

PARLIAMENT OF KENYA

THE SENATE

THE HANSARD

Tuesday, 8th March, 2016

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

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

PRAYERS

PAPERS LAID

ANNUAL REPORT OF THE NATIONAL POLICE
COMMISSION 2014-2015

Sen. Haji: Mr. Speaker, Sir, I beg to lay the following Paper on the Table of the Senate today, Tuesday, 8th March, 2016:-
Annual Report of the National Police Commission, 2014-2015

(Sen. Haji laid the document on the Table)

ANNUAL REPORT OF THE COMMUNICATIONS AUTHORITY
OF KENYA 2014-2015

Sen. Kagwe: Mr. Speaker, Sir, I beg to lay the following Paper on the Table of the Senate today, Tuesday, 8th March, 2016:-
Annual Report of the Communications Authority of Kenya 2014-2015.

(Sen. Kagwe laid the document on the Table)

The Speaker (Hon. Ethuro): Hon. Members, before we embark on the Order Statements, I have a Message from the National Assembly.

MESSAGE FROM THE NATIONAL ASSEMBLY**REJECTION OF SENATE AMENDMENTS TO THE CLIMATE
CHANGE BILL AND APPOINTMENT OF MEDIATION COMMITTEE**

The Speaker (Hon. Ethuro): Hon. Senators, I wish to report to the Senate that on 3rd March, 2016 and pursuant to Standing Order No.40(3) and (4), I received the following Message from the Speaker of the National Assembly regarding the rejection, by the Assembly, of some of the Senate amendments to the Climate Change Bill (National Assembly Bill No.1 of 2014). I quote:-

“Pursuant to the provisions of Standing Order No.41 and 142 of the National Assembly Standing Orders, I hereby convey the following Message from the National Assembly:-

THAT, by way of a resolution passed on Tuesday, 1st March, 2016, the National Assembly concurred with the Senate’s amendments to the Climate Change Bill (National Assembly Bill No.1 of 2014), save for amendments to Clauses 7(2)(g), 7(4) and 32, which were disagreed to.

NOW THEREFORE, in accordance with the provisions of Article 112 of the Constitution and Standing Order No.149 of the National Assembly Standing Orders, I hereby convey the said decision of the National Assembly to the Senate and seek the appointment of Senators to the Mediation Committee to consider the said Bill in accordance with Article 113 of the Constitution.”

Hon. Senators, Article 112(b) of the Constitution provides that:-

“If one House passes an Ordinary Bill concerning counties and the second House passes the Bill in an amended form, it shall be referred back to the originating House for reconsideration.”

Further, Article 112(2)(b) of the Constitution provides that:-

“If after the originating House has reconsidered a Bill referred back to it under clause (1)(b), that House rejects the Bill as amended, the Bill shall be referred to a Mediation Committee under Article 113.”

Hon. Senators, in the circumstances, I concur with the Speaker of the National Assembly to form a Mediation Committee in accordance with Articles 112(2)(b) and 113 of the Constitution.

In this regard, hon. Senators, I have received communication from the National Assembly that the Speaker of the National Assembly has appointed the following Members to represent the Assembly in the Mediation Committee that will attempt to develop a version of the Bill that both Houses will pass:-

- (1) The Hon. Amina Abdalla, MP
- (2) The Hon. (Dr.) Wilbur Ottichilo, MP
- (3) The Hon. Chachu Ganya, MP
- (4) The Hon. Kathuri Murungi, MP; and,
- (5) The Hon. Opiyo Wandayi, MP

In this regard, hon. Senators, I also hereby appoint the following Senators to represent the Senate in the Mediation Committee:-

- (1) Sen. Lenny Kivuti, MP
- (2) Sen. Christopher Obure, MP
- (3) Sen. Martha Wangari, MP
- (4) Sen. Kimani Wamatangi, MP; and,
- (5) Sen. (Dr.) Agnes Zani, MP

I thank you.

COMMUNICATIONS FROM THE CHAIR

ESTABLISHMENT OF PARLIAMENTARY FRIENDSHIP GROUPS BETWEEN PAKISTAN, CHINA, SOUTH KOREA AND THE SENATE OF KENYA

Hon. Senators, I have a brief communication to make.

I have received requests from the Parliaments of Pakistan, China and South Korea on the need to establish Parliamentary Friendship Groups between the respective institutions and the Senate of the Republic of Kenya. Parliamentary Friendship Groups are significant avenues for strengthening parliamentary diplomacy between parliaments. The registration forms have been placed at the Chamber entrance for you to register at the earliest opportunity.

I, therefore, wish to request you to join any of the proposed Parliamentary Friendship Groups as you wish.

I thank you.

RETREAT ON EQUITABLE SHARING OF REVENUE AMONG COUNTY GOVERNMENTS

Hon. Senators, I have another communication on the upcoming retreat on equitable sharing of revenue among the county governments.

As you may be aware, Article 216(1)(b) and 217(2)(b) of the Constitution provide that the Commission on Revenue Allocation (CRA) shall recommend the basis for sharing revenue among county governments to the Senate for consideration. Thereafter, in accordance with the provisions of Article 217(1) of the Constitution as read together with Section 16 of the Sixth Schedule to the Constitution, the Senate shall, by resolution, determine the basis for allocating among the counties the share of national revenue that is annually allocated to the county level of governments.

Hon. Senators, you may recall further that arising from the numerous concerns by the stakeholders, a retreat was held in Mombasa on 16th October, 2015 where the CRA presented simulations on the proposed formula and it was left to the Standing Committee on Finance, Commerce and Budget to give its final recommendations on the suggested formula as provided by the CRA. The Committee has deliberated on the matter and come up with a proposal on how the CRA should prepare the simulations.

You may also recall that this matter was brought to the attention of Senators during the *Kamukunji* held on 17th February, 2016, where it was established that a retreat be organised to deliberate further on the proposal.

Hon. Senators, I now wish to inform you that the Standing Committee on Finance, Commerce and Budget has together with the CRA organised a half day retreat to deliberate on this matter. The retreat will be held on Thursday, 10th March, 2016, from 7.30 a.m. to noon at the Raddisson Blue Hotel, Upper Hill, Nairobi. I would like to urge all of you to attend the retreat so that you may deliberate on this very important matter where we are running behind schedule.

I thank you.

Sen. (Dr.) Khalwale: On a point of order, Mr. Speaker, Sir. I thank you for that communication. However, I would like to bring to your attention that if there is a Public Relations Office (PRO) in the Senate, it should address this matter. The Governors of Vihiga and Kakamega counties on several occasions, including last Saturday, continued misinforming residents of their counties and Kenyans in general, that this Senate has no role whatsoever in this very exercise that you have just read out in your communication.

I do not understand why the PRO of the Senate is quiet on such serious allegations by the governors who are best known for running away from accountability.

The Speaker (Hon. Ethuro): Now that you have brought it to our attention we will definitely assure that our media relations office will look into all those reports and do the needful.

What is it, Sen. Wetangula?

The Senate Minority Leader (Sen. Wetangula): Mr. Speaker Sir, in so doing, there must be, probably, a communication even from your office. I saw reports from these governors stating that enemies of devolution in the country are Senators. A statement made casually like that should not go unchallenged. This is not a matter for Senators to defend themselves. You are the head of this institution. When such spurious and malicious outbursts come out, it is desirable that your office takes it up in a most befitting manner to defend the institution. Definitely, everything we do here cannot be described as enmity to devolution. If anything, we are the first and last line of defence of devolution in this country.

The Speaker (Hon. Ethuro): Sen. Wetangula, those are good suggestions. However, I am afraid that there are ways in which your Speaker responds. I cannot be responding to things stated in some other fora. It must be brought to my attention by a Senator and I will give the appropriate response.

(Sen. Wetangula spoke off the record)

(Laughter)

You also know, of course, that is not the format in which you expect me to respond. You are just doing your usual riding on, on a statement by Sen. (Dr.) Khalwale. I expect governors to be the last people not to know the role of the Senate. Let us leave it there for now.

VISITING DELEGATION OF STAFF FROM
TURKANA COUNTY ASSEMBLY

Hon. Senators, my final statement is to communicate on a visiting delegation from Turkana County Assembly on attachment at the Senate.

I would like to acknowledge the presence in the Speaker's Gallery this afternoon of the visiting staff from Turkana County Assembly, HANSARD Department. The county assembly staffers are here on a five-day attachment visit to the Senate.

On behalf of the Senate, and on my own behalf, I wish to welcome them to the Senate and wish them well for the remainder of their stay.

May you all rise so that you are recognized by the Senate.

I thank you.

(Applause)

What is it, Sen. (Prof.) Lonyangapuo?

Sen. (Prof.) Lonyangapuo: Mr. Speaker, Sir, I join you in thanking my neighbours for choosing to come for benchmarking here. They work in the County Assembly of Turkana County. That county requires serious oversight just like any other county in Kenya. The staff who work there are supposed to work closely with Members of the County Assembly and guide them where they can. As they work as a team, just like we do with our clerks and officers here, we should see a better county in the near future.

The Senate Minority Leader (Sen. Wetangula): Mr. Speaker, Sir, allow me to join you in welcoming the distinguished delegation from Turkana County. It is a county that has the distinction of providing the first Speaker to the second Senate of the country. More importantly, I laud devolution. Without devolution, nobody ever imagined that you could invite a delegation from a far-flung region like Turkana to visit Parliament and sit with us.

Even more proud, the party I lead is the dominant party in Turkana. I am very happy to welcome the visitors. I welcome them to learn as much as they can. They are the second highest recipient of devolved funds among the 47 counties. They should learn how to put that money into good use to change the lives of people of an area that has been neglected for the last 50 years of our Independence.

The Speaker (Hon. Ethuro): Next Order. Who is ready to prosecute his statement?

KILLINGS IN KITUI COUNTY

Sen. Haji: Mr. Speaker, Sir, I have a Statement on the Killings in Kitui County.

The Speaker (Hon. Ethuro): You need to mention which item on the order paper.

Sen. Haji: Mr. Speaker Sir, it is listed as Statement (e) on the Order Paper.

The Speaker (Hon. Ethuro): Is it the one regarding the security situation in Kitui–Tana River border?

Sen. Haji: Yes, Mr. Speaker, Sir. I must admit that this statement is overdue. It was raised in the last session. However, most of the answers that were coming were not satisfactory. I hope and pray that this one will meet the desire of my colleague and brother Sen. Musila who has been very patient. It reads as follows:-

On 23rd February, 2016, Sen. Musila requested for a statement regarding killings that occurred in Kitui County on various dates in 2015. He sought to be informed on the progress that had been made in the prosecution of the alleged perpetrators of the killing of 15 people who were arrested on 17th July 2015.

Also he sought to know whether the Government is considering training and arming home guards to secure the volatile Kitui-Tana River border as done in other areas. I wish to state as follows:

The prosecution and conviction of the various cases is on case to case basis. However, instituting and undertaking criminal proceedings against any person before any court, except the court martial, is the mandate of the Office of the Director of Public Prosecution, which is an independent constitutional office under Article 157 of the Constitution, (2010). Conviction is the mandate of the Judiciary.

The perpetrators of the killings in Kitui County in 2015 were arrested on diverse dates, not on 17th July 2015. The incidents which led to the killings were reported as follows:-

On 14th May, 2015, Paul Sammy, aged 23, a motorcycle rider was hired by two unknown people to take them from Tulima to Bangale in Tana River County. The rider was later found dead in Tulima area. His motorcycle was registration number, KMDJ 380D, of SKYGO make and blue in colour. It was valued at Kshs80,000. It was stolen though recovered later.

One suspect, Bashir Abdi, was arrested and charged with murder and robbery Vide Court File No.188/2015. Five witnesses have so far testified while seven more are waiting to testify.

On 27th May, 2015 at about 8.00 a.m. at Kalambani sub-location in Mutha location, Mutomo Sub-county, the body of Maluki Kilungya, aged 55, was found in his cattle shed. Two suspects, Woli Abdulahi Bare alias Wili and Mohammed Mahamud Farah, have since been arrested and charged with murder vide criminal case---

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

Sen. Musila: Mr. Speaker, Sir, I would be the last person to interrupt my brother, friend and former and present colleague on this matter. However, what the chairperson is reading has already been explained in the past. My question was progress on prosecutions. This repetition of what happened that day has already been done. I just want him to be specific on the progress of the prosecutions which he announced that time, that people had been arrested and were being prosecuted.

Sen. Haji: Quite in order, Mr. Speaker, Sir.

The Speaker (Hon. Ethuro): Mr. Chairman, he is even making your burden lighter.

Sen. Haji: Yes, Mr. Speaker, Sir. In the initial statement that I made, I clearly stated about the progress of prosecution. Here, the Cabinet Secretary says that these people have been arrested. He has given their case file numbers. The matter is still pending in court. However as to when the prosecution will end, that depends on both the Director of Public Prosecution as well as the courts which are handling the case.

I do not remember whether the other question which he required some information on, was answered. It was about national police reservists. I mentioned something about that in the previous statement. I do not know whether he was satisfied or not. Well, I will proceed.

The establishment of the security officers does not provide for recruitment of home guards. However, if the Hon. Senator meant National Police Reservists, their recruitment and administration of the maximum member is vested on the National Police Service by Section 122 of the National Police Service Act, 2011. The reservists are recruited on need basis owing to various factors such as increased incidents related to banditry and cattle rustling which may vary from one county to another.

That is the end of the statement. However, I am not satisfied, particularly when they say that it depends on various factors when 15 people were killed. The Cabinet Secretary has also mentioned that cattle are being stolen. If the Hon. Member is not satisfied, I will further pursue this matter.

The Senate Minority Leader (Sen. Wetangula): Mr. Speaker, Sir, I know that the Chairman of my Committee is very serious and honest. Very few stand here to own up that they are not satisfied with the answer they have been given.

Mr. Speaker, Sir, through you, as the Chair, I request you to urge the Chairman of my Committee, that matters of prosecution under the Constitution have absolutely nothing to do with the Cabinet Secretary for Interior and Coordination of National Government. There is an independent office that takes direction from nobody. It is called the Office of the Director of Public Prosecutions (DPP).

The only credible information about the status of prosecution; where it started, where it is and where it is likely to go can only come from the DPP. Therefore, I encourage the Chairman to seek further information about these prosecutions from the Office of the DPP rather than the office of the Cabinet Secretary for Interior and Coordination of National Government.

Sen. Musila: Mr. Speaker, Sir, I thank the Chairman for making many attempts to get us satisfactory answers on this. You may recall that these killings happened early last year and we are still asking about them.

Lastly, you indicated that the Cabinet Secretary should come here; respond to this and other serious issues related to security where hon. Senators had expressed concerns. We came here and waited with the Chairman until 1.00 p.m. The Cabinet Secretary did not show up. I doubt whether the Cabinet Secretary has ever communicated to you and apologised. Hon. Senators waited for that long and he never came.

While taking note of what the Senator for Bungoma has said, the police arrested these people at the border after the mass killings. Therefore, it is the police who should know what they did with the culprits after arresting them. Fifteen people from my county

were murdered in cold blood by bandits from Tana River. The police came and arrested them.

In the last communication, the Chairman indicated that the culprits were arrested and that investigations were ongoing. I wanted to find out what became of the cases after these investigations. It is incumbent upon the Cabinet Secretary for Interior and Coordination of National Government to tell us what became of those cases because they opened the case files.

This answer gives us a situation of only five murders yet they were 15. They told us that they had arrested 15 people. What is the position of all the other cases?

Lastly, is the issue of police reservists; we had asked for the deployment of police reservists at the border because this is a very serious matter. It is a pity that people are killed and assistance from Government is not forthcoming.

The Cabinet Secretary has indicated that they are recruited on need basis owing to various factors such as increased number of incidents. What is the Cabinet Secretary waiting for if these 15 murders are not enough to warrant the recruitment of these officers? I agree with the Chairman that the response to the statement is not satisfactory. Once again, the best you can do is to let the Cabinet Secretary come here and respond. I am sure that there are other hon. Senators with other issues of security in their areas. We appear not to have anybody to deal with the issues that we are talking about. It is a grave matter, if it can take one year and the Government is doing nothing; then, they said that they do not deploy reservists unless there is need, yet 15 people have been murdered. How many people need to be murdered for the Cabinet Secretary to realise that it is a serious matter?

Sen. Haji: Mr. Speaker, Sir, I agree with the last statement by Sen. Musila. There is need to summon the Cabinet Secretary either to appear before the whole House or my Committee. If he appears before my Committee, I will invite Sen. Musila.

Regarding Sen. Wetangula's question on the DPP; we cannot have our cake and eat it. It is an independent office. If we call him, he will take cover under that independence. Not only that, I have handled a case which was being investigated by the Criminal Investigations Department (CID). They found that there was no case. The same file was forwarded to the DPP. I visited that office twice and up to now the complainant has not been set free. So, we have that problem. No Chairperson can do anything about it.

The Speaker (Hon. Ethuro): You will act on the basis of the Cabinet Secretary appearing before your Committee. You can invite the Member.

Who is ready with another statement? Let us take the requests.

Proceed, Sen. Khaniri.

REGISTRATION OF PERSONS WITH DISABILITIES

Sen. Khaniri: Mr. Speaker, Sir, I rise pursuant to Standing Order No.45(2)(b) to seek a statement from the Chairperson of the Standing Committee on Labour and Social Welfare regarding registration of persons with disabilities.

In the Statement, the Chairperson should explain:-

(a) Whether he is aware that about 10 per cent of any population accounts for persons with disabilities which translates to approximately 3.8 million people in Kenya. Out of these, only 271,346 are duly registered.

(b) Why a huge number of persons with disabilities have not been registered?

(c) State the immediate measures that the Government will put in place to register persons with disabilities so as to plan better for the provision of goods and services to them.

The Speaker (Hon. Ethuro): Where is the Chairperson of the Committee, Vice Chairperson, Member of the Committee, Senate Majority Leader, Deputy Majority Leader or the Senate Minority Leader?

(Sen. Khaniri spoke off record)

Order, Sen. Khaniri! You cannot be happy with one side and not your side. You may recall that, last week there was the issue of the Members of the Rules and Business Committee (RBC).

Proceed, Sen. (Prof.) Lonyangapuo. I also saw you making some claim.

Sen. (Prof.) Lonyangapuo: Mr. Speaker, Sir, you removed the claim that assigned myself last week. On behalf of the Senate Majority Leader, I request for two weeks to ensure that the statement is given.

Sen. (Dr.) Khalwale: On a point of order, Mr. Speaker, Sir. Just to set the record straight; is it not my expectation that in the absence of all the people you have listed, then you would fall back to any Chairperson of a Committee, who would then pass that information to a fellow Chairperson, in the same manner as in old system where a Minister would then pass over the information to another Minister? The issue of bringing in a Member of the Rules and Business Committee (RBC) needs to be made clear.

The Speaker (Hon. Ethuro): You have a point. I would have easily asked you to practice what you have just preached, but unfortunately, you cannot.

Sen. Haji, were you listening to Sen. (Dr.) Khalwale?

Sen. Haji: Mr. Speaker, Sir, I must be honest; I was not listening to him. I was looking for another statement from my documents.

The Speaker (Hon. Ethuro): Sen. Karaba, since you were listening can you give an undertaking?

Sen. Kembi-Gitura: On a point of order, Mr. Speaker, Sir. Sen. (Dr.) Khalwale may have a point from what he has said, but had already made a communication and Sen. (Prof.) Lonyangapuo has already given an undertaking to bring the statement in two weeks. Therefore, the matter is spent and what Sen. (Dr.) Khalwale has suggested can only be in the future. Otherwise, it would be a waste of time to have asked Sen. (Prof.) Lonyangapuo to say what he said. The HANSARD shows that the statement will be given in two weeks' time.

Sen. Musila: On a point of order, Mr. Speaker, Sir. I sought the statement that was to be given by Sen. Madzayo and want to seek your intervention.

An. Hon. Senator: He is deliberately misleading the House!

Sen. Musila: Mr. Speaker, Sir, I may be misleading the House, but not deliberately. On the Order Paper, Sen. Madzayo was to issue a statement on the cash transfers. I am sorry if we are not there yet.

The Speaker (Hon. Ethuro): Order, Senators! Although the matter was spent, I want to remind the Deputy Speaker that, that was actually challenged by Sen. (Dr.) Khalwale and I allowed it. It made a lot of sense since Chairpersons are also Members of the Liaison Committee; they can communicate at that level. It was not wrong to assign that duty to Sen. (Prof.) Lonyangapuo, first, as a senior ranking Member in the membership of RBC. But, also, even an ordinary Member of that particular Committee would still have conveyed the message. The issue is relaying the message, but it is better when a Chairperson does it to another Chairperson.

Obviously, all the other Chairpersons were not following the proceedings of the House. They were concentrating on their own statements.

Let us have the statement in two weeks' time.

What is it, Sen. Okong'o?

THE DOPING MENACE IN KENYA

Sen. Okong'o: Mr. Speaker, Sir, slightly over a month ago, I sought a statement on the doping menace. Last week, the statement was ready and available. I request that either the Chairperson or Vice Chairperson gives that statement because it is a matter of national importance.

I am talking about Statement "b."

The Speaker (Hon. Ethuro): Hon. Senator, the statement before yours went to the same Committee and you saw the wild goose chase. I do not think we can help you now.

Sen. Okong'o: Mr. Speaker, Sir, the statement I sought places the country on the brink of huge consequences. However, considering the situation in the House, I request that it be slotted tomorrow, so that we can deal with it.

The Speaker (Hon. Ethuro): That is better. I was not disputing the importance of the statement. I think we all agree that it is extremely important to our nation. This statement will be put on the Order Paper tomorrow. I direct Sen. Haji to deliver the Chairperson or the Vice Chairperson. Sen. Wetangula has also agreed to support the Chairman of the Committee of National Security and Foreign Relations.

(Statement deferred)

Sen. Sijeny.

STATUS OF THE KENOL-MAKUTANO-MARUA ROAD

Sen. Sijeny: Mr. Speaker, Sir, I wish to issue the following statement:

On Wednesday 17th February, 2016, Sen. Daniel Karaba requested for a statement from the Chairperson of the Standing Committee on Roads and Transport on the Kenol-Makutano-Marua and Nakuru-Eldoret-Malaba roads as follows:-

(1) Is the chairperson aware that the road from Kenol to Marua is a vital trade link to Ethiopia and that it is the backbone of the economy of the Mount Kenya Region?

(2) Is the chairperson aware that this section of the road has experienced huge traffic build up to the extent that it now takes four hours to reach Nanyuki and three hours to reach Nyeri and the huge traffic volume has led to a lot of accidents?

(3) Is the chairperson aware that the Kenya National Highways Authority (KeNHA) has engaged a consultant to carry out the design for the upgrading of the road to a dual-carriage way to speed up trade and reduce travel time, thereby encouraging business?

(4) Why has the Kenya National Highways Authority (KeNHA) advertised the dualing of Kenol-Sabasaba-Murang'a Road before embarking on the construction of the Kenol-Makutano-Marua section whose design is ready?

(5) When will the Government tender for the upgrading of the Kenol-Makutano-Marua section?

(6) When will the Government make the busy Nairobi-Nakuru-Eldoret-Malaba Road a dual-carriage highway, all the way to Busia?

Mr. Speaker, Sir, I am aware that the road is a significant link for facilitation of trade and economic integration between Ethiopia and Kenya and social economic development of the sub-regions, in particular, Mount Kenya Region. I am also aware that the road has developed high traffic volumes, which has resulted to traffic jam and, therefore, increased journey times. As for the number of traffic accidents, it has not been established whether the high volume of traffic is the cause for the accidents on the roads sections. However, we have plans to improve the level of service by dualing the road with, at least, two links on each direction.

Mr. Speaker, Sir, with the financial assistance from the African Development Bank (ADB), the Ministry engaged the services of Messrs. Aegis International Limited, a consulting engineering firm to undertake feasibility studies and detailed engineering designs for the dualing of the road. The studies have been completed. KeNHA is mandated to manage, develop and maintain national trunk roads. The road from Kenol-Murang'a-Sagana which is C71/C73 is part of KeNHA's network. There have been concerns on its traffic capacity and pavement, riding quality and as such, KeNHA intends to carry out design studies for the improvement and capacity upgrade of the road.

The undertaking of road construction requires mobilisation of huge amounts of funds as compared to the cost of engineering designs. While we solicit for adequate funds for the construction works of the already designed dualing of Kenol-Sagana-Marua Road, which is A2 road, we have earmarked some funds to carry out designs for C71/C73 road. This does not imply that KeNHA has abandoned dualing A2 road and instead prioritized to develop C71/C73 Road. The designs for dualing of Kenol-Sagana-Marua Road are complete and the government is currently soliciting for funds for construction. The ADB has shown interest in funding the construction works and has prioritized this road in its list of project financing.

Mr. Speaker, Sir, the feasibility studies for dualing Nairobi-Nakuru-Mau Summit section is ongoing and is nearing completion. The project will be undertaken under Private-Public Partnership Framework. It is expected that the procurement of project

implementers will commence in 2017. The selected project implementers will then carry out detailed designs and construct the road and operate the facility for an agreed concession period. Feasibility studies for dualing Mau-Summit-Eldoret-Malaba section will be carried out later following the successful implantation of Phase I.

Thank you.

Sen. Karaba: Mr. Speaker, Sir, I am satisfied by the answer that has been given by the Chairperson of the Committee on Roads and Transport. I am happy that Kenol-Makutano-Marua Road has been specified because earlier, it was Kenol-Makutano Road. However, the Chairperson mentioned ADB having interest in this road and yet it has been there for a long time. If the money is availed now, when exactly is the government commencing works?

Sen. Sijeny: Mr. Speaker, Sir, I request for more time to find out how far the negotiations have reached and when the monies can be availed. In any event, we have issued summons against the Cabinet Secretary to appear before the Committee on 15th March, 2016. This is because he has occasionally failed to honour the invitations many times. If possible, with the indulgence of the Chair, we can have a House Committee so that he responds to all these questions. However, in a week's time, I will answer Sen. Karaba on the exact time the funding will commence.

The Senate Minority Leader (Sen. Wetangula): Mr. Speaker, Sir, I appreciate Sen. Karaba for expanding his request to cover the all important A104 road from Namanga-Nairobi-Nakuru-Eldoret-Malaba. When we were contesting for leadership, the Jubilee manifesto indicated that they were going to tarmac 10,000 kilometres of road in five years. They campaigned on that platform and assured Kenyans that it was not a mirage, but a reality.

Can the Vice Chairperson inform the House - since the March 2013 elections to date - how many kilometres of road have been tarmacked because we have 17 months to go? If they were to give us 10,000 kilometres, one would expect that by now, they must have done at least 8,000 kilometres of road.

I do not understand why our colleagues from central Kenya wish to have another road through Makutano yet we are talking of a road to connect Kenya to markets in Ethiopia. The road is from Thika-Makutano-Nyeri-Isiolo-Merile-Marsabit to Moyale. When is the Government putting a dual carriageway on the A104 to Malaba which carries 60 per cent of our external trade? The other road is the one linking us to Ethiopia. With a population of 95 million people, the connection can change the fortunes of our economy. The road from Isebania-Kakamega-Kitale-Lodwar-Nadapal to Juba is another emerging market since South Sudan has joined the East Africa Community.

Sen. (Dr.) Khalwale: Mr. Speaker, Sir, the executive is doing this aware of the expectation of the voters and that the President was elected to deliver goodies to his county and the region in general. However, at best, this is nothing but a grandiose intention by the Jubilee Government. They dare say that they are looking for a financier of a non-priority project. If they want to prioritise volume of traffic and impact on the economy, they would have started with the Mombasa-Nairobi and Nairobi-Malaba Road before going to the road in question.

Could the Vice Chairperson confirm that she will communicate to the Cabinet Secretary that when he appears before the Committee, he should bring along a blueprint of a revised policy by the Government so that projects do not follow executive power, but priority and plans?

The Speaker (Hon. Ethuro): Order, Sen. (Dr.) Khalwale! Does Nairobi-Malaba Highway include the great County of Kakamega?

Hon. Senators: Not at all.

Sen. (Dr.) Khalwale: Mr. Speaker, Sir, thank you for reminding me because my colleagues misunderstand me. During our presidency, we will not care which region or ethnic community is in which place. We will simply follow plans and priority.

The Trans-African Highways will open the economy of this country, but as far as the Jubilee Government is concerned, economy will be opened if two communities are empowered. That is---

The Speaker (Hon. Ethuro): Order, Sen. (Dr.) Khalwale! It is Statement Time.

Sen. (Dr.) Khalwale: Mr. Speaker, Sir, I conclude by thanking you very much for provoking me because we are crying in Kakamega. Our Trans-African Highway from Isbania-Migori-Kisumu-Kakamega-Kitale-Lodwar and eventually to Juba will never be prioritised by the Jubilee Government.

The Speaker (Hon. Ethuro): Order!

Sen. (Dr.) Khalwale: Mr. Speaker, Sir, I thought you will congratulate me for mentioning Lodwar!

The Speaker (Hon. Ethuro): How does the Chair congratulate you for crying?

(Laughter)

Sen. Kivuti: Mr. Speaker, Sir, being aware that one of the major infrastructure projects in this country is the Lamu Port South Sudan-Ethiopia Transport (LAPSSET) Corridor and having the knowledge of its masterplan, could the Vice Chairperson tell us whether the Government plans to implement the LAPSSET project between Nairobi and Isiolo? If so, what are the plans?

Sen. Kagwe: Mr. Speaker, Sir, I laud the fact that the Chairman wants the Cabinet Secretary (CS) to appear before us. Since the CS will come and respond to a number of issues, I would like to know about the road because it seems to have been designed quite a lot time ago. A lot of circumstances have changed since then. In fact, if you travel to Isiolo or any of those places, you will realise that the stretch after the dual carriageway is impassable, especially over the weekends. Is the design the same as it was done 15 years ago or will it be redesigned?

Secondly, could the Vice Chairperson indicate to us, during the open forum with the CS, what the Government intends to do in terms of policy in using private sector capital to build our roads? Day in, day out, we hear the Government talk of looking for money from this or that source. The one source that has got infinite quantities of money that we never seem to approach is the private sector. If you travel to Thailand, you know very well that you will use a private road from the main city to the airport. Therefore, you avoid the traffic jam.

When will we start having the private sector building roads on toll basis so that we avoid borrowing? There is no point of borrowing money from the African Development Corporation (ADC) if Sen. Wetangula can build a road.

Sen. (Prof.) Lonyangapuo: Mr. Speaker, Sir, I am one of the persons that requested an expansion on the statement that has been sought by Sen. Karaba to include the very important road which Sen. Wetangula talked about. This is the road from Nairobi-Nakuru-Eldoret to Uganda and South Sudan.

Mr. Speaker, Sir, it defeats logic - I hope the Vice Chairperson is listening - that we can waste billions - sometimes the figure goes to trillions - to entertain a standard gauge railway that will ensure goods manufactured in other nations move very fast through the Indian Ocean to the hinterland of Kenya. That is ironical because we are supposed to transport goods that have been manufactured in Thika - because we have many industries there - and Nairobi Industrial Area where our own Kenyan main products are made.

Mr. Speaker, Sir, I would like to know whether the medium-term plan of Vision 2030 which is 2012 to 2017 is still alive or dead because the road we are talking about falls under that.

Currently, we have over two million transit vehicles in Kenya. Therefore, we should go slowly on the issue of the railway. The railway should end in Nairobi as we concentrate on the open market of South Sudan which will open the north rift; West Pokot and Turkana counties and so on where there is a huge potential for market. You can sell a bag of maize for over Kshs7,000.

The Speaker (Hon. Ethuro): Order, Senator! It is statements time.

Sen. (Prof.) Lonyangapuo: Mr. Speaker, Sir, when I was a Permanent Secretary (PS), they were already talking about designs which had been done. Are they being repeated or somebody is playing with us?

Sen. Kembi-Gitura: Mr. Speaker, Sir, I thank the Vice Chairperson of the Committee for the elaborate and clear answer. I am grateful that in that answer, it has become clear that the proposed road from Kenol through Murang'a Town will end up in Sagana just like the other one was to end up in Sagana. The danger of playing politics over such a serious issue is that it also misleads people. The leadership of Kirinyaga County had made it appear like Murang'a County was taking a road from them which will then start in Murang'a Town and go all the way to Marua. It is now clear that, that road is designed to go through Murang'a Town because it is the capital of Murang'a County.

We have a university there, a Level 5 Hospital and it is the headquarters of the County Commissioner and County Government. Therefore, it was important that the road goes through Murang'a Town. It is now clear that the road will end up at Sagana which is in Kirinyaga County and serves Nyeri, Kirinyaga, Embu and Meru counties. Therefore, this answer is important because it reduces tensions where some leaders would like to make it appear as if a road is being taken away from them to disadvantage them when, indeed, it goes through their county.

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

Sen. Kembi-Gitura: Mr. Speaker, Sir, just allow me one second to say that from Sagana to Karatina---

The Speaker (Hon. Ethuro): I will allow you to interrogate the statement, but not to make your own statement.

Sen. Kembi-Gitura: Mr. Speaker, Sir, I thank you for that.

The point I was trying to make is that everybody knows about that. Almost the whole of the road from Sagana to Karatina is within Kirinyaga County because the boundary is just before Karatina. The road, as designed to pass through Murang'a Town, will open up the counties which is the intention and the main purpose of devolution. A development in one county should not be made to appear to be loss of development in another county.

That is why the road to Malaba is so important because it is clearly stated here. It will be a Public-Private Partnership (PPP).

Funds are being sourced; the road will be made. The fact that the road will go to Malaba does not mean that other places would not be developed simultaneously, so that we develop the whole county. That is the whole purpose of devolution. We should not mislead the people we represent as Senators.

I thank you.

Sen. Munyes: Mr. Speaker, Sir, I want to a cue from what Sen. (Prof.) Lonyangapuo said about the Eldoret-Kitale-Lodwar Road; we need an official response on when it will commence. There is talk of renovation of that road which is very important. Again, the Senator for Kakamega talked of priorities in this country. The road takes us all the way to Sudan. It is 500 kilometres less to travel through one border post in Lokichoggio than going through Malaba and Gulu which will take you to South Sudan. So, the priority is wrong. We are taking transporters and other people travelling in vehicles to those areas for 500 more kilometres.

Again, this road is important because of security. I am happy to announce that Turkana and West Pokot counties enjoy peace as the result of intervention and the peace caravan.

(Applause)

A better tarmac road through those two counties will improve security. However, 500 kilometres less and one border post should be a priority of this country, instead of taking people through Malaba or Busia or Kampala and Gulu where you are taxed before you cross into South Sudan. I think priority should be looked at when the Chairman responds.

Sen. Haji: Mr. Speaker, Sir, there were times when animals used to speak. The hyena saw a monkey with a red ass. The hyena said: "We cannot sleep day and night because we are looking for meat and others are so satisfied that they put it on their arse." I am saying this because where I come from, in 2007, President Kibaki promised a road called Wema-Masalani, the Headquarters of Ijara. I followed up on the matter and the Head of Civil Service then, Amb. Muthaura, who wrote to the Ministry to tell them that that was the promise made by the President and that the road should be made.

I am still following. Two months ago, I was told that President Kenyatta told the Cabinet Secretary (CS) and the Principal Secretary (PS) to work on that road. I would like to know from the Ministry when work on this road will start, what type of a road it will be and the amount of money that will be spend on it.

The Speaker (Hon. Ethuro): Sen. Haji, I appreciate your longevity, but I am not sure you lived in the age in which animals talked.

(Laughter)

Vice Chairperson, you can respond. You can see the interest of the House is really enormous. What Sen. Munyes did not tell you is that already there is a road from Ethiopia to Todonyang when our side is not responding appropriately. These are all connecting various regions in the continent.

Sen. Haji: On a point of order, Mr. Speaker, Sir. My narration of this is just like the animal farm and it has been understood. There are some people who are talking about tarmac and we do not have a single murram or all-weather road in our place.

(Sen. Wetangula spoke off record)

Sen. Adan: Mr. Speaker, Sir, first, let me thank the Vice Chairperson for the statement. I would really want to know whether we are seriously thinking about opening the roads for the purpose of economic development. In this particular case, why would we have a dual carriageway from Kenol-Murang'a-Marua?

(Applause)

For many years, we were told that the road will be opened all the way to Ethiopia. If this country is seriously thinking about economic development, business and trade and for the purpose of the welfare of Kenyans, this road should be opened all the way to Ethiopia, so that the rest of us can benefit.

Secondly, has the Ministry considered the terrain through Murang'a, especially for the heavy vehicles that will use those roads?

Sen. Karaba: Mr. Speaker, Sir, I would like to state here that when I rose on this issue on the road from Kenol to Makutano, I did not have any idea about Kirinyaga County. What I had was Mount Kenya and more so, mount Kenya East. Some other sections thought that the road should have made a detour towards Murang'a County. That was not my interest although I would have liked it. The issue was that the road had to start. That is why the super highway all the way to Marua had already been built by the then President.

The Speaker (Hon. Ethuro): Sen. Karaba, I was just wondering, is Kirinyaga County part of Mt. Kenya?

Sen. Karaba: Mr. Speaker, Sir, it is.

The Senate Minority Leader (Sen. Wetangula): On a point of order, Mr. Speaker, Sir. I wonder whether it is right for our colleagues from Mount. Kenya region to

keep talking about circuitous roads in their regions, when they already put pressure on the President who went public and announced that he will dual all those roads for them. So, Sen. Haji is right. We feel slighted. When there is going to be a dual carriageway from Kenol, Murang'a, *sijui* to where and another one Makutano, Kirinyaga all the way, when other areas have no roads. This statement came from the President himself. As if there are no other parts of this country. What about Turkana and Pokot counties?

Sen. Kembi-Gitura: On a point of order, Mr. Speaker, Sir. It is very easy to try and be populist on an issue like this one. I must say that I am the Senator for Murang'a County and not another. Marua Road is very important road and it will be built. The fact that it will be built does not mean that other roads should not be built. Therefore, it is dishonest for the Senator for Kirinyaga to say that he is thinking about the greater good of a region, when they are misleading people that the road does not pass through Sagana – a border town between Murang'a and Kirinyaga counties – which it does.

It is a question of demographics, population and road carnage. The fact that that road will be built should not imply that other roads should not be built. The Senator for Kirinyaga County should be the last person to mislead this nation that the road bypasses Sagana or that they are doing it for the greater good. We are talking about the same region when we talk about Sagana as a hub where the road will then detour towards Marua and onwards to Isiolo because this is the Great North Road. It is important that this should be made clear.

The Speaker (Hon. Ethuro): Order, Members! I do not know why this matter is exciting passions.

Hon. Senators: Roads!

(Loud consultations)

The Speaker (Hon. Ethuro): If a section of the House had misunderstood the new announcement, I think that statement has clarified it. So, to me, everybody should be very happy.

Sen. Musila, are you not happy?

Sen. Musila: Mr. Speaker, Sir, I raised the issue of intervention quite some time back. If you allow me, I was shocked to hear of C71, C72 to be improved to dual carriageway when for the last 15 years that I have been with you in Parliament, I have been raising the issue of Road B7 – Kibwezi-Kitui. Today, that road remains undone. We even have a copy of a contract signed between the Government and a company to construct the road. A contractor was taken to the road and withdrawn. So, what are we talking about of dual carriageway of roads of category C, when category Bs and As have not been touched? It is a matter of priority. Could we ask that the Cabinet Secretary (CS) addresses the issue of prioritizing roads totally within the Republic? That way, we can see whether counties are receiving the due attention that they deserve.

The Speaker (Hon. Ethuro): Order Members! The last one on this; Sen. Ndiema! Be brief because yours must be an afterthought.

Sen. Ndiema: Thank you, Mr. Speaker, Sir. It is not an afterthought but it is something that has arisen---

The Speaker (Hon. Ethuro): You registered interest on my screen and I had exhausted all of them.

Sen. Ndiema: Thank you, Mr. Speaker, Sir. Could the Chairman clarify whether the two roads from Makutano towards Sagana will be made a dual carriageway? Can he tell us the economic rationale for that? Which is the shorter one and which one is more economical in construction? Is it the one from Makutano direct to Sagana or the one detouring through Murang'a? An expert should be able to say it.

Sen. Sijeny: Thank you, Mr. Speaker, Sir. As I had mentioned earlier, we have issued summons against the Cabinet Secretary (CS) and within two weeks---

An hon. Member: Is it summons or a request?

Sen. Sijeny: Mr. Speaker, Sir, it is summons because he has failed several times to appear before the Committee and we cannot keep on begging him. So, we will notify the Senate through the Speaker's office on when he is available, then we can have a *Kamukunji* because there are several questions which have been raised and most of them are new. However, I will check in the HANSARD and forward to see if they can be responded to but the way I have seen it, it is important he comes himself to explain.

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

Sen. (Prof.) Lonyangapuo: Thank you, Mr. Speaker, Sir. Did you hear the Chairperson confess that she is unable to deliver the CS here? If she is unable, then she should resign as the Chair.

The Speaker (Hon. Ethuro): Order, Sen. (Prof.) Lonyangapuo. You know some of these titles we carry must reflect on us. She did not say she is unable to deliver the CS. She has invited you to a meeting with the CS in two weeks' time and that she has not just invited the CS but she has issued summons. Summons carry serious weight and consequences too. I allowed him because I thought he would ask for a specific date but he has now gone the opposite direction. Chair, we have completed your story.

Next statement!

DOPING MENACE IN KENYA

Sen. Okong'o: Mr. Speaker, Sir, let us do it tomorrow.

The Speaker (Hon. Ethuro): I leave it for tomorrow?

Sen. Okong'o: Yes, Mr. Speaker, Sir.

The Speaker (Hon. Ethuro): That is correct.

(Statement deferred)

STATUS OF THE YOUTH ENTERPRISE DEVELOPMENT FUND

(Statement deferred)

LACK OF CASH FLOW AT THE HELB

(Statement deferred)

KILLINGS IN KITUI COUNTY

(Statement deferred)

STATUS OF CASH TRANSFER PROGRAMME

*(Statement deferred)*CREDIBILITY OF WEATHER FORECASTS ISSUED BY KENYA
METEOROLOGICAL DEPARTMENT

Sen. Kivuti: Thank you, Mr. Speaker, Sir. My Committee wrote to the CS on this matter and as of today morning, the answer was ready but it had not been signed by the CS because he has been away. The Ministry said that they will be ready by Thursday morning. So, it is my request that this matter be deferred till Thursday.

The Speaker (Hon. Ethuro): Order, Chair! That does not add up. The CS was away and he could not sign, and that your answer was ready as at this morning. Does it take two days to append a signature?

Sen. Kivuti: Mr. Speaker, Sir, the CS is not available until tomorrow. The information I got was that the letter will be signed and be ready the day after tomorrow.

The Speaker (Hon. Ethuro): The Statement will be on the Order Paper on Thursday afternoon.

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

The Speaker (Hon. Ethuro): Even that one is not too far.

Sen. Kivuti: Much obliged, Mr. Speaker, Sir.

SHORTAGE OF TEACHERS IN WEST POKOT COUNTY

Sen. Karaba: Mr. Speaker, Sir, I have not received adequate Statements from the CS for the Ministry of Education. So, I ask for more time.

The Speaker (Hon. Ethuro): So what have you received?

Sen. Karaba: I have not received any, Mr. Speaker, Sir.

The Speaker (Hon. Ethuro): But you have used the word “adequate”?

Sen. Karaba: I have not received the answer from the CS.

Sen. (Prof.) Lonyangapuo: Mr. Speaker, Sir, you can hear the Chairman struggling to tell us how he is not willing to respond to this Statement. I sought to know the causes of the acute shortage of teachers in West Pokot County and by extension, my neighboring counties. He seems not to be taking it seriously the way he was taking the question of the road.

(Laughter)

Sen. Karaba: Mr. Speaker, Sir, I am very serious about Sen. (Prof.) Lonyangapuo's concerns. In fact, I have been to the CS to seek for this statement but the last time, he was in Kisii and, therefore, he was not available. So, I am sure by next week, everything will be ready for him.

The Speaker (Hon. Ethuro): So when are you getting the statement?

Sen. Karaba: I request next week on Tuesday.

The Speaker (Hon. Ethuro): It cannot be. The two statements will be on the Order Paper on Thursday this week. The CS has a responsibility to this nation through this House. We are not seeking favours.

Sen. Karaba: Mr. Speaker, Sir, I will be here on Thursday to---

The Speaker (Hon. Ethuro): So do not go pleading.

Sen. Karaba: Mr. Speaker, Sir, I will even summon him.

(Statement deferred)

NON-REMITTANCE OF DEDUCTIONS
TO MWALIMU SACCO BY TSC

(Statement deferred)

HARASSMENT OF RESIDENTS OF MACHAKOS
COUNTY BY THE POLICE

(Statement deferred)

SENATOR'S GENERAL STATEMENT

ELECTION OF HON. WILLIAM BARAKA MTENGO
AS MALINDI MEMBER OF PARLIAMENT

The Senate Minority Leader (Sen. Wetangula): Mr. Speaker, Sir, I wish to seek the Chair's indulgence to make a short statement under Standing Order No. 45 (2) (a) by taking this opportunity to congratulate the electorate in Malindi Constituency for overwhelmingly voting for Hon. William Baraka Mtengo as the new Member of Parliament to represent the people of Malindi in the National Assembly following the appointment of the former MP, Hon. Dan Kazungu, to the position of Cabinet Secretary. The results of this by-election have shown - just like they did in Kajiado Central - that dangle of goodies to individuals does not seem to impress the electorates.

I hope that the protestation coming from the Kenya African National Union (KANU) in Kericho will be addressed and justice will come to the fore, as to whether or not the Senator-elect who was declared the winner was genuinely, validly, openly, fairly and democratically elected.

Thank you, Mr. Speaker, Sir.

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

Sen. (Dr.) Khalwale: Mr. Speaker, Sir, thank you for recognizing me. Just to add a small thing on what Sen. Wetangula has said. Kenyans must use the elections in Malindi and Kericho as an eye opener. Last evening, we were shocked when we sat before our screens and saw that the results of a county were almost concluded in a record time of two hours, while the one for a constituency took almost ten hours. More shocking, as the results were coming in real time, the votes in the by-election of Kericho were changing by 5,000, 10,000 and 20,000. Was this genuine counting or pre-counted results were being released?

Kenyans must know that if we do not remove the Independent Electoral and Boundaries Commission (IEBC), it has the potential of sending our country to war. The reasons people are very passionate about elections, my dear Senators from the Jubilee side, is because the political leadership is the one responsible for appropriation of resources; the common wealth of the Republic. When those resources are in the hands of people who want to allocate them to only a particular corner of the country, as you have witnessed in the Statement on roads, it is a recipe for chaos in this country. I do not want to impute any bad motive on a colleague, but if some people on that side are---

The Speaker (Hon. Ethuro): Please, conclude, Senator.

Sen. (Dr.) Khalwale: We are protecting our children. We want them to live in peace and compete with other Kenyan children. But since their fathers are afraid and do not want to compete with us, they only want to steal elections from us. We condemn Jubilee.

Sen. (Prof.) Lonyangapuo: Mr. Speaker, Sir, what we witnessed in Kericho was a competition of political parties that fall under the Jubilee Coalition. We thought it was a healthy competition. We sit on the same side of the Coalition and so, the statements that we heard were not correct; that KANU, my political party, is an opposition party. Those were untruths. However, two scenarios emerged yesterday evening. The IEBC staff in Malindi looked like they were from another country when you compare them to the ones that were in Kericho.

The IEBC staff in Kericho either had totally different qualifications or their hands were working like super machines. This is because it took over nine hours to remit results from about 100 polling stations in the Malindi by-election. However, in Kericho, which had over 600 polling stations, the results were being transmitted very fast. In less than two hours, the final results were ready. Also, there is no single polling station in Kericho with over 5,000 voters.

Recently, we had a by-election in Nyangores Ward, which had 36 polling stations. It took over eight hours – up to 1.30 a.m. – for the results to be finalized. But yesterday the results were declared just after 9.00 p.m. Since I sit on this side of the Government, we will deal with ourselves and correct one another. In order to defeat the ambitions of Sen. Wetangula and his team to form the Government next year, we must clean ourselves on this side.

I agree with Sen. Wetangula that we should address the issue of IEBC now more than ever before. We are ready even to disband it and employ other people, so that we do not experience the type of stealing that we saw. It appears as if looting has moved from

the National Youth Service (NYS), Eurobond and others that we have not named, to votes.

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

Sen. Kanainza, be brief.

Sen. Kanainza: Mr. Speaker, Sir, I also want to add my voice on the same.

The Speaker (Hon. Ethuro): It might be your maiden speech after---

Sen. Kanainza: Yes, Mr. Speaker, Sir; being a wife and mother.

I want to congratulate our candidate in the Malindi Constituency by-election, hon. Mtengo. I also want to congratulate the Members of Parliament, both from the Senate and the National Assembly, for what they did. What we witnessed in Kericho is a bad culture that is being transferred to the young people. Likewise, in Malindi, there was a lot of bribing. Some people even travelled from Kiambu and Kirinyaga counties to bribe voters. I appreciate the people of Malindi because they took the money, because it belongs to them, but never compromised their constitutional right. This issue needs to be dealt with.

At the same time, I condemn the County Commissioner and the police for arresting our Director of Communications, Mr. Philip Etale. What has come out is that the Coalition for Reforms and Democracy (CORD) is powerful in this country. We are watching what the Jubilee Government is doing and we will take power in 2017.

Sen. Njoroge: Mr. Speaker, Sir, thank you for giving me this opportunity to contribute. I really commend Kenyans, especially in Malindi and Kericho, for being patient despite all the drama that we witnessed.

I would like to remind the CORD side that it was a plus for the Jubilee Coalition in the Malindi by-elections compared to the 2013 elections. However, the time has come when we all need to keep an eye on the IEBC because of the complaints that we are getting. I am a victim of the IEBC misdeeds. It took me about six months to come to the Senate because my position had been given to another person after the 2013 General Election. This organisation is led by human beings and it should be held accountable to the people.

I do not have any doubt with what happened in Kericho. I think this is the right time to make Kenyans feel that they can count on them on upcoming elections. These complaints are too much, starting from myself because they wasted a lot of time after the general election. It is true that IEBC is not an institution to rely on.

The Speaker (Hon. Ethuro): Order, Senators. Before we move to the next Order, we are going to defer Orders No.9, 10 and 11. We will move to Order No.8 and then jump to Order No.12.

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

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

COMMITTEE OF THE WHOLE

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

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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)

(Committee of the Whole deferred)

First Reading

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

*(Order for the First Reading read – Read the First Time and
ordered to be referred to the relevant
Departmental Committee)*

Sen. (Dr.) Khalwale: On a point of order, Mr. Deputy Speaker, Sir. It has been stated that the Bill has gone through the First Reading but could you clarify if there is any connection between this Bill and a similar Bill which I moved in this House and which was debated, voted on and passed? It was taken to the National Assembly as a message and was never acted on. The National Assembly, on its part, plagiarized the same and came up with a similar Bill, brought here as a message and we have never acted on it. Is there any relationship?

The Senate Minority Leader (Sen. Wetangula): Mr. Deputy Speaker, Sir, indeed this is a worrisome matter. The distinguished Senator for Kakamega brought a Bill and I have looked at it and realised that it is the same. We passed it and messaged it to the National Assembly. Within no time, a Member of the National Assembly plagiarized it, printed and tabled a similar Bill and it was debated. Now the Senate Majority Leader has brought a similar Bill. Where is fidelity to our Members in what they are doing, if this is the case? Before you move to the next Order, I would like you to step down the First Reading of this Bill so that we clarify these issues before we put it on the tread mill. It defeats logic for a Member to painstakingly work on a Bill, bring it, get it debated and then it starts doing rounds through different names and titles. This is not good faith.

Sen. Billow: Mr. Deputy Speaker, Sir, I want to comment on the same. I appreciate the point of order raised on this Bill. This Bill and the one from Sen. (Dr.) Khalwale, are indeed very important because they set out the place of the Senate. There is a process being carried out by the Salaries and Remuneration Commission (SRC) regarding job evaluation to determine their place in terms of their status. I think it would make a lot of sense to discuss this Bill and at the Committee stage, bring in amendments to ensure concurrence with that the Senator for Kakamega brought so that we do not lose out on this opportunity by the SRC which is commencing next week, to the best of my knowledge.

This Bill, as was the case with the Bill by the Senator for Kakamega, brings up the position of the Senator from number 40 something to top 10. I think it is important for the Senate. I know what happened to the Bill when it went there but two wrongs do not make a right. It is important that we look at this and make the necessary amendments. We can address all these issues through mediation. Let us look at the interest of the Senate and this Bill puts the Senate at number four or five in the pecking order in this country. That also determines and informs the SRC in terms of the remuneration for Senators. I want to appeal to both Members to look at it in that context.

The Deputy Speaker (Sen. Kembi-Gitura): I honestly do not know what you are discussing because if you think about it, it has already gone through the First Reading. The point of order from Sen. (Dr.) Khalwale came after it has been read but I think he is making an extremely important point, which needs to be considered because it has not gone to Second Reading. Therefore, a determination can be made at this point in time. Contrary to what Sen. Kerrow is saying, the issue being raised by Sen. (Dr.) Khalwale--- I think he put it a negative way. He wanted to know whether it is the same Bill. It is important to determine whether it is the same Bill and whether we are doing double work. We need to determine that point before we do to the Second Reading.

Sen. (Dr.) Khalwale, you cannot stop it now because it has already been read the First Time.

Sen. Kanainza: On a point of order, Mr. Deputy Speaker, Sir. Thank you for the direction you have given. It is important that we look at interference of intellectual property law. What is being articulated in this Bill is the same as what Sen. (Dr.) Khalwale, my Senator, brought here yet somebody has cooked it and brought it here.

The Deputy Speaker (Sen. Kembi-Gitura): We have already gone through that. The point Sen. (Dr.) Khalwale has made is of paramount importance. It is not right that a Senator or any legislator works so hard to create a Bill and somebody takes it over, runs away with it and makes it his or her own. That is a situation that the Speaker's Office is going to look at and come up with a position on it.

Sen. (Prof.) Lonyangapuo: Mr. Deputy Speaker, Sir, how many of our Bills have met the same fate? I remember there is one that I generated on Kenya Police Reservists (KPR) and I am told it has---

The Deputy Speaker (Sen. Kembi-Gitura): Sen. (Prof.) Lonyangapuo, I think it is important that we do not open up this debate because it is going to be very wide. We all know that it has happened before. Right now, we are discussing this particular Bill.

I do not want to open up that debate at the moment because it would be too wide. My view is that we should deal with Sen. (Dr.) Khalwale's point of order before going to the Second Reading. Let there be a determination by the Rules and Business Committee so that we get proper direction on how we are going to deal with this Bill and similar Bills like the one Sen. (Prof.) Lonyangapuo is bringing into play.

Sen. (Prof.) Lonyangapuo: I agree with you but it was just to enrich it; to say that there could be similar Bills that have undergone the same fate. I think we can audit them and look at them before they are brought to the Floor of the House.

The Deputy Speaker (Sen. Kembi-Gitura): Thank you, Senator. Maybe we need to do an audit on all those types of Bills and then deal with them as appropriate.

Sen. Njoroge: Mr. Deputy Speaker, Sir, taking cue from Sen. (Dr.) Khalwale's point of order, you remember we passed The Persons with Disabilities (Amendment) Bill here. However, it is now more than a year since we passed it and we have not heard from the National Assembly. The other day we saw a similar Bill brought here from the National Assembly for us to discuss it. It seems as if they disregarded the Bill we passed here and introduced a similar one so as to appear as if they are the ones who come up with the best Bills to benefit Kenyans. As a matter of urgency, they need to discuss and pass The Persons with Disabilities (Amendment) Bill which was passed by this House.

The Deputy Speaker (Sen. Kembi-Gitura): My direction is that the Rules and Business Committee (RBC) should give a way forward on that issue of Order No.8 which has been read a First Time before it goes on Second Reading.

It is not possible for us to deal with Order Nos.12 and 13 because we do not have the requisite number. Therefore, let us move on to Order No.14.

COMMITTEE OF THE WHOLE

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

(Committee of the Whole deferred)

BILL

Second Reading

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

The Deputy Speaker (Sen. Kembi-Gitura): Sen. Sijeny, please, proceed. You have five minutes left.

Sen. Sijeny: Mr. Deputy Speaker, Sir, I had actually finished my contribution. All I have to say now is I beg to support.

Sen. Ndiema: Thank you, Mr. Deputy Speaker, Sir, for allowing me to contribute to this Bill which was brought here by my sister and Member of my delegation. She is also a cereals grower.

The Constitution has largely devolved the function of agriculture. This Bill is meant to operationalize this devolved function. We need to devolve the role of the National Cereals and Produce Board (NCPB) to the counties.

Cereals are important to the economy of any country. When we talk about food sufficiency and security, what comes to mind are cereals; that is, *ugali*, bread and rice that we consume every day. To ensure that there is adequate food in this country, that sector should be well managed. We must make sure we do not have food shortages in this

country year in, year out. Our country is capable of producing enough cereals because we have good soils, climate and hardworking people. Most of our population; particularly where I come from, depend on cereals for their livelihood and sustainability. However, over the years, we seem not to be giving enough emphasis to this sector. Last year, very little was allocated to agriculture in the financial budget.

Mr. Deputy Speaker, Sir, when it comes to agriculture, you will realize that the national Government retains a substantial amount of money rather than sending it to the counties. It is a pity that we allocate very little resources to the Ministry of Agriculture. Some of us who sit in the Committee on Agriculture, Livestock and Fisheries have had an opportunity to visit China and India. These two countries have large populations. They do not have good ecological conditions for them to grow cereals. However, they have been able to feed their people because of the subsidies they give to the agricultural sector. A country like Malaysia allocates about 30 per cent of its agricultural budget to grains. It is targeted towards subsidy, fertilizer and price stabilization. When there is over production of cereals, the farmer does not sell his maize at throwaway prices.

The Government guarantees a minimum price so that whether a farmer is in Narok or Trans Nzoia, he can make profit. However, by embracing the Structural Adjustments Programmes (SAPs), the farmer was left at the mercy of the climate and middlemen to the point that farmers hardly make money to repay their Agricultural Finance Corporation (AFC) loans. As a result, some farmers have lost their parcels of land through auctions because they are unable to sustain themselves.

For a long time before the 1980s, the NPCB guaranteed that all grains that were available in the market were purchased by the Government. However, at the moment, the Government is purchasing only Strategic Grain Reserves (SGR).

The SGR level is determined by the annual allocation of money for purchasing of grain. The previous year, the Government spent not less than Kshs5 billion to procure maize. This year, it is hardly Kshs3 billion.

I thank the immediate former President Kibaki because he was very sensitive to the economy. The price of a bag of maize during President Kibaki's regime had gone to Kshs3,000. The costs of production, labour and inputs have gone up. The Government through the then National Cereals and Produce Board is now purchasing a bag of maize at Kshs2,300. A reduction of Kshs700 per bag is too much for the farmer. I am afraid most farmers, come next season, may not be able to produce food.

If all this money that is being used on various projects, including Galana Irrigation Project, was put to agriculture and procurement of grain, we would not be having shortages.

The wheat farmer in Narok County is crying and nobody is listening. The price of wheat per bag in Narok is currently less than Kshs3,000 yet we allow imported wheat which is subsidized to come to this country, sometimes, duty free. Are we really looking after our farmers?

This Bill has come at the right time. It is taking some control from the centre to the counties. However, even with this Bill, if the counties are not supported, it will not assist. The Bill seeks to form committees in the counties. At the Committee of the Whole, we should give the county assemblies some leeway to make certain regulations and laws

so that we do not legislate at the Senate even on issues that the counties can legislate. We do not want a central authority controlling the committees. We want them to be determined by the county assemblies in consultation with the national Government. Counties like Trans-Nzoia and Uasin Gishu spend a lot of money on agriculture.

Health is a devolved function. There are referral hospitals and level 5 hospitals. Through the Division of Revenue, we have ensured that those who have a higher responsibility like Nyeri General Hospital are given additional resources due to their responsibility. Trans-Nzoia produces a third of the maize that is consumed in this country. We also deserve to be given that recognition and affirmative action. We deserve conditional grants to procure fertilizer and produce maize. The maize we produce is not necessarily for consumption in Trans-Nzoia County. It is for consumption in all counties starting with Turkana in the north. When it comes to allocation of resources, because of that special function that Narok, Trans-Nzoia and Uasin Gishu perform in terms of feeding the nation, they should be given additional resources in conditional allocations.

The other important issue is the issue of credit. The Agricultural Finance Corporation (AFC) is the preferred bank or lender to the farming community. Yet, every year, AFC is getting lesser resources for onward lending to the farmers. I hope the National Assembly is listening and should provide adequate resources to AFC to be able to extend credit to farmers.

The main devolved functions are agriculture, health and roads. However, when the counties get their allocations, how much do they dedicate to these three functions? The National Treasury should come out with directions specifically setting levels as to how much should be allocated to each of these functions. Without direction, some of the counties allocate resources to areas that are not within their mandate.

We have seen counties putting resources into security, yet security is a function of the National Government, which has got adequate funds. Counties are constructing airports when people are going hungry; counties are constructing magnificent stadia when their residents do not have water and food. It is high time that this Senate together with the National Treasury arrived at certain levels or ceilings. For instance, every county, particularly like ours, must allocate at least 50 per cent of their resources to agriculture; livestock, crop production, sugarcane, fishing and all other crops, including cash crops. If we continue the way we are, we may face a situation where we will not have food.

Technology and research are very important. However, the research sector, according to the experience we have had, is wanting. Fortunately, in our Stranding Committee on Agriculture, Livestock and Fisheries, we have held several conferences on tea, crops and animals. We are also planning to hold one for fish and another for coffee. What has come out is that there is very little being allocated to research in those fields to increase production and deal with parasites and so forth. Without research, there cannot be any progress.

When we went to the Kenya Forestry Research Institute (KEFRI), an organization that deals with research on forests and natural resources, we found every researcher there is well above 50 years. There is no succession planning whatsoever.

The Deputy Speaker (Sen. Kembi-Gitura): Sen. Ndiema, your time is up.

Sen. Ndiema: Mr. Deputy Speaker, Sir, would you add me some time?

The Deputy Speaker (Sen. Kembi-Gitura): You have two minutes.

Sen. Ndiema: Thank you, Mr. Deputy Speaker, Sir. I was saying that the research sector has been neglected. Unless we introduce the youth and recruit them into our research institutions, there is no future for research in this country.

I support.

Sen. (Prof.) Lonyangapuo: Mr. Deputy Speaker, Sir, I also join my colleagues in congratulating Sen. Kittony, who is a large scale-farmer in Trans-Nzoia, for reading the Constitution of Kenya, 2010 properly. The Fourth Schedule of the Constitution enumerates the functions of the national and county governments. The first function, which has been devolved, is agriculture. There are a total of 14 functions under the county governments. In the national government functions, agriculture is number 29 out of 35. It strictly talks about agriculture. However, the activities and functions of agriculture, which is the mainstay of the economy of Kenya – our GDP relies heavily on agriculture – were devolved to the county governments. The key instruments that enable agriculture to be what it is were maintained at the national level. It is supposed to be strictly policy. One of the institutions that are supposed to work seriously is the National Cereals and Produce Board (NCPB). The law was supposed to be amended immediately to enable the devolved functions to be executed in the counties.

Although the Bill has come three years later, it will give us a major boost in implementing this Constitution and guarantee that we have food in our country. One of the key functions of the NCPB as indicated here is to guarantee food security. Should there be food scarcity in Kenya, the NCPB would provide food. In the 1970s and 1980s, many silos and stores were built across the country, including areas where most cereals were not grown. This is because the people of Kenya depend mainly on cereals for food. If you visit Turkana, in all the six constituencies, there is one large NCPB. It is a store where Government buys cereals and stores them. From there, the local people can easily access food to buy or get relief food. It is accessible. In most of our counties we have them, including Nairobi County which has many poor people.

However, when we promulgated the new Constitution, we did not devolve the NCPB to the counties. The hon. Senator who brought this Bill has talked about counties which produce food. I propose that at the Committee of the Whole, we should amend this to include all the 47 counties. All of them must have the County Cereals and Produce Committee. The Committees will advise the governor and county residents. Having looked at the production level of food, they can have their own silos. Then, you can easily engage counties that produce cereals, buy and store them.

It defeats logic that year in, year out, we go to the Port of Mombasa and wait for foodstuffs, mainly wheat and maize to be brought and sold here. Cartels have a habit of messing up the internal mechanisms used to boost our agricultural sector so that they quickly go to the port of Mombasa, import food and sell it at exorbitant price.

I thank the promoter of the Bill because she has gone further and listed the kind of people who are required to sit in this Committee. She has cited six or seven people. Regarding the first one; a person with knowledge and experience in matters related to agriculture and will be appointed by the county governor---. This is true. However, all the

others must also be appointed by the governor. The hon. Senator has also suggested that the County Executive Committee Member should also appoint. This should not be the case because at the national level, it used to be the case but at this level, in order to make it stronger, I suggest that we allow the governor, in consultation with other elected leaders of that county, to work on this list.

It should include the Senator, Member of National Assembly, leader of majority and minority who should sit down and decide on this. The people of that particular county are affected across the board irrespective of whether one is rich or not. When it comes to food, everyone must eat. Some people take one meal a day, others three but it is still food. We should guarantee that these people are appointed but the governor must be involved.

Regarding the last one, which the hon. Senator proposes to be one man and one woman appointed by the county governor to represent such special interest within the county; I suggest that we amend this because we are dealing with agriculture. These persons should be serious farmers whether large scale or small scale but a model for the others. This will give them an opportunity to advise others farmers from a practical point of view. The committee will come up with policies which will inform the county governor and guarantee food security in the county.

Furthermore, today, agriculture is not the agriculture we used to know many years ago. I came from Kitale yesterday, where I am also a farmer. There is shortage of fertilizer. Most of the fertilizer subsidized by the Government is found in the NCPB. If the boards at the counties, indicated as the County Cereals and Produce Board Committees were in place, the struggle that the people of Trans-Nzoia are going through would not be there. They queue with farmers from western Kenya, West Pokot County and so on. In my county of West Pokot, we have a cereals board silo which serves a large area. When only 3,000 bags of fertilizer are available and there is a farmer who requires 1,000 bags, how would you distribute to the rest?

If we had already devolved this function, this would be easy. The county government would have already mapped to know the amount of fertilizer consumed and take it to the sub-county units so that farmers can buy it from that level. However, today there is a mess, where even unscrupulous business people pretend to be farmers. They collude with the central unit, the NCPB. They buy the fertilizer at Kshs1,800 per bag, which is the Government price, at the gate of the NCPB, they sell it at Kshs2,500 but because the clouds are hanging ready to rain, one has no choice.

However, if the county cereals committees were in place, this would not be happening. The policy level of how we can make things better is found in the National Cereals and Produce Board (NCPB) stationed in a county like it is in some counties. I have seen that the Senator who generated this Bill has listed major cereal producing counties namely: Trans Nzoia, Narok, Nakuru, Elgeyo-Marakwet, Bomet, Murang'a, Nyeri, Meru and Laikipia.

The Government is starting an irrigation project of one million acres in Galana. Therefore, we should target all the counties. There are special ways of carrying out irrigation including the drip irrigation which requires less amount of water. Counties like Turkana, Marsabit and Mandera should be practicing that kind of irrigation.

Sen. Kittony should insert a provision that compels all the counties to produce cereals so that we avoid dependence on relief food. In the sub-county of Pokot North, we are planning to start agriculture because the lands are fertile and unused. If we carry out irrigation, we will rid ourselves of the hunger that we always complain about. The governors should take this seriously because it is bad to witness people starve.

Mr. Deputy Speaker, Sir, I was waiting for an answer to the Statement on the acute shortage of food in West Pokot. If this committee was in place, they would have liaised with the relevant government arm to address starvation. There is nothing as bad as having a country that depends on relief food. It is a tragedy that we buy food from Uganda. In Uganda, they practise broadcasting method of planting while in Kenya we do more than that. How then can we invest a lot of resources and end up relying on relief food?

Agriculture in Kenya should be guarded jealously and the government should ensure this. The government's plan to irrigate one million acres should have been distributed to all the 47 counties. Counties with no land like Nairobi may lease from other counties. If we have to eliminate hunger and poverty, this is the way to go.

I support.

Sen. Kanainza: Mr. Deputy Speaker, Sir, today is a special day for the women of this country because we are celebrating the International Women's Day. Therefore, I join my fellow Senators to celebrate the women in this House.

I congratulate Sen. Kittony for working on the Bill. I understand agriculture is a devolved function of the county government. It is important that this function is adequately funded. The county assemblies in turn will legislate in order to safeguard agriculture. Kenya is endowed with good soil, climate and rainfall but it is unfortunate that the law is not applied resulting in starvation and deaths. If these boards are established, it will be a milestone. Trans Nzoia County is the food basket of Kenya but it is going down. If cereals boards are devolved to the 47 counties, we shall achieve the economic development and food security of this country.

I support.

Sen. M. Kajwang: Mr. Deputy Speaker, Sir, I support this Amendment Bill.

I have been reminded by Sen. Kanainza that today is their day. However, it does not appear in our Constitution and, therefore, I am not sure if it is a matter that should be admitted in this House. If the women have adopted a day for themselves, I--

The Deputy Speaker (Sen. Kembi-Gitura): Order, Sen. M. Kajwang. Today is the International Women's Day. It does not matter if it is provided for in the Constitution or not. There is absolutely nothing wrong in my estimation for Sen. Kanainza to celebrate her colleagues like Sen. Kittony on such an important day.

Sen. M. Kajwang: Thank you Mr. Deputy Speaker, Sir. If it is an international day, it applies to Kenya. We need to be reminded constantly of some of these international dates and the obligations upon us.

It is a good day that this amendment Bill is before this House by Sen. Kittony who has been a stalwart in the women's movement. I see no better way of celebrating the contributions that she has made to this nation. After many years, she still has the energy and stamina to think through legislation. I remember during my early days, I supported a

Motion that she brought to this House. Now, we are looking at an Amendment Bill which she brought. Also, the work which was done by the Select Committee on Prisons and Borstal Institutions was her creation. For us to celebrate the women, we must celebrate Sen. Kittony.

This is a straightforward Bill that I support. The National Cereals and Produce Board was established before the birth of devolution. Therefore, its functions have not been realigned to the consistency of the Constitution. The NCPB has been trading in agricultural produce and grain related services. Besides this, the NCPB has also been involved in importation and sale of farm inputs. A much more strategic role that it has been doing has been the management of the country's Strategic Grain Reserve and the famine relief stock. Most of these functions with the exception of the grain reserve and famine relief stock should be under the county governments. The national food security is a duty of the national Government.

I believe that most of it can be done at the county level. I understand that the National Cereals and Produce Board (NCPB) has been coming up with some recommendations on its restructuring so that it can be more efficient, effective and aligned to the new Constitution. This amendment Bill is proactive and forward looking because we do not have to wait for parastatals to come up with restructuring papers before we undertake any action.

Mr. Deputy Speaker, Sir, with these amendments, I expect and look forward to a situation where counties, once they set up county cereals and produce committees that have been proposed here, will take charge of issues of grain produce, marketing and storage within their respective domains. One of the things that I would expect to see is that unlike the current situation where the NCPB sets one price whenever they buy grains for the strategic grain reserve, they should get to a situation where different counties will set different prices in response to market forces.

It has been noted that the price set by the NCPB is not competitive. Therefore, you will either find farmers complaining that the price set is too low or millers complaining that the price set is too high. The net effect is that the millers increase the price of flour. As you know, this is an *ugali* nation. Every time the price of flour increases, you would expect that inflation would also rise.

I hope that the county cereals and produce committees will drive the thinking that will see to it that our farmers get competitive prices for their maize. They should set prices that are competitive enough to give the farmers a decent return and allow the millers to bring flour and *ugali* to our tables without necessarily increasing the prices. I also expect that setting up these committees at the county level will allow our counties to stock on a need basis. I, initially, stated that for the strategic grain reserve and the famine relief stock I would still expect that the NCPB or the national Government will still look for a body or an agency that will undertake that for purposes of food security. However, we must also look at food security within the counties. I hope that with these amendments, our counties will stock on the basis of need.

Mr. Deputy Speaker, Sir, the NCPB has also been managing fertiliser subsidy on behalf of the national Government. This is an area which has resulted in a lot of complaints from farmers. When we met the Cabinet Secretary (CS) in charge of

Agriculture, Livestock and Fisheries, during the last financial year in my county, it was revealed that even farmers in Homa Bay County had received fertilisers and seed under the Government subsidy programme. When we went to the ground, it was quite difficult to ascertain the farmers who had benefited from the programme. So, if we want to create a greater visibility and effect on fertiliser subsidies, then, this should be done at the county level rather than at the national level.

Mr. Deputy Speaker, Sir, as we do this, we must also think through new innovations. For example, the warehouse receipting system is an issue that has been discussed for a very long time. We hope that county committees that have been proposed in the Bill will also be drivers of warehouse receipt systems, where we will commercialize the holdings of our farmers. For too long, our farmers have been keeping their maize in warehouses without a proper framework for warehouse receipts. Maize, wheat or rice kept in a godown somewhere cannot be commoditised and introduced into the money economy. So, we hope that with the county committees, it will serve as an entry point for warehouse receipting systems at the county level.

Mr. Deputy Speaker, Sir, if you are going to push further functions to the county level, we will then have to ask ourselves how we should provide funding to the counties to undertake some of these activities. We need to know whether county cereals and produce committees will be funded through the bureaucracy; that is, the NCPB or whether we should look at a situation where we will provide additional allocation to the counties to undertake some of the actions.

In the past, we have looked at audit reports coming out of the Auditor-General's Office on the NCPB. Many of us still remember the maize scandal that came up in the Grand Coalition Government. There was also one of the past audit reports about 40,000 metric tonnes of maize that was ordered but was not delivered and that occasioned a loss of Kshs730 million on the part of the NCPB. That must have been in 2004.

Mr. Deputy Speaker, Sir, it would, perhaps, be much more orderly and effective if we were to allocate funds for acquisition of some of the grain stock directly to the counties instead of going back to the bureaucracy that has been proven to be broken in the past.

Mr. Deputy Speaker, Sir, I want to conclude my support for this Bill by bringing up an issue that is captured in our Standing Order No.130. According to the Standing Order, it is expected that after the First Reading of a Bill, the Bill shall be committed to a committee and public participation. As we speak, it is not clear whether this particular Bill has gone through public participation before its Second Reading. We need to be a little bit more rigorous as an institution to ensure that we do not break our own Standing Orders because this is an important Bill which is quite straightforward. I believe that public participation on it will largely be positive. However, that does not give us any reason to defy our Standing Order which says that before the Second Reading, every Bill must have gone through public participation.

Mr. Deputy Speaker, Sir, I do not want to talk about what is before a committee. However, as a Member of the Committee on Agriculture, Livestock and Fisheries, I can confirm that the public participation on this amendment Bill has not happened and it has been scheduled to be undertaken tomorrow. I, therefore, call upon this institution that we

need to be a little bit more fastidious because there is a reason why public participation was suggested as an important step before we come to the Second Reading of any Bill.

Mr. Deputy Speaker, Sir, with those many remarks, I beg to support the Amendment Bill.

The Deputy Speaker (Sen. Kembi-Gitura): Thank you, Senator.

Sen. Kittony, would you like to reply now?

Sen. Kittony: Mr. Deputy Speaker, Sir, I would like to reply and sincerely thank those who have contributed to this Bill. I have taken note of all the suggestions that have been made. I want to say that the Bill was properly researched. We will deal with the amendments at the Committee of the Whole.

Mr. Deputy Speaker, Sir, I have taken note of major cereal producing counties. Listening to my colleagues' contributions, they proposed that counties like Kirinyaga, Nyandarua and Kericho be added to the list. So, I would like to specially thank those who have contributed to this Bill in a special way. The Bill will help our county governments especially because we have seen what happens. Farmers have suffered in the hands of middlemen. Therefore, if these committees are put in place at the county level, it will alleviate a lot of problems that farmers face. We will also be assured of good storage if county governments establish better storage for grain. That way, we can be sure that this country will go for many years without facing hunger or food being wasted.

I appreciate all the comments and contributions that have been put into the Bill. I would like to thank my colleagues for the support given to this Bill. For those who have time tomorrow, we will have a public hearing at the Kenyatta International Convention Centre (KICC), 2nd floor. Therefore, it will be another level of getting more contributions and it has created a lot of interest. I can assure you that I think Kenyans have been waiting for this. Since we are in a devolved system, it would be best to devolve the National Cereals and Produce Board (NCPB) so that farmers get the necessary assistance that they require for their grain.

In conclusion, I would like to request that pursuant to Standing order No. 54(3), you defer putting of the question on this Bill until tomorrow.

The Deputy Speaker (Sen. Kembi-Gitura): Thank you, Sen. Kittony. So, ordered.

(Putting of the question on the Bill deferred)

Honourable Senators, let me reorganize the Order Paper again. Let us go back to Order No. 12.

COMMITTEE OF THE WHOLE

(Order for Committee read)

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

IN THE COMMITTEE

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

THE WATER BILL (NATIONAL ASSEMBLY BILL NO. 27 OF 2014)

The Temporary Chairperson (Sen. Mositet): Hon. Senators, we are on the Water Bill (National Assembly Bill No. 27 of 2014).

Clauses 3 and 4

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

The Temporary Chairperson (Sen. Mositet): There is no amendment on Clauses 3 and 4. Can I put the question at the end because it will require a Division?

Sen. Kivuti: On a point of order, Mr. Temporary Chairperson, Sir. There were some amendments which are listed on the Order Paper which need to be cleared first before we go to Division. I was expecting the Report of the Committee which was suspended two weeks ago by the Speaker because we were supposed to bring in a second memorandum from the Council of Governors (CoG) which has already been done. We were now just to go through the amendments which start from Clause 8. After that, we can defer ---

The Temporary Chairperson (Sen. Mositet): Order, Senator! I had said that for putting of the question that Clauses 3 and 4 be part of the Bill will come towards the end. You can request for deferment at that time. As of now, I defer putting of the question. So, we move on.

Clauses 5, 6 and 7

(Question, that Clauses 5, 6 and 7 be part of the Bill, proposed)

The Temporary Chairperson (Sen. Mositet): I will put the question at the end.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Mositet): I will put the question at the end.

Clause 8A

(Question, that Clause 8A be part of the Bill, proposed)

The Temporary Chairperson (Sen. Mositet): I will put the question at the end.

Clause 8

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

THAT, Clause 8 be amended in sub clause (3) by inserting the words “for domestic use” immediately after the words “water works”.

This is because the “water works” that we are anticipating in this Bill are water works for domestic water usage.

(Question of the amendment proposed)

Clause 8B

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

THAT, Clause 8B be amended in sub-clause (5) by deleting the word “three” appearing immediately after the word “resource strategy” and substituting therefore with the word “five”.

This means that strategic studies will be done every five years which coincides with the life of a Parliament.

(Question of the amendment proposed)

Clauses 9 - 18

*(Question, that Clauses 9, 10, 11, 12, 13, 14,
15, 16, 17 and 18 be part of the Bill, proposed)*

The Temporary Chairperson (Sen. Mositet): I will put the question at the end.

Clause 19

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

THAT, Clause 19 of the Bill be amended in sub clause (1) by inserting the words “geo referenced” immediately after the words “monitoring and”.

(Question of the amendment proposed)

Clauses 20 - 23

*(Question, that clauses 20, 21, 22 and 23 be part
of the Bill, proposed)*

Clause 24

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

THAT, Clause 24 of the Bill be amended in sub clause (1) (b) by inserting the words “appointed by the appointing authority after approval by the county assembly” immediately after the words “the basin”.

Chair, this will allow the county governments to participate in the appointment approvals.

Thank you.

(Question of the amendment proposed)

Clause 25

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

THAT Clause 25 of the Bill be amended by inserting the words “and county governments” immediately after the word “Authority” appearing on the second line.

Chair, this will allow county governments to be involved in the implementation of this law..

(Question of the amendment proposed)

Clauses 26 - 29

(Question that Clauses 26, 27, 28 and 29 be part of the Bill proposed)

Clause 30

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

THAT clause 30 of the Bill be amended in sub clause (1)(d) by inserting the words “and rules and regulations” immediately after the words “harvesting policy”.

Chair, this will allow the Cabinet Secretary to make rules and regulations in tandem with other legislations.

Thank you.

(Question of the amendment proposed)

Clauses 31 - 40

(Question, that Clauses 31, 32, 33, 34, 35, 36, 37, 38, 39 and 40 be part of the Bill, proposed)

Clauses 41 - 62

(Question, that Clauses 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59,

60, 61 and 62 be part of the Bill, proposed)

Clause 63

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

THAT, Clause 63 be amended in the head note appearing immediately before the clause by deleting the word “Boards” and substituting therefore the word “Agencies”.

(Question of the amendment proposed)

Clause 64

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

THAT, Clause 64 be amended in sub Clause 1 (b) by inserting the words “from the respective counties” immediately after the words “the Cabinet Secretary”.

Chair, this will allow the counties affected in a water basin to be part of the process of the law.

(Question of the amendment proposed)

Clauses 65 - 71

*(Question, that Clauses 65, 66, 67, 68, 69,
70 and 71 be part of the Bill, proposed)*

Clause 72

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

THAT, Clause 72 (a) of the Bill be amended-

- (a) In the marginal note by deleting the word “accreditation” and substituting therefor the word “licensing”; and
- (b) In sub clause (3) by deleting the word “accreditation” appearing immediately after the words “applicant meets the” and substituting therefor the word “licensing”.

Mr. Temporary Chairman, Sir, there will be many areas in this Bill where this amendment will come wherever we have accreditation and it is supposed to be replaced with the word “licensing” because we are talking of licensing and not accrediting.

(Question of the amendment proposed)

Clause 73

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

THAT, Clause 73 of the Bill be amended:-

- (1) In sub clause (1)-
 - (a) In the marginal note by deleting the word “accredited” and substituting therefor the word “licensed”;
 - (b) By deleting the word “accredited” appearing immediately after the words “register of all” in the introductory phrase and substituting therefor the word “licensed”; and
 - (c) In paragraph (c) by deleting the word “accredited” appearing immediately after the words “providers are” and substituting therefor the word “licensed”; and
 - (d) In paragraph (d) by deleting the word “accreditation” appearing immediately after the words “to their” and substituting therefor the word “licence”;
- (2) In sub clause (2) by deleting the word “accredited” appearing immediately after the words “register of the” and substituting therefor the word “licensed”; and
- (3) In sub clause (4) by deleting the word “accredited” appearing immediately after the words “conduct of” and substituting therefor the word “licensed”.

(Question of the amendment proposed)

Clause 74

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

THAT, Clause 74 of the Bill be amended-

- (1) In the marginal note by deleting the word “accreditation” and substituting therefor the words “a license”;
- (2) In sub clause (1)-
 - (a) by deleting the word “accreditation” appearing immediately after the words “revoke the” and substituting therefor the word “license”;
 - (b) in paragraph (a) by deleting the word “accreditation” appearing immediately after the words “Board that the” and substituting therefor the word “licensing”;
 - (c) in paragraph (b) by deleting the word “accreditation” appearing immediately after the words “criteria for” and substituting therefor the word “license”;
 - (d) in paragraph (c) by deleting the word “accredited” appearing immediately after the words “they were” and substituting therefor the word “licensed”;
 - (e) in paragraph (e) by deleting the word “accreditation” appearing immediately after the words “conditions for” and substituting therefor the word “licensing”;
- (3) in sub clause (2) by deleting the word “accreditation” appearing immediately after the words “revocation of” and substituting therefor the word “license”; and

(4) In sub clause (3) by deleting the word “accreditation” appearing immediately after the words “person whose” and substituting therefor the word “license”.

(Question of the amendment proposed)

Clause 75

Sen. Kivuti: Mr. Chairman, Sir, this amendment was from Sen. Mutula Kilonzo Jnr. When the Speaker gave us the option to go and re-look at our Committee Report, we took the report from the Council of Governors and also the request from Sen. Mutula Kilonzo Jnr., to insert an amendment and we combined his amendment. So, what we have here is the request from Sen. Mutula Kilonzo Jnr. which we consented to.

The Temporary Chairperson (Sen. Mositet): Are you suggesting that whatever Sen. Mutula Kilonzo Jnr. had indicated as an amendment before should be dropped?

Sen. Kivuti: Mr. Temporary Chairman, Sir, it is exactly what is in Clause 75.

Sen. (Dr.) Khalwale: Mr. Temporary Chairman, Sir, there was also the thinking and contribution from the Council of Governors. Now that the Mover has indicated that this was the thinking of Sen. Mutula Kilonzo Jnr., could you confirm what the position of the governors was?

Sen. Kivuti: Mr. Temporary Chairman, Sir, my brother, the Senator for Kakamega made some comments two weeks ago when this matter came up. We had a 76-page request from the Council of Governors last year and we sat with them together with their lawyers. I submitted that last time. We got another requisition from the Council of Governors, and apparently, it was a cut and paste of last year’s requisition, except on four points.

We sat as a Committee last week and deliberated on the extra four points and the extra requisition from Sen. Mutula Kilonzo Jnr. Sen. (Dr.) Khalwale, that is why in the amendments that we have already moved we are actually adding words like “with the approval of the county assembly” and “shall include county governments.”

To answer what the Senator is asking, all the requests from the Council of Governors have been fully addressed, including the extra requisition from the Senator for Makueni County.

In that case Chair, I allow me to make that amendment.

The Temporary Chairperson (Sen. Mositet): You will now be carrying the amendment which has been proposed by Sen. Mutula Kilonzo Jnr.

You can go on.

Sen. Kivuti: Mr. Temporary Chairman, Sir, my Committee took over the amendment requested by Sen. Mutula Kilonzo Jnr. He called me and we agreed to take it up. It is the one on Clause 75.

Mr. Temporary Speaker, Sir, I beg to move:-

THAT clause 75 of the Bill be amended by deleting sub clause 1 and substituting therefor the following new sub clause —

(1) Each county government shall establish a water services provider.

Mr. Chairman, Sir, this will make sure that when water from the water works is delivered to each county, there is a legal body that takes care of that water within each county. Originally it stated that “they may.” That means that a county may decide not to have a water services body which could bring inadequacy within the country. For that reason, we agreed with Sen. Mutula Kilonzo Jnr. that each county must have a water services provider.

Already, most counties have water services providers, normally referred to as water services and sewerage companies. These companies will take over the bulk of the water from the national resource companies. When the water reaches each county it stops being the property of the water authority at the national level and transits to the county water services provider. Most likely it will be a water and sewerage company which already exists. We would like to see that happening uniformly all over the country.

The Temporary Chairperson (Sen. Mositet): In your amendment you are proposing to have one water service provider per county. What about those counties with many currently?

Sen. Kivuti: Mr. Temporary Chairman, Sir, I do not think there is a county with many. In most counties, we had many districts before.

The Temporary Chairperson (Sen. Mositet): Kajiado is one of them.

Sen. Kivuti: Mr. Temporary Chairman, Sir, if they have one then there is no problem. For example, Embu County has sub-locations that have water services companies, which do not function well. Some of them are rip-offs. We create a law to enable counties administer the water services as counties and not as small segregated bodies.

Sen. (Dr.) Khalwale: Mr. Temporary Chairman, Sir, I want to applaud the Committee. This was an area that called for a lot of active participation by the Council of Governors and many Senators. I do not know whether the Committee thought about it, but the amendment, as it is now, sufficiently gives that one body the power to preside over all other smaller entities.

In some instances, we have an entity that serves one or two sub-locations and they have been collecting some little money here and there. Are you telling us that the way you have made it, it has given this one county institution the power to preside over all the smaller ones? If you could clarify, I would be satisfied and happy.

Sen. Kivuti: Mr. Temporary Chairman, Sir, the clarification sought is good and valid. Our understanding as a Committee is that we have a national resource called water, which may be traversing several counties. Therefore, the national Government will take this resource; get the water and give it to counties. You cannot go to a county and supply it to every small Tom, Dick and Harry. There must be a body within the county that is mandated in law to receive the water. If this body within the county decides that they can supply water to so many other agencies within the county that would be decided by the county.

The Temporary Chairperson (Sen. Mositet): That is a good clarification. I know where Sen. (Dr.) Khalwale is coming from. We used to have the district water offices, which manned the water sector throughout the former old districts, including collecting bills, but they were not effective. Forming the county service water providers

is like going back to the former district water offices. I think that is the worry. If you are sure that some agencies can be there to ensure efficiency, then the amendment is okay.

Sen. Kivuti: The Temporary Chairman, Sir, the point is taken. I believe the county governments will also have subsidiary legislation at county levels on how to deal with the smaller water providers within each county. This law is not cast in stone. If the Senate feels that there is something that needs to be addressed within the county, we are within the mandate as the overseer of county business.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Mositet): I will put the question at the end.

Clauses 76 - 90

(Question, that Clauses 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89 and 90 be part of the Bill, proposed)

Clauses 91 - 101

(Question, that Clauses 91, 92, 93, 94, 95, 96, 97, 98, 99, 100 and 101 be part of the Bill, proposed)

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

Clause 102

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

THAT, Clause 102 of the Bill be amended by deleting sub clause (1) and substituting therefor the following new sub clause-

“A water user may enter into an agreement with any person with respect to the execution and maintenance by any party to the agreement of such works as the water user considers necessary or as the conditions of the water user may require for the purposes of protecting the catchment areas, drainage of land; carrying out conservation measures and control of the vegetation or effectively collecting, conveying or preserving the purity and quantity of water which the water user is for the time being authorised to take”.

Mr. Temporary Chairman, Sir, this is an obvious wording of the Clause so that the water catchment areas conservation is not left to some big authorities somewhere, but there is more public participation in the water conservation arena.

(Question of the amendment proposed)

Clauses 103 - 106

*(Question, that Clauses 103, 104, 105 and 106
be part of the Bill, proposed)*

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

Clause 107

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

THAT, Clause 107 of the Bill be deleted.

This was dealing with the sewerage levy while this Bill is mainly on water.

The Temporary Chairperson (Sen. Mositet): There will not be any levy if one is connected to the sewer system?

Sen. Kivuti: Mr. Temporary Chairman, Sir, this Bill in all sections is dealing with water resources, management and delivery. It is not dealing with waste water management.

(Question of the amendment proposed)

Clause 108

(Question, that Clause 108 be part of the Bill, proposed)

The Temporary Chairperson (Sen. Mositet): There is no amendment to this Clause. Therefore, we will vote on it at the end

Clause 109

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

THAT, Clause 109 of the Bill be amended in sub clause (1) by inserting the words "georeferenced" immediately after the words "monitoring and".

We had said this earlier on. When we talk of a geodatabase, if it is not georeferenced, it may not give location of where the services are being rendered. That is why we wanted to add the word georeferenced

(Question of the amendment proposed)

Sen. (Dr.) Khalwale: On a point of order, Mr. Temporary Chairman, Sir. I am sorry for dragging the proceedings. However, for purposes of records, it is important for the Chairperson of the Committee to be clear. Is there a separate provision for sewerage since he is categorically saying that this Bill is deleting Clause 107 which was referring

to Sewerage? Is there a different area where that is catered for or it is totally going to be a different Bill?

Sen. Kivuti: Mr. Temporary Chairman, Sir, when we talk of waste water and disposal and how it is treated, that will be a completely different topic which will touch on environment and other regulations which are not just for water. If you remember in the beginning, we put an amendment to add water for domestic use; portable water.

We would like to treat the resource and the water usage in this Bill as it is not talking of irrigation or sewerage and waste water management. Those aspects may be taken care of in another Bill. Otherwise, we would have expanded the Bill to be too wide and lose sight of the core subject. If you look at what everybody thinks about in Kenya; it is how to get water from the source to the *mwanaanchi*.

I hope that gives Sen. (Dr.) Khalwale some good insight.

The Temporary Chairperson (Sen. Mositet): I believe that the worries of Sen. (Dr.) Khalwale have been taken care of. In this Bill, we will be taking the water to *wanaanchi*. Therefore, whatever will come out as waste will be taken care of by another Bill. Does that mean that you will create other agencies to take care of that?

Sen. Kivuti: Mr. Temporary Chairman, Sir, it is good for me to mention that when we think of water management and expand beyond what water is defined as in the Constitution, and at the beginning of the Bill, we have defined “water” as it is in the Constitution. If we divulge more than that, we shall enter into the realm of environment and we may end up not addressing water *per se*. We may end up addressing many other aspects of human habitation. If you ask any Kenyan about sewerage, they do not see it as water. They see it as something else, say, treatment of shit and waste.

The Temporary Chairperson (Sen. Mositet): My concern is similar to that of Sen. (Dr.) Khalwale. The residents of Kiserian went to court and won a case simply because they argued that they take water, but after they use it, where do they take the waste? As a result, the water provider was forced by the court to provide sewerage. I can happily report that we currently have a project coming up to cater for that.

Sen. Kivuti: Mr. Temporary Chairman, Sir, I do not want to go into a very big argument. The same can come out of the word drainage. If people went to court that you have brought water to them and it erodes their gardens as a result of erosion, you must compensate them. We can also talk about management of water. In this city, we have a lot of problem of storm water drainage.

If one went to court that somebody was swept away by water, the Ministry of Water and Natural Resources would be liable because it has to manage even the storm water. Therefore, if we start to talk about water, waste water, erosion, environment and many other aspects of water, I believe that we may not be addressing what is being addressed in this Bill which is mainly the issue of management of water resources from country to county level.

The Temporary Chairperson (Sen. Mositet): I request you to read for us Clause 107; the one you are deleting.

Sen. Kivuti: Mr. Temporary Chairman, Sir, the best way forward would be to refer to our Committee notes. It was not the decision of one person who said, “let us

delete this.” Then, we deleted it. There must have been some reasons which were discussed.

Just to take you back, we had four seminars on this Bill. We went clause by clause before we came up with these amendments. In one of the seminars, we spent four days reading each clause. We had representatives from all water sectors. That was the second time after the public hearing.

Mr. Temporary Chairman, Sir, I do not know if it would be in order for me to read through all these notes to come up with the reasons why it was felt in all those fora, that this levy for sewerage should not be in this Bill because; one, we do not want to create another authority to collect this levy. If anything, it would be collected by the water users association.

In the Bill, we have allowed that regulations would be made, which would be brought to Parliament as usual. We know that from all Acts, you can make regulations which would detail things such as if there is a levy to be collected, who collects it and how much it is. That, normally, is not put in the body of the main Act.

The Temporary Chairperson (Sen. Mositet): Are you saying that the issue of sewerage is not covered?

Sen. Kivuti: Mr. Temporary Chairman, Sir, not only sewerage but even levies for water; we have not fixed collection of levies and how much they would be in this Bill. All that will come in the regulations.

The Temporary Chairperson (Sen. Mositet): Okay. Proceed, Sen. (Dr.) Khalwale.

Sen. (Dr.) Khalwale: Mr. Temporary Chairman, Sir, in the Second Reading of the Bill, most of the Senators who contributed had no problem with Clause 107. However, it looks like after the Committee retreated, on further consultations, they were persuaded. This is the time for the reasons that were advanced by the other stakeholders to find their way to the Floor of this House so that you persuade us to agree with the Committee in its agreement with the stakeholders. Is it that those notes are too much? Will it not take less than three or five minutes?

Sen. Kivuti: Mr. Temporary Chairman, Sir, I have no specific reason against Clause 107 but the truth of the matter is that, after the Second Reading, we went for public hearings. After public hearings, we took the comments and then, after that we felt that public hearings were inadequate because the Council of Governors (CoG) sent us a very long list. I decided that we should hold another seminar which should not only include the CoG but also all parastatals that deal with water, including the Ministry. We had that seminar in Naivasha for three days. That is the time we went clause by clause. We took the comments from each and every stakeholder.

After that, among the amendments which I have introduced today, there is somewhere where we have introduced that regulations to this Act would be made. Those regulations will take care of all levies not only for sewerage but also for water. As we know, from our common knowledge of other Acts, we do not mix the regulations in the main Act because this one changes from time to time. I believe and can tell you for sure that this will not make this Act any less. When the regulations are instituted, we shall make sure that any aspect of water management that needs to be regulated ought to be

included in levies, should be there in the regulations which we have already proposed to introduce.

The Temporary Chairperson (Sen. Mositet): Sen. (Dr.) Khalwale, are you convinced?

Sen. (Dr.) Khalwale: Mr. Temporary Chairman, Sir, when I apply my mind to this Bill further, I am persuaded that Clause 107 should remain. Its effect is that the regulatory board may impose. It does not say, “shall” impose. So, one of the reasons that the Chairman has advanced is that the issue of sewerage is being removed from this Bill but when you look at Clause 106, that is not true.

Mr. Temporary Chairman, Sir, if you have the Bill before you, Clause 106 talks about effluent. The moment you go into effluent, you are no longer talking about water; you are talking about sewerage. I would rather that unless the Chairman really pleads, in view of the thinking advanced in the House now, it is dangerous for amendment to Clause 107 to carry. It is not compulsory for the Committee. It talks about “may.” Therefore, you can still get what you want through the regulations when you are making them.

The Temporary Chairperson (Sen. Mositet): Chairman, can you consider to suspend that amendment?

Sen. Kivuti: Mr. Temporary Chairman, Sir, in life, there is always give and take. Since I do not see any harm even if it is retained - I was just going through it - whether it is there or not, the Bill would not be adversely affected.

The Temporary Chairperson (Sen. Mositet): Can you pronounce yourself that you withdraw that amendment?

Sen. Kivuti: Mr. Temporary Chairman, Sir, following the intervention of my colleague Senator on Clause 107, I propose to drop that amendment.

The Temporary Chairperson (Sen. Mositet): Thank you. You have also made my day.

(Proposed amendment to Clause 107 withdrawn)

(Question, that Clause 107 be part of the Bill, proposed)

Clauses 110 - 113

(Question, that Clause 110, 111, 112 and 113 be part of the Bill, proposed)

Clause 114

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

THAT, Clause 114 of the Bill be amended in sub clause (1) by deleting paragraph (g) and substituting therefor the following new paragraph-

“receive grants for onward lending to water services providers, counties and community schemes towards water services and water resources management projects for underserved areas and urban poor.”

(Question of the amendment proposed)

Clause 115

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

THAT, Clause 115 be amended in sub clause (1) by deleting paragraphs (b) and (c).

(Question of the amendment proposed)

Sen. (Dr.) Khalwale: Mr. Chairman, Sir, can we allow the Chairman to explain more because I can see the Chair is dropping critical provisions. In Clause 115, you are dropping amongst others sub-clause (b) which states:-

“the monies of the funds shall consist of monies provided to the fund from the Equalisation Fund.”

Since the money from the Equalisation Fund is constitutional, are you dropping in anticipation of its unavailability or what do you imply?

Paragraph (c) states-

“(c) any money provided to the fund by a county government”

We expect the county government in its Appropriation Bill each year to consider giving money to this. Kindly clarify so that we see the wisdom of dropping those provisions.

Sen. Kivuti: Mr. Chairman, Sir, he has already given me one answer because I remember we debated this and there is no way we can expect the National Water Trust Fund to be receiving money from the Equalisation Fund. It cannot work. If money is shared to the counties, we cannot expect money from the counties to be given to the National Trust Fund. Therefore, we are removing (b) and (c).

Clause 116

(Question, that Clause 116 be part of the Bill, proposed)

Clause 117

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

THAT, Clause 117 of the Bill be amended by deleting the words “which shall be a subordinate court” as provided under Article 169(1) (d) of the Constitution”.

Mr. Chairman, in making law, we do not have to keep on quoting other sections because it is obvious. So, this is a normal draft correction. It has no effect in the substantive Bill.

(Question of the amendment proposed)

Clauses 118 - 129

(Question, that the Clauses 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128 and 129 be part of the Bill, proposed.)

Clause 130

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

THAT, Clause 130 of the Bill be amended by inserting the words “conservation and” immediately after the words “for the”.

Mr. Chairman, when we say levies will be managed for the management of the water resources, we should also include conservation.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Mositet): I will put the question at the end.

Clauses 131 - 138

(Question, that Clauses 131,132,133,134,135, 136,137 and 138 be part of the Bill, proposed)

The Temporary Chairperson (Sen. Mositet): Since there are no amendments, I will put the question at the end.

Clause 139

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

THAT Clause 139 of the Bill be amended by inserting the words “a county government” immediately after the words “Cabinet Secretary”.

Mr. Temporary Chairman, Sir, we need to entrench the involvement of county governments in this Bill.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Mositet): I will put the question at the end.

Clause 140

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

THAT, Clause 140 of the Bill be amended in—

(a) sub clause (2)(a) by deleting the word “commission” appearing immediately after the words “Authority, the” and substituting therefor the word “Board”; and

(b) sub clause (2)(h) by inserting the words “or the Board” immediately after the word “Authority”.

Mr. Temporary Chairman, this is just rewording of the Clauses.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Mositet): I will put the question at the end.

Clauses 141 - 153

*(Question, that Clauses 141,142,143,144,145,146,147,148,
149,150,151,152 and 153 be part of the Bill, proposed)*

The Temporary Chairperson (Sen. Mositet): There are no amendments. So, I will put the question at the end.

Clause 154

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

THAT, Clause 154 of the Bill be amended in sub clause 5 by deleting the word “Board” appearing immediately after the words “event that the” and substituting therefor the word “Authority”.

Mr. Temporary Chairman, This is rewording of the sentences to make better sense.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Mositet): I will put the question at the end.

Clauses 155 - 157

*(Question, that Clauses 155,156 and
157 be part of the Bill, proposed)*

The Temporary Chairperson (Sen. Mositet): There are no amendments. So, I will put the question at the end.

First Schedule – Fourth Schedule

*(Question, that the First Schedule,
the Second Schedule, the Third Schedule
and the Fourth Schedule be part of the Bill, proposed)*

The Temporary Chairperson (Sen. Mositet): There are no amendments. So, I will put the question at the end.

Clause 2

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

THAT Clause 2 of the Bill be amended by inserting the following new definition in its proper alphabetical order –

“Wetland” means an area where plants and animals have become adapted to temporary or permanent flooding by saline, brackish or fresh water”.

Mr. Temporary Chairman, Sir, whoever drafted this Bill had forgotten to add the word “wetland.” We felt it was a very important aspect of this when we talk about water resources. For that reason, we had to get a definition which is proper. This came from some of members of the public who turned up for public participation.

The Temporary Chairperson (Sen. Mositet): I need to understand the difference between wetlands and water towers.

Sen. Kivuti: Mr. Temporary Chairman, Sir, I do not remember which areas are wetlands. The word “wetland” was in the body of the Bill but it was not defined. So, the question arose about the meaning of the word “wetland”. This is because the areas to be conserved were riverine. Wetlands was not defined in the Bill. So, we had to define it.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Mositet): I will put the question at the end.

Title, Clause 1

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

The Temporary Chairperson (Sen. Mositet): I will put the question at the end. I now call the Mover to report progress of the Committee.

Sen. Kivuti: Thank you, Mr. Temporary Chairman, Sir. Pursuant to Standing Order No. 139, I beg to move that the Committee do report progress and its consideration of the Water Bill (National Assembly Bill No. 7 of 2014) and seek leave to sit again tomorrow.

(Question put and agreed to)

(The House resumed)

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

PROGRESS REPORTED

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

Sen. (Dr.) Khalwale: Mr. Temporary Speaker, Sir, I beg to report progress; that the Committee of the whole has considered The Water Bill (National Assembly Bill No. 7 of 2014) and seeks leave to sit again tomorrow.

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

Sen. Mohamud seconded.

(Question proposed)

(Question put and agreed to)

The Temporary Speaker (Sen. Mositet): Hon. Senators, the next order is again a Committee of the Whole and we will require more minutes than the remaining minutes that the House is supposed to sit. We should defer Order No. 3. We had disposed of Order No. 14 so we move to the next Order.

BILL

Second Reading

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

(Sen. Joy Gwendu on 1.3.2016)

(Resumption of debate interrupted on 1.3.2016)

Hon. Senators, this Bill is open to debate. It had been moved and seconded. So, you can contribute to the debate. Sen. Mohamud!

Sen. Mohamud: On a point of order Mr. Temporary Speaker, Sir. This is with regard to the Universities (Amendment) Bill. We are only amending three clauses and 15 minutes would be enough; could we finalize and dispose of that matter?

Thank you.

The Temporary Speaker (Sen. Mositet): I order that it should be among the first Orders of the House Business tomorrow. Sen. (Prof.) Lonyangapuo, we are on the debate on the County Library Services Bill (Senate Bill No. 6 of 2015).

Sen. (Prof.) Lonyangapuo: Thank you Mr. Temporary Speaker, Sir. I first want to congratulate Sen. Mohamud for coming up with this Bill. If there is a Bill that is going to assist our people to---

The Temporary Speaker (Sen. Mositet): Did you say you are congratulating Sen. Mohamud?

Sen. (Prof.) Lonyangapuo: Mr. Temporary Speaker, Sir, I thought this is Sen. Mohamud's Bill.

The Temporary Speaker (Sen. Mositet): This is Sen. Gwendu's Bill.

Sen. (Prof.) Lonyangapuo: They resemble one another Mr. Temporary Speaker, Sir.

The Temporary Speaker (Sen. Mositet): Maybe you need to describe what you mean.

(Laughter)

The Bill is by Sen. Gwendu.

Sen. (Prof.) Lonyangapuo: Mr. Temporary Speaker, Sir, I want to congratulate Sen. Gwendu through her sister, Sen. Abdille. This Bill is important because it talks about the establishment of libraries in every county. There are some counties like Kisumu and Nairobi that already have these services but they need to be established even at the sub-county level.

As indicated here, this Bill is supposed to establish county libraries in each county. It also proposes to establish a county library development committee in each county that will run these libraries. I hope that this Bill, among other Senate Bills, will see the light of day and be enacted into law.

Mr. Temporary Speaker, Sir, we cannot be proud to have a population that is not literate. In Europe and some of the developed countries almost every town, city or village has a library which is well stocked with old and latest books. They now have the digital versions that are stored in their computers. Some of the people who never went to school are now undertaking distant learning and adult education.

When I was in England, I was impressed by the way people take reading as a culture. Every afternoon you would find many people crowded in a library in a small town. Some of them are over 60 years old and you would wonder why they were reading. Since knowledge empowers, this is something that we need to encourage, particularly now that we have a devolved system, where counties govern themselves. There is a lot of historical data that is meant to enrich people in terms of clans, tribes and even the history of this nation.

There is need for people, especially from Nyeri, Kiambu and other counties to learn how we got our Independence. Most of the people in those counties suffered during the *Mau Mau* war. The data relating to how people died and our nation was redeemed can only be found and stored in libraries and not in the museum. That is why it is a pity that

people are changing political parties on a day to day basis, ignoring the ones that brought Independence and were built on ideals of nationhood and patriotism. Such history can only be found in libraries.

In Siaya County, for example, there should be all the literature on the late *Mzee* Jaramogi Oginga Odinga's life. The same should apply for *Mzee* Moi and *Mzee* Kibaki. We have forgotten about people who brought civilization in Kenya. Instead, we spent a lot of time on *Facebook* and *Twitter* as opposed to the libraries.

I want to laud Sen. Gwendu for moving this Bill, which if enacted, will compel every governor to sit down with elected leaders, starting with the Senator, Members of the National Assembly and Members of County Assemblies (MCAs) and other men and women of that county and identify a place to build a library. It is a pity that no county has thought of building a library.

Mr. Temporary Speaker, Sir, it is a pity that in the last three years, I have not come across a county that prides itself of having built a library unless my colleagues can report otherwise. However, I know that they are quickly running into building their own offices where they think they will be stationed permanently. They are putting up many structures that are not of assistance. The idea of establishing libraries is quite relevant as it proposes to establish a committee in every county. The membership of the committees which is indicated in the Bill is also of immense value, as the Mover of the Bill stated.

The membership of this committee is as follows: The County Executive Committee (CEC) Member in charge of library or a person designated to sit in that committee, two other persons; a man and woman, who will be appointed by the governors, as well as two other persons appointed by the governor with the approval of the county assembly with knowledge of library and information science..

I am afraid that in some counties, it will not be possible to get the kind of people who have been stated in this Bill. When you talk of people with knowledge in information science, you might not get such people in counties such as Wajir, Isiolo or West Pokot. It might not be possible to come and uproot somebody who is already working in Nairobi to go and sit there. However, we have secondary school teachers and retired primary school teachers who are interested in such matters. I propose that during the Committee of the Whole stage, we amend that section to read that people can be sourced from within the community who may not necessarily have knowledge in information science either by having a degree or diploma, but we allow those who love doing this to do so. We have retired principals and headmasters who are also committed. Some of them can be identified to sit in these committees as they can add significant value to this.

Mr. Temporary Speaker, Sir, as we talk about issues of libraries, let us think of how we will link up many primary schools to the libraries. For instance, there are 525 primary schools in my county. How will we link them up with these libraries so that they acquire knowledge? We have to build big facilities in the counties that have most of the books that are required at both primary and secondary school levels. I hope that when this committee is set up, just as we have children going to tour parks such as Maasai Mara and museums; it will be important for schools to take their students to the libraries where the librarians will also teach them how to read. Some of the primary schools in the rural

areas do not have libraries or librarians. It, therefore, makes sense that these facilities be put up.

We, as the leaders of West Pokot, have resolved to put emphasis on adult education because a majority of our population did not go to school. It is high time that our people go back to school for adult learning even if they will be spending two hours a day in the afternoon to learn how to write. This is so that when people are voting, nobody can rig the election, like the people who are struggling in Kericho. If there is a purposed and deliberate attempt to steal, they quickly do so from that. I hope that what we saw in Kericho County will not be replicated in some of the regions where people have not gone to school and who depend on the electoral officers to assist them.

The Temporary Speaker (Sen. Mositet): Order, Senator! You will have five minutes to conclude your contribution when this debate resumes.

ADJOURNMENT

The Temporary Speaker (Sen. Mositet): Hon. Senators, it is now time to interrupt the business of the Senate. Therefore, the Senate stands adjourned until tomorrow, Wednesday, 9th March, 2016 at 2.30 p.m.

The Senate rose at 6.30 p.m.