

PARLIAMENT OF KENYA

THE SENATE

THE HANSARD

Wednesday, 22nd July, 2015

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

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

PRAYERS

NOTICE OF MOTION

APPRECIATION BY THE SENATE ON THE HISTORIC VISIT OF PRESIDENT BARACK OBAMA TO KENYA

The Speaker (Hon. Ethuro): Yes, Sen. Orengo.

Sen. Orengo: Mr. Speaker, Sir, with your permission, I would like to give notice of the following Motion.

THAT WHEREAS the President of the United States of America, Mr. Barack Obama, is to visit Kenya between 24th and 26th July, 2015 to attend the Global Entrepreneurship Summit (GES);

AND WHEREAS the visit is the first to the Republic of Kenya by a sitting President of the United States of America;

NOW THEREFORE, the Senate welcomes the President and records its appreciation for the historic visit to Kenya and calls upon both Governments to deepen and broaden their relations in order to promote social and economic development of the two countries based on shared values of liberty, justice, human rights and democracy.

STATEMENTS

CONSULTATIVE MEETING WITH THE CSS, EDUCATION/INTERIOR ON THE CONTINUED CLOSURE OF GARISSA TTC

Sen. Obure: On a point of order, Mr. Speaker, Sir. You will recall that you directed that the two Cabinet Secretaries; the one in charge of Education, Science and Technology and the one for Interior and National Coordination meet with Senators today.

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I received a message from one of the Assistant Clerks; the Clerk to the Education Committee which informed me that all Cabinet Secretaries were having a meeting with the President this morning.

The message read that Cabinet Secretary for Education, Science and Technology and the Cabinet Secretary for Interior and National Coordination had requested the Chairperson of the Committee on Education to postpone today's meetings. The message was informing me that the meeting of all Senators with the two Cabinet Secretaries today at 10.00 a.m in the Senate Chamber would not be held.

I am surprised to learn that the meeting was actually held despite the message that had been sent to cancel the meeting. What really happened? I have an interest in the discussions that were due to take place. However, owing to this message, I did not attend.

The Speaker (Hon. Ethuro): Chairperson for Education, do you have an explanation to Sen. Obure?

Sen. Karaba: Mr. Speaker, Sir, I sincerely apologise for the mix up of what happened this morning. This is attributed to information coming from different sources. Some information came from the Office of the President. We also had some information from the Cabinet Secretary, Ministry of Education. Earlier, we received information to the effect that all Cabinet Secretaries were supposed to be with the President as he opened the summit at the Kenyatta International Convention Centre (KICC) this morning.

My hope was that all of us would gather here this morning. However, later on, other developments came up where the Cabinet Secretary for Interior and National Coordination, Hon. Nkaissery, indicated that the meeting would end at 10.30 a.m and that next week he would be out of the country and, therefore, would not be available until after three weeks.

Since we wanted both of them to appear here, he implored upon me to have the meeting called. He convinced his colleague, the Cabinet Secretary for Education that they come here at 11.00 a.m instead of 10.00 a.m. That was very hectic for me and other Senators who were available. I thank the Senators who were available. We had more than 10 of them and they listened. Fortunately, everything is in written form. If you want to get information, you can always get it from me or from any other Member who was present.

The Speaker (Hon. Ethuro): That is the position, Sen. Obure. Just look at the information available. If you still feel like pursuing the matter, I will accord you the necessary opportunity.

Sen. Wangari: On a point of order, Mr. Speaker, Sir. My concern goes to the Chairperson of the Committee. Whereas he has given the apologies of the mix up, the message was sent at exactly 7.13 a.m. I also received it. My question is: Did they try to gather Members when they got different information because we had serious interests in this matter? Personally, I wanted to ask some very serious questions about some issues. Did they attempt, through the Clerk's Office, to reach out to Members because I did not see any follow up message after I received the one for 7.13 a.m in the morning. In future,

they should strive to reach as many Members as possible. In fact, they should make phone calls to know which Members will be available.

Sen. Kagwe: On a point of order, Mr. Speaker, Sir. I was in the meeting today, having bumped into the Chairman. In view of what happened today, and given the fact that there is a record of the proceedings; would I be in order to propose that the Chairman lays on the Table a report of what transpired this morning so that all Senators can ably look at it? We do not only need the HANSARD, but a report indicating the genesis of the questions that were raised and the report thereof.

Sen. Ong'era: Thank you, Mr. Speaker, Sir. I was also present at this meeting. I thank Sen. Ndiema who pulled me to attend although I arrived there when it was almost concluding. I feel sad that our distinguished Senator from Kisii County was not at the meeting and yet he was the originator of the questions. The questions are very passionate to the delegation of Kisii County. I feel that our Committee should have called Sen. Obure to be present because the deliberations were very fruitful. As a way forward, in future, I suggest that when something like this is expected to happen, at least, Senators who brought up the issues are informed. We should not have a repetition of this.

With a lot of regard to the distinguished Senator Karaba, the Chairman whom I respect, I feel that our Senator from Kisii County should have been informed of the meeting.

Sen. (Dr.) Zani: Mr. Speaker, Sir, the dynamism of this meeting was that for the first time we would have the two Cabinet Secretaries at the same time. We wanted to cross check information between the two so that where there is a gap, for instance, in education matters; we see how infiltration and interception can come from security matters and vice versa. Unfortunately, we could not do this.

Going by the suggestion by Sen. Kagwe, when the report is tabled, we can find out whether the intercession has been addressed. If it is not, then we may need to get into another engagement at that level.

Secondly, since many Senators were around the precincts, it would have been appropriate for another message to be sent out so as to quickly whip most Senators to the Chamber. That happened and it is gone. This situation arose because there were changes in communication as Sen. Karaba explained. Some of these factors may have been beyond our control at that moment because we did not get confirmations early. That put us in that situation. In future, we should make sure that we have a very set programme and time and try to adhere to it. The key issue is for the Cabinet Secretaries to make their appearance before the Senate a priority. That will help us follow through the programme.

Sen. Ndiema: Thank you, Mr. Speaker, Sir. It is unfortunate that there was a breakdown in communication. I happened to be around. The Chairman was frantically trying to get Members. The two Cabinet Secretaries were already here and it would have been very embarrassing if we did not attend. Fortunately, we attended and very many questions were put to them. I suggest that a report be prepared and presented to all Senators which should also be tabled by the Chairman. If there are any other issues to be addressed, at that stage, we will decide what to do.

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Sen. (Prof.) Anyang'-Nyong'o: On a point of order, Mr. Speaker, Sir. I was at the meeting and would not like to preempt Sen. Karaba's report. However, I recall that one of the proposals we made, if implemented, will essentially mean that we meet the two Cabinet Secretaries again. I do not think that all is lost. We made very concrete proposals. Most likely, after the Chairman tables the report, we will meet the two Cabinet Secretaries again to follow up on our recommendations.

Sen. Karaba: Thank you, Mr. Speaker, Sir, for those interjections. I sincerely apologise for what happened this morning. We had to ring the bell several times and I frantically had to go out to look for anybody who was within the precincts of Parliament. I found a few whom I informed about the meeting, but they did not come. I thought I would find my friend, Chris, because I really wanted him to be there. I tried to get him through telephone, but it was not possible. I will lay the report on the Table.

We have agreed that we tour the area shortly with the two Ministers. After that, they will come again to tell us how the situation is like in north eastern and other parts of Kenya.

Sen. (Dr.) Khalwale: On a point of order, Mr. Speaker, Sir. Could you kindly indulge me? As you know, the issue of the expenditure of public funds in counties is very urgent. There are many complaints in all counties. I have accounts from several counties here. The report was not brought to me on time, but I need to lay it on the Table so that the respective Senators and the Committee can be seized of the matter. We should move to that Order.

The Speaker (Hon. Ethuro): I will start with the last issue that has been raised. I am afraid I had agreed, but after listening to what transpired with the Committee on Education, I am not willing to proceed. Tomorrow is still a day; we need to be alert. That is why we put these things on the Order Paper.

That brings me to the problem of the Committee. It is normal expectation that the Senator who sought the matter should have been invited. Sen. Karaba, this is a digital era. We have all options available such as Short Message Services (SMS), *WhatsApp*, email, *Skype* and *Istagram*. You should not have relied on ringing the bell alone which has limited geographical coverage.

I am a bit disappointed. I would have ordered that you summon the Cabinet Secretaries again. However, under the circumstances, there was an agreement that you would invite them, given another opportunity. They realised that the commitment would not take very long. They also did not want to travel before honouring our invitation. Those were the mitigating factors. I will request Sen. Obure to bear with us.

Give him as much information as he needs. If he is not satisfied, my office is available to him and we will take any remedial measures necessary for him to participate in interrogating the Cabinet Secretaries directly.

DEATH OF MS. MAUREEN TATA AND THE
DETERIORATING HEALTH STANDARDS IN THE COUNTRY

Sen. Kanainza: Mr. Speaker, Sir, I rise pursuant to Standing Order No.45(2)(b) to seek a statement from the Chairperson of the standing Committee on Health on the death of Ms. Maureen Tata and the deteriorating health standards in the country.

In the statement, the Chairperson should explain the following:-

(1) Whether the Government is aware that one Ms. Tata was hospitalized at St. Francis Community Hospital, Kasarani on 4th July, 2015 for a normal delivery, but ended up undergoing a cesarean section that led to internal hemorrhage. This caused her transfer to Kenyatta National Hospital (KNH) on 8th July, 2015 and she died on 8th July, 2015.

(2) What necessitated the cesarean section operation? Who authorized it and whether the doctor who carried out the operation is qualified and licensed by the Kenya Medical Practitioners and Dentists Board (KMPDB) to perform such operations?

(3) Why the hospital gave Ms. Tata food immediately after the operation and whether that is allowed for patients who have undergone such an operation.

(4) Why did the hospital not inform her family upon realizing that her situation was deteriorating and take quick action upon signs of internal hemorrhage being detected?

(5) What action shall be taken against the doctor who attended to Ms. Tata at St. Francis Community Hospital in Kasarani and against the hospital for failing to uphold professional ethics while attending to the said patient?

(6) What measures has the Government put in place to address deteriorating healthcare standards in the country?

Sen. Ong'era: Mr. Speaker, Sir, I thank Sen. Kanainza for bringing up this very important Question because it relates to the death of a very important young person. This is a woman and one of the strongest youth that we had in this country.

Further, in that statement, I would also like the Chairperson of the Committee to explain how many mushrooming private clinics are in this country, how many are registered in Nairobi, if they have suitable maternal care equipment and whether they have qualified medical practitioners.

Sen. (Dr.) Khalwale: On a point of order, Mr. Speaker, Sir. I think there is an aspect which the Senator left out and which would be very useful in the response, if you can allow me. The Chairperson should also indicate in the report if the anesthetist who gave the patient anesthesia – regional or local – was qualified, besides the doctor who operated being found qualified. She should also tell us whether in that hospital there are qualified theatre nurses. Theatre nurses are not just general nurses.

Finally, they should tell us whether this hospital is a registered institution, accredited to offer the kind of services they were offering

Sen. Wangari: Mr. Speaker, Sir, I also thank Sen. Kanainza for requesting for that Statement. This young lady was one of the active members of the Orange Democratic Movement (ODM) Youth League who fought for the liberation of youth in

this country. Her death is really a sad story. She has left behind a one week old baby girl who will not benefit from breastfeeding.

In the statement, could the Chairperson explain the role of KMPDB in terms of bringing criminal charges against the people who have mishandled patients like this one because they are becoming rampant? Could we also have a record of which cases have been prosecuted apart from just negligence?

Sen. Mohamud: Mr. Speaker, Sir, I also join my colleagues in congratulating Sen. Kanainza. In fact, it is very sad to die while giving birth. I would like to request the Chairperson to clarify whether all the attendants – nurses and surgeons – are qualified and not just the anesthetist and the surgeon who did the operation.

The Speaker (Hon. Ethuro): That was a smart one. I was almost saying it is repetitive, but I think it qualifies.

Order, Members! I mentioned to you this week that we will not entertain riding on business. In fact, we have already entertained too much. Statements sought are not trains to carry extra cargo.

Where are the Chairperson and Vice Chairperson?

Sen. Elachi: Mr. Speaker, Sir, they are both missing.

The Speaker (Hon. Ethuro): Order, Sen. Elachi! You are the Chief Whip and you need to produce those Senators. So, take the responsibility.

Sen. Elachi: Thank you, Mr. Speaker, Sir. This is a very serious matter. The hon. Members have gone to benchmark and, therefore, I think it is time the CS himself comes and explains some of these things because of the trend that we have faced---

The Speaker (Hon. Ethuro): Order, Sen. Elachi! Your assignment is very simple. Deliver the message and when to expect the response.

Sen. Elachi: Tuesday, next week, Sir.

The Speaker (Hon. Ethuro): Next week on Tuesday we will still be around.

(Interruption of Statements)

Hon. Senators, I have a communication to make.

COMMUNICATIONS FROM THE CHAIR

VISITING DELEGATION FROM THE NATIONAL TRANSITION COUNCIL OF BURKINA FASO

Hon. Senators, I would like to acknowledge the presence in the Speaker's Gallery this afternoon of a delegation from the National Transition Council of Burkina Faso. The delegation is in Nairobi to participate in the 9th Stop Cervical, Breast and Prostate Cancer in Africa Conference where the Senate had the privilege of inviting Speakers from Africa. I request each member of the delegation to stand when called out so that they may be acknowledged in the usual Senate tradition.

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(1) Hon. Lucien Honore Number, MP -1st Vice President of the National Transition Council;

(2) Hon. Paul Djiguemedede, MP;

(3) Hon. Theophile Ababenhiri Dentiogue, MP;

(4) Hon. Amadou Diabate, MP; and

(5) Hon. Bakary Kone, MP.

The delegation is accompanied by:-

(1) Miss Emma Zobilma – Montoro – Secretary General of the National Transition Council;

(2) Missis Suzanne Zan – Ouedraogo; and

(3) Miss Sarre Bationo Bazie.

Hon. Senators, I hope that they have had fruitful deliberations during their visit to Kenya and on behalf of the Senate and on my own behalf, I welcome them to our Senate and I wish them well for the remainder of their stay in our great Republic.

Thank you.

VISITING DELEGATION FROM THE NYOTA
ACADEMY, NAIROBI COUNTY

I wish to recognize the presence of students and teachers from Nyota Academy from Nairobi County seated in the public gallery who are visiting the Senate today. As you all know, hon. Senators, our tradition of receiving and welcoming visitors to Parliament, especially our students, is a long time tradition and one we shall endeavour to continue upholding.

On behalf of the Senate and on my own behalf, I extend a warm welcome to the students and teachers of Nyota Academy.

Thank you.

Sen. (Prof.) Anyang'-Nyong'o: Mr. Speaker, Sir, I was just going to join in welcoming the guests from Burkina Faso. I lived near them many years ago. So, I have empathy for that country.

Sen. Omondi: Mr. Speaker, Sir, I join you to welcome our guests from Burkina Faso and the Nyota Academy who are with us this afternoon.

The Speaker (Hon. Ethuro): Next statement. Proceed Sen. Khaniri.

(Resumption of Statements)

HAZARDS POSED BY NAIROBI DAM

Sen. Khaniri: Thank you, Mr. Speaker, Sir. On 6th May this year, Sen. Ong'era sought a Statement from my Committee regarding the hazards posed by the Nairobi Dam, especially during the rainy season. She requested for a number of things which I will proceed straight away to clarify.

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The County Government of Nairobi has recognized the need to have a common vehicle that will identify and consolidate all efforts and gains by developing integrated plans for the restoration of the Nairobi Dam. Towards this end, the Governor of Nairobi City County through Gazette Notice, Vol.CXVI No.56 of 2nd May, 2014 appointed the task force for the restoration of Nairobi Dam to advise on ways to facilitate and conduct all activities aimed at restoration of Nairobi Dam. The task force has over the past one year, in collaboration with its partners, undertaken the following:-

- (1) Mobilised partners.
- (2) Developed a workplan.
- (3) Commenced manual removal of water hyacinth and conversion of the same into compost.

(4) With Athi River Water Services Board, with support from the Government of Kenya and the African Development Bank, it has undertaken the following interventions to help protect the dam and reduce on sewer pollution, especially from the Kibera informal settlement:-

(1) Construction of 4.2 kilometre of trunk sewer duplicating the Kibera Trunk Sewer in order to increase the carriage capacity of the sewer system. The trunk commences one kilometre upstream of the dam in Kibera and traverses all the way to Mater Hospital following a way leave of the already existing Kibera Trunk Sewer. The size of the sewer ranges from DN 700 millimeters to DN 1,200 millimetres.

(2) Construction of one kilometre of the South Nairobi Dam Trunk Sewer running from an existing manhole along the dam, then along Lang'ata Prison, crosses Mbagathi way and connects to the existing Kibera Trunk Sewer. The size of the sewer line ranges from DN 375 millimeters to DN 450 millimetres to drain waste water from the Southlands Estate.

(3) Construction of 23 ablution blocks in the villages of Lindi, Soweto, East Silanga and Laini Saba.

(4) Construction of 3 kilometres of trunk and lateral sewer to connect the 23 ablution blocks to the existing Kibera Trunk Sewer. The size of the sewers ranges from DN 225 millimetres to DN 450 millimetres.

(5) Construction of 5.4 kilometres of trunk and reticulation sewers to connect 50 ablution blocks constructed under the National Youth Service for unsewered villages of Lindi, Gatwekera, Kisumu Ndogo, Raila, Soweto, west of Kianda. The trunk sewer has been extended from Lindi village to the show ground at Jamhuri Park. The size of the sewer ranges from DN 250 millimetres to DN 525 millimetres. The project is ongoing and it is expected to be completed by October this year.

The above measures are expected to reduce the pollution arising from sewer effluent from Kibera informal settlement into the Nairobi Dam.

Secondly, the Nairobi County Government has put in place the following measures to deal with garbage in the slums:-Established a regular schedule to enhance waste collection in informal settlements, including Kibera; engaged an environmental supervisor who monitors and arranges for removal of waste. Identified waste collection

points at strategic locations where county trucks and contracted waste collectors to collect the waste; identified environment community groups in the informal settlements who collect waste from households and transfer to the collection points located at strategic locations from where it is collected for final disposal in Dandora; established closer collaboration with the enforcement and compliance agencies on the control of illegal dumping in informal settlements; and, lastly, commence a pilot project for capacity building and training of some environmental community organisations in Kibera.

Concerning the question on the foaming of Ngong River downstream of Nairobi Dam, this is due to cross-border pollution, probably, due to farm inputs in the neighbouring counties. The Water Resources Management Authority (WRMA) has been requested to investigate the source of the foaming compound and take necessary remedial measures.

Regarding question No.3, in conjunction with the Department of Urban Rivers Restoration Programme, we obtained and evaluated proposals from qualified firms for consultancy services for rehabilitation of Nairobi Dam, feasibility study, planning and design. The process is in the award stage. However, the County Government will process and undertake due diligence on all unsolicited proposals to verify their viability, value for money and transparency before committing to any of them. Only proposals that are aligned to aspirations of Kenyans will be undertaken.

With regard to question No.(4), the Senator wanted an explanation on why footbridges have not been constructed across the dam. Seven pedestrian crossing points in form of footbridges and bridges have been constructed at the upstream and downstream ends of the dam where there are heavy pedestrian flows as detailed hereunder.

(1) There is a foot bridge located at Sarang'ombe Ward. That is upstream of the dam.

(2) There is a box culvert or footbridge at Siranga in Kibera Ward. That is upstream of the dam.

(3) There is a footbridge at Kibera-Nyando.

(4) There is a box culvert at Line Saba.

(5) There is a footbridge at Katwekera; Raila Stream.

(6) There is a footbridge at Siranga-Raila.

(7) There is a footbridge at Mbagathi Way downstream.

It is, however, not economically viable to construct footbridges across the dam due to the high cost involved and lack of symmetrical road reserves along the edges of the dam.

Lastly, Mr. Speaker, Sir, regarding question No.5, after the recent flooding, the Nairobi County Government has carried out an assessment of all the flooding hotspots in the county. A detailed report has been prepared incorporating the locations, causative factors, possible remedies and timelines. Some of the identified causes include encroachment of the riparian reserves by informal settlements and developers, illegal diversion of canalisation of the river, illegal dumping and reduced infiltration areas.

Thank you, Mr. Speaker, Sir.

Sen. Ong'era: Thank you, Mr. Speaker, Sir, for giving me this opportunity. First, I would like to thank the Vice Chairman of the Committee on Land and Natural Resources, the distinguished Senator for Vihiga County, Sen. Khaniri for going out of his way to get a response to this statement.

Mr. Speaker, Sir, I sought this statement in May, 2015. As you can see, it has taken over two and a half months to get the responses. The Senator had to issue summons to get the responses. It was actually like trying to milk a camel to get the answers. Therefore, I commend him for the good work he has done.

The Speaker (Hon. Ethuro): Order, Sen. Ong'era! Some of us milk camels without much difficulty.

(Laughter)

Sen. Ong'era: Thank you, Mr. Speaker, Sir, for informing me about that.

Mr. Speaker, Sir, the answers have been given. However, as the English saying goes, the proof of the pudding is in the eating. Until the foaming, the effluence and the smell that comes out of Nairobi Dam ceases, that is when we will know that something has been done.

Since May, I have been passing there. Every evening, I make sure that I pass through Nairobi Dam to see efforts being done. I wish the dam can become as clean as it used to be in the 1970s when we had boats that sailed across it and we used to enjoy the activities. However, nothing much has been achieved. As long as we have the white foam still floating and many people dying as they cross over, there will be no change. They tell us that they have put footbridges yet there are many deaths still occurring along the Dam. As long as these issues keep happening, then, the County Government will not have achieved much.

However, despite that, I thank the Vice Chairman for getting a response to this statement.

I thank you, Mr. Speaker, Sir.

Sen. Kembi-Gitura: Mr. Speaker, Sir, I wish to join Sen. Ong'era in thanking Sen. Khaniri for the very comprehensive answer. I do not know about my colleagues here, but I really miss the late Prof. Wangari Maathai because the environmental degradation taking place in this city is unbelievable. I have been standing here; talking many times about the degradation in Westlands, Loresho, Kibera and other places. I hope that this is a new beginning and that the Nairobi County Government is taking these issues seriously.

The Speaker (Hon. Ethuro): Order, Sen. Kembi-Gitura. This is Statement Hour.

Sen. Kembi-Gitura: Mr. Speaker, Sir, this is an extremely important situation. That is the reason I am now appreciating what Sen. Khaniri has done. I do not know whether you are aware, but if you drive towards Kenya Institute of Administration (KIA) and Loresho Ridge, you will see somebody building right along the river bank. The

construction was stopped by the Nairobi County Government, but it has resumed. I do not know where the sewage will be directed to. Will they direct it into the river? The amount of degradation that will take place will be catastrophic. That is why I am appreciative of what this Committee is doing. Nairobi County Government should take these issues seriously. Otherwise, we shall have a slum in the whole of Nairobi City, not just in the areas considered to be slums areas.

The Senate Minority Leader (Sen. Wetangula): Mr. Speaker, Sir, first, I thank Nairobi County Government. I noticed that in Westlands near the Westgate mall, it reclaimed a wetland that had been grabbed by, of all people, a church. It demolished the wall and built a beautiful boulevard through that wetland connecting Ali Mwanzi Road and Brookside.

Mr. Speaker, Sir, that notwithstanding, you know that “Nairobi” is a Maasai name which means “a place of cool waters.” The Maasais used to graze everywhere. They brought their animals to Nairobi to drink cool waters. If you drive around Nairobi, you will see very many beautiful little streams. As I say this, we miss one man called John Njoroge Michuki who undertook to clean Nairobi River. Within three months, there was fish in the river. He had planted trees along the entire river line.

Mr. Speaker, Sir, if the Chairman does not have the answer, I will urge him to cause the Governor for Nairobi County and the Minister for Environment to appear before the Committee of the Whole. Could he tell us what the Government’s - both national and county - blueprint is on environmental protection of all the wetlands of Nairobi, including the Nairobi Dam which used to have a fantastic sailing club? We used to go Nairobi Dam and fish. Fish would be fished from the dam and roasted there for you to eat. Today, we have a sorry sight.

What is the blueprint, given the knowledge that Nairobi is the international capital of environment, being the headquarters of the United Nations Environment Programme (UNEP) and UN-Habitat? Could the Chairman confirm to the House that it will cause the Governor of Nairobi and the Cabinet Secretary for Environment to appear before the Committee of the Whole for further and better interrogation on this matter?

Sen. Mutula Kilonzo Jnr.: Mr. Speaker, Sir, the matter of the Nairobi Dam is very serious. After reading this, I do not even think that the County Government of Nairobi has the capacity to deal with this issue. I would suggest that we go with the method proposed by the Senate Minority Leader, because this is a national disaster in itself.

When I was the president of the Rotary Club of Nairobi, we constructed ten ablution blocks in Silanga. I can tell you that even if they do 50 of them as proposed here, it is not going to solve the problem. For those who do not know, the purpose for the setting up of Nairobi Dam was to ensure that the fire department of the former Nairobi City Council drew water from it, to take care of fire disasters. I would, therefore, think that it is not enough to send Sen. Khaniri to do anymore research. There is nothing much he can do regarding this.

Sen. Khaniri: Mr. Speaker, Sir, once again my apologies to my good sister, Sen. Ong'era for the late reply. I gave to this House the reasons this answer did not come in time. The County Government of Nairobi has stipulated to us, in the answers that I have read, the measures that they intend to take to address all the issues that have been raised by the Members here, starting with Sen. Ong'era, Sen. Wetangula, Sen. Kembi-Gitura and Sen. Mutula Kilonzo Jnr. They have given the timelines within which we expect to see some results. So, it would be better if we could wait and see if they will be able to meet the timelines that they have given us. If nothing happens within the period that they have stipulated, we will still bring this matter here to be interrogated. But for now, they have given an elaborate plan on what they intend to do and we should be content with that.

Regarding the issues raised by Sen. Wetangula, indeed, it is true that I do not have the blueprint. That was not part of what I was researching on. If the Senator wants the governor and his executive member for environment to appear before this House, he knows the procedure. We will summon them here and they will be able to produce that blueprint.

Thank you, Mr. Speaker, Sir.

The Speaker (Hon. Ethuro): Hon. Senators, I tend to agree with the Vice Chairman. We call the Cabinet Secretaries when the Committee has expressed frustration that they are not satisfied with the information they are getting. However, in this particular matter, the Committee, as most of you have alluded to, is competent enough to get whatever information you need. Since there are timelines, I would agree with the Vice Chairman that we proceed along those lines. In any case, Sen. Ong'era put it very well that until the signs improve, that is when she will appreciate that something has been done. I think the proof of the pudding is in the eating, to quote David Frost.

I am satisfied that there is no need now to call the governor and his team. Let the Committee pursue the matter and when they feel that nothing much has been done, they can do so. In the meantime, and even more importantly, some of these suggestions can be directed to the Committee, so that they can process them as we determine progress.

Next Statement!

CRITERIA FOR APPOINTMENT/REGIONAL DISTRIBUTION OF APPOINTMENT TO PARASTATALS

Sen. Hargura: Mr. Speaker, Sir, on 30th April, 2015, Sen. (Eng.) Muriuki Karue sought a Statement from the Vice Chairman of the Joint Committee on Cohesion and Equal Opportunity regarding the criterion for appointment and regional distribution of the recent appointments to parastatals. In the statement he sought answers to the following questions:-

- (1) State the number of persons appointed from each of the 47 counties;
- (2) criterion followed in arriving at the regional distribution; and,

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(3) the names of the appointees per organization, giving the county and gender of each.

Mr. Speaker, Sir, before I read the response, I would like to seek direction from you because the answer that I have only addresses two of the three areas. However, I think that I can go ahead because the Member who sought the Statement said that I can read the answer that I have.

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

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

Mr. Deputy Speaker, Sir, the appointment to parastatals based on the number of persons from each county is as follows:-

Mombasa County, nine persons; Kwale County, four persons; Kilifi County, five persons---

Sen. (Dr.) Khalwale: On a point of order, Mr. Deputy Speaker, Sir. I am sorry to interrupt, but the Chairman is about to read out a very long list of names of people appointed to parastatals, the counties they come from and so on. Maybe it would be useful if he could share the list with us first. Could he lay the answer on the Table so that we can look at it and generate questions as to the constitutionality of the distribution by way of ethnicity, regional balance and, of course, county distribution?

The Senate Minority Leader (Sen. Wetangula): On a point of order, Mr. Deputy Speaker, Sir. I want to better what the distinguished Senator for Kakamega has asked; that the statement being given be tabled first and copies be availed to every distinguished Senator, so that we can interrogate it in greater detail and from an informed position.

The distinguished Senator for Nyandarua is a very honourable Member who is never known to act maliciously. However, I can also see this as a ploy to use menial appointments to small, unhelpful and moribund parastatals to mask the massive tribalism that the Jubilee Government is practising in this country; so that they can tell us that there are ten Samburus appointed to Ewaso Nyiro Development Authority, to mask the number of others appointed as Cabinet Secretaries, Principal Secretaries, Ambassadors and everything. I am not casting any aspersions on Sen. Karue because he is a very respectable Member, but I hope that this is not a ploy to sweep tribalism under the carpet; that is the official policy of this Jubilee regime.

The Deputy Speaker (Sen. Kembi-Gitura): Order! I am not stopping you from seeking the clarification you want. However, Sen. (Dr.) Khalwale has done it very well. All he asked for was the tabling of the list. There is no point of making a debate out of it at the moment. He has clearly stated that he would like to see the list tabled. That is what he said. There is nothing more to it than that.

Proceed, Sen. (Eng.) Muriuki. Is it on the same point?

Sen. (Eng.) Muriuki: Mr. Deputy Speaker, Sir, I agree with Sen. (Dr.) Khalwale that this list be tabled first so that everybody knows what it is all about. Secondly, I had asked three questions: One of them was: What is the criterion?

As much as Sen. Wetangula and others feel that people from Nyandarua County are favoured because they support Jubilee Government, it is far from the truth. So, I request them to wait for the answer. I do not understand the criterion which gave Nyeri County 13 people, Nyandarua County two, Migori County 2 and Kisii County 12. This has got nothing to do with supporting the Jubilee Government. The best way is to let this list be tabled. Photocopying that part of the list will take only a few minutes. However, I would still require part (b) of my question to be answered. It is not a Jubilee issue. My county is being marginalised in this aspect. So, let the question be answered, we take a few minutes, table the list and question (b) will be answered in another Session.

Sen. Billow: Mr. Deputy Speaker, Sir, because of the excitement some of us do not want to wait until the whole list is done, could he, in the meantime, read the 47 counties very quickly so that we know? Even as he tables we get to hear what exactly is happening? Otherwise, let us then do what he suggested; we make photocopies while we handle the other Statements. Probably, while doing so, we would have got all the lists.

The Deputy Speaker (Sen. Kembi-Gitura): Sen. Hargura, what exactly do you have? I have a cover letter and an Annex 1. Is that what you have or is there anything extra?

Sen. Hargura: Mr. Deputy Speaker, Sir, that is what I have; a cover letter and the three annexes.

The Deputy Speaker (Sen. Kembi-Gitura): There are how many names?

Sen. Hargura: Mr. Deputy Speaker, Sir, there are 291 names.

The Deputy Speaker (Sen. Kembi-Gitura): Do you have Annex 1, 2 and 3? Is that all you have?

Sen. Hargura: Mr. Deputy Speaker, Sir, that is what I have.

The Deputy Speaker (Sen. Kembi-Gitura): Where is the answer to the question? The question was in how many parts?

Sen. Hargura: Mr. Deputy Speaker, Sir, the question had three parts. One part was on the number according to annex 3. Part 2 was on the criterion, which I said, has not been answered.

The Deputy Speaker (Sen. Kembi-Gitura): It has not been answered at all?

Sen. Hargura: Yes, Mr. Deputy Speaker, Sir, the criterion is not there at all.

The Deputy Speaker (Sen. Kembi-Gitura): And then?

Sen. Hargura: Mr. Deputy Speaker, Sir, Part 3 of the question is on the names of the appointees which are captured in Annex 1.

The hon. Member has said that I can give him what I have first.

The Deputy Speaker (Sen. Kembi-Gitura): You can do what?

Sen. Hargura: Mr. Deputy Speaker, Sir, he says I read what I have. However, I had asked the Chair for directions whether I could give part of the answer or wait for the criterion.

The Deputy Speaker (Sen. Kembi-Gitura): The request being made by Sen. (Dr.) Khalwale is reasonable. The purpose of the statement in the House is so that---

(Sen. Wetangula consulted loudly)

Order, Sen. Wetangula! If I need your help, I will ask for it. I do not think I need it yet.

The purpose of a statement like this one is that all Senators, not just the ones who sought it, can interrogate it as necessary. Is it not?

I have heard what Sen. (Dr.) Khalwale and Sen. (Eng.) Muriuki said. I would propose that the Clerk's office makes the statement available to any Senator who wants to have it. Let them have a look at it, and then you can give the statement to be interrogated. That would stop any anticipation on the list that you have. I do not want anybody to say that they could not interrogate the statement that you will issue.

Sen. Hargura: Mr. Deputy Speaker, Sir, I agree. I will give the Clerk's office to make copies.

The Deputy Speaker (Sen. Kembi-Gitura): Tomorrow is a sitting day, is it not?

An hon. Senator: Yes.

The Deputy Speaker (Sen. Kembi-Gitura): Sen. (Eng.) Muriuki, I do not think that you will be prejudiced in any way if the answer is given tomorrow.

Sen. (Eng.) Muriuki: Mr. Deputy Speaker, Sir, it is better so that all the Members have copies. At some stage, he will still have come with an answer to part (b); what the criterion is.

The Deputy Speaker (Sen. Kembi-Gitura): Let us cross the bridge when we get to it. The answer to that statement is deferred to tomorrow afternoon. In the meantime, your statement shall be made available to the Senators through the Clerk's office.

(Statement deferred)

Next Statement! Is there any other pending statement?

Proceed, Sen. Mutula Kilonzo Jnr.

LIFTING OF THE MORATORIUM ON TIMBER HARVESTING
BY THE CS FOR ENVIRONMENT, WATER
AND NATURAL RESOURCES

Sen. Mutula Kilonzo Jnr.: Mr. Deputy Speaker, Sir, on a point of order. I have just consulted the Chairperson of the Committee on Land and Natural Resources. They were supposed to deal with two issues. One, was the pollution of Athi River in Makueni and Machakos counties. They have informed me that---

The Deputy Speaker (Sen. Kembi-Gitura): Sen. Mutula Kilonzo Jnr., sometimes I wonder whether the HANSARD captures you correctly because you speak very softly even when you are using the microphone.

Sen. Mutula Kilonzo Jnr.: Mr. Deputy Speaker, Sir, ooh, really? The Committee on Land and Natural Resources had undertaken to do two things. One, there was a question that I sought for on the Lifting of the Moratorium on Timber Harvesting in the Republic. The Cabinet Secretary in charge was supposed to come to a Committee of the whole House. That has not happened. As we do so, there are Kenyans who are harvesting timber in Mau forest. The scandal is yet to come. The second one is on Athi River Pollution in Machakos and Makueni counties.

The Deputy Speaker (Sen. Kembi-Gitura): Sen. Khaniri, do you have the answer?

Sen. Khaniri: Mr. Deputy Speaker, Sir, we have just consulted with the hon. Senator. On the second statement, which was on the pollution of Athi River in Machakos and Makueni, we issued the statement and the Senator made a request for the Committee to visit the site; which we accepted. I have just told him that we are available when we take the one month recess to make a visit there with him. We will liaise with him and, probably, agree on the appropriate dates.

The Deputy Speaker (Sen. Kembi-Gitura): Are you giving any timelines or you will agree?

Sen. Khaniri: Mr. Deputy Speaker, Sir, we can agree with him on the exact dates. However, it should be within the recess period.

The Deputy Speaker (Sen. Kembi-Gitura): I am asking that for the purpose of the House. When shall we get a response? We have to have a record on when it is possible to have a response to these issues in the House.

Sen. Khaniri: Mr. Deputy Speaker, Sir, definitely that would be the first or second week after recess.

The Deputy Speaker (Sen. Kembi-Gitura): Do you want me to give you the first or the second week?

Sen. Khaniri: Mr. Deputy Speaker, the second.

The Deputy Speaker (Sen. Kembi-Gitura): Okay, the second Tuesday after resumption from recess. What is the problem?

Sen. Mutula Kilonzo jnr.: Mr. Deputy Speaker, Sir, the second issue on lifting of the moratorium on timber harvesting in the Republic of Kenya has not been answered. Sen. Khaniri has forgotten that there is something happening in the country.

The Deputy Speaker (Sen. Kembi-Gitura): You sought a statement?

Sen. Mutula Kilonzo jnr.: Yes, Mr. Deputy Speaker, Sir, I did. However, they answered the question unsatisfactorily.

The Deputy Speaker (Sen. Kembi-Gitura): What was the order?

Sen. Mutula Kilonzo Jnr.: The order from the Speaker was that the Cabinet Secretary should be summoned to the Senate to explain the reasons the moratorium on the timber harvesting was lifted.

The Deputy Speaker (Sen. Kembi-Gitura): Sen. Khaniri does not seem to remember.

Sen. Khaniri, look at the HANSARD. Sen. Mutula Kilonzo Jnr. will assist you with the dates and then tomorrow afternoon, you should give an indication of when you may give the answer. It is an important issue. Is that okay?

Sen. Khaniri: Mr. Deputy Speaker, Sir, most obliged.

(Sen. (Prof. Lesan stood up in his place)

The Deputy Speaker (Sen. Kembi-Gitura): Sen. (Prof.) Lesan, are you seeking the Floor?

SEIZURE OF KENYAN IVORY IN THAILAND

Sen.(Prof.)Lesan: Mr. Deputy Speaker, Sir, sometime in March, I requested for a Statement from the Chairman of the Committee on Agriculture, Livestock and Fisheries and also from the Chairman for Committee on Finance, Commerce and Budget regarding smuggled goods that were found in South East Asia. My concern was about the packaging of the ivory that was arrested, packaged among exported tea. I had requested to know the circumstances under which tea was involved in smuggled contraband goods that were arrested in Thailand. To date, I have not heard any response from either of the Chairmen; the Chairman of the Committee on Finance, Commerce and Budget with regard to payment of duties to KRA and also why the tea was packaged together with contraband goods.

The Deputy Speaker (Sen. Kembi-Gitura): Sen. (Prof.) Lesan, that is the statement on ivory concealed in Kenyan tea which was supposed to be answered on 2nd of June?

Sen. (Prof.) Lesan: Yes, Mr. Deputy Speaker, Sir.

The Deputy Speaker (Sen. Kembi-Gitura): But the statement was sought from the Chairperson of Committee on Agriculture, Livestock and Fisheries?

Sen. (Prof.) Lesan: Mr. Deputy Speaker, Sir, when it was mentioned, the issue of payments of duties to KRA came up and it was supposed to be answered by the Chairman of the Committee on Finance, Commerce and Budget.

The Deputy Speaker (Sen. Kembi-Gitura): Sen. Billow, are you aware of this? Was this in your docket?

Sen. Billow: Mr. Deputy Speaker, Sir, I am not aware. No question or request of statement in that regard has been forwarded to the attention of my Committee.

The Deputy Speaker (Sen. Kembi-Gitura): Sen. (Prof.) Lesan, my record shows, and I have it in front of me that you sought the statement on 29th of April and it was directed to the Committee on Agriculture, Livestock and Fisheries. The next annotation is that the task force formed to probe the matter is not yet properly in office as the Cabinet

Secretary was suspended. The statement was to be issued once the Cabinet Secretary is reinstated. Are you aware of those facts?

Sen. (Prof.) Lesan: Mr. Deputy Speaker, Sir, I am not aware of what has transpired since I sought for the statement in the House. I only had one reply that the answer was not ready and that more time was given for the answer to be given. As regards to payment of duties to KRA, it was recommended that the Chairman of the Committee on Finance, Commerce and Budget be involved.

The Deputy Speaker (Sen. Kembi-Gitura): By who?

Sen. (Prof.) Lesan: I cannot recall quite exactly.

The Deputy Speaker (Sen. Kembi-Gitura): I have told you what I have on record. Where is the Chairman of the Committee on Agriculture, Livestock and Fisheries?

Sen. Ndiema: On a point of order, Mr. Deputy Speaker, Sir. This question was directed to my Committee. The answer was ready, but the day I was supposed to answer it, the Senator was not in. I ask your indulgence so that we can respond to it tomorrow.

The Deputy Speaker (Sen. Kembi-Gitura): Do you have anything at the moment?

Sen. Ndiema: Mr. Deputy Speaker, Sir, the answer is ready, but I do not have it on my table now.

The Deputy Speaker (Sen. Kembi-Gitura): Will you deliver it tomorrow?

Sen. Ndiema: Yes, Mr. Deputy Speaker, Sir.

The Deputy Speaker (Sen. Kembi-Gitura): Sen. (Prof.) Lesan, is that okay?

Sen. (Prof.) Lesan: Mr. Deputy Speaker, Sir, in the meantime, if I could be given the answer, it will be okay.

The Deputy Speaker (Sen. Kembi-Gitura): That is administrative. Is it okay you for the statement to be given tomorrow?

Sen. (Prof.) Lesan: Yes, Mr. Deputy Speaker, Sir.

The Deputy Speaker (Sen. Kembi-Gitura): I think that is the end of Statements.

Sen. Billow: On a point of order, Mr. Deputy Speaker, Sir. There are two statements on the Order Paper that the Speaker ruled yesterday that I should give the answer today whether or not the Member who requested for them is in the House. We have been coming with these answers. They have been on the Order Paper for a couple of weeks and the Member was not in. Yesterday, the Speaker gave a ruling that it should be on the Order Paper and we should give the answers whether he is in or not.

The Deputy Speaker (Sen. Kembi-Gitura): Do you have the answers?

Sen. Billow: Yes, Mr. Deputy Speaker, Sir.

The Deputy Speaker (Sen. Kembi-Gitura): I remember the Speaker making that ruling. Go ahead and give the answer to the statement if you are ready.

CRITERIA USED IN ALLOCATION OF UWEZO FUND
IN THE 47 COUNTIES

Sen. Billow: Mr. Deputy Speaker, Sir, the first statement was a request on Uwezo Fund sought by the Member for Tana River, Sen. Bule.

He sought the following:-

(a) An explanation on how much money was allocated to the Uwezo Fund in the financial years 2013/2014 and 2014/2014?

(b) An explanation on the criteria used to share the money in any county?

(c) How much money was received by Tana River County for those to financial years?

(d) An explanation on the extent the Fund has benefited the residents of that county?

(e) State the beneficiary of the Fund?

(f) State a list of the Uwezo Fund projects in each of the constituencies in the country?

Mr. Deputy Speaker, Sir, for questions (d), (e) and (f), there are extensive and very large attachments that are available. The Senator can collect them from the Clerk's Office. I will respond to the other issue that had been raised.

Article 21 of the Constitution of Kenya provides that all state organs and all public officers have a duty to address the needs of vulnerable groups in the society, including women, all members of the society, persons with disabilities, children, youth, members of minority and marginalized communities and members of particular ethnic, region or cultural communities.

I want to go specifically to answering the question; the money that has been allocated to Uwezo Fund for Financial Year 2013/2014 - a sum of Kshs6 billion was allocated while for the Financial Year 2014/2015, a total of Kshs390 million was allocated. The total was Kshs6.39 billion allocated for those two years.

The Deputy Speaker (Sen. Kembi-Gitura): Sen. Wetangula, you are pressing the wrong button.

What is your point of order?

The Senate Minority Leader (Sen. Wetangula): On a point of order, Mr. Deputy Speaker, Sir. I understand that there was a ruling from the Chair that the statement such as this can be given even in the absence of the questioner. If you look at this statement- I think we should not have rules of general application from the Chair.

The honorable questioner, the distinguished Senator for Tana River, has asked a question that is specific to his county, which means that he is the only Senator that would be competent to interrogate the answers given and what prompted him to ask the question. It is not fair because Sen. Bule is not a Senator who misses sittings, he is, probably, out of the country or he has something in the county. I do not think it will be too much to give him an opportunity so that the answer to the question is given for him to interrogate it adequately.

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We should not be so draconian to say that whether the Member is here or not, the statement must be given. In any case, if the questioner is not here two or three times, we should drop the statement.

The Deputy Speaker (Sen. Kembi-Gitura): Sen. Wetangula, the option with that is one, and it is very simple. There is the option to drop the statement which we hardly ever do because we keep at tab of the statement. The other one is for the Chairman of the Committee to keep coming here with uncertainty.

(Sen. Mutula Kilonzo Jnr. consulted Sen. Wetangula)

Order, Sen. Mutula Kilonzo Jnr! You are standing right in the line between me and the Senator I am addressing.

Yesterday, Sen. Billow, the Chairperson of the Committee on Finance, Commerce and Budget rose to give that statement because it has been outstanding for quite sometimes. If I recall correctly, and the HANSARD could bear me out, the person who has sought the Statement was not here. The Speaker ruled that the Statement be issued this afternoon regardless of whether the questioner is here or not. For the Speaker to have made that statement, it means that he has no knowledge that the Senator is out of the country like you have suggested. This is because, under the Standing Orders, the Speaker should know whether he is out of the country or not.

Therefore, we have two options; either to drop the statement which is a property of the House or Sen. Billow issues it. I will go with the order that was issued by the Speaker because I think that was you, Sen. Wetangula, who said yesterday that the Speaker should not make orders or rulings in vain. I, therefore, do not see why this one should be in vain. It is also important that when Senators seek statements which are important for them and their counties; they should pursue them, like I see other Senators pursue their statements so rigorously.

Sen. Billow, you have the freedom to continue and give the statement.

CRITERIA USED IN THE ALLOCATION OF UWEZO FUND IN THE 47 COUNTIES

Sen. Billow: Thank you, Mr. Deputy Speaker, Sir. Just to make things a bit easier for Members, I will read the particular areas which are of general application and, therefore, very useful. There are also a lot of attachments which I have not brought, which the Member can obtain from the Office of Clerk.

The first question was how much money was allocated to *Uwezo* Fund. I have explained that for the two years; the first allocation for 2013/2014 was Kshs6 billion and 2014/2015, Kshs390 million. The total is Kshs6.39 billion.

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On the question of criteria used to share the money amongst the counties, Section 18(1) of the Public Finance Management- *Uwezo* Fund Regulations, provides the criteria for the allocation of funds at constituency level as follows.

(a) A one-off three per cent for administration fee shall be charged on the total fund and retained by the board for the purpose of facilitating both national and constituency level administration.

(b) An amount not exceeding eight percent shall be earmarked for capacity building of the fund beneficiaries and groups.

(c) The balance of the fund is sent to the constituencies. Out of that, 75 per cent shall be allocated equally across all the constituencies. The remaining 25 per cent shall be disbursed based on the poverty index. That is the way it is shared out among the constituencies. The actual figures are in Annex 1, which is available in the documents at the Clerk's Office.

On the question of how much money was received by Tana River County for the two years, I have indicated there that they received Kshs55 million and Kshs 1.8 million, respectively.

On the question inquiring about the extent to which the *Uwezo* Fund has benefitted residents of the county, Kshs55.89 million was spent on development by that county and there is a detailed schedule on how it was spent; 352 groups benefitted from that.

On the question requiring me to state who the beneficiaries of the Fund are by constituency, name, Identification (ID) number and many others, Annex 2 provide the specific details of individual groups which benefitted, as well as a list of all *Uwezo* Fund projects in each of the constituencies of Tana River County.

Mr. Deputy Speaker, Sir, in brief, that is the statement that was sought by the Senator for Tana River County on *Uwezo* Fund.

Sen. Ndiema: Mr. Deputy Speaker, Sir, I recall that the statement sought was followed by another Statement which sought to know figures about other counties. Since we now do not have the benefit of the Annexes, can we in the same vein that we did for the previous statement, seek to have the statement and the annexes circulated or tabled, so that we digest them and then interrogate them?

The Deputy Speaker (Sen. Kembi-Gitura): Which previous one?

Sen. Ndiema: Mr. Deputy Speaker, Sir, the one by Sen. (Eng.) Muriuki

The Deputy Speaker (Sen. Kembi-Gitura): This is very different. It is specific to Tana River County.

Sen. Ndiema: Mr. Deputy Speaker, Sir, it is not specific to Tana River County. It concerns many other counties.

The Deputy Speaker (Sen. Kembi-Gitura): Sen. Ndiema, did you have a rider on it for Trans Nzoia County?

Sen. Ndiema: Yes, Mr. Deputy Speaker, Sir.

The Deputy Speaker (Sen. Kembi-Gitura): Is that correct, Sen. Billow?

Sen. Billow: Mr. Deputy Speaker, Sir, there is only one part of this Statement that sought the criteria used to share money among the counties. In explaining the criteria used, I said that Annex 1, which is available and is a bulky document, provides the list of the funds which have been disbursed for the 2013/2014 Financial Year for each of the counties, if he is interested. However, it is not something that was requested.

The statement is very clear in the questions that had been sought. There is nothing general for any other counties. Except for question (a) and (b), the rest is all specific to Tana River County

The Deputy Speaker (Sen. Kembi-Gitura): Sen. Kanainza, what is your point of order?

Sen. Kanainza: On a point of order, Mr. Deputy Speaker, Sir. When you look at the statement on the Order Paper, it stipulates that the Chairperson of the Committee on Finance, Commerce and Budget, is supposed to give a statement that is conclusive and affecting other counties. I also had a rider on this statement. I wanted to know how many youths per county have benefitted and what the allocation was per percentage of the *Uwezo* Fund.

The Deputy Speaker (Sen. Kembi-Gitura): Sen. Billow, I think that both Sen. Ndiema and Sen. Kanainza are right. If you look at what is on the Order Paper, it says that you are to give a statement regarding the *Uwezo* Fund allocation and expenditure across counties, including Tana River County. I assume that is the bulky documents that you say you have.

Sen. Billow: Mr. Deputy Speaker, Sir, the request that was sent by the Senate to the Ministry is very specific as listed. Apart from question (a), which is a general explanation of the allocation to the fund and (b) on the criteria, the rest are all specific. There is nothing else that has been forwarded to the Ministry to give a statement on. The bulky documents attached as Annexes are specifically referring to Tana River County and not any other county. The document on Tana River County alone is so bulky that I cannot even carry it. It gives a report of 392 groups and each group has over 10 people. Therefore, I may need a truck to bring for all the 47 counties.

The Deputy Speaker (Sen. Kembi-Gitura): Do you have the list?

Sen. Billow: I have the list for Tana River County on all the individuals who benefitted, in the specific projects, but not for the whole country.

The Deputy Speaker (Sen. Kembi-Gitura): Hon. Senators, I recall Sen. Billow saying this when the statement was first sought - correct me if I am wrong - that most of this information is available on the website. You may want it given, but I remember Sen. Billow telling Sen. Bule that he could get the information from the website of the relevant Ministry.

My point is that I do not want to protract an issue and burden the House with some issues like visiting the website and seeking a specific statement pertaining to your county of interest. That is the serious problem that I see. Most of this information is in the public domain.

Sen Okong'o: Mr. Deputy Speaker, Sir, sometimes you say that information is in the public domain and the Jubilee Government says they are digital. What is so difficult about providing the Chairperson with the information in a flash disk which can then be passed to the Senator who asked that question? Some of these Government websites are dysfunctional. We have our iPads here and some of them are dysfunctional.

When a Senator has raised an issue, it is very important that the Jubilee Government should rise to the occasion, be digital and provide the information digitally for the Senator.

Sen. Ndiema: Mr. Deputy Speaker, Sir, I do not know why there is so much urgency in disposing of this issue even when the Senator who asked it is not here. Perhaps, we can refer to the HANSARD. We asked questions, the Chairman undertook to respond and they were not only specific to Tana River County. I seek your indulgence that we give him more time for the response to come in a manner that we requested and that we are also given time to interrogate it.

The Deputy Speaker (Sen. Kembi-Gitura): The only reason I will accept your request Sen. Ndiema is because I do not have the benefit of the HANSARD as I sit here. I know you cannot make a statement to mislead the House.

The other reason, of course, is what Sen. Kanainza raised in the sense that as framed on the Order Paper, it talks about *Uwezo* Fund allocation and expenditure across counties, including Tana River.

It is for those two reasons that I may defer the issue. Sen. Billow says that he has tabled a list. Get the list and take your time to look at it. Sen. Billow, if it is convenient for your Committee and you, as the Chairperson, you can then give the response on Tuesday, next week. Is that okay?

Sen. Billow: Mr. Deputy Speaker, Sir, it is absolutely impossible to give a response next week. This is because looking at the one for Tana River County alone for one year, 352 groups benefited from *Uwezo* Fund. If you see what is written here per constituency then classified into youth, women and persons with disabilities and the list of projects, it is very thick. It is not practical that I will get this next week.

I urge Members to visit the *Uwezo* Fund website where you will get the data for your constituencies and counties. You can then ask questions if you have any. It is a tall order asking for the list of hundreds of thousands of every individual beneficiary just to see their names. The list is here and this is just for one county. I think it will be really---

The Deputy Speaker (Sen. Kembi-Gitura): Do you have something like that for all the counties that interrogated you?

Sen. Billow: Mr. Deputy Speaker, Sir, I do not have.

The Deputy Speaker (Sen. Kembi-Gitura): Then, this matter has to be deferred until such time as the Chairperson has the list and that can only be after the recess.

In the meantime, I will task the Clerk's Office to look at the HANSARD and see exactly what was required of the Chairperson of the Committee. If Sen. Ndiema is correct, then the Question shall be responded to in the terms of those others who may have ridden on it. Otherwise, we defer the response to the third Tuesday after the recess.

Is that okay?

Sen. Billow: Mr. Deputy Speaker, Sir, that is okay.

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

Do you have a response for Statement (c) on the Order Paper? I would like to defer it if there are riders on it too.

Sen. Billow: Mr. Deputy Speaker, Sir, the Statement is a request on the Constituencies Development Fund (CDF). Again, all the seven points that have been requested are on Tana River County. It is about how much CDF was allocated to Tana River County for 2013/2014 Financial Year, the number of projects which stalled and the ones incomplete, the amount of money allocated per constituency, how the money has been used, how much went to development and how much to bursaries. I will give the response and the attachments for Tana River County are also available. No other county submitted a request when the statement was sought. I can go on with it if you rule.

The Deputy Speaker (Sen. Kembi-Gitura): Does any Senator have an interest in this Statement like Senators had on the other one?

An Hon. Member: No.

The Deputy Speaker (Sen. Kembi-Gitura): You can issue the statement and it will be very nice if you summarized.

Sen. Billow: Mr. Deputy Speaker, Sir, his first request was to state the balance of money earmarked for CDF in Tana River County for 2012/2013. The allocation was Kshs282 million, but by 2013 March when elections were held, the balance was Kshs141 million in the CDF accounts of the whole county. The number of projects that were completed by March 2013 were 625. The total cost of money that went to Tana River County since CDF started was Kshs1,159,187,492.

There were 65 projects costing Kshs158 million which were incomplete by March 2013 when we went for elections. The amount of money allocated to CDF per constituency for the entire Tana River County in 2013/2014 and 2014/2015 is Kshs558.5 million for the three constituencies – Garsen, Galole and Bura.

The amount of money that has been spent on development out of the total amount of CDF for Garsen, Galole and Bura is Kshs279 million, Kshs251 and Kshs264 million, respectively.

A detailed analysis has been provided on which specific developments projects in health, water and so on and so forth. Clearly, 61.6 per cent of that money which is Kshs518 million was spent on education and the rest goes to the other activities. This is the amount of money used for bursaries, the beneficiaries and criteria. He wanted the whole list and it is here. The total amount used for bursaries was only Kshs37.49 million and the amount disbursed is given there and the list is available in the Annex 2 here.

Mr. Deputy Speaker, Sir, lastly, the amount of money that has been allocated to the counties for 2015/106 for Garsen, Bura and Galole combined is Kshs349 million.

That is the brief summary of the statement and the attachments are available.

The Deputy Speaker (Sen. Kembi-Gitura): Hon. Members, that is the end of Statements.

Hon. Members, we will reorganize the Order Paper partly because we do not have the requisite numbers for a Division on Order No.8. Again, we will stand down Order No.9 and Order No.10 for the same reason. So we will go to Order No.11 and resume debate.

BILLS

Second Reading

THE COUNTY ASSEMBLIES SERVICES BILL (SENATE BILL NO. 27 OF 2014)

(Bill deferred)

COMMITTEE OF THE WHOLE

THE COUNTY EARLY CHILDHOOD EDUCATION BILL (SENATE BILL NO. 32 OF 2014)

(Committee of the Whole Order deferred)

BILLS

Second Reading

THE PUBLIC APPOINTMENTS (COUNTY ASSEMBLY APPROVAL)
BILL (SENATE BILL NO. 20 OF 2014)

(Bill deferred)

Second Reading

THE UNIVERSITIES (AMENDMENT) BILL

(SENATE BILL NO. 31 OF 2014)

(By Sen. Mohamud on 15.7.2015)

(Resumption of debate interrupted on 21.7. 2015)

The Deputy Speaker (Sen. Kembi-Gitura): Who was on the Floor, Sen. Hargura.
Sen. Hargura: Mr. Deputy Speaker, Sir, I would like to support this Bill. I would like to thank Sen. Halima for coming up with these amendments. According to the Objects and Memorandum, these amendments are to create a liaison and coordination

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between the CUE and the county governments. Most of these activities will take place at the county level, whereas the initial Bill did not have issues addressing specifically the counties. The amendments seek to focus the objective of university education to the development of the counties by stating that one of the objectives should be the realization of the county economic and social development.

This will focus university curricular to make sure that they take into account the development of the counties. We are focusing on the counties as the centres of development. This will enable the counties attain their potential. This can be done by focusing on higher institutions of learning at the county level. When it comes to economic development, we have to look at the resources which are available in specific counties so that when we create universities in those counties, they have to focus on those particular areas and specialize in research that targets potentials of those counties.

For example, we have oil in Turkana, wind and solar energy in my county and other parts of this country which could be the next frontier in energy development. The Act must stipulate that the universities must focus on the realization of economic and social development of the counties.

In terms of social development, we know that unless we develop the human resource of a county then the development of that county will be limited because the participation of the residents of that county will also be limited.

The Bill addresses the functions of the CUE. It makes sure that the CUE under Section 5 will include the provision of university education in each of the counties. The functions should be county specific. When they perform their functions, they should also have the counties in mind.

My concern is what resources does the CUE have to ensure that public universities are established? There must be some way of funding this CUE. It must have influence in allocation of funds for development of higher education so that it can direct that universities be established in the counties where we do not have them.

I do not know of any university, especially in the northern part of this country which has been established. This may be due lack of facilitation of the CUE to start a university there. We need to facilitate the CUE to make sure that it attains what is required under Section 26 of the Universities Act. The Bill goes ahead to state that the CUE should liaise with counties. Counties will be involved in capacity building of universities. Counties will also provide land. For example, in my county, we have been approached by Dedan Kimathi University from Nyeri County. We are ready to provide land so that it opens a branch in Marsabit County.

Counties will also advise the CUE on what the university should specialise in so that there is no duplication of courses. Of course, the university has to offer some basic degree courses in education. Right now in our counties, we do not have graduate teachers because of insecurity.

Mr. Deputy Speaker, Sir, we need to urge counties to also participate in setting a firm foundation as far as the education system and other aspects. Since they are in charge of the pre-primary education, they have to make sure that they lay the foundation

properly. The national Government must provide free primary and secondary education to our children in all counties. This is because we are experiencing a case where we have unequal access to education.

The entry point to universities for students from the marginalised areas is lower than other parts of the country. Therefore, the national Government has to make sure that there is equality in terms of infrastructure and teaching staff. In most cases, schools in the marginalised parts of this country, including arid areas, are understaffed. The situation has been made worse by the recent insecurity in northern parts of this country. As a result, the teaching staff pulled out of the former North Eastern Province. I am sure the situation will get worse when students begin their examinations. That has to be improved on so that universities get the necessary enrolments, preferably, from those areas.

The reason we need to have a university in each county is for students from marginalised areas to access university education. If the lower levels of education are not properly developed, then, universities in some parts in this country will still enroll students from other parts of the country. This is because the ones from those counties will not have attained the minimum entry level which is a C+. Whereas county governments are mandated to oversee education at lower levels, the national Government must make sure there is education infrastructure in all counties.

Mr. Deputy Speaker, Sir, in the past 10 years, this country has witnessed mushrooming of universities. We have been upgrading tertiary colleges such as a medical training college, a teachers training college or former technical schools into universities. We have actually lost the opportunity to train the real movers of our economy. Our economy is driven by Jua Kali artisans and technicians.

Being an engineer, I know that in a road construction site, we could have one or two engineers. However, there are more than 20 or 30 inspectors and technicians to monitor the actual construction. It is a pity because we are no longer training that cadre. Therefore, the sooner we establish more tertiary colleges in counties, so that we develop necessary skills, the better. We should not continue upgrading colleges to universities and lose out on the middle level manpower required, who are the actual builders of the economy. In that way, we will have a balanced education system and manpower within the country and we could easily develop our economy.

Mr. Deputy Speaker, Sir, I beg to support the Bill and thank the Mover. This Bill will go a long way in making sure that counties participate in the development of universities. We want universities in counties which will offer tailor-made courses, taking into account the recent discovered natural resources. This is the only way our people will benefit.

Sen. Lesuuda: Mr. Deputy Speaker, Sir, I would like to congratulate Sen. Mohamud for bringing this Bill; the Universities (Amendment) Bill (Senate Bill No. 31 of 2014). This Act will be in line with devolution. We would like to see services, including education, reaching every person at county and local levels.

Mr. Deputy Speaker, Sir, it is important to note that it is not just a matter of ensuring that education at the highest level is devolved in the spirit of devolution.

However, it is also important that we see that quality education is emphasised in our universities.

Mr. Deputy Speaker, Sir, when we started having constituent colleges in our counties, it raised a lot of questions whether it was about having the universities or whether they were meeting the needs of Kenyans. The issue also brought about a debate of whether everybody should go to a university or there would be some technical training institutes to accommodate some people and train the expertise needed by our counties.

Mr. Deputy Speaker, Sir, our universities can take or incorporate all courses into the learning process so that it is not just so much of theory going on, but we are also able to produce innovative graduates. The market is ready for innovation. What will move this country further are not graduates who will be job seekers. That is why we have very many disillusioned young people or youth who have graduated and have certificates, but do not know where to take them. We also have to agree that both the public and the private sector might not have the capacity to absorb all the graduates that we have in this country.

We churn out thousands of them every year from the many universities that we have right now. Where do we want them to go? We should capacitate them so that they can employ others. They should come up with innovative ways of dealing with the many challenges that we face as a country. They should boost and stir our county economically.

Also, there are different issues that affect different counties which can be dealt with at the county level. I agree with what the Senator for Marsabit has said; that there are resources that are being discovered in the counties. The students who will be researching about these resources can transform the counties by ensuring that they benefit the locals at the county level.

Mr. Deputy Speaker, Sir, we know that there are areas which are not doing very well, especially the northern part of Kenya, where there are issues to do with livestock keeping. That is one area that we need to do a lot in terms of research, education and building capacity. This is an issue that our universities and even the Commission for University Education (CUE), when looking at the curriculum, can address. Livestock keeping should be enticing so that it is not just about veterinary medicine, which is very important, but also the whole management of livestock. We also have other resources which have not been tapped, for example, oil and gas.

The people from those counties where these resources are based would really love to have easy access to education, meaning that they would even want to have these universities closer to them at the county level, to offer the relevant courses. So, it is very important that we take these matters seriously. It should not end just in discussing and passing them here.

We should urge the CUE to work closely with the county governments and know what their needs are in the curriculum. This will ensure that our counties achieve their best. The CUE should also work with the counties to ensure that special bursaries are provided to sponsor students from those counties to pursue courses in special areas like medicine and engineering. Once they complete their studies, those students will build

their expertise and empower the counties by giving service. Therefore, this Bill will ensure that services are taken closer to the people at the county level.

Mr. Deputy Speaker, Sir, with those remarks, I beg to support.

Sen. M. Kajwang: Thank you, Mr. Deputy Speaker, Sir, for this opportunity. I would like to start by congratulating Sen. Halima for bringing this amendment. There has been a law that requires the CUE to establish universities at the counties but what has been lacking is the link between the CUE and the county governments. What this amendment seeks to do is to bring in that link, so that as we set up universities in the counties, the governors and those involved in our counties are also involved in some way.

Mr. Deputy Speaker, Sir, the location of universities has traditionally been skewed in favour of certain parts of this country. If you look at the older universities, University of Nairobi is in Nairobi County, Moi University, Uasin Gishu, Kenyatta University in Nairobi County, Jomo Kenyatta University of Agriculture and Technology, in Kiambu County and Maseno University in Kisumu County, even though I know that my good friend from Vihiga claims that it should be in Vihiga County.

Certain areas have benefited from the location of universities. I went to Moi University which opened up a significant part and created a lot of opportunities in the Uasin Gishu County economy. It was positioned in a small village called Kesses. Moi University over the years has really transformed and improved the fortunes of the people of that region. When we make it a requirement that we should have universities in all the counties, we are opening up these immense opportunities to all parts of this country.

Mr. Deputy Speaker, Sir, county governments have attempted to set up universities as flagship projects. Unfortunately, they have encountered opposition. Of course, when they fall back to the Constitution, it says that higher education is a national Government function. So, even in cases where the governors have felt that they have got adequate land and resources to set up universities, it has not been possible for them to initiate and proceed with those noble ideas.

Members of the National Assembly have also attempted to use the Constituencies Development Fund (CDF) to try and come up with universities at the counties. In Homa Bay County, for example, we have seen the Members of the National Assembly coming together and contributing some money out of the CDF kitty, so that out of eight constituencies within the county, they can start with some seed capital. But a university is not a cheap affair. You cannot start one with Kshs80 million, even if each constituency was to contribute Kshs10 million to the initiative.

I agree with a Senator who has spoken here, that when we say that the CUE shall establish universities in all the counties, we must also ensure that Parliament collectively allocates resources and provides the requisite funds to see to it that these universities can be set up. We are attempting to set up a constituent college in Homa Bay County called Tom Mboya University College. This college seeks to immortalize Tom Mboya, one of the great sons that Homa Bay has produced. The thinking is that when we set up a university at the county level, then it should focus on local problems, research and policy that are out to address the problems faced within that county.

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In a county like Homa Bay where agriculture is one of the main activities, we expect that this university college, once established, shall be a leading centre that will focus on agriculture, aquaculture and horticulture. The fish stock in Lake Victoria is dwindling, yet there are certain basic innovations that can be undertaken to ensure that our fishermen do not have to pray that they are going to find some fish in the lake.

One innovation that Jaramogi Oginga Odinga University has been doing in Lake Victoria is to try and encourage cage fish farming. When you go to the lake, you put in a cage and fingerlings. You feed them in a natural environment. This will ensure that everytime you go to the lake, you are sure of what you are going to catch. There is a lot of uncertainty in the fishing business, because a fisherman's biggest tool is prayer. He prays that when he goes to the lake, there will be some fish close to the traps that he has set. But through cage fish farming, fishing becomes more predictable and can be run as a business and provide employment for our women and youth. These are some of the areas of research that we expect when we set up universities at the counties. We expect that they will look at those local problems.

Mr. Deputy Speaker, Sir, Lambwe Valley is one area that used to be infested by tsetse flies. In fact, our political history has it that the Nandis who resisted British occupation were sent to Lambwe Valley, so that they could be dealt with by the tsetse flies. Many of them died there. We need to start some groundbreaking research on tsetse fly, particularly from the university that will be positioned in a county that suffers from tsetse fly and trypanosomiasis.

In Homa Bay County, we have some of the highest HIV/AIDS infection rates. So, when we set up a local university, we expect that we will put a lot of focus in doing research to find ways of reducing the spread and change certain cultural practices that make some parts of this country more vulnerable to the HIV/AIDS scourge.

Mr. Deputy Speaker, Sir, in my view, agriculture is one of the best ways of creating employment in this country. Already it is the leading employer in this nation. Unfortunately, agriculture seems to be thriving on auto pilot. We are not investing or doing enough research. Even the little research that we do, we do not convert it to practical solutions for our farmers. So, when we have more universities in this country, I hope that we will invest in trying to come up with solutions to the problems that directly affect our people.

Allow me to talk about the quota system of education in this nation. I said this cognizant that we have students sitting in the Public Gallery. The quota system of education is a double-edged sword. You can imagine a young child born in Kabondo and goes to nursery school in Kabondo, goes to primary school in Kabondo, goes to high School in Kabondo and then goes to Kabondo University in the same village. When that person comes to Nairobi, and he or she is told that there is someone from Nyamira, he or she might believe in old stereotypes and think that the person from Nyamira might even eat him or her up. When he comes to Nairobi and finds people who subscribe to different religious beliefs, that is the starting point of some of the intolerance that you see in this

country. If you are in a village for far too long, you tend to believe in some of those stereotypes that are peddled about other people.

We must ensure that even as we set up these universities in the counties, we do not create a situation where we will end up with some “ethnic nationalism” where we will ring fence and block our brothers and sisters from getting opportunities outside. Therefore, I hope we are very clear in our thinking. When a university is set up in a county, for example, Laikipia, we are not saying that it is only students from Laikipia who will go there. The admission process must be opened up. We should allow people from other parts of the country to go, integrate and benefit from the opportunities in that county.

Mr. Deputy Speaker, Sir, at the same time, I see a real danger. We are killing technical institutes so that we can bring up universities. There is nothing wrong with establishing universities. However, at the end of the day, the transition rate, those who score grades that can allow them to get to the universities is far much less than those who score lower grades. Technical universities and village polytechnics are areas that we must look at.

In my county, we have seen a situation where we want to convert the farmers training centre into a university. The local residents have raised genuine concerns. If you convert this into a degree awarding institution, then what happens to the farmers who previously benefited from the training offered there? We should not kill technical institutes so that we fulfill our desire to have a university in every corner.

The CUE has let Kenyans down in certain aspects. I say this with reference to the ongoing debate on accreditation of engineers. Once the CUE has approved a course or programme at a university, then students have been admitted through the Kenya Universities and Colleges Central Placement Service (KUCCPS) that took over the role of the defunct Joint Admissions Board (JAB); students have sat in class for four, five or six years only to be told after graduating that the course they did is not accredited by some professional body.

The CUE must consult with these professional bodies so that hundreds and thousands of our brothers and sisters whose parents have slaved to pay their school fees and university fees are not dumped in the streets after acquiring what they expected to be legitimate education. I hope that the issues that have been raised over accreditation of courses from some public universities will be sorted out quickly. When doing so, the best interests of the students must be given priority.

Mr. Deputy Speaker, Sir, the way we have handled this issue of accreditation reminds me of the way we have been running around over second general alcohol. In fact, I can comfortably call these courses that we now disown, “second generation” degrees. Competent bodies approved them only for them to be rejected at the last minute.

Similarly, with second generation alcohol, the Kenya Revenue Authority (KRA), Kenya Bureau of Standards (KeBS), county governments and all competent Government bodies have made certain approvals for some organisations to manufacture hygienically, and in quality controlled environments alcohol which is safe for consumption, then we

decide to act like some drunk mobs; go around destroying property in the name of fighting second generation brews. We must now stop this “second generation” thinking so that we ensure that once due process has been followed, Kenyans can sleep safely. knowing that their business or education will be protected.

Mr. Deputy Speaker, Sir, I support this amendment. However, at the Committee stage, I will propose further amendments. If you involve the county governments in the establishment of these universities, it would only be fair to create a provision in the council which is the highest decision making organ in any university, for the governor or his representative to get a seat in the council.

We need to look at Section 36 of the Universities Act and ask ourselves whether we should allow the governor of the county in which the university is headquartered to be a member of the council. For example, the Governor for Nairobi County would then have a seat in the council of the five public universities that are in Nairobi. We need to strike a balance and see how that goes. Right now, the appointees to the council are direct from the national Government. There is absolutely no role that the county government plays.

As I said, we need to ensure that even employment and admission needs to be balanced. We do not want to create small cartels where we say that only people from the local communities can be employed in these universities.

Finally, we must also look at the allocation that the Government gives to Higher Education Loans Board (HELB). For example, if you create 23 additional universities countrywide, the assumption is that we will also increase the number of students who will join public universities. It is a sad thing that the HELB that serves hundreds of thousands of students was allocated Kshs4.9 billion in the last financial year while the National Youth Service (NYS) which serves 30,000 Kenyans was allocated Kshs25 billion. We must start to think about our priorities. Agriculture which is the largest employer in this country and accounts for 27 per cent of our GDP got just Kshs46 billion. We need to put our money in the right place if we want this country to go in the right direction.

With those remarks, I beg to support.

Sen.(Prof.) Lesan: Mr. Deputy Speaker, Sir, first, I congratulate Sen. Halima for bringing this amendment. On the outset, I support the idea of having a university in every county. However, we must be careful about certain things. Although, we desire to have equitable distribution of universities in our country, we must give careful thought on the establishment of universities.

A university is not another primary or secondary school around the corner. It is one of the serious institutions where we culture and improve the knowledge which we will use to develop and move our country forward. It is important that careful thought is given to the establishment of universities. In consideration of these facts, we should establish universities in counties progressively over a much longer period of time so that we can satisfy those conditions which are required to establish a university.

For example, the universities will grow when you establish them. Therefore, the basic thing of land size required to establish a university matters. As it is at the moment, the universities are established on 50 acre pieces of land. For universities to be

meaningful and grow, they will require larger pieces of land than what is being provided at the moment. That is why I suggest that careful thought is given in establishing universities so that even those that have been established on 50 hectares of land will have room to expand. We know of universities that occupy as large as 200 hectares or, 300 to 800 hectares of land or even bigger. Some cities in the world are university cities because they entirely occupy the city. We should have that consideration in our country for that.

Mr. Deputy Speaker, Sir, in my county, we have been fortunate because we have negotiated with the Commission for University Education (CUE) to establish a university in Bomet County. We have carefully thought about it and we have avoided the serious mistake which we have made of converting middle level colleges to universities. We have established a university on a new ground. We will put up new structures for the university to preserve the middle level colleges that we have in the country. We are aware that this country is not progressing as it should because of lack of middle level personnel who are the technical people who would drive and build the economy of this country.

We should be careful and all counties should look at these aspects and preserve the middle level colleges that are existing. There is also the question of relevance of the courses; this country is known for producing graduates. This year, we are going to produce about 58,000 graduates. It is so important for the economy of this country that we produce relevant qualifications on our population or graduates.

Mr. Deputy Speaker, Sir, many times we produce individuals that are seeking to be employed. It is important that we start to produce individuals that are deployable and that are ready to be deployed. This is very important in the way we choose the courses that we have. I am very happy that the CUE is coming in to not only look at the quality of the courses being offered but also the relevance of each of courses that are being offered. It is very important for the relevance of the courses to be aligned to the natural resources that we are continuing to establish, so that courses like mineralogy, hydrology, marine studies and petroleum industry studies, which are new and relevant courses and are the kind of courses which should be established.

We want to use our universities for what they are for. They are areas of research where we establish new knowledge that can be utilized in the short term or in the long term. It is very important for the CUE to help the existing universities and the new university to increase the depth of knowledge that is established in the universities by improving on funding research. In this country, we spend less than 1 per cent of our Gross Domestic Product (GDP) on research. This is a very insignificant figure considering how much we would establish in doing research and how much we could know by doing research.

For example, there is the big question of food security in our country and in most of our neighbouring African countries. We can improve on areas of food security by research and have new sources of food. We know that traditional foods are very rich, unexplored and are within our reach. We would like to have research done at the university level to establish new sources of food that we could use in our countries, and universities are the ones to do this.

Mr. Deputy Speaker, Sir, in the area of engineering, we know that at the moment, our education leaves a lot of room for us to suspect that we could do much better. I remember one incident in our educational system where a young boy in Kiambu made a contraption of what he called an aeroplane. He actually ran it across the school field ready to take off. Unfortunately, the aeroplane did not take up to the sky and it crushed at the end of the field. What dismayed and disappointed me seriously when I saw the incident is that the area chief arrested the boy.

This incident is one of the major turning points why we do not have a Kenyan-made aeroplane. This is because there is no initiative or appreciation of original knowledge that is within us and we cannot capture and use it. This is what we want our universities to do. We want our universities to nurture, encourage and finance initiatives so that we could use our engineering skills and innovation as an economic activity and an export product for our country.

Mr. Deputy Speaker, Sir, universities should identify talent and use it. There is a whole area of traditional medicine, especially in the pharmaceutical area. Universities which have extensive research come to our country to collect material which is used for the most needed; the first level cadre of medicine which is used to heal people is collected from our material, particularly, there is a fungal product which is harvested in the hot water springs of Baringo County. It is the only place where you can find them in the world. That product is used in drug manufacturing company in the United States of America (USA). That product is exported and it is a huge economic activity. It is beyond our universities to lift research to that level.

In that respect, I request the CUE to make universities to be good at something. We have many universities but we do not know what they are good at. Some years back, we knew that if you went to Makerere University, you will be probably a very good doctor. If you went to the University of Dar-es-salaam, you would probably come out as a good lawyer. The Technical University of Kenya (TUK) was known for engineering. It is important for the university set up in the counties to strive to enhance the quality of research that is going on.

I know that we have a big challenge in handling personnel in our universities. We already have serious challenges on how we deploy our personnel and their expertise. We do not lack experts in the county but it is the way we deploy them considering our ethnic sensitivities and how we feel about our deployment that has a challenge. I hope that the CUE will address the way we deploy our personnel in the whole country in a wholesome and professional manner so that we do not have incidences which we have had in the past.

I have personally been exposed to incidences where Prof. Langat was sent to Kisii University but he was rejected by the community. Prof. Serem was sent to Narok University and he was rejected by the community. Currently, we are fighting a big problem where a similar thing has happened in the Technical University of Eldoret. I hope that the CUE would sort out these kinds of issues so that we deploy our best personnel in the most appropriate places and advance the university in the country.

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Mr. Deputy Speaker, Sir, with those remarks, I support these amendments and I hope that the Bill will go through and be one of those Acts that we value.

COMMUNICATION FROM THE CHAIR

VISITING DELEGATION OF TEACHERS AND STUDENTS OF
CHIAKARIGA GIRLS HIGH SCHOOL
AND IYUNI HIGH SCHOOL

The Deputy Speaker (Sen.Kembi-Gitura): Hon. Senators, before we proceed, I wish to recognize the presence of the students and teachers from Chiakariga Girls High School from Tharaka-Nithi County and Iyuni High School from Machakos County, who are visiting the Senate today and are seated in the public gallery. As you all know, the tradition of receiving and welcoming visitors to Parliament is a long standing tradition and one that we shall endeavor to continue upholding. On behalf of the Senate and on my own behalf, I extend a warm welcome to the students and teacher of both schools.

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

The Senate Majority Leader (Sen. (Prof.) Kindiki): Thank you, Mr. Deputy Speaker, Sir. I just want to add that the tradition that we are developing here of students and county assemblies coming to the Senate is one that we cherish. Personally, I commend the leadership of the Senate and the Office of the Clerk for facilitating this visit. I am particularly elated to note that one of the schools in the Gallery today, Chiakariga Girls High School, is from Tharaka-Nithi County, which I represent in this House. I commend and encourage the administration of the Senate to continue facilitating the study tours and visits to this House so that our students can be inspired and learn from this House.

The Deputy Speaker (Sen.Kembi-Gitura): Thank you Senator. The students and teachers from Chiakariga Girls High School also need to know that their Senator is the Senate Majority Leader. I think that is important for their civics lessons.

Please proceed, Sen. Gwendo.

(Resumption of debate on the Bill)

Sen. Gwendo: Thank you, Mr. Deputy Speaker, Sir, for giving me a chance to add my voice to this Bill. First, I take the opportunity to congratulate Sen. Halima for bringing such an important Bill that affects most of us. This is considering that with education, everything is possible; we can improve the economy, and ourselves, socially and career-wise. I would like to refer to one of the objectives of university education as stated in the Bill which is “Support and contribute to the realization of national, economic and social development.” This is a very important point in the development of the economy of the country and the counties. I am looking at university education as playing

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a very important role towards this, considering that if we establish universities in the counties and looking at the uniqueness of each county--- A good example is Kisumu and Homa Bay counties. As Sen. Kajwang stated, we have our own uniqueness in fishing. We can then create courses that concentrate on, for example; making fishing nets, improving fishing skills and many other things that are unique to these counties.

Mr. Deputy Speaker, Sir, that can also be applied to other counties and when we specialize in skills that are specific to a county, we will produce professionals and not just university graduates who are not specialized in something and therefore cannot develop themselves. This way, we will be improving the economy of a county and that of the whole county.

Mr. Deputy Speaker, Sir, I look at the benefits of a university as having the following three points; career, social and personal benefits. When you look at the social benefits; with university education, one can be wise, and in this way contribute to poverty eradication.

I say this because when one has acquired a university degree, for instance, on economic management, that person can make wise decisions with regards to his money, family and contribute to the economy of his county thus reducing poverty. Without university education, a lot can be lost. As we look at these amendments, we also need to think clearly on whether we are going to produce professionals or graduates who just flood our job market. That is why I insist on the fact that we need to create courses that are unique to each county, considering the uniqueness of each county.

I beg to support.

The Deputy Speaker (Sen.Kembi-Gitura): Is there any other Senator seeking the Floor?

Sen. G.G., are you “Temporary Card No2?” Do you not have your card today?

Sen. G.G. Kariuki: I have a card but it has a problem

The Deputy Speaker (Sen.Kembi-Gitura): It does not indicate here that you are seeking the Floor.

Sen. G.G. Kariuki: I shifted to two places and I had to ask a Clerk-at-the-Table to assist me.

The Deputy Speaker (Sen.Kembi-Gitura): Would you like to contribute to the debate?

Sen. G.G. Kariuki: Yes, Mr. Deputy Speaker, Sir.

The Deputy Speaker (Sen.Kembi-Gitura): Please, proceed Sen. G.G. Kariuki

Sen. G.G. Kariuki: Mr. Deputy Speaker, Sir, the intention of this Bill is very unique and important. I congratulate Sen. Halima for bringing this kind of a Bill. I think that she took a lot of time to think about it. She looked at education in totality and came out with a Bill that can guide or improve this country. Our intention is to improve our education and most importantly, devolve university education. The decision is going to be shared by the Commission on University Education (CUE) and the counties. We can have all the universities we want, but I do not think that universities should be treated as

primary or secondary schools. This is because it is very expensive to put up a university that has all the requirements to make it worth its name.

We all know that we lack adequate research in our universities today. If the county or national Government cannot take research as the most important thing in our development, we will remain consumers. It is a high time we invested in research since we have been independent for 50 years. We should produce a number of things that other people can buy and learn from us.

I think that if we keep being dependent of others, if you look at majority of the things that we are using, you will realize that we are just consuming from others. It is important for any university to do research. We have the best professors and lectures and the Standing Orders, research can only be done by well managed universities. We have private universities mushrooming everywhere; it has now become a kind of commercial enterprise.

Mr. Deputy Speaker, Sir, we have to be careful not to add more problems to a problem. We have to manage the private and public universities that we have because, there is a major problem. With new technology, a student does not need to go to school. He or she will just sit in the house and later ask his friends what they learnt that day and they can even send you answers while in the classroom.

We are going to areas that we do not understand and with the fame that we have for corruption, I think we need to think very hard. This does not imply that this Bill should not be there or that it is not important. This Bill is only making sure that both county and national Government come together and decide what should be done in terms of considering the advancement of knowledge. That is a fact and it has to be done. It does not even require registration although nowadays everything must be registered. It is easier to handle this matter the way it should be because university education is under the national Government.

However, I need to ask a question and I am happy that the Senate Majority Leader is here. In my few years in this House, we have passed several Bills – several papers like these ones because they have never been assented to – but how many have been assented to by the President? That is a big question. Sometimes you want to sit down and draft a Bill but when you look at the way things are going, you find it a problem. This does not mean that Sen. Mohamud, our colleagues and even myself should stop trying to bring in some Bills.

Mr. Deputy Speaker, Sir, the amount of money that developed nations spend on education in engaging, the best professors or researchers and other things that they do shows that it is a priority. In this country, when you think about the county education system, the mentality of ethnicity creeps in all the time. I agree with my friend from Homa Bay County that if a person goes to school from nursery up to university just in the area he was born, no matter how trainable, he will still think he is inadequate when he or she mixes with others.

There are good examples that I have seen. Students who are educated in the United States of America (USA) or United Kingdom (UK) do not necessarily get the best

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education. However, they even get jobs easily than those who have been trained in Kenya which is most unfortunate. It is because they have very strong expression of language which gives them an upper hand because an employer will think that they know better than others. These are things that we need to look at in this nation. Let us not trivialize our knowledge because we have it but let us now support it with finances and whatever we have.

Again, with university education, people should not just think that you are good because you are a graduate of a certain university in Kenya or London. It does not matter how many degrees you have if you cannot do anything to prove that you have something. Use the knowledge that you have acquired to assist your people and not just brag about your three or four degrees. They do not matter. What matters is what you can do with the little knowledge that you have and how to prove it. These days you are not supposed to be confined in the university to learn whatever you want to do because there are so many opportunities unlike during our time.

Mr. Deputy Speaker, Sir, sometimes when my children find me studying in my library, they ask me if I need all the books and I tell them that I do. They then tell me that my head will go haywire because there are machines which can tell me all the things that I want. You then wonder what kind of education that is. You ask somebody to calculate figures mentally and they start looking for a machine. By the time they get the machine, you will have already gotten the answer. There is something wrong.

If we follow the Western or Eastern pattern we will go wrong. The Speaker does not need to go anywhere to learn legal matters unless he wants to be an international lawyer. We understand our problems and my friend, who is a professor in law definitely understands what we want. The only thing that he does not have is equipment and facilities. We can do anything but we are just told like it is magic. Somebody is a doctor and he becomes a magician all of a sudden. It is because we do not have facilities to improve on our education. Such a Bill would not have come if we were critical enough to discuss our weakness and then forge ahead.

I had promised not to take a lot of time and I beg to support my dear daughter.

The Deputy Speaker (Sen. Kembi-Gitura): Thank you, Senator. Sen. Mohamud, you may now wish to reply.

Sen. Mohamud: Mr. Deputy Speaker, Sir, I thank my colleagues for supporting this Bill. Indeed, this amendment Bill has generated a lot of interest. As you are aware, I moved this Bill last Wednesday and we started debating it. We continued yesterday and today, and I am now replying. I thank my colleagues again for supporting it.

A university is a national institution. When we request for establishment of a university in each county, we also request that the university should reflect the face of Kenya. By that I mean, if we establish a university in Laikipia, students from Wajir or Homa Bay counties can be admitted to that university now that we have the Kenya Universities and Colleges Central Placement Service (KUCCPS) and the normal process that used to be there. I am also requesting that the same is reflected in the recruitment of staff and personnel.

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Mr. Deputy Speaker, Sir, *as we speak*, 21 counties do not have a single public university. I am sure you understand what those counties are lacking because the objectives of the universities are clear in the Bill. They include promotion of learning in the students' body and the general society. That is why we require universities in every county. The reason why we came up with this Bill is as a result of the Motion that we passed sponsored by Sen. (Dr.) Khalwale and the need that we saw as a Committee when we toured the counties. We have travelled to over 35 counties in this country and as a result of that, we came up with this Bill.

The concerns raised by hon. Senators are very valid. You know the challenges that we are facing in our universities and I think some Senators like Sen. (Eng.) Muriuki have sought Statements on the issue of accreditation of the Technical University of Mombasa. This is a challenge. You also know what happened at the Technical University of Eldoret and in Bomet. I am sure if the Commission on University Education (CUE) whose function has been highlighted here were serious on their functions and mandate, all these issues could have been addressed.

Now that we know that this is a national function, what we are requesting is liaison and coordination between the CUE and the county governments so that the issue of establishment of universities becomes consultative in order to avoid these problems that we are facing at the moment. The Bill is seeking that the Commission reports progress to Parliament so that we see the progress they are making in the establishment of the universities. If we establish universities in every county, specialized research will be improved.

As you are aware, needs of each county are varied. We know that in Turkana there is oil which has been discovered and I know the needs for Turkana County might be different from the needs of the coast region that normally deals in fishing. By establishing the universities, research would be done extensively and the economy of that specific county and the nation in general will improve.

Mr. Deputy Speaker, Sir, the concerns raised by Senators will be enriched by the amendments that will come at the Committee of the Whole stage. During public participation, it was clear that it was challenging to convert all the technical institutions into universities because we know that it is in these institutions that the skills are being imparted into our students.

With those few remarks I beg to reply and request under Standing Order No.54 (3) to defer putting of the question to any time that may be convenient to the Chair.

Thank you.

The Deputy Speaker (Sen. Kembi-Gitura): That brings us to the close of the debate on the Second Reading of The Universities (Amendment) Bill (Senate Bill No. 31 of 2014). As you have correctly stated under Standing Order No.54, I will defer the putting of the question to such a day that we have the threshold on which we can then have a Division on this Bill.

(Putting of the Question on the Bill deferred)

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It will be on the Order Paper subsequent to this date.

I am going reorganize the Order Paper such that we are going to defer Order No.12 and proceed to Order No.13 on the Order Paper.

Second Reading

THE CLIMATE CHANGE BILL
(NATIONAL ASSEMBLY BILL NO. 1 OF 2014)

(Bill deferred)

Second Reading

THE PARLIAMENTARY POWERS AND PRIVILEGES BILL
(SENATE BILL NO. 15 OF 2014)

The Senate Majority Leader (Sen. (Prof.) Kindiki): Thank you, Mr. Deputy Speaker, Sir. I beg to move:-

That, the Parliamentary Powers and Privileges Bill (Senate Bill No. 15 of 2014) be read a Second Time.

This Bill replaces the National Assembly Powers and Privileges Bill which is Cap.6 of the Laws of Kenya. For a long time, the country has been operating under a single chamber parliament, but with the advent of the current Constitution, it has become necessary to replace Cap.6 of the National Assembly Powers and Privileges Act with a new law that takes into consideration the bicameral nature of the Parliament of the Republic of Kenya.

The first aim of this Bill is to update the parliamentary system in law and to appreciate that we now have a bicameral Parliament but essentially the powers, privileges and immunities of Members of Parliament remain the same. However, there is a second aim of this Bill which is to modernize and update the powers, privileges and immunities of Members of Parliament in either House of Parliament by putting into consideration a number of things that have been found necessary by usages and practices over the years and the experiences we have had as a Parliament in the last 50 years. There are things which have happened in this Parliament which have necessitated us to look at the law again.

Mr. Deputy Speaker, Sir Members will recall that on 18th December, 2014, there was a very acrimonious and ugly incident in the National Assembly and some of the things that happened there were unprecedented. Therefore, there is need to re-look at the entire issue of the conduct of Members while in the precincts of Parliament to avoid a situation where disagreements on legislative or other mandate of parliamentarians

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degenerates into a situation which can undermine the constitutional order because the precincts of Parliament and the representation in Parliament is a representation of the nation at large. Therefore, the dignity that is associated with representing Kenyans must be maintained by us, Members, but also the precincts of Parliament must also be respected. That is the second purpose that this Bill is trying to achieve.

The new Constitution has also brought a number of changes in the way we conduct ourselves as parliamentarians. Of importance is the need under Article 117 and 118 of the Constitution for Parliament to be people centred and to allow Kenyans to express themselves on how we conduct ourselves. You will find that one of the provisions in this Bill allows the Speaker to designate an area within the precincts of Parliament where the public can assemble, demonstrate, picket and express themselves about Parliament and where necessary hand in petitions or memoranda on what they think Parliament should do or concerning what they think is not being done right in Parliament.

We have had a sad history of the interaction between Parliament and the people we represent. About a year or so - that time the Senate was operating from some structure at KICC – there was big drama in town when some members of the public who could have had legitimate or illegitimate grievances decided to carry some livestock and bring them to the entrance of Parliament. They actually converted the road into an abattoir or a slaughterhouse. They sacrificed some animals there and it was a very ugly scene which amounts to cruelty to animals. Some of those things are actually offences under the law of Kenya.

It is true that there is need for members of the public to express themselves on what they feel about their representatives. That is why this Bill says that the Speaker of either House of Parliament shall designate a specific area where members of the public who are aggrieved can assemble, demonstrate, picket and even hand over petitions of memoranda to any House of Parliament. At the same time, this Bill requires some responsibility on the part of those demonstrating and picketing so that nobody comes in the name of demonstration and then slaughters animals, insults, rough ups or assaults people.

I am just being reminded by the Senator No.1 that we even had Members of Parliament (MPs) – I do not know whether this is true or not – who were very agitated by some of the things that were happening - not in the demonstration but on 18th December, 2014 - which I started by exemplifying. Some MPs were so agitated that they did some press-ups and maneuvers within the precincts of Parliament.

As much as that could easily be seen as a simple matter, we must be careful so that we do not undermine the dignity, authority, solemnity and the seriousness attached to Parliament because this is a House where the voice of Kenyans is processed. Every person here either as a Member, staff or visitor must dignify our nation by conducting themselves with decorum.

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

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

Therefore, the era of doing press-ups outside the National Assembly and the era of slaughtering pigs outside Parliament by members of the public who are aggrieved will be gone under this new law. It will be an offence to do those kinds of things.

There will be a designated place for any member of the public who wants to demonstrate against parliamentarians. However, as you go to the place, you should conduct yourself with decorum. You should not insult people or bring unnecessary drama. You should just communicate the message. If you have a petition or a memorandum, hand it over. If you are a Member of Parliament, you should not do press-ups because this is not a place to do physical education maneuvers in full glare of the world.

(Laughter)

Sen. M. Kajwang: On a point of order, Mr. Temporary Speaker, Sir. Is the Senate Majority Leader in order to mislead this House that doing press-ups is dishonourable when even the Senator for Laikipia who is an accomplished karateka knows that press-ups is the foreplay to any physical activity and good health?

The Temporary Speaker (Sen. Murkomen): Sen. M. Kajwang, as far as I am concerned, what I heard the Senate Majority Leader say is that you can always do press-ups. However, this is not a gymnasium, a football pitch or a training ground but Parliament. He meant doing the right thing at the right place.

Proceed, the Senate Majority Leader.

The Senate Majority Leader (Sen. (Prof.) Kindiki): Mr. Temporary Speaker, Sir, I do not want to impute improper motive. However, I hope that the Senator for Homa Bay County is not holding brief for the suspects. What we are saying is that this should be the most serious building in this country. This is because whatever is done in this nation, it is done on behalf of the people of Kenya. The only arm of Government that is wholly elected and given direct mandate by the people of Kenya is the Parliament of Kenya and county assemblies. Some Members of the Executive are elected but the majority is not by people. The Judiciary is not elected. I am not undermining the authority of these institutions.

What I am saying is that there is a special place for the legislative arm of the state. This is the only arm of Government that is given direct mandate to act, speak and do things on behalf of the people of Kenya. Therefore, this is not a place somebody can come and do maneuvers and things that demean or take away the aura and solemnity of Parliament.

Mr. Temporary Speaker, Sir, this Bill, therefore, does a few things. Very quickly, I will run through some of the salient clauses. For, example, it provides for how visitors will be admitted to this House whenever they come and how they should conduct

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themselves. The Bill also defines the precincts of Parliament which includes the Chamber, the offices or any building, gardens and all the facilities around Parliament. It goes on to say that when Parliament or a committee of Parliament convenes outside these facilities for official duty, that place is also covered by the same immunities and privileges that are provided for in this Bill. That means that if there is a committee of Parliament transacting business in Mombasa then, that, actually, is a parliamentary precinct. The honour, immunities and privileges also accrue out there. I will exemplify how this could take place.

You will recall that we have had incidences, around here, of law enforcement agencies mischievously sneaking in to serve MPs with court proceedings and orders. That will be unlawful under this Bill. This Bill, therefore, says that you cannot serve an MP within parliamentary precincts because they have the immunity. The same case applies even if a sitting takes place – either of a Committee of the Whole – elsewhere in this country. Even if it is a committee meeting somewhere in Lodwar, you cannot go there and serve Members or do whatever you are prohibited from doing within the precincts of Parliament.

Mr. Temporary Speaker, Sir, the Bill says, in Clause 6 that no process by any court in Kenya, in exercise of civil jurisdiction, may be served on a Member of Parliament. I have already talked about the designated places for assembly and picketing. I will also highlight the freedom of speech and debate which is enshrined in Clause 8. This includes debating Motions, petitions or Bills whether it is a sitting of one House, a joint sitting of Parliament or even a committee of Parliament.

Mr. Temporary Speaker, Sir, these immunities and privileges apply even when a Member has been disqualified or convicted unless they have exhausted the appeal system. Therefore, the conviction of more than six months stands.

An interesting provision is Clause 10 which provides that no proceedings, decisions of Parliament or a committee of powers and privileges acting in accordance with this Act shall be questioned in any court of law. We have seen, in the past, an attempt by other arms of Government, notably, the Judiciary, to subordinate the Legislature as if it was some parastatal or administrative body which is under the review or supervision of the court. This Bill is trying to say that the proceedings of Parliament or a Committee of Parliament are not to be questioned in a court of law. Let me explain that.

We are not trying to say if Parliament passes a Bill and it becomes an Act, then the court cannot question or try to interrogate its legality. For example, when Parliament makes a decision on a Motion and there is a vote which is taken, you cannot question Members individually or the collective decision of the House on that matter cannot be a subject of legal questioning or inquiry.

It surprised me when the Council of Governors, in one of the numerous suits that they have sued the Senate and Parliament generally, enjoined the Senate and individual Senators by name as defendants in a matter where there was debate in this House and Senators made a decision. For example, a decision on whether or not to impeach a governor cannot be opened up. You can only maybe question the process or an Act of

Parliament which has been legislated on, whether or not it is aligned to the Constitution. But you cannot question an individual Member of Parliament as to why they have made a particular decision and not the other or even trying to annul Motions or resolutions passed by the House. So, this Bill will go a long way in aligning our relationship with other arms of Government, so that we do not have such interferences in the future.

Mr. Temporary Speaker, Sir, I have already mentioned the immunity of Members from legal proceedings. The decision and activities of Members of Parliament are immune from proceedings. What a Member of Parliament does in performance of their duties cannot be the subject of a suit, where you sue that Member for participating in parliamentary duties.

Similarly, the Speaker, Leader of Majority and Leader of Minority are also protected from any suit which arises from things they have done or said in performance of their duties. The same applies to the Clerk and all Members of Parliament and staff who work for Parliament. The Bill also seeks to protect members of staff from being compelled to give evidence, concerning minutes of a parliamentary Committee or reveal the contents of any proceedings of Parliament, either as a whole or in form of a Committee.

Just as the Bill gives wide and sweeping powers, immunities and privileges, it also requires Members of Parliament and staff who work in Parliament to conduct themselves honourably. It creates a very serious punitive arrangement or consequences for those who breach or misuse the immunities that are attached to Parliament and its precincts. For Members, Clause 15 establishes the Committee on Powers and Privileges, chaired by the Speaker. For the National Assembly, it is the Speaker and 14 other Members who are appointed by the House in accordance with the Standing Orders. For the Senate, it is the Speaker and six other Members.

This Committee has wide powers. Some of the things that they can do to a Member who has broken the code of conduct or abused immunities by doing press-ups in the wrong place, outside the gym, include a warning, reprimand or an apology. They can withdraw enjoyment of facilities for sometime or the Committee can also recommend removal or suspension from a parliamentary position either in a Committee or any other parliamentary position. The Committee can even impose a monetary fine which will be deducted from the Member's salary or allowances. It can also recommend that the Member vacate their seat completely, in accordance with Article 75 as read together with Article 103 of the Constitution. So, it is a very powerful Committee that can even cause a Member to lose his or her seat depending on the gravity of the breach.

Just to highlight, Article 73 of the Constitution is on the conduct of state officers. The Senators and Members of the National Assembly are state officers. Article 75 says that a state officer can be removed from office for demeaning the office that they hold as a state officer. In our case, as Members of Parliament, if one acts in a manner that demeans the stature, respect and dignity of the office of a Member of Parliament, they can be removed from office, under Article 75. The Committee on Parliamentary Powers

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and Privileges can actually recommend vacation from office; it is that serious. That is one of the grounds you can lose your seat, through Chapter Six.

Mr. Temporary Speaker, Sir, I just overheard that it is hoped that the powers will not be disused. That has been taken care of and that is why there is a Committee. It is not a one person thing. Also, the decision of the Committee has to be approved by the House. So, one person who does not like the Senator for Nyamira cannot sit and decide that he should disappear and cause him to leave his seat.

There is a bit of protection of the members of the public which was not there in the old law. A member of the public who is aggrieved by a remark or statement that has been made by a Member of the National Assembly or Member of the Senate using the immunities and privileges of Parliament, has a right to write to the Clerk to respond. The Speaker may direct that, that response be documented in a journal or be part of records of Parliament. In this case, the Speaker may direct how that is done, but the whole idea here is to avoid a situation where Members of Parliament abuse parliamentary privileges to attack people who do not have a forum or right to respond.

If somebody, for instance, uses the Floor of Parliament to say that so-and-so is corrupt or has done this and that, the aggrieved person can write to the Clerk and the Speaker, in appropriate cases, may direct that the response from that person be made public and part of the records of the House, to protect the public from abuse or immunities and privileges.

Mr. Temporary Speaker, Sir, I want to conclude by highlighting the two major things that this Bill brings. First is to recognize that now we have a bicameral Parliament and, therefore, we cannot continue to be governed by Cap.6 which deals with the National Assembly only. The second thing that the Bill does is to make sure that it recognizes public participation by allowing the public to interact with the Houses of Parliament, but within certain bounds of decorum, so that we do not have a chaotic encounter between the people and their representatives. The Bill also tries to instill discipline so that Members who enjoy these immunities, privileges and protection do not abuse those privileges to hurt other people or even break the law.

Finally, the Bill makes sure that Parliament is immune from interference and when Members are conducting their parliamentary duties, they are free from intimidation.

In fact, if you look at Clause 13, it says that even in criminal matters, no Member can be arrested when they are suspected of committing a crime, when they are travelling to attend a sitting of Parliament or a Committee of Parliament, when they are actually in that sitting or returning from that sitting. That immunity extends to that respect. Through this Bill, we can urgently put in place a good mechanism which is accountable and transparent, but also protects Members of Parliament from intrusion by others. It also makes Members of Parliament accountable to the electorate by conducting themselves in a manner that respects the precincts and functions of Parliament.

Mr. Temporary Speaker, Sir, with those many remarks, I beg to move and request the Senator for Nyamira to second.

Sen. Okong'o: Mr. Temporary Speaker, Sir, sometimes, it is difficult to second a Bill after the professor of law has spoken. However, let me try to highlight some of the issues that he has captured.

The essence of this Bill is to effect Article 117 of the Constitution. The Constitution of Kenya 2010 bestowed some rights and freedoms to Members of Parliament (MPs). Those freedoms and rights also come with responsibilities which have been captured in this Bill. The Parliamentary Powers and Privileges Bill (Senate Bill No.15 of 2014) outlines rules and regulations for Members on how to behave. They are also protected.

For example, recently, a Member of this House was served with a court summons while he was within the precincts of Parliament. Those who came to serve him may have looked at the lacunae which was inherent. Previously, the Powers and Privileges Bill covered the National Assembly only.

Mr. Temporary Speaker, Sir, Article 75 of the Constitution outlines the conduct of state officers. It gives regulations on how we should behave as Members of the august House. We have been bestowed with the responsibility to behave honourably while executing our duties.

These privileges that we have been given by the Constitution, and which we seek to align to those of the House also safeguards the interests of other citizens. The good professor has mentioned that Members cannot arbitrarily abuse other citizens who have no powers to defend themselves. In addition, the Standing Orders gives the Speaker of either House enormous powers to be keen or hawkeyed and reprimand any Member who could abuse these privileges.

More often than not, MPs have complained of being harassed by police in the course of their duties. I hope enactment of this Bill will bring to rest the conflict between us and the law enforcement officers. Some traffic police officers do not realise that when an MP is travelling in the course of duty, he or she should be allowed passage to avoid being stuck in a traffic jam. Once the Bill is enacted, the police department will educate their law enforcers so that they can be courteous to us. They should allow us to execute our mandate as outlined in the Constitution.

Mr. Temporary Speaker, Sir, the good professor mentioned about incidents which were witnessed once or twice in this House. It is incumbent upon us, as hon. Members, who are role models to the people who gave us privileges to act with decorum. For example, there are Members who tore other hon. Members trousers; others threw bottles of water around while others uttered unprintable words while in the Chamber.

As we realign this Bill, I hope that the Members who will sit in the Senate Committee will not hesitate to penalize any Member who will behave contrary to parliamentary privileges. This is an honourable House. We must defend rules and laws that we make so that we become role models.

As I said, since this is not a new Bill, it only realigns what existed; I do not have much to say, except to second.

(Question proposed)

Sen. (Eng.) Muriuki: Thank you, Mr. Temporary Speaker, Sir, for giving me a chance to speak on this important Bill. Could I start by asking the Speaker to make a Speaker's ruling at the appropriate time? Once a Member moves a Bill or Motion, then he or she has to remain in the Chamber so that he or she hears what Members have to say. I can see that the Mover has just walked out yet we have some few important things to tell him.

For a long time as the Mover said---

The Temporary Speaker (Sen. Murkomen): Order, Sen. (Eng.) Muriuki! You have made a very important observation. For the record, I would like to state that the Speaker shall pronounce himself at the appropriate time on what happens in that regard, concerning your observation and a ruling as you have requested. Although, there is the HANSARD, some things may require to be responded to immediately, especially where a Bill has been exhausted. I know that the Mover is not very far. I hope that he is listening. He better make an effort to ensure that he is here in person or a person designated by him should be taking notes on behalf of the Members who are contributing.

Proceed, Sen. (Eng.) Muriuki.

Sen. (Eng.) Muriuki: Mr. Temporary Speaker, Sir, if you allow me, I will assist you by speaking directly to Sen. (Prof.) Kindiki who I believe is taking tea in the lounge.

As the Mover said, for a long time, we had only the National Assembly. After the promulgation of the new Constitution, we now have the Senate and the National Assembly. There has been confusion in and around Parliament. The fact that we now have two Speakers, two clerks and two sets of staff makes certain areas of interaction unclear. I believe that by either merging or showing the boundaries clearly, for instance, who can do what and who can be disciplined by whom, is important.

The other issue is that we talked about the National Assembly so much. I believe even the people who were drafting the Constitution dropped guard. In some instances, in the Constitution, they have written National Assembly but they meant Parliament.

The areas of the issues of the National Assembly can be straightened out. Countries like Nigeria had an easy way out when they had a new Constitution. They were referring to the National Assembly as Parliament for so long and they simply called their Parliament, 'the National Assembly' and the two houses, 'the Senate' and the 'House of Representative' and it became easy.

Mr. Temporary Speaker, Sir, we are talking about powers and privileges. This means that Members of Parliament (MPs) are free to speak their minds without looking over their shoulders to see who is listening. People are supposed to listen but MPs should be immune from some of these actions. This is the only place that Kenyans or their representatives should be allowed to say things which perhaps would be a little bit weary if said elsewhere. In Parliament, we should be covered so that we could say what we want on behalf of the people who elected us or other Kenyans.

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I am not sure that allowing picketing within Parliament is one of the privileges which we should be having. For example, if the people who slaughtered pigs at the entrances of Parliament created a big mess. Most of the people who want to demonstrate and picket also want to create some surprises. They do not want to be known that they are coming with pigs tomorrow morning so that the police can stop them. I do not know to what extent that would work but personally, I would rather they picket outside on the public road so that we could also give the media and others a chance to make their point.

Mr. Temporary Speaker, Sir, my proposal is that when the time comes, the designated areas should be outside so that we agree with the Governor of Nairobi City County that this is the area where people can demonstrate and picket. Once they stop the traffic jam, the message can go out quickly than when they are quietly at a corner inside the precincts of Parliament.

Some countries have their Parliament well separated or completely out of town. For example, in Zambia, the Parliament in Lusaka is more than 15 kilometers away from town, such that people must have a good reason to go all the way to Parliament to demonstrate and picket. If we had an opportunity like that, it would have been very good.

I have a quarrel with allowing too much interference in Parliament. Some of these people who come to demonstrate in Parliament, sometimes, they talk about a Bill or an Act of Parliament which went through the First Reading, published, is on the website and went through public hearing which they did not attend. When everything is over, they raise issues with some clauses and then they want to demonstrate. It is good to remind everybody that whereas Members of Parliament (MPs) will have immunity to say what they want, the people also have a chance to participate because it allows them to have a voice. That is when they can demonstrate and we will understand.

We have had instances where the Judiciary has declared some part or a whole Act unconstitutional or illegal. The same Judiciary will have sat through the public hearing-somewhere along the way, we need to have a system where these Bills are referred to the Judiciary officially. Before the new Constitution came into being, we used to have a fairly straightforward system of Bills.

We did not have lawyers in Parliament but now we have them and it is an improvement. The Bills would go to the Attorney-General and in his wisdom, he would refer that Bill to all departments in the public sector including the Judiciary, finance and whoever was relevant to that Bill, so that by the time it comes to Parliament for the First Reading, it is sieved through. That has been improved by the new Constitution and the only window there is now either the Committee to write to the relevant bodies to participate in the public participation or those who think that they are touched in one way or another to find it in the media and then show up.

Mr. Temporary Speaker, Sir, my last point is the issue of immunity. I was in Rwanda a couple of months back and attended three informal forums and the same issue was raised about the Kenyan Parliament. At one time, I talked to a taxi driver and his friend, another time, I was in a common restaurant, the type you would find in Tom Mboya and River Road Streets with a lot of *wananchi*. The third time, I was with the

bourgeois in a high class hotel. Each of the time, the same issue was raised. They asked me why we are fighting in Parliament, in Nairobi. The little fracas which happened a few months ago in the National Assembly in the course of passing the Security Laws (Amendment) Bill 2014, apparently, was picked around the African region without the knowledge of Kenyans and MPs.

We are the role models of other areas in the region. When we misbehave, it is picked very fast. When I was in Rwanda, it was raised by ordinary people which means that the topic is topical in those places. This is the kind of thing that I would have wished the Senate Majority Leader to hear. Whereas we want to get immunity and privileges for MPs, the MPs in the Senate or the National Assembly also have a responsibility to protect the image of our country on behalf of Kenyans. We are losing face if we misbehave.

Mr. Temporary Speaker, Sir, with those few remarks, I want to support.

Sen. M. Kajwang: Mr. Temporary Speaker, Sir, I rise to support this Bill because its intention is straightforward. It is to repeal the National Assembly Powers and Privileges Act which is outdated because of the bicameral nature of Parliament. Parliamentary privilege is a feature of democracy. There is the Westminster model and the French model. This is something that can be misunderstood, that we, the MPs, are making ourselves more special than we already are. I want to assure the nation that parliamentary privilege is an important feature of democracy because it protects the people who are elected to represent the common man; it allows and gives them a voice so that they can avoid being intimidated by the executive. In fact, parliamentary privilege does not create an elite but it protects the people from the elite.

Mr. Temporary Speaker, Sir, the history of parliamentary privilege is well documented and we have seen, in some countries like South Africa, that during the Apartheid regime, some of the people who fought against segregation and apartheid, used parliamentary privilege to talk about some of the things that they could not talk about openly outside, because if they did, they would be arrested summarily.

The effect of that was that the media was allowed to report anything that was spoken in Parliament. Through that, the freedom fighters in countries like South Africa took advantage of parliamentary privilege to say things and change an obscene system that put blacks at the bottom of the economic, social and political pyramid. Therefore, parliamentary privilege is a good thing and when we talk about this Bill, it is not that we are trying to “fatten” the already “fattened” Members of Parliament.

Mr. Temporary Speaker, Sir, President Obama is coming to Kenya in a few days and there has been a lot of debate as to why he will not address a Joint Sitting of Parliament---

The Temporary Speaker (Sen. Murkomen): Order, Sen. Kajwang. Did you say that the Members of Parliament are already fattened? What exactly do you mean?

Sen. M. Kajwang: Mr. Temporary Speaker, Sir, those who were in Parliament many years before me said that you cannot substantiate the obvious.

The Temporary Speaker (Sen. Murkomen): That generally covers all the Members of Parliament. I have also heard statements to the effect that those who the gods

want to slaughter will first fatten. Are you saying that the Members of Parliament are being prepared for slaughter?

Sen. M. Kajwang: Mr. Temporary Speaker, Sir, I just want to clarify that I could be talking about the public perception, that Parliament is already very privileged and the word “fat” is just to illustrate the point.

The debates on why President Obama is not coming to address us in Parliament--- We have not received any official communication. I received a card yesterday, in which I was asked to confirm whether I will attend a speech by the President of the United States of America (USA), which I did. I then received an email response instructing me to go and line up at Kasarani Stadium from 9.00 a.m. to 5.00 p.m. to pick a card and that I must also bring evidence that I am who I say I am and that I cannot send anybody to pick that card for me.

Mr. Temporary Speaker, Sir, it would have been so easy for the President of the USA to dedicate 30 minutes or one hour out of his itinerary to come and address this House, because this is a distinct arm of Government.

(Applause)

This is not a House of layabouts, but an arm of Parliament. President Obama having been a Senator, it would have been a matter of great honour if he would have addressed Senators and Members of the National Assembly. In the public grapevine, the story is that the institution of Parliament has become so dishonourable that the President of the USA would not want to associate himself with Parliament. I hope that is not true, but that is what is circulating on social media and the debates on social platforms.

There is enough evidence, as Sen. (Eng.) Muriuki, the Senate Majority Leader and the Senator for Nyamira County mentioned, that there are certain things that we have done as Parliament that have robbed us off the prestige and honour that we are supposed to have. Remember during the discussion of the Security Laws (Amendment) Bill 2014, in as much as there were press-ups, the Senate Majority Leader did not say that a female Member of the National Assembly was undressed by people who were wielding tyranny of numbers in the National Assembly. It was a very dishonorable day but remember that on that day, there was a law in place. The National Assembly Powers and Privileges Act was in place and it clearly states that there are some consequences to those dishonourable acts. In this country, we tend to have a lot of laws and regulations, but sometimes implementation becomes a problem.

The other day, when a Committee called a Cabinet Secretary to shed light on an issue of national importance, we saw the Members of the National Assembly acting as if they had been whipped, hired and mobilized to frustrate and interfere with the work of the Committee. An example has been given of people using pigs which is a really shameful act because there are people whose religious persuasion does not allow them to be associated with pigs and yet, we still had the National Assembly Powers and

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Privileges Act. I hope that once this Bill becomes law, I hope that we will not just be barking around without biting.

This Bill says somewhere that there shall be circumstances under which the limitation of the freedom of the media shall be limited in certain circumstances. Let us be very careful not to create a situation where the media will feel that we are gagging them. This is an area where we need to explain ourselves very clearly, because Article 34 of the Constitution guarantees the freedom of the media. Let us not attempt to infringe on that freedom through this Bill. I hope that as we go along, this will come out clearly so that we do not seem as if we want to protect ourselves in certain cases and limit the freedom of the media.

Mr. Temporary Speaker, Sir, the other thing that has not featured here very strongly and was in the Act that we are repealing, is the issue of Members receiving rewards for promotion or opposition to Bills. I hope that this is going to come up at a relevant stage, because there have been accusations which I cannot really confirm. There has been a feeling that the issue of lobbying sometimes goes beyond ideological discussions on the merits and demerits of Bills and it goes to financial considerations.

Sometimes when the House is sparsely populated as it is, there is a feeling that we could be rushing certain issues and Bills not because of the ideological persuasion, but other tangible aspects that come about with lobbying. We must therefore make it very clear that Members shall not receive reward for promotion or opposition to Bills. We should lift that from the Bill and make sure that this comes out prominently in this Bill.

Mr. Temporary Speaker, Sir, when you fine a Member for dishonourable conduct, we have said that the money shall be paid to Parliament, to an account that will have been defined. I wish that this money could be put in an account that will go into some corporate social responsibility, so that one knows that if he does press-ups or tears peoples dresses, he will be fined and the money will be taken to a children's home to help children and other underprivileged people; the benefit of upholding the rule of law.

Mr. Temporary Speaker, Sir, I beg to support the Bill.

The Temporary Speaker (Sen. Murkomen): Please proceed, Sen. G.G. Kariuki

Sen. G.G. Kariuki: Thank you, Mr. Temporary Speaker, Sir, for giving me the opportunity to contribute to this Bill. I would also like to thank the Senate Majority Leader for his effort to present this Bill to this House. This is because I think that this has taken too long since we came here. It was supposed to have come in our first year, so that Members would have then familiarized themselves with this situation which is new to them.

All these things which are contained in this Bill are just like the previous laws except for a few areas where they have put some emphasis. Everything happens for a reason and now that we are considering how to give the Members of Parliament all the privileges that they require within Parliament Buildings, we should also expect them to understand that we are watched by everybody. Whatever we do or utter is seen and heard by the public. We may not be accused for some utterances but you cannot repeat them out there in the real world. All the time we need to know that if you criticize a civil servant,

you must have all the facts because he is either your boss or voter. In fact, he would want to see fairness being practiced in this House.

Mr. Temporary Speaker, Sir, Parliament was recently referred to as “rogue” by the press. It was broadcast to the whole world and I think the public supported this idea. I do not know whether we behave in the right manner or not. It is not easy for you to see yourself when playing football. However, people look at you and see where you are going wrong. No one from these two Chambers will fight this Bill because it is privileging Members of Parliament (MPs) and gives them powers to the extent that you will not be arrested when you drive from Nairobi to your home. That is very powerful. It is almost like in the past where we used to refer to the President as “the living god” because they would make you rich or poor any time they wanted.

If you give all these privileges to an MP without due consideration, we will come to regret although it may not happen to the entire House but to individual MPs. If we know the reason why we were elected and how we are expected to conduct ourselves, this law will not serve any purpose. We know it but we do not want to practice what we are supposed to do until a law is introduced in this House.

Mr. Temporary Speaker, Sir, I think even the staff of the Parliamentary Service Commission (PSC) should be protected in this Bill. It is equally very important because the same MPs that we are protecting are the ones who can harass and demand for information that they should not have from committees. There is need for a very serious sacrifice on our part to show the country that even if we have all these privileges, we can conduct ourselves with decorum and we know why we are here.

A lot has been said and when I went through the Bill, it is just the same as the one we have amended several times before in the National Assembly because it is never satisfactory. This one is new because it is related to the new Constitution which gives MPs a lot of mandate.

I want to warn my colleagues not to be sure that the public is on our side when we talk and engage in blame games because they are independent. They will only support you when you are out there but it is easy for them to say no to you. No matter how much you talk and condemn Sen. M. Kajwang, you may blame Sen. (Prof.) Kindiki for not working hard and think that you have poisoned the people of Tharaka-Nithi County against him but they may not understand what you are talking about. They want to see what an MP has done and is doing for them. That is a major thing.

Mr. Temporary Speaker, Sir, we need to be extremely careful when we try to engage in press-ups in public and walking with demonstrators in town in order to be seen and photographed. I do not know why MPs do not learn the many lessons that are there to be learnt. It is the only profession that you cannot find one person trying to copy the other one. It is the most complicated scientific profession because you are dealing with human beings. Today, they are facing this side and tomorrow they are facing the other side. You have to work very hard to understand those manipulations.

I do not know why when someone is elected a Member of Parliament, they tend to think that everybody else does not have the knowledge you have and that is why you are

elected. If you put yourselves in their shoes, you will find out that you are just like them. It is only that you have that privilege to be here. We must behave maturely for whatever happens. Human beings cannot be 100 per cent mature, because it never happened even during the era of Moses. Nobody can be 100 per cent perfect or dignified. Everybody has got his own weaknesses but those weaknesses need to be dealt with before we misbehave.

I beg to support this Bill and I wish it was passed right now because it is not a county Bill.

The Temporary Speaker (Sen. Murkomen): There being no other contributor, I now want to call upon the Mover to reply.

Sen. (Prof.) Kindiki: Mr. Speaker, Sir, I want to thank all those who have contributed to the Bill. Even as Sen. (Eng.) Muriuki was talking about my departure, I was watching him and he has spoken well.

With those few remarks, I beg to reply. Given the numbers I request you to defer the putting of the Question to a time that you may determine.

The Temporary Speaker (Sen. Murkomen): I would like at this point in time to, first of all, recognize and inform the Members that this is a Bill concerning counties. To make it even more clearer, if it was not a Bill concerning counties, it would not have come here. The decision as to whether it is a Bill concerning counties or not has already been made and so it is not a subject of debate here.

I want to bring to the attention of the House the election date opinion of the Supreme Court which said that anything that touches on election, the welfare, and the well being of the Senate concerns counties. That is why the Powers and Privileges Act is part and parcel of the Bills that concern counties. Otherwise it would completely have been ridiculous if the Senate was to legislate itself or be locked out of issues that would concern Senate itself because Senators are the ones protecting counties.

I want to accede to the request by Sen. (Prof.) Kindiki on the question of postponing the voting to the time we shall agree to, as Senators, in terms of voting as will be designated by the Speaker.

(Putting of the Question on the voting deferred)

ADJOURNMENT

The Temporary Speaker (Sen. Murkomen): It is now time to interrupt the business of the Senate. The Senate stands adjourned until tomorrow Thursday, 23rd July, 2015 at 2.30 p.m.

The Senate adjourned at 6.30 p.m.