

# PARLIAMENT OF KENYA

## THE SENATE

## THE HANSARD

Wednesday, 20<sup>th</sup> February, 2019

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

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

### PRAYER

### COMMUNICATIONS FROM THE CHAIR

#### VISITING DIGNITARIES FROM KONRAD ADENAUER STIFTUNG

**The Speaker** (Hon. Lusaka): Hon. Senators, I would like to acknowledge the presence, in the Speaker's Gallery this afternoon, of visiting dignitaries from Konrad Adenauer Stiftung.

I request Mr. Thomas Toedtling, Director and Ms. Jane Murutu, Project Manager both from Konrad Adenauer Foundation to stand so that they may be acknowledged in the Senate tradition.

In our usual tradition of receiving and welcoming visitors to Parliament, I extend a warm welcome to them and, on behalf of the Senate and on my own behalf, wish them a fruitful visit.

I thank you.

*(Applause)*

#### BREAKFAST MEETING ON THE 2019 BUDGET POLICY STATEMENT

**The Speaker** (Hon. Lusaka): Hon. Senators, as you are aware, the 2019 Budget Policy Statement (BPS) was tabled in the Senate on Thursday, 14<sup>th</sup> February, 2019. The Standing Committees of the Senate are expected to scrutinize the BPS and forward their recommendations to the Standing Committee on Finance and Budget, which will consolidate the same and table its Report not later than Tuesday, 26<sup>th</sup> February, 2019. The Senate should then debate and conclude the report by Thursday, 28<sup>th</sup> February, 2019.

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Hon. Senators, as I mentioned last week, the BPS is an important tool as it sets out the broad strategic priorities and policy goals that will guide the national government and county governments in preparing their budgets both for the following financial year and over the medium term.

In light of this, a breakfast meeting has been organized for all Senators where the Parliamentary Budget Office shall assist Senators in unpacking the 2019 Budget Policy Statement and interrogating the proposed strategic priorities and policy goals by the National Government.

The breakfast meeting will be held tomorrow, Thursday, 21st February, 2019 at 7.30 am, in the Senate Chamber. The meeting will be preceded by breakfast which will be served in the Members Restaurant, Parliament Buildings.

Hon. Senators, I take this opportunity to invite and urge all hon. Senators to attend this important meeting.

I thank you.

**Sen. Were:** Mr. Speaker, Sir, I rise to support your communication and to extend a welcome to Mr. Thomas Toedtling and Ms. Jane Murutu from Konrad Adenauer Stiftung (KAS) that has been instrumental in helping us strengthen devolution by offering technical support.

As you were walking in, you were provided a book titled 'Devolution in Kenya' which we launched last month. It is authored by Mr. Thomas Toedtling and others, and it is for us to refer to. They have also prepared various policies which we have shared in this House to help guide legislation as well as the movement of devolution in this country.

Mr. Speaker, Sir, Senators are in the process of setting up oversight committees in their counties and we will call upon the Konrad Adenauer Stiftung to assist us in this venture so that as Senators meet their mandate of strengthening devolution, they also hold devolution accountable.

I welcome Mr. Thomas Toedtling and Ms. Jane Murutu. I look forward to further and fruitful engagement between the Senate and Konrad Adenauer Stiftung.

**The Speaker** (Hon. Lusaka): Next Order!

## PETITION

### COMPENSATION FOR PERSONS AFFECTED BY THE JAMES GICHURU ROAD JUNCTION-RIRONI HIGHWAY (A104) PROJECT

**The Speaker** (Hon. Lusaka): I do not see Sen. Wamatangi in the House. Therefore, let us move to the next order.

*(Petition deferred)*

**PAPERS LAID**

## REPORT OF THE 49TH CPA - AFRICA REGION CONFERENCE

**Sen. Were:** Mr. Speaker, Sir, I beg to lay the following Paper on the Table of the Senate, today Wednesday, 20<sup>th</sup> February, 2019-

Report of the Parliament of Kenya Delegation to the 49th Commonwealth Parliamentary Association (CPA) Africa Region Conference held in Gaborone, Botswana, 13th – 22nd August, 2018.

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

**The Speaker** (Hon. Lusaka): Kindly proceed, Sen. (Prof.) Kamar then followed by Sen. Cherargei.

REPORT OF THE 50TH SESSION OF THE ACP AND  
35TH SESSION OF THE ACP-EU JOINT ASSEMBLY

**Sen. (Prof.) Kamar:** Mr. Speaker, Sir, I beg to lay the following Paper on the Table of the Senate, today, Wednesday, 20<sup>th</sup> February, 2019:-

Report of the Parliament of Kenya delegation to the 50<sup>th</sup> Session of the African, Caribbean and Pacific (ACP) Parliamentary Assembly and the 35<sup>th</sup> Session of the African, Caribbean and Pacific – European Union (ACP-EU) joint Parliamentary Assembly held in Brussels, Belgium, 13<sup>th</sup> -20<sup>th</sup> June, 2018.

*(Sen. (Prof.) Kamar, laid the document on the Table)*

REPORT ON THE STATUTORY INSTRUMENTS  
(AMENDMENT) BILL

**Sen. Cherargei:** Mr. Speaker, Sir, I beg to lay the following Papers on the Table of the Senate, today, Wednesday, 20<sup>th</sup> February, 2019:-

Report on the Public Participation on the Statutory Instruments (Amendment) Bill (Senate Bills No.24 of 2018)

REPORT ON PETITION: CONFERMENT OF MUNICIPAL STATUS ON  
MARALAL TOWN BY THE COUNTY GOVERNMENT OF SAMBURU

Report on the Petition on the conferment of Municipal Status on Maralal Town by the County Government of Samburu

## REPORT ON THE COUNTY STATUTORY INSTRUMENTS BILL

Report on Public Participation on the County Statutory Instruments Bill (Senate Bills No.21 of 2018).

REPORT ON THE PETITION TO COUNTY  
ASSEMBLIES (PROCEDURE) BILL

Report on Public Participation on the Petition to County Assemblies (Procedure) Bill (Senate Bills No.22 of 2018)

REPORT ON THE VISIT TO ELDORET GK  
PRISONS AND REMAND

Report on the Visit to Eldoret GK Prisons and Remand

REPORT ON THE 5<sup>TH</sup> GLOBAL SUMMIT ON  
OPEN GOVERNANCE PARTNERSHIP

Report on the 5<sup>th</sup> Global Summit on Open Governance Partnership in Georgia, 17<sup>th</sup> to 19<sup>th</sup> July 2018.

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

**The Speaker** (Hon. Lusaka): Let us move to the next order.

**NOTICES OF MOTIONS**ADOPTION OF REPORT ON THE COUNTY  
GOVERNMENTS' INFRASTRUCTURE PROJECTS

**Sen. (Eng.) Mahamud:** Mr. Speaker, Sir, I beg to give notice of the following Motion-

THAT, this House adopts the Report of the Standing Committee on Finance and Budget on the County Governments' infrastructure projects comprising County Executive Headquarter offices, Assembly Chambers and offices and County State officers' residences, laid on the Table of the Senate on Thursday, 29<sup>th</sup> November, 2018.

REALIZATION OF GENDER EQUITY IN ELECTIVE  
AND APPOINTIVE POSITIONS IN KENYA

**Sen. (Rev.) Waqo:** Mr. Speaker, Sir, I beg to move the notice Motion on the realization of Gender Equity in Elective and Appointive Positions in Kenya

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**The Speaker** (Hon. Lusaka): Order, Senator! You are supposed to give notice of Motion and not move.

**Sen. (Rev.) Waqo:** Mr. Speaker, Sir, I beg to give notice of the following Motion-

AWARE THAT, the Constitution of Kenya recognizes dignity, economic, social and cultural rights, education, housing and the right to health including reproductive health; and that the principle of equality and non-discrimination is established as a core value of leadership and the national values and principles of governance include human dignity, equity, social justice, inclusiveness, equality, human rights, non-discrimination and protection of marginalized groups, among others;

FURTHER AWARE THAT, the Constitution of Kenya has very progressive articles that indicate commitment to the international and regional obligations arising from treaties and conventions and other Commitments signed or ratified;

COGNIZANT that Kenya has ratified the Convention on Elimination of all forms of discrimination against Women and the Protocol to the African Charter on Human and People's Rights of the Right of Women which are international instruments that are key to promoting women's rights;

RECALLING that policy framework to enhance gender equality has also been developed, and include the National Gender and Development Policy 2000, the Kenya Vision 2030, Sessional Paper No. 2, of 2006, the National Land Policy, the National Policy for Response to Gender Based Violence, and the National Policy for the Abandonment of Female Genital Mutilation;

NOTING THAT, despite there being sound constitutional provisions and elaborate policy framework to realise gender equity, both national Government and county governments have not done enough to realise the achievement of gender equality;

CONCERNED that women in Kenya experience hardships when it comes to elective offices, and are underrated by society with most opportunities for elective and appointive offices being awarded to men;

NOW THEREFORE THE SENATE RESOLVES

1) that Parliament fast track the enactment of the law that shall give effect to the one third gender rule; and,

2) that pursuant to Article 81 of the Constitution both the National and county governments observe the principle of equality, and empowers the female gender by increasing the appointive position to at least fifty per cent.

**The Speaker** (Hon. Lusaka): Next notice of Motion.

ADOPTION OF REPORT OF THE 49TH  
CPA - AFRICA REGION CONFERENCE

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

THAT, this House note the Report of the Parliament of Kenya delegation to the 49<sup>th</sup> Commonwealth Parliamentary Association (CPA) African Region, a Conference held in Gaborone, Botswana from 13<sup>th</sup> to 22<sup>nd</sup> August, 2018 laid on the Table of the House on Wednesday, 20<sup>th</sup> February, 2019.

**The Speaker** (Hon. Lusaka): Yes, Sen. Kamar.

NOTING OF REPORT OF 50TH SESSION OF THE ACP AND  
35TH SESSION OF THE ACP-EU JOINT ASSEMBLY

**Sen. (Prof.) Kamar:** Thank you, Mr. Speaker, Sir. I beg to give notice of the following Motion-

THAT, the Senate notes the Report of the Parliament of Kenya delegation to the 50<sup>th</sup> Session of the ACP Parliamentary Assembly and the 35<sup>th</sup> Session of the ACPEU Joint Parliamentary Assembly, held in Brussels, Belgium, from the 13<sup>th</sup> to the 20<sup>th</sup> of June, 2018 laid on the Table of the Senate today Wednesday, 20<sup>th</sup> February, 2019.

**The Speaker** (Hon. Lusaka): Hon. Members, pursuant to Standing Order No.42, I wish to rearrange the Business of the House so that we discuss the ad hoc Committee Report on Maize.

Before that, I also wish to make a Communication that will guide the discussions.

### COMMUNICATION FROM THE CHAIR

CONSIDERATION OF MOTION ON REPORT OF THE  
AD-HOC COMMITTEE ON THE MAIZE CRISIS IN KENYA

I have a communication to make regarding consideration of the Motion to adopt the Report of the *ad hoc* Committee on the Maize crisis in Kenya.

As all Senators will recall, the Chairperson of the *ad hoc* Committee commenced moving the Motion yesterday in amended form when the Senate Minority Leader intervened on a point of order. The salient issue raised by the Senate Minority Leader was that while the amendments sought to be made to the Motion were substantive in nature, Senators had not received copies of the said amendments, and in good time, as to enable them fully canvass the issues raised by the said amendments.

Several other Senators intervened, among them Sen. Mutula Kilonzo Jnr., Sen. Moses Kajwang, the Senate Majority Leader, Sen. Okong'o Omogeni, Sen. Samson

Cherargei, Sen. Petronila Were and Sen. Moses Wetangula. The salient issues raised through the said interventions related to, among others-

(a) Whether the Committee had agreed and signed off on the said amendments.

(b) Whether it was proper for the Motion to be moved in amended form, or the Motion should be moved in the same manner as the notice that was issued, with the amendments being introduced during the course of debate.

Hon. Senators, Standing Order 57 of the Senate Standing Orders provides:-

“The Speaker may permit a Senator to move in an amended form a Motion of which notice has been given if in the opinion of the Speaker, the amendment does not materially alter any principle embodied in the Motion.”

Hon. Members, I wish to confirm to hon. Senators that I did receive the request for approval of the Motion to be moved in amended form. Being satisfied that the amendment did not materially alter the principle embodied in the Motion, I proceeded to approve for the Motion to be moved in amended form as the Chairperson of the *ad hoc* Committee did yesterday.

I have had occasion to look at the HANSARD and noted the reservations raised by Senators, regarding the question whether the amendments should have been introduced at the time of moving the Motion, or should be introduced separately once debate on the Motion has commenced.

Hon. Senators, without going into the substance of the proposed amendments and the basis for the same, it has been highlighted that by proposing to amend the recommendations contained in the Committee Report, the amendments are substantive in nature and should have secured concurrence of the *ad hoc* Committee before its term lapsed.

The issue of the maize crisis in Kenya is a very important one. Indeed, the eyes of the country are on this Senate as we proceed to debate this Report. The issue of moving the Motion in amended form as was the case yesterday appears to have generated a lot of interest which might distract the Senate from what is obviously a very important matter before us.

Having considered this, as well as the interventions of various Senators during yesterday's sitting, I, therefore, direct that the Chairperson proceed to move the Motion in its original form. If it is desired to move the proposed amendments which I had approved, the appropriate course of action will be to do so, once the question on the substantive Motion has been proposed.

The procedure for this is set out at Standing Order 62 which provides at paragraph (1) thereof that-

“Unless otherwise provided in these Standing Orders, any amendment to a Motion which a Senator wishes to propose may be moved and, if necessary, seconded at any time after the question upon the Motion has been proposed and before it has been put.”

It is so directed.

Next Order.

## STATEMENTS

**The Speaker** (Hon. Lusaka): All statements will come tomorrow.

COMPULSORY MANAGEMENT OF COPYRIGHT  
AND OTHER RELATED RIGHTS

STATUS OF VOI SISAL ESTATE

*(Statements Deferred)*

Next Order.

**The Speaker** (Hon. Lusaka): Like I mentioned using my powers under Standing Orders No. 42, we are rearranging the Business of the House to go to Order No.15.

**The Senate Majority Leader** (Sen. Murkomen): On a point of order, Mr. Speaker, Sir.

**The Speaker** (Hon. Lusaka): What is your point of order, Senate Majority Leader?

**The Senate Majority Leader** (Sen. Murkomen): Mr. Speaker, Sir, I had consulted you earlier; I was hoping you were going to make a ruling without being moved. I request that we postpone the Order on the Committee of the Whole related to Division for at least one hour to allow this moving, seconding and discussions on the report of the *Ad-hoc* committee on Maize. But we should be able to come back to the Division since we do not want Members to leave because we would like to have the Division today for the remaining Bills.

**The Speaker** (Hon. Lusaka): You will---

**The Senate Majority Leader** (Sen. Murkomen): I requested you from your Chair.

**The Speaker** (Hon. Lusaka): We had discussed with you, so you will notify me when you have the requisite numbers.

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

ADOPTION OF REPORT OF THE *AD-HOC* COMMITTEE  
ON THE MAIZE CRISIS IN KENYA

**Sen. (Prof.) Kamar**: Thank you, Mr. Speaker, Sir, for the guidance that you have given us.

I beg to move-

THAT, this House adopts the Report of the *Ad-hoc* Committee on the Maize crisis in Kenya laid on the Table of the House on Tuesday, 27<sup>th</sup> November, 2018.

As I mentioned yesterday, on 8<sup>th</sup> August, 2018, the Senate passed a Motion on the establishment of an *Ad hoc* Committee to investigate the maize situation in the country. In the Motion, the Senate resolved to



inquire into the maize crisis in the country and it gave us five items to look at.

- (i) Why farmers who have delivered their produce to National Cereals and Produce Board (NCPB) have not been paid to date, that is, as at that time;
- (ii) The quantity of duty-free maize imported into the country during the duty-free period which was to end in October, 2017 and why the period was extended;
- (iii) The challenges facing the maize farmers and the NCPB and make recommendations on how to resolve the challenges;
- (iv) The maize received by the NCPB for the 2017/18 season and to establish the suppliers; and
- (v) The criteria for identification of millers and business persons involved in the importation of maize to the country.

We want to thank this House for giving us the opportunity to investigate this matter. As we investigated this matter, we realised that the importation of duty-free maize in 2017 was shrouded in mystery all through as most of the Government agencies that came before us gave us different and conflicting information.

The maize crisis that led to the flooding of duty-free maize imported into the country seems to have been a ploy between both the public and private sector players to profiteer. I say this because there is a gazette notice that triggered the importation. The first gazette notice was Gazette Notice No. 3575 dated 13<sup>th</sup> April, 2017, which allowed for maize to be imported up to 31<sup>st</sup> July, 2017. When you look at the gazette notice, it says that anybody can import though we are going to look at who imported. It was actually open for all, according to the gazette notice.

There was another gazette notice that authorised an extension and that is Gazette Notice No. 6398 dated 4<sup>th</sup> July, 2017, which extended it to 30<sup>th</sup> September, 2017. There was a second extension by a third Gazette Notice No. 7248 dated 27<sup>th</sup> July, 2017, which extended to 15<sup>th</sup> October, 2017. It was, therefore, expected that from 15<sup>th</sup> October, 2017, any maize that is brought to the country should pay duty. Apparently, that did not happen. The authorities sought an extension and the gazette notice No. 6398 was as per minutes that we received from the Cabinet Secretary (CS), minutes of 21<sup>st</sup> June, 2017, which are in the documents that Members have. The second extension to 15<sup>th</sup> October, 2017, was contained in minutes of an inter-ministerial food security meeting of 14<sup>th</sup> November, 2017. In fact, I will be referring back to those minutes because they completely changed the direction.

It is possible that there was no flooding after the first gazette notice No. 3575 and that there was no flooding after the gazette notice No. 6398 and gazette notice No. 7248. The flooding seemed to have taken place after the gazette notices lapsed. It is the meeting of 14<sup>th</sup> November, 2017, that authorised another 9 million bags of maize yet we had been made to believe that the authorised amount was only 6 million bags. That is a very important minute because apart from authorising 9 million bags, there were immediate measures that took place out of the decisions of that committee meeting that was chaired by the Head of the Public Service.

First, they authorised that they had to immediately buy 1.1 million bags of maize. Secondly, they authorised that they should immediately buy 4 million bags from Mexico and 1.5 million bags were allocated to local farmers. The worry at that time is that by 14<sup>th</sup> November, 2017, harvesting in Bungoma, Trans Nzoia and Uasin Gishu had taken place. To give farmers 1.5 million bags was to reduce the allocation drastically because Uasin Gishu had already harvested about 4.5 million bags at that time, Bungoma had a bumper harvest of 4.8 million bags and Trans Nzoia had already harvested 2.2 million bags by that time.

It makes one wonder the reason as to why at the time when harvesting had taken place---

*(Several Senators consulted loudly)*

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

**The Speaker** (Hon. Lusaka): What is your point of order Sen. Wambua?

**Sen. Wambua:** Mr. Speaker, Sir, can I request that you require the Senators to consult in low tones. We are trying to follow what Sen. (Prof.) Kamar is saying but there is too much noise in the House.

**The Speaker** (Hon. Lusaka): Order Members. This is a very important Report that you have all been waiting for. I would ask that we pay attention and avoid unnecessary *kamukunjis* in the House.

Proceed, Sen. (Prof.) Kamar.

**Sen. (Prof.) Kamar:** Thank you, Mr. Speaker, Sir, for that intervention.

One of the most shocking revelations to the Committee was what came from the Kenya Revenue Authority (KRA). It was established that maize imported by different importers was again sold to the Ministry through NCPB and that raises another question. We seem to be following the wrong characters when we talk of the people called cartels. This is because anybody who imported, because the gazette notice stated that anybody can import, seems to have been used as a way of getting maize right into NCPB. When that was done, we were informed by the CS that there are cartels. We asked him who the cartels are because the gazette notice stated that anybody can import but he said that they had more allocations than their farms could produce.

I happen to come from Uasin Gishu County where some of the people who have been accused of being cartels come from but they are farmers who collect maize from other farmers. The reason they collect maize from others is basically because of the non-performance of the structures of the National Cereals and Produce Board (NCPB). A person with 20 bags cannot queue for three days. That happened in Moi's Bridge, Eldoret and Kitale. People waited for their turns for about two weeks only to be told that the delivery points had been closed. The reason for being closed, according to our investigation, was because the farmers had been allocated 1.5 million bags while importation was still going on as late as November outside the gazetted period.

Mr. Speaker, Sir, information that was gathered from the Kenya Revenue Authority (KRA) also showed that the Government imported 1.38 metric tonnes of duty-free white maize from Mexico, among many other non-East African Community (EAC)

or Common Market for Eastern and Southern Africa (COMESA) countries, leading to a loss of revenue of about Kshs 13 billion. Other than the loss of revenue, the duty-free maize gave the importers an undue economic benefit of a similar amount, making it very difficult for other local traders and also the farmers to sell their maize.

It is worth noting that the Government bought the maize that came from outside Kenya at Kshs 4,000 whereas farmers were paid Kshs 3,200. It is good to note that because it was not because of lack of maize – because we had maize and I have mentioned the figures – the 1.5 million bags was just a token. When the doors were closed, they did it knowing that they had not taken anything from the farmers.

Further, there was no evidence that there were standards and quality checks by the Kenya Bureau of Standards (KEBS) at the ports of entry. We visited Malaba and we discovered that KEBS only has one staff who was overwhelmed. We asked them whether they check moisture because moisture is the worst cause of aflatoxin and we were worried. As we were standing there, we saw lorries carrying maize crossing the border without any problem. When we asked them, they said they are alone and they do not have any equipment. So, it is important that we take note of this because there are corrective measures that must be done by institutions that are supposed to be doing that for us.

At the time of writing this report, not all farmers had been paid. However, most of the farmers have now been paid except those who are being punished for a fault which is not their own. We know that they are still being pursued. We know that there are cartels that have been taken to court. On what basis do you take one person who is a farmer and who took produce from other farmers to court and leave out an importer who imported a million bags?

We also discovered that it is not only Mombasa port that maize entered into the country. Maize entered into the country through Moyale, Sio Port in Kisumu, Malaba and from everywhere. When the window was opened, maize came from all over. It is important to note that sometimes we punish the wrong people. The reason I am saying this is because we punish those who would have ensured food security in the country because of the allocations.

One thing that I must mention is that if a farmer is an aggregator, because we call them aggregators, aggregating maize from other farmers, it is easy to know where they have aggregated it. If you talked to farmers from Trans Nzoia, you would know the figures because when we went round ourselves, we were given figures. Trans Nzoia County harvested 2.1 million bags in 2017, there were 4.2 million bags from Uasin Gishu County, 1.9 million bags from Nandi County, while Bungoma County produced 4.5 million bags. As I said, they had bumper harvests in that year. So, it would have been easy for anybody to detect mischief. In fact, if our detection agencies paid attention, they should not be arresting any Kenyan yet they opened the doors for everybody to import maize.

Mr. Speaker, Sir, historically, farmers have received seamless support from the Government for production of maize. You heard from the farmers when we were in Eldoret and I appreciate that you chaired one of the hottest sessions when farmers were expressing themselves. Since Independence, farmers in this country have been respected

to a certain level. Farmers stated that they used to receive seamless support from the Government when it came to production and marketing.

This was because they used to get their farm inputs from the Kenya Farmers Association (KFA), financial support from the Agricultural Finance Corporation (AFC) and offtake agreement with the NCPB. When there was crop failure, farmers were also cushioned because there was something called Guaranteed Minimum Returns (GMR).

It is time that the Senate pushed for something to be done because we all know that agriculture is devolved. We need to look for ways of cushioning our farmers especially if we are serious about having food security as one of the Big Four agenda. There is no way you can talk of food security if we have maize coming in from outside this country. It is important that we think about how farmers used to enjoy farming in those days.

As we went round, we realised that the poorest people that we have in this country are farmers. They are the only ones still living in grass-thatched houses and cannot afford new farm implements. When some of us were young, farmers used to buy farm implements almost annually. I remember farmers were the richest people and they used to have the best vehicles in the society. Now, they have completely been reduced to poverty.

As maize farmers continue to suffer unwarranted challenges related to expensive land preparation and costs due to lack of support from agricultural mechanization, county governments have given them very limited support. This is important for the Senate to note. County governments should be our areas of interest. We need to make decisions here that will change the way they deal with their farmers because they do not seem to have understood the fact that agriculture is fully devolved. Farmers are also frustrated by regular procedures and technicalities during delivery of maize to the NCPBs.

Let me talk about what farmers go through when they deliver their maize. Delivering maize is a nightmare. When we went round, a lady farmer from Bungoma told us that we had gone there to ask obvious questions and she wondered why we were there. She said they had not delivered their maize because when you take your maize, you are told it is not dry. When you go and dry and go back, you are told that your name is not in the system and when you go back again, they tell you it is a waste of time. She ended by telling us that the price of one bag of maize is equivalent to one *jogoo*. She wondered why they were wasting time on that.

We also listened to farmers in Uasin Gishu and we heard them talk about challenges and difficulties that they have. I visited Ziwa NCPB depot during the recess and discovered that they have even become more complicated. Delivering maize to the NCPB has become more complicated than it was before. These days, you are required not only to take your national identification card and confirm the number of acres you have but also take your title deed with you. If a man has five sons and gives each of them 20 acres to farm and the same father leases out another 20 acres, you will have about seven people under the same farm. Who will take the title deed and who will believe whose title deed it is? That is a tricky system.

Mr. Speaker, Sir, it is very important that county governments now take charge of knowing and registering their farmers. This is because when we were interviewing both the national Government and the county governments, we also discovered that the

national Government would like to register farmers. We then asked, “Whose farmers are you registering?” This is because it is easier for the counties to register their farmers, take stock of who has how many acres and it only becomes easier and obvious. Therefore, unless there are other reasons, it is not right.

Mr. Speaker, Sir, the National Cereals and Produce Board (NCPB) is created by an Act of Parliament to regulate and control the marketing and processing of maize, wheat and scheduled agricultural produce. However, over the period, though underfunding, mismanagement, frequent legal amendments to the NCPB Act and, of course, the corruption that we witnessed when we were there, the NCPB lost its stature. It has now been reduced to the biggest impediment and frustration to the farmers. In fact, the NCPB operates as a store.

Mr. Speaker, Sir, we discovered that the NCPB has leased stores to individuals, farmers and the big millers in particular. The stores are full, not because of any produce of their own, but because of produce that is from outside. When we interviewed the minister on this, he said that he was going to check. Two days later, we heard him announce that all leased NCPB stores are being recovered. However, only a month ago, the same millers said, “No; we leased and our produce is inside.” Therefore, even as we are talking now, the stores are full and the reason they are full is that the grain does not even belong to them; it belongs to the millers.

Therefore, that is what the NCPB has been reduced to; it has been reduced to a store. We, therefore, need to have a different way of handling it. Thank God this is a devolved item. Since it is devolved, we need to ask ourselves, as the Senate, how we want to manage food security in this country; how do we want to manage the farmers, right from planting to harvesting. It is really up to this House to decide.

Mr. Speaker, Sir, despite agriculture being a fully devolved function, the Committee noted very strongly that county governments were, at the very least, unaware of the role they should be playing in promoting agriculture in this country. That is something that we must decide and push so that they do not look like helpless bystanders in what is theirs. The national Government, of course, has also continued to hold on, not only to the agricultural functions, but also to the resources.

The Committee on Agriculture, Livestock and Fisheries needs to relook at the budget. It is good to look at what the budget was in 2012 before devolution took place and then compare it with the budget after devolution so that we see who actually is in Kilimo House, and who is doing what in Kilimo House. This is because as far as we are concerned and as far as the Constitution is concerned, the only people who should be there are policy makers. Therefore, the amount of money that is being given to the national level for agriculture seems to be much more than they would need and maybe there is need for redistribution. Once again, this Senate must do that and we have a Committee that must do that.

*(Loud consultations)*

Mr. Speaker, Sir, county governments have also done little to assert themselves in realising that the function in agriculture is devolved. Despite the country being a signatory to the African Union (AU) Maputo Declaration---

*(Loud consultations)*

Mr. Speaker, Sir, I request you once again to tell the Senators to consult in low tones because I can see that my Vice Chairperson is struggling to follow what I am doing.

*(Sen. Murkomen spoke off record)*

**The Speaker** (Hon. Lusaka): Yes, people are consulting too loudly.

**Sen. (Prof.) Kamar:** Mr. Speaker, Sir, as a Committee, we started looking at other avenues of financing and we asked ourselves how much do we really budget for agriculture in this country? We realised that we only budget four per cent, and maybe that is why we are fighting over pennies between ourselves, various sectors, tea, coffee and everywhere. However, this country is a signatory to the AU Maputo Declaration on Agriculture, which states that 10 per cent of the national budget should be allocated to agriculture.

Surely, we cannot continue with four per cent if we want to see improvement. It is important that we capture this because agriculture is devolved. What is 10 per cent? That 10 per cent should be in the county governments and since our interest is in the counties, we should be able to do that.

*(Loud consultations)*

The Committee recommends that Government must immediately pay all the farmers; that was as at that time, and we believe that it has been done.

Mr. Speaker, Sir, we also realised that when it comes to importation of maize, there is no regulation and there are no guidelines---

*(Loud consultations)*

**The Speaker** (Hon. Lusaka): Order, Members! Let us consult silently.

**Sen. (Prof.) Kamar:** We further recommended that the Cabinet Secretary (CS) for the Ministry of Agriculture and Irrigation should develop regulations and guidelines on the importation of maize and food crops and table them before this Senate. In the recommendations, we have actually given 45 days for that, and we hope that it can be done.

Mr. Speaker, Sir, I want to touch on a few recommendations, because we made quite a number of them. One, is that the Government must immediately pay the farmers, which I think has been done. The only addition here is for the farmers who have been called 'cartels;' and we are still appealing that they be released and that they be paid their

money. This is because if we were to arrest anybody, we should have arrested those who crossed the borders with a lot of produce. However, if we are dealing with somebody, and punishing an aggregator or poor farmers, it is very difficult.

Mr. Speaker, Sir, the suffering that is going on now in the maize zone is untold, because with the departure of aggregators, there are people whose children have not gone to school basically because they have nowhere to sell their produce. As we are talking now, when the President declared that the price is Kshs2,500 and that the stores should be opened, we are talking of stores that had not been opened until two weeks ago. Therefore, even what the President declared was not obeyed by the same NCPB. It is very important that we start looking at these issues, because when are we ever going to be truthful to these farmers?

The other recommendation is that the county governments should construct a database of farmers, as I had mentioned earlier. This is to ensure proper identification for purposes of maize deliveries, payments, provision of subsidies and other services. The Government should also investigate agencies in case there is anything so that we do not look like we are protecting what they have called “cartels,” whom we know are really farmer aggregators. They can go ahead and investigate and openly share their results with this House.

We have also recommended that the Office of the Auditor-General needs to conduct a systems audit on the processes of the NCPB. As I said earlier, the NCPB has been reduced to that level of becoming a store; but who is gaining from the leasing of the stores? That is what we are asking the Auditor-General to look at. Who actually is receiving that money? This is because if it was not on their fingertips when we questioned them, it means that it is not even known which store has been leased and which one has not.

We are, therefore, asking the Ethics and Anti-Corruption Commission (EACC), the Director of Criminal Investigations (DCI) and the Office of the Auditor-General as well as our standing Committee on Agriculture, Livestock and Fisheries to deal with that issue.

Mr. Speaker, Sir, we need to review The NCPB Act and the Public Finance Management Act with a view to realigning and reconciling their mandates to the devolved system of Government. This one is very important because, unless we change the law, everybody is behaving as though it is business as usual. However, our interest, even as we are lined up, is that we have strongly recommended that the NCPB be devolved completely so that the counties that are producing maize can have their silos and storage. We need to even build a relationship between these blocks that we have amongst counties so that the block that produces can actually be able to trade directly with the block that is consuming. That will change the way we do our things.

Mr. Speaker, Sir, the Cabinet Secretary for Agriculture and Irrigation must develop regulations and guidelines. We are giving him an opportunity to bring this within 45 days so that within one year, we have regulations on how to import produce. County governments should also proactively take up their agricultural function, as I had mentioned earlier, and have aggregation centres for maize not far from the farmers.

Mr. Speaker, Sir, we went to Nandi County and met farmers who said that they will never go to the National Cereals and Produce Board (NCPB) because the cost of taking produce to the NCPB reduces Kshs3200 to less than Kshs3000. Therefore, they find it difficult. The county governments should take up this more seriously. It is upon them to create aggregation centres where farmers are so that they are able to deliver produce at the right time. That is the only way we can be assured of food security.

Mr. Speaker, Sir, for many years, since independence, we have had something called Agricultural Mechanization Services (AMS). This is a service that the county governments must take over immediately. This is because it does not make any sense for an engineer from the national Government to keep collecting Kshs5000 or Kshs2000 from a tractor that has been used. It is important that the same machinery is supervised at the ground level. Currently, we are being told that it is for the national Government and whether the money is collected or not, it is not available. So, it is important to devolve this function.

We urge our county governments and their governors to take this very seriously and take over the mechanization and subsidies. Currently, as we are talking, farmers have been warned that they will not get any subsidies this year. They got the warning very late and they have already ploughed the lands and are waiting for the planting season. Why are they being told now that they will not get subsidies and that the fertilizer will now be double or triple the price?

This is another area where we need the county governments to take charge and support the farmers. Unless we have a long-term plan for the producers of our food, we can forget about food security. It is important that we respect these people and give them the support that they deserve. Therefore, the county governments must ensure timely availability of fertilizer in the right quality and quantity.

Mr. Speaker, Sir, we went to Nyamira County where we had several problems. First, we found bean seeds that expired long ago occupying 50 per cent of the store. They did not have any maize and they were suffering because they were getting it from Tanzania at Kshs100 per kilogram. In fact, they told us if there is maize in the North Rift, we should ferry it to them. However, because of the fact that our county governments have not taken farming seriously, they have not been able to take care of their people.

They also raised the issue of quality of fertilizer. They said that they were given dust as fertilizer which is not helpful at all. Therefore, it is important that county governments ensure timely availability of fertilizer of good quality and quantity. The Committee also recommended, therefore, that distribution centers be devolved so that fertilizers are distributed at the lowest level possible.

*(Loud Consultations)*

**The Speaker** (Hon. Lusaka): Order Members! Consult in low tones.

**Sen. (Prof.) Kamar:** Mr. Speaker, Sir, as I wind up, so that my colleague can take up some of the issues, county governments must pass regulations and legislations that will help protect farmers in the whole grain value chain. This was a learning curve for all of us and the governors that we met said the same. They had not seen the



seriousness of the fact that they have no law to protect the farmers and nobody is paying attention to them. We really hope that county governments will handle this more seriously than it has been.

One of the things that confused the report that came from the agencies that came before the Committee was the accuracy of the data. For example, they got something from Kenya Revenue Authority (KRA) which is different from Kenya Bureau of Standards (KEBS) and also different from the Cabinet Secretary of Agriculture and Irrigation. So, there is no way in which a person can tell how much of what has come in. Therefore, we also recommended that Government agencies must maintain accurate records without which they must be held responsible.

This is because it became extremely difficult for us to quantify or even get the data of the people who imported maize. It was difficult because everybody had different data. We must hold people responsible for this because we do not know whether the data is what it is or somebody mutilated it before presenting it before the Senate. We asked ourselves several times how come what Kenya Revenue Authority (KRA) has is different from what we have.

As I wind up, Mr. Speaker, Sir, I want to repeat that the current situation of the farmers is very bad. Farmers have been allocated a maximum of 400 bags. For example, in Uasin Gishu County we produce 4.5 million bags and we are only allocated 400 bags. This means that we can only collect one million bags. If that is the case, how shall we encourage these farmers to do any farming? It is very sad. When that was done, it became very cumbersome to deliver the same. The NCPB said that farmers can only deliver bags and they were used to delivering in lorries. Now, farmers who have 10 bags, because the aggregators must utilise their space of 400 bags, must go to NCPB.

*(Loud Consultations)*

**The Speaker** (Hon. Lusaka): Order Members! Consult in low tones. Let us take the issues being presented seriously.

**Sen. (Prof.) Kamar:** Mr. Speaker, Sir, I am winding up. The way farmers have been handled this year is very bad. They are told to carry their own bags because they cannot aggregate. The large-scale farmers have also been denied the opportunity and can only take their 400 bags which is four lorries. The small-scale farmers are the victims of all these. This is because if a farmer has ten bags, they are supposed to put them in a trailer and take them to the NCPB which is 20 kilometers away and the same price crashes down. If they aggregate between themselves, there is the cumbersome nature of delivering one lorry while each farmer has 20 bags and have to produce all the five titles and come up with identification. Therefore, the cost of the lorry will be exorbitant.

We need to rearrange how we do our things. I hope the NCPB and the Ministry of Agriculture and Irrigation will take the farmer seriously so that they can deal with farming as something that is beneficial to the country and not to themselves.

Mr. Speaker, Sir, with those remarks, I beg to move and ask, the Vice Chairperson, Sen. Wetangula to second.

**Sen. Wetangula:** Thank you, Mr. Speaker, Sir. This Motion is a product of a historical process. For the first time in the history of Parliament in this country, and rightly so, you as our Speaker attended one of the sessions of this process in Eldoret. You captured the mood of the country from the farmers of the bread basket of Kenya when they expressed their anger, disaffection and dissatisfaction with how this sector is run.

Mr. Speaker, Sir, the whole of this scenario can easily be summarised in the words of Chinua Achebe in one of his books called *Things Fall Apart*. He simply said: “My dear brothers, who saw that and ate?” It is as simple as that. In my community we also have an equivalent saying: “*Nanu wabona ako mala kalia?*” It is a quotation and is, therefore, allowed in the Standing Orders. It simply means who saw that and ate?

This whole saga of maize must be seen from the background that maize is the most important food cereal for the people of Kenya. Each household in this country eats a product of maize. It is the duty of the Government to not only protect the farmer but also the integrity and value of the crop.

Mr. Speaker, Sir, I enjoin the Chair of the Committee in the recommendations she has presented to the House. I will, therefore, be very brief so that the Members can also ventilate on this matter. The background of this whole mess can be traced in very inexplicable Kenya Gazette notices from the National Treasury and Planning in conjunction with the Ministry of Agriculture and Irrigation.

On 13<sup>th</sup> April, 2017 the Cabinet Secretary (CS) issued a Gazette Notice opening a window for duty free importation with conditions including that the maize coming in should not be Genetically Modified (GMO). The window was opened up to 31<sup>st</sup> July, 2017. Strangely, before we reached 31<sup>st</sup> July, on 4<sup>th</sup> July, the CS gazettes again and now enlarges the window to 30<sup>th</sup> of September, 2017. Before we even reached the deadline of 30<sup>th</sup> September, 2017, he issued yet another notice on 27<sup>th</sup> of July, 2017 opening the window to 15<sup>th</sup> of October, 2017.

In the process, from the evidence given to us by a very honest Kenyan, a Mr. Musyoki from the Kenya Revenue Authority (KRA), that window alone enabled profiteers to walk away with Kshs18 billion of taxpayers’ money through those fraudulent importations. As they were doing that, the farmer has a crop he cannot sell or store. This is the saga we are facing.

Mr. Speaker, Sir, you look at the minutes of an Inter-Ministerial Committee and you wonder why some people should still be sitting in Government offices. In one of the minutes, the Inter-Ministerial Committee sits and without any justification, because the gazette notice has said that the maize must not be GMO and set other conditions, it simply directs that the maize docked at the Port of Mombasa facing documentation challenges should be cleared and discharged immediately. They did that without caring whether this maize was fit for human consumption or whether it was GMO.

In fact, sitting in this Chamber, the Kenya Bureau of Standards (KeBS) came and told our Committee that the maize that was in the National Cereals Board which was imported was over 67 per cent unfit for human consumption. Yet, people have walked away with Kshs18 billion to bring swill to this country! That is what we are dealing with.

Mr. Speaker, Sir, this is an opportunity for President Uhuru Kenyatta who has committed himself to clean the country, to take a steel broom, clean up the mess and deal

with those who have unjustly and unfairly enriched themselves at the expense of the Kenyan farmer.

In another set of minutes, something we alluded to yesterday, when we were talking here, the same Inter-Ministerial Committee sat and made another decision in a period when farmers in the constituency of the Senate Majority Leader, Sen. (Prof.) Kamar's, my constituency and everywhere in the west of Kenya are harvesting maize. They directed the National Cereals and Produce Board (NCPB) and the Government to import 4 million bags of maize from Mexico and buy 1.5 million bags from Kenyan farmers.

Honestly, where is the logic? The Kenyan farmer is harvesting, his maize which is always cheaper, they had recommended Kshs3,200 per bag and this Committee decides that the Board buys 4 million bags of maize from Mexico and limit the Kenyan farmer to 1.5 million bags. You can understand the exhibition of anger and outrage from the farmers when we met them in Eldoret. We went through the same everywhere.

Mr. Speaker, Sir, as we sit here and debate this issue, we may recall that the distinguished Senator for Elgeyo Marakwet chaired the Senate Committee on Devolved Government in the last Parliament and we sat in Mombasa as a whole House and he gave us statistics that every county in this country has some National Cereals Board's silos, except Tharaka Nithi County. We recommended that all those silos be handed over, being a devolved function, to the counties where they are domiciled so that they are able to be managed, but nothing ever happened.

What is happening today is that the National Cereals Boards are played by the managers who lease to anybody they want without accounting. When we asked the CS how much the leasing of cereals boards to traders, millers and everybody else generates for the Government, they do not know and do not account. This is the mess in which we are.

I urge the Jubilee Government that since you have committed yourself to the Big Four Agenda with food security as the most important thing in your agenda; if you surely cannot protect or pay the farmer and if you want to subsidise the Mexican farmer and leave the Kenyan farmer, then what game are we playing as a country?

Mr. Speaker, Sir, we want after this Motion - I have no doubt the overwhelming support we enjoy as a House on this - that implementation must follow. This is so that we see that all these recommendations and those people who walked away with Kshs18 billion taxpayers' money should not only be prosecuted but the money recovered from them under the doctrine of tracing. Whether that money is mixed with other money or not, it should be traced and be restored to the rightful owner; the people of Kenya.

Mr. Speaker, Sir, I want to leave the floor for others to contribute. However, I want to point out that we visited Bungoma and a record came from the Ministry of Agriculture and Irrigation stating that 21 mysterious people were paid Kshs563 million in three weeks for delivery of maize that was non-existent. Their records show somebody Wanjiru wa Reuben had farmed 800 acres of maize in Bungoma. Sen. Orenge, since you know Bungoma, is there any farmer with 100 acres there? None! So how did Wanjiru wa Reuben farm 800 acres there?

*(Laughter)*

There are many others. Even that name alone sounds phony. I have never heard somebody called Wanjiru wa Reuben.

*(Laughter)*

However, the names were there and they walked away with Kshs563 million.

Mr. Speaker Sir, we went to Nyansiongo and the farmers shed tears. They said the subsidy of fertilizer they were given, ended up to be quarry dust and there was no single germination of any seed given to them.

We must, as a House that is obligated to protect counties and their interests, rise to the occasion and help this country achieve food security, protect the farmer and make sure we streamline the cereals sector so that this country does not spend astronomical sums of money importing food not only to feed people but also to allow profiteers to make obscene profits at the expense of the taxpayer.

Mr. Speaker Sir, I beg to second.

*(Applause)*

*(Question proposed)*

*(Interruption of Debate)*

**The Speaker** (Hon. Lusaka): Hon. Senators, before we open up the debate, we will go back to Order No.8, 9 and 10 for voting.

*(Loud consultations)*

Hon. Members, when we go to the Committee of the Whole, we shall deal with Order Nos.8, 9,10,11,12 and 13

Next Order!

## COMMITTEE OF THE WHOLE

*(Order of the Committee read)*

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

## IN THE COMMITTEE

*[The Temporary Chairperson (Sen. (Dr. Lelegwe) in the Chair]*

**The Temporary Chairperson** (Sen. (Dr.) Lelegwe): Order, hon. Senators, we are now at the Committee of the Whole.

THE ENERGY BILL (NATIONAL ASSEMBLY  
BILLS NO.50 OF 2017)

*(Resumption of Debate interrupted on 13.2.2019)*

**The Temporary Chairperson** (Sen. (Dr.) Lelegwe): Hon. Senators, some of the amendments on The Energy Bill (National Assembly Bills No.50 of 2017) will not appear on the screen and if they do appear, they may not be eligible as the characters are too many.

Therefore I will read the Clauses as I put the question but if you want to view the questions, they have been uploaded on the ipad provided. To view the questions you may minimize the Order Paper and go to the icon reading The Energy Bill (National Assembly Bills No.50 of 2017).

Order! Hon. Senators, I now order the Division Bell to be rung for one minute.

*(The Division Bell was rung)*

*(Loud consultations)*

Order! Hon. Senators, I now order the Bars to be drawn and the doors closed.

*(The doors were closed and the Bars drawn)*

**The Temporary Chairperson** (Sen. (Dr.) Lelegwe): Hon. Senators, you can now vote.

*(Voting in progress)*

**The Temporary Chairperson** (Sen. (Dr.) Lelegwe): Order, Hon. Senators. Kakamega delegation?

*(Sen. (Dr.) Musuruve approached the Clerks-at-the-Table)*

THE ENERGY BILL (NATIONAL ASSEMBLY  
BILLS NO. 50 OF 2017)

*(Resumption of Debate Interrupted on  
Wednesday, 13<sup>th</sup> February, 2019)*

## DIVISION

### ELECTRONIC VOTING

*(Question, that Clauses 4, 5, 9, 10, 11, 12, 13, 15, 16, 17, 18, 19, 20, 21, 23, 24, 26, 27, 36, 40, 42, 58, 75, 76, 79, 82, 85, 89, 92, 93, 95, 96, 97, 98, 10, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 114, 116, 117, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 136, 137, 138, 141, 142, 145, 146, 147, 148, 149, 150, 151, 159, 160, 161, 163, 164, 165, 166, 167, 168, 171, 178, 180, 187, 188, 190, 191, 192, 193, 198, 200, 201, 202, 203, 204, 205, 206, 207, 208, 210, 211, 214, 216, 220, 224, Second, Third and Fourth Schedules be amended as proposed put and the Senate proceeded to vote by County Delegations)*

**AYES:** Sen. Faki, Mombasa County; Sen. M. Kajwang, Homa Bay County; Sen. Madzayo, Kilifi County; Sen. (Dr.) Musuruve, Kakamega County; Sen. Mutula Kilonzo Jnr., Makueni County; Sen. Olekina, Narok County; Sen. Orengo, Siaya County; Sen. Wambua, Kitui County and Sen. Wetangula, Bungoma County.

**NOES:** Sen. (Dr.) Ali, Wajir County; Sen. Cherargei, Nandi County; Sen. Cheruiyot, Kericho County; Sen. Dullo, Isiolo County; Sen. (Eng.) Hargura, Marsabit County; Sen. (Prof.) Kamar, Uasin Gishu County; Sen. Kang'ata, Murang'a County; Sen. Kibiru, Kirinyaga County; Sen. (Prof.) Kindiki, Tharaka Nithi County; Sen. (Dr.) Langat, Bomet County; Sen. (Dr.) Lelegwe, Samburu County; Sen. Linturi, Meru County; Sen. Loitiptip, Lamu County; Sen. (Eng.) Mahamud, Mandera County; Sen. (Eng.) Maina, Nyeri County; Sen. (Dr.) Mbito, Trans Nzoia County; Sen. Mpaayei, Kajiado County; Sen. Murkomen, Elgeyo-Marakwet County; Sen. Mwangi, Nyandarua County; Sen. Mwaura, Kiambu County; Sen. Ndwiga, Embu County; Sen. Poghisio, West Pokot County; Sen. Prengei, Nakuru County; and Sen. Sakaja, Nairobi City County.

**ABSTENTIONS:** Nil

**The Temporary Chairperson** (Sen. (Dr.) Lelegwe): Hon. Senators, the results of the voting are as follows:-

**AYES:** 9

**NOES:** 24

**ABSTENTIONS:** Nil

The "Noes" have it

*(Question negated by 24 votes to 9)*

## DIVISION

### ELECTRONIC VOTING

*(Question that Clauses 3-225, First, Second, Third and Fourth Schedules, Clause 2, the Title and Clause 1 be part of the Bill put and the Senate proceeded to vote by County Delegations)*

**AYES:** Sen. (Dr.) Ali, Wajir County; Sen. Cherargei, Nandi County; Sen. Cheruiyot, Kericho County; Sen. Dullo, Isiolo County; Sen. (Eng.) Hargura, Marsabit County; Sen. M. Kajwang', Homa Bay County; Sen. (Prof.) Kamar, Uasin Gishu County; Sen. Kang'ata, Murang'a County; Sen. Kibiru, Kirinyaga County; Sen. (Prof.) Kindiki, Tharaka Nithi County; Sen. (Dr.) Langat, Bomet County; Sen. (Dr.) Lelegwe, Samburu County; Sen. Loitiptip, Lamu County; Sen. Madzayo, Kilifi County; Sen. (Eng.) Mahamud, Mandera County; Sen. (Eng.) Maina, Nyeri County; Sen. (Dr.) Mbito, Trans Nzoia County; Sen. Mpaayei, Kajiado County; Sen. Murkomen, Elgeyo-Marakwet County; Sen. Mutula Kilonzo Jnr., Makueni County; Sen. Mwangi, Nyandarua County; Sen. Mwaura, (Delegate, Kiambu County); Sen. Ndwiga, Embu County; Sen. Olekina, Narok County; Sen. Orengo, Siaya County; Sen. Poghisio, West Pokot County; Sen. Prengei, Nakuru County; Sen. Sakaja, Nairobi City County; Sen. Wambua, Kitui County; and Sen. Wetangula, Bungoma County.

**NOES:** Sen. Faki, Mombasa County; and Sen. (Dr.) Musuruve, Kakamega County.

**ABSTENTIONS:** Nil

**The Temporary Chairperson** (Sen. (Dr.) Lelegwe): Hon. Senators, the results of the voting are as follows:

**AYES:** 30

**NOES:** 2

**ABSTENTIONS:** Nil

The "Ayes" have it

*(Question carried by 30 votes to 2)*

Hon. Senators, I now call upon the Mover to move.

**The Senate Majority Leader** (Sen. Murkomen): Mr. Temporary Chairperson, Sir, I beg to move that the Committee do report to the Senate its consideration of The Energy Bill (National Assembly Bill No.50 of 2017) and its approval thereof without amendments.

*(Question proposed)*

*(Question put and agreed to)*

**The Temporary Chairperson** (Sen. (Dr.) Lelegwe): Hon. Senators, we will have Division to consider The Petroleum Bill (National Assembly Bills No.48 of 2017). I will go ahead to put the question, which is that the New clauses 13A, 13B, 13C, 13D, 13E,

13F, 13G, 13H, 13I, 13J, 13K, 13L, 13M, 13N, 13O, 13P, 13Q, 13R, 13S, 13T, 13U, 13V, 13W, 13X, 13Y, 13Z, 13AA, 13BB and the New Schedule be now read a Second Time.

Hon. Senators, start voting now.

*(Voting in progress)*

Hon. Senators, we will announce the results of the three Divisions together. Therefore, we will go ahead to vote on clauses of the same Bill without amendment. I now put the question, which is that clauses, 5, 6, 18, 22, 50, 58, 88, 92, 117, 125, 127, the Schedule and Clause 2 be amended as proposed.

Start voting now.

*(Voting in progress)*

Delegations of Nakuru, Kiambu, and Murang'a Counties, please approach the Chair.

*(Voting in progress)*

Hon. Senators, we are now in the third part of the Divisions.

I will now put the question that Clauses 3 to 128, Clause 2, the Title, and Clause 1 be part of the Bill. Senators, please vote.

*(Voting in progress)*

THE PETROLEUM BILL (NATIONAL ASSEMBLY  
BILLS NO.48 OF 2017)

**DIVISION**

**ELECTRONIC VOTING**

*(Question, that New Clauses 13A, 13B, 13C, 13D, 3E, 13F, 13G, 13H, 13I, 13J, 13K, 13L, 13M, 13N, 13O, 13P, 13Q, 13R, 13S, 13T, 13U, 13V, 13W, 13X, 13Y, 13Z, 13AA and 13BB and the New Schedule be now read a Second Time, put and the Senate proceeded to vote by County delegations)*

**AYES:** Sen. M. Kajwang', Homa Bay County; Sen. Madzayo, Kilifi County; Sen. (Dr.) Musuruve, Kakamega County; Sen. Mutula Kilonzo Jnr., Makueni County; Sen. Olekina, Narok County; Sen. Orengo, Siaya County; Sen. Wambua, Kitui County; and, Sen. Wetangula, Bungoma County.

**NOES:** Sen. (Dr.) Ali, Wajir County; Sen. Cherargei, Nandi County; Sen. Cheruiyot, Kericho County; Sen. Dullo, Isiolo County; Sen. Faki, Mombasa County; Sen. (Eng.) Hargura, Marsabit County; Sen. (Prof.) Kamar, Uasin Gishu

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County; Sen. Kang'ata, Murang'a County; Sen. Kibiru, Kirinyaga County; Sen. (Prof.) Kindiki, Tharaka Nithi County; Sen. (Dr.) Langat, Bomet County; Sen. (Dr.) Lelegwe, Samburu County; Sen. Linturi, Meru County; Sen. Loiptip, Lamu County; Sen. (Eng.) Mahamud, Mandera County; Sen. (Eng.) Maina, Nyeri County; Sen. (Dr.) Mbiti, Trans Nzoia County; Sen. Mpaayei, Kajiado County; Sen. Murkomen, Elgeyo-Marakwet County; Sen. Mwangi, Nyandarua County; Sen. Mwaura, Kiambu County; Sen. Ndwiga, Embu County; Sen. Poghisi, West Pokot County; Sen. Prengi, Nakuru County and Sen. Sakaja, Nairobi City County.

**The Temporary Chairperson** (Sen. (Dr.) Lelegwe): Order, Hon. Senators! These are the results of the Division on the new clauses:

**AYES:** 8

**NOES:** 25

**ABSTENTIONS:** Nil

The "Noes" have it.

*(Question negated by 25 votes to 8)*

## DIVISION

### ELECTRONIC VOTING

*(Question that Clauses 5, 6, 18, 22, 50, 58, 88, 92, 117, 125, 127, the Schedule and Clause 2 be amended as proposed, put and the Senate proceeded to vote by County delegations)*

**AYES:** Sen. Faki, Mombasa County; Sen. M. Kajwang', Homa Bay County; Sen. Madzayo, Kilifi County; Sen. (Dr.) Musuruve, Kakamega County; Sen. Mutula Kilonzo Jnr., Makeni County; Sen. Olekina, Narok County; Sen. Orenge, Siaya County; and, Sen. Wambua, Kitui County.

**NOES:** Sen. (Dr.) Ali, Wajir County; Sen. Cherargei, Nandi County; Sen. Cheruiyot, Kericho County; Sen. Dullo, Isiolo County; Sen. (Eng.) Hargura, Marsabit County; Sen. (Prof.) Kamar, Uasin Gishu County; Sen. Kang'ata, Murang'a County; Sen. Kibiru, Kirinyaga County; Sen. (Prof.) Kindiki, Tharaka Nithi County; Sen. (Dr.) Langat, Bomet County; Sen. (Dr.) Lelegwe, Samburu County; Sen. Linturi, Meru County; Sen. Loiptip, Lamu County; Sen. (Eng.) Mahamud, Mandera County; Sen. (Eng.) Maina, Nyeri County; Sen. (Dr.) Mbiti, Trans Nzoia County; Sen. Mpaayei, Kajiado County; Sen. Murkomen, Elgeyo-Marakwet County; Sen. Mwangi, Nyandarua County; Sen. Mwaura, Kiambu County; Sen. Ndwiga, Embu County; Sen. Poghisi, West Pokot County; Sen. Prengi, Nakuru County; Sen. Sakaja, Nairobi City County; and Sen. Wetangula, Bungoma County.

**The Temporary Chairperson** (Sen. (Dr.) Lelegwe): Order, Hon. Senators! These are the results of the second Division on the clauses to be amended:

**AYES:** 8

**NOES:** 25

**ABSTENTIONS:** Nil

The “Noes” have it.

*(Question negated by 25 votes to 8)*

## DIVISION

### ELECTRONIC VOTING

*(Question that Clauses 3 to 128, Clause 2, the Title and Clause 1 be part of the Bill, put and the Senate proceeded to vote by County delegations)*

**AYES:** Sen. (Dr.) Ali, Wajir County; Sen. Cherargei, Nandi County; Sen. Cheruiyot, Kericho County; Sen. Dullo, Isiolo County; Sen. Faki, Mombasa County; Sen. (Eng.) Hargura, Marsabit County; Sen. M. Kajwang’, Homa Bay County; Sen. (Prof.) Kamar, Uasin Gishu County; Sen. Kang’ata, Murang’a County; Sen. Kibiru, Kirinyaga County; Sen. (Prof.) Kindiki, Tharaka Nithi County; Sen. (Dr.) Langat, Bomet County; Sen. (Dr.) Lelegwe, Samburu County; Sen. Linturi, Meru County; Sen. Loitiptip, Lamu County; Sen. (Eng.) Mahamud, Mandera County; Sen. (Eng.) Maina, Nyeri County; Sen. (Dr.) Mbito, Trans Nzoia County; Sen. Mpaayei, Kajiado County; Sen. Murkomen, Elgeyo-Marakwet County; Sen. Mutula Kilonzo Jnr.; Sen. (Dr.) Musuruve, Kakamega County; Sen. Mwangi, Nyandarua County; Sen. Mwaura, Kiambu County; Sen. Ndwiga, Embu County; Sen. Orengo, Siaya County; Sen. Prengei, Nakuru County; Sen. Sakaja, Nairobi City County; Sen. Wambua, Kitui County; and, Sen. Wetangula, Bungoma County.

**NOES:** Nil

**ABSTENTION:** Sen. Olekina, Narok County.

**The Temporary Chairperson** (Sen. (Dr.) Lelegwe): Hon. Senators, these are the results of the final Division:

**AYES:** 30

**NOES:** Nil

**ABSTENTIONS:** 1

The “Noes” have it.

*(Question carried by 30 votes to nil)*

**The Senate Majority Leader** (Sen. Murkomen): Mr. Temporary Chairman, Sir, I beg to move that the Committee do report to the Senate its consideration of The Petroleum Bill (National Assembly Bills No.48 of 2017) and its approval thereof without amendments.

**Sen. Mutula Kilonzo Jnr.** seconded

*(Question proposed)*

*(Question put and agreed to)*

**The Temporary Chairperson** (Sen. (Dr.) Lelegwe): Hon. Senators, we will now proceed to The Copyright (Amendment) Bill (National Assembly Bills No.33 of 2017).

THE COPYRIGHT (AMENDMENT) BILL,  
(NATIONAL ASSEMBLY BILLS NO. 33 OF 2017)

**DIVISION**

ELECTRONIC VOTING

*(Question that Clauses 5 and 6 be amended as proposed, put and put and the Senate proceeded to vote by County Delegations)*

**AYES:** Sen. (Dr.) Ali, Wajir County; Sen. Cherargei, Nandi County; Sen. Cheruiyot, Kericho County; Sen. Dullo, Isiolo County; Sen. (Eng.) Hargura, Marsabit County; Sen. M. Kajwang', Homa Bay County; Sen. (Prof.) Kamar, Uasin Gishu County; Sen. Kang'ata, Murang'a County; Sen. Kibiru, Kirinyaga County; Sen. (Prof.) Kindiki, Tharaka-Nithi County; Sen. (Dr.) Langat, Bomet County; Sen. (Dr.) Lelegwe, Samburu County; Sen. Linturi, Meru County; Sen. Loitiptip, Lamu County; Sen. (Eng.) Mahamud, Mandera County; Sen. (Eng.) Maina, Nyeri County; Sen. (Dr.) Mbito, Trans Nzoia County; Sen. Mpaayei, Kajiado County; Sen. Murkomen, Elgeyo-Marakwet County; Sen. (Dr.) Musuruve, Kakamega County; Sen. Mutula Kilonzo Jnr., Makueni County; Sen. Mwangi, Nyandarua County; Sen. Ndwiga, Embu County; Sen. Olekina, Narok County; Sen. Orenge, Siaya County; Sen. Poghisio, West Pokot County; Sen. Prengei, Nakuru County; Sen. Sakaja, Nairobi City County; Sen. Wambua, Kitui County; and, Sen. Wetangula, Bungoma County.

**NOES:** Nil

**The Temporary Chairperson** (Sen. (Dr.) Lelegwe): Order, Senators! The results of the Division are as follows:

**AYES:** 30

**NOES:** Nil

**ABSTENTIONS:** Nil

*(Question carried by 30 votes to nil)*

**DIVISION**

ELECTRONIC VOTING

*(Question that Clauses 3, 4, Clause 5 (as amended), Clause 6 (as amended), Clauses 7 to 35, Clause 2, the Title and Clause 1 be part of the Bill put and the Senate proceeded to vote by County Delegations)*

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**AYES:** Sen. (Dr.) Ali, Wajir County; Sen. Cherargei, Nandi County; Sen. Cheruiyot, Kericho County; Sen. Dullo, Isiolo County; Sen. (Eng.) Hargura, Marsabit County; Sen. M. Kajwang', Homa Bay County; Sen. (Prof.) Kamar, Uasin Gishu County; Sen. Kang'ata, Murang'a County; Sen. Kibiru, Kirinyaga County; Sen. (Prof.) Kindiki, Tharaka-Nithi County; Sen. (Eng.) Maina, Nyeri County; Sen. (Dr.) Langat, Bomet County; Sen. (Dr.) Lelegwe, Samburu County; Sen. Linturi, Meru County; Sen. Loitiptip, Lamu County; Sen. (Eng.) Mahamud, Mandera County; Sen. (Dr.) Mbito, Trans Nzoia County; Sen. Mpaayei, Kajiado County; Sen. Murkomen, Elgeyo-Marakwet County; Sen. Mutula Kilonzo Jnr., Makueni County; Sen. Mwangi, Nyandarua County; Sen. Mwaura, Kiambu County; Sen. Ndwiga, Embu County; Sen. Orengo, Siaya County; Sen. Prengei, Nakuru County; Sen. Poghisio, West Pokot County; Sen. Sakaja, Nairobi City County; Sen. Wambua, Kitui County; and, Sen. Wetangula, Bungoma County.

**NOES:** Nil

**ABSTENTION:** Sen. Olekina, Narok County.

**The Temporary Chairperson** (Sen. (Dr.) Lelegwe): Order, Senators! The results of the Division are as follows:

**AYES:** 29

**NOES:** Nil

**ABSTENTIONS:** 1

The Ayes have it.

*(Question carried by 29 votes to nil)*

**The Temporary Chairperson** (Sen. (Dr.) Lelegwe): Mover!

**The Senate Majority Leader** (Sen. Murkomen): Mr. Temporary Chairperson, Sir, I beg to move that the Committee do report to the Senate its consideration of The Copyright (Amendment) Bill (National Assembly Bills No. 33 of 2017) and its approval thereof with amendments.

*(Question proposed)*

*(Question put and agreed to)*

**The Temporary Chairperson** (Sen. (Dr.) Lelegwe): Hon. Senators, let us proceed to Order No.11; Committee of the Whole on The Public Private Partnerships (Amendment) Bill (National Assembly Bills No.52 of 2017)

THE PUBLIC PRIVATE PARTNERSHIP (AMENDMENT)  
BILL (NATIONAL ASSEMBLY BILLS NO.52 OF 2017)

**The Temporary Chairperson** (Sen. (Dr.) Lelegwe): Hon. Senators, we will proceed with the first Division on the Clause for deletion.

*(Voting in progress)*

### **DIVISION**

#### **ELECTRONIC VOTING**

*(Question, that Clause 7 be deleted put and the Senate proceeded to vote by County Delegations)*

**AYES:** Sen. (Dr.) Ali, Wajir County; Sen. Cherargei, Nandi County; Sen. Cheruiyot, Kericho County; Sen. Dullo, Sen. Faki, Mombasa County; Sen. (Eng.) Hargura, Marsabit County; Sen. M. Kajwang, Homa Bay County; Sen. (Prof.) Kamar, Uasin Gishu County; Sen. Kang'ata, Murang'a County; Sen. Kibiru, Kirinyaga County; Sen. (Prof.) Kindiki, Tharaka-Nithi County; Sen. (Dr.) Langat, Bomet County; Sen. (Dr.) Lelegwe, Samburu County; Sen. Linturi, Meru County; Sen. Loitiptip, Lamu County; Sen. (Eng.) Mahamud, Mandera County; Sen. (Eng.) Maina, Nyeri County; Sen. (Dr.) Mbito, Trans Nzoia County; Sen. Mpaayei, Kajiado County; Sen. Murkomen, Elgeyo-Marakwet County; Sen. (Dr.) Musuruve, Kakamega County; Sen. Mutula Kilonzo Jnr., Makueni County; Sen. Mwangi, Nyandarua County; Sen. Mwaura, Kiambu County; Sen. Ndwiga, Embu County; Sen. Orenge, Siaya County; Sen. Poghisio, West Pokot County; Sen. Prengei, Nakuru County; Sen. Sakaja, Nairobi City County; Sen. Wambua, Kitui County and Sen. Wetangula, Bungoma County.

**NOES:** Nil

**The Temporary Chairperson** (Sen. (Dr.) Lelegwe): Hon. Senators, the results of the first Division are as follows:

**AYES:** 31

**NOES:** Nil

**ABSTENTIONS:** Nil

The "Ayes" have it.

*(Question carried by 31 votes to nil)*

*(Clause 7 was deleted)*

Let us go to the Second Division.

### **DIVISION**

#### **ELECTRONIC VOTING**

*(Question, that Clauses 8, 12, 16 and 19 be amended as proposed, put and the Senate proceeded to vote by County Delegations)*

**AYES:** Sen. Cherargei, Nandi County; Sen. Cheruiyot, Kericho County; Sen. Dullo, Isiolo County; County) Sen. (Eng.) Hargura, Marsabit County; Sen. M. Kajwang', Homa Bay County; Sen. (Prof.) Kamar, Uasin Gishu County; Sen. Kang'ata, Murang'a County; Sen. Kibiru, Kirinyaga County; Sen. (Prof.) Kindiki, Tharaka-Nithi County; Sen. (Dr.) Langat, Bomet County; Sen. (Dr.) Lelegwe, Samburu County; Sen. Linturi, Meru County; Sen. Loitiptip, Lamu County; Sen. (Eng.) Mahamud, Mandera County; Sen. (Eng.) Maina, Nyeri County; Sen. (Dr.) Mbito, Trans Nzoia County; Sen. Mpaayei, Kajiado County; Sen. Murkomen, Elgeyo-Marakwet County; Sen. (Dr.) Musuruve, Kakamega County; Sen. Mutula Kilonzo Jnr., Makueni County; Sen. Mwangi, Nyandarua County; Sen. Mwaura, Kiambu County; Sen. Ndwiga, Embu County; Sen. Omanga, Nairobi City County; Sen. Orengo, Siaya County; Sen. Poghisio, West Pokot County; Sen. Prengei, Nakuru County; Sen. Wambua, Kitui County; and, Sen. Wetangula, Bungoma County

**NOES:** Nil

**ABSTENTION:** Sen. Faki, Mombasa County.

**The Temporary Chairperson** (Sen. (Dr.) Lelegwe): Hon. Senators, the results of the first Division are as follows:

**AYES:** 29

**NOES:** Nil

**ABSTENTIONS:** 1

The "Ayes" have it.

*(Question carried by 29 votes to nil)*

## DIVISION

### ELECTRONIC VOTING

*(Question, that New Clauses 4A, 5A, 20,  
be now read a Second Time, put and the  
Senate proceeded to vote by County Delegations)*

**AYES:** Sen. (Dr.) Ali, Wajir County; Sen. Cherargei, Nandi County; Sen. Cheruiyot, Kericho County; Sen. Dullo, Sen. Faki, Mombasa County; Sen. (Eng.) Hargura, Marsabit County; Sen. M. Kajwang, Homa Bay County; Sen. (Prof.) Kamar, Uasin Gishu County; Sen. Kang'ata, Murang'a County; Sen. Kibiru, Kirinyaga County; Sen. (Prof.) Kindiki, Tharaka-Nithi County; Sen. (Dr.) Langat, Bomet County; Sen. (Dr.) Lelegwe, Samburu County; Sen. Linturi, Meru County; Sen. Loitiptip, Lamu County; Sen. (Eng.) Mahamud, Mandera County; Sen. (Eng.) Maina, Nyeri County; Sen. (Dr.) Mbito, Trans Nzoia County; Sen. Mpaayei, Kajiado County; Sen. Murkomen, Elgeyo-Marakwet County; Sen. (Dr.) Musuruve, Kakamega County); Sen. Mutula Kilonzo Jnr., Makueni County; Sen. Mwangi, Nyandarua County; Sen. Mwaura, Kiambu County; Sen. Ndwiga, Embu County; Sen. Orengo, Siaya County; Sen. Poghisio, West Pokot County;

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Sen. Prengei, Nakuru County; Sen. Sakaja, Nairobi City County; Sen. Wambua, Kitui County and Sen. Wetangula, Bungoma County.

**NOES:** Nil

**The Temporary Chairperson** (Sen. (Dr.) Lelegwe): Hon. Senators, the results for the third Division are as follows:

**AYES:** 31

**NOES:** Nil

**ABSTENTIONS:** Nil

The “Ayes” have it.

*(Question carried by 31 votes to Nil)*

## DIVISION

### ELECTRONIC VOTING

*(Question, that Clauses 3, 4, 5, 6, Clause 8(as amended), Clauses 9, 10, 11, Clause 12(as amended), 13, 14, 15, Clause 16(as amended), Clauses 17 and 18, Clause 19(as amended), New Clause 4A, New Clause 5A, New Clause 20, Clause 2(as amended), the Title and Clause 1 be part of the Bill put and the Senate proceeded to vote by County Delegations)*

**AYES:** Sen. (Dr.) Ali, Wajir County; Sen. Cherargei, Nandi County; Sen. Cheruiyot, Kericho County; Sen. Dullo, Isiolo County; Sen. Faki, Mombasa County; Sen. M. Kajwang’, Homa Bay County; Sen. (Prof.) Kamar, Uasin Gishu County; Sen. Kang’ata, Murang’a County; Sen. Kibiru, Kirinyaga County; Sen. (Prof.) Kindiki, Tharaka-Nithi County; Sen. (Dr.) Langat, Bomet County; Sen. (Dr.) Lelegwe, Samburu County; Sen. Linturi, Meru County; Sen. Loitiptip, Lamu County; Sen. (Eng.) Mahamud, Mandera County; Sen. (Eng.) Maina, Nyeri County; Sen. (Dr.) Mbito, Trans Nzoia County; Sen. Mpaayei, Kajiado County; Sen. Murkomen, Elgeyo-Marakwet County; Sen. (Dr.) Musuruve, Kakamega County; Sen. Mutula Kilonzo Jnr., Makueni County; Sen. Mwangi, Nyandarua County; Sen. Mwaura, Kiambu County; Sen. Ndwiga, Embu County; Sen. Orengo, Siaya County; Sen. Poghisiio, West Pokot County; Sen. Prengei, Nakuru County; Sen. Sakaja, Nairobi City County; Sen. Wambua, Kitui County; and, Sen. Wetangula, Bungoma County .

**NOES:** Nil

**The Temporary Chairperson** (Sen. (Dr.) Lelegwe): Hon. Senators, the results of the fourth Division are:

**AYES:** 30

**NOES:** Nil

**ABSTENTIONS:** Nil

The “Ayes” have it.

*(Question carried by 30 votes to nil)*

Mover, proceed.

**The Senate Majority Leader** (Sen. Murkomen): Mr. Temporary Chairperson, Sir, I beg to move that the Committee of the Whole do report to the Senate its consideration of The Public Partnership Bill (Amendment) Bill (National Assembly Bills NO.52 of 2017) and it is approval thereof with amendments.

*(Question proposed)*

*(Question put and agreed to)*

Hon. Senators, we will now proceed to Order No. 12, which is the Committee of the Whole to consider The Irrigation Bill (National Assembly Bills NO 46 of 2017).

THE IRRIGATION BILL (NATIONAL ASSEMBLY  
BILLS NO. 46 OF 2017)

**DIVISION**

ELECTRONIC VOTING

*(Question, that Clauses 3, 6, 8, 9,14,16,17, 20, 25, 34,  
Schedule and Clause 2 be amended as proposed, put  
and the Senate proceeded to vote by County Delegations)*

**AYES:** Sen. (Dr.) Ali, Wajir County; Sen. Cherargei, Nandi County; Sen. Cheruiyot, Kericho County; Sen. Dullo, Isiolo County; Sen. Faki, Mombasa County; Sen. (Eng.) Hargura, Marsabit County; Sen. M. Kajwang', Homa Bay County; Sen. (Prof.) Kamar, Uasin Gishu County; Sen. Kang'ata, Murang'a County; Sen. Kibiru, Kirinyaga County; Sen. (Prof.) Kindiki, Tharaka Nithi County; Sen. (Dr.) Langat, Bomet County; Sen. (Dr.) Lelegwe, Samburu County; Sen. Linturi, Meru County; Sen. Loitiptip, Lamu County; Sen. (Eng.) Mahamud, Mandera County; Sen. (Eng.) Maina, Nyeri County; Sen. (Dr.) Mbito, Trans Nzoia County; Sen. Mpaayei, Kajiado County; Sen. Murkomen, Elgeyo-Marakwet County; Sen. (Dr) Musuruve, Kakamega County; Sen. Mutula Kilonzo Jnr., Makueni County; Sen. Mwangi, Nyandarua County; Sen. Mwaura, Kiambu County; Sen. Ndwiga, Embu County; Sen. Orengo, Siaya County; Sen. Poghisio, West Pokot County; Sen. Prengei, Nakuru County; Sen. Sakaja, Nairobi City County; Sen. Wambua, Kitui County; and, Sen. Wetangula, Bungoma County.

**NOES:** Nil

**The Temporary Chairperson** (Sen. (Dr.) Lelegwe): Order, Hon. Senators. The results of the Division are as follows:

**AYES:** 31

**NOES:** Nil

**ABSTENTIONS:** Nil

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The 'Ayes' have it.

*(Question carried by 31 votes to nil)*

## DIVISION

### ELECTRONIC VOTING

*(Question that Clauses 3 (as amended), 4,5,6 (as amended), 7,8 (as amended), 9 (as amended), 10 to13, 14 (as amended), 15, 16 (as amended), 17 (as amended), 18, 19, 20 (as amended), 21 to24, 25 (as amended), 26 to33, 34 (as amended), 35, Schedule (as amended), Clause 2 (as amended), the Title and Clause 1 be part of the Bill, put and the Senate proceeded to vote by County Delegations)*

**AYES:** Sen. (Dr.) Ali, Wajir County; Sen. Cherargei, Nandi County; Sen. Cheruiyot, Kericho County; Sen. Dullo, Isiolo County; Sen. Faki, Mombasa County; Sen. (Eng.) Hargura, Marsabit County; Sen. M. Kajwang', Homa Bay County; Sen. (Prof.) Kamar, Uasin Gishu County; Sen. Kang'ata, Murang'a County; Sen. Kibiru, Kirinyaga County; Sen. (Prof.) Kindiki, Tharaka Nithi County; Sen. (Dr.) Langat, Bomet County; Sen. (Dr.) Lelegwe, Samburu County; Sen. Linturi, Meru County; Sen. Loiptip, Lamu County; Sen. (Eng.) Mahamud, Mandera County; Sen. (Eng.) Maina, Nyeri County; Sen. (Dr.) Mbito, Trans Nzoia County; Sen. Mpaayei, Kajiado County; Sen. Murkomen, Elgeyo-Marakwet County; Sen. (Dr) Musuruve, Kakamega County; Sen. Mutula Kilonzo Jnr., Makueni County; Sen. Mwangi, Nyandarua County; Sen. Mwaura, Kiambu County; Sen. Ndwiga, Embu County; Sen. Orenge, Siaya County; Sen. Poghisisio, West Pokot County; Sen. Prengei, Nakuru County; Sen. Sakaja, Nairobi City County; Sen. Wambua, Kitui County; and, Sen. Wetangula, Bungoma County.

**NOES:** Nil

**The Temporary Chairperson** (Sen. (Dr.) Lelegwe): Hon. Senators, the results of the last Division on this Bill are as follows:

**AYES:** 31

**NOES:** Nil

**ABSTENTIONS:** Nil

The 'Ayes' have it.

*(Question carried by 31 votes to nil)*

**The Senate Majority leader** (Sen. Murkomen): Mr. Temporary Chairperson, Sir, I beg to move that the Committee of the Whole do report to the House its consideration of The Irrigation Bill (National Assembly Bills No.46 of 2017) and its approval thereof with amendments.

*(Question proposed)*

*(Question put and agreed to)*

**The Temporary Chairperson** (Sen. (Dr.) Lelegwe): Hon. Senators, we will now move to The Urban Areas and Cities (Amendment) Bill (Senate Bills No. 4 of 2017), consideration of the National Assembly amendment.

THE URBAN AREAS AND CITIES (AMENDMENT) BILL  
(SENATE BILLS NO.4 OF 2017)

*(Consideration of the National Assembly Amendment)*

**DIVISION**

**ELECTRONIC VOTING**

*(Question, that the National Assembly Amendment to Clause 19 of the Urban Areas and Cities (Amendment) Bill (Senate Bills No.4 of 2017) be now approved put, and the Senate proceeded to vote by County Delegations)*

**AYES:** Sen. (Dr.) Ali, Wajir County; Sen. Cherargei, Nandi County; Sen. Cheruiyot, Kericho County; Sen. Dullo, Isiolo County; Sen. Faki, Mombasa County; Sen. (Eng.) Hargura, Marsabit County; Sen. Kajwang'. M, Homa Bay County; Sen. (Prof.) Kamar, Uasin Gishu County; Sen. Kang'ata, Murang'a County; Sen. Kibiru, Kirinyaga County; Sen. (Prof.) Kindiki, Tharaka-Nithi County; Sen. (Dr.) Langat, Bomet County; Sen. (Dr.) Lelegwe, Samburu County; Sen. Linturi, Meru County; Sen. Loitiptip, Lamu County; Sen. (Eng.) Mahamud, Mandera County; Sen. (Eng.) Maina, Nyeri County; Sen. (Dr.) Mbiti, Trans Nzoia County; Sen. Mpaayei, Kajiado County; Sen. Murkomen, Elgeyo-Marakwet County; Sen. (Dr) Musuruve, Kakamega County; Sen. Mutula Kilonzo Jnr., Makueni County; Sen. Mwangi, Nyandarua County; Sen. Mwaura, Kiambu County; Sen. Ndwiga, Embu County; Sen. Orengo, Siaya County; Sen. Poghisio, West Pokot County; Sen. Prengei, Nakuru County; Sen. Sakaja, Nairobi City County; Sen. Wambua, Kitui County; and, Sen. Wetangula, Bungoma County.

**NOES:** Nil

**The Temporary Chairperson** (Sen. (Dr.) Lelegwe): Order, Hon. Senators. These are the results for the Division:

**AYES:** 31

**NOES:** Nil

**ABSTENTIONS:** Nil

The 'Ayes' have it.

*(Question carried by 31 votes to nil)*

**The Temporary Chairperson** (Sen. (Dr.) Lelegwe): Order, hon. Senators!

*(The House resumed)*

*[The Deputy Speaker (Sen. (Prof.) Kindiki) in the Chair]*

**The Deputy Speaker** (Sen. (Prof.) Kindiki): Order, Senators. I direct the Bars be undrawn and the doors opened.

*(The Bars were undrawn and the doors opened)*

Order, Senators! Please resume your seats. We are almost at the tail end of the exercise and I want to thank all Senators for cooperation. We have already done much of the work. We are now reporting and will do Division. It should not take a lot of time.

We will do every Bill separately, that is, the reporting and voting.

Order, Senate Majority Leader! Resume your seat. I understand your interest, having been in that office before.

*(Laughter)*

It is more expedient that we do the reporting on all the six Bills and then ring the Division Bell once and vote six times.

Chairperson.

## REPORTS AND CONSIDERATION OF REPORTS

### THE ENERGY BILL (NATIONAL ASSEMBLY BILLS NO. 50 OF 2017)

**Sen. (Dr.) Lelegwe:** Mr. Deputy Speaker, Sir, I beg to report that the Committee of the Whole has considered The Energy Bill (National Assembly Bills No.50 of 2017) and its approval thereof without amendments.

**The Deputy Speaker** (Sen. (Prof.) Kindiki): Mover.

**The Senate Majority Leader** (Sen. Murkomen): Hon. Speaker, I beg to move that the House do agree with the Committee on the said Report.

I ask the Senate Minority Leader to second.

**The Senate Minority Leader** (Sen. Orengo) seconded.

*(Question proposed)*

*(Question put and agreed to)*

**The Deputy Speaker** (Sen. (Prof.) Kindiki): Mover.

**The Senate Majority Leader** (Sen. Murkomen): Mr. Deputy Speaker, Sir, I beg to move that The Energy Bill (National Assembly Bills No.50 of 2017) be now read a Third Time and ask the Senate Minority Leader to Second.

**The Senate Minority Leader** (Sen. Orengo) seconded.

*(Question proposed)*

**The Deputy Speaker** (Sen. Kindiki): Division will be at the end.

THE PETROLEUM BILL (NATIONAL ASSEMBLY  
BILLS NO. 48 OF 2017)

**Sen. (Dr.) Lelegwe:** Mr. Deputy Speaker, Sir, I beg to report that the Committee of the Whole has considered The Petroleum Bill (National Assembly Bills No.48 of 2017) and its approval thereof without amendments.

**The Senate Majority Leader** (Sen. Murkomen): Mr. Deputy Speaker, Sir, I beg to move that the House do agree with the Committee on the said Report.

I ask the Senate Minority Leader to second.

**The Senate Minority Leader** (Sen. Orengo) seconded.

*(Question proposed)*

*(Question put and agreed to)*

**The Senate Majority Leader** (Sen. Murkomen): Mr. Deputy Speaker, Sir, I beg to move that The Petroleum Bill (National Assembly Bills No.48 of 2017) be now read a Third Time.

I request the Senate Minority Leader to second.

**The Senate Minority Leader** (Sen. Orengo) seconded.

*(Question proposed)*

**The Deputy Speaker** (Sen. Kindiki): Division will be at the end.

THE COPYRIGHT (AMENDMENT) BILL  
(NATIONAL ASSEMBLY BILLS NO. 33 OF 2017)

**Sen. (Dr.) Lelegwe:** Mr. Deputy Speaker, Sir, I beg to report that the Committee of the Whole has considered The Copyright (Amendment) Bill (National Assembly Bills No.33 of 2017) and its approval thereof with amendments.

**The Senate Majority Leader** (Sen. Murkomen): Mr. Deputy Speaker, Sir, I beg to move that the House do agree with the Committee on the said Report.

I request the Senate Minority Leader to second.

**The Senate Minority Leader** (Sen. Orengo) seconded.

*(Question proposed)*

*(Question put and agreed to)*

**The Senate Majority Leader** (Sen. Murkomen): Mr. Deputy Speaker, Sir, I beg to move that the Copyright (Amendment) Bill (National Assembly Bills No. 33 of 2017) be now read a Third Time.

I request the Senate Minority Leader, to second.

**The Senate Minority Leader** (Sen. Orengo) seconded.

*(Question proposed)*

**The Deputy Speaker** (Sen. (Prof.) Kindiki): Division will be at the end.

THE PUBLIC PRIVATE PARTNERSHIPS (AMENDMENT) BILL  
(NATIONAL ASSEMBLY BILLS NO. 52 OF 2017)

**Sen. (Dr.) Lelegwe:** Mr. Deputy Speaker, Sir, I beg to report that the Committee of the Whole has considered the Public Private Partnerships (Amendment) Bill (National Assembly Bills No. 52 of 2017) and its approval thereof with amendments.

**The Senate Majority Leader** (Sen. Murkomen): Mr. Deputy Speaker, Sir, I beg to move that the House do agree with the Committee on the said report.

I ask the Senate Minority Leader to second.

**The Senate Minority Leader** (Sen. Orengo) seconded.

*(Question proposed)*

*(Question put and agreed to)*

**The Senate Majority Leader** (Sen. Murkomen): Mr. Deputy Speaker, Sir, I beg to move that the Public Private Partnerships (Amendment) Bill (National Assembly Bills No. 52 of 2017) be now read a Third Time.

I request the Senate Minority Leader to second.

**The Senate Minority Leader** (Sen. Orengo) seconded.

*(Question proposed)*

**The Deputy Speaker** (Sen. (Prof.) Kindiki): Division will be at the end.

THE IRRIGATION BILL (NATIONAL ASSEMBLY  
BILLS NO. 46 OF 2017)

**Sen. (Dr.) Lelegwe:** Mr. Deputy Speaker, Sir, I beg to report that the Committee of the Whole has considered The Irrigation Bill (National Assembly Bills No. 46 of 2017) and its approval thereof with amendments.

**The Senate Majority Leader** (Sen. Murkomen): Mr. Deputy Speaker, Sir, I beg to move that the House do agree with the Committee in the said report.

I ask the Senate Minority Leader to second.

**The Senate Minority Leader** (Sen. Orengo): Mr. Deputy Speaker, Sir, I second.

*(Question proposed)*

*(Question put and agreed to)*

**The Senate Majority Leader** (Sen. Murkomen): Mr. Deputy Speaker, Sir, I beg to move that The Irrigation Bill (National Assembly Bills No. 46 of 2017) be now read a Third Time.

I request the Senate Minority Leader to second.

**The Senate Minority Leader** (Sen. Orengo): Mr. Deputy Speaker, Sir, I do second.

*(Question proposed)*

**The Deputy Speaker** (Sen. (Prof.) Kindiki): Division will be at the end.

THE URBAN AREAS AND CITIES (AMENDMENT) BILL  
(SENATE BILLS NO.4 OF 2017)

**The Deputy Speaker** (Sen. (Prof.) Kindiki): Order No. 13, The Urban Areas and Cities (Amendment) Bill (Senate Bills No.4 of 2017) is a recommittal so there is no question to be put.

We will now proceed to vote for the five Bills including Order No. 13.

I direct that the Division Bell be rung for three minutes.

*(The Division Bell was rung)*

*(Several Senators stood in their places)*

**The Deputy Speaker** (Sen. (Prof.) Kindiki): Order, Senators. Kindly, let us wind up this appropriately. We still need the numbers.

Sen. (Rev.) Waqo, I hope you are not carrying away a vote.

I now direct that the doors be locked and the Bar drawn.

*(The Bars were drawn and the doors locked)*

**The Deputy Speaker** (Sen. (Prof.) Kindiki): Order, Senators! Prepare for voting. As I have clarified, we will vote on five Bills. The sixth Bill, which is, The Urban Areas and Cities (Amendment) Bill (Senate Bills No.4 of 2017), originated from this House, went to the National Assembly and came back to the Senate. Considering that we have

concurred with the amendments of the National Assembly, the voting on the item appearing on Order No.13 ends at the Committee of the Whole stage. Therefore, the Bill will proceed directly to the President for assent. That is why we will vote on the others and not the Bill in Order No.13.

### THIRD READINGS

#### THE ENERGY BILL (NATIONAL ASSEMBLY BILLS NO.50 OF 2017)

**The Deputy Speaker** (Sen. (Prof.) Kindiki): We will start with Order No.8; the Energy Bill (National Assembly Bills No.50 of 2017). Are we ready? Senators, vote now.

*(The Senators proceeded to vote)*

**The Deputy Speaker** (Sen. (Prof.) Kindiki): End of voting. Assisted voters led by Sen. Prengei on behalf of Nakuru County and deputised by Sen. Mwaura of Kiambu County, come.

*(Sen. Prengei, Sen. Mwaura, Sen. Kang'ata and  
Sen. (Dr.) Musuruve proceeded to vote)*

**The Deputy Speaker** (Sen. (Prof.) Kindiki): Order, Sen. Kang'ata, do you also fall in that category? Are there any other assisted voters? Ensure that the Senator for Tharaka-Nithi also votes.

We will announce the results at the end. Let us go to Order No.9;- The Petroleum Bill (National Assembly Bills No.48 of 2017).

#### THE PETROLEUM BILL (NATIONAL ASSEMBLY BILLS NO.48 OF 2017)

**The Deputy Speaker** (Sen. (Prof.) Kindiki): Get ready for voting. Vote now, hon. Senators.

*(The Senators proceeded to vote)*

**The Deputy Speaker** (Sen. (Prof.) Kindiki): End of voting. The assisted voters should approach the Clerks-at the Table.

*(Sen. Prengei, Sen. Mwaura, Sen. Kang'ata and  
Sen. (Dr.) Musuruve registered their vote)*

Let us go to Order No.10; The Copyright (Amendment) Bill (National Assembly Bills No.33 of 2017).

THE COPYRIGHT (AMENDMENT) BILL  
(NATIONAL ASSEMBLY BILLS NO.33 OF 2017)

**The Deputy Speaker** (Sen. (Prof.) Kindiki): Get ready to vote. Vote now.

*(The Senators proceeded to vote)*

**The Deputy Speaker** (Sen. (Prof.) Kindiki): End of voting. The assisted voters should approach the Table.

*(Sen. Prengei, Sen. Mwaura, Sen. Kang'ata and  
Sen. (Dr.) Musuruve proceeded to vote)*

**The Deputy Speaker** (Sen. (Prof.) Kindiki): Very well. Let us move to the next Bill, which is, The Public Private Partnerships (Amendment) Bill (National Assembly Bills No.52 of 2017).

THE PUBLIC PRIVATE PARTNERSHIPS (AMENDMENT) BILL  
(NATIONAL ASSEMBLY BILLS NO.52 OF 2017)

Get ready for voting. You may start voting now.

*(The Senators proceeded to vote)*

That is the end of voting. Assisted voters, please, approach the Clerks-at-the-Table.

*(Several Senators walked to the  
Clerks-at-the-Table and registered their votes)*

We will now go to the last Bill that requires voting, that is, The Irrigation Bill (National Assembly Bills No.46 of 2017).

THE IRRIGATION BILL (NATIONAL ASSEMBLY  
BILLS NO.46 OF 2017)

Hon. Senators, get ready for voting. That is the final vote and then we will announce the results.

*(The Senators proceeded to vote)*

Assisted voters, please, proceed to the Clerks-at-the-Table.



*(Several Senators walked to the Clerks-at-the-Table and registered their votes)*

Hon. Senators, the following are the results of the five Divisions. I will announce the results of every Bill, one by one.

THE ENERGY BILL (NATIONAL ASSEMBLY  
BILLS NO.50 OF 2017)

**DIVISION**

ELECTRONIC VOTING

*(Question, that The Energy Bill (National Assembly Bill No.50 of 2017) be now read a Third Time put, and the Senate proceeded to vote by County Delegations)*

**AYES:** Sen. (Dr.) Ali, Wajir County; Sen. Cherargei, Nandi County; Sen. Cheruiyot, Kericho County; Sen. Dullo, Isiolo County; Sen. Faki, Mombasa County; Sen. (Eng.) Hargura, Marsabit County; Sen. M. Kajwang, Homa Bay County; Sen. (Prof.) Kamar, Uasin Gishu County; Sen. Kang'ata, Murang'a County; Sen. Kibiru, Kirinyaga County; Sen. (Prof.) Kindiki, Tharaka-Nithi County; Sen. (Dr.) Langat, Bomet County; Sen. (Dr.) Lelegwe, Samburu County; Sen. Linturi, Meru County; Sen. Loiptip, Lamu County; Sen. Madzayo, Kilifi County; Sen. (Eng.) Mahamud, Mandera County; Sen. (Eng.) Maina, Nyeri County; Sen. (Dr.) Mbiti, Trans Nzoia County; Sen. Mpaayei, Kajiado County; Sen. Murkomen, Elgeyo-Marakwet County; Sen. (Dr.) Musuruve, Kakamega County; Sen. Mutula Kilonzo Jnr., Makueni County; Sen. Mwangi, Nyandarua County; Sen. Mwaura, Kiambu County; Sen. Ndwiga, Embu County; Sen. Ochillo-Ayacko, Migori County; Sen. Orengo, Siaya County; Sen. Poghisio, West Pokot County; Sen. Prengei, Nakuru County; Sen. Sakaja, Nairobi City County; Sen. Wambua, Kitui County and Sen. Wetangula, Bungoma County.

**NOES:** Nil.

**The Deputy Speaker** (Sen. (Prof) Kindiki): Hon. Members, the results of the Division are as follows:

**AYES:** 33

**NOES:** Nil

**ABSTENTIONS:** Nil

The "Ayes" have it.

*(Question carried by 33 votes to nil)*

*(The Bill was accordingly read the Third Time and passed)*

THE PETROLEUM BILL (NATIONAL ASSEMBLY  
BILL NO. 48 OF 2017)

**DIVISION**

ELECTRONIC VOTING

*(Question, that the Petroleum Bill (National Assembly  
Bill No. 48 of 2017) be now read a Third Time put,  
and the Senate proceeded to vote by County Delegations)*

**AYES:** Sen. (Dr.) Ali, Wajir County; Sen. Cherargei, Nandi County; Sen. Cheruiyot, Kericho County; Sen. Dullo, Isiolo County; Sen. Faki, Mombasa County; Sen. (Eng.) Hargura, Marsabit County; Sen. (Prof.) Kamar, Uasin Gishu County; Sen. Kang'ata, Murang'a County; Sen. Kibiru, Kirinyaga County; Sen. (Prof.) Kindiki, Tharaka-Nithi County; Sen. (Dr.) Langat, Bomet County; Sen. (Dr.) Lelegwe, Samburu County ; Sen. Linturi, Meru County; Sen. Loitiptip, Lamu County; Sen. (Eng.) Mahamud, Mandera County ; Sen. (Eng.) Maina, Nyeri County ; Sen. (Dr.) Mbiti, Trans Nzoia County; Sen. Mpaayei, Kajiado County; Sen. Murkomen, Elgeyo-Marakwet County; Sen. (Dr.) Musuruve, Kakamega County; Sen. Mutula Kilonzo Jnr., Makueni County; Sen. Mwangi, Nyandarua County; Sen. Mwaura, Kiambu County; Sen. Ndwiga, Embu County; Sen. Ochillo-Ayacko, Migori County; Sen. Orengo, Siaya County; Sen. Poghiso, West Pokot County; Sen. Prengei, Nakuru County; Sen. Sakaja, Nairobi City County; Sen. Wambua, Kitui County; and, Sen. Wetangula, Bungoma County.

**NOES:** Nil.

**The Deputy Speaker** (Sen. (Prof) Kindiki): Hon. Senators, the results of the voting are as follows:

**AYES:** 31

**NOES:** Nil

**ABSTENTIONS:** Nil

The "Ayes" have it.

*(Question carried by 31 votes to nil)*

*(The Bill was accordingly read the Third Time and passed)*

THE COPYRIGHT (AMENDMENT) BILL  
(NATIONAL ASSEMBLY BILLS NO. 33 OF 2017)

**DIVISION**

ELECTRONIC VOTING

*(Question, that the Copyright (Amendment) Bill*

*(National Assembly Bills No. 33 of 2017) be now read a Third Time put, and the Senate proceeded to vote by County Delegations)*

**AYES:** Sen. (Dr.) Ali, Wajir County; Sen. Cherargei, Nandi County; Sen. Cheruiyot, Kericho County; Sen. Dullo, Isiolo County; Sen. Faki, Mombasa County; Sen. (Eng.) Hargura, Marsabit County; Sen. M. Kajwang', Homa Bay County; Sen. (Prof.) Kamar, Uasin Gishu County; Sen. Kang'ata, Murang'a County; Sen. Kibiru, Kirinyaga County; Sen. (Prof.) Kindiki, Tharaka-Nithi County; Sen. (Dr.) Langat, Bomet County; Sen. (Dr.) Lelegwe, Samburu County; Sen. Linturi, Meru County; Sen. Loitiptip, Lamu County; Sen. Madzayo, Kilifi County; Sen. (Eng.) Mahamud, Mandera County; Sen. (Eng.) Maina, Nyeri County; Sen. (Dr.) Mbito, Trans Nzoia County; Sen. Mpaayei, Kajiado County; Sen. Murkomen, Elgeyo-Marakwet County; Sen. (Dr.) Musuruve, Kakamega County; Sen. Mutula Kilonzo Jnr., Makueni County; Sen. Mwangi, Nyandarua County; Sen. Mwaura, Kiambu County; Sen. Ndwiga, Embu County; Sen. Ochillo-Ayacko, Migori County; Sen. Orengo, Siaya County; Sen. Poghisio, West Pokot County; Sen. Prengei,; Sen. Sakaja, Nairobi City County; and Sen. Wambua, Kitui County.

**NOES:** Nil.

**The Deputy Speaker** (Sen. (Prof) Kindiki): Hon. Senators, the results of the voting are as follows:

**AYES:** 32

**NOES:** Nil

**ABSTENTIONS:** Nil

The "Ayes" have it.

*(Question carried by 32 votes to 0)*

*(The Bill was accordingly read the Third Time and passed)*

THE PUBLIC PRIVATE PARTNERSHIPS (AMENDMENT)  
BILL (NATIONAL ASSEMBLY BILLS NO. 52 OF 2017)

## DIVISION

### ELECTRONIC VOTING

*(Question that the Public Private Partnerships (Amendment) Bill (National Assembly Bills No. 52 of 2017) be now read a third time was put, and the Senate proceeded to vote by County Delegations)*

**AYES:** Sen. (Dr.) Ali, Wajir County; Sen. Cherargei, Nandi County; Sen. Dullo, Isiolo County; Sen. Faki, Mombasa County; Sen. (Eng.) Hargura, Marsabit County; Sen. M. Kajwang', Homa Bay County; Sen. (Prof.) Kamar, Uasin Gishu County; Sen. Kang'ata, Murang'a County; Sen. Kibiru, Kirinyaga County; Sen. (Prof.) Kindiki,

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Tharaka-Nithi County; Sen. (Dr.) Langat, Bomet County; Sen. (Dr.) Lelegwe, Samburu County ; Sen. Linturi, Meru County; Sen. Loitiptip, Lamu County; Sen. Madzayo, Kilifi County; Sen. (Eng.) Mahamud, Mandera County ; Sen. (Eng.) Maina, Nyeri County ; Sen. (Dr.) Mbiti, Trans Nzoia County; Sen. Mpaayei, Kajiado County; Sen. Murkomen, Elgeyo-Marakwet County; Sen. (Dr.) Musuruve, Kakamega County; Sen. Mutula Kilonzo Jnr., Makueni County; Sen. Mwangi, Nyandarua County; Sen. Mwaura, Kiambu County; Sen. Ndwiga, Embu County; Sen. Ochillo-Ayacko, Migori County; Sen. Orengo, Siaya County; Sen. Poghisio, West Pokot County; Sen. Prengei, Nakuru County; Sen. Sakaja, Nairobi City County; Sen. Wambua, Kitui County; and, Sen. Wetangula, Bungoma County.

**NOES:** Nil.

**The Deputy Speaker** (Sen. (Prof) Kindiki): Hon. Senators, the results of the voting are as follows:-

**AYES:** 32

**NOES:** Nil

**ABSTENTIONS:** Nil

The “Ayes” have it.

*(Question carried by 32 votes to Nil)*

*(The Bill was accordingly read the Third Time and passed)*

THE IRRIGATION BILL (NATIONAL ASSEMBLY  
BILLS NO. 46 OF 2017)

**DIVISION**

**ELECTRONIC VOTING**

*(Question that the Irrigation Bill (National Assembly Bills No. 46 of 2017) be now read a Third Time put, and the Senate proceeded to vote by County Delegations)*

**AYES:** Sen. (Dr.) Ali, Wajir County; Sen. Cherargei, Nandi County; Sen. Cheruiyot, Kericho County; Sen. Dullo, Isiolo County; Sen. Faki, Mombasa County; Sen. (Eng.) Hargura, Marsabit County; Sen. M. Kajwang’, Homa Bay County; Sen. (Prof.) Kamar, Uasin Gishu County; Sen. Kang’ata, Murang’a County; Sen. Kibiru, Kirinyaga County; Sen. (Prof.) Kindiki, Tharaka-Nithi County; Sen. (Dr.) Langat, Bomet County; Sen. (Dr.) Lelegwe, Samburu County ; Sen. Linturi, Meru County; Sen. Loitiptip, Lamu County; Sen. Madzayo, Kilifi County; Sen. (Eng.) Mahamud, Mandera County ; Sen. (Eng.) Maina, Nyeri County ; Sen. (Dr.) Mbiti, Trans Nzoia County; Sen. Mpaayei, Kajiado County; Sen. Murkomen, Elgeyo-Marakwet County; Sen. (Dr.) Musuruve, Kakamega County; Sen. Mutula Kilonzo Jnr., Makueni County; Sen. Mwangi, Nyandarua County; Sen. Mwaura, Kiambu County; Sen. Ndwiga, Embu County; Sen.

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Ochillo-Ayacko, Migori County; Sen. Orengo, Siaya County; Sen. Poghio, West Pokot County; Sen. Prengei, Nakuru County; Sen. Sakaja, Nairobi City County; Sen. Wambua, Kitui County; and, Sen. Wetangula, Bungoma County.

**NOES:** Nil

**The Deputy Speaker** (Sen. (Prof) Kindiki): Hon. Senators, the results of the voting are as follows:

**AYES:** 33

**NOES:** Nil

**ABSTENTIONS:** Nil

The “Ayes” have it.

*(Question carried by 33 votes to 0)*

*(The Bill was accordingly read the Third Time and passed)*

**The Deputy Speaker** (Sen. (Prof) Kindiki): Very well. Thank you for your co-operation. I now direct that the doors be opened and the Bars undrawn.

*(The doors were opened and the Bars undrawn)*

Once more, thank you very much. That was a very long period of Division.

We will now go back to Order No.15, of which I think the Mover and Seconder had finished their part and the Question had been proposed. We will resume Debate.

*(Sen. Were stood in her place)*

*[The Deputy Speaker (Sen. (Prof.) Kindiki) left the Chair]*

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

**The Temporary Speaker** (Sen. (Prof.) Kamar): Hon. Members, before Sen. Were gives her contribution, I would like to defer Order No.14, Committee of the Whole House to tomorrow for the record.

Thank you.

## COMMITTEE OF THE WHOLE

THE COUNTY GOVERNMENTS (AMENDMENT)  
BILL (SENATE BILLS NO.13 OF 2018)

*(Committee of the Whole deferred)*

## MOTION

ADOPTION OF REPORT OF THE *AD-HOC* COMMITTEE

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## ON THE MAIZE CRISIS IN KENYA

THAT, this House adopts The Report of the *ad-hoc* Committee on the Maize crisis in Kenya, laid on the Table of the House on Tuesday, 27<sup>th</sup> November, 2018.

*(Sen. (Prof.) Kamar on 20.2.2019)*

*(Resumption of Debate interrupted on 20.2.2019)*

**Sen. Were:** Thank you, Madam Temporary Speaker. I beg to move-

THAT, the Motion be amended by deleting the full stop at the end thereof, and inserting the following words “subject to the following amendments to the Report” –

- (a) By inserting the words –  
“and the inter-ministerial Committee on food security” immediately after the words Cabinet Secretary, the National Treasury and Planning and the Cabinet Secretary, Ministry of Agriculture, Arid Lands, appearing in paragraph three on page 11 of the Report.
- (b) By inserting the words –  
“and the inter-ministerial Committee on food security” immediately after the words “Cabinet Secretary National Treasury, Cabinet Secretary (CS) Agriculture appearing in column three of recommendation seven on page 111 of the Report.

Madam Temporary Speaker, I have found it necessary to move these amendments because in our previous Report, we had---

**The Senate Minority Leader** (Sen. Orengo): On a point of order, Mr. Speaker, Sir.

**The Temporary Speaker** (Sen. (Prof.) Kamar): What is your point of Order, Sen. Orengo?

**The Senate Minority Leader** (Sen. Orengo): Madam Temporary Speaker, since you are the Mover of the Motion and are now presiding over debate on the Motion which you moved, that would not be correct. This is because issues may arise on the Floor while you are on the Chair. I think that is not in order because you are the Mover and you are presiding over your own Motion. The Clerk should have guided you accordingly.

**The Temporary Speaker** (Sen. (Prof.) Kamar): Yes. I take note of that. In fact, my Vice Chairperson is taking notes. However, my other colleague has just gone out for five minutes and will be coming back. Therefore, in the meantime, we should allow Sen. Were to proceed because all I can do is write notes, and my able Vice Chairperson is doing so for us.

Thank you.

**The Senate Minority Leader** (Sen. Orengo): No, Madam Temporary Speaker. That does not solve the problem. We may excuse it, but it should not happen.

**The Senate Majority Leader** (Sen. Murkomen): You are not on record.

**The Senate Minority Leader** (Sen. Orengo): Madam Temporary Speaker, we can say, “Okay, we are going on,” and the distinguished Senator for Bungoma County, who is the Vice Chairperson of the Committee may very well be taking notes. However, the very fact that you are the Mover--- In fact, you had more time than he had, and it would not be right for the Mover to preside. It is just like the Senate Majority Leader sitting on that Chair; it cannot happen.

**The Temporary Speaker** (Sen. (Prof.) Kamar): There is another point of order from Sen. Mutula Kilonzo Jnr.

**Sen. Mutula Kilonzo Jnr:** On a point of order, Madam Temporary Speaker. I propose that for good order, if we do not have a replacement for you, you adjourn the business of the House to tomorrow, otherwise then, the confusion that will be created by you just sitting for two minutes is bad enough to mess the whole exercise.

Therefore, as a matter of practice, it is absolutely wrong. You will look like a judge in her own course. So, in the absence of a replacement, we can adjourn the business of the House; there are only 19 or so minutes left.

**Sen. Kajwang’:** On a point of order, Madam Temporary Speaker. When you moved this Motion, I was not in the Chamber, but I listened to you on television, and you made a very great presentation.

I have read the Report that you have tabled before the House and it is brilliant. Considering the debate we had yesterday and the one we are having today, it might discolour the very serious recommendations that you have made. I wish to join the other Members who think that whereas we are not imputing any improper motive on your part, it is untidy when the Speaker on that Chair is the Mover of the Motion and would at some point be called upon to reply.

I do not understand how that will happen when you will be required to reply to the Motion. We could just do something to avoid the sideshows.

**The Temporary Speaker** (Sen (Prof.) Kamar): I take note of what you are saying. I promised you that Sen. Pareno would be here in exactly three minutes, and she has made it.

The Senate Majority Leader.

**The Senate Majority Leader** (Sen. Murkomen): On a point of order, Madam Temporary Speaker. My concern is with regard to the amount of protestation that has visited this Report from yesterday. I am speaking out of anxiety because, as a maize farmer and a representative of maize farmers, I am more interested in the substance and form. There seems to be a lot of resistance on this Report from the beginning.

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

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

Even as you leave the Chair, I would like to request you to focus more now going forward with the substance and form, considering that we have come here to ensure that this Report can be dealt with expeditiously. This is because some of us believe that the

proposals that come from the Report are meant to solve the problems that have bedevilled the sector. That is why I would like us to focus more on the substance.

**Temporary Speaker** (Sen. Pareno): What is it, Senate Minority Leader?

**The Senate Minority Leader** (Sen. Orengo): Madam Temporary Speaker, is it right for the Senate Majority Leader to impute improper motive, when he stood as we talked about the Mover being the Chair on proceedings that relate to a Motion that she moved? Is it right for the Senate Majority Leader to impute that, that point of order is for purposes of delaying or trying to water down the Motion? In fact, I can tell the Senate Majority Leader that whenever there is a Motion in this House, I will vote according to its merits or substance.

We cannot allow the practices and conventions of this Parliament to be violated. The next time you will find the Majority Leader sitting on the Speaker's Chair and feeling very comfortable, and behold that should not happen. Is it in order to impute improper motive; that we are doing this to remove focus from the debate?

**Sen. Mutula Kilonzo Jnr.:** Madam Temporary Speaker, you should rule the Senate Majority Leader out of order. Yesterday, there were points of order that led to a beautiful amendment, which was agreed on and the Speaker issued directions. In regards to the one of today, Sen. Wetangula mentioned yesterday that impressions are everything. However, the impression that will be created when the Mover is seated on the Chair will be the wrong impression. Therefore, we are trying to make sure that people do not cast stones at the Chair and the Committee. We want to make sure that it is correct. Therefore, he should calm down and not sacrifice merit for expediency.

**Sen. Ochillo-Ayacko:** On a point of order, Madam Temporary Speaker.

*(Sen. Murkomen consulted loudly)*

**The Temporary Speaker** (Sen. Pareno): Order, Senate Majority Leader! Proceed, Sen. Ochillo-Ayacko.

**Sen. Ochillo-Ayacko:** Madam Temporary Speaker, I do not know why the Senate Majority Leader is trying to heckle me. I request you to rule him out of order. This is a House of procedure and proceedings. If we do whatever we do here outside the procedure, we will not do substantive justice to the people, who will likely condemn us.

Madam Temporary Speaker, on the point that the Senate Majority Leader is of the opinion that we should ignore procedure and emphasise on substance, I request you to rule him out of order.

**The Temporary Speaker** (Sen. Pareno): Hon. Senators, I am not necessarily imputing any ill motive on the Mover of the Motion, but it would be neater for us to have another Chair or Speaker sit in, so that she can respond and concentrate on what will be debated. It was an oversight and not her intention to sit on the Chair during this debate. Therefore, we have corrected it quickly. I am here to sit and guide the debate.

Proceed, Sen. Were.



**Sen. Were:** Thank you, Madam Temporary Speaker, for that guidance. This amendment was necessary to expand the scope of culpability on the maize crisis that we experienced last year.

We had the Inter-ministerial Committee that must be included and the entities to be culpable, for example, the Head of Public Service Commission (PSC), who was chairing the Committee, The Ministry of Devolution and ASALs, The Ministry of Public Service, Youth and Gender Affairs and The Ministry of Internal Security and Coordination of National Government under special programmes.

Madam Temporary Speaker, this Committee gazetted the haphazard extension of importation of maize. It allowed maize to come in when farmers were harvesting. It also allowed people to import white maize, but restricted people to import the yellow maize and how much maize should be imported. Therefore, it would have been wrong to keep this Inter-ministerial Committee out of the Report as the people who are culpable on the crisis that bedeviled this country last year.

Madam Temporary Speaker, I now call upon Sen. (Dr.) Langat to second these amendments.

**Sen. (Dr.) Langat:** Thank you, Madam Temporary Speaker, for giving me this opportunity to second this particular Motion with the said amendments.

The inclusion of these particular members in this Committee will be important. These are high level Government officials whom we expected to act with decorum concerning such a crisis in our country during that particular time.

Madam Temporary Speaker, when you check in Page 3, these are the people who resolved that the duty-free waiver for the maize should within five days be extended without any good reason. This is the same group that in the second paragraph, mentioned that the Kenya Revenue Authority and the Ministry of Interior and Coordination of National Government should by Tuesday, 27<sup>th</sup> June, deploy the officers to large millers to ensure accountability. During our discussion, the same large deployment never took place.

More so, this is the group that made such an erratic decision that the maize docked at the port and facing documentation challenges in Mombasa was to be cleared and discharged immediately. This is the window that led to the free opening of the maize to be brought to our country, which later on became a problem, because the same decision violated the conditions of the *Gazette Notice* that was supposed to guide the importation of maize.

I also second strongly the amendments to expand the dragnet of this particular culpable people, because this is the same group of people that in a meeting which they had on 14<sup>th</sup> November, 2017, made very erratic decision up to and including, expanding exportation of maize from Mexico to the tune of four million bags. They lowered the purchase of maize from the local people to the tune of 1.5 million bags of 90kgs. These particular decisions of 14<sup>th</sup> November, 2017 were made outside the legal notice that had been given and which ended on 15<sup>th</sup> October. Looking at this particular list of these particular members---

*(Senators consulted loudly)*

**The Temporary Speaker** (Sen. Pareno): Order, Senators! Kindly, can you consult in low tones, so that we allow the seconder to second the Motion?

**Sen. (Dr.) Langat:** I am seconding the amendments. The decisions that were made by these particular high level Government officials, which violated the *Gazette Notice* and anything else, make me feel that they are the people who should carry the highest responsibility of the very mess. Excluding them is actually robbing this particular Report a great authenticity and the availability of people who can carry the highest responsibility on the mess that happened. For us who went to the field and experienced a lot of issues facing the farmers, it is actually in order that these particular amendments be approved. When we were in Bungoma, I remember 21 farmers from Bungoma had been paid and---

*(The red timer was switched on)*

I want to finish by saying that this particular committee made very erratic decisions that affected farmers. As a result, 21 purported farmers in Bungoma were paid a lot of money. We shall continue later.

I second the amendments.

*(Question of the amendment proposed)*

**Sen. M. Kajwang:** Madam Temporary Speaker, I want to oppose the amendments to the Report. I listened very carefully to the Mover of the Motion; my teacher and a good Professor, Sen. Kamar, when she was moving it. There is one statement that she made then and I even wrote it down. She said that flooding of maize in this country happened after the Kenya Gazette notices lapsed. That is something that is on record and also captured in the Report that was brought before this House.

Madam Temporary Speaker, the amendment seeks to broaden responsibility, to move from specific public officers, who in this case is the CS, National Treasury and Planning and CS for Agriculture, Livestock, Fisheries and Irrigation to a committee of a dozen or so people.

Part of the mandate of this Senate *Ad hoc* Committee on the maize crisis in Kenya was to find out the problem bedeviling the sector; how the imports came in and the circumstances around the gazette notices. Ultimately, this Committee has gone beyond that to define responsibility; the persons who bear the greatest responsibility for the flooding that occurred in the market.

It will be fairly lazy if this House would be convinced that we hold an entire Inter-Ministerial Committee responsible. The CS, National Treasury and Planning has a role defined by the Constitution. The National Treasury and Planning is defined in the Constitution and more so in the Public Finance Management (PFM) Act. It has powers to issue certain notices, guidelines and regulations.

The CS for Agriculture, Livestock, Fisheries and Irrigation has got some specific responsibilities and obligations because this was about maize.

Madam Temporary Speaker, when I look at the composition of that Inter-Ministerial Committee, it has everyone, including the Head of Public Service. I am just wondering how the Head of Public Service will be held responsible for the flooding which happened after the gazette notices. The notices that the Mover had talked about were three; that were issued by this Inter-Ministerial Committee. However, once the gazette notice is issued, there are those public officers with a responsibility to execute.

We have been told that Kenya Revenue Authority (KRA) did not collect taxes and the Kenya Bureau of Standards (KeBS) did not have the capacity to conduct quality assurance of the maize coming in. We need to be specific on the people who bear responsibility for the mess that is killing an entire sector in this country.

Madam Temporary Speaker, it is for that reason that I discourage the Committee from moving these amendments. Indeed, you had ruled yesterday that it was important to provide of two things; one, that the *Ad hoc* Committee sat and agreed on these amendments. Secondly, the amendments were considered within timelines---

**The Temporary Speaker** (Sen. Pareno): Order, Senator. You will have a balance of 17 minutes.

### ADJOURNMENT

**The Temporary Speaker** (Sen. Pareno): Hon. Senators, it is now 6.30 p.m., time to adjourn the business of the Senate. The Senate, therefore, stands adjourned to tomorrow, Thursday, 21<sup>st</sup> February, 2019, at 2.30 p.m.

The Senate rose at 6.30 p.m.