

# PARLIAMENT OF KENYA

## THE SENATE

## THE HANSARD

Wednesday, 8<sup>th</sup> June, 2016

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

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

### PRAYERS

### PETITION

#### ESTABLISHMENT OF JOINT PARLIAMENTARY SELECT COMMITTEE TO INVESTIGATE RISING OCCURRENCES OF POLICE BRUTALITY AND MOB VIOLENCE

**The Speaker** (Hon. Ethuro): Order, Senators. Yesterday, there was a Petition by Mr. David Gesicho. We could not proceed with it because of the Divisions that we had to undertake. I, therefore, propose that we proceed from there.

Sen. (Dr.) Khalwale, you may conclude.

**Sen. (Dr.) Khalwale:** Thank you, Mr. Speaker, Sir. Before I conclude, I had been challenged by the Chair, after a point of order by the Senator for Garissa. I had called the Chairman of the Independent Electoral and Boundaries Commission (IEBC) a thief and I was supposed to substantiate.

I want to substantiate that, indeed, the IEBC Chairman, Mr. Issack Hassan, is not a man of integrity. I have only three points to confirm that. First, I want to table before this House a report of the findings of the Public Accounts Committee (PAC) of the National Assembly of Kenya that was tabled on 23<sup>rd</sup> March, 2016, in which various findings have been made. I do not wish to highlight them, but they just confirm what I said.

The second point that I want to use to assert my allegation is that the same Chairman is being investigated by the Ethics and Anti-Corruption Commission (EACC). In fact, he has recorded a statement in respect of loss of public funds. Finally, I want to speak to the stolen election. Two bullets in the findings of the PAC Report indicate that Chairman Issack Hassan was an accomplice in the stealing of the election of 2013. This is under Part 4, bullet 6.0, on page 86 of the report – culpability.

If you may just allow me to highlight two points, the reports says that Mr. Ahmed Issack Hassan, the Chairman of IEBC is directly responsible for involvement in the

procurement by personally appointing lawyers to act for the Commission in the Presidential Petition case at the Supreme Court. (See the appointment letters attached). He was defending his personal interest in the contested stolen election.

The report further says Mr. Issack Hassan's failure to bring to the attention of the Commission reservations from ICT experts from M/s Face Technologies as to the impending malfunctioning of the Electronic Voters Identification Device (EVID) kits---. The warning became a reality on election day when the device failed and the election was stolen.

I beg to table.

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

Mr. Speaker, Sir, I will also table after I download, because it is in an electronic form, a judgement of the Public Procurement Oversight Review Board, where a finding was made that the commissioners, led by Chairman Hassan, took over procurement from the secretariat of IEBC, a preserve of the secretariat.

Mr. Speaker, Sir, allow me to emphasise that the report by the National Assembly has been signed by 19 out of 27 Members of the Committee, drawn from both the Jubilee and CORD coalitions. So, it is a non-partisan report.

I wish to substantiate to that extent.

**Sen. Sang:** On a point of order, Mr. Speaker, Sir. You directed that the Senator for Kakamega substantiates the specific assertion that 'Issack Hassan is a thief' and not that 'he is not a man of integrity.' The Senator for Kakamega has just tabled a document of the PAC of the National Assembly. He has not pointed out specifically to the issue that speaks to Mr. Issack Hassan being a thief. He has to substantiate by saying what it is that he stole and from whom. I am aware of many Members of this House, from either side of the House, who are being investigated. Could the Senator substantiate specifically those issues speaking to the fact that Issack Hassan is a thief? What did he steal and from whom? Has a court of law actually confirmed the same? As it stands, a number of the issues that he has mentioned are still allegations.

Mr. Speaker, Sir, I beg to request that you find that substantiation is not conclusive.

**Sen. (Dr.) Khalwale:** Mr. Speaker, Sir, I thought that I had discharged myself very well. I simply avoided going to the specifics that are in the Report. I have even pointed to bullet 6, Part 4, on page 86 of the Report. The recommendations are very clear; you will read. But if you want me to say two things that were stolen, then I can confirm to you that the common law jurisprudence of the Commonwealth denotes that the finding by the courts in the United Kingdom (UK), about this same matter, binds our country on the discharge of justice.

It was found in the UK that the London based printer, Smith and Ouzman, paid millions to IEBC officials to win printing contracts, and the two directors have been jailed. If we were respecting the provision of the Constitution of Kenya that says that international law, which we have domesticated, is part of Kenyan law, we should have handed over Mr. Issack Hassan, Mr. Oswago, Mr. Chirchir and others to go and face trial

in the UK. They would be in the coolers today. Therefore, we are very sympathetic to you, as the Opposition.

I want to request that you allow me to proceed to conclude my presentation. I take this opportunity to send my condolences to the victims of the Monday shootings by the police---

**The Speaker** (Hon. Ethuro): Order, Sen. (Dr.) Khalwale. I must admit that you have made a very impressive attempt, but from what you have said, I have not heard the substantiation that somebody is a thief. I appreciate that the British legal system and ours have a lot in common in terms of the Commonwealth, but these are very distinct jurisdictions. Nobody is guilty until proven so. You cannot be convicted through a proxy. I could see you trying to be a very good student of your party leader, but, unfortunately, the session was not adequate enough. I am very impressed that you made a good show, but it is still not good enough.

More fundamentally, repetitions are extremely important. There is no conviction, as far as you have advanced, that confirms that, that particular individual is a thief. So, you owe it to the House.

**Sen. (Dr.) Machage:** On a point of order, Mr. Speaker, Sir. Standing Order No. 90 (3) states:-

“It shall be out of order for one to use offensive or insulting language whether in respect of Senators or other persons”.

Would you help the House to interpret the Standing Order No.90 (3) because even a thief out there would find it offensive to be called one in the House? Even someone who is convicted by the courts as a thief will still find the word “thief” to be offensive. Is it in order to use that term in this House, or we request Sen. (Dr.) Khalwale to use a better term or phrase to refer to Issack Hassan. I would understand what Sen. Khalwale was driving at---

**The Speaker** (Hon. Ethuro): Order. Your point is very clear. It supports what I had said earlier.

Sen. (Dr.) Khalwale.

**Sen. (Dr.) Khalwale:** Mr. Speaker, Sir, unless we are converting the sessions of this House into a court proceeding, the English definition of the word thief, in ordinary meaning outside the courts, does not mean somebody who has been jailed or convicted. It is somebody who has stolen and whether it has been proved or not, that person is called a thief in English. If you look at the recommendations of the Committee---

**The Speaker** (Hon. Ethuro): Order, Sen (Dr.) Khalwale. Does the same English language have words like suspected thief?

**Sen. (Dr.) Khalwale:** Yes, Mr. Speaker, Sir. That is when one becomes accused. You have now gone into the realm of the courts. But in a village like Malinya, when somebody steals a cow, the school children will say; “there goes the thief who stole our cow” as the assistant chief is escorting him to the police station. That is what the Class Four child will say in English. I want to be understood as an innocent Class Two child who is worried that the finding ---

**The Speaker** (Hon. Ethuro): Order, Sen. (Dr.) Khalwale. For one to qualify to run for the seat of a Senator, you need to be an adult.

(Laughter)

We are not in the village. We are in an honorable House with very clear rules; that is, the Standing Orders. This is a matter we should exhaust. Sen. (Dr.) Khalwale, I submit to you that you have not substantiated. Just do what you have always done best: Withdraw, apologise and then proceed. In any case, the petition you are commenting on has another aspect which you are conveniently forgetting. In fact, it has two limbs: the one on police brutality and the one on mob justice. The mob justice one is the one that uses the example you have used of calling people thieves without verifying facts. So, is it really fair to prosecute a petition on mob justice by the same means?

**Sen. (Dr.) Khalwale:** Mr. Speaker, Sir, I am in a very tight spot. This is because I am faced with a report of Parliament from our sister House and in bullet five; they have said that they want a special lifestyle audit on Issack Hassan. The report is here, we will be looking at it. These are very serious decisions of the National Assembly. If I start apologizing for it, what will I be saying about Parliament? Will it be that Parliament spoke in vain on 23<sup>rd</sup> March, 2016 in the National Assembly? As to whether the case will be proved has nothing to do with Parliament because Parliament has already discharged itself. It has found the guy to be dishonest.

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

**Sen. Sang:** On a point of order, Mr. Speaker, Sir. While I appreciate what Sen. (Dr.) Khalwale is taking the Senators through, we must be careful. This is because a lot has been said even about the Members in this House. If you lower the threshold by calling people thieves like Sen. (Dr.) Khalwale is saying, then even for the very Senator, there was an allegation of some Kshs12 million getting into his account that could not be explained. We could not call him a thief of Kshs12 million because we knew those were allegations.

A lot of things have been said, and there have been scandals in this House like the National Youth Service (NYS), Tokyo and Malili Ranch where Members of this House were mentioned in those scandals. So, if we bring down that threshold, we will no longer have a House of hon. Members. Instead, we will be calling each other all manner of names. I want to persuade my brother, let us work with the legal--- because we are not in the village. If we were in a political rally, we could engage in these kinds of things.

**The Speaker** (Hon. Ethuro): Order, Sen. Sang. You have made your point.

**Sen. (Dr.) Khalwale:** Mr. Speaker, Sir, if Sen. Sang wants to refer to other cases as he has mentioned about Kshs12.5 million that the gutter press wrote about me, I agree, they wrote about it. I challenge him to bring any supporting document as I am doing now of a parliamentary process that has spoken of the Kshs 12.5million. He has talked about Tokyo. Yes, it was brought in this House and upon this House taking a decision, the Senate Minority Leader (Sen. Wetangula), stepped down and due process was done. He was discharged and that is why he is free. The ones who were culpable were taken and charged in court. He was not charged. If this man was a thief, Jubilee would have loved to jail him more than two years ago. It is because he is innocent that they cannot reach

him. Let us use the highest standard of the findings of Parliament, to send a clear message to Issack Hassan.

**The Speaker** (Hon. Ethuro): Order, Senator! Just a clarification; because I have not had the benefit of seeing the Report though I know of its existence; can you confirm if the report was adopted by the House?

**Sen. (Dr.) Khalwale:** Mr. Speaker, Sir, I have not confirmed. I was working directly with the Committee but I can confirm if you give me time.

**The Speaker** (Hon. Ethuro): Order, Sen. (Dr.) Khalwale. You have a very simple choice. You either do what I have suggested or we will take this matter in a way, which to me, will not be the best in your own interest. This is because I will have to look at all the allegations you have raised, and so far, from my preliminary reading, they are all misplaced. It is better for the House for you to proceed. This is because when you give examples like a recommendation about auditing a lifestyle, it does not mean that the particular lifestyle has been confirmed to be of this magnitude.

**Sen. (Dr.) Khalwale:** Mr. Speaker, Sir, what will I do with the judgment by the Public Procurement Oversight Review Board (PPORB) which is quasi-judicial that met and found out---

**The Speaker** (Hon. Ethuro): Order, Senator. I also listened to that one. Maybe there is more from the sections you read. In what you read to the House, you said the Commission took over the job of procurement. You did not say in taking over, they stole. Unless taking over is synonymous to stealing. From all that you have submitted, and you are a senior standing Member of this House, let us not go there, let us just sort it out.

**Sen. (Dr.) Khalwale:** Mr. Speaker, Sir, I want to request most humbly, that the Speaker familiarizes himself with the actual findings of these two authorities that I have tabled here and leave out the allegations I have made about the on goings in the United Kingdom (UK) cases. Look at the findings of the Public Accounts Committee (PAC) and the findings of the Public Procurement Oversight Review Board. If you find that it is not sufficient, I will gladly apologise. We have Kenyans who have lost lives because they want Issack Hassan to go because he is not a man of integrity. So if I---

**The Speaker** (Hon. Ethuro): Order, Sen. (Dr.) Khalwale. I will definitely look at the HANSARD and the documents you have presented but you are not going to determine what I should look at. I will look at the entire submission and I am going to make a ruling. I want to give you one more chance. You can withdraw and apologise so that I do not have to expend my valuable time looking at those documents because that time will not be in vain. If I look at the documents and I find otherwise, I am afraid I will give you a harsher punishment than to withdraw and apologise. The choice is yours Senator.

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

**Sen. (Dr.) Machage:** On a point of order, Mr. Speaker, Sir. As you ponder or look into the HANSARD on what we have been discussing, also look at the different dictionaries on the definition of a thief and let it be part of your presentation.

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

**The Senate Minority Leader** (Sen. Wetangula): On a point of order, Mr. Speaker, Sir. I am happy that you are going to make a ruling. I want you, if you agree

with me, to also consider, because there is no definition that is clear anywhere in our Standing Orders in relation to Standing Order 90(3) which states:-

“It shall be out of order for one to use offensive or insulting language whether in respect of Senators or other persons”.

What is offensive and insulting? This is the jurisprudence you have to develop and grow for the future of this House because sometimes what is offensive and insulting to me may not be to you and *vice versa*. As you lay down the precedence to be used in future, it will be helpful to both this House, other Houses, yourself and Speakers in future to know what that means because the Standing Orders have no definition.

Equally important, if you look at the Oxford Advanced Learners Dictionary, “thief” is described as a person who steals from another person or place, a car, jewel and so on. Nowhere does it say that it must involve conviction or prosecution. We may also need you to address yourself to that because this is the most authoritative definition of any English word that is in contention. So, I am just trying to help the Chair, so that you lay down a precedent. It will be remembered that hon. David Ekwe Ethuro, the Speaker of the Senate of the Republic of Kenya said this in 2016. This would probably be said in 2050.

**Sen. (Dr.) Khalwale:** Mr. Speaker, Sir, I want to thank you for your offer. As you listen to me with utmost respect, I request you to know that I am doing this in absolute good faith and I have no malice whatsoever against Ahmed Issack Hassan. Article 73(1)(a)(iii) requires that a public officer must bring honour to the nation and dignity to the office. For that reason – I know I am taking too much of your time – I invite you to look at the documents that I have referred to and those authorities and guide us in the next sitting.

Mr. Speaker, Sir, I want to conclude by saying that police brutality and extrajudicial killings have occasioned the loss of many lives this week on Monday and the other Mondays that we have been holding peaceful demonstrations against the IEBC. I, therefore, send my condolences to all the victims including; Dickson Asila from Bushiangala Village of Ikolomani in Kakamega, Austine Omambo of Siaya who lost his life and especially the four-year-old Luo boy in Kisumu who was lying on sofa set when he was hit by a live bullet by the police. He is fighting for his life in hospital and I really hope that he will make it.

Finally, I want to condemn the culture of mob justice. Mob justice was also used on us when we were doing the peaceful demonstrations in Kakamega. The Jubilee side of this country set up 20 youth who attacked us right under the watchful eyes of the police. Two wrongs do not make a right. I condemn both and I hope that the hour of settling the tension and the challenge of the IEBC---

**Sen. Sang:** On a point of order, Mr. Speaker, Sir. I appreciate that I really would not have wanted to interrupt. However, when the Senator says the Jubilee side unleashed a team of 20 youth, we are the Jubilee Side and I am a Member of the Jubilee side. Therefore, he needs to be specific because that would help. Some of us have never organised a team of 20 or even 10 or even one youth to attack people. Therefore, he should be specific because in this House, we are Members of the Jubilee side and I am

not sure that any of us organised the youth to carry out attacks against the Senator and his group during the said peaceful demonstrations. At least I speak for myself.

**Sen. (Dr.) Khalwale:** Mr. Speaker, Sir, most of us were avid readers in our early days in high school. You will remember the series that we used to call *James Hadley Chase*. They used to tell us that the guilty are afraid whenever you mention them.

Mr. Speaker, Sir, the IEBC Chairman Ahmed Issack Hassan was nominated by the former Prime Minister, hon. Raila Odinga. Several times, the former Prime Minister has been challenged that that was his baby. It is true that he is his baby. You can give birth to a baby but the moment that baby turns out to be a thief in his adulthood, you normally hand him over to the authorities to discipline him. The former Prime Minister has asked us to join him in handing over Ahmed Issack Hassan to the authorities to be disciplined for the theft cases such as the “Chickengate” and the 2013 General Elections and the issue of 1.6 million signatures of *Okoa Kenya*. Therefore, he is not fit to hold public office.

I support Mr. Gesicho’s petition.

**The Speaker** (Hon. Ethuro): Order, Members. I hope you know Standing Order No.226 give this Order 30 minutes maximum time. This Order is a continuation of yesterday. You may have the luxury of quoting from the dictionary but this is one uncontestable fact. Time is time and the time for petitions has elapsed because 30 minutes are over.

Next Order!

**Hon. Senators:** On a point of order.

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

**The Senate Minority Leader** (Sen. Wetangula): On a point of order, Mr. Speaker, Sir. I want to beseech you that the interventions on this Petition were interrupted yesterday. We graciously allowed the interruptions to vote and we voted and we thank ourselves for doing so. For this afternoon, the aggregate time Boni Khalwale, Senator for Kakamega, has spent commenting on this Petition cannot be more than 10 minutes. Probably he has spent two minutes. The rest were interruptions from Sen. Sang who has since left. This is a petition of such immense importance that we would like you to subtract the interruptions from the 30 minutes allocated, so that you give at least two or three of us two minutes each to comment.

Mr. Gesicho, who by the name is a person from the Kisii Community living in Kakamega, has raised a very critical issue when the country is at crossroads. I want to congratulate you because yesterday, you got very good news coverage right from television to radio stations until this morning. They announced that you have had the courage to order an investigation to police brutality. We want to complement and augment that good news that you have created for this House. Please allow us a minute or two to make a comment on this.

**The Speaker** (Hon. Ethuro): Order! Sen. Wetangula. I appreciate the humanely soul from other human beings because I would like to be recognised. However, where I sit, I do not work for recognition. I do the job that is before me without fear or favour.

(Laughter)

**Sen. Khaniri:** On a point of order, Mr. Speaker, Sir. I want to seek your guidance on this particular Petition by Mr. Gesicho. Before that, let me thank him for bringing this very important Petition. I also thank him for believing in the institution of Parliament because this is not the first petition that Mr. Gesicho is bringing to this House. He has brought other petitions to this House before.

Mr. Speaker, Sir, substantially, the point of order that I am bringing to your attention is this. I do not think we are doing this Petition justice in the form in which it is. First, the petitioner's prayer was that you and your counterpart in the National Assembly form a joint committee of the two Houses to look into this Petition.

In your own communication yesterday, you said that that provision is not there although when you look at Standing Order No. 216 (3)(c), that provision is there. More importantly, Standing Order No.220(3) says:-

"The Clerk shall, within seven days of the date of receipt of a petition, review the petition to ascertain whether the petition meets the requirements of these Standing Orders and of the law".

Mr. Speaker, Sir, I do not know, if in your own opinion, you think that this particular section of the Standing Order was adhered to. This is because the Petition as it is, with the prayers of forming a joint committee, does not meet the threshold of our Standing Orders. In our Standing Orders, particularly, No.227(1) says:-

"Every Petition presented or reported pursuant to this Part, shall stand committed to the relevant Standing Committee".

It does not talk about a Joint Select Committee but a Standing Committee. Now that the prayer of Mr. Gesicho is that the Petition be committed to a Joint Committee of the National Assembly and the Senate, I am seeking your guidance if the Clerk lived to the position of the Standing Order No.220(3). This is because it does not meet the threshold of that Standing Order and Mr. Gesicho should be advised by the Office of the Clerk to redraft his Petition and resubmit it so that you can determine which Standing Committee it can be committed to. As it is, you had even called the next order without committing this petition to any Committee, which is a requirement of our Standing Orders, that after comments by Members, the Speaker shall commit the Petition to a Standing Committee, which you have not done. I seek your guidance on this particular issue.

**The Speaker** (Hon. Ethuro): What is it, Sen. (Prof) Anyang'-Nyong'o?

**Sen. (Prof.) Anyang'-Nyong'o:** Mr. Speaker, Sir, I stand on a point of order. Will I be in order to request you to use your prerogative in Standing Order No.1 to channel this Petition to the relevant Standing Committee in the Senate so that the concerns of Sen. Khaniri are met instead of returning the Petition to the petitioner?

**The Senate Minority Leader** (Sen. Wetangula): Mr. Speaker, Sir, I will go a little further and point out that the discharge of the responsibility of the Clerk under Standing Order No.220 (3) is that when a petitioner who is a lay person and an ordinary citizen brings a petition here, the Office of the Clerk has a duty to advise the intended petitioner; including telling Mr. Gesicho that he has a good petition but he should not



request that it be committed to a Committee of both Houses. You can have it committed to a committee in one House and it will achieve its intended purpose.

They can also advise the petitioner on the phraseology. That is why they are there. The Petition is not supposed to come in raw form.

Mr. Speaker, Sir, although you had yesterday prematurely intimated that you are sending the Petition to some committee here, does it comply with the prayer of the petitioner? This is because the petitioner had asked for a joint committee of both Houses. Under which Standing Order do we commit it to one committee of our House? Let your office encourage the Clerk to have a specific office, under a specific clerk to help the 'lay' petitioners who come here so that they can be assisted properly in what they want to do within our Standing Orders, the laws and the Constitution.

**Sen. Sang:** Mr. Speaker, Sir, I want to join my colleagues in saying that the Office of the Clerk should be able to help. I am aware that two petitioners from my county presented a petition to the Senate and they were told that the format they used was not correct and they were assisted in correcting the mistakes including the format.

Mr. Speaker, Sir, on several occasions, you have committed petitions to my Committee, the Senate Committee on Legal Affairs and Human Rights, and our duty in some of those situations has been advising the petitioners the approach and areas that they should focus on. I therefore, think that there are two ways about it if the petition has found its way to the Chair. If you were to direct it to a committee, one of the responsibilities of that committee would probably be to address that preliminary issue, and if need be, report to the House on that particular preliminary issue before they get into the substance.

Mr. Speaker, Sir, I think the issue ought to have been sorted out by the Clerk's Office. However, since it is on the Floor of the House, the committee that it shall be committed to will deal with that preliminary issue before they get to the substance.

**The Speaker** (Hon. Ethuro): First, I thank Sen. Khaniri for raising all the issues pertaining to Standing Order Nos. 220 and 216. I also thank the Senate Minority Leader, Sen. Wetangula, Sen. (Prof.) Anyang'-Nyong'o and Sen. Sang for the recommendations in terms of tidying up by the Office of the Clerk. I now know for a fact, they tried and Sen. Sang has confirmed that. We usually try to assist the 'laymen' petitioners.

To address specific issues raised by Sen. Khaniri on a Joint Committee, we said that you need any other joint committee as may be established by a resolution by both Houses of Parliament or under any other law. We did not anticipate the Petition to go that route as it is a laborious and lengthy process. Once we made that determination, we went to Standing Order No.220(4) where the Clerk was sure that the Petition does not comply with paragraph three, which says:-

"The Clerk may use such directions as necessary to ensure that the petition is amended to comply with that particular paragraph".

We have made those necessary amendments, and that is why we said that we would not be going that direction. In fact, I suggested against establishment of a joint committee by way of resolution in each House. The procedure for setting up, running and making decisions in such a joint committee, render it unsuitable for consideration to the petition before the House.

After we had taken that into account, that is why we are right on the third submission and I should not commit it to the committee because of the circumstances. That was another omission on my part and definitely will commit this Petition and hopefully answer the prayers by Sen. (Prof) Anyang'-Nyong'o to the Standing Committee on National Security and Foreign Relations.

On the issue raised by the Senate Leader Minority, Sen. Wetangula, in terms of time allocation, I think we were all in the House and I pleaded with Sen.(Dr.)Khalwale to reduce the altercations since I wanted others to contribute. Since you willingly contributed to his lengthy submission, I have no choice but to leave this matter where it is.

For avoidance of doubt, the Petition is committed to the Standing Committee on National Security and Foreign Relations. This Committee shall consider for not more than 60 days from the time of reading the prayer to respond to the Petitioner by way of a report addressed to the Petitioner and laid on the Table of the Senate. That should satisfy Sen. Khaniri.

Hon. Members, the Senate Majority Leader has indicated to me that we have enough numbers to vote. So, we will skip Order No.5 and come back to it later. Let us deal with Orders Nos.8 and 9.

### POINT OF ORDER

#### NON-INVOLVEMENT OF THE SENATE IN THE PRESENTATION OF THE NATIONAL BUDGET

**Sen. Billow:** On a point of order, Mr. Speaker, Sir. I would like to have your guidance on the issue of the Budget. Today, the Cabinet Secretary (CS) for the National Treasury is presenting the Budget Statement for financial year 2016/2017 to the National Assembly. The current Constitution and the laws do not provide for a typical Budget that is presented to the National Assembly. It provides for the Budget Strategy Paper and Budget Policy Statement which are submitted to both Houses of Parliament and all of us have had our input and estimates were tabled long ago. The Cabinet Secretary (CS) merely gives a Statement on Government policies.

If you read the spirit of the Constitution, since the entire process has involved both Houses, could I have your guidance on why both Houses cannot, in a Joint Sitting, then, receive the presentation of the Budget Statement? I think that is the spirit in which the Budget is addressed. Going forward, perhaps the two Speakers could consult because there is no express provision that the Budget should be presented in the National Assembly. The documents have, however, been given to both Houses from April. Since we are putting a lot of our time in the process, when the Cabinet Secretary (CS) is giving the Statement, it should be given to both Houses. I think a Joint Sitting would be appropriate. As the whole country is watching and deliberating on the Budget today, we are sitting here as a House that has put in quite a bit of time and we are not participating in that process.

**Sen. Ong'era:** Mr. Speaker, Sir, I also support what the distinguished Senator for Mandera has said. I do not see any reason why the Budget should only be submitted to the National Assembly and not the Senate too. In any event, we have a very big budget of counties that we take care of and control. As we all know, counties are independent governments.

Therefore, I support what the Chairman of the Committee on Finance, Commerce and Budget has said. In fact, if you saw earlier on today, the people who were being consulted with regard to the Budget was the distinguished Senator for Mandera and the distinguished Senator for Nyamira County. I did not see anybody from the National Assembly being consulted by the media with regard to the Budget. It just shows how this House is highly respected. I do not see any reason why we cannot also join them. We dearly plead with you to consult your colleague so that we can have joint sittings.

**Sen. Ndiema:** Mr. Speaker, Sir, this Senate represents counties. The national Budget also includes those funds that go to counties. Today as the Budget is being presented, counties are not represented in that House. I think that is a very serious oversight that should be considered seriously so that the two Houses can sit together. While we may not discuss the details of appropriations of funds allocated to the national Government, the Budget today is not just about allocation. It is about the financial policy for the whole country. It is not merely allocation of funds or taxation. I think it is not right that it is only the National Assembly that sits in the Budget presentation process.

**Sen. Kagwe:** Mr. Speaker, Sir, I also echo the sentiments raised by my Chairman. As you know, we work on the Budget Policy Statement together. It is something that is passed by both Houses. If you look back at the last two years, we were not there. We did not go for a Joint Parliamentary Sitting. This year, again, we are not there. So, it is now three consecutive years. If, indeed, it is an oversight, I think it is time to correct it. If it is not an oversight and there is a problem somewhere, then it is time to address the problem head on.

*(Sen. Wetangula stood in his place)*

**The Speaker** (Hon. Ethuro): Order, Sen. Wetangula! The difficulty I have is that I have seen your name here as a permanent feature of intervention. So, I was not sure whether it is a fresh request.

**The Senate Minority Leader** (Sen. Wetangula): Mr. Speaker, Sir, sorry. I do not want us to look like cry babies. We are a House that is looked down upon and disregarded. We must appreciate this as a House. We did appreciate this long time ago. We formed a Committee, looked at the Constitution and drafted a Bill to strengthen this House, so that everything is in black and white as to what our role and functions *vis-à-vis* national issues including budget making, should be.

My opinion would be – I agree with my Chairman in the Committee on Finance, Commerce and Budget – that you cannot do all the work and then the Budget Statement is presented to one House. It ought to be presented as a Joint Sitting if fairness is to be played. More importantly, Senators must also be alive to the fact that as defenders and protectors of counties and their governments, our interest is not limited to the amount of

money allocated to counties in terms of equity, fairness and distribution of resources. This Senate also has a duty to look at the remaining chunk of national resources and how it is distributed across the country and in our counties as well. We represent that interest of those counties in terms of the money given by Commission of Revenue Allocation (CRA) directly to the counties and the money left at the centre, how it is used and how it affects counties.

Mr. Speaker, Sir, we need to broaden our thinking. It is too late for now as I believe Mr. Rotich is already in the National Assembly with his briefcase. Let him present the budget. However, we want you as the leader of this House in terms of administration and everything, to team up with us in the leadership and engage your brother in the National Assembly so that as we wait to change the law, we have some agreed administrative issues. I know he has a very dim view of this House as I have been seeing some very embarrassing correspondence.

Lastly, I address this to my brother, the Senate Majority Leader, who is a professor of law. The world over, a new Constitution, once promulgated and implemented, within two or three years – if you look at the American, Indian and the First and Second Republic of French constitutions – you subject it to an audit to see what works and what does not; what you overlooked and what you did not; and what you put in excessively and what you did not, so that you now bring things to order to get the Constitution to serve the country better. I think we have reached a level where the country as a whole – not a Coalition for Reforms and Democracy (CORD) or Jubilee issue – needs to address these issues so that we can sync things with the expectations and interests of the country.

**The Speaker** (Hon. Ethuro): Sen. (Dr.) Machage, please be brief.

**Sen. (Dr.) Machage:** Mr. Speaker, Sir, whereas there is a lot of interest in the suggestion by the Chairman of the Committee on Finance, Commerce and Budget, I may have a different opinion unless we consider changing the very Constitution that has given us a lot of trouble. If you look at the Constitution, Article 109(5), Article 114(1) and (3) tell us how a money Bill should be handled and the definition of the same. I think we would be overstretching ourselves and being a little bit unwise to begin wanting to fit ourselves into the functions of the National Assembly. Unless this Constitution is changed, this prayer may not be appropriate for this House.

**Sen. Murkomen:** Mr. Speaker, Sir, I totally agree with the Chair of the Committee on Finance, Commerce and Budget. First, let us start from the basics. I am informing my colleague, Sen. (Dr.) Machage, that there is no provision in the Constitution that says the Budget should be read in Parliament. That was an arranged session by the Speaker of the National Assembly, Members of the National Assembly and the Executive. That arrangement should have encompassed the whole Parliament, for the simple reason that we discuss the Budget Policy Statement and the Strategy Paper when it comes to this House. In fact, the Statement being read by the Cabinet Secretary, Hon. Rotich, has immense contributions from the Senators, many of whom were Cabinet Ministers and who understand it more than those sitting in the National Assembly.

Secondly, that Budget has provisions on devolution, serious policy issues expected to be implemented by counties. It is only fair that when you are discussing

cross-cutting issues that involve finances and policy, it would have been better to have a joint session of Parliament, considering also that it was not provided for in the Constitution.

A practice is being developed in the National Assembly and it should have been a joint session just like when the President comes here to address the House. I totally agree with the Minority Leader and Sen. Billow that going forward, that is something you can consult with your brother in the National Assembly for the practice to be enhanced. We should be able to debate policy issues in the Budget.

Mr. Speaker, Sir, now that we are mentioning matters to do with the Budget and county governments are going to read their budgets, our advice to them is that they must advertise widely to enable representation of the county to appear before the county assembly when the county budget is being read. My advice to my colleagues from CORD and those protesting from *Matatu* Welfare Association, among others, is that the protests we are witnessing in the country hurt the same devolution we are talking about. When the economy of Kisumu City is hurt, it is not the national Government or Jubilee that suffers but the local people in those counties. It is the failure of the Nairobi City County Government that is led by CORD that will ensue as a result of those protests. As a result, we must also show responsibility as leaders so that we have a system that works.

*(Loud consultations)*

**The Speaker** (Hon. Ethuro): Order, Sen. Murkomen! Order, Senators!

The only thing we have done this afternoon is to raise points of order. I must admit that Sen. Murkomen obviously took advantage of other things. Let us proceed and vote now. Let me say I have heard you and I will communicate. I think it is a good suggestion. Even the other House is having the budget read under an administrative arrangement. If this House is desirous of the same, we were working on the assumption that, as Sen. Murkomen mentioned, as far as we are concerned, this is a hang up of the old order. The choice is yours. If you want to retain some good old habits, so be it. If you want to make a permanent departure, we will consider it as a leadership and give direction.

## BILLS

### *Second Readings*

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

*(Sen. (Prof.) Kindiki on 2.6.2016)*

*(Resumption of Debate interrupted on 7.6.2016)*

## DIVISION

## ELECTRONIC VOTING

*(Question, that the Health Bill (National Assembly Bill No.4 of 2015) be now read a Second Time put and the Senate proceeded to vote by County Delegations)*

**AYES:** Sen. Adan, Isiolo County; Sen. (Prof.) Anyang'-Nyong'o, Kisumu County; Sen. Billow, Mandera County; Sen. Boy Juma Boy, Kwale County; Sen. Cheruiyot, Kericho County; Sen. Hargura, Marsabit County; Sen. M. Kajwang, Homa Bay County; Sen. Kagwe, Nyeri County; Sen. Khaniri, Vihiga County; Sen. (Prof.) Kindiki, Tharaka-Nithi County; Sen. Kivuti, Embu County; Sen. (Prof.) Lesan, Bomet County; Sen. (Prof.) Lonyangapuo, West Pokot County; Sen. (Dr.) Machage, Migori County; Sen. Melly, Uasin-Gishu County; Sen. Mohamud, Wajir County; Sen. Mositet, Kajiado County; Sen. Mungai, Nakuru County; Sen. Murkomen, Elgeyo-Marakwet County; Sen. Murungi, Meru County; Sen. Nabwala, Trans Nzoia County Sen. Ntutu, Narok County; Sen. Obure, Kisii County; Sen. Okong'o, Nyamira County; Sen. Omondi, Kakamega County; Sen. Sang, Nandi County; and Sen. Wetangula, Bungoma County.

**NOES:** Nil

**The Speaker** (Hon. Ethuro): Order, Senators. The results of the Division on Order No.8 are as follows:

**AYES:** 27

**NOES:** Nil

**ABSENTIONS:** Nil

*(Question carried by 27 votes to 0)*

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

*Second Reading*

THE POLITICAL PARTIES (AMENDMENT) BILL  
(NATIONAL ASSEMBLY BILL NO. 2 OF 2016)

*(Sen. (Prof.) Kindiki on 7.6.2016)*

*(Resumption of Debate interrupted on 7.6.2016)*

## DIVISION

## ELECTRONIC VOTING

*(Question that, the Political Parties (Amendment) Bill*

*(National Assembly Bill No.2 of 2016) be now read a  
Second Time put and the Senate proceeded to vote by  
County Delegations)*

**AYES:** Sen. Adan, Isiolo County; Sen. (Prof.) Anyang'-Nyong'o, Kisumu County; Sen. Billow, Mandera County; Sen. Boy Juma Boy, Kwale County; Sen. Cheruiyot, Kericho County; Sen. Hargura, Marsabit County; Sen. Kagwe, Nyeri County; Sen. Khaniri, Vihiga County; Sen. (Prof.) Kindiki, Tharaka- Nithi County; Sen. Kivuti, Embu County; Sen. (Prof) Lesan, Bomet County; Sen. (Prof.) Lonyangapuo, West Pokot County; Sen. M. Kajwang, Homa Bay County; Sen. (Dr.) Machage, Migori County; Sen. Melly, Uasin-Gishu County; Sen. Mohamud, Wajir County; Sen. Mositet, Kajiado County; Sen. Mungai, Nakuru County; Sen. Murkomen, Elgeyo-Marakwet County; Sen. Murungi, Meru County; Sen. Nabwala, Trans Nzoia County; Sen. Ntutu, Narok County; Sen. Obure, Kisii County; Sen. Okong'o, Nyamira County; Sen. Omondi, Kakamega County; Sen. Sang, Nandi County; and Sen. Wetangula, Bungoma County.

**NOES:** Nil

**The Speaker** (Hon. Ethuro): Hon. Senators, the results of the Division on the Political Parties (Amendment) Bill (National Assembly Bill N0.2 of 2016) are as follows:-

**AYES:** 27

**NOES:** Nil

**ABSENTIONS:** Nil

*(Question carried by 27 votes to 0)*

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

**The Speaker** (Hon. Ethuro): Order Members, we will now go back to our business on; Order No.5.

## **PAPERS LAID**

**Sen. Nabwala:** Mr. Speaker, Sir, I beg to lay the following Papers on the Table:-

### **REPORT OF THE 133<sup>TH</sup> ASSEMBLY OF IPU AND RELATED MEETINGS**

Report of the 133th Assembly of the Inter-parliamentary Union and related meetings held 15<sup>th</sup> and 21<sup>st</sup> October, 2015 in Geneva, Switzerland.

### **REPORT OF THE 134<sup>TH</sup> ASSEMBLY OF IPU AND RELATED MEETINGS**

Report of the 134<sup>th</sup> Assembly of the Inter-parliamentary Union and related meetings held between 17<sup>th</sup> and 23<sup>rd</sup> March, 2016 in Lusaka, Zambia.

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

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

### NOTICE OF MOTION

**Sen. Leshore:** Mr. Speaker, Sir, pursuant to Standing Order No. 45 (2) (b) I rise to seek for a Statement from the Chairperson of the Standing Committee on Labour and Social Welfare on street families and urchins in Kenya.

**The Speaker** (Hon. Ethuro): Order Sen. Leshore! We are on Order No.6 and not Order No.7. Your matter must be under Order No.7.

### NOTING OF REPORTS OF THE 133<sup>TH</sup> /134<sup>TH</sup> ASSEMBLIES OF IPU AND RELATED MEETINGS

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

THAT, the Senate notes the reports of the 133<sup>th</sup> and 134<sup>th</sup> Assemblies of the Inter-parliamentary Union and related meetings held between 15<sup>th</sup> and 21<sup>st</sup> October, 2015 in Geneva, Switzerland and 17<sup>th</sup> and 23<sup>rd</sup> March, 2016 in Lusaka, Zambia respectively, laid on the Table of the Senate on Wednesday, 8<sup>th</sup> June, 2016.

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

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

**The Temporary Speaker** (Sen. (Dr.) Machage): Let us have requests for Statements first.

### STATEMENTS

#### STATUS OF STREET FAMILIES AND URCHINS IN KENYA

**Sen. Leshore:** Mr. Temporary Speaker, Sir, I rise pursuant to Standing Order No.45(2) (b) to seek for a Statement from the Chairperson of the Standing Committee on Labour and Social Welfare on the street families and urchins in Kenya. In the Statement, the Chairperson should state: -

- (a) whether there is a Government policy on street families including persons with disabilities and urchins in on our streets;
- (b) how the Ministry responsible for social services facilitates them; and;
- (c) their population per county.



**The Temporary Speaker** (Sen. (Dr.) Machage): Can the Chairperson or any Member of the Committee on Labour and Social Welfare respond? If there is no one from that Committee, can the Senate Majority Leader respond?

**The Senate Majority Leader** (Sen. (Prof.) Kindiki): Mr. Temporary Speaker, Sir, I was consulting. I will get direction from the clerks what the direction is and convey it to the relevant Committee.

**The Temporary Speaker** (Sen. (Dr.) Machage): All we want for you to give us timeline on when the Statement that has been sought by Sen. Leshore will be delivered to this House by the Committee on Labour and Social Welfare.

**The Senate Majority Leader** (Sen. (Prof.) Kindiki): Mr. Temporary Speaker, give us one week.

**The Temporary Speaker** (Sen. (Dr.) Machage): It is so ordered.  
What is it, Sen. Okong'o?

**Sen. Okong'o**: Mr. Temporary Speaker, Sir, did you see what Sen. (Prof.) Lesan did?

**The Temporary Speaker** (Sen. (Dr.) Machage): what did he do?

**Sen. Okong'o**: Mr. Temporary Speaker, Sir, Sen. (Prof.) Lesan consulted with us on this side and just crossed to the other side without following the laid procedures.

**The Temporary Speaker** (Sen. (Dr.) Machage): Sen. (Prof.) Lesan, go to the Bar and do what is required of you.

*(Sen. (Prof.) Lesan walked to the Bar and bowed to the Chair)*

I am told that the Chairperson of the Committee has permission to be away. Therefore, we will skip Statements (a), (b) and (c)

INVESTMENTS MADE BY THE NATIONAL GOVERNMENT IN  
DEVELOPMENT OF SCHOOL INFRASTRUCTURE

DELAYED PAYMENT OF TEACHERS WHO MARKED THE 2015  
KCPE AND KCSE EXAMINATIONS

FUNDING OF LOW COST PUBLIC BOARDING PRIMARY SCHOOLS

*(Statements deferred)*

Led us move to Statement No. (d). Can the Chairperson of the Standing Committee on National Security and Foreign Relations proceed?

*(Sen. M. Kajwang consulted loudly)*

Order, Sen. Kajwang! You are the one who requested for this Statement

## STATUS OF THE NATIONAL SECURITY COMMUNICATION SYSTEM

**Sen. Adan:** Mr. Temporary Speaker, Sir, at a Sitting of the Senate held on 23<sup>rd</sup> March 2016, Sen. M. Kajwang requested for a Statement on the status of the National Security Communication System Project. He particularly sought to be informed on:-

- (a) The objective and total cost of the project.
- (b) The geographic coverage of the project and what Kenyans should expect from it.
- (c) The lead implementers of the said project and the procedure used under the Public Procurement and Disposals Act to select and award the implementers.
- (d) The current status of this project and its expected date of completion.
- (e) The security agencies that will utilize the national security communication system.
- (f) The procedure under the Public Procurement and Disposals Act used to allocate the 4G frequencies spectrum licence to the implementers of this project.
- (g) The value of the 4G licence and how much has been paid for each by the implementers.
- (h) Whether the amount paid for the 4G licence has been deposited in the Consolidated Fund.
- (i) How the Government intends to take over control and management of the project upon successful completion.

I wish to respond as follows; the National Security Communication Network and Surveillance System of the National Police Service is a high security issue which can only be released ---

**Sen. M. Kajwang:** On a point of order, Mr. Temporary Speaker, Sir. The Statement request that I made was very detailed. I have not seen a copy of that Statement. It will be quite difficult for me to interrogate that matter on the Floor of the House. Will I be in order to request that I be furnished with a copy of the response so that it can pave way for constructive debate?

**The Temporary Speaker** (Sen. (Dr.) Machage): We can revisit that Statement at the end of the other Statements---

**Sen. Adan:** Mr. Temporary Speaker, Sir---

**The Temporary Speaker** (Sen. (Dr.) Machage): Order Sen. Adan. I am still speaking. Can you make sure that Sen. M. Kajwang has a copy of what you are reading?

What is it, Sen. Adan?

**Sen. Adan:** Mr. Temporary Speaker, Sir, with your indulgence as well as that of Sen. M. Kajwang's, this is just a one paragraph response.

**The Temporary Speaker** (Sen. (Dr.) Machage): Order, Sen. Adan. Whether the Statement response is one sentence, a paragraph or one word, Sen. Kajwang has made a request that must be looked into.

Next Statement!

Is the Chairperson of the Committee on Lands and Resources in the House? Who is Mike Sonko? Is he one of the Members of the Senate?

*(Loud consultations)*

**Sen. (Prof.) Lonyangapuo:** Mr. Temporary Speaker, Sir, did you hear my neighbour, Sen. Murkomen, talk about Sen. Sonko as a colleague that we had? Sen. Sonko is alive and present. He cannot claim---

**The Temporary Speaker** (Sen. (Dr.) Machage): Order, Sen. (Prof.) Lonyangapuo. I did not hear that. You are completely out of order.

The person who requested for that Statement is not in the House. What can the Chairperson say about it?

**Sen. Kivuti:** Mr. Temporary Speaker, Sir, I expected to discuss this matter with Sen. Sonko. Since, I have not managed to get him in the last two days, I request that we give him a little more time until tomorrow or next week.

**The Temporary Speaker** (Sen. (Dr.) Machage): It is good that you have made that request. I was going to order that you give your Statement now because it is the property of the House. If a Member seeks for a Statement and is persistently absent, then the Statement can be given in his or her absence. However, since you have made that request, let us give him that chance. The Statement should be on the Order Paper tomorrow.

*(Statement deferred)*

The Chairperson of the Standing Committee on Education has permission to be away.

Where is the Chairperson of the Standing Committee on Lands and Natural resources?

CREDIBILITY OF WEATHER FORECASTS ISSUED BY  
KENYA METEOROLOGICAL DEPARTMENT

**Sen. Kivuti:** Mr. Temporary Speaker, Sir, I rise to give a ministerial response.

**The Temporary Speaker** (Sen. (Dr.) Machage): Order! You are not a Minister neither do you issue statements of Ministers in this House. You may get information from Cabinet Secretaries. However, the statement you are just about to issue to this House is your statement as the Chairperson.

*(Applause)*

**Sen. Kivuti:** Mr. Temporary Speaker, Sir, I have no quarrel with that. I will therefore, give the statement from myself.

**The Temporary Speaker** (Sen. (Dr.) Machage): Is it signed by you? Let me look at it.

**Sen. Kivuti:** Mr. Temporary Speaker, Sir, before I give it?

**The Temporary Speaker** (Sen. (Dr.) Machage): Yes, it is so ordered.

Clerks-at-the-Table, can you authenticate whether that statement is signed by the Chairperson or by the Cabinet Secretary?

**Sen. Kivuti:** Mr. Temporary Speaker, Sir, I said that I would give the Statement from myself.

**The Temporary Speaker** (Sen. (Dr.) Machage): Order! That Statement will be part of the records of this House and will be saved as it is. So, let us have a look at it. Do you have a copy?

Can I have the report from the Clerks-at-the-Table?

Order, have a seat.

Hon. Senators, it has been a malpractice that has perpetually been on the Floor of this House. This is to all Chairpersons or those who assist them to issue statements to this House: They must be owned by the Committee and signed by the Chairperson. Usually, we have also to get copies of those statements even before you issue them on the Floor of the House. Those are the House rules.

So, let us be careful on this. We are not puppets of Cabinet Secretaries, neither are we subordinate to them. We are senior.

I, therefore, order the Statement to be issued on the Floor of this House by the Chairperson of the Standing Committee on Land and Natural Resources tomorrow when it is properly documented. It is so ordered.

*(Statement deferred)*

What is it, Sen. Okong'o?

**Sen. Okong'o:** On a point of order, Mr. Temporary Speaker, Sir. I sought a Statement from the Chairperson of the same Committee. I do not know whether my Statement which has been supplied falls within those which you have ordered to be authenticated. Yesterday, I agreed with the Chairperson that my Statement be listed today. I have the Statement. So, kindly guide us which statements fall within that order.

**The Temporary Speaker** (Sen. (Dr.) Machage): I have just given guidance on the Statement that was sought by Sen. Kennedy Mong'are of Nyamira County. Is that you?

**Sen. Okong'o:** Mr. Temporary Speaker, Sir it falls in my domain. I am most obliged.

**The Temporary Speaker** (Sen. (Dr.) Machage): Where is the Chairperson of the Committee on Health? He was supposed to issue a statement regarding the declining state of health services in Nandi County. It was sought by Sen. Sang. Where is he?

#### THE DECLINING STATE OF HEALTH SERVICES IN NANDI COUNTY

**Sen. Kittony:** Mr. Temporary Speaker, Sir, Sen. Sang is not in.

**The Temporary Speaker** (Sen. (Dr.) Machage): Since Sen. Sang is not in the House, I order that the Statement be issued on Tuesday.

*(Statement deferred)*

**Sen. Kittony:** Mr. Temporary Speaker, Sir, most obliged. Thank you.

**The Temporary Speaker** (Sen. (Dr.) Machage): Very well. I assume that the one paragraph Statement whose copy was supposed to be issued to Sen. M. Kajwang has been well executed. Have you got a copy of that Statement? Are you happy and comfortable? Is it properly signed?

**Sen. M. Kajwang:** Mr. Temporary Speaker, Sir, it is signed but I am not satisfied with the content.

**The Temporary Speaker** (Sen. (Dr.) Machage): Secretariat, can you authenticate the Statement being tabled on the Floor of this House?

Can we have a copy of the Statement?

Proceed, "Sen. Dul"---

#### STATUS OF THE NATIONAL SECURITY COMMUNICATION SYSTEM

**Sen. Adan:** Mr. Temporary Speaker, Sir, you do not know my name?

**The Temporary Speaker** (Sen. (Dr.) Machage): I may know it but I do not know how to pronounce it. Can you tell me how it is pronounced?

**Sen. Adan:** Mr. Temporary Speaker, Sir, three years down the line and you cannot pronounce it?

**The Temporary Speaker** (Sen. (Dr.) Machage): Order! Let us have a look at it. Is that Statement properly signed?

**Sen. Adan:** Mr. Temporary Speaker, Sir, yes.

**The Temporary Speaker** (Sen. (Dr.) Machage): Is it signed by you?

**Sen. Adan:** Mr. Temporary Speaker, Sir, no.

**The Temporary Speaker** (Sen. (Dr.) Machage): Who?

**Sen. Adan:** Mr. Temporary Speaker, Sir, it is signed by hon. Major General (Rtd) Joseph Nkaissery.

**The Temporary Speaker** (Sen. (Dr.) Machage): Order! That is not a Statement of this House.

*(Applause)*

Can you bring a proper statement tomorrow signed by the Chairperson of the relevant Committee?

*(Statement deferred)*

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

**Sen. (Prof.) Lonyangapuo:** On a point of order, Mr. Temporary Speaker, Sir. You said that the Chairperson of the Standing Committee on Education is absent with permission. However, I have sought so many statements before and they were due as you directed earlier. You gave deadlines but those Statements have not been issued. Some are

on roads and others on industrialization. What is the way forward? They are not in the Order Paper.

**The Temporary Speaker** (Sen. (Dr.) Machage): What is it, Sen. (Dr.) Zani?

**Sen. (Dr.) Zani:** Mr. Temporary Speaker, Sir, I would like to step in. Yesterday, the Chairperson of the Committee on Education, Sen. Karaba was here. He had most of these statements. He was ready to issue them but Members were not present. Today, he would have been ready because he was yesterday but he had to be away.

**The Temporary Speaker** (Sen. (Dr.) Machage): I am aware of that. He has a demise of a relative. Anybody can understand that situation. We have to give him that benefit.

I have listened to Sen. (Prof.) Lonyangapuo's concern. I order that the secretariat furnish him as soon as possible with all the statements that are due or lost. If there are statements that had been sought in the last Session, they lapsed. I hope you understand what I mean by the last Session, not this small break we had but the last Session. I mean last year. So, if you have that in your mind, you can reintroduce them as new statements. They lapse with time. It is so ordered.

Next order! What is it, Sen. (Prof.) Lonyangapuo?

**Sen. (Prof.) Lonyangapuo:** Mr. Temporary Speaker, Sir, your ruling is in order. However, Sen. (Dr.) Zani brought another point. If the Chairperson is bereaved or travels, do the statements also travel? She is a Member of the Committee. Any other person would also step in to read the statement if they are ready. It is a collective responsibility for Members of the Committee.

**The Temporary Speaker** (Sen. (Dr.) Machage): That is a good concern. Sen. (Dr.) Zani, might you be in possession of the statements?

**Sen. (Dr.) Zani:** Mr. Temporary Speaker, Sir, I am not in possession of the statements. I would like to make another proposal. It has been the tradition of this House to read out statements only when Members are present. In view of the fact that so many statements are pending, might we not want to reconsider and move to the point where we consider statements to be the property of the House? If a Member wants to interrogate anything, he can bring other statements later. There are so many statements pending because the Chairperson might be present but Members are not or Members might be present while the Chairperson is not.

**The Temporary Speaker** (Sen. (Dr.) Machage): That concern has been hitherto raised in this House. Before the advent of the creation of the Senate, the tradition in the former Parliament, which was the only Parliament in this country, was such that, if a Member did not appear in order to listen to a reply to his Statement, it was dropped.

*(Applause)*

I think we should consider going that route. I will raise this issue in the Speaker's Panel's meeting but it may be later pushed to the Rules and Business Committee (RBC) to make a decision on that. I think the substantive Speaker's attention will be drawn to your request, Sen. (Dr.) Zani. It is very appropriate and may be that will make people to be a bit serious. I see no other interest on Statements.

Next Order!

**BILL**

*Second Reading*

THE NATURAL RESOURCES (CLASSES OF TRANSACTIONS SUBJECT  
TO RATIFICATION) BILL (NATIONAL ASSEMBLY BILL NO. 54 OF 2015)

**The Senate Majority Leader** ((Sen. (Prof.) Kindiki)): Mr. Temporary Speaker, Sir, I beg to move that the Natural Resources (Classes of Transactions Subject to Ratification Bill (National Assembly Bill No.54 of 2015), be read a second time.

Mr. Temporary Speaker, Sir, hon. Senators, this is one of the Bills with constitutional timeliness...

**The Temporary Speaker** (Sen. (Dr.) Machage): what is it Sen. Kajwang?

**Sen. M. Kajwang:** Mr. Temporary Speaker, Sir, I had an interest in this Bill and I thought I would get an opportunity to raise one or two issues before the Mover of the Bill comes up.

*(Loud consultations)*

**The Temporary Speaker** (Sen. (Dr.) Machage): You did not show interest on the computer. I am literate enough to read the computer and see Members interested in contributing. Your name is not among the people that have declared their interest to contribute to this Bill. Maybe a later request that came in when I had already called (Sen. (Prof.) Kithure Kindiki is Senator (Dr.) Agnes Zani. I see her name. Your name is appearing now. May be I will use standing Order No.1 to request that the Senate Majority Leader resumes his seat and we give the two legislators an opportunity to contribute.

*(Applause)*

**(Sen. (Dr.) Zani** Mr. Temporary Speaker, Sir, I had actually pressed my button hoping to contribute to the Bill. Maybe that was premature. I wanted to be one of the first contributors. I am Sorry about that.

**The Temporary Speaker** (Sen. (Dr.) Machage): Go ahead. I have given you the permission.

**(Sen. (Dr.) Zani** Mr. Temporary Speaker, Sir, the Bill has not been moved.

*(Loud consultations)*

**The Temporary Speaker** (Sen. (Dr.) Machage): Have you moved the Bill? Which Bill were you contributing to, Sen. Kajwang?

*(Laughter)*

**Sen. M. Kajwang:** Mr. Temporary Speaker, Sir, Natural Resources (Classes of Transactions Subject to Ratification) Bill (National Assembly Bill No.54 of 2015).

**The Temporary Speaker** (Sen. (Dr.) Machage): No, that one is premature.

*(Loud consultations)*

Just hold your horses for some other contribution. (Sen. (Prof.) Kindiki), can you move the Bill?

**The Senate Majority Leader** (Sen. (Prof.) Kindiki): Mr. Temporary Speaker, Sir, I beg to move that the Natural Resources (Classes of Transactions Subject to Ratification) Bill (National Assembly Bill No.54 of 2015), be read a second time.

This is one of the Bills that the Constitution requires to be enacted to give effect to the various general provisions of the Constitution. In particular, this Bill gives effect to Article 71 of the Constitution.

That Article provided for the first time in the history of our legal system, that all contracts and agreements which are entered into concerning the exploitation of natural resources, while they might be entered into between people and Government, they must be approved by Parliament. For a long time, the state has enjoyed unfettered discretion with regard to awarding of contracts for the exploitation of natural resources such as minerals, petroleum or natural resources like forestry and wildlife, and the people have not had a chance to have a say in the people who benefit.

For example, if the national government is awarding a conservancy to a private person to run and manage wildlife, there must be Parliamentary approval of such a transaction. As we are going to see in some of the proposals in this Bill, the public must participate. Parliament must cause the local community to give ideas on the benefits that they are getting and also to give ideas on how the rights of the beneficiaries of that contract, licence or transaction are balanced with the rights of the local community. It is a very important Bill, very short but very critical.

Let me highlight a few provisions in the Bill because at this stage it is a general debate, Second reading stage. I am sure the relevant Committee has already been seized of this Bill and when we come to the Committee of the Whole, they will give us any amendments to it.

Mr. Temporary Speaker, Sir, This Bill requires that transactions, contracts and agreements involving exploitation of natural resources in this country must be approved by Parliament. The use of the word “Parliament” here is instructive. It requires that both Houses; the National Assembly and the Senate must approve such transactions. The threshold for the contracts and agreements that must be brought to both Houses of Parliament are established in the Schedule to this Act, and include the following: First, with regard to crude oil and natural gas, any transaction involving authorization to extract crude oil or natural gas, must be approved by the two Houses of Parliament.

Secondly, all mineral agreements with a threshold of \$500 million and above must be approved by the two Houses of Parliament. Thirdly, the same case applies to water resources and to the extraction of sea water within the territorial sea for private



commercial use. Fourthly, the extraction of underground steam within a water conservation or other water resource protected area.

With regard to wildlife, a number of transactions have been classified as requiring Parliamentary approval. They include: extraction of oil, gas and minerals within a wildlife conservation area, or other wildlife protected area, export and re-export of endangered wildlife species, as well excision or change of boundaries of gazetted national park or wildlife protection area.

With regard to forests, we have two classes of transactions that require Parliamentary approval. These include: long-term concession of a gazetted forest resource and excision or change of boundaries of gazetted public forests or nature reserves. We have had cases in this country where a forest has been excised and given to private people or companies to ostensibly undertake development activities. While that might be a good thing, there is need for both Houses of Parliament to approve such transactions and also for the public in the local community to benefit and give input before such permits are given.

With regard to genetic material, grant of an access permit, a material transfer agreement or a permit to conduct field trials of Genetically Modified Organisms (GMOs) and any other transaction will be subject to ratification by an Act of Parliament. Those are the classes that now going forward; will require parliamentary approval. Nobody will be given a grant to explore oil or gas without the two Houses of Parliament approving. Nobody will be allowed to use a part of a former forest which has been degazetted without the approval of the two Houses of Parliament and without public participation. That is the first thing.

Mr. Temporary Speaker, Sir, the second thing which I want to highlight is in Clause 3 which talks about the types of transactions which fall under this Act. They include all transactions relating to natural resources, whether the grant to exploit those resources is given to the national Government itself or to county governments. As you know, sometimes, the Government itself is involved in the exploitation of natural resources for example, through state corporations and parastatals. Therefore, even in the event that it is a national Government agency involved, Parliament must approve those transactions.

Clause 4 states that transactions can fall within that threshold for Parliamentary approval and they are in the Schedule which I have already highlighted. The fourth issue I want to highlight relates to Clause 5 which provides that once a person has been given a licence or an agreement, or once a Government agency involved has issued a grant agreement involving the exploitations of a natural resource, whether minerals, gas or oil, within 14 days, the beneficiary of that transaction must write and submit that grant to the Cabinet Secretary (CS), so that the CS can forward it to both Houses of Parliament within 14 days. When you get the grant or licence, it will not be in operation until you first submit it to the CS within 14 days.

Under Clause 6, the CS for Environment and Natural Resources in this case is enjoined to ensure that they submit to Parliament within seven days after the receipt of a request. Once Parliament is seized of the matter, it must dispose it of within 60 days or two months. That means that Parliament is going to be very busy, knowing how busy we

are already. However, if you consider how many grants, licenses and transactions the Government allows for the exploitation of natural resources, it is likely that we will get a bit of work coming through by virtue of the operations of this Act. Nevertheless, within two months, Parliament must dispose of the matter. That is in Clause 8.

In Clause 9, there are certain factors that Parliament must consider so that Parliament is not just arbitrary when approving or declining to approval because under Clause 7, Parliament might approve. If both Houses of Parliament approve, the transactions become valid automatically. If both Houses of Parliament disapprove, the transaction becomes null and void. If one House of Parliament approves and the other does not, the Bill proposes that the provisions on mediation in Articles 112 and 113 of the Constitution shall apply. In the ordinary course of the relationship between the two Houses, there will be mediation and the mediated decision will carry the day. If an approval is mediated, that will be the decision. If the mediation is to disapprove, then that transaction is null and void at that point. So, it shows how strong and powerful Parliament is going to be in terms of transactions, going forward.

Mr. Temporary Speaker, Sir, I do not intent to speak for long because the Bill is even very short. Under Clause 9, the factors that Parliament will have to consider before making a decision on whether or not to approve, so that Parliament does not act arbitrary include the following; the applicable Government policy; the recommendations of relevant Government agencies on that matter; any comments that may be received from the county the natural resource is situated; adequacy of stakeholder participation before the licence was given or the grant was issued and the balance between the interests of the beneficiary of this grant and the interests of the local community in terms of the benefits that the local community is getting.

Mr. Temporary Speaker, Sir, for a long time, we have had cases in this country where people and companies are given licenses to do mining or explore oil but with no obligations to the community and the country. Perhaps, there has been some revenue received in terms of royalties which we know are minimum. I am sure the new Mining law which this House passed a few weeks ago will upscale the value in terms of royalties that people doing mining and exploitation of natural resources are paying.

Mr. Temporary Speaker, Sir, over and above, this Act requires the usual royalties. There must be some benefits for the local community. That will go a long way in resolving some of the long standing challenges and problems between investors and grantees of national licenses for natural resources and local communities. We know what is happening in Kwale regarding the mining of titanium by Tiomin. We know there has been a bit of push and pull with the local community demanding more than what the Canadian company that has the concession is giving.

We have seen the push and pull in Lake Turkana area between the local community and Tullow, the British company that is exploring for oil in that area. We have seen the push and pull in many parts of this country where the local communities demand certain things to be done first in terms of local benefits, Corporate Social Responsibility (CSR) and infrastructure being developed as one of the benefits for the local community. So, this Act will go a long way in balancing the interests of the

beneficiary of the grant on one hand and the benefits that the local community gets on the other hand.

Mr. Temporary Speaker, Sir, Clause 10 talks about mediation in the event any House of Parliament does not approve the transaction. Clause 11 requires the CS responsible for the environment, in consultation with the sectoral CSs, to develop a register of transactions, so that all transactions that have been approved by Parliament will be kept in a register and they shall be open for public inspection at any time, free of charge, according to the proposal in this Bill. Therefore, the CS in charge of environment will have to consult sectoral CSs. For example, if it is an issue of mining rights and concessions, the CS for Environment and Natural Resources has to consult with the CS for Mining. If an issue concerns forestry and there is a CS specifically dealing with forestry, there must be that consultation *et cetera*.

Mr. Temporary Speaker, Sir, I do not want to spend much more time. The last one is Clause 15 which says that transactions that might commence once this Act has been enacted but before its commencement date will not be affected by the operation of this Act. It is normally called "Savings Clause." So, the only transactions that will be affected by this Act are those that will commence after the Bill has become law and commenced operations or entered into force.

With those remarks, I beg to move and request my senior brother, Sen. Obure to second.

**Sen. Obure:** Thank you, Mr. Speaker, Sir. I want to take this early opportunity to congratulate the Senate Leader of Majority, Sen. (Prof.) Kindiki, for being very explicit in moving this Bill.

This is an important Bill which we shall be enacting in accordance with the provisions of the Constitution. It is a requirement of the Constitution that this Bill is enacted and is one of the Bills which have constitutional timelines. The objective of this Bill is largely to protect our national resources and to ensure that those resources are exploited properly and the benefits are enjoyed by Kenyans themselves.

Mr. Temporary Speaker, Sir, we have complained for a very long time about how our natural resources have been exploited by foreigners. This has been due to the absence of the law that stipulated how the resources would be exploited and how the benefits would be shared. In the past and in many circumstances, Kenyans have not benefited from the natural mineral resources that exist within our borders. You will find that some of them are important mineral resources, for example, oil and gas. We have known cases where large tracts of land are given to privileged individuals and other institutions. No justification is given as to why those tracts of land have been allocated to them. This Bill, if enacted into law, will address all these shortcomings.

Mr. Temporary Speaker, Sir, if somebody wishes to extract underground water within a protected area, they would not be able to do so without following the procedure and the requirements of this Bill which we hope will be enacted into law. In the past, excision or change of boundaries of the gazetted public forests has been done arbitrarily. You will find that a gazetted forest has been degazetted so that that piece of land can be allocated to individuals, sometimes for uses which are not very clear. If this law is

enacted, it will not be possible to carry out such excisions until Parliament has ratified such a transaction.

In the past, it was possible for individuals sitting in Government offices to allocate a large portion of land within a gazetted forest or an institution's land to an individual. Sometimes there is no basis or justification whatsoever. However, I am glad that this will no longer be possible because this law is very specific; that such a transaction will require approval of both the National Assembly and the Senate. I think this is a good law as this requirement is very important; although there are going to be many complaints because this is another process which has been introduced and will be bureaucratic and cause delays and so on.

Mr. Temporary Speaker, Sir, I want to strongly recommend that Parliament puts in place a mechanism to ensure that no delays are occasioned and that these transactions are dealt with speedily and promptly so that it does not become a stumbling block to investors and other people who want to be involved in the exploitation of natural resources in this country. I think this is a very good law that will ensure that we benefit from the natural resources within our own area and boundaries and that the benefits of our natural resources are felt by our people.

I beg to second.

*(Question proposed)*

**The Temporary Speaker** (Sen. (Dr.) Machage): Sen. Dullo Adan, proceed.

**Sen. Adan:** Thank you Mr. Temporary Speaker, Sir. You have been trying to pronounce my names and you are now coming along.

**The Temporary Speaker** (Sen. (Dr.) Machage): Order. What is the right pronunciation of your names?

**Sen. Adan:** Mr. Temporary Speaker, Sir, it is the one that you have just pronounced. You did very well and I thank you for that.

I will also thank the brains that were behind this particular legislation. This is a very important document to our country. In some areas, the current policy and legislation has been used to benefit foreigners instead of locals. This Bill will ensure that that will be history.

Mr. Temporary Speaker, Sir, one of things that I wanted to discuss in this particular Bill is the issue of consultation which is very important. This is because we need to be very clear on what 'consultation' means. We have seen instances where consultation has been regarded as meeting with few people in a hotel and taking photos in an attempt to convince people that consultation took place.

A threshold for consultation has to be very clear for a country or a group. Secondly, the procedures that are going to be put in place in terms of how the process should be started or initiated should be clear. This will go a long way in ensuring that there are no loopholes and gaps. This will ensure the rights of the citizens are considered.

Mr. Temporary Speaker, Sir, there should be limitation within the law. For instance, if someone has been granted a license for a specific natural resource, it should be indicated in that particular license or agreement. This is because when people were

initially given a license, they used to forget what they were licensed for and went ahead to use the same license in exploring other minerals which were not part of the licensing conditions. For example, if someone has been given a license to explore gas in Isiolo County, it should be limited to only gas and not any other resource.

The aspect of mediation is very important in that, if one House disagrees with the other in terms of how approval is done, consensus needs to be reached so that the approval is granted. The relationship between the community and the licensee is very critical in legislation.

Mr. Temporary Speaker, Sir, second is with regard to the relationship between the community and the person who is given a licence. It is very critical to come up with the legislation and the procedures that will be used. This is because over the years, explorers are given licences and they go to counties to harass communities. If an explorer is coming to a county, there must be mutual relationship between him as an investor and the community. If that is not taken care of, it will affect our communities. We have seen instances where communities are not informed or involved in what investors are coming to do. When they are asked, they harass the community. This has to be considered in the agreement and the licence.

The other aspect is the benefit. Over the years, policies and legislations did not consider what benefits communities were to get from this particular licence. I think this particular time this legislation will go a long way in ensuring that local communities are involved at the initial stage in what they will benefit from this particular process. This is very critical because Kenyans will be able to protect their interests once this process is initiated.

The other aspect is capacity building of the communities. This is because communities must be involved from the word go, that this particular investor is coming to do a, b, c and d, and this is what you will benefit. If this is not done, it will be a violation of the rights of the citizens. This has to come out very clearly in this particular Bill.

My final point is the period of exploitation which should be limited in the sense that if I am given a licence, it should be for five or ten years and not forever. There are some explorers who go to some counties to explore, harass communities and keep on exploring and end up exploiting everything. We need to factor those aspects into the agreement as well as the procedures that will be put in place.

This is a very important document. Currently in my county, there is a big problem where the Governor is leasing the park to foreign investors. The local communities are not involved and it has brought a lot of debate in terms of how this is done without consulting the communities. I think this will go a long way in curbing such issues. It is very important that this is fast-tracked so that governors are stopped from doing things the way they feel, as though it is their own property. This will help communities to benefit from their natural resources.

**Sen. M. Kajwang:** Mr. Temporary Speaker, Sir, thank you for the opportunity to contribute to this Bill. I had earlier raised a point of order on the mistaken fear that the Senate Majority Leader was going to close debate on the matter. Thank you for your ruling which has given me time to listen to the Senate Majority Leader, the seconder and Sen. Dulo, from whom I have been able to pick some good points.

Let me point out one or two areas where I think this Bill needs to be strengthened. This is quite a straightforward Bill. Article 71 of the Constitution requires Parliament to come up with a similar Bill to define the transactions that are subject to ratification by Parliament. The good thing is that the Constitution talks about Parliament and not the National Assembly. So, there will be no ambiguity. The same way today the Budget is being read in the National Assembly instead of Parliament, at least in this particular case, the Constitution is very clear.

**The Temporary Speaker** (Sen. (Dr.) Machage): Order! I do not want what is going on in the National Assembly to be legitimized by the Senate. What is going on today in the National Assembly is a *kamukunji*. It has no basis in law. Please, read your law.

**Sen. M. Kajwang:** Mr. Temporary Speaker, Sir, thank you. It is, indeed, a *kamukunji*. In the case of ratification of contracts relating to natural resources, it will not be subjected to a *kamukunji* but to Parliament - the National Assembly and the Senate. That is why we also say that some important issues that affect this nation should not be addressed in a *kamukunji* in the National Assembly or in the Senate. These are issues that should be addressed in Parliament which in its collective form are the two Houses.

I will give you an example. The issues of electoral reforms that we are talking about as a nation should not be subjected to *kamukunjis* or caucuses of Members of Parliament (MPs) who drink tea together. There needs to be a formal structure and institutional approach to achieve some of these great things.

Going back to the Bill, I looked at the definition of natural resources as contained in Article 260 of the Constitution. It is quite interesting that natural resources include the sunlight. Who would have ever thought that sunlight could be a natural resource that could be tapped and yet Kenya is blessed with natural sunlight, which can be utilized to a great extent, particularly in generation of solar energy. Sunlight has not been looked at as a tangible asset in this country. For example, there is a solar power project within my county. It is a huge project where investors have put in more than US\$8 million to generate solar energy to feed into the national grid. That contract has been managed by the county government and it has not been subject to Parliamentary approval or ratification by any other body. You could understand because it is today that we are discussing this Bill.

However, it is important that before we get into such grand projects, there has to be some clarity on how communities will benefit. At the very minimum, such a project should have been subjected to ratification by the county assembly. That lacuna has been there and I hope that with this Bill, such projects of grand magnitude will be subjected to a court where the people's representatives sit.

Mr. Temporary Speaker, Sir, if you look at the problems that Nigeria has had on issues of lack of transparency, especially on oil and gas contracts; it has caused a lot of problems. Some of the problems that include terrorism, militarism and war in certain parts of Nigeria, especially in the oil producing regions arise out of lack of transparency on some of these deals where the local communities do not understand how they stand to benefit from some of those contracts.

Kenya is blazing the trail. We are not the first country to insist on Parliamentary approval. A number of countries have done it. I think this is the way forward and right direction so that all communities understand what it is that some of these contracts entail. I have picked the example given by Sen. Adan where governors are now leasing parks which are listed as natural resources under Article 260 of the Constitution. This should be put to a halt. In fact, there should be a way that this Parliament could pronounce itself and put a moratorium on contracts pending the enactment of this Bill. This is because before this Bill is enacted, many fishy things can go on. You will find people in panic mode to conclude leases and transfer of oil blocks. We have 46 gazetted oil blocks in this country.

Mr. Temporary Speaker, Sir, just this year, the Government announced that it will create five additional blocks. There seems to be a rush to sign some of these contracts before this Bill is enacted. If there was a way that we could call for a moratorium on contracts; that the Government shall not enter into any further contracts until this Bill is put in place, it would provide protection for the citizens of Kenya.

Part of the natural resources includes national reserves. There is a debate going on right now that more than 200 acres of the Nairobi National Park will be excised to make way for the Standard Gauge Railway (SGR).

Many Kenyans have looked at the manner in which the excision is being undertaken and it looks fairly suspicious. The section or part that is being excised, where the SGR will pass, gives the impression that there is a deliberate plan to create land for private speculators and investors of the Nairobi National Park.

It is important that this Bill is put in place before that particular matter is concluded. This is also another matter that a moratorium should be placed on, pending the conclusion of this Bill, so that the excision is a matter that has to come to the National Assembly and the Senate. As it is right now, the power seems to be in the hands of the National Land Commission (NLC). The spirit of the Constitution was such that before a natural resource is awarded, cut-off or a contract is signed over it, Parliament, as the representative of the people, needs to be involved in the particular discussion. We gave out about 80 acres for the Southern by-pass, but going forward we must find a way of putting a stay on any negotiation and contract that is currently under discussion, until we finalize this Bill.

Mr. Temporary Speaker, Sir, I have an issue with the Schedule that defines the classes of transactions that are subject to ratification by Parliament. The Schedule lists straightforward things which include oil, gas, underground water resources, wildlife and forests. The Schedule also talks about genetic material. Article 260 of the Constitution defines natural resources as including bio-diversity and genetic resources. Therefore, one would expect that this legislation would touch on genetic resources. However, in this country we have the Bio-Safety Act, which establishes the National Bio-Safety Authority and provides it with a series of responsibilities.

In this Schedule, the grant of an access permit or material transfer agreement is one of those classes of transactions that require parliamentary approval yet the Bio-Safety Act has laid out elaborate procedures for applications, approval and risk assessment of the two points that have been captured in the Schedule of this Bill.

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

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

Madam Temporary Speaker, this is one area that we must look at to find out whether we are creating a Bill that provides Parliament with the responsibility that has already been assigned to another statutory authority. If we want Parliament to provide approval for access permits or grant of permits to conduct field trials of Genetically Modified Organisms (GMOs), then we must kill or amend the responsibility of the National Bio-Safety Authority, or do away with the Bio-Safety Act. At the right time, I propose that we re-look at that schedule and allow issues to do with genetic materials and resources to be dealt with by a specialist body, which in this case is the National Bio-Safety Authority established by the Bio-Safety Act.

Finally, on the contracts that have already been signed and entered into regarding the 46 gazetted oil blocks in Kenya, there is suspicion that most of them have been allocated to companies or individuals. Unfortunately, Kenya did not adopt a competitive allocation process; it was a first come, first served basis. That is why our late brother, Jacob Juma, ended up being the beneficiary of a block containing huge stash of minerals whose worth cannot really be established. Maybe it was the belief or the possession of such riches that could have driven him to do some of the things he went about doing around.

There is need to ensure that the contracts that have been negotiated and signed up are released into the public domain. I am not worried about them because Article 35 of the Constitution provides that any Kenyan has a right to access information held by the State. I hope that Kenyans will utilize that particular provision to get detailed information on the details of the contracts that have already been entered into. We need to know who owns the oil blocks in Kenya. There was a time when there was a rush to allocate oil blocks and declare Kenya's oil and gas potential. Unfortunately, when the Jubilee Government took over, we are hearing less of oil and gas and more of the SGR.

We need to understand what happened to the oil and gas when it was said that Kenya will be an oil producer. That needs to come back to the national narrative so that the young people of this country have a future that they can believe in. They should know that we can afford a Kshs2.3 trillion budget because we will have the natural resources to finance it. They can also know that a Government can come in and commit Kshs5 trillion budget, and they will be confident that there will be a way of financing it without going into extra taxes, borrowing and the Eurobond, whose proceeds then come back and Kshs1.35 billion goes to the hands of one person who reveals that it was a conspiracy of politicians and Government leaders.

Madam Temporary Speaker, I support the Bill subject to consideration on genetic material, because it has already been dealt with under the Bio-Safety Act.

**Sen. (Prof.) Lonyangapuo:** Madam Temporary Speaker, I join my colleagues in contributing to this Bill which is important to Kenyans, particularly those in the regions where there is a lot of potential of untapped natural resources.



The issue of Parliament giving ratification to some of the approvals that have been given by the relevant Ministries is coming too late. I wish it was done before because, as I speak, a major part of our counties, especially areas with potential for oil and peculiar minerals have been taken over by people whose faces have never been seen or known.

I hope that this Bill will demand that any approval and prospective licence that has been given from the time we got Independence be brought to Parliament for it to be checked again. This is important because some people were hoarding and assigning themselves some blocks of areas in the country as they worked closely with the people of the Mines and Minerals Department, at that time, which is now the Ministry of Environment, Water and Natural Resources. They allocated themselves some of the areas without due consideration and process of talking with the communities where resources are found.

Last weekend, I passed through Kitale Town which is the headquarters of Trans-Nzoia County. It is the only other town than Nairobi where we have a resource that is never found in any other city. In Nairobi we have the national park, which my colleague has just talked about. I hope that what Sen. M. Kajwang has said - that some people want to excise part of it for use of fast-tracking products made outside Kenya to some countries - should be taken seriously. The people of Nairobi should stand firm.

Madam Temporary Speaker, If 200 acres of land is removed from that park, all of us should migrate there and stop construction from going on. Kitale is peculiarly in trouble. It has 500 acres of forest in town. However, over the weekend, I found many men with power saws cutting trees. I raised the matter with the relevant officers including the Governor, and Sen. Ndiema could attest to that if he was here.

The grapevine has it that some “big fish” wanted the trees gone so that they could grab the land considering that we are heading to an election year. They are destroying the natural resources that we inherited when the colonialists left the white highlands of Trans Nzoia. Where are the relevant departments when all these things are happening? They are allowing the environment to be destroyed.

The governors in the counties have assumed amorphous powers where they can just wake up and start dishing out land whichever way they want. Sometimes, we end up with strange people being seen roaming around in the villages in some of the areas trying to find minerals. It is important that we have this law in place, which should demand that we get back whatever has been given for it to be subjected to scrutiny in Parliament.

I know that some county assemblies have been roped in to pretend that they give permission and approvals. Having sat in the Committee on Finance, Commerce and Budget and the County Public Accounts and Investments Committee (CPAIC), I know that some of the MCAs have been pocketed by the governors and their work is to rubberstamp some of these issues. However, such interests do not exist here in Parliament. We are here to safeguard the interests of our nation.

Madam Temporary Speaker, I was surprised when I went to the remotest part of my county and was told the type of minerals that are found in the Hills of Sok and Mtelo, yet somebody claims to be in possession of a title deed because there are traces of chromate and copper in that area. In the whole of that constituency, there are no title

deeds possessed by the locals. How then can someone claim to have a title deed for that particular region? It is therefore essential that we rein them in on some of these things.

As I climbed the hills of Mtelo, I found somebody who has been camping there with a bulldozer because it is claimed that there is a lot of gold underneath some parts of the Hill. That fellow has bought motorbikes for our people in a bid to bribe them. When you look into the matter closely, you discover that the governor's signature as well as that of some people in Nairobi was used by that person.

Looking at this Bill, it shows that we are not conscious of what we have. When a leader comes out to stop some of the extractions that are ongoing, it is easy for them to receive death threats. Ken Saro Wiwa was killed in Nigeria for standing up for the rights of the local people. My county neighbours in Turkana County, I read in the social media today that the governor of my county has been meeting officials of Tullow Oil Company so that they can come and do exploration in our county. The Senator has been ignored and the Members of National Assembly are not involved. One person is seated in an office discussing resources that belong to the community. That should not be allowed as we introduce this law.

Turkana is peculiar in a way. When they discover that you are interfering with their way of life and they know that you will benefit, they migrate and stay next to you. The Tullow Oil Company is forced to give them free breakfast, lunch and dinner that feeds many *manyattas*. Tullow Oil Company has realized that they have interfered with people's lives. That is the kind of keenness that we would like our people to have as we discuss this Bill. I am aware that we are talking about wildlife.

The other day in Tiaty Constituency, Baringo County, some fellows acquired land so that they can put up hotels without consulting the local community. They signed contracts with some people in Nairobi without involving the people on the ground. Those are some of the things that bring problems if they are not checked.

Madam Temporary Speaker, we, as a nation, we have a lot of resources in every county. I am told that there are prospects for oil mining by Tullow Oil Company in Kisumu County. Has the local leadership; current and past, been consulted? Will we end up with a situation similar to the one we had in Kwale County where one person was going to benefit Kshs1.5 trillion from minerals when other people knew nothing about it. That means that the relevant Ministry has not come out clearly to tell us what we possess. Why is it not possible for us to inform the people in order for them to know the price to assign their land?

Recently, the Kenya Electricity Transmission Company Limited (KETRACO) was moving power from Turkwel that is to be supplied all over the country. They paid very cheaply for land in some areas where my people reside between Marich Pass, Orwa, Sarmach and Kainuk in Turkana. Their reason was that those people do not have title deeds and do not know the meaning of land because they migrate with their animals. Some of the places that the power lines pass have prospects of oil and the precious minerals. Those people should have been paid appropriately for the land that they have given KETRACO. It is important to know what we have so that the people who reside in those areas are aware.

Madam Temporary Speaker, in 1975, at a place called Arlale in my county, rubies were discovered. One person awarded himself a title deed back then but feared to venture into that area. Therefore, the title deed is in his pocket. There is no one in the whole of Kacheliba Constituency who possesses a title deed. The Senate Majority Leader is here, and should tell us whether when the Jubilee Government says that it is issuing title deeds, they are aware that no one has a title deed in a whole constituency. One person awarded himself a title deed but has been unable to venture there because of the wildness of the people who live there. That person will retire with that title deed in this pocket. He will never step on that land. Therefore, it is in order to bring people along and open up resources found in these communities, counties and regions so that they do not discover and begin to fight for genetic resources.

Sen. M. Kajwang talked about the new parastatal that was created in 2010 to assist Kenyans with the latest scientific skills. As soon as parastatals are created, and somebody is appointed a Managing Director (MD), Chairperson *et cetera*; everybody takes position. They go into slumber and do not do anything at all. We have over 200 parastatals in the Republic. A number of them deal with these resources.

I have just talked about a parastatal concerned with forests yet forests are being destroyed in Kitale Town. Is it that the MD of the Kenya Forests Service (KFS) is not in office? He is! Why do they allow this? It is because sometimes they are beneficiaries. There is a culture in Kenya; people say, "Eat where you are, eat where you are working." How do you eat where you are working while you are supposed to be protecting this?

**The Temporary Speaker** (Sen. Ongoro): Senator, you have half a minute.

**Sen. (Prof.) Lonyangapuo:** Madam Temporary Speaker, this Bill is important. I support it. I request my colleagues that we fast-track it. I urge the Senate Majority Leader that we should ensure through the relevant Committee, previous permits issued are tabled here. Then, we will know who has become rich for free yet we have this House.

With those remarks, I beg to support.

**Sen. (Dr.) Zani:** Madam Temporary Speaker, I rise to support this Bill. It is important. It gives prominence to Article 71 of the Constitution. It enumerates transactions requiring Parliament's ratification across the board.

The Schedule is also clear. It lists various resources that are covered. It is a broad range of resources; crude oil, natural gas, minerals, water resources, underground water, wildlife, forests and genetic material. I will comment about genetic material later on.

However, definitely when a mineral agreement is at a threshold of US\$500 million, then definitely Parliament has to be concerned with it. The Bill is clear; Parliament means both the National Assembly and the Senate. At specific clauses, it is clear that even if necessary then the provisions of Article 113 be triggered to ensure that sufficient role is played by both the Senate and the National Assembly either at the initial level of deciding whether this is a process that will involve only the Senate or the National Assembly. More so, where there will be a difference in amendments that will be made, then that will immediately go to mediation.

Therefore, this is important. It first deals with natural resources which are dear to Kenyans' hearts. As Sen. (Prof.) Lonyangapuo said, there is no county that does not have natural resources. As the Senate, we have been crucial. We have also played a role in

discussing natural resources. You may remember the Natural Resources Benefit Sharing Bill, 2014. For example, concerning benefits that need to go to the community, we already have that Bill. We just need to fast-track it through the National Assembly so that communities benefit.

The importance of this Bill is that it rationalizes the use of natural resources and gives provisions specifically for that to happen. It also gives the Cabinet Secretary the leading role in ascertaining specific ratification processes. What is the underlying reason therefore, for this transaction and their ratifications when it limits exploitation especially by foreign entities so that you do not have foreigners engaging without supervision in large scale level of extracting? Sometimes they just come from foreign agencies and also as local individuals. So, beyond a particular sum, it is very important that citizens are protected from that level of exploitation.

Whether that exploitation comes from within or without, it must be addressed and it also helps to protect the heritage of Kenyans. At the end of the day, they can benefit from specific natural resources. Of course, through ratification which is an official way to confirm by promoting or going through a process by a vote, it needs to be very clear that such ratification is important.

First, it is an official way of doing it. Secondly, in this case, Parliament can look through and ratify just not through debate but usually through a specific vote. Therefore, Members of Parliament (MPs) will be cognizant of the facts that go on in any discussion and give appropriate ratification. That form of formal validation is important. We have a process of formal validation of a law. We already have a law in place. However, it is not carried highly because this is a very broad sector. In many cases, you might find that people run away with quite a lot. Therefore, it is important that formal validation is done even though we already have a process law.

Madam Temporary Speaker, Article 71 of the Constitution is clear. It states that Parliament shall enact legislation providing for classes of transactions subject to ratification. As one of the Senators said earlier, this law needed to have come into place much earlier. However, we are happy it is coming into place now.

Among other things, this Act applies to any transactions entered into after the effective date. So, this will be immediate. The act applies to any transaction involving all actors. All levels have been considered; the national Government, county governments, state organs and all county government entities. So, all the levels of these players have to be considered at the various points.

Madam Temporary Speaker, Clause 4 gives a list of areas that are not subject to ratification. It is important that apart from having the Schedule that gives areas for ratification, we also have those which do not require ratification, for example, at sub-clause 2(b), the grant of a concession or right by a private person to exploit natural resources through an agreement or contract.

So, at a specific level, when somebody has an agreement or contract and they are at an individual level, they can continue with the extraction of the natural resources. Where a grant of a concession or right to exploit a national resource is for scientific research, education, non-commercial purposes, it has already been provided for. When it comes to the partnership that exists in educational institutions, especially, for scientific

research, it is important that there is a flow that has to move from one entity to another. That flow is done without any complications.

Madam Temporary Speaker, we have a material transfer agreement which is not a permit. It is an agreement that exists in various institutions for the transfer of materials from one institution to another. That is already governed. That is why in the Schedule, at resource No.11, on grant of a permit to conduct free trials of Genetically Modified Organisms (GMOs); these provisions have already been covered by the Materials Transfer Agreement. This is what Sen. M. Kajwang was speaking to.

We need to look through the classes of transactions as they have been put and as we continue to debate, look at the implication of other acts that are already in place; governing the processing for these specific areas, for instance genetic material and resources. We also have the Biodiversity Act, No.2 of 2009. To a large extent, it also talks about the material transfer.

Madam Temporary Speaker, as we consider whether we need to have a look at those specific categories for ratification, when we move on to the various clauses especially part 3 on Submission of Agreements to Parliament, I think this is very critical. The timing is given there, the sort of agreement that needs to be put into place is also discussed and that the transaction will have the Cabinet Secretary (CS) responsible for natural resources who is also subject of the transaction as being the person to whom the submission of the agreement should be made.

At clause 6, more responsibility is given to the CS responsible for the natural resources who shall submit an agreement memorandum to Parliament for ratification, in terms of Article 71 of the Constitution.

Therefore, during the process, a lot of homework will need to be done, in terms of background, especially by the Ministry, so that as they progress to give the transactions to Parliament for consideration for ratification, those submissions and agreements have been thoroughly assessed.

Clause 9 states that:-

“The following shall be relevant considerations in deciding whether or not to ratify an agreement.”

These are very key because they give the relevant considerations on the transactions subject to ratification. Recommendations of the relevant regulatory authority will have to be sought, comments received from the county government are also an important process as those decisions are made.

I had already alluded to Clause 10, which is very clear about the procedure in case of different resolutions, because this can be a potential source of conflict between the two Houses, and that has been well addressed. Where one House of Parliament resolves to ratify the transaction but the other resolves not to, then automatically, even before that, we should have already gone through the provision of ensuring that the process is in the right House but the mechanism for Article 102 and 113 will be relevant and these are supported by the Standing Orders. In situations where the National Assembly says this is due for ratification but the Senate says the opposite, then, obviously, we need to go into mediation to ensure that we have a form of the Bill that is acceptable to both Houses and that provision has been put into place.

For all the administrative arrangements I have talked about, information and the possibility of going through the specific process, the register shall be maintained, for example, in electronic format. The good thing about that is that we have gone digital and it should be possible for people and Members of Parliament to quickly inspect it. I think I fear sometimes when I see, in view of the things we have said, that certain information, because we are talking about open data systems that have now become very critical.

I remember being at a forum where a presenter very confidently said that if you called a certain number, you would be told whether you have been registered as a voter or not. Immediately when we called that number, there was no response. It has become a habit where people just say this is open data and it is available yet it is not. People do not even have recourse to where to go in order to get the data. Which public office will you walk into to ask for public data, and be given? You will be asked what business you have with that data.

Sometimes when you ask for this information even at the level of a legislator, some people want to hide when they think there is something hidden in it. I think it is a culture and it must be changed in this country. We should move towards open data systems if we are serious. It is through open data systems that we will move to open governance which is the key password in the world now. People are talking about open governance partnerships that are meant to expose and allow people to participate.

Madam Temporary Speaker, one of the Senators - I think it was Senator Fatuma Dullo - earlier talked about public participation which is something we are still grappling with. Even though it has been adhered to and provided for in Article 10 of the Constitution, very little public participation is going on. If we do not have public participation, then we are not empowering people to have a voice, and sometimes that voice makes governance easier.

There is a very high correlation when you look at studies correlating areas where there is proper public participation and governance and performance. People are also not in doubt and they understand what is going on. You are also giving them capacity and that should be also enhanced through civic education.

Lastly, Clause 13, especially on the regulations, states as follows:-

“The CS, in consultation with Sector CSs, will make regulations giving effect to the provisions of this act. Without prejudice to the generality of the subsection; the regulations made under this section will prescribe the particular classes of transactions entered into between the effective date and the commencement date.”

That is something important. I think that will be guided by the Schedule. It is key that various audits will be done from time to time and that will continue to give a sense of the specific transactions that need to be ratified.

As I conclude, let me go back to the Schedule where I started. We need to realise especially when we are talking about genetic material that we are removing the responsibility from the National Biosafety Authority which has been created by the Biosafety Act No. 2 of 2009---

**The Temporary Speaker** (Sen. Ongoro): You have one minute.

**Sen.(Dr.) Zani:** Therefore, we need to ensure that we have clarity in terms of ensuring that we do not replicate. When we go to the Committee of the Whole, we will be suggesting amendments to remove clauses 10 and 11 in that list, because they have already been dealt with appropriately in the existing Acts.

I support.

**The Temporary Speaker** (Sen. Ongoro): Yes, Senator Hargura.

**Sen. Hargura:** Madam Temporary Speaker. I would like to support this Bill, because, first, it is a constitutional requirement that in our own wisdom as Kenyans, we have put in our Constitution Article 71. This Article states that Parliament has to enact a law which gives the classes of transactions which should be subject to ratification concerning exploitation of natural resources. So, this is a requirement which we have to come up with.

The most important thing here is ratification because before, things have been done without the knowledge of the public. Even those who were affected by that exploitation did not know what was going on around them. Now that the the Constitution requires that we declare what transactions require ratification, then we are opening up an area which has initially been involved with a lot of secrecy.

Now the public will know what has been done where to the extent that even a register is kept and you can access and see who has been given what in terms of the right to exploit resources, and this is good. In Clause 9, the Bill clearly states what ratification is all about, so that we make sure that the relevant Government policies have been complied with by the parties in these transactions who are seeking the rights to exploit the resources.

The most important one is Part B which says, “Where there is adequate stakeholder consultation.” That is where we normally have problems. The stakeholders are members of the public who live on the land where those resources are found and who just see people who are unknown to them and even those who are known to them exploiting resources without them being consulted and this affects them in one way or another. So, this will give Parliament time to establish whether there was any stakeholder consultation and whether the public had agreed with it or not.

The most important thing is that somebody who is interested in exploiting any resources, referred to here as “the beneficiary” will not go ahead to do the exploitation until this agreement has been ratified, and that will allow the public to come in if they had not been consulted before.

The classes of transactions are also clearly stated in the Schedule. However, there are some new resources which have not been captured in this Schedule. For example, Article 260 of the Constitution identifies solar power as a natural resource but it is not in this Schedule. We also have wind energy and it is also not in this Schedule. From the direction we are moving now, in terms of renewable energy, these are resources which will be exploited by many investors. If we do not include them in this kind of classification, we will have a scenario of communities not been consulted as we have witnessed in the past. An investor will just come and start investing.

In most cases, wind power involves a lot of land use. So, it requires acquisition of land first and then exploitation of the resource. This also needs to be included here so that

those who will be affected eventually when investors come to the ground will have had their say before these agreements are ratified. So, at a later stage, I will urge the Mover to also include solar and wind as resources which require ratification because most of the northern parts of this country which are sparsely populated and have these resources are the next frontier for development, especially generation of renewable energy. All this needs to be taken into account so that the communities who in most cases are even not aware of all this will not be shortchanged and the resources will not be harnessed to their detriment. They should also be part of the beneficiaries when it comes to this.

The same Clause 9 has clearly stated one of the things which need to be checked. These are benefits which the local community is likely to enjoy from the transaction. That is also part of the requirement for ratification. If those sources of energy or other natural resources are not included here, then that will be a leeway for those communities to be disinherited of their resources as we have already experienced in some cases.

The Bill also gives a submission timetable, so that it does not take forever. If an investor commits himself to exploit a certain resource, they may wait for ratification to be done if there is no proper timetable. This Bill has given a timetable up to even when there will be mediation between the two Houses. So, it is a very clear provision so that investors will not be held down. We are trying to be an investor friendly country and attract investors. However, if we come up with laws like these which do not give a timetable, an investor will not be able to plan his or her programmes because resource exploitation requires a lot of finances and one needs to have a proper timetable. So, it is important that we have that part (iii) about the submission timetable.

The other one is part (iv) which talks about transparency because we have the administrative arrangement which indicates that there will be a register somewhere. If one will be interested in exploitation of a natural resource somewhere, they can start from that register and check whether the area is already covered or if it has been taken. From there, one can now develop his or her plan because there is a point from where you can actually start, by checking whether there was any earlier arrangement on that particular resource.

Therefore, I support this Bill. I hope that at the relevant stage, those two other natural resources; solar and wind, will be included so that the whole spectrum of the natural resources which now going forward will be part of the resources which will be exploited. We should ensure that other renewable sources of energy are also captured here and the interests of the community are also guarded.

I thank you.

**The Temporary Speaker** (Sen. Ongoro): Sen. (Prof.) Kindiki.

**The Senate Majority Leader** (Sen. (Prof.) Kindiki): Madam Temporary Speaker, I beg to move. I also request that you direct that the putting of the question be deferred, pursuant to Standing Order No.54 (3).

**The Temporary Speaker** (Sen. Ongoro): That is in order. We will defer the putting of the question to tomorrow, Thursday, at 2.30 p.m.

*(Putting of the Question on the Bill deferred)*



Next Order!

*Second Reading*

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

**The Temporary Speaker** (Sen. Ongoro): The Senate Majority Leader.

**The Senate Majority Leader** (Sen. (Prof.) Kindiki): Madam Temporary Speaker, I beg to move:-

THAT. The Order of Precedence and Titles Bill (National Assembly Bill No.11 of 2014) be read a Second Time.

This is a Bill to provide for the order of precedence for officials at diplomatic, official and social state functions within Kenya and abroad and to provide for official titles of designated office holders and for connected purposes.

It is unfortunate that our country has become a country obsessed with titles, but at the same time, we have realised that a lot of confusion arises, especially now under the new Constitution. We have very many office holders, some of them elected, others appointed while others working for independent institutions. Sometimes when you meet in functions and meetings, there is no clear order of doing things and I think that is the basis of having this Bill. Nevertheless, I am one person who believes that titles and honorifics should never be the basis upon which leaders should demand respect from society. Yes, it is a good Bill but I think in this country, we have overemphasized on titles.

I am aware of colleagues who if they are called by their names and you do not add the word “honourable” before their names, then you are in trouble with them. They will even remind you that. It is even embarrassing when somebody introduces themselves. I am saying this because I have a background in the academia. In the academia where my sister, Sen. (Dr.) Zani, also has a stint, people are very simple. In fact, the more learned or the more senior a member of the academia is, the more humble they become. When the best authorities in disciplines such as Sociology, International Law or Anthropology introduce themselves, they simply say their first names and that suffices.

However, in this country, we have a culture of titles. People are almost forcing citizens to refer to them as honourable, Excellencies and things like that. That should not be a culture in this country. Of course, it is good to respect offices and office holders. However, that should come naturally from the people we represent and serve as opposed to demands by ourselves. For example, my name is Kithure Kindiki. My mother never called me professor. I will feel a bit uneasy if you did not call me Kithure Kindiki. All the other titles like Senator, Professor are honorifics and they are never demanded but given by other people.

Madam Temporary Speaker, in a nutshell, I want to highlight three things. The first one is why we need this Bill and the answer is in Clause 3. We need this Bill to ensure that we maintain public order and decorum at national functions and social engagements of the Government of Kenya; to promote a national culture of respect,

orderliness and discipline for public officials to facilitate the good governance of the Republic of Kenya; and, to guide the Salaries and Remuneration Commission (SRC) in determining the remuneration, salaries and allowances of state officers in accordance with Article 230 of the Constitution. In other words, when the SRC grades officers, they are likely to use this ranking as one of the factors to consider. That is why we need this Bill.

The second issue is the Proposed Order which is in Clause 4. In the Proposed Order, the President will be the seniormost followed by the Deputy President, the Speakers of Parliament, the Chief Justice, former presidents and former prime ministers. There is only one former Prime Minister because the other holder of that office is no longer alive; that is the late President Jomo Kenyatta. I thought we should have said the former prime minister because there is only one former prime minister. But who knows, in future, we might revert to some of these titles because we are doing this for posterity.

The leader of the majority party comes immediately after the former presidents and former prime ministers. After the leader of majority party is the leader of minority party and then former vice presidents and former deputy presidents. MPs and county governors are in the same ranking. Justices of the Supreme Court, judges of the Court of Appeal, judges of the High Court, Cabinet Secretaries (CSs), Attorney-General and Auditor-General, Principal Secretaries (PSs), Chief of the Kenya Defence Forces (KDF), Inspector-General of the National Police Service (NPS) or Director-General of the National Intelligent Service (NIS), chairpersons of constitutional commissions, commissioners, commissioner of prisons, ambassadors and high commissioners. That is the Precedence list.

Thirdly, who is entitled to fly the national flag on their vehicles or even use sirens in their motorcades in traffic? It is the President, the Deputy President, Speakers of Parliament, the Chief Justice, the chief of KDF the Inspector-General of NPS, former presidents and former prime ministers. Those are the ones entitled as proposed in this Bill. I think it is a good Bill as a guide. As leaders, we should not demand to be respected. Respect is earned and it is not in mandate.

Finally, this Bill is a combination of initially what Sen. (Dr.) Khalwale has proposed in the first Bill that we passed. The National Assembly also had a version which had emanated from the MP for Eldas, Hon. Keynan. I hope this is a compromise for the two Houses of Parliament. I do not want to speak more than that.

I beg to move and request my younger brother, Sen. M. Kajwang, the Senator for Homa Bay County, to second this Motion.

**Sen. M. Kajwang:** Madam Temporary Speaker, it is my pleasure to second this Bill. I am not deeply excited about this Bill even though I say it is a pleasure to second it. This is because this is the kind of Bill that does not put food on the table of Kenyans. It is the kind of Bill that the former President Moi, would have said will not increase the pans and pots of ugali in your household.

However, in Government, there is something called protocol which deals with the mundane things like deciding who should seat next to who and who should speak before who. Personally, I advocate an easy culture and I am inspired by Shakespeare who said that a rose by any other name would smell as sweet. So, whether you call someone

“honourable” or “Excellency”, it is the content that matters rather than the name or the exterior expression.

Nonetheless, as I second this Bill, it is quite straightforward. It defines the order of precedence which the media calls “pecking order” for state officers. It defines who can fly the national flag or use a siren and provides guidance to ensure that there is order, decorum and protocol at state functions. It also goes ahead and provides a basis for the Salaries and Remuneration Commission (SRC) to use when it comes to evaluation of jobs and also in determination of salaries for State officers.

This Bill comes within the backdrop of some serious competition amongst elected leaders. I support some sentiments that were made by the Senate Minority Leader earlier today; that our Constitution is overdue for an audit. We should look at it and ask ourselves whether it makes sense. Many things do not make sense. Sen. Boy Juma Boy picked the Constitution and put me through a lecture on Article 96. He tells me in his understanding of that particular Article, a Senator does not represent the people of counties but a corporate entity called a county.

These are some of the things that make a Senator look like the ambassador of a county and yet he has to go through an electoral process similar to that of the governor. I think it is time that we did an audit of this Constitution. I dare add that if, indeed, it is true that the ruling coalition has accepted that we can proceed with structured dialogue, then this could be one of those areas that we will look at and ask ourselves as a nation; yes, this was one of the most progressive constitutions, it is far much better than what we have had previously but are there certain things that do not make sense that we can rectify or attempt to amend at this point before we get into the next administration?

Sen. (Dr.) Khalwale had come up with a Bill. I think it was the National Flags, Emblems and Names (Amendment) Bill. I hope that the drafters of the Bill that we are considering right now considered what Sen. (Dr.) Khalwale had proposed. I hope that we have picked the good points out of Sen. (Dr.) Khalwale’s Bill so that what we have becomes a superior version of what the good Senator had thought of and what the initiator of this Bill had brought up.

I have noticed that this Bill does not define the place of Members of County Assemblies (MCAs). Neither does it even define the title by which MCAs shall be called. Sen. (Dr.) Khalwale had proposed that MCAs shall be called “Honourable Assembly Men or Women”. It is a fairly long title and quite a novel title.

*(Laughter)*

I interacted with MCAs of my county assembly and I think it would be fair to let them go by the “honourable” title. It has defined so many of them and people are just about to change their official names. Whereas the Senate Majority Leader does not want to be called “Professor” because his mother did not give him that name, I have seen and experienced situations where people introduce themselves and say: I am Honourable ----” and then they go ahead to state the names that their mother gave them.

We need to be good to our brothers and sisters in county assemblies. We represent counties and we need to look out for them. We do not want the headlines to read: “Senate

takes away 'Honourable' title from MCAs". I think it is a title that they have used and there will be no harm in us looking at this Bill and making sure that they are treated and placed somewhere within the order of precedence.

As I support and conclude, I hope there will be some amendments at the Committee Stage to incorporate our brothers in the county assembly. I also hope we will interrogate this particular Section where we have said that MPs and county governors are at the same level. I mean, that is where the problem is. You go to an event and you are not sure who between the governor and the Senator should come first. I think we need to be bold enough and say it is the governor then the Senator or the Senator and then the governor. That needs to be unbundled. Putting us all in one category will not help anything. At the end of the day, a rose by any other name would smell as sweet.

I beg to second.

*(Question proposed)*

**Sen. (Dr.) Zani:** Madam Temporary Speaker, sadly, as has been said, this is a Bill that originated from the Senate and it is now coming from the National Assembly in more or less the same form. However, these issues need to be sorted out. It is an important Bill because it removes our ego and helps us to remember where we fit in.

The Bible says that when you go somewhere, you should sit behind so that you can be told to go sit in front. Other times you could be sitting in front and you are told to go and sit at the back because you are not 'honorable.' That can be very embarrassing. As it has been said, I think we all like titles. People like to give themselves all manner of titles, for example, doctor or professor. Some prefer to be referred to as a minister, reverend, doctor; all the titles together.

One really wonders whether it is that important. Some people ask about titles and what they prefer. At the end of day, it is important to have the right reference. We are in a new dispensation and Constitution. This is something that needed to be made clear because different office holders give themselves different titles. I am not sure whether after this Bill is passed and assented to, it will be easy to remove those titles that have stuck from right at the beginning. Maybe this Bill should have come earlier so that we identify specific positions and titles.

A title, especially politically, gives the order of seniority and hierarchy. That is what politics is all about. That is why people prefer to speak last, so that they feel authoritative and answer everybody who cannot answer them back; they are the ones with the last word. The Bill is very clear in the objects and purposes, to maintain public order and decorum. We have seen ugly scenes of lack of decorum. We have seen people snatching microphones from one another, saying that they be the ones who deserve to address the audience. This needs need to be sorted out. Titles also create a culture of respect, order, discipline and form of doing things. When it is stipulated like this, nobody will ask specific questions. As has been said, it is also important in guiding the Salaries and Remuneration Commission (SRC) in determining the specific scales which will be critical.

As Sen. M. Kajwang said, Clause 4 gives the order. We have not been bold enough in (i). We have compressed this category too much. I know that Senators are Members of Parliament, but of a different category. For example, parliaments across the world, like in Rwanda or United States of America (USA), Senators are addressed as 'Senators.' For us in this new dispensation where we are the guardian angels of counties, it needs to be clear. We are not Members of Parliament (MPs) in the sense that Members of the National Assembly are MPs; there is a distinction. That is why we have a bicameral system rather than a unicameral system.

The problem arises because we have not yet embraced the level of bicameralism that we need to embrace in this country. We are finding a problem with this Bill because it is silent. There is no single sentence or word about Senators in the Bill. It looks like it is being avoided quite consciously. We need to deal with the evident lack of the mention of 'Senators'.

In Clause 6 (f), the proposals for titles are given for everybody else apart from the Senators. That needs to be noted. When it comes to making amendments, we should put that in order. As has been said by Sen. M. Kajwang, Members of County Assemblies (MCAs) have also been left out. We should accept that we have the devolved system, which has county assemblies and county governments. We have a different parallel form of authority across the specific counties, which is clear and important.

If we do not do what is stated in Clause 4 (3), which is interestingly helpful in this Bill, we can have a recipe for conflicts in succession. That Clause comes out clearly to say that presiding order does not mean a natural succession. There is a process for succession that is separate from the order that has been given. If left like that, it can create a problem when it comes to succession; people might forget the specific process.

We all love to move quickly through traffic jam and so, the enforcement of this law has to be straight to ensure that those who use sirens are the ones who are meant to use them. There is a particular group of about seven people who are allowed to use sirens. I am also happy because the former Presidents and the former Prime Minister will be allowed to use sirens. That gives us a plus, especially for the CORD Coalition.

Clause 6 states that the governor of a county shall be referred to as "the governor". Where a provision has already been made for Members of Parliament (MPs) that they be addressed as 'honourable', we can suggest the use of 'honorable Senator' for specific Members of this House.

Penalties of up to about Kshs1 million have been given for wrong use of titles. Titles are really about culture and how it is entrenched within a particular society. It is important to have a culture that is entrenched in a way that is meaningful. Every time we talk about culture, we remember that it is a way of life. Most of the time, culture is about an agreement among various people. There is nothing cast in stone when we talk about dialogue about the Constitution. The definition of a law is that it is a social contract among various people. This is why we have amendments for people to give their views about a particular law. It is only in Kenya where it becomes a battle ground. In most of the other legislatures and countries, it is something simple, straightforward and in sync.

At the end of the day, we want to make changes that are key and important. Even as the change is taking place, the main issue is to embrace the values. The values in

Article 10 of the Constitution are clear. If we can have the values come up as a system for acculturating ourselves in our legislation, it would become easy.

Madam Temporary Speaker, as I finish, the Bill seeks to ensure that we have a good image of the country, discipline, order and decorum, which is important but it will be a process to enforce it. When it comes to the actual enforcement, the aspect of culture and values that I have been talking, will be more critical than anything else.

I support.

**The Senate Minority Leader** (Sen. Wetangula): Thank you, Madam Temporary Speaker. I was skeptical when this Bill was first mooted. As time went by, I have been convinced that it is important to have some hygiene and order in public conduct of leaders, how they are addressed and how the pecking order should be.

Madam Temporary Speaker, a lot of obscenities have been displayed all over with people over-playing themselves and behaving like they have descended on earth from Mars. That makes things look very convoluted. I have always said that we have a lot of respect for our governors but some of them behave in a manner that is so irritable to everybody. Whenever I am in my county, I see my governor moving around the county with 20 to 25 four wheel drive vehicles on the road with sirens causing all manner of commotion. I can count more than five people that my governor and his motorcade have knocked down and killed because of this madness. They have no remorse or respect whatsoever.

Parliament has a duty to bring about public order. Whenever a Cabinet Secretary is passing in town, people are shoved off the road in all manner of recklessness. I hope that when this Bill is passed, it will be enforced so that people can have some decency in how they handle matters. More important to note is the misconduct that we have been seeing from a lady called Ms. Sarah Serem who pretends that she does not know what Parliament does or the work of a Senator.

She said that a Senator should be remunerated at the same level as a MCA because she does not understand the work of a Senator. That is either high level ignorance, arrogance or a mix of both that does not help this country at all. When people are given public offices, they have a duty to understand what they are hired to do.

If the office of the Salaries and Remuneration Commission (SRC) was working together with the Office of the President, we would have been able to have designed this without going through legislation. I fully agree that the pecking order should be as set out in Clause 4; the President, the Deputy President and Speakers of Parliament. However, as the Constitution is designed today, we cannot pretend that our Speaker is equal to that of the National Assembly. If there is a vacuum where the President or the Deputy President are incapacitated or removed from office, the Speaker of the National Assembly takes precedence. Nonetheless, they are Speakers and we should give them that order of precedence.

The Chief Justice is the head of the third arm of Government. Therefore, he is rightly placed where he is. He is followed by former Presidents and former prime ministers, Leaders of Majority and Minority, former Vice Presidents and Deputies, the Members of Parliament, Judge of Supreme Court, Judge of Court of Appeal, Judge of High Court, Cabinet Secretaries, Attorney-General, Auditor-General and Principal

Secretaries. I am convinced that we may have to rearrange this precedence because I do not believe that in our hierarchy set up, the Chief of Defence Forces (CDF) is junior to a Principal Secretary. He is definitely senior. We should rearrange so that Nos. "O" becomes "N" and "N" becomes "O".

The Inspector-General of Police Service and the Director General of National Intelligence Services should be put correctly. The Chairpersons of constitutional commissions are rightly put followed by Commissioner of Prisons. However, I think that the Commissioner of Prisons is the same in rank with the Inspector-General of Police Service. We should have ranked him as No."P" as well. Ambassadors and High Commissioners are rightly placed. However, I think we have left out a critical segment of equally important elected leaders, the Speakers of the county assemblies considering a county assembly like Nairobi has 60 per cent of our GDP under its watch.

The Speaker of that Assembly and all assemblies are important. When we were in Mombasa, I forgot to mention that you find anybody picked from anywhere and made Speaker of the National Assembly or Senate is automatically given a national honour, Elder of the Golden Heart (EGH) as well as anyone picked from anywhere to be a Cabinet Secretary yet the speakers of the county assemblies cannot even be given the Moran of the Burning Spear (MBS). It will be good to recognize the county speaker. I also encourage that honours should be given to people in honour of what they do and where they are. Even if it is the President bestowing the honours, they are national honours. It is the nation honouring people because of the offices they hold.

Madam Temporary Speaker, I do not want to see a situation where a first term Member in the National Assembly is given an honour while speakers and governors of counties have none. The governors who have titles are those who held them in their previous capacities. They are not catered for anywhere. We should legislate to say that when one becomes a governor, one merits some kind of honour that can go alongside their title of governor or a speaker of a county assembly.

We should also list the Members of the County Assembly (MCAs) at the tail end of this pecking order. I am fully aware that when this becomes law, Ms. Sarah Serem will become more sensible and look at us differently. She will stop pretending not to know what a Senator or Member of the National Assembly does. She does not know the difference between the Senate and county assemblies. She even said that she wants Senators to tell her what they do from 8.00 a.m. to 5.00 p.m. When people get jobs that they do not merit, they start behaving in a bigoted manner like that and that is not right.

The President, Deputy President, Speakers of Parliament, Chief Justice and Chief of the Kenya Defence Forces are allowed use of the national flag and siren. However, the Chief of Kenya Defence Forces normally does not fly the national flag. He flies the military flag. The Inspector-General of the National Police force does not also fly the national flag. He flies the special force flag. I would have extended this privilege to be extended to former Vice Presidents. If you have been a Vice President before, flying the national flag and using the siren, is only fair. We can deny them the flag but give them sirens. Someone like hon. Moody Awori needs a siren to clear the road for him as he goes about his business, if not for anything else.

I hope that my brother considers adding former Vice Presidents to the list. I do not know where my brother wants to place former Chief Justices because someone who has held that position is unlikely to get any other job other than being a retired respectable person. At the age of 70, we should give such a person honour because we will be lucky to see them off 10 years upon retirement. If one has held such a high office and then all of a sudden, one's stature drops, it has a terrible impact on one as a human being.

It would be good if we allowed former Chief Justices to continue using the flag and the siren. Sometimes it may not be necessary but depending on how different regimes behave, we need also to consider putting in the law that they are also entitled to state security. We have some vindictive leaders who come into office and become retributive against their perceived and known enemies and start abusing state authority as Jubilee is doing to hon. Raila and hon. Kalonzo. Even after Parliament passed the law to give them their pension, they started putting clogs that they will be given pension if they leave active politics.

Sen. Haji who is an active Member of this House is a pensioner. Sen. Musila is an active Member of this House too and he is a pensioner. You can work for the United Nations (UN), get your pension, go back home and become a President and continue earning a pension from the UN. When hon. Yekoyada Masakhalia was in Parliament with us, he showed me his pension slip. He was earning a pension of US\$2,000 from the UN and still earning a salary as a Minister and Member of Parliament (MP).

Madam Temporary Speaker, when the Kenya Private Sector Alliance (KEPSA) came to see us they talked about bringing some hygiene in the conduct of public life and politics so that we start talking to each other and not at each other. My brother, Sen. (Prof.) Kindiki may consider it. We do not need to bring another law. We can consult and see whether we can bring a new clause at the Committee Stage to cater for those kinds of things so that we remove discretion where it is not necessary so that if you leave this House as a Majority Leader, there must be some things that you are entitled to that nobody should take away because he or she does not like how you look, walk, behave or where you come from.

Equally important, we need to have a situation where this is constitutional. It may not be done here. In a country like Burundi - it may not be a very good example but it is happening - In Rwanda, all former Presidents are automatically Members of the Senate. It gives them an address. Beyond being a retired President, it puts them in a position to continue playing an important role in public life. In Burundi, Mr. Ndayizeye, Mr. Buyoya and all others who have been there are Senators. It is good. I would imagine a situation where *Mzee* Moi, *Mzee* Kibaki and very soon when we retire President Uhuru in the next elections, we give him a landing ground to come to the Senate and sit there; assuming that after being kicked out after one term, he can mend his ways with Kenyans, then from there he can still vie in another election, win, do another term then come and retire here.

Therefore, I would like to see a situation where constitutionally, retired presidents and prime ministers automatically become Members of the Senate so that they are recognised. Those who are malicious will deny them pensions. However, they will then have the comfort that they are here. They will earn some income and living. It helps. You never know whether it will be my brother here or me, even that noisy man called hon.



Duale might be elevated to some place where he might require some landing ground when he retires or when he is retired and he realises that the ugly noises he was making were totally unhelpful to himself and the country.

Madam Temporary Speaker, on that note, I laud those who generated the idea; the distinguished Senator for Kakamega and hon. Aden Keynan in the “Lower House.” The Bill has come to fruition. It will bring some order and sanity in the public pecking order so that we do not have doubt.

Let me finish by telling you what I have experienced in my county. I used to go to public places, including funerals and there are hirelings of the governor, the MCAs whom he has paid. So, when people automatically recognise me and say, our Senator is our most senior politician is here and he will speak last; then they stand up and start shouting, “you are breaching protocol.” So, I told them, “I am the least among you.” Every time we meet in any public function such as a funeral, the Senator is the least among you and he will speak first then you speak last”. What used to happen is that as soon as I speak and leave, everybody left with me. So, now when I go to places, they say, “Please speak last” so that they can also have some audience to address.

With those remarks, I beg to support.

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

**The Senate Majority Leader** (Sen. (Prof.) Kindiki): Madam Temporary Speaker, the Senate Minority Leader exudes a huge duality. On one hand, he makes very useful contributions, fairly intellectual input but at the same time, he waters down all he has done by making strange and unnecessary remarks. For instance, the remarks he has made about my colleague hon. Aden Duale and others.

Having said that, allow me to thank colleagues who have contributed in support of this Bill. We have all agreed that we need some form of order. In Kenya we have not cultivated a culture of respect. So, we need to legislate so that overtime, in another 100 or 200 years, we will not be dealing with this kind of legislation.

I agree that the Chief of the Defence Forces (CDF) is a fairly senior person. That is an area that we need to consider. I also agree with my brother, the Senate Minority Leader, about the former Vice Presidents being recognised and given some stature and security. I do not even mind them flying flags. They are leaders in their own right. They have served this country.

There is the issue of national honours which we passed last year, 2015. Nothing prevents us from bringing amendments to recognise very important cadres of leadership that have been brought up by my brother, the Senate Minority Leader; the county assembly speakers who have been forgotten. They need some kind of honour to be conferred by virtue of leading at that level. There are two arms of Government in counties; the executive and the legislature. So, I support a view that they should be honoured. The leader of the assembly is the speaker. Equally, governors need to be honoured. Let us say with an Elder of Burning Spear (EBS). The senior most among them, the Chair of the Council of Governors (CoG) can be conferred the Elder of the Golden Heart (EGH). That is fair. We have forgotten governors and county speakers. The

fact that they are leaders in counties does not exempt them from being part of the leadership of our nation. So, these are useful comments.

Madam Temporary Speaker, allow me to also mention the issue of the former leaders joining the “Upper House.” That is a very good tradition. Instead of our senior leaders who have retired staying at home, they should be in this House. If they were, we would not be witnessing some of the things that are happening in the streets today. My brother, Sen. Wetangula is participating half-heartedly. The cause of that entire fracas is our friends, former senior leaders who are out in the cold. So, if we recognise them and have a place like here to ventilate, we will not be having the kind of things you see across the country; property being destroyed, loss of lives, looting *et cetera*.

I was in Rwanda and visited the Senate. The former Prime Minister is a Member of the Senate. However, this should not be compulsory. If somebody is a bit elderly like Mzee Daniel arap Moi or Mzee Kibaki, he does not have to be compelled to be a Member of this House to be spending his afternoons here because maybe he wants to rest with his great grandchildren at home. President Uhuru Kenyatta will still be young when he retires in 2023 because he will be in his 60s and so will the Deputy President, William Ruto. That will be the case for many of us, including my brother here who wants to be the president. When he retires, he will still be energetic and we would like him to come and share with us his experiences.

In fact, tied to that vote is something that was brought the other day in the RBC meeting which I supported fully. This House being the senior House, we need to be having more senior leaders to come and address us. I see no reason why Mzee Kibaki or Mzee Daniel arap Moi---. I was even consulting Sen. Moi and that is a good idea. Once in a while, we would like Mzee Daniel arap Moi to spend an afternoon here for 30 minutes and share with us because he was in this Chamber in 1957 as a Member of the Legislative Council (Legco). He should come and share his views on what we do and what we need to improve on. This is very good for our traditions and culture as a country and as an institution.

Mr. Temporary Speaker, Sir, I want to leave it there. I am grateful for the comments which have been made. I agree that we need titles so that people do not misuse titles. I agree that I should not be demanding for a title and that I should not introduce myself as Hon. Sen. (Prof.) Kindiki. Those are honorifics and they are for other people to call me but I should not call myself.

I have witnessed scenarios where a person introduces themselves as Hon. Dr. Prophet so and so. That leaves you wondering how a person can be a Mr. and Mrs. at the same time. We have seen conmen in the religious sector where people claim to be prophets and doctors. I have seen cases where magicians sell chemicals and they refer to themselves as Apostle, Mr., Mrs., Rt. Rev. Dr. so and so. We also have quacks like Prof. Majimarefu.

I think the lawyers anticipated this problem. Under the Advocates Act, it is an offence to refer to yourself as an advocate when you are not. That is why you have never seen any quack calling themselves advocate so and so. I was telling my medical doctor friends to have a similar protection because this is a very sensitive profession. However, because they do not have a similar prohibition, you will find a fellow calling himself Dr.

Majimarefu and claiming that he can solve all your problems. They even claim to cure any disease, known and unknown. Therefore, these titles will help us have the hygiene that my brother, the Senate Minority Leader has mentioned.

Madam Temporary Speaker, I beg to move. Under Standing Order No.54 (3), I request that you defer the putting of the question to tomorrow. I thank you.

**The Temporary Speaker** (Sen. Ongoro): Thank you, Senate Majority Leader. Your request is granted.

*(Putting of the Question on the Bill deferred)*

Our Order Paper is still full but Order Nos. 12 and 13 are Committees of the Whole yet we do not have the numbers. Therefore, we will defer that.

### COMMITTEE OF THE WHOLE

THE PETITION TO COUNTY ASSEMBLIES  
(PROCEDURE) BILL (SENATE BILL NO.35 OF 2014)

THE COUNTY OUTDOOR ADVERTISING  
CONTROL BILL (SENATE BILL NO.11 OF 2015)

*(Committee of the Whole deferred)*

**The Temporary Speaker** (Sen. Ongoro): The Movers of Order Nos. 14 to 19 are not here. Therefore, I will use my discretion to defer them.

### BILLS

#### *Second Readings*

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

THE MEDICAL PRACTITIONERS AND DENTISTS  
(AMENDMENT) BILL (SENATE BILL NO.2 OF 2016)

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

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

*(Bills deferred)*

## MOTIONS

### ADOPTION OF REPORT OF CPAIC ON THE FINANCIAL OPERATIONS OF HOMA BAY COUNTY EXECUTIVE FOR THE FINANCIAL YEAR 2013/2014

THAT, this House adopts the Report of the Sessional Committee on County Public Accounts and Investments on the Inquiry into the Financial Operations of Homa Bay County Executive for the Financial year 2013/2014 laid on the Table of the House on Wednesday, 4<sup>th</sup> November, 2015.

*(Motion deferred)*

### ADOPTION OF REPORT ON THE SECURITY SITUATION IN MANDERA, LAIKIPIA AND KAPEDO

THAT, this House adopts the Report of the Standing Committee on National Security and Foreign Relations on the assessment of the security situation in Mandera County, Laikipia County and Kapedo (Border town of Turkana and Baringo Counties) conducted between 19th January and 5th February, 2015 and laid on the Table of the House on Wednesday, 29th July, 2015.

*(Motion deferred)*

**The Temporary Speaker** (Sen. Ongoro): We only have two minutes to closing time.

## ADJOURNMENT

**The Temporary Speaker** (Sen. Ongoro): Hon. Senators, there being no other business, the Senate stands adjourned until tomorrow, Thursday, 9<sup>th</sup> June, 2016, at 2.30 p.m.

The Senate rose at 6.30 p.m.