

PARLIAMENT OF KENYA

THE SENATE

THE HANSARD

Tuesday, 5th May, 2015

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

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

PRAYERS

MESSAGES FROM THE NATIONAL ASSEMBLY

The Speaker (Hon. Ethuro): Hon. Senators, I have two Messages from the National Assembly to communicate to you. The first Message is on the Fair Administrative Action Bill (National Assembly Bill No. 10 of 2015).

CONCURRENCE OF THE SENATE ON THE FAIR ADMINISTRATIVE ACTION BILL (NATIONAL ASSEMBLY BILL NO.10 OF 2015)

Hon. Senators, I wish to report to the Senate that, pursuant to Standing Order 40 (3) and (4), I have received the following message from the Speaker of the National Assembly regarding the passage by the Assembly of the Fair Administrative Action Bill (National Assembly Bill No. 10 of 2015).

“PURSUANT to the provisions of Standing Order Nos. 41 and 142 of the National Assembly, I hereby convey the following message from the National Assembly-

WHEREAS, the Fair Administrative Action Bill (National Assembly Bill No.10 of 2015), a Bill concerning County Governments, was published *vide* the Kenya Gazette Supplement No. 26 of March 13, 2015, as a Bill originating in the National Assembly and concerning county governments in terms of Article 110 of the Constitution;

AND WHEREAS, the said Bill whose objective is to give effect to Article 47 of the Constitution was considered and passed by the National Assembly on April 23rd, 2015

NOW THEREFORE, in accordance with the provisions of Article 110(4) of the Constitution and Standing Order No.142 of the National Assembly, I hereby convey the said decision of the National Assembly, the object of which is to seek the concurrence of the senate.”

Hon. Senators, Standing Order No.148 requires that a Bill which originates in the National Assembly be proceeded with by the Senate in the same manner as a Bill introduced in the Senate by way of First Reading in accordance with Standing Order

No.129. I, therefore, direct that the Bill be listed for First reading in the Order Paper of tomorrow Wednesday, 6th May, 2015.

Hon. Senators, pursuant to Article 216(1) of the Constitution, the Bill is one of the legislations that ought to be passed by the 27th May 2015 constitutional deadline. It is 5th May 2015 today and so, I urge you to ensure that the Senate concludes on this Bill expeditiously.

Thank you.

CONCURRENCE OF THE SENATE ON THE PUBLIC PROCUREMENT AND
ASSET DISPOSAL BILL (NATIONAL ASSEMBLY BILL NO.40 OF 2014)

The second Message is also from the National Assembly on the Public Procurement and asset disposal Bill (National Assembly Bill No.40 of 2014)

I wish to report to the Senate that, pursuant to Standing Order Nos.40 (3) and (4), I have received the following message from the Speaker of the National Assembly regarding the passage by the Assembly of the Public Procurement and Asset Disposal Bill (National Assembly Bill No. 40 of 2014).

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

WHEREAS, Public Procurement and asset disposal Bill (National Assembly Bill No.40 of 2014), was published *vide* the Kenya Gazette Supplement No.164 of December 8th, 2014, as a Bill originating in the National Assembly and concerning county governments in terms of Article 110 of the Constitution;

AND WHEREAS, the said Bill whose objective is to give effect to Article 227 of the Constitution was considered and passed by the National Assembly on April 30th, 2015 in the form attached hereto;

NOW THEREFORE, in accordance with the provisions of Article 110(4) of the Constitution and Standing Order No.142 of the National Assembly, I hereby convey the said decision of the National Assembly, the object of which is to seek the concurrence of the Senate.”

Hon. Senators, Standing Order No.148 requires that a Bill which originates in the National Assembly be proceeded with by the Senate in the same manner as a Bill introduced in the Senate, by way of First Reading in accordance with our Standing Order No.129.

I therefore direct that the Bill be listed for First reading in the Order Paper of tomorrow, Wednesday, 6th May, 2015.

Thank you.

Hon. Senators, considering that pursuant to Article 216(1) of the Constitution, the Bill is one of the legislations that ought to be passed by the 27th May, 2015 constitutional deadline, I, therefore, urge you, hon. Senators, to ensure that the Senate concludes the Bill expeditiously.

Next Order!

PAPER LAID

THE TOBACCO CONTROL REGULATIONS 2014

Sen. Sang: Mr. Speaker, Sir, I beg to lay the following Paper on the Table:-

The Tobacco Control Regulations 2014

(Sen. Sang laid the document on the Table)

STATEMENTS

CAUSE OF FREQUENT POWER FAILURES IN KISII COUNTY

Sen. Obure: Mr. Speaker, Sir, thank you for the opportunity to make a request for a Statement. My request is directed to the Chairperson of the Senate Committee on Energy. In the Statement, I wish to request the Chairperson to respond to the following specific issues:-

(i) explain the cause of the frequent power failure in Kisii County and the neighbouring areas including Migori, Homa Bay and Nyamira counties; and,

(ii) whether Kenya Power fully appreciates the impact and implications of power failure or disruption on the economic and social activities of the citizens in the affected counties;

(iii) if the power distribution agency has made any efforts to explain to the consumers the challenges being experienced and what is being done to address the challenges; and,

(iv) whether the Chairperson could state if the institution responsible for power distribution has any plans to compensate consumers for any losses incurred as a result of power failure or power interruptions.

Mr. Speaker, Sir, I am aware that a similar request was made by the Senator for Nyamira a few months ago but no response has been made because I rode on the same request to seek further information. I hope that this time, the chairperson of the Committee will respond promptly.

The Speaker (Hon. Ethuro): Where is the chairperson, the vice chair or any Member?

Sen. Kembi-Gitura: On a point of order, Mr. Speaker, Sir. That is a very important Statement sought by Sen. Obure. I was wondering whether the Chair can include Murang'a Town and its environs on completely the same issue. Could the Chair explain the cause of frequent power failures and give the answer for both Kisii County and Murang'a Town?

The Speaker (Hon. Ethuro): Senator, I thought you are going to hold brief for the Chair.

Where is the Chair or the vice chair?

Sen. Mwakulegwa: Mr. Speaker, Sir, I will be responding in two weeks' time.

The Speaker (Hon. Ethuro): Two weeks? Sen. Obure alleges that there was a similar request for the neighbouring county of Nyamira which has also delayed.

Sen. Mwakulegwa: Mr. Speaker, Sir, the Senator for Nyamira had asked about the impact of the reduction of fuel on transport and I responded accordingly. I said that he should redirect that question to the Committee for Transport and Roads and not to the Committee on Energy.

The Speaker (Hon. Ethuro): So, the response would be on Kisii and Murang'a counties.

IMPLEMENTATION OF MALKA DAKA IRRIGATION
PROJECT IN GARBATULA

Sen. Ndiema: Mr. Speaker, Sir, I stand to issue a Statement sought by the Sen. Fatuma Dullo Adan in respect to Malka Daka Irrigation Project in Garbatula Isiolo County. She had sought a Statement on whether a needs analysis was conducted before initiation of the project. She also wanted the Chair to explain why the affected community and the County Government of Isiolo were not involved in the design and implementation of the project. Thirdly, she wanted to know how much money was allocated for the two phases of the project and the duration to completion of each phase of the project.

She also sought to know when the tenders for the first and second phase were awarded, to whom and what procedure was used in awarding them. She also wanted the Chair to clarify whether the implementation of the first phase was ever audited and what were the findings. She also wanted the Chair to state whether the Ministry of Agriculture, Livestock and Fisheries through the National Irrigation Board has put in place measures for capacity building and inclusion of the community in the project.

Mr. Speaker, Sir, as to whether a needs analysis was conducted before initiation of the project; in 1978 the then Ministry of Agriculture carried out a feasibility study on the viability of an irrigation project to settle destitute families. The report was positive and the Food and Agriculture Organisation (FAO) and the Government of Kenya funded the project and 200 families were settled.

In 2005/2006, the community requested CDF funding to revive the scheme whose infrastructure had been washed away in 1986. The allocated funds were, however, inadequate and only managed to purchase a pump and construction of a pump house. All indications on the ground show that irrigation development is demand driven by the community which is further evidenced through farmers taking the initiative to purchase portable pumps to irrigate their small farms.

Secondly, as to why the affected community and the County Government of Isiolo were not involved in the design and implementation of the project, the community has always been involved in all stages of the project development from initiation to implementation and production. This is evidenced by the existence of an Irrigation Water Users Association with elected officials which the technical officers have always worked with. The community has always been consulted in every activity and has given valuable information during design and implementation. The County Governments came into

being in March, 2013 at a time when the project was being implemented. However, the then District Agricultural Officer and the District Irrigation Officer in Garbatula spearheaded survey, design, capacity building and crop production together with the community.

Mr. Speaker, Sir, during the construction, the former area Member of Parliament, hon. Abdul Bahari Ali, with other local leaders accompanied the former Permanent Secretary for the Ministry of Water and Irrigation to inspect construction works. The sub county irrigation officer of Garbatula was the clerk of works for the project and was always at the construction site on a daily basis with at least one or more committee members. After completion, the sub county agricultural officer, Garbatula, was facilitated to spearhead capacity building, sourcing and distribution of farm inputs and supervision.

Mr. Speaker, Sir, regarding how much money was allocated for each of the phases of the project and the duration for completion for each phase, the cost of phase one of the project was Kshs36,070,888 for construction works and Kshs3,181,000,000 for capacity building and farmers' support.

The duration of the contract was one year, from January 2012 to April 2013. The cost of Phase II of the project was Kshs35,240,100 for construction works. Support to the farmers has not been availed because the construction work is still on-going.

The duration of the second contract was one year from March 2014 to April 2015. However, the contract may be extended to August 2015 due to cash flow problems at the National Irrigation Board (NIB) and occurrence of floods in November 2014 that slowed the construction phase.

On the fourth issue about when the tenders for the first and second phases were awarded, to who and the procedure that was used, the tenders for construction works for Malka Daka Irrigation Scheme Development Project Phase I were awarded on 3rd January, 2012 to Isiolo Mwangaza Company Limited, P. O. Box 677, Isiolo. The NIB invited bidders from the prequalified contractors for similar works in Isiolo County. Secondly, the tender for construction works for Malka Daka Irrigation Scheme Development Project Phase II was awarded on 24th January, 2014 to Suro Transport and Company Limited, P.O. Box 25294, Nairobi. Request for bids was done through national competitive bidding by placing an invitation in the local dailies on 20th September, 2013.

Regarding the issue of whether the implementation of Phase I was ever audited and the findings, financial audit of Phase I was done by an internal audit team which observed that the intake pump farm house, main canal, secondary canals, access roads and receptor basin were completed and the pump set was in place. They further observed that the project was completed but crop production had not started at the time, and recommended that the department in charge of crop production assists farmers in accessing financiers for farm inputs.

The Senator also wanted to know whether the Ministry of Agriculture, through NIB, has put in place measures for capacity building and inclusion of the community in the project. During Phase I, the NIB allocated Kshs3,181,000 for capacity building and community support which included purchase of fuel for the pump, maize seed, fertilizer and training of farmers on leadership, water management and agronomical practices.

The Sub-County Agricultural Officer was provided with funds for fuel and a subsistence to enable him to provide extension services adequately. Capacity building support to the community and sub-county offices, agriculture and irrigation will be funded to cater for the purchase of fuel for the pump, maize seed, fertilizer and training farmers on leadership, water management and agronomical practices and also to support the sub-county office to carry out training and extension services for phase II.

Thank you.

Sen. Adan: Thank you, Mr. Speaker, Sir. I commend the Senator for giving me that response. Unfortunately, the Ministry is running away from answering the questions that were put to them. If one is sent to the ground right now, they will find that the communities are not benefitting from the project at all. I would like to respond to the Statement in the following manner:-

It is not clear from the Statement how much has been allocated because the information given in the Statement is contradicting. The Ministry talks about Kshs36,327,634 while the audit engineers report of 2nd July 2013 indicates Kshs32 million. The technical audit report and M&E of January 2015 indicates the same as Kshs39,025,088. Clearly, there is contradiction. Could the Ministry tell us exactly how much has been allocated to these two projects?

Secondly, why was the pump house that has been constructed by the Constituency Development Fund (CDF) in 2015/2016, budgeted for again by the Ministry in 2010? What is the position of the existence of the Water Users Association? Clearly, this has not given the position on the ground. I need an elaboration on that.

Further, what exactly did the Ministry do with the Kshs3.181 million allocated for capacity building and farmers support in phase I, apart from purchasing fuel? The only thing they did was to purchase fuel and there is evidence to that. Again, the Ministry has not indicated the efforts to engage the county government despite the latter's establishment for over two years. So, the county government is not involved up to now.

Again, what exactly is the Ministry's target group? This is because the communities have not been trained in terms of what is going to happen once the project is over.

Finally, when and in what form was the bid for Phase I floated? This is not clear. Could you elaborate on that?

Sen. Ndiema: Thank you, Mr. Speaker, Sir. I appreciate the concerns of the Senator of the area. Definitely, she is from the area and knows much more. However, the responses are as given. According to the report that I have read, the amount allocated is Kshs36, 327,634. I realise that in the audit report, this is indicated as Kshs32 million and definitely this begs an answer or reconciliation. I undertake to go back to the Ministry to find out exactly how much was allocated.

Regarding the issue of the pump house, I agree that it has been allocated funds in the first and second phase. Certainly, it does not say why; whether it was two or one pump house that was constructed. If it is one pump house, then there is double budgeting or allocation. Again, we shall go back to find out this.

The position on the Water Users Association is as indicated. There is a Water Users Association in place and that is the report that we have received from the Ministry.

If it is not there, then perhaps further auditing has to be done to find out what really is the situation.

The amount of funds allocated for capacity building is an amount that has been used. It is explained in the reply that it was used for the purpose of purchasing seeds and also capacity building for the farmers.

The Senator also wanted to know why the county government is not engaged. I agree that in this era, there is devolution. We appreciate that the project started when county governments were not there. Now that the county government is in place, there is no reason why the NIB or the Ministry in charge should not engage the county government. However, the officers who were implementing this project are the same officers of the county government. So, we cannot really say that they are not involved. They are involved although at the governor's level, I do not know whether there is co-operation between the national Government and the county government. If it is not there, then certainly, agriculture is a devolved function and it is necessary that the two levels of Government work together.

Mr. Speaker, Sir, concerning when the bids were placed, my response indicates when the tenders were awarded, who was awarded the contract and the year. I believe that is already answered.

Thank you, Mr. Speaker, Sir.

Sen. Adan: Mr. Speaker, Sir, that shows clearly that the Statement was not responded to properly. The communities affected are not at all benefitting from the project. This is a money making venture. Therefore, could the Ministry go back to the drawing board because the people within that area suffer shortage of water? They die of hunger while billions of shillings are pumped into the project. Therefore, I request the Chairman to go back to the relevant department to address the issues affecting the communities.

Thank you, Mr. Speaker, Sir.

Sen. (Prof.) Lonyangapuo: On the same, Mr. Speaker, Sir. It is surprising that the Chairman is talking about a county government working together with the committee. The county government of that county has been in place for the last two years. I expected it to be engaged immediately because this is a devolved function. Could he clarify further; when he says that Constituencies Development Fund (CDF) money was spent and the National Government Fund has been spent, whether an audit has been done to show how funds have been spent or is there some collusion taking place in the project?

The Speaker (Hon. Ethuro): Mr. Chairperson.

Sen. Ndiema: Mr. Speaker, Sir, I have already indicated that we are ready to go back to the Ministry to find out exactly what is happening, especially, in view of the assertion by the Senator that the community is not benefiting. It is serious that a substantial amount of money has been used. If the community has not benefitted, then certainly it is the responsibility of this Senate to find out exactly why. That is why I have said that we shall go back and look into all the issues that may not have been answered.

The Speaker (Hon. Ethuro): When will you come back with the response?

Sen. Ndiema: Mr. Speaker, Sir, we request for two weeks.

The Speaker (Hon. Ethuro): It is so ordered.

STATUS OF CASH TRANSFER PROGRAMME

The next Statement was requested by Sen. Musila. Is the Chairperson of the Committee on Labour and Social Welfare around to respond to it? If the Chairperson is not around, is the Vice Chairperson or any other Member there to respond to that?

Sen. Madzayo: Yes, Mr. Speaker, Sir.

Mr. Speaker, Sir, I have discussed with my colleague and we have agreed, with your kind permission, that I respond to it tomorrow. The response is ready but it is being given a final touch.

The Speaker (Hon. Ethuro): You discussed with him but not with your Speaker. Sen. Musila, do you concur?

Sen. Musila: Mr. Speaker, Sir, as I was coming in, I met the Chairman. He mentioned to me that the response will be ready tomorrow. As you are aware, this is a matter that has been of concern to the House for a long time. So, I will be happy to get the report in the House tomorrow. However, I just want to emphasize that, with the indulgence of the Chairman, this matter should be put to a closure tomorrow.

Thank you, Mr. Speaker, Sir.

The Speaker (Hon. Ethuro): The response should be given tomorrow.

STATUS OF CASH TRANSFER PROGRAMME FOR
PERSONS WITH SEVERE DISABILITY

Sen. Omondi: Mr. Speaker, Sir, I sought a Statement from the Chairman of the Committee on Labour and Social Welfare on delay of cash transfer to persons with disability before we went on recess. I would like to know when he will respond to my Statement.

The Speaker (Hon. Ethuro): The Chairperson of the Committee on Labour and Social Welfare, could you respond to Sen. Omondi's Statement on cash transfer to persons with disability?

Sen. Madzayo: Mr. Speaker, Sir, the answer is ready but I kindly seek for permission that I respond to it tomorrow.

Hon. Senator: Why?

Sen. Madzayo: You are not the Speaker.

(Laughter)

The Speaker (Hon. Ethuro): Do you wish to respond to the Statement tomorrow?

Sen. Madzayo: Yes, Mr. Speaker, Sir.

Sen. Khaniri: On a point of order, Mr. Speaker, Sir. I believe you heard the Chairman say that the answer is ready. The Statement is listed to be delivered today and Order Papers come well in advance. For those of us who are digital, we get access to them much earlier before the sitting. Is it in order for the Chairman to take the time of

this House for granted and request that he responds to it tomorrow when the Statement is ready and it is listed? We have many other statements awaiting delivery.

The Speaker (Hon. Ethuro): Order, Sen. Khaniri. The Statement shall be delivered tomorrow. You may be digital but you have failed to read the digital version, neither have you read the hard copy. Look at the last page on your Order Paper which lists statements. That particular Statement is not listed there.

(Laughter)

Sen. Madzayo: Most obliged, Mr. Speaker, Sir.

The Speaker (Hon. Ethuro): Yes, of course, Mr. Chairman. Do you have a choice? Tomorrow, we will expect two statements from you.

ONGOING PROPERTY DEVELOPMENT AT THE JUNCTION OF
LORESHO RIDGE ROAD AND KAPTAGAT ROAD

Sen. Kembi-Gitura: Mr. Speaker, Sir, you recall that I had sought a Statement from the Committee on Land and Natural Resources regarding the development going on at Loresho junction of Kaptagat Road and Loresho Ridge. I informed you that the Chairman had the Report ready but he had done it in way of a report which I have looked at. Apart from the word “report”, it is actually a statement. If it is tabled, it has to go through the whole process of a Motion. Is it in order that the Chairman, instead of tabling the report like I had indicated earlier, gives the information in the Report? This is because it is actually supplementary to the Statement that had been issued earlier, which you ordered for further information. It is now available. This is a very important Report considering, as you are aware, what is going on currently. I seek your direction, Mr. Speaker, Sir.

The Speaker (Hon. Ethuro): The Chairperson, could you respond on the issue concerning the direction?

Sen. Kivuti: Mr. Speaker, Sir, it is true that we attempted to do a report. However, what I have in front of me is supplementary information on the Statement which I gave on this matter. If you allow, we could give the supplementary information and that would save a lot of time for this House.

Thank you, Mr. Speaker, Sir.

The Speaker (Hon. Ethuro): Order, Senators. I think that those are issues that have implications in terms of which procedure to follow. I would ask that I look at the matter today, so that I give the appropriate direction tomorrow; whether to dispose of it in terms of a statement or report. So, both of you should come prepared tomorrow for whichever direction that I will give.

Sen. Kembi-Gitura: Mr. Speaker, Sir, may I request with your kind permission that, that be done on Thursday and not tomorrow.

The Speaker (Hon. Ethuro): That is even better.

Sen. Kivuti: Mr. Speaker, Sir, could you then allow me to table the report, so that in case you rule that it is a report, then we will still present it? I have the document here with me.

The Speaker (Hon. Ethuro): That might be inimical to your own interest. If I were you, I would just leave it the way it is, so that I have a lot of leeway to decide whichever direction to take. If you table it, you would have predetermined the next course of events.

Sen. Kivuti: Most obliged, Mr. Speaker, Sir.

The Speaker (Hon. Ethuro): That is the end of Statements time.

COMMUNICATION FROM THE CHAIR

VISITING DELEGATION OF STAFF FROM MURANG'A COUNTY ASSEMBLY

The Speaker (Hon. Ethuro): Before we move to the next Order, I have a Communication to make on the visiting delegation of staff from Murang'a County Assembly.

Hon. Senators, I am pleased to acknowledge the presence and welcome and to the Senate this afternoon staff from Murang'a County Assembly who are seated in the Speaker's Gallery. I request that when their names are called out, they stand, so that you may acknowledge them in our usual Senate tradition.

1. Mr. Sammy Gathata, Deputy Clerk.
2. Ms. Anne Macharia, Clerk Assistant.
3. Mr. Kenneth Mwangi, Hansard Reporter.
4. Mr. David Wambiri, Chief Serjeant-at-Arms

Hon. Senators, I wish to take this opportunity on behalf of the Senate and on my own behalf to wish the staff from Murang'a County Assembly a happy and fruitful visit. I have not forgotten my deputy, who is the Senator for Murang'a.

(Applause)

Sen. Kembi-Gitura: Mr. Speaker, Sir, I want to thank you for acknowledging the staff from Murang'a County Assembly who are here. Beyond that, I want to thank you and your office for according the staff of Murang'a County Assembly the opportunity to come to the Senate to benchmark, see what goes on in the Senate and learn. I want to thank you for the very comprehensive programme that you have given them and the officers that they have been able to see.

Mr. Speaker, Sir, I want to use this opportunity to challenge my colleagues who have not done it; that the Senate is an extremely good teaching ground for the staff of the county assemblies. The Senate is always ready, willing and able to help our staff at the county assemblies, from the HANSARD, clerk's office and all levels to learn. We must continue to work very closely with the county assemblies and help them where possible in capacity building, which is currently happening, as you can see, with the staff from

Murang'a County. They have informed me that even as they proceed until 15th May with the benchmarking, they have already learnt and will continue to learn a lot.

Mr. Speaker, Sir, please accept my thanks as the Senator for Murang'a for that opportunity to benchmark with the Senate.

I thank you.

Sen. Orengo: Mr. Speaker, Sir, now that the Senator for Murang'a has been given an opportunity to appreciate the presence of the members of staff from Murang'a County Assembly, I also need to appreciate them. This is because earlier in the morning, they visited us in the Committee on Implementation and saw what was happening. We had a Cabinet Secretary and the Governor for Nairobi.

But more importantly, through them, I want to thank the people of Murang'a because there used to be an elected councillor in Murang'a who came from Karachuonyo. He was a councillor there for a very long time. He was even a treasurer of FORD-Asili Party. I remember hon. Matiba would not do anything until he listened to that Luo who was a councillor in Murang'a. So, continue to build one nation there in Murang'a. I will 'retaliate' in Siaya also.

The Speaker (Hon. Ethuro): Hon. Senators, indeed, I cannot agree more especially with the sentiments by the Deputy Speaker; that we have a programme for capacity building for our county assemblies. Some of your county assemblies have already benefited from it. So, we will continue to avail those services to the county assemblies when they need them. Make use of the opportunity.

Next Order!

BILLS

Second Reading

THE NATIONAL GOVERNMENT COORDINATION (AMENDMENT) BILL (SENATE BILL NO.30 OF 2014)

(By Sen. (Prof.) Lonyangapuo on 28.4.2015)

(Resumption of Debate interrupted on 29.4.2015)

The Speaker (Hon.) Ethuro): Hon. Senators, we need to do a Division. I want to believe that we have sufficient numbers for voting. We will do electronic voting.

Ring the Division Bell for one minute.

(The Division Bell was rung)

Order, Senators! I want to encourage you to remain the House, because the next several Orders will require your presence.

(The Bar was drawn and the door closed)

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I, therefore, wish to put the question, that the National Government Coordination (Amendment) Bill (Senate Bill No.30 of 2014) be now read a Second time.

We will take one minute to vote.

DIVISION

ELECTRONIC VOTING

(Question, that the National Government Coordination (Amendment) Bill (Senate Bill No.30 of th2014 be now read a Second Time put and the Senate proceeded to vote by County Delegations)

AYES: Sen. Adan, Isiolo County; Sen. Anyang' -Nyong'o, Kisumu County; Sen. Chelule, Nakuru County; Sen. Haji, Garissa County; Sen. M. Kajwang, Homa Bay County; Sen. Karaba, Kirinyaga County; Sen. Kembi-Gitura, Murang'a County; Sen. Khaniri, Vihiga County; Sen. (Prof.) Kindiki, Tharaka-Nithi County; Sen. Kivuti, Embu County; Sen. Lonyangapuo, West Pokot County; Sen. Madzayo, Kilifi County; Sen. Mositet, Kajiado County; Sen. Mohamud, Wajir County; Sen. (Eng.) Muriuki, Nyandarua County; Sen. Musila, Kitui County; Sen. Muthama, Machakos County; Sen. Ndiema, Trans Nzoia County; Sen. Ntutu, Narok County; Sen. Obure, Kisii County; Sen. Orengo, Siaya County; Sen. Sang, Nandi County; Sen. Sijeny, Nairobi County; and, Sen. Zani, Nairobi County.

NOES: Sen. (Dr.) Khalwale.

The Speaker (Hon. Ethuro): Hon. Senators, I will now announce the results of the division.

AYES: 24

NOES: 1

ABSTENTIONS: Nil

The "Ayes" have it.

(Question carried by 24 votes to 1)

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

COMMITTEE OF THE WHOLE

(Order for Committee read)

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

IN THE COMMITTEE

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[The Temporary Chairperson (Sen. Mositet) took the Chair]

THE POTATO PRODUCE AND MARKETING BILL
(SENATE BILL NO. 22 OF 2014)

The Temporary Chairperson (Sen. Mositet): Order, hon. Senators! We had already concluded Order No.10. The only thing which is remaining is voting for the clauses which have to be amended. We also have clauses without amendments. We will vote by roll call voting, we will not vote through the digital system. Since, we have about four questions, I will just allow the Division Bell to be rung once, then the bars will be drawn.

An hon. Senator: For one minute!

The Temporary Chairperson (Sen. Mositet): Yes, that is okay. I order that the Division Bell be rung for one minute.

(The Division Bell was rung)

I order the bars to be drawn and the doors to be closed.

(The doors were closed and the bar drawn)

As I had said, we are going to do roll call division. The Clerk-at-the-Table will call out the names of the Senators. We have quite a number of clauses which have been lumped together and maybe there could be one clause you may feel at least you do not want to---

We can have the tellers for the "Ayes" and for the "Noes." We are on Order No. 10, Committee of the Whole, The Potato Produce and Marketing Bill (Senate Bill No. 22 of 2014).

An hon. Senator: Tunafanya kienyeji?

The Temporary Chairperson (Sen. Mositet): We are not doing it *kienyeji*; we are going straight away for Division after that. Are we ready? Where are the tellers? The leadership should provide us with two tellers.

(Hon. Senators spoke off the record)

We have quite a number of amendments.

An hon. Senator: Shall we vote on all of them together or one by one?

The Temporary Chairperson (Sen. Mositet): We shall vote on all of them together unless you have a reservation on any one of them. We just want two tellers, Sen. Chelule, please, come. Sen. Sijeny, are you voting for Nairobi? You can still be a teller and vote at the same time.

(Sen. Orenge spoke off the record)

Sen. Orenge wants gender balance on this. Tellers, please come forward.

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Hon. Senators, I now wish to put the question that Clauses 13, 14, 15, 18, 25, 28, 36, 37, and 38 be part of the Bill.

Let us proceed with the Clerk reading out the names.

(Voting in progress)

Sen. Sang: On a point of order, Mr. Temporary Chairman, Sir. The Nairobi Delegation Leader stepped aside recently. Do Members of his delegation have the power to vote now that he stepped aside?

The Temporary Chairman (Sen. Mositet): Sen. Sang, I rule you out of order.

DIVISION

ROLL CALL VOTING

(Question that Clause 13, 14, 15, 18, 25, 28, 36, 37 and 38 be part of the Bill put and the Senate proceeded to vote by County Delegations)

AYES: Sen. Abdirahman, Wajir County; Sen. (Prof.) Anyang'-Nyong'o, Kisumu County; Sen. Boy Juma Boy, Kwale County; Sen. Haji, Garissa County; Sen. M. Kajwang', Homa Bay County; Sen. Sen. Karaba, Kirinyaga County; Sen. Kembi-Gitura, Murang'a County; Sen. (Dr.) Khalwale, Kakamega County; Sen. Khaniri, Vihiga County; Sen. (Prof.) Kindiki, Tharaka-Nithi County; Sen. Kivuti, Embu County; Sen. (Dr.) Kuti, Isiolo County; Sen. (Prof.) Lonyangapuo, West Pokot County; Sen. Madzayo, Kilifi County; Sen. Mositet, Kajiado County; Sen. Mungai, Nakuru County; Sen. (Eng.) Muriuki, Nyandarua County; Sen. Murungi, Meru County; Sen. Musila, Kitui County; Sen. Muthama, Machakos County; Sen. Ndiema, Trans-Nzoia County; Sen. Ntutu, Narok County; Sen. Obure, Kisii County; Sen. Okong'o, Nyamira County; Sen. Orengo, Siaya County; Sen. Sang, Nandi County; Sen. Sijeny, Nairobi County and Sen. Wamatangi, Kiambu County.

Teller of the Ayes: Sen. Chelule

NOES: Nil.

Teller of the Noes: Sen. Sijeny

The Temporary Chairman (Sen. Mositet): Order, hon. Senators. The Ayes have it.

AYES: 28

NOES: Nil

ABSENTIONS: Nil

(Question carried by 28 votes to 0)

(Clauses 13, 14, 15, 18, 25, 28, 36, 37 and 38 agreed to)

DIVISION

ROLL CALL VOTING

*(Question that Clauses 4,5,6,7,8,9,10,11,12,16,17,19,20,21,22,
23,24, 26, 27,29,30,31,32,33,34 and 35 be amended as
proposed and be part of the Bill put and
the Senate proceeded to vote by County Delegations)*

AYES : Sen. Abdirahman, Wajir County; Sen. Adan, Isiolo County; Sen. (Prof.) Anyang'-Nyong'o, Kisumu County; Sen. Boy Juma Boy, Kwale County; Sen. Chelule, Nakuru County; Sen. Haji, Garissa County; Sen. M. Kajwang, Homa Bay County; Sen. Karaba, Kirinyaga County; Sen. Kembi-Gitura, Murang'a County; Sen. (Dr.) Khalwale, Kakamega County; Sen. Khaniri, Vihiga County; Sen. (Prof.) Kindiki, Tharaka-Nithi County; Sen. Kivuti, Embu County; Sen. (Prof) Lonyangapuo, West Pokot County;; Sen. Madzayo, Kilifi County; Sen. Mositet, Kajiado County; Sen. (Eng) Muriuki, Nyandarua County; Sen. Murungi, Meru County; Sen. Musila, Kitui County; Sen. Muthama, Machakos County; Sen. Ndiema, Trans Nzoia County. Sen. Ntutu, Narok County; Sen. Obure, Kisii County; Sen. Okong'o, Nyamira County; Sen. Orengo, Siaya County; Sen. Sang, Nandi County; Sen. Sijeny, Nairobi County; and Sen. Wamatangi, Kiambu County.

Teller of the Ayes: Sen. Chelule

NOES: Nil

Teller of the Noes: Sen. Sijeny

The Temporary Chairperson (Sen. Mositet): Hon. Senators, the results are as follows

AYES: 28

NOES: Nil

ABSTENTIONS: Nil

(Question carried by 28 votes to Nil)

*(Question that the words to be left out
be left out, put and agreed to)*

*(Question that the words to be inserted in
place thereof be inserted, put and agreed to)*

*(Clauses 4,5,6,7,8,9,10,11,12,16,17,19,20,21,22,
23,24, 26, 27,29,30,31,32,33,34 and 35
as amended agreed to)*

DIVISION**ROLL CALL VOTING**

(Question, that the First Schedule and the Second Schedule be deleted, put and the Senate proceeded to vote by County Delegations)

AYES: Sen. Abdirahman, Wajir County; Sen. Anyang'-Nyong'o, Kisumu County; Sen. Boy Juma Boy, Kwale County; Sen. Chelule, Nakuru County; Sen. Haji, Garissa County; Sen. M. Kajwang; Homa Bay County; Sen. Karaba, Kirinyaga County; Sen. Kembi-Gitura, Murang'a County; Sen. (Dr.) Khalwale, Kakamega County; Sen. Khaniri, Vihiga County; Sen. (Prof.) Kindiki, Tharaka-Nithi County; Sen. Kivuti, Embu County; Sen. (Dr.) Kuti, Isiolo County; Sen. Lonyangapuo, West Pokot County; Sen. Madzayo, Kilifi County; Sen. Mositet, Kajiado County; Sen. (Eng.) Muriuki, Nyandarua County; Sen. Murungi, Meru County; Sen. Musila, Kitui County; Sen. Muthama, Machakos County; Sen. Ndiema, Trans Nzoia County; Sen. Ntutu, Narok County; Sen. Obure, Kisii County; Sen. Okong'o, Nyamira County; Sen. Orengo, Siaya County; Sen. Sang, Nandi County; Sen. Sijeny, Nairobi County; and, Sen. Wamatangi, Kiambu County.

Teller of the Ayes: Sen. Chelule

NOES: Nil

Teller of the Noes: Sen. Sijeny

The Temporary Chairperson (Sen. Mositet): Hon. Senators, I will now announce the results for the division.

AYES: 28

NOES: 0

ABSTENTIONS: Nil

The "Ayes" have it.

(Question carried by 28 votes to nil)

(The First Schedule and the Second Schedule deleted)

The Temporary Chairperson (Sen. Mositet): Hon. Senators, we now go to the fourth Division.

DIVISION**ROLL CALL VOTING**

(Question, that the Third Schedule, Clause 2, Title and Clause 1 be amended as proposed and be part of the Bill, put and the Senate proceeded to vote by County Delegations)

AYES: Sen. Abdirahman, Wajir County; Sen. (Prof.) Anyang'-Nyong'o, Kisumu County; Sen. Boy Juma Boy, Kwale County; Sen. Haji, Garissa County; Sen. M. Kajwang', Homa Bay County; Sen. Sen. Karaba, Kirinyaga County; Sen. Kembi-Gitura, Murang'a County; Sen. (Dr.) Khalwale, Kakamega County; Sen. Khaniri, Vihiga County; Sen. (Prof.) Kindiki, Tharaka-Nithi County; Sen. Kivuti, Embu County; Sen. (Dr.) Kuti, Isiolo County; Sen. (Prof.) Lonyangapuo, West Pokot County; Sen. Madzayo, Kilifi County; Sen. Mositet, Kajiado County; Sen. Mungai, Nakuru County; Sen. (Eng.) Muriuki, Nyandarua County; Sen. Murungi, Meru County; Sen. Musila, Kitui County; Sen. Muthama, Machakos County; Sen. Ndiema, Trans-Nzoia County; Sen. Ntutu, Narok County; Sen. Obure, Kisii County; Sen. Okong'o, Nyamira County; Sen. Orenge, Siaya County; Sen. Sang, Nandi County; Sen. Sijeny, Nairobi County and Sen. Wamatangi, Kiambu County.

Teller of the Ayes: Sen. Chelule

NOES: Nil.

Teller of the Noes: Sen. Sijeny

The Temporary Chairman (Sen. Mositet): Hon. Senators, the results are as follows:-

AYES: 28

NOES: Nil

ABSTENTIONS: Nil

(Question carried by 28 votes to nil)

(Question that the words to be left out be left out, put and agreed to)

(Question that the words to be inserted in place thereof be inserted, put and agreed to)

(Third Schedule as amended agreed to)

(Clause 2 as amended agreed to)

(Title as amended agreed to)

(Clause 1 as amended agreed to)

The Temporary Chairman (Sen. Mositet): I thank the tellers for doing a good job.

I now call upon the Mover to report to the Senate the consideration of The Potato Produce and Marketing Bill (Senate Bill No. 22 of 2014) and its approval thereof with or without amendments.

Sen. (Eng.) Muriuki: Mr. Temporary Chairman, Sir, I beg to move that the Committee do report to the Senate, its consideration of The Potato Produce and Marketing Bill (Senate Bill No. 22 of 2014) and its approval thereof with amendments.

Sen. Obure seconded

(Question proposed)

(Question put and agreed to)

(The House resumed)

(The Deputy Speaker (Sen. Kembi-Gitura) in the Chair)

REPORT AND CONSIDERATION OF REPORT

THE POTATO PRODUCE AND MARKETING BILL (SENATE BILL NO. 22 OF 2014)

Sen. Mositet: Mr. Deputy Speaker, Sir, I beg to report that the Committee of the Whole has considered The Potato Produce and Marketing Bill (Senate Bill No. 22 of 2014) and its approval thereof with amendments.

Sen. (Eng.) Muriuki: Mr. Deputy Speaker, Sir, I beg to move that the House do agree with the Committee in the said report.

Sen. Obure seconded.

(Question proposed)

POINT OF ORDER

IMPLICATIONS OF A SENATOR VOTING FOR SEN. SONKO

Sen. (Dr.) Khalwale: On a point of order, Mr. Deputy Speaker, Sir. I rise under Standing Order No. 71 to request you to make a determination on whether the vote that was taken in the Committee of the Whole is a vote. This is because while you were going on, a point of order was raised on the implications of a Senator voting for Sen. Sonko. A determination was not made and this has constitutional implications because Standing Order No. 71 is actually drawn directly from the provisions of the Constitution in Article 123.

I want to remind you that when Sen. Mutula Kilonzo Snr. passed on, when Sen. Wetangula lost his seat because of the court process and when Sen. Otieno Kajwang passed on, on all the three occasions during the roll call voting, their names were never called out. We are aware that Sen. Sonko has stepped down. We want it to be clear. We would like a determination to be made because we have never had this experience before and under Standing Order No. 1, it is important that you be very clear.

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Sen. Okong'o: Mr. Deputy Speaker, Sir, I wanted to inform the Senator but I think you have cut him short.

The Deputy Speaker (Sen. Kembi-Gitura): It is too late. You do not inform him when he has already sat down.

Sen. Murkomen: On a point of order, Mr. Deputy Speaker, Sir. Is Sen. (Dr.) Khalwale in order to ask the Speaker twice? The Speaker had ruled on that issue by the same Senator on the matter of the Senator of Nairobi. Is he trying the Speaker?

The Senate Minority Leader (Sen. Wetangula): Mr. Deputy Speaker, Sir, I am the one who raised this issue about a Senator who does something that is not grounded in any law called "stepping aside" and announcing publicly that he has left participation in the proceedings and sittings of the Senate. Indeed, since he did so, he has never stepped here; at least not in my presence. Even if he had not stepped aside – something unrecognizable in law – by now he should have lost his seat for not attending proceedings of the Senate.

The Deputy Speaker (Sen. Kembi-Gitura): Order, Sen. Wetangula! The issue before the House – the one raised by Sen. (Dr.) Khalwale – is clear. If you are trying to raise another issue, I will not allow it.

The Senate Minority Leader (Sen. Wetangula): Mr. Deputy Speaker, Sir, I am complementing what he said.

The Deputy Speaker (Sen. Kembi-Gitura): Well, I have heard Sen. (Dr.) Khalwale. Unless you are saying something different but if you bring the new angle of the Constitution and people losing their seats, this is not the time to determine that because the Constitution is clear.

The Senate Minority Leader (Sen. Wetangula): Mr. Deputy Speaker, Sir, let me conclude my point. If, indeed, it is true that the distinguished Senator for Nairobi County stepped aside and left attendance of the Senate, it so follows that Nairobi County has no delegation in this House.

The Deputy Speaker (Sen. Kembi-Gitura): Order, Sen. Wetangula! Let me save all of you from this predicament that you appear to be in so that we can proceed with the matter before us. We are going to be rudderless if we continue on this point. I can confirm to all of you, as I sit here, that it is true that Sen. Sonko wrote a letter of intention to step aside for 60 days, pending determination of the issues that were there. I can also tell you for true, that the Office of the Speaker wrote to him and declined to allow him, pending determination of the legality or otherwise of taking that position.

As of now, neither the constitutional Article that Sen. (Dr.) Khalwale has referred to nor Standing Order No. 71 would come into play.

The point is that Sen. Sonko at the moment---

(Sen. Wetangula interjected)

That is why I stopped you, Sen. Wetangula. It is not that I did not want you to proceed on that issue. The reason I stopped you was that, the position, as of now, is that Sen. (Dr.) Khalwale has not stepped aside because---

(Laughter)

Sen. (Dr.) Khalwale, I am very happy to see that you are still awake. I meant that Sen. Sonko is still the Senator for Nairobi County. He has not stepped aside because the Office of the Speaker has not allowed him, as of now, to step aside. That is the clear position as of now.

The Senate Minority Leader (Sen. Wetangula): On a point of order.

(Loud consultations)

The Deputy Speaker (Sen. Kembi-Gitura): Order! Order, Members! Not on that point because Sen. (Dr.) Khalwale made a point of order premised on the fact that Sen. Sonko has stepped aside. I have informed you, from the Chair, that Sen. Sonko has not stepped aside because the Speaker is still in the process of determining whether or not there is such a provision in law in the Constitution. So, if anybody wants to discuss the issue of the delegation of Nairobi County here, I will not allow it because what I have said is the current and actual legal position.

The Senate Minority Leader (Sen. Wetangula): on a point of order, Mr. Deputy Speaker, Sir.

The Deputy Speaker (Sen. Kembi-Gitura): I will not allow a point of order. Sen. Wetangula, listen to me first of all. You will not help me as pertains to Sen. Sonko. We will not discuss him here or his stepping aside because I have told you the position as of now.

Hon. Senators: On a point of order, Mr. Deputy Speaker, Sir.

The Deputy Speaker (Sen. Kembi-Gitura): On what possibly could you be making a point of order?

(Laughter)

Sen. Dr. Khalwale: Mr. Deputy Speaker, Sir, I thank you for guiding me. However, I would like you to clarify something further. Having guided me, I am still not clear.

Mr. Deputy Speaker, Sir, you have confirmed that the Speaker declined the request for stepping aside by Sen. Sonko.

The Deputy Speaker (Sen. Kembi-Gitura): I have not said that at all. You are putting words into my mouth. I said that the matter is still under the consideration of the Speaker and that Sen. Sonko has not, as of now, stepped aside. That is the clarification I made to you.

Sen. Dr. Khalwale: Mr. Deputy Speaker, Sir, if you could hear me on this one. I heard you say that Sen. Sonko wrote but the Speaker declined to acknowledge his request to step aside. If that is the case, the point I would like you to clarify is---

The Deputy Speaker (Sen. Kembi-Gitura): Order, Sen. (Dr.) Khalwale. If that is what I said, then that was not the correct position - I doubt very much that that is what I said - I said that Sen. Sonko wrote to the Speaker. The Speaker replied informing him

that the issue of his stepping aside or not was under the consideration of the Speaker and that the Speaker would communicate with him in due course on his decision. That decision has not been made. Therefore, the status quo remains that Sen. Sonko is the Senator for Nairobi County. He has not stepped aside and, therefore, has the capacity to designate another Senator in his delegation to vote as the delegation shall agree.

Sen. Muthama: On a point of order, Mr. Deputy Speaker, Sir. From the outset, I said I want to try and assist on this issue. It is true that Sen. Sonko wrote to the Speaker requesting to step aside. However, the big question is; did he step aside as the Deputy Chief Whip of the Majority or did he step aside as the Senator for Nairobi County?

Mr. Deputy Speaker, Sir, we have seen Ministers stepping aside to allow investigations but they do not step aside as Members of Parliament (MPs). My understanding is that Sen. Sonko vacated the office that could stop investigations from taking place. That is the position. Sen. Sonko remains the Senator for Nairobi County. It is only the voters that can make him step aside. That is what I wanted to help the House know about.

The Deputy Speaker (Sen. Kembi-Gitura): Thank you very much, Sen. Muthama. That is very helpful and the actual position. It settles the issue.

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

The Deputy Speaker (Sen. Kembi-Gitura): I will not accept more points of order.

(Loud consultations)

Order, Senators! It is my prerogative, as the Speaker, to allow or not to allow points of order. I have declined any points of order on the issue of Sen. Sonko. That closes the matter.

Let us proceed.

(Loud consultations)

(The Deputy Speaker consulted with the Clerks-at-the-Table)

Hon. Senators, I will now put the question.

(Question put and agreed to)

The Deputy Speaker (Sen. Kembi-Gitura): The Mover.

Sen. (Eng.) Muriuki: Mr. Deputy Speaker, Sir, I beg to move:-

THAT, the Potato Produce and Marketing Bill (Senate Bill No. 22 of 2014) be now read a Third Time.

The Deputy Speaker (Sen. Kembi-Gitura): Who is seconding the Bill?

Sen. Wamatangi seconded.

The Deputy Speaker (Sen. Kembi-Gitura): Thank you, Senator.

Hon. Senators, I will propose the question.

(Question proposed)

(The Deputy Speaker consulted with the Clerks-at-the-Table)

Hon. Senators, I will now put the question but before I do that, this will go to Division. Therefore, I hope that we have the numbers to vote on this Bill. Before I put the question, do we have the numbers? Could I get a determination?

(The Deputy Speaker consulted with the Clerks-at-the-Table)

Could the Division Bell be rung for two minutes?

(The Division Bell was rung)

The Deputy Speaker (Sen. Kembi-Gitura): Order! Hon. Senators, we have done very commendably. We have considered the amendments but do not seem to have the numbers to proceed.

Sen. (Eng.) Muriuki: Mr. Deputy Speaker, Sir, I rise under Standing Order No.54 (3) to request that we defer the putting of the Question to another day.

The Deputy Speaker (Sen. Kembi-Gitura): Hon. Senators, I accede to the request. The question shall be put tomorrow at 2.30 p.m.

(Putting of the Question on the Division deferred)

Next Order!

COMMITTEE OF THE WHOLE

(Order for Committee read)

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

IN THE COMMITTEE

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

THE PUBLIC FUNDRAISING BILL (SENATE BILL NO.28 OF 2014)

(Consideration of recommitted Clauses with proposed amendments by Sen. Kagwe)

The Temporary Chairperson (Sen. Murkomen): Order, Senators! We are in the Committee of the Whole to consider the Public Fundraising Bill. If you remember, on Thursday last week we agreed that the clauses that were to be moved by Sen. Mutahi Kagwe were to be recommitted today. Sen. (Prof.) Anyang'-Nyong'o will move those clauses. As usual, we will go through all the necessary amendments and then the Division will be done at the end.

The Clerk-at-the-Table will read out the clauses.

We have done many other Clauses, but there are some that we recommitted.

(Sen. (Prof.) Anyang'-Nyong'o stood up in his place)

Order! Sen. (Prof.) Anyang'-Nyong'o, hold on, I will come back to you. Let me consult.

*[The Temporary Chairperson (Sen. Murkomen)
consulted the Clerk-at-the-Table]*

Sen. (Prof.) Anyang'-Nyong'o: Mr. Temporary Chairman, Sir, I am wondering whether it is Clause 13 in the regulation of fundraising appeals at the county level of Government in part 3 or which one is it?

The Temporary Chairperson (Sen. Murkomen): Thank you, for your clarification, let me consult and then come back to you.

*[The Temporary Chairperson (Sen. Murkomen)
consulted the Clerk-at-the-Table]*

Yes, Sen. (Prof.) Anyang'-Nyong'o. It is in the regulations.
Proceed.

Clauses 13 and 14

Part III

Sen. (Prof.) Anyang'-Nyong'o: Mr. Temporary Chairman, Sir, on behalf of Sen. Kagwe, I beg to move:-

THAT, the Bill be amended by deleting Part III and substituting therefor the following new part-

PART III – REGULATION OF FUNDRAISING APPEALS AT THE COUNTY LEVEL OF GOVERNMENT

Role of
County
Executive

Committee member.

13. (1) The County Executive Committee Member in each county shall be responsible for the administration of this Act at the county level of government.

(2) Notwithstanding the generality of subsection (1), the County Executive Committee Member shall –

(a) receive, vet and process applications for the issuance of a licence to conduct a public fundraising appeal within the county;

(b) regulate the conduct of fundraising appeals within the county;

(c) investigate any complaints, misuse of funds raised through a fundraising appeal or any issue relating to the conduct of a fundraising appeal under this Act within the county;

(d) carry out inspections of records and audits relating to a fundraising appeal conducted under this Act;

(e) maintain a register of all licenses issued to a person conducting a fundraising appeal under this Act;

(f) monitor and evaluate the conduct of fundraising appeals within the county; and

(g) perform such other functions as may be necessary for the implementation of this Act.

(3) The county executive committee member may nominate such public officers as he considers necessary for the performance of the function under subsection (2).

(4) The county executive committee member shall have all the powers necessary for the proper discharge of the functions under this Act and without prejudice to the generality of the foregoing, shall have the power to —

(a) oversee the conduct of fundraising appeals carried out under this Act within the county;

(b) require any information from any person conducting or intending to conduct a fundraising appeal under this Act;

(c) require at any time, before the issuance of a licence and at any time after being issued with a licence such information as it may consider necessary; and

(d) monitor the compliance, by persons licensed under this Act, of the provisions of this Act.

Submission of report to County Assembly.

14. The county executive committee member shall prepare an annual report on the activities relating to fundraising appeals conducted within the county and submit the report to the County Assembly.

The Temporary Chairperson (Sen. Murkomen): Do you have any explanation? Anyway, you do not have to because it was Sen. Kagwe who proposed.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Murkomen): Division will be at the end of the process.

(Loud consultations)

I think we are missing something. It is important that all of us properly follow the sections that remained. I want to explain to the House that we had done the Bill extensively. The Clauses that were remaining were suggested by Sen. Kagwe for amendment and he was not there. We had attempted to drop them, but we reinstated and recommitted them for the Committee of the Whole today. That is why we are here to substantially deal with those Clauses that were proposed by him. We have done Clauses 13 and 14. However, in terms of the guidance of the Clerk at the Table, I think---

Let us proceed to the next Clause.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Murkomen): Division will be done later.

Clause 25

Sen. (Prof.) Anyang'-Nyong'o: Mr. Temporary Chairman, Sir, I hope that there is a difference between Clause 25 and the New Clause 25(A) which we shall come to. I have something to say about the new Clause 25.

The Temporary Chairperson (Sen. Murkomen): We shall come back to the new Clauses.

Sen. (Prof.) Anyang'- Nyong'o: Mr. Temporary Chairman, Sir, on behalf of Sen. Kagwe, I beg to move:-

THAT, Clause 25 of the Bill be amended in subclause (2) by deleting the words “county committee” and substituting therefor the words “relevant county executive committee member”.

Mr. Temporary Chairman, Sir, let me explain why these amendments are important. What Sen. Kagwe has done is to substitute executive committee member for the county committee. In other words, he wants to reduce the bureaucracy that was in the original Bill. He proposes here those activities and responsibilities be given to the executive member in the county government. This will make it more efficient and less costly. I thought I should give this explanation so that I do not have to repeat it every time these amendments come up.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Murkomen): Division will be done later.

Clause 26

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The Temporary Chairperson (Sen. Murkomen): Sen. (Prof.) Anyang'-Nyong'o, I think you should keep your microphone on.

Sen. (Prof.) Anyang'-Nyong'o: Mr. Temporary Chairman, Sir, I will keep it on.

Mr. Temporary Chairman, Sir, on behalf of Sen. Kagwe, I beg to move:-

THAT, Clause 26 of the Bill be amended –

(a) in subclause (3) by inserting paragraph (ba) immediately after paragraph

(b) –

(ba) the necessity of conducting the fundraising appeal;

(b) in subclause (4) by inserting the words “the Elections Act” immediately after the words “Ethics Act” appearing in paragraph (e).

Mr. Temporary Chairman, Sir, the only explanation that is important here is that he is trying to give a logic to the arrangement of the clauses, but also to remove the words “Election Act” and put the appropriate Act that is supposed to be referred to which is the Ethics Act. So, it makes a lot of sense in that amendment and I accept it.

(Question of the amendment proposed)

Clause 29

Sen. (Prof.) Anyang'-Nyong'o: Mr. Temporary Chairman, Sir, on behalf of Sen. Kagwe, I beg to move:-

THAT, Clause 29 of the Bill be amended –

(a) in subclause (1) by deleting the words “county committee” appearing immediately after the words “Committee or a” and substituting therefor the words “county executive committee member”;

(b) in subclause (2) by deleting the words “county committee” “Committee or a” and substituting therefor the words “county executive committee member”; and

(c) in subclause (3) by deleting the words “county committee” “Committee or a” and substituting therefor the words “relevant county executive committee member”.

Mr. Temporary Chairman, Sir, Sen. Kagwe found it necessary to ensure that the institution responsible for undertaking the responsibility being given is the executive committee member rather than the county committee as previously proposed.

(Question of the amendment proposed)

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

Sen. Orenge: Since we are going to vote on this proposal in an omnibus way, tomorrow or thereafter, and there is no likelihood that there is any opposition that is emerging from these amendments, is it possible for the Clerk-at-the-Table to read all the proposed amendments, and then the Senator for Kisumu can give the explanations, then we come for the voting tomorrow? It is significant to call them clause by clause because you vote on each clause. However, since we are not voting on each clause, I think we are

taking a little bit too long on this. In another ten minutes, I think you will be talking to yourself in the Chamber. I am just giving a proposal.

The Temporary Chairperson (Sen. Murkomen): Thank you, Sen. Orenge. We have only three other proposals to go through. Let us just complete it.

(Sen. Orenge spoke off record)

We had already done it. We will come back to that. Let me first complete Sen. Kagwe's amendments. I propose that Clause 32 be part of the Bill.

Proceed, Sen. (Prof.) Anyang'-Nyong'o.

Clause 32

Sen. (Prof.) Anyang'-Nyong'o: Mr. Temporary Chairman, Sir, on behalf of Sen. Kagwe, I beg to move:-

THAT, Clause 32 of the Bill be amended in subclause (1) by deleting the words "county committee" appearing immediately after the word "the" and substituting therefor the words "county executive committee member".

This is for the same reason that the previous clauses have been moved to be part of the Bill because of the substitution of the phrase "executive committee member" for "county committee."

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Murkomen): Division on this will be done later.

Clause 33

Sen. (Prof.) Anyang'-Nyong'o: Mr. Temporary Chairman, Sir, on behalf of Sen. Kagwe, I beg to move:-

THAT, Clause 33 of the Bill be amended –

- (a) in subclause (1) by deleting the words "county committee" appearing immediately after the word "the" and substituting therefor the words "county executive committee member";
- (b) in subclause (2) by deleting the words "county committee" appearing immediately after the words "opinion of the" and substituting therefor the words "county executive committee member"; and
- (c) in subclause (3) by deleting the words "county committee" appearing immediately after the words "refusal, the" and substituting therefor the words "county executive committee member".

(Question of the amendment proposed)

The Temporary Chairman (Sen. Murkomen): Division will be done later.

Clause 37

Sen. (Prof.) Anyang'-Nyong'o: Mr. Temporary Chairman, Sir, on behalf of Sen. Kagwe, I beg to move:-

THAT, Clause 37 of the Bill be amended in subclause (1) by deleting the words "county committee" appearing immediately after the word "notice, the" and substituting therefor the words "county executive committee member".

Mr. Temporary Chairman, Sir, Clauses 39, 48, 50, 51 and 54 are amended for the same reason. I think Sen. Orenge has a point here because it is just the same conformity to the previous clauses that those amendments are done.

The Temporary Chairperson (Sen. Murkomen): Okay, pending determination here about what the Standing Orders says, I would rather we just proceed that way, clause by clause. We will not take more than five minutes in the remaining clauses.

(Question of the amendment proposed)

Division on this clause will be done later.

Clause 39

Sen. (Prof.) Anyang'-Nyong'o: Mr. Temporary Chairman, Sir, on behalf of Sen. Kagwe, I beg to move:-

THAT, Clause 39 of the Bill be amended in subclause (1) by deleting the words "county committee" appearing immediately after the words "decision of the" and substituting therefor the words "county executive committee member".

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Murkomen): Division on this clause will be done later.

Proceed, Senator.

Clause 48

Sen. (Prof.) Anyang'-Nyong'o: Mr. Temporary Chairman, Sir, on behalf of Sen. Kagwe, I beg to move:-

THAT, Clause 48 of the Bill be amended in subclause (1) by deleting the words "county committee" appearing immediately after the word "submit to the" and substituting therefor the words "county executive committee member".

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Murkomen): Division on this clause will be done later.

Clause 50

Sen. (Prof.) Anyang'-Nyong'o: Mr. Temporary Chairman, Sir, on behalf of Sen. Kagwe, I beg to move:-

THAT, Clause 50 of the Bill be amended –

(a) in subclause (2) by deleting the words “county committee” appearing immediately after the words “approval of the” and substituting therefor the words “county executive committee member”; and

(b) in subclause (4) by deleting the words “county committee” appearing immediately after the words “the Committee or” appearing in paragraph (b) and substituting therefor the words “county executive committee member”.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Murkomen): Division on this clause will be done later.

Clause 51

Sen. (Prof.) Anyang'-Nyong'o: Mr. Temporary Chairman, Sir, on behalf of Sen. Kagwe, I beg to move:-

THAT, Clause 51 of the Bill be amended in subclause (3) by deleting the words “county committee” appearing immediately after the words “surrender to the” and substituting therefor the words “county executive committee member”.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Murkomen): Division on this clause will be done later.

Clause 54

Sen. (Prof.) Anyang'-Nyong'o: Mr. Temporary Chairman, Sir, on behalf of Sen. Kagwe, I beg to move:-

THAT, Clause 54 of the Bill be amended in subclause (1) by deleting the words “county committee” appearing immediately after the

word “the” and substituting therefor the words “county executive committee member”.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Murkomen): Division on this clause will be done later.

Clause 59

Sen. (Prof.) Anyang’-Nyong’o: Mr. Temporary Chairman, Sir, on behalf of Sen. Kagwe, I beg to move:-

THAT, Clause 59 of the Bill be amended by deleting subclause (1) and substituting therefor the following new subclause –

(1) A member of the National Committee, an employee of the National Committee or a county executive committee member shall not receive any gift or favour from an Applicant or a person licenced under this Act if the licence is still in operation.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Murkomen): Division on this clause will be done later. Let us move on to the New Clause 25A.

Sen. (Prof.) Anyang’-Nyong’o: Mr. Temporary Chairman, Sir, I have serious objections to that amendment.

The Temporary Chairperson (Sen. Murkomen): No, you cannot be the Mover and have objections to move the amendment.

Sen. (Prof.) Anyang’-Nyong’o: Then I will not move it. There is a problem with it. It reads as follows:-

THAT, the Bill be amended by inserting the following new clause immediately after clause 25 –

Member of Parliament not to participate in or conduct a fundraising appeal.

25.A (1) An elected or nominated Member of Parliament or of a County Assembly shall not actively participate in a fundraising function or conduct a fundraising appeal, whether directly or indirectly, during his or her term as a Member of Parliament.

(2) Notwithstanding subsection (1), a Member of Parliament may make an anonymous contribution to a fundraising appeal conducted in accordance with this Act.

I think that is hypocritical.

(Sen. Orengo spoke off record)

So, I move that Clause 25 (A) be amended by deleting subsection 2.

The Temporary Chairperson (Sen. Murkomen): Your responsibility this afternoon is confined to moving.

Sen. (Prof.) Anyang'-Nyong'o: Okay, but I will not move it.

The Temporary Chairperson (Sen. Murkomen): If you do not want to move it, just refuse to move it. Then it will just be dropped.

Sen. (Prof.) Anyang'-Nyong'o: Then I drop it.

(Laughter)

(Loud consultations)

The Temporary Chairperson (Sen. Murkomen): I can see Sen. Orengo wants to raise a matter of procedure.

Sen. Orengo: Mr. Temporary Chairman, Sir, with respect to Sen. (Prof.) Anyang'-Nyong'o, he had taken the responsibility to move the amendments by Sen. Kagwe. I think he should be true to that responsibility. If there is a basis for making any amendments to the amendments, then we can do it from the Floor. However, it is not right for him to accept the responsibility with respect, then in this hour of need, run away from it. He cannot run away from moving it because it is the mandate and responsibility that has been given to him. I agree with him. I saw this. Probably, he can move it. If you can give us a little time to fine tune it, we could move a further amendment to it.

An hon. Senator: Yes!

The Temporary Chairperson (Sen. Murkomen): Sen. (Prof.) Anyang'-Nyong'o, Sen. Kagwe has been extremely useful in informing a Bill that you pioneered or sponsored. So, you cannot just abandon him midway when you have also moved so many of the clauses. Proceed moving, then the Senators on the Floor will assist. Let me give Sen. Obure an opportunity.

Sen. Obure: Mr. Temporary Chairman, Sir, I would like to persuade the Senator for Kisumu, Prof. Anyang'-Nyong'o to faithfully move the amendments by Sen. Kagwe. The rest of us on the Floor will make further amendments.

The Temporary Chairman (Sen. Murkomen): Prof. Anyang'-Nyong'o, are you persuaded?

New clause 25A

Sen. (Prof. Anyang'-Nyong'o): Mr. Temporary Chairman, Sir, on behalf of Sen. Kagwe, I beg to move:-

THAT, the Bill be amended by inserting the following new clause immediately after clause 25 –

<p>Member of Parliament not to participate in or conduct a fundraising appeal.</p>	<p>25.A (1) An elected or nominated Member of Parliament or of a County Assembly shall not actively participate in a fundraising function or conduct a fundraising appeal, whether directly or indirectly, during his or her term as a Member of Parliament.</p> <p>(2) Notwithstanding subsection (1), a Member of Parliament may make an anonymous contribution to a fundraising appeal conducted in accordance with this Act.</p> <p>(3) A person who contravenes the provisions of this section shall be liable to a fine not exceeding eight hundred thousand shillings.</p>
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(Question of the new Clause 25A proposed)

(New Clause 25A read the First Time)

(Question, that the New Clause 25A be read a Second Time proposed)

Sen. Orengo: Mr. Temporary Chairman, Sir, I propose that we should have time to propose the amendment formally. We are doing this in a very difficult way. We should follow the normal parliamentary procedure. The reading of the wordings in 25A (1 and 2) amounts to nothing as long as the words are in the provision. In fact, my suggestion is that sub clause 2 should be removed in its entirety. If we say that notwithstanding sub section 1, a Member of Parliament may make an anonymous contribution--- that cannot be anonymous. People will feel intimidated to give information which may amount not to being anonymous. This takes away the whole spirit and letter of the provision.

I further propose that the words appearing on the second line and the third lines that “shall not actively participate whether directly or indirectly” be deleted. The provision would make a lot of sense if there was an absolute prohibition for Members of Parliament and Members of the County Assembly from participating in fundraising functions.

There are provisions in the body of the Bill as proposed by Sen. (Prof.) Anyang’-Nyong’o which would allow some kind of contribution which can be made in any case on a humanitarian basis. However, as long as we include in this case “actively or inactively” if you appear before some church functions, you will be asked *utoe sadaka kubwa* instead of the normal *sadaka* then this clause will not attain its objectives.

I beg to move:-
THAT, the New Clause 25A be amended-
(a) by deleting sub clause 2;
(b) by deleting the word “actively” appearing after the words “shall not” appearing on the second line, and
(c) by deleting the words “whether directly or indirectly” appearing after the words “fundraising appeal”.

The Temporary Chairman (Sen. Murkomen): Is there anyone seconding you?

Sen. Wetangula seconded

(Sen. Murungi stood up in his place)

Sen. Murungi: Mr. Temporary Chairman, Sir, I do not want to second. I was rising to seek clarification.

The Temporary Chairman (Sen. Murkomen): It has been seconded by Sen. Wetangula.

(Question of the further amendment proposed)

Sen. Murungi, you can now make contribution to it.

Sen. Murungi: Mr. Temporary Chairman, Sir, the further amendment to the amendment proposed by Sen. Kagwe appears to be a bit technical. Could Sen. Orengo explain to us in simple terms what his amendment means before we vote on it? What does it mean?

Sen. Orengo: Mr. Temporary Chairman, Sir, sub clause 2 does not need a lot of explanation. It says; “notwithstanding the provisions of Clause 1, you can make an anonymous contribution.” My understanding is that when you are making an anonymous contribution, you can do it behind the scenes or give an envelope without announcing. This may be a very good intention.

However, if you appear another time in a church service and say that you are not allowed to contribute and that you do not want your contribution to be announced, what do you do with a priest who may stand up and say that “we should not hide what the Lord has given to us?” Lo and behold! If it is Kshs200--- I do not think that this will help Members of Parliament to meet the intended targets for this clause.

Similarly, sub clause 1 says; “you shall not actively participate,” I do not understand under what circumstances participation can be normal or in acting capacity. That distinction is very important. We should know whether you are participating directly or indirectly. My leader here can bear me witness, most of the time, we have gone to very many places where we have been told; “We do not want your money. This is not a harambee meeting. However, your contribution is welcome.”

I have seen somebody who was prepared to give a contribution of Kshs5,000. The organizers said: “You are a whole Senator. This is not enough participation.” Here, we are now talking about active and directly and indirectly participation. Those words will not help. The effect is that you do not give at all in the circumstances covered by this

Bill. I do not think that this Bill outlaws giving out gifts and there are moments when you can do it. This Bill bans Members of Parliament and the County Assembly in the manner in which it is framed. I do not think it amounts to anything without the amendments and proposals.

Convincing a “lion king” may not be very easy.

(Question, that the New Clause 25A be further amended, proposed)

The Temporary Chairman (Sen. Murkomen): Division on this New Clause 25A will be done later.

New Clause 48A

Sen. (Prof.) Anyang’-Nyong’o: Mr. Temporary Chairman, Sir, on behalf of Sen. Kagwe, I beg to move:-

THAT, the Bill be amended by inserting the following new clause immediately after clause 48 – Declaration of source of contribution.

48.A A person who makes a contribution to a fundraising appeal shall –

(a) specify the source of the contribution; and

(b) declare such contribution in the income tax returns submitted by such person pursuant to the Income Tax Act.

The reason this clause is important is to make sure that people who contribute money for genuine causes do so honestly, transparently and in line with Chapter 6 of the Constitution which deals with Integrity. If you are making contribution from your own sources, then you declare it income tax. It can also be tax deductible so that what you give can be recognized by the State as philanthropy. However, at the moment, people harass others to collect a lot of money that is even more than their monthly income and contribute to harambees and then they are glorified. But in the meantime, other people have suffered and corruption continues. I think that it is a very transparent part of the law which will make Chapter 6 of the Constitution be effectively realized in law.

(Question of the New Clause 48A proposed)

(New Clause 48A read the First Time)

(Question, that the New Clause 48A be read a Second Time, proposed)

The Senate Minority Leader (Sen. Wetangula): Mr. Temporary Chairman, Sir, this New Clause is, in fact, one of the fundamentals that informed the drafting and

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prosecution of this Bill. Quite often, we have seen many of us who go to participate in fundraisings, soliciting for funds from friends. I would have loved the declaration to the income tax to reach and benefit those who make contributions with those who will eventually put the money in the till.

For instance, when we, probably, know that the distinguished Senator for Kajiado does not possess means of income to contribute millions every other week in a fundraising and yet we see him trotting around with millions of shillings and does not disclose the source, then it becomes a problem. This has been the problem. So, it is good that you disclose the source and also benefit from tax breaks out of the contributions.

Individuals cannot substitute the duty and responsibility of the State in matters of development. When we do so, we must get a benefit, particularly if you are contributing to the construction of a hospital, school or facilities that are for public use and benefit.

This is a very important New Clause and I fully support it. In fact, it enhances the value and philosophy of this Bill.

Sen. Orenge: Thank you, Mr. Temporary Chairman, Sir. This is one proposal that I support in its entirety. I am particularly appreciative of Sen. (Prof.) Anyang'-Nyong'o on this particular regard because he is never intimidated. If you go to a fundraising with him, he will give what he has. That speaks volumes. However, the tendency in this country now is that a fundraising becomes like a major political exhibition or show business. That kind of thing should be taken to Las Vegas where Mayweather can do better.

One of the things that the NARC Government taught and brought to this nation is that tax money can actually do a lot. If people pay taxes, we can have a trillion shillings budget. In the earlier days, for tax revenue to hit Kshs300 billion was a major thing. However, we are now having budgets of trillion shillings. At this particular point in time, I think that those who are willing to contribute should declare their sources.

That is happening in banks also. You cannot withdraw more than Kshs1million. If you deposit more than the said amount, banks also have to give account of such movements of money, especially now that we are fighting corruption and terrorism. You know what is good for the goose is good for the gander. It may be good for the banking sector. But harambees can also be a way in which people can do a lot of terrible stuff to the country.

I fully support this amendment. I hope that when we put it to the vote, it shall be adopted.

The Temporary Chairperson (Sen. Murkomen): Sen. Murungi, do you have a point of order?

Sen. Murungi: I would like to contribute.

The Temporary Chairperson (Sen. Murkomen): Please, proceed Sen. Murungi.

Sen. Murungi: Thank you, Mr. Temporary Chairman, Sir. I also want to add my voice to those who are supporting this amendment. We have been put in a situation where even poor people have to pretend every weekend that they are very rich people. We spend the week, from Monday to Friday, harassing friends and borrowing money so that we can show up in the village over the weekend with bundles of money to impress the villagers. Some of these people are making big businesses out of these contributions.

They collect money from very many people, but only surrender a half or quarter of that money to the function and keep the rest. If they got Kshs10,000 from Sen. Murkomen, Kshs5,000 from Sen. Wetangula and many others, then we expect them to announce that they received money from so-and-so. We expect them to specify the source of the money they contribute in harambees. Therefore, that bit of theft which can be covered by them by not declaring their sources is checked.

Secondly, this will be a lot of protection to the Members of Parliament and Members of the County Assemblies (MCAs). Everybody now knows what the Senators and MCAs earn because our salaries are in the public domain. We will be able to total during the course of the month and see how much a Senator has contributed and then the taxman will follow to find out whether the Senator has hidden sources of wealth, which we need for building roads and schools in this country. I think that will increase transparency and accountability in the use of resources in this country.

Mr. Temporary Chairman, Sir, I support the amendment.

Sen. Orenge: On a point of order, Mr. Temporary Chairman, Sir. I appreciate that the “lion king” is talking about people knowing about how much we are paid. However, sometimes, even what we are paid is being taken for granted. If you look at your salary slip, what is salary is about Kshs340,000. The rest is car maintenance which people normally assume that it is part of your salary. Part of it, is for your mobile phone. So, we live a lie most of the time because what we should really be using to make sure that people are in the Chamber--- For instance, most Senators are not in here now because they have to pursue other things . So, I am informing Sen. Murungi that most of what he is mentioning as salary, is already committed to car maintenance and other things.

Sen. Mositet: Mr. Temporary Speaker, Sir, I want to thank Sen. Anyang’-Nyong’o for this Bill. This is the best law for this country because I believe it will bring sanity to this nation. It is these people who get money illegally that go about intimidating *wananchi* during harambees. I believe that we are having a problem with drug trafficking and those targeted are young people. Out of that, you will find that after they get that kind of money, they feel that they can only be felt in the society if they look for leadership. Therefore, in some cases leadership has been traded with money.

People need to know that a Senator, a Member of Parliament or an MCA also need to be paid so that they can take care of their families and other needs. Therefore, *wananchi* should not expect that whatever these leaders earn should be taken to harambees. It should be a good concept that a leader must have some qualities to provide guidance in the section where one is leading.

This is a very good amendment and I support it.

The Temporary Chairperson (Sen. Murkomen): Let us proceed because Division will be done later.

Schedule

Sen. Anyang’-Nyong’o: Mr. Temporary Speaker, Sir, I beg to move:-
THAT the Bill be amended in the Schedule-

- (a) by deleting the words “and the county committees” appearing in the title to the Schedule;
- (b) by deleting subparagraph (2) of paragraph 1; and
- (c) by deleting paragraph 6.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Murkomen): Division will be done later.

Clause 2

Sen. Anyang'-Nyong'o: Mr. Temporary Speaker, Sir, I beg to move:-

THAT clause 2 of the Bill be amended—

- (a) In the definition of the word “county register” by deleting the word “county committee” appearing immediately after the words “which a” and substituting therefor the words “county executive committee member”;
- (b) by deleting the definition of the word “county committee”; and
- (c) by deleting the definition of the word “relevant committee”.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Murkomen): Division will be done later. We do not have the numbers to go on with Division. So, you will proceed to report progress.

PROGRESS REPORTED

THE PUBLIC FUNDRAISING APPEALS BILL
SENATE BILL NO.28 OF 2014

Sen. (Prof.) Anyang'-Nyong'o: Mr. Temporary Chairman, Sir, pursuant to Standing Order No.139, I beg to move that the Committee of the Whole report progress on its consideration of the Public Fundraising Appeals Bill (Senate Bill No.28 of 2014) and seek leave to sit again tomorrow.

(Question proposed)

(Question put and agreed to)

(The House resumed)

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

REPORTTHE PUBLIC FUNDRAISING APPEALS BILL
(SENATE BILL NO.28 OF 2014)

Sen. Murkomen: Mr. Temporary Speaker, Sir, I beg to report that the Committee of the Whole has considered The Public Fundraising Appeals Bill, Senate Bill No.28 of 2014 and seeks leave to sit again tomorrow.

Sen. Orengo seconded

(Question proposed)

(Question put and agreed to)

Sen. Orengo: On a point of order, Mr. Temporary Speaker, Sir. Did you see what the Senate Minority Leader did? He was not properly in the House, but at the Bar, but voted more loudly than everybody else. Could you rule him out of order?

The Temporary Speaker (Sen. Mositet): I did not see him or hear him. However, in case he did that, he must have contributed a lot.

BILLS*Second Reading*THE PUBLIC APPOINTMENTS (COUNTY ASSEMBLY APPROVAL)
BILL (SENATE BILL NO. 20 OF 2014)

The Temporary Speaker (Sen. Mositet): Who is the Mover of this Bill? Where is he? If he is not here, we can skip and go to the next Order.

(Bill deferred)

*Second Reading*THE PARLIAMENTARY SERVICE (AMENDMENT) BILL
(SENATE BILL NO. 21 OF 2014)

Sen. Murungi: Mr. Temporary Speaker, Sir, I beg to move that the Parliamentary Service (Amendment) Bill (Senate Bill No.21 of 2014) be read for a Second Time. This is a very important Bill for the strengthening of this Senate. As stated in its memorandum of objects and reasons, the main purpose of this Bill is to amend the Parliamentary Service Act, Cap 185(a), which was passed in the year 2000, indeed, as Act No.10 of 2000. The Act was passed 10 years before the new Constitution came into force.

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However, it has not been reviewed as required by the Constitution of Kenya 2010, Schedule 6, Section 7, which requires that all the existing laws be ---

The Senate Minority Leader (Sen. Wetangula): On a point of order, Mr. Temporary Speaker, Sir. I am so sorry to interrupt my distinguished learned senior. Did you notice that as the distinguished Senator for Meru – who doubles as the king of Meru – was starting to move the Motion, contrary to the provisions of our Standing Orders where no more than one Member should be standing, the distinguished Senator for Mombasa was standing over there and doing this?

(Sen. Wetangula gestured, with his arms raised in the air)

Whatever that means, I do not know. Is that allowed? Is it proper? Is it parliamentary?

The Temporary Speaker (Sen. Mositet): Sen. Wetangula, that is not allowed, but the Speaker never saw that.

Sen. Murungi: Thank you, Mr. Temporary Speaker, Sir. The Senator for Mombasa is my good friend and he was just expressing solidarity with me.

(Laughter)

Mr. Temporary Speaker, Sir, as I was saying, this Act was passed in 2000, almost 10 years before the new Constitution came into force. However, it has not been reviewed to bring it into line with the new constitution.

This Act, which regulates the provision of services in Parliament – which means both the National Assembly and the Senate – does not recognise the Senate. It is still in the era of a unicameral Parliament and it is a shame that we, who are making other laws, have allowed this law to go unamended to bring it in line with the Constitution; almost four years after the new Constitution came into force.

The main purpose of this amendment is to create two committees within the Parliamentary Service Commission (PSC) namely, the National Assembly Services Committee, to be chaired by the Speaker of the National Assembly and the Clerk of the National Assembly to be the Secretary together with other members, so that they can provide specialized services to the National Assembly. It is also to establish the Senate Services Committee chaired by the Speaker of the Senate, and of which our Clerk will be the Secretary.

Mr. Temporary Speaker, Sir, the purpose of the establishment of these two committees is to enhance administrative autonomy of the Senate and, at the same time, enhance efficiency in the delivery of services by the Clerk's office and the secretariat of the Senate to the Senate and the same for the National Assembly.

I do not need to speak a lot on this because I am actually preaching to the converted. Let the truth be said, because as the Bible says, it is only the truth which will set us free. I am happy with the information which Sen. Orengo was giving me, that although it is claimed that we are overpaid, earning in triple digits, indeed, the take-home pay for most of the Senators is rarely more than Kshs300,000.

Although this House has a critical role to play in legislation, representation of the people and financial control, as required by Articles 94 and 96 of the Constitution, and this House is the ultimate protector of the devolved system of Government in this country, the PSC has not provided adequate facilities and services to ensure efficient and effective functioning of the Senate. This is contrary to Article 127(6) of the Constitution which requires the PSC to provide adequate services to ensure efficient and effective functioning of all Houses of Parliament, including the Senate.

Mr. Temporary Speaker, Sir, to put it bluntly, I would like to say that the PSC has given the Senate a raw deal. We have been under-resourced, underfunded and poorly served by the services of the secretariat provided by the PSC as a House. The PSC tends to treat the Senate as an irrelevant and irritating appendage of the National Assembly. It is even very evident from the composition of the PSC itself, because our own Speaker is not a member of that PSC.

There is need to change this situation. We have thought it is best for us, as Senators, to empower ourselves, just like we took action as Members of Parliament to empower Parliament in 1990s. Although the Senator represents a bigger geographical unit, more people and has a more complex constituency than a Member of the National Assembly, the facilities provided to the Senator are exactly the same as those provided to an ordinary Member of Parliament. This is a situation which, as Senators, we cannot tolerate any more.

The Senator has been reduced to a mere political flower girl, especially in places of governance. I am told they are page boys and not flower girls. The senators are mere political flower girls and page boys of governors. We are there to decorate the functions, to be seen and be said; that “even the Senator for Bungoma and the one for Siaya were there.” However, as to what role the Senator was playing is purely cosmetic and decorative.

Mr. Temporary Speaker, Sir, this amendment will enhance the administrative autonomy of the Senate and empower the Senator to perform his role under Article 96 more effectively. The PSC, no doubt, has played a critical role in the strengthening of Parliament and removing it from the control and dominance of the Executive. Sen. Orenge will remember that when we joined Parliament in 1993, it was just a shell. We were very poorly remunerated. The salary of a Member of Parliament then, was only Kshs19,900. The committees of Parliament only existed on paper and no committee ever met.

Even the staff of the then National Assembly were employees of the Public Service Commission (PSC). They were civil servants. It is the Executive of the day which used to determine the appointment, promotion and discipline of the staff of Parliament. You remember what happened to the late Ndindiri who was the Clerk. I do not know if he disagreed with the executive and found himself transferred to be an undersecretary first, in the Ministries of Wildlife and then the Ministry of Energy.

Mr. Temporary Speaker, Sir, there was no parliamentary calendar. Parliament was worse than nursery school because we did not know when we would close or open. It all depended on when the former President Moi decided to call us and when he would send us home. It is the late hon. Martin Shikuku who summarised this very well by saying that

the letters “MP” meant “Miserable Person”. If he were around and in the Senate today, he would be saying that Senators are the most miserable persons; people with big titles, but nothing else other than the name “Senators”.

Mr. Temporary Speaker, Sir, it is hon. Peter Oloo Aringo, then called “Castro”, who came to rescue Parliament through the constitutional amendments which established the current PSC. It is in that landmark Bill that the Constitution of Kenya Amendment Act No. 3 of 1999 transformed Kenya’s Parliament from a toothless bull-dog to a vibrant House that we see today. Therefore, time has come for us to exert ourselves the way hon. Oloo Aringo did. Time has come for us to rise up and empower the Senate the way we empowered Parliament.

Mr. Temporary Speaker, Sir, the establishment of the PSC is critical to the functioning of parliamentary democracy in this country. The PSC has made tremendous progress: Improving remuneration of Members, providing offices for MPs both at Parliament and at the constituency level and facilitating parliamentary committees, not to mention the modern Chambers that the two Houses sit in today; the Senate Chamber and the National Assembly Chamber.

In the new Constitution, the PSC was re-established under Article 127 of the Constitution. Article 127(6) clearly states the functions of the Commission. The functions are stated in the old language and terms in which the “Oloo Aringo Bill” was drafted. The PSC is to be responsible for providing services and facilities to ensure efficient and effective functioning of Parliament. Therefore, the PSC serves both Houses of Parliament; the National Assembly and the Senate. It is, therefore, supposed to provide services and facilities to ensure efficient and effective functioning of the Senate. However, it is not doing so.

Mr. Temporary Speaker, Sir, the problem with the PSC, as constituted, is that it does not fully recognise that Kenya is no longer a unicameral Parliament. We are now in the era of bicameral legislature.

Mr. Temporary Speaker, Sir, in other jurisdictions; where there is a bicameral legislature, each of the two Houses is, for practical purposes, a separate and distinct entity with separate financial arrangements, staff and administrative facilities. The provision of services for each of the Houses is left to the leadership of each House. Therefore, the provision of the services of the Senate should be left to the leadership of the Senate while the provision of services to the National Assembly should be left to the leadership of the National Assembly. This is the case in the USA. The only thing shared between the Congress and the Senate is the Library of Congress which, as you know, is across the road from the Senate.

Mr. Temporary Speaker, Sir, in the Philippines, the two Houses are not even located near each other; they are separated. This is the same case in Rwanda and Nigeria, where the two Houses are separate and distinct in the provision of the facilities and services.

Mr. Temporary Speaker, Sir, ideally, we should have two commissions; one for the Senate and another one for the National Assembly. Unfortunately, given our political circumstances now, it is not possible to amend the Constitution to create two separate commissions immediately. Therefore, we took the shortcut of having the services

separated through committees. This does not involve a constitutional amendment and can be achieved fairly quickly.

Mr. Temporary Speaker, Sir, this Bill proposes the creation of two committees; one in charge of the Senate and another one in charge of the National Assembly. This means that when the parliamentary budget is made and we know what is supposed to be allocated to the Senate and the National Assembly, it is the Senate Services Committee which should implement the budget as far as the Senate is concerned. The National Assembly's Services Committee should administer the budget for the National Assembly. So, in terms of providing facilities for our offices, mileage and what have you, we should not be going to joint committees. Instead, we should be going to the Senate Services Committee.

Mr. Temporary Speaker, Sir, as I pointed out earlier, the Parliamentary Service Commission Act was enacted several years before the new Constitution came into place. Therefore, the Act does not recognise the existence of the Senate. When it talks about the "Clerk", for instance, that means the "Clerk of the National Assembly". It does not make any reference at all to the Senate because the Senate was not there at that time.

Mr. Temporary Speaker, Sir, this Bill seeks to amend Section 8 of the Act to include the Senate in the nomination of Members to the PSC. As it is now, although the Constitution provides for representation, the Act does not provide a similar provision for participation of the Senate in the appointment of Members to the PSC.

Secondly, it seeks to amend Section 12 of the Act to enable the PSC establish committees and co-opt Members into the committees. Therefore, by amending Section 12, it will be possible for the PSC to have power to establish the two committees that I am talking about.

A new Section 12(b) is introduced making it mandatory for the PSC to establish National Assembly's Services Committee and the Senate Services Committee to be chaired by the Speaker with the Clerk of the Senate as the Secretary. The functions of the committees are stated in Clause 12(c) of the Bill which includes providing services in terms of what the PSC is doing to both the Senate and the National Assembly.

Mr. Temporary Speaker, Sir, as I said, I do not want to speak for a long time because I talking to the converted. Time has come for us to stand up for the Senate and make it an effective institution of parliamentary democracy and the apex institution of devolution in this county. Time has come for us to empower ourselves as Senators so that we perform the critical roles that Kenyans expect us to perform.

With those few remarks, Mr. Temporary Speaker, Sir, I beg to move that this Bill be read a Second Time. I would like to request my learned friend, the Senate Minority Leader, Sen. Wetangula, to second this important Bill.

Thank you, Mr. Temporary Speaker, Sir.

The Senate Minority Leader (Sen. Wetangula): Mr. Temporary Speaker, Sir, I beg to second this Bill.

I wish to start by congratulating my distinguished learned senior, the Senator for Meru, for working on this Bill. In so doing, he has been quite consultative in sharing his ideas and vision with many of us. This Bill must be looked at within the context of the fact that just as law is dynamic, institutions are also dynamic. They grow, expand and

evolve. As they do so, they constantly become better, more organized, effective and discharge their responsibilities even better.

I do believe that once this Bill is passed in this House, it will find favour and support from the National Assembly. Indeed, the original idea that the distinguished Senator for Meru brought to the fore was to create an institution through a constitutional amendment. But he has found that even through the Parliamentary Service Act, an amendment can give effect to what we really want to do.

We must start from a point of understanding; that even in the 47 county assemblies in the country, each has its own county service board that does their work. Equally important to note, is that this Senate is on the frontline of fighting for and giving effect to the fact that county assemblies must be funded directly from the Exchequer, so that they are not held hostage by the county governments and they are not appendages to the county governments, if they have to play their oversight roles effectively and meaningfully.

Mr. Temporary Speaker, Sir, if the smallest counties in terms of numbers – Lamu, Tharaka-Nithi and a few others – have got the ability and capacity in law to have a county assembly service board that manages the affairs in terms of resource management, human resource hiring and so on, then it becomes even more imperative that the Senate, as the defender and protector of counties and their governments, should even be more grounded, protected and independent than even the counties that we protect. Consequent upon this, I stand here to strongly second and support the whole idea and concept of the dynamism of institutions and how they can grow to serve their members better.

Mr. Temporary Speaker, Sir, we start from the fact that the idea is predicated on the firm foundation that the Senate is and must be the Upper House. It is so unfortunate that we have an ‘Upper’ House that is subordinate almost in every respect to the ‘Lower’ House. It is a complete antithesis of common sense. We want to see that the Senate is truly a Senate. The autonomy of the Senate must be derived from a legal foundation that will then give the practical management of our affairs as an independent unit. Indeed, I agree that the PSC – and here the Senator for Meru has thought very clearly – is grounded in the Constitution. It is a constitutional commission, but the Constitution also provides that being the grand norm, operational legalities must be then traced in municipal legislations, which are the Acts of Parliament.

The Act of Parliament which gives effect to the constitutional provision of the PSC is then the Parliamentary Service Act. The Parliamentary Service Act, in the amendment sought, recognizes the bicameral nature of Parliament. Of course, ‘Parliament’ under the Constitution means and includes the Senate and the National Assembly. But you have seen time and again that matters touching on the Senate and Senators are treated in a very casual manner; reducing them to literally poodles and appendages to the mandarins that run Parliament.

You have heard persons in positions of responsibility asking rhetorical and irritating questions like; “what is the Senate?” Of course, they know that the Senate is, but they ask those questions with a deliberate view and desire to annoy. The Senate has declined to be annoyed by these unhelpful questions.

Mr. Temporary Speaker, Sir, you will remember when the Senate started; we have gone through the most harrowing and humiliating processes. The Senate was sitting in what we commonly described as a “garage,” at the Kenyatta International Convention Centre (KICC). The “garage” made the whole concept of a Senate a very big joke. I have visited a few county assemblies. If you go to the County Assembly of Nakuru and many others, they have chambers that are as good as this Chamber. This is because we have given them autonomy.

Let it be understood very clearly that the autonomy that the Senate is seeking is not to bestow personal benefits to the Senators. Indeed, the Bill is very clear that it is to assist and enable Senators to discharge their functions. The Senate has a very important and onerous responsibility. In fact, Article 96 of the Constitution is the only Article that enjoins the Senate the responsibility of protecting and defending counties and their governments. So, the failure or success, the comfort or discomfort of the county governments is our cardinal responsibility. The Senate will not function effectively and properly if at every twist and turn, we have our colleagues in the National Assembly through the PSC standing in our way. Many of us have spoken on this Floor before, about the demeaning and disrespectful manner in which the Chairman of the PSC has handled matters of the Senate.

Mr. Temporary Speaker, Sir, equally important is the demeaning and disrespectful manner in which the Chairperson of the Salaries and Remuneration Commission (SRC), the Executive of the national Government have generally viewed and handled the Senate. The Senate is always an afterthought, “an also present” an “also available” and above all, a “we can do without” institution. Yet there is no other organ in this country that the Constitution has given the responsibility to defend and protect counties and their governments. You cannot discharge that very important responsibility if you have no autonomy and if you cannot determine how you are going to work.

In this Bill, Clause 12(c) of this Bill is very important because it seeks to create two committees under Clause 12 (b); there is the PSC which has a twin prong, that is, a committee for the National Assembly and one for the Senate which is equal in structure, in numbers, in authority and responsibility. It cannot be any fairer than that. Regarding Clause 12 (c), the committee will then facilitate and coordinate the provision of services and facilities to the two Houses. This is what the committees will do. Clause 12 (b) states that the committee of each House will monitor and evaluate the implementation of policies, plans and strategies formulated by the commission with respect to each House and report to the commission.

More importantly, it will make recommendations to the commission on the formulation and implementation of plans and programmes to promote the efficiency and the effective functioning of the respective Houses. Then, it will provide a platform for the articulation of issues that are unique to each House. What are those issues? The distinguished Senator for Meru represents a geographical county that has nine constituencies. I represent one with nine constituencies. The distinguished Senator for Kakamega represents one with 13 constituencies. Nairobi County has 17 constituencies. You cascade down to the smallest county Lamu which has two constituencies.

Mr. Temporary Speaker, Sir, when the distinguished Senator for West Pokot gets to his county, he has a responsibility to run through the five constituencies with very difficult terrain. There could be rains in the hills, kilometres away, causing floods where there is no rain and people are swept away and he has to go and see what is happening. There could be a banditry attack and as a Senator, together with other leaders, he has to go and pacify communities. There have been quite many and we have lost count. There will be situations where the Senator is required to be serving people in a county like Marsabit which is bigger than the former Western Province, Nyanza Province and Central Province put together.

Mr. Temporary Speaker, Sir, in Canada, where I have had the privilege to visit in my previous capacities, there is a constituency called the Northern Territories which covers Lake Hansford all the way to the border with Alaska and the Tundra region. The Senator, who represents that region, is facilitated by the Senate by way of availing, on request, a helicopter to take him to the territory, to carry out his responsibilities as a Senator.

Obviously, if the Senator for Marsabit today put a request to the PSC for a helicopter to go and visit his county, they will laugh and tell him off. He will be reminded that this is a luxury that is not available. Yet if you are going to move from Loyangalani to Moyale by road, first, there is no road, then there is insecurity. By the time you reach one end of the county from the other, it is, probably, two weeks and the car you had is seriously damaged because of the terrain.

We will expect that at some point, like I remember recently when the Committee on National Security and Foreign Relations in which I sit, wanted to visit Mandera and Kapedo after the banditry attack, the trips were postponed three times simply because the facilitation for aerial transport to visit these areas could not be available. If we have our own committee of the PSC, it will be understanding and more responsive to these emergency needs that the Senate is supposed to perform.

Remember that we have said in the Rules and Business Committee (RBC) that this Senate is not an inordinately large House, we can decide as a House to go and conduct a two week sitting in Kisumu County, in Meru County, in Bungoma County, in West Pokot County or anywhere. You need your autonomy to do this because when you place your request to the PSC, the first thing you will be told is that this is a luxury that you can ill afford.

Mr. Temporary Speaker, Sir, serving the people of Kenya cannot be a luxury, but it is a legitimate expectation that they are entitled to under the Constitution. The committee will also make recommendations to the PSC on interventions targeting specific issues relating to the respective Houses. This Senate has been extremely selfless and decent.

Mr. Temporary Speaker, Sir, we have refused to be drawn into arguments about the Constituencies Development Fund (CDF) until the High Court brought it to our door step. Now, our colleagues in the National Assembly know that without the concurrence and participation of the Senate, any change of law relating to the CDF will not come. I want to advise the Senate for free, that if the CDF is a fund available to Members of Parliament (MPs), MPs mean and include the Senators. So, if the national Government is

putting in the budget, Kshs32 billion for the CDF, that fund will be available to Senators and Members of the National Assembly.

We have a committee chaired ably by the distinguished Senator for Meru; we have advised him to put his best foot and his only brain forward to ensure that when the new Bill for the CDF, in compliance with the court judgement, is brought to both Houses in succession, the idea of Senators being cry babies and lamentations from the Senate must stop. We now have an opportunity to sit down with the National Assembly and agree, that, if it is Kshs32 billion, the National Assembly takes Kshs16 billion and the Senate will take Kshs.16 billion. The committee of the National Assembly will administer their money and the committee of the Senate will administer our money for the Senators to participate in the expectations of the people who elected them.

Mr. Temporary Speaker, Sir, I have participated in this as part of the leadership of this House. Today, simple requests that---- Our colleagues in the National Assembly have the CDF and some have even bought two or three four wheel drives vehicles for their offices to do their work. If the distinguished Senator for Kisumu goes to his county, he has to keep his personal car and run from one end to the other with his governor with their sirens, a retinue of vehicles and body guards with obscenities of even transporting seats to funerals for them to sit on. The Senator has to run around in his personal car and come here and queue like a beggar to fill a form which has to be evaluated - re-evaluated and questioned - before he is given his mileage reimbursement.

We asked as a leadership, that the PSC should buy at least a minimum of one four wheel drive vehicle and put it in the Senator's constituency office for public work. The answer we got is that Mrs. Serem said that she does not understand what the Senate is all about and what it does.

An hon. Senator: Shame! Shame!

The Senate Minority Leader (Sen. Wetangula): That was a very callous answer; that she does not know what you do and what you are. Do you believe that? I believe she voted for a Senator from the county she comes from. This kind of arrogance and demeaning attitude towards the Senate is what informs the fact that instead of living on the basis of benevolence from arrogant State officers, the Senate must take its own destiny, drive it and make its work effective.

We are not doing this for this Senate; we are doing this for posterity. After Sen. Murungi, there will be another Senator in Meru. After Sen. (Prof.) Lonyangapuo, there will be another Senator in West Pokot. We must lay a foundation that those who come after us find institutions that we have built. You know the famous song by Bruce Springsteen, that "we built this city." We will one day stand out there and say "we built this Senate." Those for whom we are building; our grandchildren, children and competitors will come here and find a Senate worth being a Senator in.

Mr. Temporary Speaker, Sir, at some point, we will, probably, add some clauses so that even the personnel that help us in the Senate are taken care of by the Senate itself. We need the Senate to have a say as to what quality of personnel we require. What happens today is that anybody that the National Assembly does not want, they shift them to the Senate and so on, and so forth. That is not very good. We want the Senate to be empowered to work.

You can imagine; you are over-sighting a county Government that is choking Kshs.10 billion from allocations from the Senate and local revenues. You do not have the capacity even to go and verify whether they built a box culvert on a dry stream or not. You do not even have the capacity to go and confirm whether the cattle dips that they have put in the books were built or not. I have seen in my county because I have been an MP. We used to manage CDF kitty before in my constituency. We used to build classrooms. I am sure Sen. (Prof.) Anyang'-Nyong'o, Sen. Murungi and Sen. Orenge know this.

Today, Early Childhood Education and Development (ECED) classrooms that are half the size of a normal standard classroom are being built at a cost of Kshs1.7million in the counties. This is nothing short of outright fraud and theft and yet the distinguished Senator for Meru has no capacity even to look for a quantity surveyor and go and evaluate whether that classroom actually cost that kind money or not. Then what are you over-sighting? You have no capacity to oversight anything.

We end up being persons with titles, distinctions, but persons that are just scarecrows. All we do is to bark like dogs barking at a new moon at the beginning of every month then wait for the cycle. Again, a new moon comes and the whole village dogs bark from 6.00 p.m. to midnight because they have seen this strange object from the East that they have never seen. At the end of the day, nothing happens.

The Senate and Senators must be empowered. In doing this, I salute one Mr. Peter Oloo Aringo. This is the man who started the journey to autonomy and independence of Parliament. This journey is incomplete. With the advent of the "Upper" House, it must be given true meaning. When we came here; we came to Parliament at the same time with the distinguished Senators for Meru and Kisumu. Sen. Orenge had come much earlier. On an average day, the parking out here, this side was like a poorly managed open air garage. Every car had its bonnet open from morning to evening.

(Laughter)

Jua Kali mechanics were waiting in the wings. As you arrived and parked the car, when the bonnet was opened, and it was boiling--- I do not know the plugs--- There were no four wheel drive vehicles here, the best cars you would find were all rugged Peugeot 504s and so on.

When we were elected for the first time we were earning Kshs18,000. That was our salary. It then rose to Kshs23,000 and then gradually, by the time we were done with the Seventh Parliament, it was Kshs74,000. Mileage from Bungoma was Kshs9,000 a month. That was my mileage reimbursement. On top of that, every day, every weekend, there were people moving with harambee cards. That is why we salute Prof. Anyang'-Nyong'o for bringing the Bill we have gone through.

Mr. Temporary Speaker, Sir, devolution came to supplement this bad behaviour in public life. You have seen that everybody wants to conduct a harambee, but nobody wants to account for the money. This is dangerous for our country. Again, that is why I have talked about some of our young colleagues who came here recently. Every weekend, they donate Kshs2 million to Kshs3 million and yet we know their salaries.

We have seen eavesdropping reports in the newspapers that they are constantly terrorizing, harassing and extorting money from parastatal heads. This is criminal. We need to check ourselves before we check others. Even the Bible says that you should not look at the speck in your neighbour's eye when there is a log in your own eye. We must do this.

Mr. Temporary Speaker, Sir, I strongly support this Bill. I urge Senators; elected and nominated, to support this Bill because when we have a Senate that is dealing with its matters, it will be an empowered Senate. We know that you were all nominated for a purpose. You have responsibilities to discharge. You have duties expected of you. You have special constituencies out there, to deal with. I have no doubt that none of you was nominated here. In fact, you are referred to as "specially elected." None of you was specially elected under special considerations. You were elected because you have a responsibility to discharge. This Bill gives effect to that responsibility. Our Speaker can now come to our Kamukunji and we tell him what the Senate needs. We need to give him a list of all that we require and ask him to implement the matters.

I am sure that the distinguished Senator for Kiambu who has just walked in gloating and glowing in the beginning of his journey to undermine his Governor will be part and parcel of this very important law.

Sen. Wamatangi: On a point of order, Mr. Temporary Speaker, Sir. One of the most well informed persons or Senators in this House is Sen. Wetangula, not only in the meaning and roles of a Senator, including the role of the Senate, but in other issues. However, those roles do not include gloating and glowing as defined in the Constitution. Is it in order for the Senate Minority Leader, a distinguished Senator, with long standing years in Parliament, to borrow words which have no relevance or meaning towards the work of a Senator which is to oversight the work of a Governor? Is it also in order for him to undermine my role in Kiambu County of ensuring that the funds that have been sent there are spent prudently without bloating or gloating?

The Temporary Speaker (Sen. Mositet): Sen. Wamatangi, I think you have qualified the words of the Senate Minority Leader. You said that he is very well informed. You also repeated to say what your intention was. You are completely out of order.

Sen. Orengo: On a point of order, Mr. Temporary Speaker, Sir. In law, there is something called "demeanour" that you observe when you are interviewing a witness or looking at an accused person in the dock. From the delivery of the Senator from Kiambu, did you sense the fact that he was continuing to gloat?

Sen. Wamatangi: On a point of order, Mr. Temporary Speaker, Sir. There are more than five known versions of the English dictionary. It is important for this House and especially for Senators who have not only read the English Language, but also learnt the law to tell us whether they are referring to the term "bloat" or "gloat" as envisaged in the many readings they do in law? Otherwise, in the plain English Language, I just walked in here and made a contribution. I have not gloated or bloated.

The Senate Minority Leader (Sen. Wetangula): Mr. Temporary Speaker, Sir, I am sure you must have noticed that when the distinguished Senator was walking in, he was walking using what we used to call the "academic angle" of inclination. When I said

that he had started a journey to undermine his Governor, I saw absolute satisfaction and smile on his face.

I want to urge the Senate that, indeed, what the Senator for Meru has brought to this House is the beginning of the liberation of the Senate. It is the beginning of the creation of the autonomy of the Senate. It is also the beginning of the foundation of the future of this country in terms of bicameralism and strengthening devolution.

I sit here and see my brother, the Senator for Kiambu who represents a county of 12 constituencies and what he earns as a Senator is equal to each of the one of the 12 Members of National Assembly. More importantly, they are empowered, have facilities and everything to work with. He has nothing to work with. However, when it comes to judgement, they are put on the same scale or podium. They are harshly judged by the public. We want to endear ourselves to Kenyans by doing exactly what we were brought here to do.

I urge all of us to see this Bill through and to make serious effect to it so that we can, in future, live to the billing of Mwalimu Julius Nyerere who said: "In your life, do not wait for anybody to make you relevant. Fight to make yourself relevant."

One time, Idi Amin was asked by a white journalist; "Mr. President, why do you like blowing your own trumpet?" His answer was, "it is mine, whom do you expect to blow it?"

I beg to second.

The Temporary Speaker (Sen. Mositet): Hon. Senators, the Secunder of this Motion was very passionate in seconding the Motion and he did it very well. Probably, that is why other Senators thought of coming back. I will propose the question so that during the next sitting, we will move on to the debate.

(Question proposed)

ADJOURNMENT

The Temporary Speaker (Sen. Mositet): Hon. Senators, it is now 6.30 p.m. It is time for interruption of the business of the House. Therefore, the Senate stands adjourned until tomorrow Wednesday, 6th May, 2015, at 2.30 p.m.

The Senate rose at 6.30 p.m.