you want to host us, you normally ask the Nairobi County Government to give you Uhuru Park and other grounds like Baba Dogo, Masinde Muliro in Mathare and so on. The county executive has been quick to impose fees for the use of these grounds. For example, if you go to use Muliro Gardens in Kakamega, you are expected to pay Kshs100,000. Whereas that is good money for the county executive, the regulation should go further, break it down and say that if it is a national political rally, that is a big thing so, let them pay Kshs100,000. If it is a county political rally, probably, let them pay Kshs50,000. If it is a ward rally involving a Member of the County Assembly (MCA), let them pay Kshs20,000.

Further, if it is a church that wants to make use of it, let them pay Kshs10,000. If it is a school that wants to allow our children to use Muliro Gardens, Bukhungu Stadium or Kenyatta Stadium in Machakos, they should pay small fees. Otherwise, if we do not do this public participation, we will end up locking out the communities that were meant to be served by these particular institutions.

Suppose I want to go and do the finals of our annual bull fighting events in Kakamega County and you ask me to pay Kshs100,000 at Bukhungu stadium, you are

simply asking that the community of bull fighting should not make use of the stadium. I remember during those early days when the Governor was misguided, he attempted such a thing and the people - not me - told him: "No! We cannot pay for Bukhungu Stadium because before you came, you found us here doing bull fighting." So, he was misguided to lock the place and then we allowed the bulls to know that that was where the event was and the bulls entered. The poor *askaris* could do nothing to the bulls because the bulls could have hurt them. So, these are the realities of making use of these facilities.

Madam Temporary Speaker, allow me to comment very quickly on Clause 8, which is providing for the need for notification of regulation impact statements. They go on - I hope that the Mover will capture these concerns of mine - to say that such a notification should be either in the Kenya or county gazette or a newspaper of wide circulation within the county. That is okay.

However, with all due respect to West Pokot County, for example, which I know very well because its leader was given an opportunity to fly over the county as we saw, the reality on the ground is that when you talk about a newspaper of wide circulation, you are just speaking to yourself. So, you need to be imaginative and ask yourself how this notification can best reach the people of West Pokot County.

I would, therefore, like to invite the Committee Chairperson to make an amendment in Clause 8 and include "notices at public institutions". For example, on the letterhead of the county government of West Pokot, you then write that notification and pin it on the door of the office of the chief, church or staff room of the nearest primary school, then that information will have received wide circulation. Anything else is just pretending that we all come from Liverpool in London when most of us come from Kakamega in Kenya. We must apply appropriate technology.

I am further encouraged by this Bill. Therefore, this brings me to Clause 13 which provides as follows on the issue of exemption that they have brought in:-

"The Committee may exempt certain statutory instruments or class of statutory instruments from scrutiny, if the Committee, upon consulting an relevant regulation making authority, is satisfied that the scrutiny is not reasonably practical due to the number of regulations in that class."

No! We must oppose. This is where stakeholders end up being shortchanged. Who told some people who speak English that when things are translated into local languages, local people cannot understand? However long it is, all the stakeholders must be given an opportunity for the matter to be translated slowly into vernacular, explained and then when it is understood, the stakeholders will speak to it. That is what public participation is all about.

I, therefore, want the Mover of this Bill to respond to this and convince us why any regulation should at any stage be exempted from scrutiny. It is a must. As an example, let me go back to the issue of participation on taxation. I had an opportunity to lead the Committee on Finance, Commerce and Budget in Kiambu County. We had a very hot altercation with the County Executive because they had denied *mama mboga*, whose stock of ripe bananas is usually Kshs500, an opportunity to explain herself. She wanted to be given an opportunity to explain to the County Executive that; "for me to sell

my stock of Kshs600 worth of bananas, I usually need five days. In these five days, my stock of Kshs600 usually ends up going for Kshs750”.

The net effect is that at the end of five days, *mama mboga* has made a profit of Kshs150. She is never listened to and so they say that if she is selling, she will pay them Kshs30 every day. Kshs30 every day, times five days is Kshs150. If she has been paying Kshs150 every day and she clears her stock, at the end of five days, it means she has not made any profit whatsoever. How will she remain in business? The business of us looking educated, “professorial and doctoral”, assuming that people with less education do not understand these things is because we do not understand the poor. I propose that no aspect of any Bill should be exempted from public scrutiny.

Madam Temporary Speaker, I want to laud the Committee for reiterating in Clause 16, that the regulations will be subjected to being tabled in the county assembly. After providing Clause 16, why did the Chairperson of the Committee put Clause 13 that requires exemption?

Finally - because I have seen my time is almost up - I want to conclude by looking at page 174, where there is:

(i) Purpose of statutory instrument.

They have said that:-

“In no more than three sentences, please describe in plain English what the statutory instrument does and why. Assume that the reader knows nothing but the subject and explain or better avoid acronyms and terms of art”.

This is a wonderful inclusion; it is exactly what I am emphasizing. We do not want the rules and regulations accompanying county Acts to be clothed in legalese. We would like them to be simple and plain. Where necessary they should be put in Luhya language so that people in Kakamega will easily grasp them. I am not saying that the people of Kakamega are not able to read English and Kiswahili but it should capture all those who did not go through or complete formal education.

Madam Temporary Speaker, I, therefore conclude by lauding the Chairperson of the Committee, Sen. Sang, who is a young Senator who keeps on impressing me every day. He has discharged himself well in this particular Bill. I, therefore, support that the Bill be read a Second Time.

Sen. M. Kajwang: Madam Temporary Speaker, I support the County Statutory Instruments Bill. I also congratulate the Committee on Delegated Legislation, chaired by Sen. Sang, the young Senator from Nandi County, for bringing this Bill to the House. He is my colleague whom I am not afraid to call “young” because I saw the sun before him.

The objective of this Bill is quite straightforward. It provides a comprehensive framework for scrutiny, publication and operation of statutory instruments. You do not need to be a lawyer or an advocate of the High Court to see the sense in this particular Bill. Having come from a private sector background and being a certified project manager, it is extremely important that whenever you are undertaking any venture, be it a project or a programme, that you have a cost benefit or feasibility analysis.

In my view, the County Statutory Instruments Bill is a legal equivalent of the cost benefit analysis of feasibility studies that are done by most commercial ventures before they undertake any project. It is a good thing that the statutory instrument has been well

defined. It is clear that when we talk about statutory instruments, we refer to rules, orders, regulations, directions, forms, tariffs, letters and patterns that are made or established in the execution of a power conferred under any Act.

Madam Temporary Speaker, the importance of this is that once county assemblies have come up with Acts of the assembly, the responsibility to come up with statutory instruments is most often left to the County Executive Committees (CECs) or the relevant arms of the executive. In the current scenario, they come up to the assembly but do not come back in a form that is standardized.

The County Statutory Instruments Bill attempts to create a framework that provides standardization and clear guidelines on how these statutory instruments should be treated. I like the fact that this Bill, despite being a fairly legalistic Bill, in the Schedule that provides guidelines on the content and the structure of statutory instruments, it is coached in layman's terms. There are many cases where the Bill says 'describe in plain English'. There is a realization that advocates sometimes attempt to use technical terms to make life difficult for their customers.

We have about 10,000 lawyers in this country against a population of 40 million people. Therefore, it is important that statutory instruments are crafted in a language that the majority can understand. That would be plain English or any other language. Unfortunately, in this case we are talking about plain English. It is not only English which is an official language in this country but all the same, it is a good start.

Madam Temporary Speaker, I see value in this particular Bill, particularly when I reflect on some of the experiences that I have had as a Senator. In the early days following my election, I went back to my county and found that traders in the key market in Homa Bay Town were up in arms; that their market had been allocated to a supermarket which had intentions of constructing a parking bay. This is an old market; we found it there when we were born. Some of our mothers sold groundnuts, *omena*, rice and beans there to provide school fees to push many of us through school.

One day, the traders woke up and were told that the land is lying idle and it shall be allocated to a foreign investor who has set up a supermarket in the town to create a parking bay for customers of the supermarket. It turned out that the community and the county assembly that was affected had not been consulted. Even if they had been consulted, there was no record or evidence that consultation had taken place. There was uproar and I stepped in as Senator and assured the traders that their market could not be taken away from them without proper procedures in place.

Madam Temporary Speaker, this Bill tells me that, in future, even if the county government wanted to cede a market or public land or such other public property to a private investor in a manner that will affect the livelihood of the people, then, that statutory instrument that provides that direction must comply with the requirements of this Bill. In my view, once this becomes an Act of Parliament, one of the things that county governments must pay attention to will be appropriate consultation.

This Bill is clear that the first thing that must happen is that there must be appropriate consultation with all the stakeholders. In fact, it states that before a regulation authority makes a statutory instrument, it shall consult with persons who are likely to be

affected by the proposed instrument. It gives me comfort that, in future, those women and men who work in the market will be consulted before that statutory instrument is crafted.

This Bill makes it a requirement that a regulatory impact assessment must be undertaken. In my view, this is the one that is closest to what was called a cost-benefit analysis. This regulatory impact statement, among the things that it does is to provide the objectives of the proposed statutory instruments and further in Part 7(d), does an assessment of the costs and benefits of the proposed rule and of any other practicable means of achieving the same objectives. That is the thrust of the cost-benefit analysis. I like the fact that we are now injecting some of the practices that have been demonstrated to work in the private sector and in other domains and bringing this in our counties. This can only add value to the legislative exercise and the executive pursuits at our counties.

Madam Temporary Speaker, once the regulatory impact assessment has been crafted, then notification shall be done through publication in the county gazette. Once notification is done, it shall be scrutinized by the county assembly. In the example of the market that the county government has decided to lease to private developers, the matter will have to go to the county assembly. The county assembly will have certain powers or latitude as expressed here; Part (IV) of the Bill talks about scrutiny of statutory instruments by a county assembly and provides very detailed procedures to ensure that when the statutory instrument is introduced to the county assembly, it is not just tabled but also scrutinized. Once the county assembly is satisfied with it, then it can be published and become law.

Madam Temporary Speaker, there are a few areas that we might need to look at. First of all, the scrutiny by the county assembly should not be used to blackmail the county executive. If you do recall, Parliament was accused--- Initially when the Statutory Instruments Bill for national legislation was introduced, there was fear from some quarters that Parliament was going to use the statutory instruments Bill to veto, to void or to reverse a statutory instrument that had been issued by the Salaries and Remuneration Commission (SRC).

This Commission had come up with a statutory instrument that provided guidelines for remuneration of state officers which then affected Members of Parliament. There was fear that once that statutory instrument is laid in Parliament, parliamentarians, in a selfish effort, would veto or void it. I want to urge the proponents of this Bill and those who are going to utilize it, that the process of scrutiny of statutory instruments by county assemblies should not be used to blackmail the executive. I can already see some legislators in the county assemblies salivating at this prospect. The best way of holding a County Executive Committee member (CEC) at ransom is to tell him that if he does not fund the foreign travels, then the statutory instrument will not see the light of day. I want to pray and urge everyone that we need to look out for blackmail tendencies from the county assemblies that might end up derailing the activities of the initiatives of county executives.

Madam Temporary Speaker, we need to ask ourselves whether we have the right capacity in the counties assemblies to process this fairly complicated Bill and to make sure that the provisions are observed. As a nation, we lowered the academic bar and argued that leadership is not dictated by going to class or school. It is time for us to

reconsider that position. I know that there is an Elections Bill that will be discussed by this House at the right time. The Bill is attempting to reintroduce minimum academic qualifications for Members of the County Assembly. It requires some level of exposure and some level of education to do some of these things. This is not just pragmatism but requires some educated commitment to get it right.

I want to urge this House to think about the capacity of our county assemblies, their academic qualifications and the ability to comply with the provisions of this Bill.

Madam Temporary Speaker, there has been the issue of county attorneys. Many county assemblies are operating without legal personnel. They are operating without people who are well-versed in matters of law. In fact, in many county assemblies, you will find that it is only the Speaker who has the requisite legal know-how. We need to improve and upgrade the legal capacity of our county assemblies. We need to ensure that the Bill for county attorneys is fast-tracked so that the county assemblies get the legal resources to allow them to come up with statutory instruments that are in compliance with this Bill.

Finally, we must ask ourselves the question: So what? If as a County Executive Committee member I come up with a statutory instrument and I do not subject it to this procedure, what happens? When I read this Act with greater detail, I will see those sanctions and penalties. It should come out very clearly that a CEC or a governor who goes ahead to issue a statutory instrument and by-passes the county assembly, despite that statutory instrument being void, the originator should also be penalized. I have not seen the consequences of non-compliance with the provisions of this Bill.

I beg to support and hope that some of the suggestions that we have brought up shall be reflected when this Bill comes to the Committee of the Whole.

The Temporary Speaker (Sen. Ongoro): There being no further requests to contribute, I call upon the Mover to reply.

Sen. Sang: Madam Temporary Speaker, may I take this opportunity to thank the Members of this House who have made valuable contributions to this Bill. As a Committee we have taken note of the number of contributions and comments made. Many suggestions have been made to improve this Bill. At the time of moving this Bill, I said that this seeks to enhance the capacity of county assemblies to carry out their responsibilities.

The core mandate of every county assembly is legislation. Part of that mandate includes subsidiary legislation. These are delegated powers by the Constitution and the County Governments Act. The sole mandate of making legislation including the subsidiary ones lies with the county assemblies. That is why this Bill is very important because it ensures that the delegated responsibility by the county assembly to the county executive remains checked. Subsidiary legislation derived from the statutory instrument making authority can still find its way to the county assembly.

Madam Temporary Speaker, as we speak right now, county assemblies have had challenges in terms of procedure and their capacity to handle subsidiary legislation. This Bill provides an elaborate procedure and framework for the county assemblies to ensure that they are able to take charge of their responsibility of legislation.

This Bill also provides the legal framework for the establishment of committees on Delegated Legislation in the counties. As a Parliament at the national level, the Delegated Legislation Committees both in the National Assembly and the Senate are established via the Statutory Instruments Act. Therefore, what we are all seeking to do through this Bill is to ensure that the same privilege and mandate is given to the county assemblies at the county level.

I thank the county assemblies that have contributed because as I indicated initially, this was a Bill born out of the interaction with the county assemblies. Their contributions have been captured in this Bill. I hope that we can fast track the process of passing this Bill. We will include amendments in the Third Reading as suggested on the Floor of the House so that we can have a better Bill that gives the county assemblies an opportunity to carry out their responsibilities.

Madam Temporary Speaker, the role played by the county assemblies in ensuring that devolution succeeds cannot be over-emphasized. The success of devolution depends on the capacity and performance of county assemblies. Therefore, any legislation that seeks to provide the much needed enhancement of capacity by county assemblies should be given the first priority so as to ensure that they play their rightful role in terms of enactment of legislation, oversight and budgeting process at the county assembly.

Even ahead of the passage of this Bill, counties must be allowed to have the necessary expertise in terms of staff in the assemblies to help the committees in the county assemblies to perform.

The reason there is increased oversight on national Government institutions is because Parliament is carrying out its role effectively. This is because our Committees are well resourced in terms of resources and manpower. The counties do not have the expertise like we have in the Senate and the National Assembly. We must invest in qualified staff at the county level to ensure that county assemblies are able to carry out their activities.

I wish to thank all Members of this House who have contributed to this Bill, particularly the Members of the Committee on Delegated Legislation for having taken their time, made contributions and supported this Bill.

With those few remarks, I beg to reply and pursuant to the Standing Order No. 54(3), I request that you defer the putting of the Question on this Bill for the Second Reading to tomorrow.

The Temporary Speaker (Sen. Ongoro): The request is so granted. We will defer the putting of the Question to a day when the matter will be placed on the Order Paper.

(Putting of the Question on the Bill deferred)

Next order!

*Second Readings*THE ORDER OF PRECEDENCE AND TITLES BILL
(NATIONAL ASSEMBLY BILL NO. 11 OF 2014)

The Temporary Speaker (Sen. Ongoro): The Senate Majority Leader is not in the House to move the Bill. Therefore, I defer that Bill.

(Bill deferred)

THE MICRO AND SMALL ENTERPRISES (AMENDMENT) BILL
(SENATE BILL NO.12 OF 2015)

The Temporary Speaker (Sen. Ongoro): Sen. Wamatangi is not in the House to move the Bill. Therefore, I defer the Bill.

(Bill deferred)

THE NATIONAL HOSPITAL INSURANCE FUND (AMENDMENT) BILL
(SENATE BILL NO.9 OF 2015)

The Temporary Speaker (Sen. Ongoro): Sen. Wangari is not in the House to move the Bill. Therefore, I defer the Bill.

(Bill deferred)

THE PERSONS WITH DISABILITIES (AMENDMENT) BILL
(NATIONAL ASSEMBLY BILL NO.43 OF 2013)

The Temporary Speaker (Sen. Ongoro): Again, the Senate Majority Leader is not in the House to move the Bill. Therefore, the Bill is deferred.

(Bill deferred)

THE FISHERIES MANAGEMENT AND DEVELOPMENT BILL
(NATIONAL ASSEMBLY BILL NO. 18 OF 2014)

The Temporary Speaker (Sen. Ongoro): The Senate Majority Leader is not in the House to move the Bill. Therefore, I defer that Bill.

(Bill deferred)

ADJOURNMENT

The Temporary Speaker (Sen. Ongoro): Hon. Senators, There being no further business as stated in the Order Paper, it is now time to adjourn the Senate. Therefore, the Senate stands adjourned until tomorrow, Wednesday, 16th March, 2016 at 2.30 p.m.

The Senate rose at 6.10 p.m.