

PARLIAMENT OF KENYA

THE SENATE

THE HANSARD

Thursday, 22nd February, 2024

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

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

PRAYER

DETERMINATION OF QUORUM AT COMMENCEMENT OF SITTING

The Speaker (Hon. Kingi): Clerk, do we have quorum? Hon. Senators, kindly take your seats. Clerk, you may proceed to call your first Order.
Senator for Lamu County, kindly take your seat.

MESSAGES FROM THE NATIONAL ASSEMBLY

APPROVAL BY THE NATIONAL ASSEMBLY OF THE MEDIATED VERSION OF THE COUNTY GOVERNMENTS ADDITIONAL ALLOCATIONS BILL (NATIONAL ASSEMBLY BILLS NO.23 OF 2023)

The Speaker (Hon. Kingi): Hon. Senators, I wish to report to the Senate that pursuant to Standing Order No.46(3) and (4), I received the following Message from the Speaker of the National Assembly regarding the approval, by the National Assembly, of the Mediated Version of the County Governments Additional Allocations Bill (National Assembly Bill No.23 of 2023)-

The Message, dated Wednesday, 21st February, 2024, was received on Thursday, 22nd February, 2024, in the Office of the Clerk of the Senate.

Pursuant to the said Standing Order, I now report the Message-

“PURSUANT to the provisions of Standing Orders No.41 and 150 of the National Assembly Standing Orders, I hereby convey the following Message from the National Assembly;

WHEREAS the County Governments Additional Allocations Bill (National Assembly Bill No.23 of 2023) was published vide Kenya Gazette Supplement No.77 of 2023 as a Bill seeking to provide for additional allocations to county governments for the

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2023/2024 Financial Year and the responsibilities of the national Government and county governments pursuant to such allocation;

AND WHEREAS on 23rd November, 2023, the Bill was committed to a Mediation Committee in accordance with Article 112(2) of the Constitution, following the National Assembly's rejection of the Senate amendments to the said Bill;

FURTHER WHEREAS, on 21st February, 2024, the National Assembly considered and approved the version of the County Governments Additional Allocations Bill, 2023 in the form proposed by the Mediation Committee;

NOW THEREFORE, in accordance with the provisions of Article 113 of the Constitution and Standing Order No.150(4)(b) of the National Assembly Standing Orders, I hereby convey the said decision of the National Assembly to the Senate.”

Hon. Senators, as you may be aware, yesterday, Wednesday, 21st February, 2024 during the afternoon Sitting, the Co-Chairperson of the Mediation Committee, Sen. (Dr.) Khalwale, gave Notice of a Motion for the approval of the Mediated Version of the said Bill.

The Motion has been listed on today's Order Paper for consideration.

I thank you.

Hon. Senators, you may walk in and take your seats.

(Several Senators walked into the Chamber)

PASSAGE BY THE NATIONAL ASSEMBLY OF THE AFFORDABLE
HOUSING BILL (NATIONAL ASSEMBLY BILLS NO.75 OF 2023)

Hon. Senators, I wish to report to the Senate that pursuant to Standing Order No.46 (3) and (4), I received the following Message from the Speaker of the National Assembly regarding the passage, by the National Assembly, of The Affordable Housing Bill (National Assembly Bills No.75 of 2023).

The Message dated Thursday, 22nd February, 2024 was received in the Office of the Clerk of the Senate on the same date.

Pursuant to the said Standing Order, I now proceed to report the Message-

“PURSUANT to the provisions of Standing Order No. 41(1) and 142 of the National Assembly Standing Orders, I hereby convey the following Message from the National Assembly-

WHEREAS the Affordable Housing Bill (National Assembly Bill No.75 of 2023) was published vide Kenya Gazette Supplement No.236 of 4th December, 2023 and introduced pursuant to Article 109(4) of the Constitution as a Bill seeking to provide a legal framework for development and access to affordable housing and institutional housing and to give effect to Article 43(1)(b) of the Constitution on the right to accessible and adequate housing;

AND WHEREAS, the National Assembly considered the Bill and passed it with amendments on Wednesday, 21st February, 2024 in the form attached herewith;

NOW THEREFORE, in accordance with the provisions of Article 110(4) of the Constitution, I hereby refer the Bill to the Senate for consideration.”

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Hon. Senators, pursuant to Standing Order No.163, which 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.144, I will direct the Clerk to call out Order No.8 on today's Supplementary Order Paper and read a first time, The Affordable Housing Bill (National Assembly Bill No.75 of 2023).

I thank you.

Next Order.

PAPERS LAID

REPORTS OF THE AUDITOR-GENERAL ON FINANCIAL STATEMENTS OF VARIOUS ENTITIES

The Senate Majority Leader (Sen. Cheruiyot): Mr. Speaker, Sir, I beg to lay the following Papers on the Table of the Senate, today, Thursday, 22nd February, 2024-

Report of the Auditor-General on Financial Statement of the County Executive of Tharaka-Nithi for the year ended 30th June, 2023.

Report of the Auditor-General on Financial Statement of the County Assembly of Tharaka-Nithi for the year ended 30th June, 2023.

Report of the Auditor-General on Financial Statement of the Tharaka- Nithi County Assembly Car Loan and Mortgage Fund for the year ended 30th June, 2023.

Report of the Auditor-General on Financial Statement of the Tharaka-Nithi County Emergency Fund for the year ended 30th June, 2023.

Report of the Auditor-General on Financial Statement of the Tharaka- Nithi County Youth Empowerment Fund for the year ended 30th June, 2023.

Report of the Auditor-General on Financial Statement of the Tharaka- Nithi Bursary Development Fund for the year ended 30th June, 2023.

Report of the Auditor-General on Financial Statement of the County Government of Tharaka-Nithi - County Revenue Fund for the year ended 30th June, 2023.

Report of the Auditor-General on Financial Statement of the County Executive of West Pokot for the year ended 30th June, 2023.

Report of the Auditor-General on Financial Statement of the County Assembly of West Pokot for the year ended 30th June, 2023.

Report of the Auditor-General on Financial Statement of the County Government of West Pokot - Receiver of Revenue for the year ended 30th June, 2023.

Report of the Auditor-General on Financial Statement of the West Pokot County Cooperative Development Fund for the year ended 30th June, 2023.

Report of the Auditor-General on Financial Statement of the County Government of Nyandarua - County Revenue Fund for the year ended 30th June, 2023.

Report of the Auditor-General on Financial Statement of the Nyandarua County Executive (State and Public Officers) Car Loan and Mortgage Scheme Fund the year ended 30th June, 2023.

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Report of the Auditor-General on Financial Statement of the County Executive of Meru for the year ended 30th June, 2023.

Report of the Auditor-General on Financial Statement of the County Assembly of Meru for the year ended 30th June, 2023.

Report of the Auditor-General on Financial Statement of the Meru County Revenue Board for the year ended 30th June, 2023.

Report of the Auditor-General on Financial Statement of the Meru County Investment and Development Corporation for the year ended 30th June, 2023.

Report of the Auditor-General on Financial Statement of the County Government of Meru - County Revenue Fund for the year ended 30th June, 2023.

Report of the Auditor-General on Financial Statement of the Meru County Microfinance Corporation for the year ended 30th June, 2023.

Report of the Auditor-General on Financial Statement of the Meru County Alcoholic Drinks Control Board for the year ended 30th June, 2023.

Report of the Auditor-General on Financial Statement of the County Government of Meru - Receiver of Revenue - Revenue Statements for the year ended 30th June, 2023.

Report of the Auditor-General on Financial Statement of the County Executive of Turkana for the year ended 30th June, 2023.

Report of the Auditor-General on Financial Statement of the County Assembly of Turkana for the year ended 30th June, 2023.

Report of the Auditor-General on Financial Statement of the County Executive of Kirinyaga for the year ended 30th June, 2023.

Report of the Auditor-General on Financial Statement of the County Government of Kirinyaga – County Revenue Fund for the year ended 30th June, 2023.

Report of the Auditor-General on Financial Statement of the Kirinyaga County Assembly Car Loan Fund for the year ended 30th June, 2023.

Report of the Auditor-General on Financial Statement of the County Executive of Embu for the year ended 30th June, 2023.

Report of the Auditor-General on Financial Statement of the County Assembly of Embu for the year ended 30th June, 2023.

Report of the Auditor-General on Financial Statement of the County Government of Embu - County Revenue Fund for the year ended 30th June, 2023.

Report of the Auditor-General on Financial Statement of the County Government of Murangá - Receiver of Revenue for the year ended 30th June, 2023.

(Sen. Cheruiyot laid the documents on the Table)

The Speaker (Hon. Kingi): Next Order.

NOTICE OF MOTION

ADOPTION OF REPORT ON CONSIDERATION OF AUDIT
REPORTS FOR VARIOUS WATER SERVICE PROVIDERS

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Sen. Osotsi: Mr. Speaker, Sir, I beg to give notice of the following Motion - THAT, the Senate adopts the Reports of the Select Committee on County Public Investments and Special Funds on the consideration of the Audit Reports for the year ended, 30th June, 2019, 30th June, 2020 and 30th June, 2021 of the following Water Service Providers-

- (1) Amatsi Water Services Company Limited - Vihiga County;
- (2) Bomet Water Company Limited - Bomet County;
- (3) Gusii Water and Sanitation Company Limited-Kisii/Nyamira Counties;
- (4) Kisumu Water and Sanitation Company Limited - Kisumu County;
- (5) Kwale Water and Sewerage Company Limited - Kwale County; and,
- (6) Nyeri Water and Sanitation Company Limited - Nyeri County;

and the Audit Report of the Wajir Water and Sewerage Company Limited for the year ended 30th June, 2021, laid on the Table of the Senate on Thursday, 23rd November, 2023.

The Speaker (Hon. Kingi): Sen. (Dr.) Khalwale, please, proceed.

(Sen. Cheruiyot consulted with the Speaker)

Just hold on, Sen. (Dr.) Khalwale.
Next Order.

QUESTIONS AND STATEMENTS

STATEMENTS

POLICE RAID ON BUSINESSES IN EASTLEIGH OVER COUNTERFEIT PRODUCTS

Sen. Cherarkey: Mr. Speaker, Sir, I rise pursuant to Standing Order No.53(1) to seek a Statement from the Standing Committee on Trade, Industrialisation and Tourism regarding the police raid on businesses in Eastleigh, Nairobi City County, over counterfeit products. In the Statement, the Committee should-

(1) Explain the circumstances that led to the raid, by the police, on the businesses in Eastleigh occasioning a confrontation with the local business community causing a loss of business and damage to property.

(2) Explain whether the multi-agency operation, which was conducted in private businesses and homesteads, was done in compliance with the law, specifically whether the multi-agency team had obtained warrants or court orders to conduct the raid in Eastleigh.

(3) Provide current list of all license importers of powdered milk indicating their compliance levels and outlining any identified leakages that necessitate such enforcement operations.

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(4) State specific measures implemented by Kenya Revenue Authority (KRA), Kenya Bureau of Standards (KEBS) and the Kenya Dairy Board to ensure imported goods are compliant with the requisite standards at the ports of entry.

(5) Provide a comprehensive report detailing the actions taken against responsible multi-agency officers who fail to act professionally during the raid in Eastleigh, Nairobi City County.

The Speaker (Hon. Kingi): Proceed, Sen. Githuku.

PROVISION OF NTSA SERVICES AT THE
HUDUMA CENTRE IN LAMU COUNTY

Sen. Githuku: Mr. Speaker, Sir, I rise pursuant to Standing Order No.53(1) to seek a Statement from the Standing Committee on Roads, Transport and Housing regarding the provision of National Transport and Safety Authority (NTSA) services to the Huduma Centre in Lamu County.

In the Statement, the Committee should -

(1) Explain why the NTSA desk at the Huduma Centre in Lamu County is not staffed.

(2) Provide specific timelines for the operationalization of the NTSA desk at Lamu Huduma Centre.

(3) State the interim measures put in place to ensure residents of Lamu County access NTSA services within the county.

I thank you.

STATUS OF ECDE TEACHERS IN BOMET COUNTY

Sen. Korir: Thank you very much, Mr. Speaker, Sir.

On behalf of Sen. Wakili Sigei, I rise to request for a Statement on the status and welfare of Early Childhood Development Education (ECDE) teachers in Bomet County. In the Statement, the Committee should-

(1) State actions that have been taken by Bomet County to address the prolonged contractual status, non-payment and underpayment of salaries for ECDE teachers.

(2) Apprise the Senate on whether the scheme of service for ECDE teachers exists in Bomet County; stating the steps being taken to ensure continuous professionalism in the development of ECDE teachers and adequate educational facilities for ECDE centres.

(3) Provide the distribution of ECDE centres across the county, stating the measures undertaken by Bomet County in addressing the needs of children with disabilities within the ECDE framework, ensuring their placement in appropriate institution.

(4) State long-term interventions being considered by the county government to address salary discrepancies and the improvement of ECDE infrastructure and the resources.

I thank you.

The Speaker (Hon. Kingi): Order No.7(b) will be handled later. We will straightaway move to Order No.8.

Clerk, kindly call the Order.

(Interruption of Statements)

BILL

First Reading

THE AFFORDABLE HOUSING BILL
(NATIONAL ASSEMBLY BILLS NO.75 OF 2023)

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

The Speaker (Hon. Kingi): Next Order.

MOTION

ADOPTION OF REPORT OF THE MEDIATION COMMITTEE ON THE COUNTY
GOVERNMENTS ADDITIONAL ALLOCATIONS BILL, 2023

Sen. (Dr.) Khalwale: Mr. Speaker, Sir, I rise to move the following Motion being the Motion on the mediated version of the County Governments (Additional) Allocations Bill (National Assembly Bills No.23 of 2023).

Mr. Speaker, Sir, I beg to move the County Governments Additional Allocations Bill (National Assembly Bill No. 23 of 2023) which was published on 24th May, 2023.

The National Assembly considered and passed this Bill on the 25th of June, 2023 and consequently, in accordance with Article 110(4) of this Constitution, the Bill was referred to this Senate for concurrence.

The overall objective of the Bill is to provide additional allocations to counties from the National Government's share of revenue pursuant to Article 190 and Article 202(2) of the Constitution. Further, the Bill provides for additional allocations from loans and grants from development partners. The Bill for the Financial Year 2024 comprises the following additions-

- (1) Allocations to counties from the national Government's share of revenue.
- (2) Additional allocations to the county governments from court fines and mineral royalties.
- (3) Conditional allocations from proceeds of loans and grants from development partners.
- (4) The national Government's expenditures on devolved functions to be converted to additional conditional grants to the county governments.

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Mr. Speaker, Sir, the Senate reviewed the Bill and passed it with various amendments that were communicated back to the National Assembly on 26th October, 2023.

Some of the Senate amendments were: Inclusion of the additional conditional allocation of Kshs424.6 million meant for the transfer of library services and inclusion of additional conditional allocations financed by a grant from the German Development Bank (KFW) to finance the locally-led Climate Action (FLLOCA) programme, County Climate Resilience Grant amounting to Kshs1.2 billion.

Mr. Speaker, Sir, the National Assembly considered the Senate amendments to the Bill and rejected them. It is in this regard that the Bill was committed to a Mediation Committee, in accordance with Article 113 of the Constitution.

The National Assembly Speaker, in accordance with the provisions of the Standing Orders, appointed the following Members to the Mediation Committee-

1. Hon. Ndindi Nyoro, MP
2. Hon. G.K Kariuki, MP
3. Hon. Mary Emaase, MP
4. Hon. Anthony Oluoch, MP
5. Hon. Catherine Omanyo, MP
6. Hon. Joshua Kimilu, MP
7. Hon. Kipchumba Toroitich, MP

On the part of the Senate, the following were appointed -

1. Sen. (Dr.) Boni Khalwale, MP - Team leader
2. Sen. Shakilla Abdallah Mohamed, MP
3. Sen. Veronica Waheti Maina, MP
4. Sen. Esther Anyieni Okenyuri, MP
5. Sen. Lenku Ole Kanar Seki, MP
6. Sen. Eddie Gicheru Oketch, MP
7. Sen. Betty Batuli Montet, MP

However, the mandate of the Mediation Committee is set out in Articles 112 and 113 of the Constitution of Kenya; Standing Order No.149 of the National Assembly Standing Orders and Standing Order No.166 of the Senate Standing Orders. The scope of the Committee's mandate is to consider Bills where the Houses do not agree on all or any of the recommendations made by either House and to attempt to develop a version of a Bill that both Houses will pass.

Mr. Speaker, Sir, the Committee held two sittings to deliberate on this matter. Sen. (Dr.) Khalwale, CBS, MP and Hon. Ndindi Nyoro, CBS, MP were elected as Co-chairs of the Committee, pursuant to Standing Order No.166(4) of the Standing Orders of the Senate and Standing Order No.149(4) of the Standing Orders of the National Assembly.

The Committee received a submission from the National Treasury and Economic Planning. The submission is attached to the Report tabled in this House.

While considering the Bill, the Committee's attention was drawn to the Supplementary Estimates.

(1) For the FY2023/2024 approved in November 2023, which led to a number of changes in the budget outlay of the National Government. The changes substantially altered the resources to be disbursed to counties as additional allocations.

The affected items included -

(1) Conditional allocation towards the leasing of medical equipment: This was revised to zero from the initial Kshs5.862 billion.

(2) Conditional allocation for aggregated industrial parks: This was reduced by Kshs200 million from Kshs4.7 billion to Kshs4.5 billion.

(3) Conditional allocation for aggregated industrial parks; this was reduced by Kshs200 million, from Kshs4.7 billion to Kshs4.5 billion.

(4) Conditional allocation from the proceeds of loans and grants from development partners; some had increments while others had reductions.

Upon deliberations, the Committee considered the contentious issues and in accordance with Article 113 of the Constitution, developed an agreed version of the Bill.

This agreed version of the Bill took into account the following recommendations-

(1) Insertion of new Clause 5(5)(e) to provide for additional conditional allocations for the transferred library services amounting to Kshs162.85 million.

This amount will be allocated to counties that had a shortfall upon receiving the allocation, which was included in the equitable share.

(2) The Committee noted that though the framework for the disbursement of mineral royalties to the beneficiary counties was yet to be finalized and approved, the unconditional allocation for mineral royalties should be retained in the Bill, as it is an entitlement to the beneficiary counties under Section 183(5) (b) of the Mining Act, 2016.

(3) Conditional additional allocations on leasing of medical equipment. The Committee noted that there are several challenges experienced in implementing this project, such as a lack of specialized personnel and the necessary infrastructure to absorb the equipment in some counties. Therefore, the Committee resolved that the allocation for leasing of medical equipment amounting to Kshs5.862 billion be deleted.

(4) Variations in loans and grants from development partners- Financing Locally-Led Climate Action (FLLoCA). The Committee concurred with the recommendations of the National Treasury to increase the conditional allocations relating to climate change response from the Kshs4.9 billion to Kshs7.9 billion. Further, that the increase in this allocation be reflected in the national Government Supplementary Estimate II for the Financial Year 2023/2024.

These additional resources comprise the following-

(a) FLLoCA (County Climate Institutional Support - (CCIS) component amounting to Kshs517 million;

(b) FLLoCA (County Climate Resilience Investment- (CCRI) component amounting to Kshs.6.2 billion; and,

(c) FLLoCA (Germany Development Bank-(KfW) component amounting to Kshs1.2 billion.

Under Clause 5(9), the Committee recommended an amendment to ensure that all additional allocations to county governments, except the unconditional allocations from court fines and fees under Clause 5(2) of the Bill, be transferred to the respective County

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Revenue Fund Accounts by the implementing Ministries, Departments and Agencies (MDAs).

The National Treasury shall disburse allocations from court fines and fees directly to these counties.

Intergovernmental agreements under Sections 191A-191E of the Public Finance Management (PFM) Act 2012. The Committee observed the National Treasury and the Council of Governors (CoG) had requested for exemption from the requirements of Section 191A-191E of the Public Finance Management Act, 2012.

On the intergovernmental agreements, the Committee noted that both levels had demonstrated a deliberate effort to finalize the model-

(Sen. Cheruiyot consulted with Sen. (Dr.) Khalwale)

Yes. Most obliged.

(Laughter)

The Senator for Nyandarua is very happy.

The Speaker (Hon. Kingi): Proceed, Sen. (Dr.) Khalwale.

Sen. (Dr.) Khalwale: It is because of his beard.

(Laughter)

Mr. Speaker, Sir, the Mediation Committee appreciates the offices of the Speakers and the Clerks of the two Houses of Parliament for their support.

Finally, Mr. Speaker, Sir, I implore this House to consider this Report and the mediated version of the Bill attached to the Report and support this Motion. Approval of this mediated version of the Bill will ensure our counties will receive an additional amount of approximately Kshs.46.36 billion.

I beg to move and request Sen. Tabitha Mutinda to second; Nominated Senator, alias Nairobi, alias Embu, alias Kamba.

(Laughter)

Sen. Tabitha Mutinda: Thank you, the Senate Majority Whip, Sen. (Dr.) Khalwale.

I rise to second this Report. I am very obliged to second it. I highly appreciate the Members of the Committee who took their time, especially from the Senate side, who have been mentioned by the leader of the team, Sen. (Dr.) Khalwale. They are Sen. Veronica Maina, Sen. Shakilla Abdalla, Sen. Lenku, Sen. Oketch Gicheru and Sen. Montet.

We are so grateful because our mandate as the Senate, apart from oversight, representation and legislation, is to fight for counties to get more funding. From where I sit as the Vice-Chairperson of the Standing Committee on Finance and Budget, these are

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deliberations we focus on each and every year. They include the issues of the County Allocation of Revenue Act (CARA) and the Division of Revenue Allocation (DoRA)

We had already processed this Bill as the Committee on Finance, but we had some hitches. I am very happy that there was a positive conclusion. I am also happy with the leadership of the National Assembly led by none other than Hon. Ndindi Nyoro.

Looking at the equitable share that we focus on increasing, we had looked at the issue of the medical equipment. You realize that even though you have been a Governor for the last 10 years, paying for medical equipment, which are not to their standard, becomes an unnecessary cost. I am happy because that cost has been removed from Kshs5.8 billion to zero. That is excellent from the team. It is funds that can be diverted.

The issue of the industrial park now stands at Kshs4.5 billion. In our manifesto, we have always mentioned that it is key to every county because of economic empowerment and other developments that come with it. It is an achievement for the counties and the national level.

(Loud consultations)

The Speaker (Hon. Kingi): Order, hon. Senators. Kindly, you may consult, but do it in a manner that does not disrupt business of the House.

Proceed, Senator.

Sen. Tabitha Mutinda: Thank you, Mr. Speaker, Sir. The other issue that has been in serious discussion in our Committee is library funds amounting to Kshs425 million for the 33 counties. The National Treasury has been lagging in ensuring that counties get this money. Keep in mind that before the devolved governments came to place, we had staff in different libraries in the counties. Without them getting these funds, it delays their administration and recurrent costs that should be in place. So, I am happy that this issue of library money amounting to Kshs425 million for the 33 counties has also been sorted.

As the Committee on Finance and Budget, we also tackled loans and grants, especially grants. I am happy that some grants have increased and others have been reduced. However, the deduction and increment depends on what the governor is using the money for. Is it value for money from what the donors are giving?

I urge my colleagues especially the elected 47 Senators, who have had the privilege to receive oversight fund, that as we fight as the Senate and the Committee on Finance and Budget, to ensure that we give this money to the counties.

With the money that you have received for oversight, try and assist us, as the Standing Committee on Finance and Budget, before the matters come to the County Public Investment and Special Fund Committee (CPIC) and County Public Accounts Committee (CPAC). Make sure you oversight these funds and ensure they help the local *mwananchi* as required.

Finally, we have discussed the issue of minerals. I am happy that it has been positively concluded, particularly the court fine issue.

As I conclude, the exciting issue is the monies for climate change, from the Financing Locally-Led Climate Action (FLOCA) Programme. The President is very

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focused on the issue of climate change. He is leading this conversation. We have this sum of money that we have seen, the Kshs517 million from the County Climate Institutional Support. We also have the KSh6.2 billion and Kshs1.2 billion.

My colleague Senators, it is wise to know from the Standing Committee of Finance and Budget that there are so many funds that are going to the counties. I urge you to kindly ensure that total oversight is done for our people to benefit from the devolved government.

With those few and many remarks, I do support it.

The Speaker (Hon. Kingi): Do you second or support?

Sen. Tabitha Mutinda: Sorry, Mr. Speaker, Sir. I support.

The Speaker (Hon. Kingi): Thank you.

(Loud consultations)

Order, hon. Senators!

(Question proposed)

The Speaker (Hon. Kingi): Now, hon. Senators, the Floor is open for intervention from amongst you. However, I would just want to remind you that you debated this Bill, and so, if indeed it is the mood of the House that I proceed to put the question, I would be much obliged to do so.

(Applause)

So, do we have that consensus?

Hon. Members: Yes.

Thank you.

The Speaker (Hon. Kingi): Sen. Omogeni, do you want me to put this to a vote or do you have something to say?

(Laud consultations)

Sen. Omogeni: Thank you, Mr. Speaker, Sir. I do not want to irritate my colleagues. I have read the mood of the House; you can put the question.

(Laughter)

The Speaker (Hon. Kingi): Hon. Senators, now it is my determination, pursuant to Standing Order No.84(1), that indeed this matter affects counties. Therefore, voting shall be by delegations.

Serjeant-at-Arms, kindly ring the Division Bell for two minutes. I have said two minutes.

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(The Division Bell was rung)

Serjeant-at-Arms, kindly proceed to close the Door and draw the Bar.

Sen. Abbas, kindly take your seat. Now, Hon. Senators, I will proceed to put the question.

Now, hon. Senators, voting shall be electronic. Therefore, at this juncture, kindly log out.

As the Hon. Senators log out, the Serjeant-at-Arms, please, go around and pick any card that is remaining logged in the delegates' units. Once you are done doing that, kindly, let me know, so that we proceed to the next step.

Serjeant-at-Arms, are we done?

(The Serjeant-at-Arms nodded in affirmation)

(Sen. (Dr.) Khalwale stood up in his place)

Sen. (Dr.) Khalwale, you ought to be seated when the Chair is upstanding.

Serjeant-at-Arms, are we good to go?

(The Serjeant-at-Arms nodded in affirmation)

Hon. Senators, kindly, log back. Clerk, are we ready with the system?

Log back and proceed with the voting either by pressing 'YES', 'NO', or 'ABSTAIN'.

Proceed.

(Hon. Senators proceeded to vote)

DIVISION

ELECTRONIC VOTING

(Question, that the Senate adopts the Report of the Mediation Committee on the County Governments Additional Allocations Bill (National Assembly Bills No.23 of 2023) laid on the Table of the Senate on Wednesday, 21st February, 2024 (Afternoon Sitting) and pursuant to Article 113 of the Constitution and Standing Order No.167(3) approves the Mediated Version of the County Governments Additional Allocations Bill (National Assembly Bills No.23 of 2023), put and the Senate proceeded to vote by County Delegations)

AYES: Sen. Abass, Wajir County; Sen. Ali Roba, Mandera County; Sen. Cherarkey, Nandi County; Sen. Cheruiyot, Kericho County; Sen. Chesang, Trans Nzoia County; Sen. Dullo, Isiolo County; Sen. Gataya Mo Fire, Tharaka Nithi County; Sen. Githuku, Lamu County; Sen. Joe Nyutu, Murang'a County; Sen. Kavindu Muthama,

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Machakos County; Sen. (Dr.) Khalwale, Kakamega County; Sen. Kinyua, Laikipia County; Sen. Korir, Bomet County; Sen. (Dr.) Lelegwe Ltumbesi, Samburu County; Sen. Maanzo, Makueni County; Sen. Methu, Nyandarua County; Sen. Mungatana, MGH, Tana River County; Sen. Munyi Mundigi, Embu County; Sen. Murgor, West Pokot County; Sen. Mwaruma, Taita-Taveta County; Sen. (Dr.) Oburu, Siaya County; Sen. Omogeni, Nyamira County; Sen. Osotsi, Vihiga County; Sen. Seki, Kajiado County; Sen. Wamatinga, Nyeri County; and, Sen. Wambua, Kitui County.

NOES: Nil

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

AYES: 26

NOES: Nil

ABSTENTIONS: Nil

The “Ayes” have it.

(Question carried by 26 votes to Nil)

Hon. Senators, let us now go back to Order No.7. Serjeant-at-Arms, kindly withdraw the Bar and open the Doors.

(The Bar was withdrawn and the Doors opened)

Senate Majority Leader, you may take the Floor.

(Resumption of Statements)

STATEMENTS

BUSINESS FOR THE WEEK COMMENCING
TUESDAY, 27TH FEBRUARY, 2024

The Senate Majority Leader (Sen. Cheruiyot): Mr. Speaker, Sir, I rise pursuant to Standing Order No.57(1) to present to the Senate the business of the House for the week commencing Tuesday, 27th February, 2024.

During the morning sitting of Wednesday, 21st February, 2024, the Senate considered and passed seven Bills. That is a record. I do not recall a time before when we have passed seven Bills in one sitting.

Mr. Speaker, Sir, from the bottom of my heart, allow me to appreciate colleague Senators for that stellar performance this week. We passed the following Bills-

(1) The County Licensing (Uniform Procedures) Bill (Senate Bills No.9 of 2022). This Bill seeks to provide for the uniform application of licensing procedures in all our 47 counties. You understand the difficulties that have existed.

(2) The Agricultural and Livestock Extension Services Bill (Senate Bills No.12 of 2022). This is an important Bill for our farmers.

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- (3) The Mung Beans Bill (Senate Bills No.13 of 2022).
- (4) The Startup Bill (Senate Bills No.14 of 2022).
- (5) The Persons with Disabilities Bill (Senate Bills No.7 of 2023).
- (6) The Kenyan Sign Language Bill (Senate Bills No.9 of 2023).
- (7) The Equalization Fund Appropriation Bill (Senate Bills No.30 of 2023).

The Bills have been referred to the National Assembly for consideration. I take this opportunity to commend hon. Senators for their zeal, dedication and presence in the Chamber for the voting process and urge all of us to continue with the same spirit during this Session.

Mr. Speaker, Sir, there are currently 33 Bills at the Second Reading and four at Committee of the Whole stages. These Bills will be scheduled on the Order Papers for the coming week.

I urge hon. Senators to familiarize themselves with the Order Paper of every sitting day, take interest in the upcoming business as indicated in the Notice Paper and avail themselves in the Chamber to contribute meaningfully to the debates. I cannot overemphasize the need for Movers to avail themselves in the Chamber to prosecute their business.

This is a worrying trend which I believe we need to address. You will find that a Senator has a Bill, which is on the Order Paper, but he is not present in the House to move it. That is an unfortunate occurrence. I hope that colleagues with Bills at various stages will be present in the House for prosecution.

I also reiterate on the importance of Senators to get the Order Paper way in advance. I must commend the Office of the Clerk. We get the Order Paper every evening before the sitting and sometimes even a day or two earlier. Therefore, you are able to tell what business is before the House.

The Senate Business Committee (SBC) meets more than a week in advance to prepare the legislative business. Therefore, there is no excuse for Senators not to contribute meaningfully; not just to rise and respond based on rumours.

By the time we are one and a half years into our term, I expect to see Senators with notes prepared prior to coming for debate in the House; having factual findings about why they agree or disagree on certain provisions in a particular Bill. The business of causally walking into the Chamber in the afternoon and sometimes listening to information or misinformation that has been peddled out there about a Bill and reacting to it, should be a thing of the past.

It is important that all our House debates are informed by facts, either in support or opposition. It does not matter, but you need to convince us with sound logic.

Mr. Speaker Sir, there are 20 Petitions due for reporting by respective standing committees. I continue to urge them to expedite consideration of these Petitions and table their reports thereon, pursuant to Standing Order No.238 (2). I wish to reiterate the importance of Petitions as a tool to facilitate our people to exercise their rights under Articles 37 and 119 of the Constitution.

With respect to Statements, there are a total of 271 Statements sought pursuant to Standing Order No.53(1) that are pending conclusion. The Standing Orders, with specific reference to Standing Orders No.56(1)(a), provides a mechanism for which Committee

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Chairpersons may apprise the House on matters for which a committee is responsible. Further, Standing Order No.56(1)(aa), provides a mechanism for Standing Committees to---

(Sen. Joe Nyutu spoke off record)

The Speaker (Hon. Kingi): Order, Sen. Nyutu! You may sit next to the Senator for Nyandarua and consult in low tones.

Proceed, Senate Majority Leader.

The Senate Majority Leader (Sen. Cheruiyot): Thank you, Mr. Speaker Sir.

I urge standing committees to make use of these provisions to update the House on various business. This is a call to Chairpersons of various committees to consider seriously Bills before them and guide the House on what they are doing with those particular Bills.

Mr. Speaker, Sir, you will recall that this week, for example, there was a heated debate on the Water (Amendment) Bill, only for the committee to later appear before the House with a report responding on issues which Senators had taken up with that Bill. If we had the report early in advance and Members had been apprised, I believe many of them would not have raised the issues they did. Therefore, I urge our committee Chairpersons to endeavour to ensure that they provide reports to the House way in advance before a Bill is considered. This is a busy season. I expect all Members of the Senate to be seated in their respective House Committees to dispense off business quickly.

At its meeting on Tuesday, 20th February, 2024, the SBC noted apologies from the Cabinet Secretaries scheduled to appear on the morning sitting of Wednesday, 21st February, 2024. To this end, the SBC maintained the same set of Questions scheduled for that day to appear on the Order Paper for the morning Sitting of Wednesday, 28th February, 2024. The summary of the Questions and the Cabinet Secretaries to appear on that day are as follows-

(1) Question No.001 by Sen. (Prof.) Tom Odhiambo Ojienda, SC, MP, to the Cabinet Secretary for Interior and National Administration, on the inter-communal clashes that occurred in Sondu town during the demonstrations in June and July, 2023.

(2) Question No.002 by Sen. Mwenda Gataya Mo Fire, MP, to the Cabinet Secretary for Interior and National Administration on the non-operationalization of Chiakariga Sub-County in Tharaka-Nithi County.

(3) Question No.003 by Sen. (Prof.) Tom Ojienda, SC, MP, to the Cabinet Secretary for Agriculture and Livestock Development on the theft of cane at weighbridges while in transit to sugar factories.

(4) Question No.004 by Sen. (Prof.) Tom Ojienda, SC, MP, to the Cabinet Secretary for Agriculture and Livestock Development on the appointment and dismissal of Directors and Managing Directors/Chief Executive Officers in state-owned sugar companies in Kenya.

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(5) Question No.005 by Sen. James Murango, MP, to the Cabinet Secretary for Water, Sanitation and Irrigation on the water projects budgeted for by the National Government in Kirinyaga County in the Financial Year 2023/2024.

Finally, on Tuesday, 27th February, 2024, the SBC will consider and approve the business of the week.

I thank you and hereby lay the statement on the Table of the Senate.

(Sen. Cheruiyot laid the document on the Table)

The Speaker (Hon. Kingi): Before the Clerk calls the next order, allow me to make the following communication.

COMMUNICATION FROM THE CHAIR

VISITING DELEGATION FROM THE UNIVERSITY OF EMBU

The Speaker (Hon. Kingi): Before the Clerk calls the next Order, allow me to make the following Communication.

In the Public Gallery, we have 43 students accompanied by two lecturers from the University of Embu Environmental Club, who are undertaking an education visit in the Senate.

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

I will allow the Senator for Embu, Sen. Munyi Mundigi, under one minute to extend words of welcome.

Sen. Munyi Mundigi: Asante, Bw. Spika, kwa kunipa nafasi hii niwakaribishe wanafunzi wa Chuo Kikuu cha Embu. Wanafunzi hawa wana bahati kwani wamekaa katika Bunge hili la Seneti karibu saa moja. Ni matumaini yangu kuwa wamejifunza mengi.

Ili wawe viongozi ama Maseneta wa kesho, ni lazima waache mada za kulevya na pombe.

Kama mnavyoona, sisi tuna umoja ijapokuwa kuna Maseneta wa upande wa walio wengi na walio wachache. Huko nje mtaona ni kama kwamba kuna shida kati yetu, lakini sisi tunafanya kazi pamoja.

Mkirudi mpeleke salamu za Maseneta wote kutoka Seneti ya Kenya.

The Speaker (Hon. Kingi): Thank you. Clerk, next Order.

BILLS

Second Reading

THE WATER (AMENDMENT) BILL (NATIONAL ASSEMBLY BILLS NO.33 OF 2023)

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(Sen. Cheruiyot on 30.11.2023)

The Speaker (Hon. Kingi): This order is deferred.

(Bill deferred)

Next order, Clerk.

Second Reading

THE PARLIAMENTARY POWERS AND PRIVILEGES
(AMENDMENT) BILL (SENATE BILLS NO.37 OF 2023)

(Sen. Ososti on 14.2.2024)

(Resumption of debate interrupted on 14.2.2024 - Afternoon Sitting)

The Speaker (Hon. Kingi): Sen. Osotsi, you are the Mover of the Bill. You may proceed to reply. No Senator wishes to make any contribution.

(Sen. Osostsi stood up in his place)

Sen. Osotsi, take your seat.

(Sen. Cheruiyot spoke off the record)

Sen. Cheruiyot, you queued after I made my communication. Anyway, proceed to make your contribution.

The Senate Majority Leader (Sen. Cheruiyot): Thank you, Mr. Speaker, for agreeing to indulge me. This is an important Bill and we should not allow it to pass without giving our thoughts.

This is a proposal by Sen. Osotsi, the Senator for Vihiga County, to amend the Parliamentary Powers and Privileges Act to give effect to Article 125 of the Constitution by operationalizing the powers of arrest by Parliament and Article 50 of the Constitution on the right to a fair hearing and connected purposes.

This is an important Act of Parliament. I agree with the proposal, though I have specific thoughts based on what Sen. Cherarkey, Sen. (Dr.) Lelegwe - I am trying to see other jailbirds of the previous regime in the House, but I cannot see them - who have suffered inhumane and irresponsible acts of the excesses of the police to hon. Members of Parliament.

An hon. Member is not an ordinary citizen, not because of being elected, but because they speak on behalf of other people. They are often caught in certain situations when going about their duties. If it were our individual choice, you may not have been

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there. In our duty to represent other people, there are places you will have to go and things you will say. There are people you will rub the wrong way for the people you speak for. This is a challenging exercise.

Mr. Speaker, Sir, the casual nature with which I see Members of Parliament arrested from bars drugged – as it used to happen in the dreaded days of the 'handshake' – is something we need to lay behind. Hon. Members of Parliament, just like other ordinary citizens, need to enjoy the very rights under our Constitution that we proudly enjoy.

This is an attempt to provide clear channels of how Members of Parliament are treated when police want to attract our attention. I have never understood why Subarus and Landcruisers would be chasing an hon. Member of Parliament around town trying to get their attention. All it takes is just a phone call.

If it is Sen. Methu the police need, they could call him and communicate that they need him at Dundori Police Station because there are sacks of potatoes that disappeared. They allege that he may know something about them. Why do the police have to embarrass him in this town? Chase him around like a common criminal while he represents thousands of people.

There are not many things I agree with Sen. Osotsi on, but at least on that particular provision to give life to Article 50, I must agree with him. I urge colleagues that on this critical issue, we close ranks.

This Bill provides for ways in which summons can be issued. At any given time, our staffers have available records in the precincts of Parliament, of whichever part of the world we are in. The Clerk's office is aware of the whereabouts of Members. This includes during recess, on holiday, or in session.

This provision, where the Clerk is mandated to cause a summon to be served within seven days of receipt of the directive, is essential. When the police need a Member of Parliament, they could inform the Clerk that they need a particular Member and should appear in a specific police station nicely and decently.

Sen. Osotsi, we should not stop at Members of Parliament. This should be the norm for ordinary citizens, except for criminals on the run. There is no need for the drama we see. Police officers sometimes are excited about humiliating ordinary citizens. If invited, many citizens will walk to a station to record a Statement or do whatever the police are looking for. That is part of the reform.

Mr. Speaker, Sir, as an administration, there needs to be decency even in how people are arrested, for whatever crime that they have committed. That is what happens in the developed world unless you are criminal and a fugitive on the run.

Mr. Speaker, Sir, I do not see a reason why police officers must use public money or taxpayers' money to hunt people down by running around and going to people's homes as opposed to using better means that are cheap and affordable.

As we talk about austerity measures, that ought to be part of them. How much fuel do some of these police stations use? Just hunting down people who with one phone call at a cost of one, two or three shillings, they would have found their way to that particular police station.

Mr. Speaker, Sir, this is part of the reform which I hope in the tenure of our very good distinguished Senator, Senate Majority Leader Emeritus, Sen. (Prof.) Kithure Kindiki, we shall see.

Clause 3 states that-

“Despite the provisions of subsection 5(a) the relevant House or its Committee may require a person to appear before it within a shorter period, as it may determine taking into account the urgency of the matter before the House or the Committee.”

This is when Parliament is in need of a particular individual and for one reason or another, they are looking for an opportunity for you to present yourself. For example, if there is a matter that they feel that your attendance or otherwise, is needed and that is extremely important.

Clause 4 is on an amendment of the Principal Act or a clean up. This is where witnesses are given opportunity to be heard prior to the impositions of fines verifying - these are basics of law, where the fine shall be a civil debt recoverable, summarily in accordance with the debts.

Clause 5 provides for an order of arrest, which is to be effected by a police officer and the clerk shall transmit the order to the Inspector General for execution.

This is whereby if the clerk has reached out to you and they cannot find you, then they will be left with no option other than to inform them that we cannot reach this particular person and, therefore, find your ways.

Clause 7 states-

“A person under arrest, shall be held at a place specified in the National Police Service Act, or designated by the clerk for purposes of holding such persons.”

Mr. Speaker, Sir, the Parliament police station will be such an ideal place for such occurrence. For example, Sen. Osotsi comes from Vihiga, which is a warm part of the country. Arresting Sen. Osotsi and taking him to a police station in Limuru can easily make him lose consciousness because of the cold of the night. That is why a more familiar environment like the police station in Parliament here, will form a holding place of importance.

Additionally, the same can be said of all of us because we know all these things. Today it happens to Members on this side and the following day it is Members on the other side. Therefore, it is important to make this possible.

In this clause, “Officer of the House of Parliament” means-

“any officer acting under the orders of the respective Speaker or duly authorized by the respective Clerk.”

These are just consequential amendments. Consequently, this is an important amendment. This is something that we have discussed for a long time, but have never actualized. It is giving decency to Members of Parliament, so that we enjoy and that we are not harassed on streets going about our duties.

Mr. Speaker, Sir, there are many people who are not happy with the decisions we take on matters that appear before this House. It is important that when Members of Parliament are going about their duties, they feel free to represent their people. They do not feel intimidated by anyone. I appreciate this proposal.

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There is also something else that Sen. Osotsi, I do not agree with you. I have always said this in the past that when you want to impose a fine of Kshs500,000 for somebody who has snubbed the summons of Parliament, is a slap on the wrist.

The people who snub parliamentary summons are arrogant and rich. In my humble opinion the Kshs2 million that you are asking for is too little. Somebody must feel it. There must be a price to pay for anybody who is not being responsive and dishonouring summons to Parliament, be they public officers or whoever.

Parliament is a gathering of the people of Kenya. When the people of Kenya say they want to have a meeting with you and they have issued a summon, it is provided in the procedure what a summon is. This should be distinguished to the ordinary citizens so that people do not confuse.

There is a difference between an invite to appear and a summon. By the time it gets to a summon, it is because you have dishonoured invites several times. Therefore, I think Kshs2 million proposed here by Sen. Osotsi is still little. We need to be tough. There are people who have all this money.

First of all, we need to increase the money. Secondly, we need to provide mechanisms of recovering this money. I know and the Office of the Clerk can correct me. There are public officers and governors that we fined for non- appearance last term and up to date as I speak, to the best of my knowledge they have not paid.

Sen. Osotsi, I wish you would have provided here the ways of recovering that money. For instance, in a court of law, if you are found to have dishonoured a fine, the court finds ways of either selling goods that are known to you or finding ways of enforcing this fine.

Sen. Osotsi, before we conclude on Third Reading, that is something which I want to plead with you. Increase the amount to something to around Kshs5 million and also ways of enforcing. So that we find ways of compelling people to pay that fine.

Mr. Speaker, Sir, I appreciate the industry that has gone into the thinking of making this Bill.

I beg to support.

The Speaker (Hon. Kingi): Proceed, Sen. Mwaruma.

Sen. Mwaruma: Asante, Bw. Spika, kwa fursa hii umenipa ili niunge mkono huu Mswada wa *Parliamentary Powers and Privileges* ambao umeletwa na Seneta wa Vihiga, Sen. Osotsi.

Huu ni Mswada mzuri ambao unapatia uhai Ibara ya 125 ya Katiba. Bunge inaweza ita mtu yeyote ili kuja kutoa ushahidi kuambatana na Ibara ya 50 ambayo inatoa ruhusa kwa mtu yeyote kusikizwa.

Bw. Spika, nimekuwa katika Seneti hii kwa muda wa miaka saba. Tumekuwa na shida wakati mwingine kupata watu ambao wanahitajika kuja kutoa ushahidi, hasa magavana ama mawaziri. Hii imepelekea kutopata ukweli kuhusu mambo kadha wa kadha.

Seneti iliyopita kuna magavana ambao walikataa kuja mbele ya CPAC kutoa ushahidi. Pesa nyingi sana zimeenda katika magatuzi kwa sabau ya ugatuzi lakini zimefujwa na hazijatoa huduma kwa wananchi wetu.

Pia kuna Mawaziri wa Serikali ya kitaifa ambao wamehitajika kuja kutoa ushahidi lakini hawaji. Hiyo imepelekea kucheleweshwa kupata majibu ya *Petitions* nyingi.

Nakubaliana kwamba faini ambayo inatolewa ni ya kiwango cha chini sana. Wakati Maseneta wengine walipokuwa wanachangia Mswada huu, walisema baadhi ya magavana huuliza *Mpesa* ama *Paybill* namba ili walipe faini hii ya Kshs500,000. Nifikiri hayo ni madharau.

Ninaunga mkono wengine ambao wamechangia na kusema hii faini iongezwe hadi milioni kumi. Pia kuwe na njia ya kuifanya hiyo iwe kama deni ambayo italipwa kuambatana na *Public Debt Act*.

Pia ninaunga mkono kuwe na mbinu ya kuwalazimisha mashahidi kuja mbele ya Seneti au kamati ili kutoa ushahidi. Wasipokuja, basi kuwe na mbinu ya kuwashika na kuwalazimisha kuja mbele ya Bunge na kutoa ushahidi.

Ninaunga mkono ikiwa kama inawezekana, kituo cha polisi cha Bunge kipewe nguvu ya kuwashika hawa mashahidi ambao hawataki kuja mbele Bunge kutoa ushahidi.

Bw. Spika, kutia nguvu hii sheria itaipatia Bunge meno na uwezo zaidi ambao utawezesha sisi kufanya kazi yetu ya uangalizi ama *oversight*. Hii ni sababu kazi yetu imekumbwa na changamoto nyingi kwa sababu Bunge linaonekana kama halina meno ama uwezo wa kutosha wa kuleta mashahidi kutoa ushahidi mbele yake.

Sina mengi zaidi ya hayo. Mswada wa Sen. Osotsi ni mzuri. Tunatakiwa tuunge mkono kwa sababu unapelekea kufanya rahisi kazi ya Bunge ili kuhakikisha ya kwamba pesa zinazotolewa na wananchi kwa njia ya ushuru, zinafanya kazi vizuri.

Hii sheria itafanya sisi kama Wabunge na wawakilishi wa wananchi, tukiitisha *Petitions* ama *Statements*, zitakuwa zinapata majibu kwa wakati unaofaa.

Bw. Spika, naunga mkono Mswada huu

The Speaker (Hon. Kingi): Sen. Methu, proceed.

Sen. Methu: Thank you very much, Mr. Speaker, Sir. I rise to also support this particular Bill. Owing to the fact that we derive our mandate from Article 96 of the Constitution of Kenya, it is our cardinal responsibility to ensure that we protect the dignity and the powers bestowed to this House.

I do not want to buttress that point beyond what has been said by my colleagues - that Parliament works in Plenary here and through our committees. We enjoy as much powers in our committees as we enjoy here in Plenary.

I want to borrow the words used by my leader, Sen. Cheruiyot, that Parliament is a meeting of the people of Kenya; that the people of Kenya have extended an invitation to us.

Today the Senate Majority Leader has laid over 10 or 15 reports from the office of the Auditor-General of different counties. Those of us who serve as chairpersons or members of the accounting committees; that is, the County Public Investments and Special Funds Committee (CPISFC), that is led by Senator Osotsi and the County Public Accounts Committee (CPAC) that is led by Sen. M. Kajwang', where I sit as a Member. Most of the work that we do is to invite governors. We invite them to appear before us and answer questions on how they have spent money send to their counties. To explain to us how prudent they are using resources passed by this House.

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This afternoon we have passed the County Government Additional Allocation Bill, 2024 and I hope it will be assented to, so that more money is sent to counties. It cannot be that the people we invite to come and shed light on the usage of money are very happy and clap very hard.

I saw governors when they had a retreat with the President in Naivasha. They were insisting that their money must remain at Kshs450 billion. They are very happy asking for additional resources to their counties. However, when we call them to come here and account for that money, we get a lot of problems from them.

Mr. Speaker, Sir, I want to borrow from the words of the Sen. Cheruiyot and Sen. Mwaruma that we have been ridiculed by those that we invite for a long time.

It is good that I elucidate this point. Before we summon a witness, there is an invitation that is, first, extended to him. The precedent that has been set, especially for the accounting committees is that those members of the county executive and the county assemblies that are supposed to appear before the two committees are given a one month notice. After one month of failing to appear is when we issue summons.

There are some very ridiculous reasons as to why witnesses are not able to appear before committees. The other day, we were told by a governor that he could not appear before CPAC because he was attending some prayers at some place that I would not want to mention. However, the same day in the morning when we were having a committee sitting, he was on a television show. They find more value attending a television show than coming to a meeting that has been called by the people of Kenya or a gathering of the people of Kenya.

It is because of these excesses of some of our partners that we are supposed to work with, that we need to strengthen the Powers and Privileges Act.

The other day also, the PICSF fined a governor and he was heard asking for an MPesa number he could send the Kshs500,000. He believes this is Kshs500,000 could easily be sent via MPesa platform. They find that money too little that they can just miss appearing before a committee. The next meeting they fail to appear because they will pay a fine Kshs500,000.

We must ensure that a person feels the pain so that they respect this House and its committees. We need to push the Kshs2 million that has been proposed by Sen. Osotsi to either Kshs5 million or Kshs10 million. People must understand how important it is to appear before Parliament to answer these particular questions.

The final comment that I want to make on this matter is on a framework or mechanism. We must get a framework of ensuring that when a governor is fined, he pays fine. Failure to which is probably recovered from his account.

If we impose a fine Kshs10 million on a certain Cabinet Secretary that has refused to honour summons of Parliament, how do we recover that money from his own account? It should be in law. We should propose that, if you are not able to meet your fine obligations, you should be listed in Credit Reference Bureau (CRB).

As Parliament, we should have a mechanism of ensuring that if you have been fined by Parliament, that money has not been recovered, you are listed on CRB as a person who is not creditworthy so that you cannot get credit anywhere. Whether you are

serving or not serving, until you are able to pay that fine imposed on you. We must have a mechanism of ensuring that we are able to recover this money.

Finally, concerning the officers of the House that can cause arrest, I am persuaded to having a parliamentary police force that shall help us in ensuring we are able to effect this. The other day, we got a water protection unit from our police service that has been dedicated to ensuring that they protect our water towers, water bodies and all water establishments in the country. Their work is just dedicated to ensuring that they protect those establishments.

We should get a police service that is dedicated to ensuring that we are able to arrest not only those witnesses who do not come here, but also the hostile witnesses. We have seen witnesses that are hostile in our committees. They do not want to follow the directions of the chair. These are people that we should lock up somewhere for six, seven or 12 hours until they are able to behave in a parliamentary manner.

Mr. Speaker, Sir, with those many remarks, so that allow my colleagues to also make their contribution, I support this Bill.

The Speaker (Hon. Kingi): Sen. Kavindu Muthama.

Sen. Kavindu Muthama: Thank you, Mr. Speaker, Sir, for giving me this opportunity to support this Bill on Parliamentary Powers and Privileges. It is overdue.

Mr. Speaker, Sir, I have been here since the last Senate. I have experienced a lot of frustrations, especially when the governors are called to appear before CPICSF and they do not come. Most of them do not give an excuse or write to say that they are busy and will not make it.

This Bill will give the Senate and the Senators teeth to bite. It is very frustrating for us as lawmakers when we summon these people to appear before the Senate or the Committee and they do not appear. It is not like most of them have serious businesses that are making them not to come. They just ignore because they know even if they do not come, nothing much will be done to them.

Mr. Speaker, Sir, just like the others, I suggest that the fine be raised to Kshs10 million. Also, there should be a way of making sure that this money is recovered even when their term ends.

I thank you. I support.

The Speaker (Hon. Kingi): Sen. Thang'wa, you may have the Floor.

Sen. Thang'wa: Thank you very much, Mr. Speaker, Sir, for the opportunity to support this very important amendment Bill.

Pursuant to Article 96(3) of the Constitution, the mandate of the Senate is to exercise oversight of the national revenue allocated to the county governments.

On 15th of every month, the national Government is supposed to disburse some amount of money as passed by this Senate to every county. Once the governors receive this money, they are supposed to utilize it as per the budgets that the county assemblies have passed.

As they do that, it is our mandate, as the Senate, to keep on checking how they are using the disbursements. That is why we have two important Committees, that is; the CPICSF and the CPAC. The CPAC checks the books of accounts and CPICSF on the

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investments in the counties. The Standing Committees are also allowed to invite governors and ask them questions on the running of county affairs.

Some governors are unable to honour such invitations. Once they are invited, the Committee may want to issue summons. We have issued summons when some governors have refused to appear before the Committee. I am speaking about the governors because they are the most notorious people who decline the invitations or the summons by Senate Committees.

Mr. Speaker, Sir, we are amending the law that provided a fine of Kshs500,000 if governors fails to appear before a committee of Senate. This is pocket change to some governors. I agree with my colleagues a fine of Kshs2 million is little.

I recommend that in the amendment, we should have a fine of not less than Kshs2 million, but not more than Kshs10 million. This is so that the committee can have enough time to evaluate the governors that they have been inviting and their excuses.

A good example is the Governor of Isiolo County. He is out there trying to malign the name of this good Senate. He says he cannot come even if he is invited. What do you do to such a governor? You give him the heaviest fine ever so that he understands that this is the Senate of Kenya, the one and only.

The Speaker (Hon. Kingi): Sen. Thang'wa, the Senator for Nyandarua County wishes to inform you.

Sen. Thang'wa: I wish to be informed.

The Speaker (Hon. Kingi): Proceed, Sen. Methu.

Sen. Methu: Mr. Speaker, Sir, I would have been surprised if he had refused to be informed. I want to use the specific words of the governor. The verbatim of what the governor said was that the only people who can hold him accountable are the people of Isiolo and not the Committee of Parliament or the Senate itself. Nobody can talk to him or ask him questions apart from the people of Isiolo.

If we cannot act on such a person, then what becomes of the space of Parliament? That is the information that I wanted to pass to my colleague.

Sen. Thang'wa: Thank you, very much Senator for Nyandarua for that information. The good governor should read Article 2 of the Constitution. The same people that he is talking about, have delegated power to the Parliament. We are elected. He should also read Article 125 of the Constitution that says that Parliament can summon anybody to come to this House.

Mr. Speaker, Sir, can you imagine having such a governor who has no respect for this Senate. Any committee should have the leeway to give that governor a fine. However, once we give a fine, how do we effect it?

Within the law, we should also say, before any sitting governor is cleared by the Independent Electoral and Boundaries Commission (IEBC), they should also be cleared by Parliament. This is so that when they are taking their papers to IEBC to be cleared for the next running, they should also be cleared by Parliament. This is so that at least, if you owe Parliament anything, you pay at that particular time.

My Standing Committee on Roads and Transportation summoned the Governor of Nairobi City County, Hon. Sakaja. After missing numerous invitations, we fined him Kshs500,000. Last week, the said governor paid the amount of Kshs500,000 to the

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Senate. However, I noted something. He paid through a banker's cheque. For a banker's cheque, the money can come from any account. That is why, as a committee, we need to go backwards and see where that money came from.

Going forward, that money should not be paid by a banker's cheques. It should come directly from that governor's accounts. I am saying this so that it can go on record, such a governor paid a fine on such a date to the Senate of the Republic of Kenya.

Mr. Speaker, Sir, Clause 4 says-

“(1A) A witness shall be given an opportunity to be heard prior to imposition of the fine.”

We need to listen to them, but what happens if they do not come? I think we need another clause below that that says if they do not appear on a day that they are called to come and defend themselves, then, the committee will have no other alternative. If you say he or she needs to be heard and he or she never appeared, then it is an ambiguous sentence.

The same Clause 4(4) of this Bill says that-

“An order of arrest may be affected by a police officer or an authorised officer of a House of Parliament.”

This should be clear. We need a police department, probably at the Senate or in Parliament. This is because we were about to issue an arrest warrant for a certain governor and the question came, what if the Inspector-General (IG) is not willing to effect the arrest? Then, it will leave the committee with an egg on its face.

We need a well-articulated and organized police department at the Senate. This is because the next culprit on this issue of arrest is the Governor of Kiambu County. This is because he has refused to attend the CPICSF six times. I am glad they have invited him for the last time on 4th March, 2024. I implore my governor wherever he is to appear on that day.

If he does not appear, this law will be in effect. He will either be fined Kshs2 million or more. He will be the first governor to be arrested and brought to the Senate. If he does not want to be an example, he should appear without failure on that day.

Mr. Speaker, Sir, as I conclude, Clause 4(7) of the Bill says-

“A person arrested under subsection (3) shall-

(b) be produced before court, or the House or Committee that summoned that person on the next working day”.

If you were arrested on a Friday as it was popularly known, *Kamata* Fridays, you would have to appear on Monday. I hope this Senate will not go in that direction.

Mr. Speaker, Sir, what if the Committee was not prepared to have a meeting---we have schedules. It should not be the next day, but it should be the next time that the Committee is scheduled to sit so that if a certain governor does not appear and the Committee on Roads, Transport and Housing sits every Thursday and he is arrested on a Monday, he will know what will happen.

I believe that the governors we have, especially former Senators, do not take this Senate seriously. This is because they know that, previously, they were not executing their mandate as we are executing now. It is my submission that this is a new Senate with new blood, energy and people who understand why they were voted for.

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Therefore, any governor who thinks that they cannot appear before the Senate should be reminded every morning and afternoon that this Senate is not what they left behind. We have a new Senate Majority Leader, Sen. Cheruiyot, and we have a new Chairperson of the Committee on Roads, Transport and Housing, Sen. Thang'wa, the Senator for Kiambu and they should not play with this Senate.

Mr. Speaker, Sir, I support this Bill and thank Sen. Osotsi for this beautiful Bill.

The Speaker (Hon. Kingi): Sen. Mumma. What clarification are you seeking, Sen. (Dr.) Khalwale?

Sen. (Dr.) Khalwale: Mr. Speaker, Sir, I rise under Standing Order No.112 for purposes of maintenance of order in the House. Could you please clarify how the money that is now being paid as a fine by governors who have been penalized by committees will be appropriated?

The Speaker (Hon. Kingi): Sen. (Dr.) Khalwale, is that your contribution because that is an intervention to the Bill? Those are the things Senators should speak to. It is not up to me. I am your referee here. I cannot direct how this Bill will be crafted and how this fine will be appropriated but it is up to you, Senators, and it should come out clearly as you debate this.

Sen. (Dr.) Khalwale: That is true. I was speaking to the Kshs500,000 which has already been paid by the Governor of Nairobi City. The people of Kakamega would like to know how that money will be utilised now that it is in the Senate. You could use that opportunity, Mr. Speaker, Sir, to tell the people of Nairobi whether they stand to benefit from this money and if they do, to which account the money was deposited in the Senate.

The Speaker (Hon. Kingi): The Senate Majority Leader.

The Senate Majority Leader (Sen. Cheruiyot): Mr. Speaker, Sir, I thought Sen. (Dr.) Khalwale would know this having sat in the County Public and Investments Committee (CPAIC) and is a long-serving Member of this House. In any public institution, any resources or money that they collect goes into the Appropriations-in-Aid (A-in-A) account and it is transmitted into the National Treasury. You cannot spend public money without the approval of the Treasury.

Therefore, the money that we earn from fines or training because there are people who come to Parliament and pay is put in the A-i-A account and transmitted to the National Treasury.

The Speaker (Hon. Kingi): Sen. Mumma.

Sen. Mumma: Thank you, Mr. Speaker, Sir, for the opportunity to contribute to this amendment Bill. For the sake of the students in the Gallery, we are discussing the Parliamentary Powers and Privileges (Amendment) Bill, 2023.

I also wish to thank Sen. Osotsi for bringing this Bill. Again, for the sake of our students, I will read what Article 125 provides -

Power to call for evidence.

125. (1) "Either House of Parliament and any of its committees, has power to summon any person to appear before it for the purpose of giving evidence or providing information.

(2) For the purposes of clause (1), a House of Parliament and any of its committees has the same powers as the High Court -"

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Mr. Speaker, Sir, we need to operationalise and this is what Sen. Osotsi is enabling us to do. When people are in positions of power, they tend to imagine that they are not subject to the rule of the law. That is what is happening with several people, both in the Executive at the national level and with governors, the executives at the county level. There is a reason why our governance system is designed in the manner that it was designed; a democratic system where you have the three Arms of Government which act as a check and a balance to each other to enable all of us to know that we are not the ultimate power unto ourselves. All three Arms of Government report to the people of Kenya and are expected to deliver their services in accordance with the Constitution. Our role, as Parliament, is to oversight the Executive by looking at what they are doing to ensure that it is done in accordance with the law.

Mr. Speaker, Sir, where there is an issue, we need to verify whether they have acted in accordance with the law or not under Article 125 to enable them to come and explain themselves why an issue seems to get off-track, recognising that they are subject to the law and they are not a law unto themselves.

The Powers and Privileges law has been in place, but it does not seem to be working. We have a category of public officers who think they are above the law. Among them, are some Cabinet Secretaries, Principal Secretaries and governors. This law is absolutely important and we need to add all these provisions that Hon. Senators have contributed to, particularly on the issue of levying higher fines than we currently do to ensure that officers who refuse to honour summons will be cited for contempt of Parliament.

Mr. Speaker, Sir, Sen. Osotsi needs to create that offense of contempt of Parliament. Article 125 says we have similar powers as the High Court and when you do not do what the High Court requires you to do, you are cited for contempt of court. We need to specifically create that offense of contempt of Parliament and proceed to say that contempt of Parliament will attract the following sanctions.

I support colleagues, Sen. Methu and Sen. Thang'wa, who spoke to a fine that is more than Kshs2 million. Sen. Thang'wa's proposal that we provide for a minimum of Kshs2 million and a maximum of Kshs10 million is good. When this came to the Committee on Justice, Legal Affairs, and Human Rights (JLAC), we said that this cannot be monies paid by the people of Kenya. This money must come from the personal resources of the officer who has been cited for contempt of Parliament. You cannot take funds that were intended for a particular project to go and pay fines for a Cabinet Secretary or a governor.

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

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

Mr. Temporary Speaker, Sir, that is stealing from the people of Kenya because in the first place, the people of Kenya expect you to respect the laws of this country. When you are disrespecting the laws of this country, you do so as an individual. We need to

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support or strengthen the clause that indicates that they must pay fines from their personal funds.

I like the proposal that they should then be cited in the Credit Reference Bureau (CRB) if they do not pay yet they owe the Senate money so that this issue follows them in their other issues. As has happened and may happen, we need to think through the issue of how they will be arrested contemplating that we might not have police officers carrying out arrests.

How do we deal with police officers who do not carry out arrests? In my view, we also need to create another offence. Any person obstructing the arrest of an officer who is in contempt of Parliament also commits an offence. Obstructing arrest of an officer who is in contempt of Parliament should include failure by any instructed police officer to, actually, arrest the person.

We need to contemplate that there could be collusion by arresting officers who might not arrest. We should also contemplate that you might get some officers who use goons or other people to make the arrest impossible. Therefore, we should cite an offence against anybody who does that.

Mr. Temporary Speaker, Sir, even as we speak to this, we need to send the message to the public that the bigger picture is about getting all officers to behave or have the conduct expected of them because this country has laid down rules. Among those rules, it has set institutions that have particular mandates. For this country to run properly, those institutions must be allowed to carry out their mandate.

When you do not turn up to explain why development in county “X” has not happened in the manner it was supposed to, or why the Auditor-General’s report has cited particular issues in county “Y”--- When you refuse to do so, you are denying the people of Kenya the knowledge they need in order to assess whether you are a good leader or not.

The Constitution itself has contemplated that to do so, we must enforce the mandate of Parliament. Therefore, we should look at this as a law. In my view, a stiff penalty is only sending the message that we do not even want your money, but turning up and telling us why this or that has not happened or why this is happening in a manner it is.

Mr. Temporary Speaker, Sir, I am a member of some women groups and we have merry-go-rounds. One of the things we do is to put stiff penalties for ourselves, so that if we are supposed to pay Kshs20,000 each to Madam Eunice there who may have planned to use the amount from 20 of us to do something but Catherine fails to give out when she is supposed to, we will be undermining what Eunice was planning to do. We, in the women groups, fine ourselves heavily in order to keep in line. Once you have a group with rules in place, it is important that everybody respects them.

This Parliamentary Powers and Privileges (Amendment) Bill has rules that tell us about everybody doing their job, which include turning up to explain why you have done certain things in a particular way.

As I support this, I urge that we add all the amendments that Members have provided. That way, we will have a stronger Parliament, not just the Senate, but the National Assembly as well.

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The Temporary Speaker (Sen. Wakili Sigei): Thank you, Sen. Mumma. In your contribution, you made reference to a member of your women group called Eunice. I do not know if you meant that because my mother is also called by that name.

Proceed, Sen. Veronica Maina.

Sen. Veronica Maina: Thank you, Mr. Temporary Speaker, Sir, for the opportunity to contribute to this important debate.

This Parliamentary Powers and Privileges (Amendment) Bill, 2023 is a timely amendment to the Parliamentary Powers and Privileges Act.

We all know that the functions of the Senate are anchored in Article 96 of the Constitution---

The Temporary Speaker (Sen. Wakili Sigei): Sen. Veronica Maina, I will interrupt you to make a communication.

(Interruption of debate on the Bill)

COMMUNICATION FROM THE CHAIR

VISITING DELEGATION FROM MAKIMA
SECONDARY SCHOOL, EMBU COUNTY

The Temporary Speaker (Sen. Wakili Sigei): Hon. Senators, in the Public Gallery, we have 84 students accompanied by four teachers from Makima Secondary School in Embu County, who are undertaking an educational visit to the Senate.

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

I thank you.

(Applause)

Since Sen. Munyi Mundigi, who is the Senator for the great County of Embu is present, I will ask you under a minute to welcome the visiting delegation to this Senate.

Sen. Munyi Mundigi: Asante, Bw. Spika wa Muda, kwa kunipa fursa kukaribisha wanafunzi wa Shule ya Sekondari ya Makima ambao wamekuja kujifunza katika Seneti. Karibuni sana wanafunzi.

Mkiwa huko nje, huwa mnasema kwamba hapa hatuelewani kwa sababu kuna upande wa walio wachache na upande huu wa walio wengi. Tukiingia hapa, sisi huwa kitu kimoja.

Mtakaporudi nyumbani, muweze kutia bidii masomoni kwa kuwa ninyi ndio viongozi wa kesho. Ili kuwa na maisha mazuri, jiepusheni na pombe, dawa za kulevywa na mambo mengine.

Mmekuja hapa kujifunza jinsi Seneti inavyofanya kazi na kuhakikisha kuwa pesa zinatumiwa katika kaunti zetu. Tunahakikisha kuwa pesa hizo zinatumiwa vizuri. Tunaelewa kuwa mkiwa shuleni, mnahitaji karo, pesa za kulipa maji na gharama zingine.

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Nawatakia safari njema mtakaporudi nyumbani. Muwaeleze waliobaki kule wajiopushe na mambo mengine kwa sababu Seneti ina jukumu la kuangalia jinsi shughuli zinavyoendeshwa mashinani.

The Temporary Speaker (Sen. Wakili Sigei): Thank you, Sen. Munyi Mundigi. Sen. Veronica Maina, proceed with your contribution.

(Resumption of debate on the Bill)

Sen. Veronica Maina: Mr. Temporary Speaker, Sir, I was citing Article 96(3) that enjoins the Senate not only to determine the allocation, but also to oversight how revenue is utilised by county governments.

When it comes to the oversight role, governors and other officials working for the Government must understand it. If the oversight role is used as a critical tool in our systems and governance mechanism, it can stamp out rampant corruption that has become a menace in our nation.

The oversight role enjoins a governor, any State Officer or accounting officer who is summoned to appear before a committee of the Senate to answer questions on how utilisation of resources was done during their tenure.

Sometimes I wonder whether the problem we have in our nation is because of the qualifications of leaders that we send to offices, whether they understand the constitutional stipulations or the mandate placed in their hands, and whether they occupy offices not having fully understood what they are required to do during their tenure.

It defeats logic that resources are placed under a leader who is brought into office by people to lead a whole county, yet when called to account for those resources, they are hesitant or refuse to obey summonses. Ironically, they wake up the following morning and go to the same offices they have refused to account for. It defeats logic, the stipulation of the Constitution and it is the highest level of impunity.

That is why I support this Bill. Like many Senators have debated and indicated before, this fine should be increased to not beyond Kshs5 million. In place of the Kshs2 million, a fine not exceeding Kshs2 million. I believe it should not exceed Kshs5 million so that the penalty is clear. Beyond this penalty, I wish Sen. Osotsi could consider putting in further amendments to ring-fence this oversight function of the Senate. We should have something close to a list of shame of those governors and officers who have been summoned and have consistently refused to appear.

There is need for a rule that even proposes that if you fail to appear on one single summon, three times, and maybe you have even been fined the first time, and there are no justifiable reasons why you did not present yourself before the Committee, after the third such attempt by the Committee to bring you before it, your name should be pushed to the list of shame. The whole country and the world will then know that an officer can receive public funds and does not want to account for it.

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My other issue is that the fine is recoverable as a civil debt. That is the provision under Section 4(2)(a). The question we need to ask is: Who is paying this fine? It should be paid and there should be an express provision indicating that this fine will be paid by the person who is defying the summons. They should not push this bill to the county or public coffers. The public coffers must not be paying for the irresponsibility or the negligence of officers by failing to appear before the Committee.

Beyond the list of shame, there should be another sanction. It should correlate with this person being voted in during the next round of elections. That brings in the aspect of involving the Independent Electoral and Boundaries Commission (IEBC) or Office of the Registrar of Political Parties (ORPP) into this equation. If an office or a person is not willing to abide by or humble themselves under a certain parliamentary process, there should be a sanction on their candidature during the upcoming of the next election.

That means if a candidate or a governor has failed and he is a first time governor, in the second chance they should not get an opportunity to be a candidate because they do not want to account for the functions and the role that the public has given to them.

So, I am in full support. Full sanctions are to be levied against a person who defies the summons. Further penal sanctions should also be laid out. If Sen. Osotsi could consider adding any more, then it will mean that it is a serious issue when you are summoned to Parliament to account for the responsibilities which Kenyans have placed into the hands of leaders. If they cannot meet the standards, they cannot do it, they may as well resign from office and allow other candidates to occupy those offices and perform what they are required to do under the Constitution.

I thank you, Mr. Speaker, Sir.

The Temporary Speaker (Sen. Wakili Sigei): Sen. Seki?

Sen. Seki: I also support this Motion, particularly on these amendments to the Parliamentary Powers and Privileges (Amendment) Bill (Senate Bills No.37 of 2023).

I thank Sen. Osotsi for coming up with these amendments. I happen to have been involved in many issues, particularly on issues where the Cabinet Secretaries (CSs) do not appear before my Committee as the Chairperson of the Standing Committee on Trade and Industrialization on so many occasions. This brings a solution to that problem where the oversight that we are mandated as the Senate to oversee or even as a function that has been given a privilege to the Senate, is undermined. It will bring an end to this problem.

I support these amendments and get to understand that we are on operations, particularly in our Committees working together with several calls in or inviting several CSs, Chief Executive Officers (CEOs) and Director Generals (DGs) of institutions, parastatals, we undergo such kind of humiliations as Chairpersons. That also tries to undermine our performance in these Committees. We do not get the responses that we ought to have been given, particularly on Statements and Petitions that are given by the members of the public.

I believe that my brother, Sen. Osotsi, is coming in with long experience while he is the Chairperson of the County Public Investments Committee (CPIC). Those are issues and stresses that he is also undergoing.

This is the time we need to stand on our feet as Parliament, so that we are respected by the public officers who have been given the mandate to do the implementations and work on behalf of the public.

I believe that having some penalties increased from Kshs500,000 to Kshs2 million as proposed by this Bill, is the right way to go. When we say Kshs2 million, it might even be very small as indicated by several colleagues. It is important to realize that it could be small to most CEOs or most governors and CSs who are coming before these committees. It will be more punitive to them. They will understand that something is on their shoulders. They will know that something is coming and they will be responsible for coming on time. When there are excuses that they normally give us, it could be important because they will not be able to pay these penalties.

I support the other penalties or even charges that have been proposed by my colleagues on issues of the Credit Reference Bureau (CRB). The clearance to Parliament is also very important. The owner of the Bill needs to look at them. More importantly, the list of shame as proposed by my sister, Sen. Veronica Maina.

These are issues that need to get into this Bill so that these people understand that being in that office is on behalf of so many people. Many people should have been in that office. However, you have been given the privilege to sit in that office to work for the public; to be responsible at any given time when you are called by Parliament. This is a very important Bill that we need to support.

Therefore, as the Senator for Kajiado and the Chairperson of the Trade and Industrialization Committee, I support this Bill in totality.

Thank you, Mr. Temporary Speaker, Sir.

The Temporary Speaker (Sen. Wakili Sigei): Sen. Joe Nyutu?

Sen. Joe Nyutu: Thank you, Mr. Temporary Speaker, Sir, for this opportunity for me to also contribute to this Bill by my friend the Senator for Vihiga, Sen. Osotsi.

Mr. Temporary Speaker, Sir, I chair the Standing Committee on Education. My training was in education. In the Psychology of Education, there is a theory called Theory "X". This theory provides that human beings naturally hate work. They only work because of the reward and also to avoid punishment.

It is for this reason that I stand here to support the Bill brought to this House by Sen. Osotsi. When especially at the committee level, we have been inviting Cabinet Secretaries (CS), governors, and other officers who are CEOs in their ministries or even their counties sometimes, we see a lot of contempt, especially when these summonses come from the Senate.

I say this because you will find a CS when invited by the Senate, sometimes they do not even give a damn about these invitations. However, when they are invited by the National Assembly, and that is why I have a very big problem, they honour the summonses or invitations religiously. They do not sometimes take summons by the Senate as seriously as they do the National Assembly. That is why we must, through this Bill by Sen. Osotsi, give the Senate teeth to bite and bite well.

These are things that tie committee work because sometimes, we need responses from these CSs and other officers. That is why we must support this Bill. That is why I support it.

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Mr. Temporary Speaker, Sir, something else that is very frustrating is to see governors who have served in this House as Senators, in contempt of the Senate. It has been very frustrating.

Naturally, you would have expected that if any governor served here as a Senator, then they would respect the Senate better than other governors, maybe who have not been able to serve in the Senate.

I propose that we make the minimum penalty to be Kshs5 million not even Kshs2 million. I would propose Kshs5 Million with a coupling Shs10 million. Let it be paid from their personal account because they cannot make the institutions that they serve pay these penalties.

We must take these things very seriously. This contempt must be dealt with. It is for this amongst very many other reasons that I support this Bill with a proposal again of Kshs5 million minimum and maybe a maximum of Kshs10 million.

I support.

The Temporary Speaker (Sen. Wakili Sigei): Sen. Mandago, you have the Floor.

Sen. Mandago: Thank you very much, Mr. Temporary Speaker, Sir, for the opportunity to contribute to this amendment by Sen. Osotsi. From the onset, I declare that I support the amendment on compliance to summons to Parliament.

In my support for this amendment as a result of the behaviour of state officers who have been given the responsibility of managing resources and failing to account for the same resources even after being given the opportunity by the various committees of Parliament to appear and shed light.

The opportunity state officers and Government officers are being given to appear before the committees is to ensure that no Government officer is wrongfully accused of having committed any offense. Therefore, it defeats the whole purpose when the same officers refuse the opportunity they have been given to give explanations and dispense any allegations that have been levelled against them.

Mr. Temporary Speaker, Sir, for the certainty of recovery of these fines, I propose that they be recovered from the payroll. As it is, when recoveries are made from the payroll, they are given precedence over any other deductions. That way, it will allow us to confirm that the recoveries are happening. Secondly, let us keep a permanent record in Government records of an officer whose salary was recovered for failing to appear to account for the resources that had been given to them.

I would also suggest that Sen. Osotsi would consider asking the Parliamentary Service Commission (PSC) to establish an office at the level of Director of Security. That post should be held by a senior police officer equivalent to that of the Deputy Inspector-General (DIG) to ensure that the arrest can happen so that, the seriousness of Parliament and this amendment can be taken seriously.

This is going to help Parliament get answers to questions they have been seeking. It will also will help the general public of Kenya in terms of improving the accountability environment that we all seek to ensure that the resources that are meant for public functions are used for public functions.

Having served as a Governor, I do not find any good reason whether a governor, a Principal Secretary (PS), or a Cabinet Secretary (CS) can have not to appear before any committee of Parliament.

As I stand here, I proudly say that I am among the governors who honoured all the summons to the Senate without failure except one when I was on paternity leave.

I saw my colleagues and friends, the governors, asking the national Government to increase the allocation to counties to Kshs450 billion. You cannot expect to receive public resources and also refuse to account for the uses of the same resources.

I stand here as the Senator of Uasin Gishu County having served as a Governor. Today, if I am asked the step aside in my role as a Senator to appear before any committee to explain expenditure that occurred during my administration as the Governor of Uasin Gishu County, I would be more than glad to do that because it gives you the chance to exonerate yourself.

I urge the governors to take positively the opportunity they get to appear before committees and use it to improve the systems. That is why I am also a champion of increasing the number of *Senate Mashinani* that we can have to build the capacities of counties.

When *Senate Mashinani* came to Uasin Gishu County, I asked the County Public Accounts Committee to give me a chance to present, my County Executive Committee Members and the Chief Officers, to also answer the questions for which we had been appearing to the Senate. I can assure you that the subsequent financial years, we had minimal errors. We never had issues of non-submission of documents. From there, the quality of audits in my county improved.

I, therefore, support this amendment by Sen. Osotsi because it is completely frustrating when officers are called to come and account. I sympathize with the County Public Accounts Committee (CPAC) and County Public Investments and Special Fund Committee (CPIC) considering the workload.

When you have to reschedule for 15 officers, for example, it makes the work of that committee impossible to function. The committee appears ineffective in front of the House, yet it is not the making of that committee.

Therefore, I persuade all my colleagues that is extremely important to support this amendment. I agree with my colleagues in terms of even making it a little bit more stringent particularly in the quest to enforce the recovery of those fines.

Mr. Temporary Speaker, Sir, I would like to urge my colleagues, Senators, that even as we summon governors, we should begin thinking of how to get the Chief Officers (CO) who are the accounting officers together with the County Executive Committee Members (CECMs, who are the heads of policy in the departments; to be part of the people being held responsible and accountable. At the national Government level, you can summon a Cabinet Secretary but cannot put the responsibility on the President. For counties a Chief Officer, a CECM together and a County Secretary can do their own things but, finally, the Governor will be held accountable.

I urge governors that they get the opportunity to exonerate themselves when they are asked to appear before the committees. They can then put forward their explanation and the relevant officers can then be taken to account.

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I support this amendment and request Sen. Osotsi to consider the issue of having a responsible officer who will always be tasked with that responsibility and who can take instruction from Parliament to ensure that this is not just a law in paper but can be enforced to make sure it happens.

I happen to serve as a Member of the Committee on Tourism, Trade and Industrialization. I share in the sentiments of my Chair, the Senator for Kajiado County; Sen. Seki, in the frustrations we have gone through in inviting Cabinet Secretaries to appear before the Committee. Even in the Committee of Health that I chair, it took the Cabinet Secretary for Health over two years to appear before the Committee.

Look at the health function, which is 90 percent devolved yet the Cabinet Secretary does not have time to come. However, I now thank the Cabinet Secretary for having reformed in making sure that whenever we ask her to appear with her team, they do so.

I hope they shall now appear much more with the passage of these amendments. Otherwise, we shall not hesitate as a Committee to---

The Temporary Speaker (Sen. Wakili Sigei): Sen. Mandago---

Sen. Mandago: I thank you and I support.

The Temporary Speaker (Sen. Wakili Sigei): Sen. Mandago, did you say that it took the Cabinet Secretary more than two years to appear before your Committee? You might want to correct that statement. I believe that---

Sen. Mandago: Mr. Temporary Speaker, Sir, there is nothing to correct. Sen. Okenyuri is in the House. She is a Member of that Committee. Let me put it more clearly. The Cabinet Secretary only appeared when we issued a summons.

The Temporary Speaker (Sen. Wakili Sigei): Sen. Mandago, I referred to the period of more than two years. You might want to check on that.

Sen. Mandago: Mr. Temporary Speaker, Sir, we got to this Parliament in August, 2022. I am a farmer and we usually count the number of years we have harvested maize. We harvested in 2022 and 2023. In my consideration, those are two years. I do not know whether we are talking about 24 months but---

The Temporary Speaker (Sen. Wakili Sigei): Sen. Mandago, very well.

Sen. Mandago: Thank you, Mr. Temporary Speaker, Sir.

The Temporary Speaker (Sen. Wakili Sigei): Kindly, take your sit. Proceed, Sen. Okenyuri.

Sen. Okenyuri: Thank you, Mr. Temporary Speaker, Sir, for this opportunity. I also want to support the amendment that has been brought forward by the Senator for Vihiga, Sen. Osotsi who is also the Chair of the County Public Investments and Special Funds Committee.

This is a good proposal. Regardless of the political affiliations we are in, I subscribe to the proposal that Sen. Osotsi is bringing forth to this House. Parliament needs to stop being perceived as a toothless dog. Parliament approves the appointment of several State officials and equally has the mandate to strip them off some of the positions they hold.

I do not understand where people get the courage and the guts to not honor parliamentary summons. Parliamentary summons need to be honored for the Senate to

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gain its rightful place in society. The Senate needs to bite. In fact, the proposal of a fine of Kshs2 million needs to be increased to rise higher. We should introduce a situation where some of these officials are not going to have anticipatory bail.

I know there are people who are going to argue that it will interfere with their rights and privileges. However, equally, as representatives of the people who spare time to sit in those committees, it is a great disservice to us to wait for people who do not show up.

The situation of the anticipatory bail in this case should not appear. The issue of accountability is very central and key to this administration led by our own President Dr. William Ruto and we should be leading from the front. We cannot have Government officers being summoned to committees and all they do is send apologies and request that we reschedule our meetings.

I agree with my Chair, Sen. Mandago - who has just stepped out - that it takes a lot of meetings to have a CS appear in front of a committee yet some of the issues are so dire. Look at this scenario. A member who has looted public resources and is being expected to appear before a committee and does not show up; by the time Parliament expires, these guys will have already gotten away with the crimes they have committed.

Maybe the next time they appear before Parliament, they will be paupers with no money for us to recover from them. The sanctions must be severe and enforceable for this House to regain its rightful place as the Upper House. It is not going to be business as usual. It is not just for the county chief officers. It looks worse for the chief officers because they have an opportunity and money that has been allocated to them. They are taking advantage of that fact to easily pay the Kshs500,000 which an ordinary mwananchi from Nyamakima or Kenyena cannot raise.

It should not be very easy for someone to pay an amount of Kshs500,000, which an ordinary man has not even heard of. People who really understand how critical accountability is should appear and honor parliamentary summons.

Mr. Temporary Speaker, Sir, as legislators and representatives of the people, we ensure that we keep time and attend these committees. Members of the public are waiting for some of their issues to be heard but the next thing you hear is someone asking that a meeting be rescheduled. We do not want to deal with such business. Sen. Osotsi, the issue of anticipatory bail should not arise in this case.

The proposed fine of Kshs2 million is on the lower side especially when you look at the case of chief officers. That is money they can sign off very quickly because they have huge resources that are sent down to the counties for use in assisting people. There are countries such as Swaziland and South Africa which have taken very radical measures against people who fail to appear before committees.

We need to borrow a leaf from those countries, so that we can change how we generally carry ourselves as leaders and as members of the public. In as much as we want to talk about this from that angle, it is in the Kenyan culture whereby people think they can easily get away with whatever ills they commit and nothing will happen to them. Someone kills an individual and is still walking out there in society. No action is taken. It should not be that we are supporting this amendment to curb some of the perceived "big fish". It should not be easy for the 'big fish' to get away with some of the ills they

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commit. What will we be showing the ordinary people who do not have some of the privileges these officials have?

This amendment Bill is timely and the provisions need to be tougher than proposed.

I support the Bill. It is time for Parliament to stop being perceived as a toothless bulldog. The Senate needs to bite more than it is now.

Thank you.

The Temporary Speaker (Sen. Wakili Sigei): Sen. Munyi Mundigi, proceed.

Sen. Munyi Mundigi: Asante, Bw. Spika wa Muda kwa kunipa fursa hii kuchangia Mswada huu ambao unapendekeza hatua ambazo zita chukuliwa wakati magavana wanapoalikwa kwa Kamati kujibu maswali na wanakosa kuja.

Miaka 10 ya ugatuzi imepita. Pesa nyingi zimetumwa kwa makaunti lakini zimetumiwa visivyo na magavana na wafanyikazi wa kaunti. Maseneta wakipendekeza pesa kidogo zigawiwe kaunti, waohulalamika na tunakuwa maadui. Pia tukiwaongeza pesa---

Tunapoenda mashinani kuangalia kazi waliyofanya, wanakataa kutuona hadi kwenye mikutano. Tunapowahitaji wajibu maswali kuhusiana na utumizi wa pesa kwenye Kaunti, inakuwa ni shida na wanatoa vigezo kama vile, kuwa na kazi na shughuli nyingi.

Tunafaa tuchukue hatua na kuangalia faini ya kutohudhuria kikao cha Kamati. Kwa mfano, Kshs2 milioni kama inavyopendekezwa kwenye Mswada. Gavana wa Embu anajaribu kufanya kazi. Lakini, miaka 10 ya ugatuzi, pesa ilitumika kwa njia zizofaa. Kaunti ilikuwa na mzozano na vita baina ya viongozi. Gavana aliyechaguliwa kwenye uchaguzi uliopita alipata pesa zimetumika kwa njia ambayo haifai. Mabenki haikuwa inalipwa na hospitali za kaunti kuzoroteka.

Naunga mkono faini iliyopendekezwa. Pia, tunafaa tujue hatua tutakayo chukua dhidi ya magavana wa zamani waliotumia pesa za Kaunti vibaya na hakuna hatua imechukuliwa. Naomba tuwe na pendekezo kwenye Mswada, ili tuweze kuchukulia magavana hawa hatua.

Naunga mkono Mswada huu ili magavana waweze kufunguliwa mashtaka kortini. Pia tukihitaji magavana kwenye Kamati kuwe na askari maalum wasio wa Serikali wafanya kazi hii.

Askari ambao tunafanya kazi nao kwenye Bunge wanafanya kazi nzuri. Kuna siku niliona rafiki yangu, Sen. Cherarkey, akiinuliwa juu na askari. Tunahitaji askari hawa ili walete magavana ambao hawaitiki wito.

Asante, Bw. Spika wa Muda.

Naunga mkono Mswada huu.

The Temporary Speaker (Sen. Wakili Sigei): There being no other Senator is interested in contributing. I call upon the Mover, Sen. Osotsi to reply.

Sen. Osotsi: Mr. Temporary Speaker, Sir, I will start by thanking all Members who have contributed to this debate. Particularly, the leadership of this House; the Senate Majority and Minority Leaders, the Senate Majority and Minority Whips, and the others. Listening to contributions of Members in this House, I have noticed that this House needs to have a total review of the Powers and Privileges Act.

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Members have raised several issues. However, my Bill only deals with two issues. One is the enhancement of fines upon summon and two the power of arrest. Members have raised several issues that we need to consider in a proper Bill that will look at those issues.

I have heard Members talk about contempt of Parliament. This House needs to have a look at this matter. If you go to other jurisdictions, for example, Zambia, an African country like ours, in their Powers and Privileges Act, they have defined the process of handling contempt of Parliament.

These are issues to do with the list of shame and clearance for elections, which is an important issue. This House has adopted reports recommending that some individuals are unfit to lead. What has been done about that? These people continue to contest elections and return to the same House that resolved that they are unfit to lead.

The other issue we must be aware of when discussing our powers and privileges is how we can protect our oversight role. I have seen in some counties where whenever Senators want to do their oversight role, governors send people to demonstrate against the Senators. Some send the Members of County Assemblies (MCAs) to do press conferences condemning Senators.

We must find a way of protecting our oversight role, especially in the counties. This Bill does not only deal with the issue of governors but all witnesses who appear in the House. Witnesses from the national Government, the county government, and personal individuals who appear before Parliament will be expected to adhere to the provisions of this Bill.

Mr. Temporary Speaker, Sir, allow me to quickly go through some of the issues Members have raised. Firstly, the issue of increasing the fines. Hon. Members, I will consult the relevant Committee, in this case, the Justice, Legal Affairs, and Human Rights Committee, on your proposals that you have given so that we can consider amending the Bill to reflect your positions.

Secondly, there is the issue of the appearance on urgency. This Bill has covered this so that you do not have to wait for seven days like we have been doing. You can be asked to appear before the Committee within a shorter period. This will enhance the operations of our Committees.

There was also the issue of who bears the burden of the fine. This is an important point, since, we could fine these people, and they end up drawing money from public coffers.

This is one area where I will be consulting with the Committee to amend so that it is clear that the funds will be from personal sources. There was also the issue of recovering the fines. This Bill makes reference to the Debt (Summary Recovery) Act, which has specific guidelines on how that recovery is done and how complaints are filed. So, the Clerks of the two Houses will be able to file complaints to trigger this process.

Mr. Temporary Speaker, Sir, there was also the issue of the powers to arrest. If you look at the amendments that are proposed under Clause 4 (6), it says –

“Where an order of arrest is to be effected by the officer of a House or Parliament, the Inspector General shall facilitate the arrest as may be requested by the Clerk.”

Therefore, we are not taking away the powers of the police, but we are bringing a provision that, the Inspector General shall facilitate that officer of parliament to ensure that the arrest is done.

This particular Clause ensures that this Bill or this particular amendment is in line with Article 245 of the Constitution, which gives independence to the Office of the Inspector General of Police.

Mr. Temporary Speaker, Sir, at the same time, if you go to Article 245 (2b), it talks about the independence of the Inspector General, but then it also says the Inspector-General will perform any other functions prescribed by the national legislation.

Thus, by saying that the Inspector-General of Police shall facilitate, that is in line with Article 245, and there is nothing unconstitutional about it.

Mr. Temporary Speaker, Sir, there was also the issue of where to hold the witnesses. If you look at the amendments, under Clause 4 (7), it says –

“A person arrested under subsection 3, shall –

(a) be held at such a place, as specified in the National Police Service Act, or as shall be designated by the Clerk for the purposes of holding such persons;

(b) be produced before a court, or a House, or a Committee that summoned that person on the next day.”

This covers that and it deals with the issue of constitutionality. This individual will be held at a gazetted place where such witnesses are held, or a place designated by the Clerk. For the purpose of this House, we have a police station in the precincts of Parliament, and that is where such a person can be held.

Mr. Temporary Speaker, Sir, I do not want to belabour the point, because Members have exhaustively discussed this Bill. I want to encourage Members who have amendments to approach the Clerk and make the amendments. I will also be making amendments to reflect the views expressed by Members.

I want to thank the Members, and I know this Bill is going to be passed by this House. I want to ask the Members of the National Assembly to also do the same because they go through the same challenges we are going through.

Mr. Temporary Speaker, Sir, this week, it was reported that a top officer of a revenue collection agency in this country was summoned by the National Assembly for failing to appear before the National Assembly for a record 14 times and there are many other cases like that.

Therefore, I think this is the time that Parliament needs to exercise its powers. I want to encourage that we have an overhaul of the parent Act of the Powers and Privileges Act, so that we can deal with the issue of contempt of Parliament.

I also want to request that according to Standing Order No.66(3), the putting of the question be deferred to a later date because of the numbers here.

I thank you.

(Applause)

The Temporary Speaker (Sen. Wakili Sigei): Sen. Osotsi, this Bill is deferred to the next session of the House for purposes of putting the question.

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(Putting of the question on the Bill deferred)

Clerk, next Order, please.

BILLS

Second Reading

THE SUGAR BILL (NATIONAL ASSEMBLY
BILLS NO.34 OF 2022)

The Temporary Speaker (Sen. Wakili Sigei): The Bill is deferred.

(Bill deferred)

Second Reading

THE NATIONAL RATING BILL (NATIONAL
ASSEMBLY BILLS NO.55 OF 2022)

The Temporary Speaker (Sen. Wakili Sigei): This is similarly deferred to the next Session.

(Bill deferred)

Next order, please.

Second Reading

THE METEOROLOGY BILL
(SENATE BILLS NO.45 OF 2023)

The Temporary Speaker (Sen. Wakili Sigei): Order No.14 is equally deferred to the next Sitting.

(Bill deferred)

Next Order.

The Senator from Nandi, Sen. Cherarkey, proceed to take the microphone.

BILL*Second Reading*THE PUBLIC SERVICE (VALUES AND PRINCIPLES) (AMENDMENT)
BILL (NATIONAL ASSEMBLY BILLS NO.46 OF 2022)

Sen. Cherarkey: Thank you, Mr. Temporary Speaker, Sir, for this opportunity. I would have expected Sen. Osotsi to thank all of us, but I think he was trying to summarise everything.

Mine is a straightforward amendment where we are trying to amend the Public Service (Values and Principles) Act, (No. 1 of 2015).

Mr. Temporary Speaker, Sir, the Public Service Commission (PSC) and counties also have been provided under Article 232 of the Constitution on values and principles of the public service. We are trying to give effect to this amendment to the Public Service Values and Principles Act of 2015.

One of the core values when you look under Article 10 on national values and principles of good governance is regional balance. Coincidentally, the Public Service and even the County Public Service Boards (CPSBs), and I have sat in Public Accounts, where we ---

The Temporary Speaker (Sen. Wakili Sigei): Sen. Cherarkey, I will interject for purposes of guidance, you have not moved the Bill to be read a Second Time.

Therefore, as a senior Senator and a ranking Member, I request that you take your seat so that I make a communication then you can move.

Sen. Cherarkey: My apologies, Mr. Temporary Speaker, Sir.

(Interruption of debate on Bill)

COMMUNICATION FROM THE CHAIRVISITING DELEGATION FROM THE
UNIVERSITIES STUDENTS ASSOCIATION

The Temporary Speaker (Sen. Wakili Sigei): Hon. Members, this is a Communication from the Chair on visiting students from the Universities Students Association in Nandi County. Indeed, this is your county, Sen. Cherarkey.

Hon. Senators, I would like to acknowledge the presence in the public gallery this afternoon of visiting students from the Universities Students Association in Nandi County. The delegation comprises 40 students who were in the Senate for a one-day academic exposition.

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

I thank you.

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I call upon you, Sen. Cherarkey, to in under one minute, welcome the delegation from your county as you move the Public Service (Values and Principles) (Amendment) Bill (National Assembly Bills No.46 of 2022).

Sen. Cherarkey: Thank you, Mr. Temporary Speaker, Sir. As you have already indicated on my behalf and on behalf of this House, I want to extend a warm welcome to the group of Nandi Students Association, who were on an academic excursion and learning in parliamentary processes.

I ask them to feel welcome and they should be lucky that they have found their Senator in action. It is rare. It is just a coincidence that they have found me on my feet.

Mr. Temporary Speaker, Sir, as we welcome them, they should feel free to learn. I also hope they will visit the National Assembly and interact with the Table Office and the Office of the Speaker. I know they will be given the necessary support.

(Resumption of debate on Bill)

Mr. Temporary Speaker, Sir, I beg to move that the Public Service (Values and Principles) (Amendment) Bill (National Assembly Bills No.46 of 2022) be read a Second Time.

I apologise for that oversight. It is Sen. Osotsi who distracted me. What I was saying is that we are just giving effect to Article 232 on values.

The public sector, both at national and in the counties, gobble billions of shillings because of salaries and many other expenses. This is because of huge salaries, stipends and allowances paid to public servants both at the national and county level.

Article 10 of the Constitution stipulates the national values and principles of good governance. We should have a public service that is reflective and has regional and national outlook on ethnic diversity. We should also look at cultural diversity. That is why in the report by the National Cohesion and Integration Commission (NCIC), the equation of composition of the public service in the country is critical for stocktaking.

We must understand that we have a diverse demography in terms of population across the country. This is a challenge. Just like gender parity is always a moving target, it is the same with the public service sector. That is why other ethnic communities in this country feel disenfranchised. In as much as we may want to have the face of Kenya, sometimes it is hard for some communities because of historical marginalization.

Mr. Temporary Speaker, Sir, the other day I met an Oromo. That was my first time. I have never seen an Oromo or a Njemps. At least there are a number of small communities where you and I come from. Sometimes it is hard for that to be reflective. What we are pushing for is equity and equality, so that they can feel accommodated.

Under Article 232, we should ensure that we have diversity. Where I come from, there is a community called Ogiek. The Ogiek Community straddle all the way from Nandi, Kericho, Bomet and Nakuru. If you have to tell them to run for elective positions, it will be hard. That is why the Constitution envisages having appointive positions.

When you go to Homa Bay, there is a minority community that cannot get elected. I know the struggle within our counties is how to ensure all the clans or communities are represented.

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Under Article 232, we should ensure that diverse communities in Kenya are reflected. That is important. The process of policy making is critical. Public participation is now an integral part.

The Affordable Housing Bill, which was passed by the National Assembly yesterday, was read here today for the First Time. The reason it was brought back by the court is because of the aspect of public participation.

Another issue is economic use or value for money. Many people think that when auditors talk of “value for money”, they just put those words for the sake of it. It means that you are being paid.

Mr. Temporary Speaker, Sir, when you look at the Labour Relations Act, it advocates for equal work, equal pay. I know you have been a practitioner in the corridors of justice for longer.

I do not know whether we should classify Sen. Okiya Omtatah as a long serving practitioner because of being a public interest litigator. Maybe that is something that the Law Society of Kenya (LSK) should consider in future. We need to know whether Sen. Okiya Omtatah should be part of practitioners.

Mr. Temporary Speaker, Sir, this is a straightforward amendment and therefore I will be quick. Another point is affording adequate and equal opportunities for appointment. We normally fight, for example, when a Chief Executive Officer (CEO), chairman or managing director is hired. Most of the fights stem out because of equal opportunities. That is why we have always insisted---

When you look at advertisements at county and national levels, that is why they always say, for example, the Kenya Revenue Authority (KRA) is an equal employer. They always encourage women, Persons with Disabilities (PwDs) and the youth to apply. That is part of the values, ethos and principles of public service. This is also important.

Yesterday, when the National Dialogue Committee (NADCO) report was debated, everybody was up in arms, especially on the issue of two-thirds gender rule because it is a moving target. How do we realise the two-thirds gender rule? Many young people have never had an opportunity. We need to ensure that men, women and PwDs and the youth from all ethnic groups have equal opportunities for appointment.

I am saying this with an insight that the NCIC report talked about the ethnic composition in the public service. I have said that some of the challenges we face in the Public Service Commission are because some communities have been historically marginalized. Therefore, when they apply, sometimes they are not competitive enough to occupy those positions.

The challenge that many young people have is work experience. You will see an advert, but they require five years' experience. We currently have a youth boom, like what happened in the 1970s in America and China where they had a baby boom.

Nowadays, people in China are no longer giving birth to many children. I am told that the Government of China is encouraging people to give birth. China should not have a problem. They should consult our good brother and senior elder, the incoming Governor of Kakamega, Sen. (Dr.) Khalwale, on how to ensure---

With all due respect, there is a joke in this country that every year, Sen. (Dr.) Khalwale must have at least a child doing a national examination. In our culture, we do

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not count our children. He is my neighbour and I wish him well as he endeavours to become a governor.

The upshot of what I am saying is that the public service must be reflective. Kenyans normally say so and so has not been employed because they do not come from a certain region. The Constitution is clear on values and principles of public service that men, women, PwDs and ethnic groups must be reflective in any organisation. I am saying that knowing that---

A number of us know that Sen. Ogola served as a County Executive Committee Member (CECM) in Homa Bay County. They know that the biggest challenge is not the law but the culture.

We must comply with the law. That is important in this country. If we comply with the provisions of values and principles of public service, we do not need to call a press conference to say why Community "Y" is more than Community "X" or why Community "Z" is more than Community "A".

The values and principles of public service in all levels of government, both national and county, are captured well in the Constitution. Even if you come from Bomet and think that Bomet is homogeneous, the NCIC Act is clear that 30 per cent must be non-locals.

Mr. Temporary Speaker, Sir, this has been a challenge. When a man from your place, say, Kapletartet or Kapletundo, marries a lady from Tala or Kathonzweni, I do not know whether if that reflects 30 per cent when that lady is hired by Bomet County Government. When somebody in Sirwa in Nandi Hills Sub-County marries a lady from Sigowet-Soin or Luanda in Western Kenya and that lady is hired by the County Government of Nandi, is it part of the 30 per cent? We need clarity on that.

These values are important. Even as we allocate resources, counties should ensure that there is value for our resources. In Nandi County, out of many billions of shillings, more than 60 per cent of the budget goes to human resource. We also have---

Sen. Oketch Gicheru: On a point of order, Mr. Temporary Speaker, Sir.

Sen. Cherarkey: Mr. Temporary Speaker, Sir, I expected both Minority and Majority Whips to guide the Senator for Migori. I should not be interrupted while moving a Bill because it is sacrosanct.

The Temporary Speaker (Sen. Wakili Sigei): Sen. Oketch Gicheru, what is your point of order? Sen. Cherarkey, take your seat.

Sen. Cherarkey: I know what he wants to achieve. He wants to call for quorum. Anyway, let us see you next week.

(Sen. Oketch Gicheru spoke off record)

The Temporary Speaker (Sen. Wakili Sigei): Clerk, give Sen. Oketch Gicheru the microphone please.

QUORUM

Sen. Oketch Gicheru: Mr. Temporary Speaker, Sir, I rise under Standing Order No.41. I have been listening to the Senator for Nandi County. The things he is talking about are so important and pertinent that I am even wondering whether we have enough quorum to discuss them. Perhaps, you can advise whether we should continue listening to this wonderful presentation and passionate submission by the Senator for Nandi County, without proper quorum in the House.

I thank you.

The Temporary Speaker (Sen. Wakili Sigei): Sen. Oketch Gicheru, indeed, it is sustained that we do not have quorum for now. I therefore call upon the Serjeant-at-Arms to ring the quorum Bell for 10 minutes.

(The Quorum Bell was rung)

ADJOURNMENT

The Temporary Speaker (Sen. Wakili Sigei): Hon. Senators, having failed to attain quorum at the expiry of 10 minutes, the Senate stands adjourned pursuant to Standing Order No.41(2)(a) until Tuesday, 27th February, 2024 at 2.30 p.m.

When we resume, Sen. Cherarkey will have a balance of 45 minutes in order to go on moving his Bill.

The Senate rose at 5.42 p.m.