

PARLIAMENT OF KENYA

THE SENATE

THE HANSARD

Wednesday, 31st July, 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 DELEGATION FROM ESTONIA

The Speaker (Hon. Lusaka): Hon. Senators, I would like to acknowledge the presence, in the Speaker's Gallery this afternoon, of a visiting delegation from Estonia.

Members, the visiting delegation is in the country to learn more about our country, and explore opportunities for enhancing bilateral relations between our two countries.

I request each member of the delegation to stand when called out so that they may be acknowledged in the Senate tradition. They are:

- (1) Hon. Priit Sibul, MP;
- (2) H.E Kadri Human Ayal - Honorary Consul of Estonia in Kenya
- (3) Rev. Toomas Nigola; and
- (4) Mrs. Teele Nigola.

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

I thank you.

VISITING DELEGATION FROM NABISWA FRIENDS SECONDARY SCHOOL, BUNGOMA COUNTY

Hon. Senators, I would also like to acknowledge the presence, in the Public Gallery this afternoon, of visiting students and teachers from Nabiswa Friends Secondary School, Bungoma County.

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

I thank you.

VISITING DELEGATION FROM ST. JOHN'S KARIMA
SCHOOL, BUNGOMA COUNTY

Hon. Senators, I would also like to acknowledge the presence, in the Public Gallery this afternoon, of visiting students and teachers from St. John's Karima Secondary School, Bungoma County.

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

I thank you.

VISITING DELEGATION FROM STATE HOUSE PRIMARY
SCHOOL, NAIROBI CITY COUNTY

I would also like to acknowledge the presence, in the Public Gallery this afternoon, of visiting students and teachers from State House Primary School, Nairobi City County.

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

I thank you.

(Applause)

Sen. Halake: Mr. Speaker, Sir, I rise to welcome the delegation from Estonia led by the Honorary Consul, who is a good friend of the Committee on Information, Communication and Technology. She has supported our Committee while processing the Data Protection Bill (Senate Bills No. 16 of 2018).

Estonia has one of the best data protection laws. We are happy that they are here. My Committee would also like to visit Estonia one of these days. I therefore take this opportunity to welcome the delegation to the Senate and thank them for sharing information with us that has made the Data Protection Bill (Senate Bills No. 16 of 2018) more robust.

I look forward to the Bill being passed by the National Assembly. Even though there is a parallel Bill to The Data Protection Bill (Senate Bills No. 16 of 2018), it has had an input from one of the countries with the best data protection legislation.

Mr. Speaker, Sir, I also welcome the students here. I know that they are from many schools, so I take this opportunity to tell them that learning is not just from books. We also learn from exposure. I am happy that they are here to see their legislators doing

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the work of legislation, oversight and representation. I urge the students to work hard in school and look at Parliament as a place that they can aspire to be.

I thank you.

Sen. Shiyonga: Mr. Speaker, Sir, I join you in welcoming the delegation from Estonia. I am happy that they are here to explore opportunities for enhancing bicameral relations between our two countries.

I also welcome the students from the two schools from Bungoma County and the State House Primary School in Nairobi City County. Bungoma neighbours Kakamega County. Therefore, the students here are our children. I welcome them to the Senate where they can learn more.

Sen. Wetangula: Mr. Speaker, Sir, I join you in welcoming the delegation from Estonia to the 'Upper House' of Kenya.

Equally, I also receive and welcome the two schools from my county of Bungoma where you, the Speaker, also come from. Our county is lucky to be represented by the two of us here.

I also welcome the students from Nairobi City County which is represented by my nephew. Nairobi City County is where the Senate is domiciled and where we all live.

I encourage the students that visiting the Senate is an act of privilege to see how the 'Upper House' of this country works. In this House, debate is guided by reason and not emotion. This is a House where we defend and protect counties, their governments and interest is paramount.

I am very proud of the two schools from Bungoma County. I am happy that they are doing a good job in moulding students that will become leaders of tomorrow. I am sure that the students will note that we have a galaxy of successful women and men debaters. This House is constituted by both the young and old. This House gives you a big mix of the experiences that you require when you go back to prepare for leadership.

Mr. Speaker, Sir, I urge the students from both Nairobi and Bungoma counties to maintain discipline, work hard, be successful in exams, choose their careers carefully so that they do not finish school and walk the streets of these towns of Kenya looking for jobs. We want them to finish school and be job creators and not job seekers.

I thank you.

Sen. Poghiso: Mr. Speaker, Sir, I join you and colleagues in welcoming the delegation from Estonia.

As Sen. Halake stated, this delegation is a friend of our Committee. We appreciate the extent of their advancement in the ICT world. We appreciate that we can learn something from Estonia.

I would like to welcome the students from Nairobi and Bungoma counties. I would like to tell them that all the corners of this country are represented and protected here. When they sharpen their skills in literature and debating, they might find themselves here one day. I urge them to do their best and sharpen their talents. Leadership will one day come out of the talents that they possess. I hope that whatever they learn here today stays with them to the day that they might become leaders to represent all the corners of Kenya in this Chamber.

Mr. Speaker, Sir, I hope that they will take with them the good memories of the Senate.

I thank you.

Sen. Olekina: Mr. Speaker, Sir, I rise to welcome my good friends, the delegation from Estonia. I hope that they will have a great time in Kenya. Estonia is a very small country but they are leading in technology. Estonia has the solution to all the issues that we have been talking about controlling own source revenue.

In Estonia, every building is numbered. If there is a building that generates a lot of income, the county government is able to compute every single cent. We can learn a lot from them. I am happy that the Committee on ICT will visit Estonia so that they can learn from them. I spent my Christmas Holiday in Estonia, and I was very happy to be hosted by Rev. Toomas Nigola and his wife.

My advice to the children from Bungoma and Nairobi counties is that we dreamt so high for us to represent the people of Kenya. In future, unless we focus in protecting our environment, we may not even be able to come here. Yesterday, we talked about the causes of cancer. Some of the carcinogenic are brought about by the pollution in our environment. I therefore encourage them to plant trees when they go back to their schools. When they graduate and can count all the trees that they have planted, I will pay for their university education.

Sen. Sakaja: Mr. Speaker, Sir, as the Senator for Nairobi City County, allow me to welcome to Nairobi the delegation from Estonia. Sen. Olekina has told us that it is a small country of 45,000 square kilometres. Its population is half the registered voters in Nairobi City County. However, it is a leading country in the state of World Liberty Index because of how they have used technology. It is a country that does internet voting. We are currently looking into reviewing our Constitution; their framework of proportional representation is something that we can get ideas from in terms of structure of governance. We thank them for coming to Kenya. I pray that they feel welcome in Nairobi. This has been a sad week for us. If it was not, we would have helped them see the sights and sounds of Nairobi City.

Additionally, I want to welcome the students from Bungoma County that is represented by my distinguished uncle, Sen. Wetangula, and yourself as a former Governor. There are students from Nairobi City County as well. My office was lucky to host them today earlier on. Unfortunately, I was not there because, as you know, we are busy with preparations for the sendoff of our brother, the late Member of Kibra, Hon. Ken Okoth.

Mr. Speaker, Sir, I just want to encourage them that whatever they put their hearts and minds to, they can achieve. They should believe in themselves and let no one put them down. I encourage them to write down their dreams and go for them. When I was in primary school, and I said here before, in Class Eight, I wrote a poem about being a Member of Parliament. Fifteen years after that, I was sworn in as a Member of Parliament. So, their dreams might be to be a doctor, lawyer, judge or whatever it is. I encourage them to write down those dreams and claim them every day.

Thank you, Mr. Speaker, Sir.

Sen. Khaniri: Mr. Speaker, Sir, I want to thank you for giving me the opportunity to join you and my colleagues who have spoken before me, first of all, to welcome the great delegation from Estonia. I have been to Estonia. I was in Tallinn last October. It is a beautiful place to be with good tourist sites. The botanical gardens are amazing. The TV Tower is an amazing place to be, with a very good view. I want to thank them for choosing to learn about bicameral relationship from Kenya.

We are new in that system; we adopted the bicameral system about six years ago, but there is a lot that they will learn from here because the six years have been very turbulent for the two Houses. I wish them a fruitful stay in Kenya.

I also want to join my colleagues in welcoming the two schools, one from Bungoma County and the other one from Nairobi City County. I wish them well in their academics. As Sen. Sakaja said, all dreams are valid. I encourage them to make their dreams and focus on them, but above all, work hard and believe in God. I wish you well.

Thank you, Mr. Speaker, Sir.

The Speaker (Hon. Lusaka): Finally, the Chairperson of the Committee on Education.

Sen. (Dr.) Langat: Thank you very much, Mr. Speaker, Sir, for giving me this chance to join you in welcoming the delegation from Estonia. It is a wonderful country that I once visited; particularly the museum in Tartu is very big and holds up to 1.3 million tourists. I welcome them to our beautiful country. We also have wonderful features that they can visit in this country.

May I also take this chance to welcome the students from Bungoma and Nairobi counties to the Senate. They will learn that this House represents counties. They will know that one function that we do here is to make sure that our counties are well represented. This is also the 'upper House' that legislates the laws that are used to govern this country.

It is a great privilege that they are here. Some of us could not get that opportunity when we were in school. I want to encourage them to work hard and be very disciplined, so that they can finally be here and even other places that are very important in this country.

Thank you for giving me this opportunity to assure them that they are in safe hands. I wish them the best in their schools.

Thank you, Mr. Speaker, Sir.

MESSAGE FROM THE NATIONAL ASSEMBLY

PASSAGE OF THE DIVISION OF REVENUE (NO. 2) BILL
(NATIONAL ASSEMBLY BILL NO. 59 OF 2019)
BY THE NATIONAL ASSEMBLY

The Speaker (Hon. Lusaka): Hon. Senators, I wish to report to the Senate that, pursuant to Standing Order No.41 (3) and (4), I have received the following message

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from the Speaker of the National Assembly regarding the passage by the Assembly of the Division of Revenue (No.2) Bill (National Assembly Bill No.59 of 2019) -

“PURSUANT to the provisions of Standing Orders 41 and 142 of the National Assembly Standing Orders, I hereby convey the following Message from the National Assembly-

WHEREAS, The Division of Revenue (No.2) Bill (National Assembly Bill No.59 of 2019) was published *vide* Kenya Gazette Supplement No.119 of 16th July, 2019 to provide for the equitable division of revenue raised nationally between the national and county governments in the 2019/2020 Financial Year;

AND WHEREAS, the National Assembly considered and passed the said Bill with amendments and in the form attached hereto on 25th July, 2019;

NOW THEREFORE, in accordance with the provisions of Article 110 (4) of the Constitution and Standing Order No.41 of the National Assembly Standing Orders, I hereby refer the Bill to the Senate for consideration.”

Hon. Senators, Standing Order No.157 requires that a Bill which originates in the National Assembly be proceeded with by the Senate in the same manner as a Bill introduced in the Senate by way of First Reading in accordance with Standing Order No.139.

I, therefore, direct that the Division of Revenue (No.2) Bill (National Assembly Bill No. 59 of 2019) be read a First Time, tomorrow, Thursday, 1st August, 2019.

I thank you.

Sen. Farhiya: Mr. Speaker, Sir, I thought this Bill was passed first by Senate and so, it should be the other House reading the First Time and not the Senate. How did it end up that it should be read in our House the First Time when we already read it and finished before them? The Division of Revenue Bill is the same.

(Loud Consultations)

The Speaker (Hon. Lusaka): No! Our Bill has gone to the National Assembly and they have also brought theirs. So, they have met in the middle.

(Laughter)

What is your point of order, Sen. Wetangula?

Sen. Farhiya: Mr. Speaker, Sir, if the other House has passed it and this House has also passed it, what is the procedure in terms of how it should be proceeded from here?

Sen. Wetangula: On a point of order, Mr. Speaker, Sir. I have no issue with the Communication because that is according to procedure. However, the issue and the big question must be: We have also conveyed our Division of Revenue Bill to the National Assembly. You have directed, and rightly so, but probably prematurely, that the Bill be read the First Time on Thursday, which is tomorrow.

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My suggestion is that since the National Assembly has a poor record of processing Bills from this House; in the event that our Bill that you have conveyed to the National Assembly is also not placed for First Reading tomorrow, then we have no business doing a First Reading of their Bill in this House.

Thank you, Mr. Speaker, Sir.

The Speaker (Hon. Lusaka): Hon. Senators, like you have rightly said, this is a procedural process. The issues being raised will be dealt with when we get there.

Next Order.

PAPERS LAID

FINANCIAL STATEMENTS OF VARIOUS COUNTY AGENCIES/FUNDS

Sen. Dullo: Mr. Speaker, Sir, I beg to lay the following Papers on the Table of the Senate, today, Wednesday, 31st July, 2019.

Report of the Auditor-General on the Financial Statement of Kisii County Assembly Car Loan and Mortgage Fund for the year ended 30th June, 2015.

Report of the Auditor-General on the Financial Statement of Kisii County Assembly Car Loan and Mortgage Fund for the year ended 30th June 2017.

Report of the Auditor-General on the Financial Statement of Kisii County Assembly Car Loan and Mortgage Fund for the year ended 30th June 2018.

Report of the Auditor-General on the Financial Statement of Nandi County Executive Car and Mortgage Loan Scheme for the year ended 30th June, 2018.

(Sen. Dullo laid the documents on the Table)

The Speaker (Hon. Lusaka): Next Order.

STATEMENTS

UPCOMING 2019 KENYA NATIONAL POPULATION AND HOUSING CENSUS IN DROUGHT-STRICKEN AREAS

Sen. Iman: Thank you, Mr. Speaker, Sir. I rise pursuant to Standing Order No.48(1) to seek a Statement from the Standing Committee on Finance and Budget on the upcoming 2019 Kenya National Population and Housing Census with regard to the drought-stricken areas particularly the former North Eastern Province.

In the Statement, the Committee should state -

- (1) Whether they can extend extra days or time after the exercise ends for the nomadic pastoralists.
- (2) Whether the Government will, during the exercise, take cognisance of the prevailing drought in areas occupied by nomadic pastoralist communities

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especially in the north eastern region who may not be accessed by enumerators owing to their erratic movement in search of pasture.

- (3) State the measures being put in place by the national Government through the Kenya National Bureau of Statistics (KNBS) to ensure that the exercise runs smoothly in all counties and that the true picture of the population is recorded.

Thank you, Mr. Speaker, Sir.

Sen. Halake: Thank you, Mr. Speaker, Sir. I rise to support and congratulate Sen. Iman for this intervention and Statement on the upcoming National Population and Housing Census 2019. This is a very genuine concern from pastoralists especially during this drought season. For this to happen in one night is a bit unfair and inconsiderate for pastoralists. It is because some of the pastoralists have moved to Ethiopia. As you know, most pastoralists occupy the border counties from the Maasai area bordering Tanzania to north eastern area bordering Somalia; to the northern area bordering Ethiopia; and, even Sudan on the Turkana and Pokot sides.

This is a very important issue. I hope the Committee will get to the bottom of it and ensure that justice is done with regards to pastoralists getting their fair share of census support.

In the last census, most pastoralists that had migrated with their animals across the border were not counted, even though in the past they had a high growth rate in terms of high birth rate. We do not want a situation where Kenyans who have traditionally gone to seek for pastures across the border and may not be available that night for the Census, to miss out on this important initiative.

I support and hope that this will be considered and that the Committee will come up with a good solution to ensure that all Kenyans get their right to be served on that night and their right to be enumerated as Kenyans.

Mr. Speaker, Sir, I support.

Sen. Wetangula: Mr. Speaker, Sir, this is the second Statement coming on the Floor of this House in relation to the upcoming census next month.

While I support the concerns of the distinguished nominated Member about pastoralist movements and the ability to enumerate them, the Chair ordered, after several interventions that the Cabinet Secretary (CS) responsible for the census be called to the Committee of the Whole to brief the Senate on the level of preparedness of carrying out a credible census.

We say so because the number of people in each county is critical to every Senator here. It is the basis upon which resources are shared. The bulk of sharable revenue goes to population. We know that in the last Census; 10 years ago, in some parts of this country, census figures were either cooked, inflated or fraudulently put together and matters---

Sen. (Eng.) Mahamud: On a point of order, Mr. Speaker, Sir.

The Speaker (Hon. Lusaka): What is your point of order, Sen. (Eng.) Mahamud?

Sen. (Eng.) Mahamud: Mr. Speaker, Sir, is the good Senator in order to say that the census figures were cooked in some parts of this country? Could he substantiate that statement?

Sen. Wetangula: Mr. Speaker, Sir, from where I come from, we have a saying that when you raise a stick towards a thieving dog, even without aiming at it, it starts crying and wailing.

(Laughter)

Sen. (Eng.) Mahamud: On a point of order, Mr. Speaker, Sir.

The Speaker (Hon. Lusaka): What is your point of order, Sen. (Eng.) Mahamud?

Sen. (Eng.) Mahamud: Mr. Speaker, Sir, is the Senator using parliamentary language? He is now referring to me as a thieving dog making noise. From what he said, he implied that.

(Loud consultations)

The Speaker (Hon. Lusaka): Order, Senator. Let me clarify because I have the privilege of also coming from Bungoma County where the Senator comes from. He was just quoting a saying in his mother tongue. He did not refer to you as a thieving dog. It is just a saying.

(Laughter)

Sen. Wetangula: Mr. Speaker, Sir, I have no intention, whatsoever, of denigrating the standing of my Chairperson. He is my good friend and we work so closely. I quoted a saying from my language. Like Chinua Achebe said: “old, frail women feel very uncomfortable when dry bones are mentioned.” That does not mean he is degrading old women. It is a saying in a book by Chinua Achebe.

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

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

Sen. Shiyonga: Mr. Speaker, Sir, Sen. Wetangula has mentioned “Old, frail women.” The problem is---

Sen. Nyamunga: That is a saying.

Sen. Shiyonga: Mr. Speaker, Sir, it is a saying as we take it, but let us be a little bit soft because some of these expressions---

(Laughter)

The Speaker (Hon. Lusaka): Order, Members! It is unfortunate if you have not read some of these things.

(Laughter)

He is just quoting words written by Chinua Achebe. All you need to do is to countercheck to find out if he is reading it out of context. Otherwise, let us proceed.

Sen. Wetangula: Thank you, Mr. Speaker, Sir. Let me finish by urging the Chairperson once again that we need the CS in this House so that every Senator is at the same level of confidence and comfort that we will have a credible census that will reflect the true number of residents and inhabitants in each and every county in this country.

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Thank you, Mr. Speaker, Sir.

The Speaker (Hon. Lusaka): Sen. (Eng.) Mahamud, you are the Chairperson of the Committee. Once you respond to what preparations you have made, then we may reduce those others.

Sen. (Eng.) Mahamud: Thank you, Mr. Speaker, Sir. First of all, whatever Statement Sen. Wetangula was making, was in response to what I said. He was targeting me, and I know where he is coming from.

First of all, Sen. Wetangula is a Member of my Committee. So, he should have asked me what we are doing about it and not challenge me on the Floor of the House.

Mr. Speaker, Sir, we contacted the National Treasury. We were supposed to have had a meeting last week. However, because of the change in the Ministry on that particular day, they requested to be given time. We again talked this morning and agreed to have the meeting on Wednesday next week. They will be prepared to come to the Committee of the Whole. As soon as we get the confirmation, we will allow the Speaker to communicate that.

I request all Members to be available on that day to raise as many questions as they can. I appreciate the question raised by Sen. Iman and the previous one by the nominated Senator for Nakuru. This is an important exercise. Therefore, we need everybody here so that we know how the exercise is done and what will be done in terms of the special areas where there is the problem of drought.

Mr. Deputy Speaker, Sir, we are on top of our feet. I assure you that the National Treasury and the Kenya National Bureau of Statistics (KNBS) will appear next week. So, I will give you the time when they will come. We will ask them to be here on Wednesday by 10.00 a.m.

The Speaker (Hon. Lusaka): Hon. Senators, now that the Chairperson has confirmed that they have invited the Cabinet Secretary (CS) to come to the Committee of the Whole on Wednesday. I seek your indulgence so that we raise most of those issues when the CS comes so that we get substantive answers and move to the next Statement.

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

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

The Senate Minority Leader (Sen. Orengo): Mr. Speaker, Sir, I express concern over the fact that CSs are not appearing in some of the committees that they have been summoned or invited to appear. This being such a critical question, because the census is coming on August, can the Office of the Clerk make sure that there is confirmation that the CS will turn up?

As Sen. Wetangula has pointed out, 10 years ago, there was a big controversy about the census. In fact, the census results in three counties were suspended and were not taken into account for purposes of planning as pronounced in the result. The census is important. For those who read biblical history, probably, Jesus would never have been born in Nazareth if there had not been a census on that year when Judea, for purposes of census, was considered as part of Syria. Probably, that birth in that manger would not have taken place. So, if they could accurately do it 1000 years ago, we can do it in 2019.

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Today, we had an important meeting of the Committee of Justice and Legal Affairs and the CS did not turn up. We need a repetition of Article 153 to be made clear that the appearance of CSs before the Senate is not an option. When they are summoned or invited to appear, they are under constitutional duty to do so. This question is so critical. I knew the controversy that it raised at that time. It went to court and took so many years to resolve.

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

The Speaker (Hon. Lusaka): Sen. Cheruiyot, what is your intervention so that we conclude on this matter?

Sen. Cheruiyot: Mr. Speaker, Sir, I share in the concerns of the Senate Minority Leader. There is an increasing trend where certain CSs have set a precedence to never show up in this House no matter how serious the matter that we are canvassing is. For the record, the CS in charge of this particular matter, if I am not misled, is one such person. This is because he has not shown up before our Committee on a number of occasions. Therefore, it would be important, as the invitations are sent to the Ministry inviting them to this meeting, to share the importance of this issue with them. It is unfortunate.

I wish the Senate Majority and Minority leaders had followed through with a request that I once made in this House. Given the importance of the issue of the census, we needed an *ad hoc* Committee of this House to provide oversight from planning and implementation phase to relaying of the results of the census. However, now that it did not happen, this is our only opportunity to interact with them. Using both your soft and hard powers, ensure that we have this CS before this House on that day.

(Loud consultations)

The Speaker (Hon. Lusaka): Order, Members. The Constitution is clear on appearances of CSs. In Article 153 (3) says that: -

“A Cabinet Secretary shall attend before a Committee of the National Assembly or the Senate when required by the Committee and answer any question concerning a matter for which the Cabinet Secretary is responsible.”

That is very clear. However, they have been misled by somebody else that they cannot appear before the committees of the Senate. So, they should stand by the Constitution when they are summoned to come. We look forward to them coming to the Senate.

Sen. Sakaja: Thank you, Mr. Speaker, Sir. I am in leadership of two committees. I confirm before this House, as the Committee on Labour and Social Welfare that we have not had any problem with CS Ukur Yattani before. He has always attended the Committee on Labour and Social Welfare. He is now the current acting CS, Finance and National Treasury.

The point I am making is because how serious this matter is, let us not fall into the trap of kicking the can far down the road and not having this session done because of when we really need the individual here. Let it be done as soon as possible. If the census is in August, there are certain interventions that we want to make that should inform the

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form of the census. When it comes to labor market information, unemployment issues and the recruitment of enumerators where our young people want to get opportunities, we want to do this as early as possible so that our intervention is not time barred.

Therefore, I urge the Chairperson to make sure that if it is Wednesday next week; let it not be postponed beyond that.

COMMUNICATION FROM THE CHAIR

VISITING DELEGATION FROM KAPNGETUNY BOYS SECONDARY SCHOOL, UASIN GISHU COUNTY

The Speaker (Hon. Lusaka): Hon. Senators, I would like to acknowledge the presence in the Public Gallery this afternoon of visiting students and teachers from Kapngetuny Boys Secondary School, Uasin Gishu County.

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

Sen. (Prof.) Kamar: Thank you, Mr. Speaker, Sir. I join you in welcoming the students from Kapngetuny Boys from my county of Uasin Gishu.

I wish them well because next term is the exam term. I wish them all the best. I look forward to seeing good results from them. I have known Kapngetuny Boys High School for a long time. It is a school that has produced giant leaders. I wish them well. They should learn what they can from the leaders who are here. I look forward to seeing good results from them. Hard work is the key. Therefore, we believe that they will do well.

I welcome them to the Senate.

The Speaker (Hon. Lusaka): Next Order.

The Speaker (Hon. Lusaka): I order that the Division Bell be rung for five minutes.

(The Division Bell was rung)

I now direct that the doors be closed and the Bars drawn

(The doors were closed and the Bars drawn)

I will proceed to put the question so that you vote.

(Voting in progress)

Those who need assistance should approach the Clerks-at-the-Table.

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

MOTION

ADOPTION OF THE CPAIC FIDUCIARY RISK REPORT ON AUDIT ISSUES
FOR FYs 2012/13 TO 2015/16

THAT, the Senate adopts the Report of the Senate Sessional Committee on Public Accounts and Investments on the Fiduciary Risk Report on audit issues by county governments for the financial years 2012/13 to 2015/16 laid on the Table of the Senate on Wednesday, 10th July, 2019.

(Sen. M. Kajwang' on 24.07.2019)

(Resumption of Debate interrupted on 25.07.2019)

DIVISION

ELECTRONIC VOTING

(Question, that the Senate adopts the Report of the Senate Sessional Committee on Public Accounts and Investments on the Fiduciary Risk Report on audit issues by county governments for the financial years 2012/13 to 2015/16 laid on the Table of the Senate on Wednesday, 10th July, 2019 put, and the Senate proceeded to vote by County Delegations)

AYES: Sen. (Dr.) Ali, Wajir County; Sen. Boy, Kwale County; Sen. Cherargei, Nandi County; Sen. Faki, Mombasa County; Sen. Halake, Isiolo County; Sen. Iman, Garissa County; Sen. M. Kajwang', Homa Bay County; Sen. (Prof.) Kamar, Uasin Gishu County; Sen. Khaniri, Vihiga County; Sen. Kihika, Nakuru County; Sen. Kinyua, Laikipia County; Sen. (Dr.) Langat, Bomet County; Sen. Linturi, Meru County; Sen. (Eng.) Mahamud, Mandera County; Sen. (Dr.) Mbiti, Trans Nzoia County; Sen. Mpaayei, Kajiado County; Sen. Mutula Kilonzo Jnr., Makueni County; Sen. Ochillo-Ayacko, Migori County; Sen. Olekina, Narok County; Sen. Omogeni, Nyamira County; Sen. Orengo, Siaya County; Sen. Outa, Kisumu County; Sen. Poghisi, West Pokot County; Sen. Sakaja, Nairobi City County; Sen. Shiyonga, Kakamega County; Sen. Wambua, Kitui County and Sen. Wetangula, Bungoma County.

NOES: Nil.

The Speaker (Hon. Lusaka): Hon. Senators, the results are out and they are as follows:

AYES: 27

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NOES: Nil.
ABSTENTIONS: Nil.
The “Ayes” have it.

(Question carried by 27 votes to Nil)

The Speaker (Hon. Lusaka): I now direct that the doors be opened and the bars withdrawn.

(The bars were withdrawn and the doors opened)

POINT OF ORDER

WITHDRAWAL OF THE ELECTION LAWS (AMENDMENT) (No.2)
BILL (SENATE BILLS NO. 37 OF 2018)

Sen. (Dr.) Zani: On a point of order Mr. Speaker, Sir.

The Speaker (Hon. Lusaka): What is your point of order, Sen. (Dr.) Zani?

Sen. (Dr.) Zani: Thank you, Mr. Speaker, Sir. Pursuant to Standing Order No.154, I wish to withdraw the Election Laws (Amendment) (No.2) Bill (Senate Bills No. 37 of 2018) which appears in today’s Order Paper.

We need to first amend the Constitution for this Bill to be in sync with the Constitution.

The Speaker (Hon. Lusaka): The Bill stands withdrawn.

(The Bill was withdrawn)

The Speaker (Hon. Lusaka): Next Order.

COMMITTEE OF THE WHOLE

(Order for Committee read)

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

IN THE COMMITTEE

[The Temporary Chairperson (Sen. Nyamunga) in the Chair]

THE COUNTY GOVERNMENT RETIREMENT SCHEME BILL
(NATIONAL ASSEMBLY BILLS NO.10 OF 2018)

(Sen. Murkomen on 29.11.2018)

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(Resumption of Debate Interrupted on 25.07. 2019)

The Temporary Chairperson (Sen. Nyamunga): Hon. Senators, we are ready to consider the County Government Retirement Scheme Bill (National Assembly Bills No. 10 of 2018).

I direct that the Division Bell be rung for one minute.

(The Division Bell was rung)

The Temporary Chairperson (Sen. Nyamunga): I direct that the Division Bell be rung for three more minutes.

(The Division Bell was rung)

The Temporary Chairperson (Sen. Nyamunga): Kindly, stop the Division Bell.

(The Division Bell was stopped)

I order that the doors be closed and Bars drawn.

(The doors were closed and Bars drawn)

Whips, please, verify the numbers.

Sen. Kihika: Madam Temporary Chairperson, we are okay.

The Temporary Chairperson (Sen. Nyamunga): Hon. Senators, we are ready to start. We are considering The County Government Retirement Scheme Bill (National Assembly Bills No.10 of 2018). You can log in now.

(Loud consultations)

Kindly, let us have some order. I now put the Question that New Clause 59 be read a Second Time.

Please, vote now. The assisted voters should come forward.

(Voting in progress)

The Chairperson (Sen. Nyamunga): Hon. Senators, we will now move to the next voting on clauses with amendments.

Kindly vote.

(Voting in progress)

DIVISION

ELECTRONIC VOTING

(Question that New Clause 59 be now read a Second Time put, and the Senate proceeded to vote by County Delegations)

AYES: Sen. (Dr.) Ali, Wajir County; Sen. Boy, Kwale County; Sen. Cherargei, Nandi County; Sen. Cheruiyot, Kericho County; Sen. Faki, Mombasa County; Sen. Halake, Isiolo County; Sen. Iman, Garissa County; Sen. M. Kajwang', Homa Bay County; Sen. (Prof.) Kamar, Uasin Gishu County; Sen. Khaniri, Vihiga County; Sen. Kihika, Nakuru County; Sen. Kinyua, Laikipia County; Sen. Linturi, Meru County; Sen. (Eng.) Mahamud, Mandera County; Sen. (Dr.) Mbiti, Trans Nzoia County; Sen. Mpaayei, Kajiado County; Sen. Mutula Kilonzo Jnr., Makueni County; Sen. Nyamunga, Kisumu County; Sen. Ochillo-Ayacko, Migori County; Sen. Olekina, Narok County; Sen. Orengo, Siaya County; Sen. Poghisio, West Pokot County; Sen. Sakaja, Nairobi City County; Sen. Shiyonga, Kakamega County; Sen. Wambua, Kitui County; and Sen. Wetangula, Bungoma County

NOES: Nil

The Temporary Chairperson (Sen. Nyamuga): Order, Members. The results of the voting are as follows-

AYES: 26

NOES: Nil

ABSTENTIONS: Nil

The "Ayes" have it.

(Question carried by 26 votes to Nil)

DIVISION

ELECTRONIC VOTING

(Question, that Clause 3(as amended), 4(as amended),5,6(as amended), 7-9,10(as amended),11-15,16(as amended)17,18(as amended),19,20,21(as amended),22(as amended),23(as amended),24(as amended),25-35, 36(as amended),37-43,44(as amended), 45,46(as amended),47,48(as amended),49-54,55(as amended), 56 (as amended),57,58, New Clause 59, the Schedule (as amended), 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. Boy, Kwale County; Sen. Cherargei, Nandi County; Sen. Cheruiyot, Kericho County; Sen. Faki, Mombasa County; Sen.

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Halake, Isiolo County; Sen. Iman, Garissa County; Sen. M. Kajwang', Homa Bay County; Sen. (Prof.) Kamar, Uasin Gishu County; Sen. Khaniri, Vihiga County; Sen. Kihika, Nakuru County; Sen. Kinyua, Laikipia County; Sen. Linturi, Meru County; Sen. (Eng.) Mahamud, Mandera County; Sen. (Dr.) Mbiti, Trans Nzoia County; Sen. Mpaayei, Kajiado County; Sen. Mutula Kilonzo Jnr., Makueni County; Sen. Nyamunga, (Kisumu County); Sen. Ochillo-Ayacko, Migori County; Sen. Olekina, Narok County; Sen. Omogeni, Nyamira County; Sen. Orengo, Siaya County; Sen. Poghio, West Pokot County; Sen. Sakaja, Nairobi City County; Sen. Shiyonga, Kakamega County; Sen. Wambua, Kitui County; and Sen. Wetangula, Bungoma County.

NOES: Nil

The Temporary Chairperson (Sen. Nyamunga): Hon. Senators, the results of the Division are as follows:-

AYES: 27

NOES: Nil.

ABSTENTIONS: Nil.

The "Ayes" have it.

(Question carried by 27 votes to Nil)

DIVISION

ELECTRONIC VOTING

(Question, that Clauses 3,4,6,10,16,18, 21,22,23,24,36,44,46,48,55,56 and the Schedule be amended as proposed be part of the Bill put and the Senate proceeded to vote by County Delegations)

AYES: Sen. (Dr.) Ali, Wajir County; Sen. Boy, Kwale County; Sen. Cherargei, Nandi County; Sen. Cheruiyot, Kericho County; Sen. Faki, Mombasa County; Sen. Halake, Isiolo County; Sen. Iman, Garissa County; Sen. M. Kajwang', Homa Bay County; Sen. (Prof.) Kamar, Uasin Gishu County; Sen. Khaniri, Vihiga County; Sen. Kihika, Nakuru County; Sen. Kinyua, Laikipia County; Sen. Linturi, Meru County; Sen. (Eng.) Mahamud, Mandera County; Sen. (Dr.) Mbiti, Trans Nzoia County; Sen. Mpaayei, Kajiado County; Sen. Mutula Kilonzo Jnr., Makueni County; Sen. Nyamunga, Kisumu County; Sen. Ochillo-Ayacko, Migori County; Sen. Olekina, Narok County; Sen. Omogeni, Nyamira County; Sen. Orengo, Siaya County; Sen. Poghio, West Pokot County; Sen. Sakaja, Nairobi City County; Sen. Shiyonga, Kakamega County; Sen. Wambua, Kitui County; and Sen. Wetangula, Bungoma County.

NOES: Nil

The Temporary Chairperson (Sen. Nyamunga): Hon. Senators, the results of the Division are as follows:-

AYES: 27

NOES: Nil.

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ABSTENTIONS: Nil.

The “Ayes” have it.

(Question carried by 27 votes to Nil)

The Temporary Chairperson (Sen. Nyamunga): Hon. Members, that concludes consideration of that Bill. We are ready to report progress.

Proceed, Sen. Sakaja

Sen. Sakaja: Madam Temporary Chairperson, I beg to move that the Committee do report progress to the Senate on its consideration of The County Government Retirement Scheme Bill (National Assembly Bills No. 10 of 2018) and its approval thereof with amendments.

(Question proposed)

(Question put and agreed to)

The Temporary Chairperson (Sen. Nyamunga): Hon. Senators, we are now done.

(The House resumed)

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

REPORT AND CONSIDERATION OF REPORT

THE COUNTY GOVERNMENT RETIREMENT SCHEME BILL (NATIONAL ASSEMBLY BILLS NO. 10 OF 2018)

The Temporary Speaker (Sen. (Prof.) Kamar): Order, hon. Senators. We are now reporting on The County Government Retirement Scheme Bill (National Assembly Bills No.10 of 2018). Let us have the Chairperson, Committee of the Whole.

Sen. Nyamunga: Madam Temporary Speaker, I beg to report that the Committee of the Whole has considered The County Government Retirement Scheme Bill (National Assembly Bills No.10 of 2018) and its approval thereof with amendments.

The Temporary Speaker (Sen. (Prof.) Kamar): Mover, kindly, proceed.

Sen. Sakaja: Madam Temporary Speaker, I beg to move that the House do agree with the Committee of the Whole on the said Report and ask Sen. (Dr.) Musuruve to second.

Sen. (Dr) Musuruve: Madam Temporary Speaker, Sir, I beg to second.

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(Question proposed)

(Question put and agreed to)

THIRD READING

THE COUNTY GOVERNMENT RETIREMENT SCHEME BILL (NATIONAL ASSEMBLY BILLS NO. 10 OF 2018)

The Temporary Speaker (Sen. (Prof.) Kamar): Mover, proceed.

Sen. Sakaja: Madam Temporary Speaker, I beg to move that the County Government Retirement Scheme Bill (National Assembly Bills No. 10 of 2018) be now read a Third Time. I ask Sen. Olekina to second.

Sen. Sakaja seconded.

(Question proposed)

The Temporary Speaker (Sen. (Prof.) Kamar): It is time for Division. I now direct that the Division Bell be rung for one minute.

(The Division Bell was rung)

Hon. Senators, I direct that the doors be locked and the Bars drawn.

(The Doors were locked and Bars drawn)

Please, log in.

DIVISION

ELECTRONIC VOTING

(Question, that the County Government Retirement Scheme Bill (National Assembly Bills No. 10 of 2018) be now read a Third Time, put and the Senate proceeded to vote by County Delegations)

AYES: Sen. (Dr.) Ali, Wajir County; Sen. Boy, Kwale County; Sen. Cherargei, Nandi County; Sen. Cheruiyot, Kericho County; Sen. Halake, Isiolo County; Sen. Faki, Mombasa County; Sen. Iman, Garissa County; Sen. M. Kajwang', Homa Bay County; Sen. (Prof.) Kamar, Uasin Gishu County; Sen. Khaniri, Vihiga County; Sen. Kihika, Nakuru County; Sen. Kinyua, Laikipia County; Sen. Linturi, Meru County; Sen. (Eng.) Mahamud, Mandera County; Sen. (Dr.) Mbito, Trans Nzoia County; Sen. Mpaayei, Kajiado County; Sen. Mutula Kilonzo Jnr., Makueni County; Sen. Nyamunga, Kisumu

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County; Sen. Ochillo-Ayacko, Migori County; Sen. Olekina, Narok County; Sen. Omogeni, Nyamira County; Sen. Orengo, Siaya County; Sen. Poghio, West Pokot County; Sen. Sakaja, Nairobi City County; Sen. Shiyonga, Kakamega County; Sen. Wambua, Kitui County and Sen. Wetangula, Bungoma County.

NOES: Nil

The Temporary Speaker (Sen. (Prof.) Kamar): Hon. Senators, the results of the Division are as follows:-

AYES: 27

NOES: Nil

ABSTENTIONS: Nil

(Question carried by 27 votes to Nil)

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

Next order.

Hon. Senators, please, take your seats. We will re-organize the work for the day. We will start with Orders Nos.10 and 14, Committee of the Whole. Orders Nos. 11, 12 and 13 will be deferred.

Once we go to Committee of the Whole, we will be deal with Order Nos.10 and 14 and the rest will follow.

COMMITTEE OF THE WHOLE

THE ELECTION LAWS (AMENDMENT) BILL
(SENATE BILLS NO.33 OF 2018)

(Committee of the Whole deferred)

COMMITTEE OF THE WHOLE

THE ELECTION LAWS (AMENDMENT) (No.2) BILL
(SENATE BILLS NO. 37 OF 2018)

(Committee of the Whole deferred)

COMMITTEE OF THE WHOLE

THE KENYA MEDICAL SUPPLIES AUTHORITY
(AMENDMENT) BILL (SENATE BILLS NO. 38 OF 2018)

(Committee of the Whole deferred)

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COMMITTEE OF THE WHOLE

THE NATIONAL MUSEUM AND HERITAGE
(AMENDMENT) BILL (SENATE BILLS NO.9 OF 2019)

The Temporary Speaker (Sen. (Prof.) Kamar): Sorry, Order No.15 is deferred because the hon. Senator is in the advance team to Bomet County for the funeral.

(Committee of the Whole deferred)

So, we will deal with Orders Nos.10 and 14. After the two Committees of the Whole, we will resume the House and then move to Order No.16.
Thank you.

COMMITTEE OF THE WHOLE

THE NATURAL RESOURCES (BENEFIT SHARING)
BILL (SENATE BILLS NO. 31 OF 2018)

COMMITTEE OF THE WHOLE

(Order for Committee read)

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

IN THE COMMITTEE

[The Temporary Chairperson (Sen. Nyamunga) in the Chair]

THE NATURAL RESOURCES (BENEFIT SHARING)
BILL (SENATE BILLS NO. 31 OF 2018)

The Temporary Chairperson (Sen. Nyamunga): Hon. Senators, we are considering The Natural Resources (Benefits Sharing) Bill (Senate Bills No.31 of 2018).

Clauses 3, 4 and 5

(Question, that Clauses 3, 4 and 5 be part of the Bill, proposed)

Division will be at the end.

Clause 6

Sen. Halake: Madam Temporary Chairperson, I beg to move:

THAT, Clause 6 of the Bill be amended—

- (a) in sub-clause (1) by inserting the words “in consultation with the Council of County Governors and relevant national government entities” immediately after the words “The Commission shall”; and
- (b) in sub-clause (2) by deleting the word “overall” appearing immediately after the word “the” in paragraph (a) and substituting therefor the word “total”.

(Question of the amendment proposed)

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

Clauses 7 and 8

(Question, that Clauses 7 and 8 be part of the Bill, proposed)

Division will be at the end.

Clause 9

Sen. Halake: Madam Temporary Chairperson, I beg to move:

THAT, Clause 9 of the Bill be amended in sub-clause (1) by inserting the words “with the relevant county government” immediately after the words “benefit sharing agreement”.

(Question of the amendment proposed)

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

Clause 10

Sen. Halake: Madam Temporary Chairperson, I beg to move:

THAT, Clause 10 of the Bill be amended —

- (a) in sub-clause (2) by —
 - (i) by inserting the following new paragraph immediately after paragraph (b) —
 - (ba) two technical officers of the relevant county departments, appointed by the county executive committee member in consultation with the county executive committee member responsible for the respective natural resources; and

- (ii) deleting paragraph (c) and substituting therefor the following new paragraph —

(c) five persons, two of whom shall be of the opposite gender, elected by the local communities where the natural resource is found and representing the areas with the main natural resources within the county”;

(b) in sub-clause (5) by inserting the words “in consultation with Council of County Governors” immediately after the words “Cabinet Secretary shall”.

(Question of the amendment proposed)

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

Clauses 11 and 12

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

Division will be at the end.

Clause 13

Sen. Halake: Madam Temporary Chairperson, I beg to move:

THAT, Clause 13 of the Bill be amended by inserting the following new sub-clause immediately after sub-clause (4) —

(4A) A local community benefit sharing forum shall not hold more than eight meetings in one year.

(Question of the amendment proposed)

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

Clause 14

Sen. Halake: Madam Temporary Chairperson, I beg to move:

THAT, Clause 14 of the Bill be amended by deleting sub-clause (4).

(Question of the amendment proposed)

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

Clause 15

(Question, that Clause 15 be part of the Bill, proposed)

Division will be at the end.

Clause 16

Sen. Halake: Madam Temporary Chairperson, I beg to move:

THAT, Clause 16 of the Bill be amended in sub-clause (3) by deleting the word “principal” appearing immediately after the words “this Act every”.

(Question of the amendment proposed)

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

Clause 17

Sen. Halake: Madam Temporary Chairperson, I beg to move:

THAT, Clause 17 of the Bill be amended—

- (a) in sub-clause (1) by deleting the word “one” appearing immediately after the words “Commission shall within” and substituting therefor the word “two”;
- (b) by inserting the following new sub-clauses immediately after sub-clause (3)

—
(4) An affected entity that, immediately before the commencement of this Act, was lawfully authorised to exploit a natural resource under this Act shall be considered to be authorised to conduct such exploitation under this Act.

(5) Despite sub-section (4), an affected entity shall comply with the provisions this Act within two years of its commencement.

(Question of the amendment proposed)

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

Clauses 18 and 19

(Question, that Clauses 18 and 19 be part of the Bill, proposed)

Division will be at the end.

Clause 2

Sen. Halake: Madam Temporary Chairperson, I beg to move:

THAT, Clause 2 of the Bill be amended—

- (a) in the definition of the term “Cabinet Secretary” by deleting the word “mining” appearing immediately after the words “matters related to” and substituting therefor the words “finance”;
- (b) by deleting the definition of the term “local community” and substituting therefor the following new definition—
“local community” means
 - (a) people living in a ward within which a natural resource is situated; and
 - (b) people displaced to make way for the exploitation of a natural resource;
- (c) by deleting the definition of the term “natural fund” and substituting therefor the following new definition—
“natural resources” means the natural resources provided under section 3 of this Act;
- (d) by inserting the following new definitions in their proper alphabetical sequence—
“county executive committee member” means the county executive committee member responsible for matters relating to finance in the respective county;

No. 17 of 2015

“officer” has the meaning assigned to it under Section 3 of the Companies Act;

(Question of the amendment proposed)

Division will be at the end.

Long Title

Sen. Halake: Madam Temporary Chairperson, I beg to move:

THAT, the Long Title to the Bill be amended by inserting the word “natural” immediately after the words “benefit sharing in”.

(Question, of the amendment proposed)

Division will be at the end.

Clause 1

(Question of the amendment proposed)

Division will be at the end.

Mover, kindly, move for the reporting of progress.

Sen. Halake: Madam Temporary Chairperson, pursuant to Standing Order No.148, I beg to move that the Committee of the Whole reports progress on its consideration of the Natural Resources (Benefits Sharing) Bill (Senate Bills No.31 of 2018) and seek leave to sit again tomorrow.

(Question proposed)

(Question put and agreed to)

THE PUBLIC FINANCE MANAGEMENT (AMENDMENT)
BILL (SENATE BILLS NO.3 OF 2019)

The Temporary Chairperson (Sen. Nyamunga): Hon. Senators, we are moving to consider Order No.14 - The Public Finance Management (Amendment) Bill (Senate Bills No.3 of 2019).

Clause 2

Sen. (Eng.) Mahamud: Madam Temporary Chairperson, I beg to move:

THAT, Clause 2 of the Bill be amended-

(a) in the proposed new section 160A by deleting subsection (1) and substituting therefore the following new subsections-

(1) The Cabinet Secretary shall, in consultation with the Council of County Governors, the Commission on Revenue Allocation, the Kenya Revenue Authority, develop a uniform county revenue collection system.

(1A) Every County Treasury shall adopt and implement the county revenue collection system developed under subsection (1) having regard to the particular needs of the respective county.

(b) in the proposed new section 160B by inserting the words “the Controller of Budget, the Auditor-General” immediately after the words “National Treasury” appearing in subsection (2).

(c) in the proposed new section 160C by-

(i) deleting the words “two years” appearing after the words “within a period of” and substituting therefor the words “one year” appearing in subsection (1); and

(ii) inserting the words “on the recommendation of the Senate and” immediately after the words “National Treasury may” appearing in the introductory phrase of subsection (2)

(Question of the amendment proposed)

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

The Title and Clause 1

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

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

Sen. (Dr.) Zani: Madam Temporary Chairperson, pursuant to Standing Order 148, I beg to move that the Committee of the Whole do report progress on consideration of The Public Finance Management (Amendment) Bill (Senate Bills No.3 of 2019) and seek leave to sit again tomorrow.

(Question proposed)

(Question put and agreed to)

(The House resumed)

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

PROGRESS REPORTED

THE NATURAL RESOURCES (BENEFIT SHARING) BILL (SENATE BILLS NO.31 OF 2018)

Sen. Nyamunga: Madam Temporary Speaker, I beg to report progress that the Committee of the Whole has considered The Natural Resources (Benefit Sharing) Bill (Senate Bills No.31 of 2018) and seeks leave to sit again tomorrow.

Sen. (Dr.) Zani: Madam Temporary Speaker, I beg to move that the House do agree with the Committee in the said Report. I request Sen. Halake to second.

Sen. Halake seconded.

(Question proposed)

(Question put and agreed to)

The Temporary Speaker (Sen. (Prof.) Kamar): The next Report is on The Public Finance Management (Amendment) Bill.

THE PUBLIC FINANCE MANAGEMENT (AMENDMENT)
BILL (SENATE BILLS NO.3 OF 2019)

Sen. Nyamunga: Madam Temporary Speaker, I beg to report progress that the Committee of the Whole has considered The Public Finance Management (Amendment) Bill (Senate Bills No.3 of 2019) and seeks leave to sit again tomorrow.

Sen. (Dr.) Zani: Madam Temporary Speaker, I beg to move that the House do agree with the Committee in the said Report and request Sen. (Eng.) Mahamud to second.

Sen. (Eng.) Mahamud seconded.

(Question proposed)

(Question put and agreed to)

The Temporary Speaker (Sen. (Prof.) Kamar): Next Order.

BILLS

Second Reading

THE CANCER PREVENTION AND CONTROL (AMENDMENT)
BILL (SENATE BILLS NO.9 OF 2019)

(Sen. (Dr.) Ali on 30.7.2019)

(Resumption of debate interrupted on 30.7. 2019)

The Temporary Speaker (Sen. (Prof.) Kamar): Hon. Senators, Sen. Cheruiyot was on the Floor and still had 15 minutes to go. However, in his absence, he will forfeit that.

Sen. (Eng.) Mahamud: Madam Temporary Speaker, I beg to support the Bill. Let me thank Sen. (Dr.) Ali for moving this very important Bill---

The Temporary Speaker (Sen. (Prof.) Kamar): Order, Senator! I am Sorry, I read a different date. The actual debate had 19 minutes for Sen. Mutula Kilonzo Jnr. Kindly resume your seat so that he finishes before he forgets what he was just about to say when he stopped yesterday.

(Sen. (Eng.) Mahamud resumed his seat)

Sen. Mutula Kilonzo Jnr: Thank you, Madam Temporary Speaker. I rise to support the Bill. I began the debate and, fortunately, I am a prayerful Kenyan. This morning we have received very disturbing statistics. I just want to highlight some of the statistics, just to demonstrate how bad this situation is.

The doctor who presented this to us this morning has these statistics, which I want to read. Mammography, Breast Cancer Stage 3, Kshs3,000; ultrasound, Kshs3,000;

biopsy, Kshs15,000; histology, Kshs18,000; CT scan, Kshs16,000; surgery, Kshs80,000; chemotherapy, Kshs160,000; radiotherapy, Kshs100,000; hormonal therapy, Kshs150,000; incidentals and logistics, Kshs100,000. The total is Kshs650,000. Those are the figures available; statistics of how much it costs an ordinary Kenyan. The question is whether ordinary Kenyans in this Republic can afford that.

Secondly, we were told this morning that the proposal by Sen. (Dr.) Ali of having 47 cancer centers is good. However, it says that unless the social worker who is in Wajir, Marsabit, Lamu, Wote, Kathonzi, Kikumbulyu and other places is trained to detect cancer, they will most likely, in Dr. Odhiambo's words, treat a person for having worms. The training is important. Therefore, I would propose that training as part and parcel of cancer treatment should be done.

Madam Temporary Speaker, I have just seen on *Twitter* newsfeed that the Cabinet Secretary for Health has now commissioned the National Cancer Institute Board. We were told this morning that the National Cancer Institute has no office, no budget, no place to conduct business and no structure, which is a very sad state of affairs.

This matter is extremely urgent, but I am not sure about the priorities of this country. The death of hon. Okoth and hon. (Dr.) Joyce Laboso should tell His Excellency President Uhuru Kenyatta that we need to take action. I have just been given the statistics about the treatment of hon. Okoth, and it is outstanding.

An ordinary Kenyan cannot afford the figures that I have heard. Out of a total population of 50 million Kenyans, the number of new cases is 47,887 and the number of deaths is 32,987. These are breast cancer, cervical cancer, esophagus cancer, prostate cancer, colorectal cancer and others.

This morning, we were told that from the great counties of Nandi, Uasin Gishu and surrounding areas, there is the problem of the cancer of the esophagus. I am told that in places like Machakos and lower eastern, there are other different cancers.

In my own view, I propose to Sen. (Dr.) Ali that an amendment be done to have finances for not only training, that I have mentioned, but also research. We were again told this morning that there are people who are now taking advantage of poor Kenyans to do what they are calling blood biopsy. They are testing cancer using blood which cannot give results for treatment or for purposes of determining cancer diseases.

Madam Temporary Speaker, I said it yesterday and I will say it again that although there are cancer management methods of radiotherapy, surgery and chemotherapy, this country ought to do some research. The Kenya Medical Research Institute (KEMRI) or any other institute of research has let us down. I have on good authority that cancer can be managed without chemotherapy. I said yesterday that I know a lady who has been treated without chemotherapy. She does not want to disclose the name of her doctor who feels that if he was to be disclosed, his life would be in danger. Why would that be so? Apparently, chemotherapy is a money-making venture.

So, we should not only declare this a national disaster. We were told this morning that according to the policy, the biggest problem about this disease is early detection and management before it becomes an issue. In the cases of our two colleagues; Governor (Dr.) Joyce Laboso was about management and that of hon. Ken Okoth was late detection.

On the issue of education about what causes cancer, we are told that it is possible that the *mursik* that is being consumed can give people cancer, hence the question mark

about esophagus cancer in parts of Rift Valley. How do we determine these issues? The best thing that we can do for the country is to invest more on quality research. What is it that Apollo and Medanta Hospitals in New Delhi, India, do that we are not doing here yet they are in Kenya? My own research is that the equipment that is Medanta and Apollo in New Delhi is not up in Medanta and Apollo in Kenya.

Madam Temporary Speaker, instead of spending the amount of money that we are seeing in the medical equipment leasing scheme that we have refused and is lying down everywhere, for example, Marsabit, Isiolo, Makueni and other places, why not invest in equipment so that our people do not suffer? It is not enough to set up brick and mortar infrastructure. If we had medical equipment that can detect cancer that was under a tent, it is good enough. If we offer those facilities, the brick and mortar is not as important. We must continue to say so. This is because the money that we have set in the proposed budget by Commission on Revenue Allocation (CRA) is brick and mortar.

So, the centres are okay. However, let us equip them. Before we build, every county should import the equipment where necessary. If I was to get the equipment, I would set it up in a school in Makueni or in empty social halls that we have all over the country and convert it to a centre where the equipment can be kept.

The last issue that I want to highlight is that of diet. There are all sorts of rumours about processed meat, milk, sugar, French fries and everything else. There is education that it is possible that we are getting some of these diseases from foods. I have pictures of smoking, *nyama choma*, burgers and other things. This education can only be done if we insist, alongside having cancer centres in every county, that we have nutritionists hired by every county to ensure that some of these things are done.

I support this proposal by Sen. (Dr.) Ali, with the caveats that I have mentioned. The national policy on cancer treatment that was given to us this morning that includes early detection and management of cancer should be included and done. The national Government ought to collaborate and coordinate with county governments. Health has the largest conditional grant in the division of revenue. Therefore, I would like Sen. (Dr.) Ali to consider the proposal that further conditional grants are put in the Division of Revenue Bill beginning with Financial Year 2020/2021, for cancer equipment in hospitals.

If I had the opportunity or seated in a place of authority, I would suspend the conditional grant for medical leasing equipment in exchange for equipment for detection and management of cancer in every county. That is a better way of dealing with this.

Madam Temporary Speaker, instead of complaining too much about this scourge, we can do something about those Kenyans who are walking around. As we were told this morning, people are going for treatment for chest, leg pains or arthritis but it is early cancer which has never been detected or treated. Can we speak about this matter a little more openly?

I have said before that I was saddened to hear that some of our colleagues in this House are being treated for these diseases yet we do not know. Can we be bold enough just like our brother, hon. Ken Okoth, who demonstrated that a person can still get treatment even though he or she is suffering? If we speak more openly, it will give hope to those who are suffering all over the country that they are not suffering alone.

The only way we were able to deal with the scourge of HIV/AIDs is when Kenyans came out boldly to say that they are victims, they are suffering and living with

it. Therefore, I encourage those that are suffering from cancer to come out. Let us start a national conversation so that we can help Kenyans who are dealing with this on a day to day basis.

As we debate this Bill, could Sen. (Dr.) Ali go to Kenyatta National Hospital (KNH)? I am told that there are many children who are suffering from cancer. We should demystify this thing. This disease does not only affect adults. It also affects children. Children below the age of five years are in special wards in KNH suffering from cancer. Are they victims of food? No. Are they victims of herbicides? Are they victims of lifestyle diseases or what is it?

Education about this disease needs to be done because it is affecting everybody. It affects both the young and the old in our country. If it is environment, there are people in Makueni who between 80 and 90 years old who have never eaten processed food since they were born. They have never come across the types of things I have seen in this world and who do not smoke, but are suffering from cancer.

Somebody said this disease may have been brought to deal with the population. Can we get some research? Is it possible to put in a special budget for research about these diseases, so that we get proper information?

When I was in New Delhi in 2015, the doctors from Medanta and Apollo hospitals told me that every year, they make a tour to Dar-es-Salaam and Dodoma to treat heart, blood and cancer patients for free. My investigation shows that we have some impediments in terms of those doctors coming to Kenya. Is it possible that we can waive some of the requirements that are imposed by the board in terms of practice in Kenya, for purposes of helping Kenyans? It is possible to do so.

We did so in the case of emergencies where we needed doctors to come to the country to treat victims of fire because we do not have experts. There are certain waivers that have been done when they come into the country to treat people who are suffering from severe burns. Some certain exemptions are done by the board to make sure we get the necessary expertise during those emergencies. This is just another opportunity. An amendment can be made to the law to waive some of the requirements, so that these doctors can come to Kenya. They are willing to come to Kenya. We have just impeded their work.

Lastly, as I mentioned, is the question of treating cancer without chemotherapy. Could you, please, explore that option and see whether that doctor in Kenya who has treated a person by law can come out and treat Kenyans?

I support.

The Temporary Speaker (Sen. (Prof.) Kamar): Thank you, Sen. Mutula Kilonzo Jnr. Let us go back to Sen. (Eng.) Mohamud.

Sen. (Eng.) Mahamud: Thank you very much, Madam Temporary Speaker.

I also rise to support the Bill by Sen. (Dr.) Ali. I thank him for bringing this very important Bill at this time in Kenya when cancer is becoming a disaster.

Madam Temporary Speaker, globally, we are told that cancer causes more deaths than HIV/AIDS, TB or malaria. We are also told that 70 per cent of globally detected cancer cases are in low middle-income countries like Kenya. If detected early, 30 per cent of cancer cases are treatable. We are also told that 30 per cent of cancer patients can be provided with adequate symptoms management and palliative care if detected.

In Kenya, for example, from the statistics that we got this morning, cancer is the third largest cause of morbidity in the country. After infectious diseases and cardio vascular diseases, it causes 7 per cent of deaths per year. It is difficult to get accurate national data on Kenya as someone mentioned this morning. This is because most of it is available in Nairobi and urban centres. We have no access to information on rural areas. Therefore, it is hard to get the data which is in Kenya. It is estimated that about 39,000 cases of cancer are reported in Kenya each year with more than 27,000 deaths.

Cancer should be declared a disaster in this country. The campaign that was made on the HIV/AIDS scourge and other major diseases like TB and malaria helped a lot to bring awareness among our people. The focus should now be on cancer. Cancer kills slowly. People do not know about cancer until it has reached stage 3 or 4. I have never seen any person who detected cancer in the early stages and went untreated. It is a pity that our governors, MPs and chief executives of multinational companies like Safaricom discovered that they had cancer at a very late stage and could not be treated. It is very serious.

Madam Temporary Speaker, there must be a campaign in this country to educate Kenyans on the dangers of cancer and a way that we can screen people early enough. The proposal by Sen. (Dr. Ali) that all hospitals be equipped with equipment that can detect cancer at the county level is good. I know that at a certain age in men when they go for annual check-up, they are tested for prostate cancer. This should be a standard practice. It is a standard procedure in many countries in the developed world. I do not think there are many hospitals in this country where you can be screened for cancer.

Whereas the Ministry of Health has put in place policies and strategies for cancer prevention and control in the country, it is important that we go further and make the screening compulsory. I know that equipment that is used to detect cancer could be availed. I support the proposal brought by Sen. Mutula Kilonzo Jnr. that the additional grant to county governments by the national Government for the leasing equipment scheme be used for screening of cancer. People must be sensitized about cancer. We must have public campaigns on cancer awareness. Kenyans should come out and screen themselves the way they screen themselves for TB, malaria and other diseases.

Madam Temporary Speaker, we also need to emphasize on training for medical staff at all levels. Paramedics and medical doctors need to specialize in oncology. There are very few oncologists in the country today because they are very few. This is because cancer is not considered something which is prevalent in the country and nobody takes interest in it. Even if it is prevalent as it is now, there are not enough facilities for you to practice and that is why people are not interested.

It must be a compulsory course in universities that offer medicine like the University of Nairobi, Moi University and Kenyatta University. This course must be taught in medical training colleges in the country. Even nurses need training in oncology.

There could be uncoordinated approach in terms of dealing with cancer. Many Kenyans today go to India, the United Kingdom and many countries for cancer treatment because we do not have the facilities and expertise. We do not even have the sensitization on what is available in our health facilities. Hospitals are very expensive. To treat a cancer patient today, you need at least Kshs350,000. That is a lot of money and Kenyans cannot afford.

When you go to countries like India, most hospitals there, I am told cater for all levels of society. They cater for the rich, middle income and poor people. They have a way of catering for them. This country must get its priorities right. I think we are getting our priorities wrong. Kenyans are dying of diseases that can be treated if detected.

We are getting the famous medical equipment kits which have been dumped all over this country, but do not help our people. Yes, a few of them are doing a good. However, this equipment was not properly coordinated and sorted out. The thinking was more on the contracting bit of it, and not what it can do for this country. We must target our medical approach. We must properly target it, so that we help Kenyans to come out of this serious menace of cancer.

If detected early, cancer can be treated. We should not have situations where it reaches stage four making people to be subjected to both radiotherapy and chemotherapy because they are painful. When cancer is at stage four, you are required to undergo physiotherapy and chemotherapy simultaneously.

Madam Temporary Speaker, this is an important Bill. Those who have contributed have suggested areas of amendment. However, we need to sensitise Kenyans. A year ago, when we were discussing the Budget Policy Statement (BPS), the Commission on Revenue Allocation (CRA) proposed some three centres to be funded but that was pushed aside. Maybe they thought it is not necessary.

We must have at least two or three state-of-the-art centres in this country. Whereas there are cancer detection centres in the counties, we must have a referral hospital where people can go and be properly screened and treated. The idea of Kenyans going to India, the United Kingdom (UK) and other places must stop. We should do things on our own. A nation that cannot feed or even treat its people---

When we got Independence, we promised to fight three things; poverty, disease and ignorance. It is unfortunate that we are still there more than 50 years. Our people still face hunger, diseases are killing people in large numbers and we have not graduated from ignorance. Maybe we have graduated but in the wrong way because we cannot feed our people and give them education.

With those many remarks, I beg to support.

Sen. (Dr.) Zani: Madam Temporary Speaker, if what happened this week will not be a wake-up call, then I do not know what it is. The statistics are clear that we have 47,887 new cases of cancer every year. We were informed that cancer is not one disease and we have more than 100 types of cancer. Cancer is basically abnormal growth of cells and each cancer behaves differently. That should create dynamics in terms of identification, diagnosis and treatment of the disease.

It has caused up to 32,987 deaths. Among these figures, we have the late hon. (Dr.) Laboso, who was the Governor of Bomet County, and the late hon. Ken Okoth, who was a Member of the National Assembly. This Bill seeks to do what should have been done a long time ago because health is a devolved function. There are centres being established to address cases of cancer in Kisii, Nyeri, Mombasa and Nakuru counties. This Bill seeks to ensure creation of centres for handling cancer is extended to all the 47 counties.

Today in the morning, we had a talk by an oncologist. The dynamics of cancer makes it difficult to diagnose. It could be as a result of genetics, hereditary or sporadic. It could also be acquired from the environment. One of the things that keep coming up all

the times is that one of the ways to deal with it is through early screening and detection. Therein lies the problem. As several Members have indicated, when it comes to screening, first of all, the machines are not readily available. Screening machines must be available in each of the centres to be established in the counties.

We were informed about the Positron Emission Tomography (PET) machine that can identify where the cancer is. I would like to mention that Mama Mukwena died of cancer. At the time of her death, she wondered why we, parliamentarians, cannot ensure that we have machines to detect cancer early enough. Not everybody can afford to go to India. People are just asked to get screened to identify whether they have cancer or not.

The issues of inequalities also play out. I am sure many people cannot afford that. Early diagnosis, registration and surveillance are important. One has to get treatment, whether palliative care or through surgery. All these need to be taken into consideration. Therefore, issues of coordination, financing, partnership, monitoring and evaluation and research are key. Without them, it becomes impossible.

Now that the spotlight is on cancer, this Bill is timely because one of its main objectives is to ensure that we provide additional functions to county governments in the prevention and treatment of cancer. The county governments shall be responsible for the prevention, treatment, rehabilitation and control of cancer within the respective counties. They will establish centres in each county with specialised medical services related to cancer, including screening, diagnostic, treatment, collation of data on cancer and other support services such as palliative care and rehabilitation. This is an amendment Bill to The Cancer Prevention and Control Act, 2015 that seeks to strengthen counties in offering devolved functions.

Clause 7 of the Bill seeks to amend the Principal Act by inserting Part IIIA on Prevention and Control of Cancer in counties. It provides for specific measures.

I congratulate Sen. (Dr.) Ali for bringing this Bill because in each of the county governments, there will be specific roles as far as controlling of cancer is concerned. Among the functions of county governments, it is provided that they must implement the national Government policy on the control of cancer, ensure the provision of adequate personnel and equipment for the prevention and control of cancer, implement the national policies, standards, initiatives and plans on health formulated by the national Government for prevention and control of cancer and put in place measures to improve the education, training and skills of health professionals. This will enhance the prevention aspect.

When you listen to oncologists, they say that cancer prevention is the best. In fact, they state that somebody should adopt a certain lifestyle to prevent cancer than getting it and taking the curative approach. The whole idea of supporting, promoting, coordination and collaboration is important. The element of counseling was left out but people also need to be counseled.

Many people die of shock when they are told that they have cancer. A person is affected when he or she is informed that they have cancer without counseling. As it has been mentioned by Sen. Mutula Kilonzo Jnr., who spoke a few minutes ago, sometimes treatment for cancer is a debate. We have had discussions of whether chemotherapy or radiotherapy help or enhance the spread of cancer. From the talk we had this morning, it was clear that treatment of cancer is dynamic and complex. That means we need oncologists to handle the same.

As Sen. (Dr.) Ali said, we have few oncologists in Kenya. If cancer is the third leading cause of death in Kenya after pneumonia and malaria, then the focus should be put on it. Cancer centres should be facilitated in terms of equipment. More importantly, there should be linkages and networking at local and international level. Therefore, research is critical.

We were told that there are up to 100 cancers that keep mutating and changing form and shape. Therefore, constant analysis of various forms of cancer is important because of constant mutation. That is critical and it should be addressed.

If we range this in terms of the statistics given, breast cancer takes the higher proportion followed by cervical cancer, cancer of the esophagus, prostate cancer and lastly, colorectal cancer. These have become key issues in terms of research including a cancer like leukemia which affects the blood. This is an indication that cancer is a complex disease and as such, a collaborative research initiative should cut across the board.

I support this Bill, and I congratulate the Mover, Sen. (Dr.) Ali, because it could not have been more timely than now.

I plead that we are able to fast track this Bill through the Senate and the National Assembly so that we are able to quickly set up these centers within the counties because with devolution, this is the quickest and easiest way to get to every Kenyan. Cancer does not select children, adults, or gender.

If we are talking about progression and development, then we are losing a key component of people we expect to help in this development. It must be addressed to the level of it being a national disaster. However, it should not be a national disaster that does not have a way forward in terms of being able to address it. It can be addressed and this Bill seeks to do that.

I support.

Sen. Farhiya: Thank you, Madam Temporary Speaker, for allowing me to contribute to this Bill.

Before I start my contribution to the Bill, allow me to condole with the families of the late Governor (Dr.) Joyce Laboso and hon. Ken Okoth. They were both very good leaders in their own right. For example, Sen. Shiyonga and I had an opportunity to go and grace Governor Laboso's occasion when she was launching 100 days of her leadership as a governor. During that time, I was very impressed with her achievements.

The fact that Kenyans only elected three female governors out of the 47 counties, losing one of the three is a very big loss to women leadership in this country. I feel sad that we lost one of the three female governors elected by Kenyans. Not to mention the fact that out of the 37 deputy governors that were the running mates of the governors, only six are ladies.

In most instances, ladies do not get an opportunity for leadership. That is just about 16 per cent of the total number that were elected. If you look at the three female governors who were elected, all of them had male deputy governors. I want to be on record on the Floor of this House to say that ladies are much fairer in terms of how they conduct their affairs than our male counterparts because each of the female governors felt that they needed to have a male deputy governor to run with.

We need to change the law so that if there is a man running for the position of governor, then his running mate should be a lady. It is not that the women of this country lack ideas and intelligence that is commensurate to the level of a deputy governor.

On this Bill, I want to thank Sen. (Dr.) Ali for coming up with a Bill that would suit the phrase: "*kama sio sasa, ni sasa hivi.*"

I know the Standing Orders do not allow us to mix languages but because I wanted to drive the point home, I felt that was the best way to do it. I appreciate him for bringing this Bill at the right time.

The other issue I wanted to bring to---

Sen. Pareno: On a point of order Madam Temporary Speaker. I want to inform my colleague, Sen. Farhiya, that a Senator is allowed to mix languages but you have to interpret what you have just said. She said *kama sio sasa, ni sasa hivi*. She has to interpret that in English for it to be properly placed in the HANSARD.

The Temporary Speaker (Sen. (Prof.) Kamar): That is correct regarding a phrase. So, can you translate it for those who did not understand you in Kiswahili?

Sen. Farhiya: Madam Temporary Speaker, let me use an English phrase that is appropriate. I meant that, it is an idea whose time is right. I think that will drive the matter home. What is ailing our country is corruption.

Sometime back, we saw in the media that some people were caught changing the expiry date of medicine. A week or two ago, we learnt that supermarkets are selling meat that is unfit for human consumption. Although that was brought to the attention of the public through an expose', I do not know whether most people are aware which supermarket was responsible for that act. I am not aware personally. If somebody was rotten enough to want to kill Kenyans, using an inappropriate kind of food preservative, Kenyans needed to know which supermarket was trying to poison them. There should have been a price for the supermarket to pay so that Kenyans can now opt whether they want to shop in that supermarket or not.

How did that story disappear without anyone being taken to court and yet we were told that the Ministry of Health was able to prove that, that is a reality on the ground?

As you drive in Nairobi, you will notice that all the plants along the road are not green anymore. They are black, the reason being that they are exposed to the fumes that are produced by vehicles passing by, especially public service vehicles. When will Kenyans get the services they deserve from their Government, by ensuring that those vehicles are not on the road?

Traffic officers are more interested in somebody who has committed a minor traffic offence. There was a time I was stopped by a traffic officer on the pretext that my tyre was worn out. When I challenged the traffic officer to tell me the depth of the tread of a tyre that is required to be on the road, he was unable to explain that. This means he just looked at me and saw that this is a potential person to take a bribe from.

I had not committed any offence, and that is why I challenged him. Corruption is killing us in this country. These people at the supermarket who were applying excessive preservatives on meat do not know that their children could have been eating the same meat which has the potential of causing cancer.

We were told today that only around 5 to 6 per cent of cancer is hereditary. The other causes of cancer are lifestyle, environmental pollution or others. All those are preventable if we have people in institutions who do their jobs; they do not take bribes

and look at the other side. I am on record on the Floor of this House saying that even the terror attacks in this country are as a result of corruption.

The money being lost to corruption is enough to set a cancer centre, train doctors and provide the facilities needed in our hospitals. The question is; where did Kenyans go wrong? Where is our moral fabric?

I am glad that this Bill seeks to establish cancer centres, and I am also glad that this House seeks to protect devolution. The Board will now have people who will take care of the interests of counties. There is a clause in this Bill that seeks to register cancer incidences. That is important. The statistics can then be used to make decisions particularly during the budget making process.

We were told that at least 10,000 Kenyans seek medical attention in India. If each of them spends Kshs2 million, then it means that this country exports Kshs20 billion to India every year. What can Kshs20 billion do in this country? This amount of money can finance Wajir and Garissa counties equitable share and conditional grants including pay salaries and development. Why are we allowing this state of affairs?

The death of a cancer patient is painful to their caretakers. Those caretakers suffer psychologically. The question is: Who is taking care of their affairs? Those people need psychological assistance. That is a further amendment that Sen. (Dr.) Ali needs to consider.

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

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

Mr. Deputy Speaker, Sir, the other issue is lifestyle. We were told that fast foods are one of the major causes of cancer. The economy of this country is turning out to be a consumption economy. How many fast-food restaurants do we have in this country? You will realise that all the American fast-food chains are represented in Kenya. Those restaurants might be employing some few Kenyans but we can do better than that. The presence of those fast-food restaurants means that we are accumulating more diseases. The Kshs20 billion that is being used in India for treatment of cancer patients can be used to create industries that can employ the people who are working in those restaurants. How did we allow this to happen in this country?

This morning, we were told that statistics indicate that we have 47,000 new cases of cancer every year in Kenya. Out of that number, 69 per cent succumb to cancer, and that is worrying. Hon. Ken Okoth was a Member of Parliament and an epitome of good governance but we have lost him and the same applies to Governor (Dr.) Joyce Laboso who was a PhD holder. This country invested in their education and it has not reaped from their education. Their death is a blow to this country.

My mother gave birth to me through surgery. When she told a doctor of her experience during delivery, the doctor said that there is a possibility she was also treated of cancer during delivery. The man who performed that surgery has since died. That man used the oil from the arm of the camel to treat the illness that my mother was suffering from. Therefore, we need to harness traditional medicine. I am sure that we can get the cure for cancer if we study the traditional medicine that was used by the 42 tribes of Kenya.

With those many remarks, I thank you for giving me this opportunity.

The Deputy Speaker (Sen. (Prof.) Kindiki): Those were many remarks. Well done. That was well researched.

Sen. Wetangula: Thank you, Mr. Deputy Speaker, Sir. I congratulate the distinguished Senator for Wajir for bringing a Bill that restates and reaffirms that a devolved function ought to be properly handled at the county level.

Listening to all that is going on about cancer leaves one in a state of near confusion. When you listen to both local and international radio, there is so much that is being talked about. There is a clip from America that is going around and it appears to say that cancer is a creation and that leaves everybody wondering what we are talking about.

Mr. Deputy Speaker, Sir, this Bill is domiciling a large part of dealing with cancer where it should be, in the counties. Resources must follow functions, and functions must be executed properly and professionally. There are several questions that we need to ask. Do we have enough personnel or sufficient equipment? Is the division of revenue being done in a fair manner to enable counties to discharge the responsibility we are trying to give them?

Mr. Deputy Speaker, Sir, we did a casual calculation the other day on devolved functions in health, water, agriculture and environment, that are still being held on at the centre. We found out that at least Kshs170 billion that ought to be going to the counties is still being held at the centre for functions that are already at the counties. Therefore, as we debate this Bill, we need to have a very clear focus on how resources will follow what we want the counties to do. Even as my distinguished colleague is laying emphasis on prevention, and listening to the debate that is going on now publicly and privately, what preventive measures does one take?

When we talk about HIV/AIDS, we are talking of abstinence from sex or careless sex. When we talk about malaria, we are telling people to sleep under treated nets or kill mosquitoes. When we talk about diarrhoea, dysentery and water-borne diseases, we ask people to boil water or drink clean water. When we talk about malnutrition, we tell people to eat good food. However, when it comes to cancer, what is the method of prevention? What is it that we are supposed to do to prevent it? The medics are not telling us enough.

Mr. Deputy Speaker, Sir, you will remember that in the olden days, cancer was largely associated with smoking. Cigarette packets were even labelled “smoking causes cancer,” “smoking kills,” and so on, and so forth. A serious campaign was mounted against smoking. However, I hardly hear anybody relate the new cancers that we are talking about to smoking now. We are now hearing of children, as young as one or two years old and middle-aged people dying of cancer. Likewise, teenagers and very old people are dying of cancer. When you look at what is causing it, you cannot quite get it. We are being told that we are eating carcinogenic materials that are causing cancer.

Mr. Deputy Speaker, Sir, Africa has become a supermarket economy that has then degenerated into a dumping ground. What others do not want or do not eat; or that which they discard is finding its way into African shelves for us to buy. This is because the elite of Africa are so obsessed with imported goods, foodstuff, and whatever else. We are buying junk from supermarkets, and nobody wants to eat arrow roots, sweet potatoes or fresh bananas from our fields. We are busy buying bananas grown in the Caribbean,

processed in laboratories in Europe and dumped in Africa. Nobody wants to go to the supermarket to buy oranges from Makueni or from Lake Naivasha. We want to buy oranges brought in from Israel, Brazil, Argentina or New Zealand without asking ourselves how they have been preserved, processed or how they found their way here.

This cancer situation must be looked at very seriously. I do not think there is sufficient research going on to tell Kenyans what exposes people to cancer. This morning, I went to see a professor of Medicine at the Nairobi Hospital to book an appointment to see a friend who is unwell. I engaged him on cancer, and asked him whether cancer is a real problem or an escape route for medical incompetence. This is because it appears in some situations where what doctors cannot explain becomes cancer. When we take that route, we convolute the situation to the level where it is difficult to detect, treat and prevent it.

Mr. Deputy Speaker, Sir, we know that in medicine – and Sen. (Dr.) Ali, being a doctor, can tell us – the emphasis is more on preventive rather than curative. This is because the curative processes are expensive. They have got serious issues.

Mr. Deputy Speaker, Sir, I do not know if you have read a book by a French author called Molière, *The Imaginary Invalid*. The good doctor says that most people do not die from diseases they suffer from, but from complications arising out of the treatment of the diseases they suffer from. This is true, because right now, the quickest escape route for people who suffer from cancer is chemotherapy.

Mr. Deputy Speaker, Sir, I remember when I was the Assistant Minister for Foreign Affairs, I had a very close counterpart in the Ministry, the late Job Omino. He was a vibrant, strong, tall, energetic and straight gentleman. However, he went down sick for one month, and the doctors put him on chemotherapy. When I went to see him, I was shocked beyond belief because I could not even notice that this was the Job Omino I knew. His entire hair and beard had dropped off. Mark you, it was not shaved off, but dropped off. He was there looking different, and I have seen many other people who go through the same process. You go for treatment and doctors will tell you that chemotherapy is not the only process of dealing with cancer. Why then put people on chemotherapy, which will cause that kind of repercussions?

Mr. Deputy Speaker, Sir, even if you had the will to live, you are put on that chemotherapy, and in two or three days, you wake up and find that you have no hair or beard anywhere. Consequently, the psychological trauma alone will kill you. We must, therefore, find better ways of handling these diseases.

After the cigarette smoking fright that we used to give to people, then came the most common cancer, which was hitting women's breasts. These were the most common cancers you would hear about, and we used to take them to hospital. If it was detected early, the breasts were cut off and some lived for a very long time. However, it is now very difficult to tell. When I saw our distinguished late colleague, hon. Ken Okoth, in Paris, he looked very strong and visibly healthy. He told me that he was suffering from cancer, and it had been detected too late. At what level do we start detecting it?

Mr. Deputy Speaker, Sir, I have heard my colleague, Sen. Farhiya, talking about equipping hospitals. The psyche in this country must change. If you look at the counties today, every governor is rushing to put brick and mortar for huge buildings – five or six storey – that will be our hospitals. A treatment centre is not the building; It is equipment, medicine, and above all, the personnel.

Mr. Deputy Speaker, Sir, if you go to Gaddafi's Libya, where they were enjoying one of the best medical care in Africa; or to Cuba today, forget about how America bastardized Fidel Castro--- Fidel Castro became the President of Cuba when their life expectancy was 39 years. He left Cuba with a life expectancy of 89 years. That was not because they have built huge structures as hospitals, but because they have invested in human capital. Cuba is a small country with about 11 million people, but it exports 58,000 doctors to Brazil, which is a country with 200 million people. All this is possible because they have invested in human capital.

If you go to Cuba, you will find that they have eliminated malaria. Cuba is a tropical country, but there is no malaria at all; and nobody dies of malaria there. Cuba is sending doctors to Kenya, which has a population of about 50 million and they have a population of 11 million people.

We are now enjoying the services of Cuban doctors. There are 5,000 Cuban doctors in Tanzania, 45,000 in Angola, and 15,000 in Argentina. In America, every hospital has Cuban doctors. If Cuba can do so much with so little, how come Kenya cannot do this, yet we have now been independent for almost 60 years? Even the very noble idea the President brought, on the leasing of medical equipment, has now turned into a scandal. We are taking public funds to pursue a very noble cause, yet we let charlatans, profiteers and thieves sneak in. They turn it into a business venture for making money and not helping the people. All the money that has been sank into this scheme is not helping anybody. We were told they were bringing the equipment to the rural hospitals for screening and for helping *wananchi*. If one goes to some places, they brought containers of equipment and put them there for six years. We are still paying for them, yet nobody has opened them.

Mr. Deputy Speaker, Sir, this country does not lack money; what we lack is good management. That is the problem. I have been asking myself a question that anyone of us can ask themselves; if it is true that eating junk food causes cancer, then America would be the most cancerous country. This is because they live on junk; they eat junk for breakfast, lunch and dinner. Every corner has junk food – from MacDonald's, KFCs and whatever you call it. There is junk everywhere. How come they are not having this pandemic? It is the same thing when one goes to Europe. The only thing one sees as side effect of junk is obesity. One will see a young man of 11 years looking like a beast, because of eating junk food. That is what they have been having. How come we are now being told in Africa that eating KFC and Macdonald's is likely to a case cancer?

Mr. Deputy Speaker, Sir, we are also told that excessive consumption of alcohol causes cancer. Go to Russia, and they have Vodka in the morning, lunch and for dinner. How come they do not have a pandemic of cancer? Something is tragically wrong somewhere in our continent, and we need to confront it. I, therefore, request Sen. (Dr.) Ali to amend the Bill so as to lay strong emphasis on a research centre. Let the teaching in our medical schools, right from the first year, emphasise on research.

Mr. Deputy Speaker, Sir, I do not know if you remember the late Prof. Kasili, who was one of the most distinguished brains, and the pioneer consultant on cancer. He wrote many papers and was recognized worldwide. However, after sometime, he succumbed to the cancer he was researching on, and died. When one looks around at the number of people we are losing from cancer complications, it is alarming. We are now all mourning about our colleagues, hon. Okoth and Governor (Dr.) Loboso, and others. How

many unknown Kenyans are we hearing about and mourning? There are so many, and they are neither hon. Okoth nor Governor (Dr.) Laboso, and they are also dying in the same way.

Therefore, Mr. Deputy Speaker, Sir, if we must help this country, we should not stand up and make beautiful speeches because we have lost people at our level. We must look at the ordinary people. What are those children who live around Dandora dumpsite inhaling? Those people who live along the polluted rivers, what are they inhaling? The late hon. Michuki came to Nairobi and, in five months, cleaned Nairobi River to a level where one could drink water from what was previously sludge. It can be done. In this country, people do not go to public offices to serve, but to acquire wealth. That is our problem.

Mr. Deputy Speaker, Sir, everybody is not concerned about the people who are bringing contaminated food to this country. For example, we have the sugar which is laced with mercury, expired sugar and whatever else. One goes to hospital and a doctor who took the Hippocratic Oath diagnoses you and gives you a fake drug, yet he took an oath to save human lives. That is why sometimes I jokingly say that some of the doctors do not take the Hippocratic Oath, but oath of hypocrisy. How would one---

The Deputy Speaker (Sen. (Prof.) Kindiki): In reality, Sen. Wetangula, the way you are pronouncing it makes things even worse. Is it the “Hippocratic” or “Hippocritic” oath?

Sen. Wetangula: Mr. Deputy Speaker, Sir, it is the Hippocratic Oath; they take the Hippocratic Oath. However, the way you see them conducting themselves, one starts thinking they took an oath of hypocrisy. How does a trained doctor, as our brother here, having taken an oath to save lives, let people die at his reception because they cannot pay his consultation fees? You prescribe and give people expired drugs and inject them with distilled water, pretending that it is medicine. This happens! These are all a combination of things that one can sum up as a decay or death of the society – the moral, probity and professionalism – which is destroying our country to the level where nobody cares.

Mr. Deputy Speaker, Sir, I remember one doctor, during the time they were committing monstrous crimes on the National Hospital Insurance Funds (NHIF). He could walk into a bar and pronounce that he had made enough money for himself, his children, grandchildren and great grandchildren. It was then said that he was making money for his great, great grandchildren through fraud. When they struck him, the man just came down like a pyramid of cards; he closed his practice and sold everything. The other day, I met him in Kisumu, talking to himself on the streets. *Haramu hailali*. We must, therefore, pray for God to descend on his society and strike such dishonest people out of our way so that this country can be a better place to live in.

Mr. Deputy Speaker, Sir, when we look at China, with 1.3 billion people; and India with 1.2 billion, how come cancer is not ravaging them the way it doing to Africa yet, some of the Indians live in worse squalor than Africans? How many Indians does one see squatting from the airport alone, when one goes to Bombay? I cannot say what they do when they are squatting, but we have seen them everywhere. How come cancer is not ravaging them? How come cancer has become---

(Sen. Wetangula's microphone went off)

The Deputy Speaker (Sen. (Prof.) Kindiki): Alright, I will add you five more minutes.

Sen. Wetangula: Mr. Deputy Speaker, Sir, how come Africa is different? How come cancer is not ravaging countries such Indonesia with 300 million poor people? We need answers to these questions. What has descended on Africa? We do not hear of serious cancer cases in Egypt, Tunisia, Libya, Morocco and Algeria. Why black Africa? Has somebody unleashed a bungled laboratory test on us?

At one time, we were told that HIV/AIDS was a result of chemical weapons gone bad that were unleashed on people. However, nobody talks about HIV/AIDS anymore. People just do things their way. However, as we speak about cancer, I would like to urge Sen. (Dr.) Ali and his Committee on Health not to forget the other disease that is a major killer of African children; that is malaria. Cancer is hitting us and we are all frightened, but out of every 10 children born, four perish because of malaria. In some areas, like where Sen. (Dr.) Ali comes from, the mortality rate is very high. As we cry about cancer, the biggest problem in Wajir is clean water and the lack of sufficient health facilities for people to seek treatment.

We, therefore, need to look at all these issues. If we do not address them, we will be presiding over the demise of our generation, and the situation will look genocidal. Genocide is not only about taking machetes and killing people the Rwanda way; it is also being negligent in the management of affairs where people just die *en masse*, the way people are dying now of cancer. As this is happening in Kenya, people are in a mad rush to accumulate wealth primitively at the expense of everything else.

Mr. Deputy Speaker, Sir, I agree with people who are saying that the President should declare cancer a national disaster. However, the real national disaster in this country is corruption, because it denies you and me everything. It makes even the finest of doctors to worship and adore money instead of saving lives. That is moral and professional corruption; it is a decay of moral integrity. This is where the problem lies, and where the first drop of rain started to hit us.

Right now, we want to push more money to the counties, but who will watch the watchers, as the lawyers say? Yesterday, I was having a meeting with my brothers; Raila, Kalonzo and Mudavadi. Hon. Mudavadi made us laugh by saying, "When we go to the elections, we elect 47 Governors, who are all poor and ordinary people. However, after five years, you have increased the number of billionaires by 47 in the country."

This is true because a person who did not even have a second car, all of a sudden owns a helicopter. A person who did not have a second suit, now only wears Pierre Cardin. They used to buy suits from River Road that looked like *gunias*, but they are now wearing Pierre Cardin suits, which have been bought using public money. We must strengthen the institutions of governance in this country so that every single shilling that we vote for in this House and in the lower House, goes to good use.

I want us to be like Nigeria, which is known for corruption, but also for nonsense on corruption. After the first term of devolution in Nigeria, 75 per cent of the governors went to jail, some for life. However here in Kenya, a governor who was reported in the newspapers to be facing a court case on theft and fraud, is now laughing at others. He is not laughing because the others are wrong and he is right; he is laughing at the State for never catching up with him. That is what they are enjoying.

Mr. Deputy Speaker, Sir, this country must change. President Uhuru has declared war on corruption, and I want to urge him not to relent. We should not just think that corruption is limited at the top level, because it is at every level. The clinical officer who puts medicine in his pocket in the evening as he goes home and treats people in his village for gain is a thief and as corrupt as the man sitting in a Ministry and making money for himself.

I would say much more but let me end here and support this Bill. We must do something because this country is headed the wrong direction, and it is only for us to change it. There are no angels who will descend on this country to change the way we live. It is for us to change our country.

Thank you, Mr. Deputy Speaker, Sir.

The Deputy Speaker (Sen. (Prof.) Kindiki): Thank you, Sen. Wetangula. I was reluctant to interrupt you because you are uncharacteristically passionate today. I do agree with you, because we all live in this country and we are worried about what is happening around our nation.

Hon. Senators, I am left with one last request from Sen. Ochillo-Ayacko.

Sen. Ochillo-Ayacko: Mr. Speaker, Sir, I pressed the button inadvertently. I think I got excited when Sen. Wetangula was speaking.

(Laughter)

The Deputy Speaker (Sen. (Prof.) Kindiki): You should have applauded him.

Very well, we have come to the end of debate on this matter. I now call upon the Mover to reply.

Sen. (Dr.) Ali: Thank you, Mr. Speaker, Sir. My colleagues have said a lot of good things about this Bill. They have also pointed out many of the problems we are experiencing in this country.

The problem with Kenya is that we write a lot of good reports, laws and Bills, but when it comes to implementation, we have a very big problem. If you look at The National Cancer Control Strategy from 2001 to 2022, you will note that we do not even need any other law to take care of cancer. It talks about prevention, screening, early detection, early diagnosis, monitoring and evaluation. It goes further to talk about research and co-ordination, financing and partnership with foreign and national organizations.

Mr. Deputy Speaker, Sir, when we talk of prevention of cancer, as we have been told by several Members who contributed, you might not even know what causes cancer. Somebody said this morning that we are behaving like in the 1990s, when people were talking about HIV/AIDS. Everybody was afraid of it. However, the problem has now become cancer. At least in the case of HIV/AIDS, we are told that it is sexually transmitted; or that it is caused by blood transfusion. However, with cancer, we do not even know the cause.

We have heard people talk of carcinogenic things. I remember, in 1997 in Wajir during the rains, all the animals started dying and the people started having diarrhea. Then the Rift Valley Fever came about, and we did not know anything about it before then. If you asked the nomads there about the history of how this disease came about, they would tell you about a place along the Merti Aquifer, where some people came and

dumped some things. These people claimed that they were looking for oil, and dug wells. During the day, they would come with sealed drums. At during the night, all the locals were told to get away and those things were dumped inside the wells.

The same story happened in the Chalbi and Marsabit. That is why we are told that the number of cancer cases have increased abruptly from those times. In Wajir, every other person who has cancer suffers from throat cancer. People attribute it to hot tea, but we have been drinking hot tea for so many years. Why now? Others attribute the cancer to *miraa*; but our people have been chewing *miraa* all along, why now? I remember as a first timer in 1998, I asked a question, because there was a French company associated to that issue. I did not get any proper answer up to this time.

As Sen. Wetangula said, there are issues of dumping of foreign and toxic substances, especially in black Africa. It has happened in Wajir and Marsabit counties. Consequently, the water flows downhill from Marsabit to Wajir, and into the Indian Ocean. We are even told that any animal that eats the grass that grows around the area where the dumping was done dies.

Mr. Deputy Speaker, Sir, when we talked to the Ministry of Health, the Ministry of Foreign Affairs and International Trade; and the Ministry of Petroleum and Mining, nobody wanted to discuss the issue. Sen. Wetangula was in the “Lower House” when we were complaining about these things, and nobody wanted to say anything about it.

As I said earlier, the Government came up with the National Cancer Control Strategy (NCCS), which has everything from prevention, screening, early diagnosis, treatment and coordination. However, nothing is being done. The Ministry of Health literally has 80 per cent of the money at the national level, even though health is devolved.

Recently, when we were doing public participation on the Bill, a researcher told us that all the drugs, diagnosis and screening which we are using is one which was done in the western world, where their genomes are different from ours. The whites have a different type of genetic composition from ours, yet we are using drugs and everything else which were made for them. As a result, sometimes we do not cope, and Africans die more.

The theory, that this is something to clear Africans, like HIV/AIDS, is also there. This is because the whites talk a lot of things and even say that pharmaceutical companies are here to kill and not treat people. It is a reality, anyway. We are talking of hair loss, which is a small component of the side effects of chemotherapy. We are talking of the psychological effects, but what other things does it do to the body? That is why people lose weight immediately. They cannot eat because they lack appetite. Consequently, you die fast instead of getting healed.

Mr. Deputy Speaker, Sir, all these problems are there, but when we think about prevention, lifestyle comes in. One of the issues that people are talking about now is constipation. When an African gets constipation, they are told that there is something wrong with their stomach; and they are told to increase their bowel movement. When you look at it scientifically, there is something right about that. Constipation leads to acidity in the abdomen, colon and intestines, which leads to problems. Acidity in the long run causes cancer.

People talk about taking a lot of water, which is healthy. If you do not take it, it causes acidity and then cancer. We talk about good sleep, and say that when you sleep

soundly, you scientifically heal yourself. Sen. (Prof.) Ongeru is here, and he can confirm that sleep helps in healing your cells and you become healthier. However, because of our lifestyle, we move around and want to sleep for only two to three hours instead of the recommended six, seven or eight hours. Consequently, when you wake up, your cells are worse than before. Therefore, there are many issues that are concerned with cancer, not only the carcinogens. There are stress factors, as everybody is moving around looking for money and we do not heal. All these things are problematic.

Some Members talked about regulatory systems, like the Kenya Medical and Dentist Board (KMDB), the Pharmacy and Poisons Board (PPB) and the Kenya Bureau of Standards (KeBS), who are supposed to look into these things. Regulating these bodies and bringing all of them together is also not easy because they are in different ministries and departments, but they all have to be coordinated. The Kenya Veterinary Board (KVB) is also one of them, because what we feed our animals and what we eat affect us. Even dumpsites cause problems.

Mr. Deputy Speaker, Sir, declaring cancer a national disaster is also another issue. Hopefully, if it is declared a national disaster, then the Government will move into action. Also, the Ministry concerned and multi-sectoral departments will come together and try to do something. We would want that to come up so that, at least, if not anything else, the national Government will develop county centres and get some people to be properly trained.

Mr. Deputy Speaker, Sir, every profession wants to restrict the number of people who are in that profession so that they enjoy. This does not only apply to the medical profession; the legal profession is doing the same. You know what they are doing to students at the Kenya School of Law (KSL); where out of 2,000 or 3,000 students, only about 200 pass, and the others fail for whatever reasons. Even in the medical profession, those things exist. It used to be the pediatricians, surgeons and gynecologists before that. They wanted to reduce the number of doctors so that their practice could not be affected, and so that they could get enough loot.

Oncology is now becoming the in-thing, and they are restricting the numbers. We are told that most of them are here in Nairobi. Kisumu County has one, Mombasa two, Nakuru three, Nyeri one and Meru has one too. Out of the 47 counties, possibly, only five counties have oncologists, yet cancer is a killer everywhere. We, therefore, need to train not only more doctors, but also clinical officers, nurses, laboratory technicians, laboratory technologists and counsellors. This is a very serious disease that not only affects you, but all your relatives and the people around you. We, therefore, need many counsellors as well. Therefore, the declaration of cancer as a national disaster will help everybody.

Mr. Deputy Speaker, Sir, Members have also talked about further conditional grants for cancer. We will propose that, and also possibly urge the Committee on Finance and Budget and the Committee on Health to make sure that we do that so that it is included in The Division of Revenue Act (DORA) and County Allocation of Revenue Act (CARA).

With those many remarks, Mr. Deputy Speaker, Sir, I beg to reply.

Thank you.

(Sen. (Dr.) Ali remained standing in his place)

The Deputy Speaker (Sen. (Prof.) Kindiki): Are you on a point of order, Sen. (Dr.) Ali?

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

The Deputy Speaker (Sen. (Prof.) Kindiki): You did not say so.

Sen. (Dr.) Ali: On a point of order, Mr. Deputy Speaker, Sir. I request that putting of the question be deferred to tomorrow.

The Deputy Speaker (Sen. (Prof.) Kindiki): It is so ordered.

(Putting of the question on the Bill deferred)

Next Order.

Second Reading

THE COUNTY HALL OF FAME BILL
(SENATE BILLS NO.39 OF 2018)

The Deputy Speaker (Sen. (Prof.) Kindiki): The Bill is deferred since the Mover is not here.

(Bill deferred)

Next Order.

Second Reading

THE CONSTITUTION OF KENYA (AMENDMENT) BILL
(SENATE BILLS NO.2 OF 2019)

The Deputy Speaker (Sen. (Prof.) Kindiki): *Ditto*. It is so ordered. We defer.

(Bill deferred)

Next Order.

MOTIONS

RENAMING OF MURANG'A UNIVERSITY OF TECHNOLOGY
TO KENNETH MATIBA UNIVERSITY OF TECHNOLOGY

THAT, AWARE THAT, Murang'a University of Technology (MUT) is a Chartered University established under Section 13 of the Universities Act, 2012, and is positioning itself to develop a distinctive profile as a progressive and international Technical University, growing its enrolment strategically;

FURTHER AWARE that the University is located in Murang'a County, the home County of the late politician Kenneth Njindo Matiba,

who died a patriotic and political hero with numerous achievements spanning four decades;

NOTING THAT, the late Matiba was a prolific industrialist in the hospitality and education sector, and an accomplished public servant, having served as the first indigenous African Permanent Secretary for Education in 1963; Permanent Secretary for Commerce; Chairperson of the Kenya Football Federation from 1974-78; a Member of Parliament for Kiharu constituency; Cabinet Minister for Health; Culture & Social Services; and Transport & Communications;

FURTHER NOTING THAT, the late Matiba was part of the opposition alliance that led the liberation struggle for the restoration of multi-party democracy through the Forum for the Restoration of Democracy (FORD), later founding FORD-Asili, under which he ran for presidency in 1992 general election;

COGNIZANT that under the Heroes Act 2014, the state is obliged to confer recognition to the late statesman for his cardinal contributions to the political and economic growth of this country;

FURTHER COGNIZANT that other patriotic Kenyans like Jomo Kenyatta, Daniel arap Moi, Masinde Muliro, Dedan Kimathi and Jaramogi Oginga Odinga have been accorded such recognition;

NOW THEREFORE, the Senate urges the National Government, in remembrance of Matiba's contribution to our Nation, to rename Murang'a University of Technology to Kenneth Matiba University of Technology.

(Sen. Mwaura on 23.7.2019)

(Resumption of debate interrupted on 23.7.2019)

The Deputy Speaker (Sen. (Prof.) Kindiki): Proceed, Sen. (Prof.) Ongeru.

Sen. (Prof.) Ongeru: Mr. Deputy Speaker, Sir, if you check your reports, I had nine minutes left to contribute to this debate. I anxiously waited for this.

The Deputy Speaker (Sen. (Prof.) Kindiki): You still have them, Sen. (Prof.) Ongeru.

Sen. (Prof.) Ongeru: Thank you, Mr. Deputy Speaker, Sir. As I said earlier on, it is not a usual thing to rename universities after people. When you do so, you catalogue both the historical events that have taken place in the life of that individual, and the impact those events have given society to be able to accept to rename the institution in honour of the individual who has departed or is still alive.

Therefore, renaming Murang'a University to Kenneth Matiba University of Technology would be the most ideal thing. I said that Kenneth Matiba is not just a name because, first, he is one of our pioneers who graduated from Makerere University in the late 1950s. He is also one of our pioneers in Gill House, as a senior civil servant in the Ministry of Education.

I remember when I came back from India for an inaugural flight in 1960, he was one such senior members of our society in the colonial era to get a placement in high

circles of the Ministry of Education, together with a lady called Ana Brotherton, who used to be the senior education officer. Therefore, not only did he excel in these areas, but he moved on to establish various institutions of learning, both at the primary and secondary level, and they bear testimony of his prowess in the area of education.

The late hon. Kenneth Matiba was also able to transcend the area of social aspects. At the time when he I was the Chairman of the Kenya Amateur Athletics Association (KAAA), he was also the Chairman of Kenya Football Federation (KFF) and the Chief Executive Officer (CEO) of the East African Breweries. When he took over the mantle of the KFF, he cut across the ethnic divide and was able to sponsor Gor Mahia, which was at that time considered a team from Nyanza instead of supporting a team from the Mt. Kenya region. That was the first time that one of the trophies came to Kenya, and Gor Mahia kept on scoring.

I remember that the general manager of the then Extelcoms was fond of Gor Mahia. He then invited the late hon. Kenneth Matiba to participate, and be part of the sponsors for these events, and Gor Mahia took the international standards to higher heights. Not only that, he eventually became the Chairman of KFF. You know the game well, because together with the late Brigadier Cromwell Mkunguzi, we took care of soccer in Nairobi areas and defined its future. Therefore, when he took over as the Chairman, he did a great thing to bring up Harambee Stars to the level where it is today. He is, therefore, not a man who just sat on the saddle and waited for things to happen; he was proactive.

On the political side, he is one individuals who heralded the multiparty era. When you talk about “Young Turks,” I was on the other side of the divide in the Government, and we could see that the momentum was building up for multipartism. President Moi appointed the late Prof. George Saitoti to be the Chairman of a committee gathering information around the country about multipartism. I was his vice chairman, and it was quite clear to us that we needed to change Section 2A of our Constitution to allow multipartism. I remember the zeal with which they made a lot of useful noise, which yielded results, together with the former mayor of Nairobi, Andrew Ngumba. The year 1992 would not have been feasible were it not for the pressure that had been mounted, and the events that took a place along---

The Deputy Speaker (Sen. (Prof.) Kindiki): Sen. (Prof.) Onger, I am sure that you are referring to Charles Rubia, and not Andrew Ngumba.

Sen. (Prof.) Onger: Mr. Deputy Speaker, Sir, Andrew Ngumba also became a mayor but it is Charles Rubia. Thank you for the correction. I agree with you. It is absolutely true. This is a great name of a Kenyan who decided to deny himself everything, except to work for the society of Kenya. He has bequeathed values to this society.

Mr. Deputy Speaker, Sir, what is the role of a university? It is to maintain the ethos and tempo of a nation, and to propagate and transmit knowledge to the participants. That is why when a person attains a degree, the proclamation which is made is that he or she does as appertains to that degree. In other words, it is to reach a level of excellence that is mandated and required by citation to maintain that level and tempo. Therefore, this is one individual who will attract many of our young people to join that university.

Today, Mr. Deputy Speaker, Sir, when you talk about Masinde Muliro University, it is a testimony of an individual who did so much. When you talk of Jaramogi Oginga

Odinga University, it is a testimony of a person who did so much for this nation. When you talk of Dedan Kimathi University, it is a person who fought for this nation. Therefore, he presents certain aspirations of Kenyans, and that is what we want to instill in our young generation. They must have certain aspirations that are pure, noble and actionable. We must move the population away from things that are catastrophic and which can destroy a nation to levels that can sustain it.

When you look at what is currently trending, it is only now that we are talking about cancer. We need these types of institutions to deal with mundane diseases like cancer, which are pervading our society left, right and centre. In fact, Kenyans are spending more money treating people in the hospitals rather than preventing the events that cause cancer, yet we have all the available means to prevent cancer.

Mr. Deputy Speaker, Sir, I support this Motion. The renaming of Murang'a University to Kenneth Matiba University of Technology will add value, because Kenneth Matiba is the epitome of society. This will give new aspirations and impetus for people to pursue higher learning in that university. That is the calling for each and every one of them.

With those few remarks, Mr. Deputy Speaker, Sir, I beg to support the Motion.

The Deputy Speaker (Sen. (Prof.) Kindiki): Hon. Senators, that brings us to the end of debate on that Motion. Sen. Mwaura is not here to reply, and I have no idea where he is. I will, therefore, proceed to put the question. Wherever Sen. Mwaura is, he should be informed that it is his duty to track down his business in this House. He should not behave as if it is the responsibility of the House to look for him to come and reply to his own Motion.

Hon. Senators, I determine that this is not a matter concerning counties. Therefore, we will have what lawyers call *viva voce* vote; others call it acclamation, while others colloquially call it vote by shouting. I will proceed to put the question.

(Question put and agreed to)

The Deputy Speaker (Sen. (Prof.) Kindiki): Next Order.

STAFF RATIONALIZATION IN COUNTIES

THAT, AWARE THAT the Senate represents the counties, and serves to protect the interests of the Counties and their governments;

FURTHER AWARE THAT, the launch of the Capacity Assessment and Rationalization of the Public Service (CARPS) Programme was launched by the Inter-Governmental Steering Committee (IGSC) on 14th July, 2014, with the objective of transforming the Public Service for efficient and effective service delivery at both levels of Government;

NOTING THAT, the implementation timelines for the CARPS programme of two years specifically with regard to the capacity assessment, workload analysis and staff redeployment and transfers, are of

paramount importance in the Counties as the terms of all second term County Governors come to a close in 2022;

CONCERNED THAT, County governments are still engaged in uncontrolled hiring of staff in total violation of applicable laws, exposing a glaring imbalance between money spent on recurrent expenditure, versus budgets for development projects, which are the essence of devolution;

CONCERNED FURTHER THAT, contrary to Section 15(2)(b) of the Public Finance Management (PFM) Act, in counties such as Nairobi, Machakos, Garissa, Kisumu, Wajir, Baringo, Narok, Nakuru and Nyamira, staff salaries consumed in excess of 75 per cent of total expenditure, over and above the set limit of 35 per cent as provided in Regulation 25(1) of the Public Finance Management (County Governments) Regulations, 2015, during the FY 2018/2019;

DEEPLY CONCERNED THAT, although Section 65 of the County Governments Act requires that more than 30 per cent of the vacancies at entry level be given to members of ethnic groups that are not dominant in their precincts, the 2016 Ethnic and Diversity audit launched by the National Cohesion and Integration Commission revealed that 68 per cent of Counties have hired more than 70 per cent of their staff from one ethnic group;

NOW THEREFORE in exercise of its oversight function, the Senate resolves that the Public Service Commission (PSC), Intergovernmental Relations Technical Committee (IGTRC) and the Council of Governors provide a comprehensive report on:-

1. the progress and implementation status of the Capacity Assessment and Rationalization of the Public Service (CARPS) Programme indicating the County Governments that are compliant; and
2. the number of employees in each County Government showing the amount spent as wage bill *vis-à-vis* recurrent expenditure budgeted for Financial Year 2018/2019 and submit these reports to the Senate within 60 days of this resolution.

(Sen. (Dr.) Zani on 4.7.2019)

(Resumption of debate interrupted on 4.7.2019)

The Deputy Speaker (Sen. (Prof.) Kindiki): Sen. Farhiya, you were seconding this Motion, and you have a balance of seven minutes to conclude. You have the Floor.

Sen. Farhiya: Thank you, Mr. Deputy Speaker, Sir, for allowing me to continue. I would like to bring to speed those who were not in the House.

I did an analysis of the wage bill for the counties. I looked at the best and the worst counties in terms of when the governors took office in 2017, and the previous financial year. I also did a further analysis for the first three quarters of Financial Year 2018/2019 for the worst eight counties according to the Controller of Budget (CoB). I had earlier talked about the best performing counties and I will now look at the worst performing ones.

The Governor of Kericho County increased his wage bill from 38.37 to 48.84 per cent, which is an increase of 10.47 per cent. If the governor who had served before recruited people according to specified qualifications given according to the guidelines in the law, how come the wage bill increased during his second term? To me, that is impunity because he did not follow the law that he took oath to abide by.

I will just give the percentage increases without giving the details, because it will take a lot of my time. Vihiga County is next, where the governor increased the wage bill to 48.48 per cent after one financial year. The Governor of Garissa County also increased his wage bill by 10.56 per cent; while the Governor of Bungoma County increased his wage bill by 10.19 per cent. The Laikipia County wage bill increased by 11.13 per cent, while that of West Pokot County by 11.21 per cent. Embu County increased its wage bill by 11.41 per cent, while Baringo County increased its wage bill by 12.15 per cent.

Nyamira is another county where the governor is serving his second term. He increased his wage bill by 12.66 per cent, which is almost up 13 per cent. Nandi County increased its wage bill by 13.79 per cent. Trans Nzoia is another county where the governor is serving his second term. He increased his wage bill by 14.59 per cent. The Governor of Kajiado County increased the wage bill by 15.19 per cent. Makueni is our model county, and most of us thought it will be among the best counties in terms of management and all that. The governor is serving his second term, yet he increased his wage bill by 15.36 per cent. Lamu County increased its wage bill by 16.74 per cent; Samburu County by 17.14 per cent; while Siaya County increased by 17.33 per cent. The Governor of Siaya is also serving his second term, and it is a shame that this is happening.

Mr. Deputy Speaker, Sir, Wajir, which is my own county, increased its wage bill by 14.44 per cent; and Meru County by 19.09 per cent. Machakos County, where we have another governor who is serving his second term, increased the wage bill by a whopping 20.18 per cent. Turkana County, where we have a second term governor, increased its wage bill by a whopping 21.9, which is almost 22 per cent.

This is impunity of the highest order. The Public Finance Management (County Government) Regulations Section 25(1)(h) states that ---

“If the county government does not achieve the requirement of regulation 25(1)(f) above at the end of the financial year, the county executive committee member for finance shall submit a responsibility statement to county assembly explaining the reasons for the deviation and provide a plan on how to ensure annual actual expenditure outturns as well as medium term allocation comply with the provisions of Section 107 (2) (a) of the Act and these regulations in the subsequent years;”

(The red timer went off)

Mr. Deputy Speaker, Sir, can I have more time?

The Deputy Speaker (Sen. (Prof.) Kindiki): You cannot have all the time. How many minutes are you looking for? You still have two minutes.

Sen. Farhiya: Mr. Deputy Speaker, Sir, I am requesting for five to seven minutes. I have a lot of information that I want to share, and they are serious issues that should be considered by this House.

The Deputy Speaker (Sen. (Prof.) Kindiki): Parliamentary time, just like judicial time, is finite; hence you should learn summary skills. I will grant you an additional four minutes on top of your two minutes, which will give you six minutes. You will say what you have not said in those six minutes another time.

Proceed.

Sen. Farhiya: I am much obliged, Mr. Deputy Speaker, Sir. However, I will have to skip some of the things that I wanted to say.

The question is; have these counties complied with that regulation? Do they table reports to their respective county assemblies? I doubt if they do that. If the governors had been put on their toes, then a governor who is serving his second term would know that there are such consequences if they do not meet those thresholds. We also need to ask ourselves if the Members of the County Assemblies (MCAs) are up to the task. Do they know what they are supposed to do? On average, all county governments spent Kshs130.97 billion on personnel emoluments by July 2016/2017, which is 61 per cent.

In the Financial Year 2017/2018, the Governor for Turkana County had his percentage at 45.86 per cent, but he increased it to 49 per cent by the third quarter of the Financial Year 2018/2019. If this continues, we will not have money. When a county gets to 65.14 per cent, like in the case of Wajir County, it means that the Governor will only be left with 35 per cent. The question is; will he use that money for development or for recurrent cost, medical, agriculture, business development and service delivery? The law requires him to use 35 per cent for emoluments, 35 per cent for recurrent cost and 30 per cent for development, yet there is a county that is already using 65 per cent for emoluments. What are they doing with the remaining 35 per cent? What is shocking is that the 65 per cent is used to pay people for doing work that can be done by people who should be paid 35 per cent. Is that good use of our money?

The Committee on Finance and Budget should call all the governors and ask them to account for the money. We can even have a Kenyan walk to a court of law and seek that the governors be charged so as to have them deliver services to Kenyans. There is no justification for this, especially the governors who had already met the threshold, such as the governors for Machakos and Turkana counties.

The Deputy Speaker (Sen. (Prof.) Kindiki): You have one more minute.

Sen. Farhiya: Mr. Deputy Speaker, Sir, I know that these governors want to create employment for the youth, but they should look for other areas of employment. If the governors invested productively, all the youths would be employed, and they would be a source of revenue. If this recruitment continues, then the sustainability of the counties is threatened. This House is supposed to protect the counties, hence, we have to do something about the state of affairs of our counties as far as recruitment is concerned.

The Deputy Speaker (Sen. (Prof.) Kindiki): Do what you came here to do.

Sen. Farhiya: Mr. Deputy Speaker, Sir, I beg to second.

The Deputy Speaker (Sen. (Prof.) Kindiki): Very well, Sen. Farhiya. You have a lot of facts, but you have to learn how to summarise, because time is finite. The 67 Members have three hours to debate this Motion. Can you imagine the disservice that you will be doing to your colleagues if you are to take 30 minutes?

(Question proposed)

Sen. (Prof.) Onger: Thank you, Mr. Deputy Speaker, Sir. This is a very important Motion which intends to balance the needs of the CARPS *vis-à-vis* the public wage bill at the county and national level. This wage bill has a direct bearing on the elements of development *vis-à-vis* the recurrent expenditure. Through the Senate County Public Accounts and Investments Committee (CPAIC), most of the counties are overboard in their wage bill. Their spending on the wage bill aspect is at the expense of the development priorities for counties. Therefore, there is a mismatch between the county development fund and resources, *vis-à-vis* the recurrent expenditure resources.

One cannot help except to trace the historical perspective of this inherent capacity of CARPS, because the defunct local authorities came over with the number of staff who had not been segregated nor assessed according to their capacities. Consequently, they had not been rationalised to perform certain tasks in accordance with the new devolved system of government. What was in operation then is Cap.265 of the Local Government Act, which was extremely inefficient, because it concentrated resources at the centre rather than at the devolved level. Now that we have new devolution metrics, it is critical that we must match the capacity of those who are involved in delivering the services to the residents of the counties *vis-à-vis* their salaries.

Mr. Deputy Speaker, Sir, the law is very clear; that in development, counties must spend 30 per cent of their equitable share and their own-source revenue on development. Short of that, you will run into difficulties in balancing your books. What you receive is what you must spend; you cannot spend more than you receive.

Mr. Deputy Speaker, Sir, I realise that my time is up---

The Deputy Speaker (Sen. (Prof.) Kindiki): Order, Sen. (Prof.) Onger! How did you realise? It is in the same realization that I am informing you that when this matter resumes for debate, you will have a balance of 12 minutes to finish your contribution.

Sen. (Prof.) Onger: I am most obliged, Mr. Deputy Speaker, Sir.

ADJOURNMENT

The Deputy Speaker (Sen. (Prof.) Kindiki): Hon. Senators, it is now 6.30 p.m., time to adjourn the House. The Senate, therefore, stands adjourned until tomorrow, Thursday, 1st August, 2019, at 2.30 p.m.

The Senate rose at 6.30 p.m.