

PARLIAMENT OF KENYA

THE SENATE

THE HANSARD

Wednesday, 16th November, 2016

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

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

PRAYER

The Speaker (Hon. Ethuro): Order, Members! We have a number of Statements to be issued. Let us go first to request for Statements.

SENATOR'S GENERAL STATEMENT

THEFT OF COMPUTERS IN KAKAMEGA COUNTY OFFICES

Sen. (Dr.) Khalwale: Mr. Speaker, Sir, I rise under Standing Order No.45(2)(a) to make a Statement on a county issue.

On 5th November, 2016, a section of Bukhungu Stadium in Kakamega which is currently under construction collapsed. The estimated cost of this project is Kshs1 billion. One week after this incident, the Governor of Kakamega, hon. Wycliffe Ambetsa Oparanya, made a reshuffle in the procurement section within the county government executive leaving only the head of the procurement section. No officers were immediately deployed to the section.

On 14th November, 2016, all the computers in the procurement section of the county government were mysteriously stolen. The theft was stage-managed as there was no evidence of a break-in and the CCTV cameras had deliberately been switched off. That, therefore, leads to the conclusion that the theft had been instigated by an insider. With this, therefore, all information pertaining to procurement of all projects in the county within Kakamega have vanished.

Even with the unfolding of all these events, the Governor for Kakamega has not uttered a single word nor has he given an official communication regarding the matter. The police have also been reluctant to record statements from the head of the procurement section and the officers serving in that section. Instead, the police have shifted their focus to the county junior enforcement officers who were on duty during the theft.

As the Senator for Kakamega, I am frustrated that the Governor is using all manner of antics to avoid accountability by snubbing not only Senate invitations but also

summons issued by then Senate County Public Accounts and Investments Committee. The Governor has instead adopted a delaying tactic by filing various cases in the courts which are yet to be finalized. With only 10 months remaining before the next general elections, it is a pity that the Governor is playing tricks with accountability and oversight process enshrined in law.

I, therefore, condemn in the strongest terms possible, the actions of the Governor of Kakamega County and appeal to the people of Kakamega to have a collective sense of vigilance to ensure there is prudent use of resources of our county and stop the pilferage of those funds within our county.

I thank you.

Sen. Haji, Proceed if you are ready.

STATEMENTS

STATUS OF THE NATIONAL SECURITY COMMUNICATION SYSTEM

Sen. Haji: Mr. Speaker, Sir, during the sitting of the Senate on 23rd March, 2016, Sen. M. Kajwang requested for a Statement. I gave the Statement earlier but he sought further clarification.

I want to state the following:-

The National Police Service has been using an analogue two way communication system---

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

The Speaker (Hon. Ethuro): Order, Sen. (Dr.) Khalwale! Since when did you become analogue? I cannot see your request.

Sen. (Dr.) Khalwale: On a point of order, Mr. Speaker, Sir. I just wanted to draw your attention that under Article 12(a), it has been our tradition that for a statement to be given by the Chair, the Senator who requested for the same should be in the House. I do not know whether we want to give an exception to this one since I noticed that Sen. M. Kajwang is not around.

The Speaker (Hon. Ethuro): Sen. (Dr.) Khalwale, which article did you make reference to?

Sen. (Dr.) Khalwale: Mr. Speaker, Sir, I meant Standing Order No.1(2), which provides that according to the usages of this House---

The Speaker (Hon. Ethuro): Sen. (Dr.) Khalwale, it is not only that Sen. M. Kajwang is absent today and was also absent yesterday. Apparently, you were also absent yesterday. This issue came up yesterday and the Chair was magnanimous to give another one more day for the Senator to be available.

The Chairs expressed frustration that sometimes they come ready to give statements but Members disappear. So, the Chair was magnanimous to give an additional one day and appealed to any Member who knows Sen. M. Kajwang to convey the same. Apparently, even you, who is very caring, did not bother to do that and the Chair has no information, whatsoever, on why he is not here.

I am afraid we will have to proceed in his absence. The Chair, proceed.

Sen. Haji: Mr. Speaker, Sir, one of the questions Sen. M. Kajwang requested later is whether the amount paid for the 4G licence has been deposited in the

Consolidated Fund and how the Government intends to take over control and management of this project upon completion. The overall objective of the Communication System Project is to modernize the communication infrastructure systems and capability for the police to pro-actively manage the security in the country. However, the money that was supposed to have been paid to the Consolidated Fund cannot only be answered by the Treasury because the Office of the President does not control the receipt of money.

The Speaker (Hon. Ethuro): Next statement.

HELB LOANS ADVANCED TO UNIVERSITY STUDENTS

The Speaker (Hon. Ethuro): Is the Chairman of the Committee on Education here? If not, do we have the Vice Chair or any Member of that Committee? Senate Majority Leader, account for the absence of the Chair.

The Senate Majority Leader (Sen. (Prof.) Kindiki): Mr. Speaker, Sir, I am not aware of the specific status but I undertake to communicate to the Chair any directions that the Speaker may give. I do not want to mislead the House because I do not have any information on the status of this Statement.

The Speaker (Hon. Ethuro): Order, Members. The Chair of the Committee on Education was here yesterday and he promised to be here today. That means that Statement (d) will also be affected. Let us hear from Sen. Sang regarding Statement (d).

LEADERSHIP CRISIS AT MOI UNIVERSITY

Sen. Sang: Mr. Speaker, Sir, you directed that the Chairperson should deliver a response on the outstanding issues on this Statement but I cannot see him in this House. Therefore, I seek your guidance.

The Speaker (Hon. Ethuro): Let us have Statement (c) issued by the Chairperson of the Sessional Committee on Devolved Government.

PROLONGED DROUGHT AND FAMINE IN VARIOUS COUNTIES

The Speaker (Hon. Ethuro): We had also given an extension on this one and today was supposed to be the last time but even the Chair himself is not present.

Order, Members. Under the circumstances, we will push statements (b), (c) and (d) to tomorrow afternoon.

HELB LOANS ADVANCED TO UNIVERSITY STUDENTS

LEADERSHIP CRISIS AT MOI UNIVERSITY

PROLONGED DROUGHT AND FAMINE IN VARIOUS COUNTIES

(Statements deferred)

Sen. M. Kajwang: On a point of order, Mr. Speaker, Sir. I came in late and my statement has passed and I apologise. I have been looking for the relevant Standing Order for coming late but I did not find it. Nonetheless, I understand that the statement that I requested for is ready and it has taken eight months.

Mr. Speaker, Sir, I beg your indulgence that the statement be read in an abridged form. I have seen it and it is lengthy. Could the Chair just abridge it and then I will comment on it?

The Speaker (Hon. Ethuro): The Chair.

STATUS OF THE NATIONAL SECURITY
COMMUNICATION SYSTEM

Sen. Haji: Mr. Speaker, Sir, with all due respect, I attempted to issue this statement twice in the absence of my friend, Sen. M. Kajwang. You have already made a ruling and gave me instructions which I have followed. I do not want to be a parrot; repeating myself. I decline to do that.

(Laughter)

The Speaker (Hon. Ethuro): What is it, Sen. M. Kajwang.

Sen. M. Kajwang: Mr. Speaker, Sir, you have previously extolled the remarkable virtues of the Chairperson of this Committee. Never before have you attributed the word “parrot” to him. So, I would not want him to be a parrot.

However, I seek your indulgence. We requested for this Statement in March. It is only in the last three weeks that the Chairperson has attempted to respond to it. You may recall that the first response was that those were national secrets that could not be revealed but you intervened. The Chairperson went back, camped at the Ministry and got a statement. It would do him justice if he read that statement that he really sweat to bring to this House after eight months.

The Speaker (Hon. Ethuro): Order. Sen. Haji, given the long period that your statement has been sought and taken to produce, I appreciate you have been ready with it since yesterday. You have actually already issued it. Since the Member has apologised, just issue it.

Sen. Haji: Mr. Speaker, Sir, I do not intend to defy your order. However, I made a lot of effort and quarreled with people to get this statement. I can only read it again tomorrow, not today.

The Speaker (Hon. Ethuro): Order, Members. The statement will be issued tomorrow afternoon. The Member and the Chairperson should be present. Failure by one party will ---

What is it, Sen. (Dr.) Machage?

Sen. (Dr.) Machage: On a point of order, Mr. Speaker, Sir. Would I be in order to thank you for making an observation of the cardinal rule, respect to the elders in the African society? Despite the Chairperson of the Committee on National Security and Foreign Relations breaching Standing Order No.110(i), in your wisdom as a youth, you observed that cardinal unwritten law and allowed him to breach it and get away with it.

The Speaker (Hon. Ethuro): What is it, Sen. Hassan?

Sen. Hassan: On a point of order, Mr. Speaker, Sir. Is Sen. (Dr.) Machage in order to call you a youth yet we know that the definition of a youth is anybody below the age of 35 years? Is Sen. (Dr.) Machage in order to insinuate that you have not yet attained the age of 36 years?

The Speaker (Hon. Ethuro): What is it, Sen. (Dr.) Khalwale?

Sen. (Dr.) Khalwale: On a point of order, Mr. Speaker, Sir. Are both Senators in order; Sen. Hassan and Sen. (Dr.) Machage, to assume your age? First, that you are an adult, and secondly, that you are youth, when it is not on record anywhere in this Senate that you have stated your age?

Mr. Speaker, Sir, because you are a kind man, the furthest you can go is to understand that Sen. Hassan might be confused but Sen. (Dr.) Machage who is a doctor of medicine is supposed to have a good grasp of age.

Mr. Speaker, Sir, I leave it to you.

(Laughter)

The Speaker (Hon. Ethuro): Order, hon. Senators!

Sen. (Dr.) Machage, you are completely out of order. You will appreciate that I did not direct the Chairperson to respond to the statement because of the circumstances in which this statement has been made. However, I directed that the statement should be made in the absence of Sen. M. Kajwang but before we were out of that order, Sen. M. Kajwang walked in and apologised to the House. I was expecting that the Chairperson of the Committee would be magnanimous enough like the Speaker to allow. So, he is still on his right not to do the same job twice. He has not breached Standing Order No.110.

Secondly, you are definitely right that it is not just appreciating age. The use of the word “youth” is relative to the seniority of Sen. Haji. When you also consider Article 57 of our Constitution about how we should treat older members of the society, including the older Senators, you will begin to appreciate my dilemma.

Therefore, the statement will be issued tomorrow afternoon.

(Statement deferred)

Sen. Hargura, did you have a statement to issue?

Sen. Hargura: Mr. Speaker, Sir, I have a request for statement.

The Speaker (Hon. Ethuro): Proceed, with your request.

STATUS OF THE EQUALIZATION FUND SINCE
THE PROMULGATION OF THE CONSTITUTION

Sen. Hargura: Mr. Speaker, Sir, I rise pursuant to Standing Order No.45(2)(b) to seek a statement from the Chairperson of the Standing Committee on Finance, Commerce and Budget regarding the Equalization Fund established under Article 204 of the Constitution of Kenya, 2010. In the statement, the Chairperson should respond to the following:-

(a) How much money has been allocated since the promulgation of the Constitution of Kenya, 2010?

(b) How has the fund been utilized to date?

(c) How much was allocated to the Fund this Financial Year; 2016/2017, and which counties benefited?

(d) What projects have been identified for implementation of the Fund and how much has been allocated per county?

(e) How were the projects identified?

The Speaker (Hon. Ethuro): Where is the Chairperson, Vice Chairperson or any Member of the Committee on Finance, Commerce and Budget?

Proceed, Sen. Mutula Kilonzo Jnr.

Sen. Mutula Kilonzo Jnr.: Mr. Speaker, Sir, the information is straightforward. Most of it is in the custody of the Committee. We will take seven days. We request to issue it next Thursday.

The Speaker (Hon. Ethuro): Next Thursday is tomorrow.

Sen. Mutula Kilonzo Jnr.: Mr. Speaker, Sir, it is Thursday the following week.

The Speaker (Hon. Ethuro): It will be issued on Thursday next week.

Order, hon. Senators. That brings us to the end of statement hour. I will have to rearrange the next Orders so that we deal with Order No.17

BILLS

Second Readings

THE COUNTY STATISTICS BILL (SENATE BILL NO.11 OF 2016)

THE TREATY MAKING AND RATIFICATION (AMENDMENT) BILL
(SENATE BILL NO.5 OF 2016)

THE CONSTITUTION OF KENYA (AMENDMENT) BILL (NATIONAL
ASSEMBLY BILL NO.26 OF 2013)

THE CONSTITUTION OF KENYA (AMENDMENT) (NO. 2) BILL
(NATIONAL ASSEMBLY BILL NO.2 OF 2015)

THE CONSTITUTION OF KENYA (AMENDMENT) BILL (SENATE

(Bills deferred)

The Speaker (Hon. Ethuro): Next Order!

COMMITTEE OF THE WHOLE

THE PRESERVATION OF HUMAN DIGNITY AND ENFORCEMENT OF
ECONOMIC AND SOCIAL RIGHTS BILL (SENATE BILL NO.8 OF 2015)

THE PERSONS WITH DISABILITIES (AMENDMENT) BILL
(SENATE BILL NO.13 OF 2015)

THE BASIC EDUCATION (AMENDMENT) BILL
(NATIONAL ASSEMBLY BILL NO.35 OF 2014)

THE PHYSICAL PLANNING BILL
(NATIONAL ASSEMBLY BILL NO.46 OF 2015)

(Committee of the Whole deferred)

Next Order!

COMMITTEE OF THE WHOLE

(Order for Committee read)

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

IN THE COMMITTEE

*(The Temporary Chairperson (Sen. (Dr.)
Machage) took the Chair)*

THE COUNTY STATUTORY INSTRUMENTS BILL
(SENATE BILL NO.10 OF 2015)

The Chairperson (Sen. (Dr.) Machage): We are now in the Committee of the Whole to consider The County Statutory Instruments Bill (Senate Bill No.10 of 2015).

Clause 3-15

(Question, that Clause 3-15 be part of the Bill, proposed)

The Chairperson (Sen. (Dr.) Machage): Division will be at the end.

Clause 16-24, The Schedule, Clause 2, The Title and Clause 1

*(Question, that Clause 16-24, The Schedule, Clause 2,
The Title and Clause 1 be part of Bill, proposed)*

The Chairperson (Sen. (Dr.) Machage): Division will be at the end.
Hon. Senators, we do not have the requisite number to vote, therefore, we have to report progress.

Sen. Sang: Mr. Temporary Chairman, Sir, pursuant to Standing Orders No.139, I beg to move that the Committee of the Whole reports to the House its considerations of The County Statutory Instruments Bill (Senate Bill No.10 of 2015) and seek leave to sit again tomorrow.

Sen. Mutula Kilonzo Jnr. seconded.

(Question proposed)

(Questioned put and agreed to)

(The House resumed)

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

PROGRESS REPORTED

THE COUNTY STATUTORY INSTRUMENTS BILL (SENATE BILL NO.10 OF 2015)

Sen. (Dr.) Machage: Mr. Temporary Speaker, Sir, I beg to report that a Committee of the Whole has considered The County Statutory Instruments Bill (Senate Bill No.10 of 2015) and seeks leave to sit again tomorrow.

Sen. Sang: Mr. Temporary Speaker, Sir, I beg to move that the House do agree with the Committee of the Whole on the said report.

Sen. Mutula Kilonzo Jnr. seconded.

(Question proposed)

(Questioned put and agreed to)

The Temporary Speaker (Sen. Mositet): Next Order!

COMMITTEE OF THE WHOLE

(Order for Committee read)

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

IN THE COMMITTEE

*[The Temporary Chairperson
(Sen. (Dr.) Machage) took the Chair]*

THE NATIONAL CEREALS AND PRODUCE BOARD (AMENDMENT) BILL (SENATE BILL NO. 15 OF 2015)

The Temporary Chairperson (Sen. (Dr.) Machage): We are looking at Order No.18; The National Cereals and Produce Board (Amendment) Bill (Senate Bill No.15 of 2015).

Clause 3

(Question, that Clause 3 be part of the Bill, proposed)

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

Clause 4

Sen. Madzayo: Mr. Temporary Chairman, Sir, I beg to move:-
THAT, Clause 4 of the Bill be amended in sub-clause (1) of the proposed New Clause 12 C by deleting paragraph (g) (iii).

The Temporary Chairperson (Sen. (Dr.) Machage): Maybe, you will have to enlighten the Members by explaining a little your proposed amendment. Kindly read what you are amending and tell us a little why you want to amend it.

(Sen. Madzayo remained seated in his place)

Sen. Madzayo, I am addressing you. If you have no comment, say so. Why do you want to amend this clause?

Sen. Madzayo: Mr. Temporary Chairman, Sir, it is for obvious reasons.

The Temporary Chairperson (Sen. (Dr) Machage): You may refer to your notes.

Sen. Madzayo: Mr. Temporary Chairman, Sir, it is as indicated in the Order Paper. That is what I can say.

Sen. (Dr) Khalwale: On a point of order Mr. Temporary Chairman, Sir. I must be in the minority, but I would like to know why he is deleting. Why should I support him in deleting without him convincing me?

The Temporary Chairperson (Sen. (Dr) Machage): You see, without a reason for amendment, I will subject this request to a vote. So, it is your onus and duty to convince everybody why you want this amended.

Sen. Madzayo: Mr. Temporary Chairman, Sir, could you give me two or three minutes so that I can refer to my notes?

The Temporary Chairman (Sen. (Dr) Machage): We do not have the luxury of time.

Sen. Madzayo: Mr. Temporary Chairman, Sir, I think you are a little bit unfair because whenever other Members have requested for the same, they have been accorded that opportunity. I am only asking for a few minutes.

The Temporary Chairperson (Sen. (Dr) Machage): I will stay Clause 4. Let us move to Clause 5 and then we come back to Clause 4. I think your request was sincere.

(Consideration of Clause 4 deferred)

Clause 5

(Question, that Clause 5 be part of the Bill, proposed)

The Temporary Chairperson (Sen. (Dr) Machage): We will have the Division at the end.

Clause 2, Title and Clause 1

(Question, that Clause 2, Title and Clause 1 be part of the Bill, proposed)

Sen. (Dr) Khalwale: On a point of order Mr. Temporary Chairman, Sir. I rise under Standing Order No. 136, which provides that that you can only go to where you have gone after you have exhausted the amendments on clauses printed. Could you kindly go back and exhaust the printed amendment by the Chairman before you go where you are going? Otherwise, we are in total breach of Standing Order No.136.

The Temporary Chairperson (Sen. (Dr) Machage): Sen. (Dr) Khalwale, to my recollection, this is your third term in Parliament. You know that I have not called for voting at all. In any case, there is Standing Order No.1 that I can use at my disposal at any time, including now.

Sen. (Dr) Khalwale: On a point of order Mr. Temporary Chairman, Sir. I agree with you fully, and with due respect, that you can move under Standing Order No. 1. However, you can only move under Standing Order No.1 where it is not provided for. In this case, Standing Order No. 136 provides that:-

“In considering a Bill in the Committee of the Whole, the various parts thereof shall be considered in the following sequence-

- (a) clauses printed, excluding the clause providing for the citation of the Bill, the commencement, if any, and the interpretation;
- (b) new clause;
- (c) schedules;
- (d) new schedules;
- (e) interpretation;
- (f) preamble, if any;
- (g) title; and
- (h) the clause providing for the citation of the Bill.”

Mr. Temporary Chairman, Sir, the sequence is that we must deal with clauses printed first. With due respect, we have not finished dealing with printed clauses, unless you are not allowing Sen. Madzayo to debate his amendment.

The Temporary Chairperson (Sen. (Dr) Machage): Sen. Madzayo, you seem to have an advocate in the name of Sen. (Dr) Khalwale. Can you argue your amendment now, otherwise, he has instructed me from that position to discontinue your amendment.

Actually, Sen. (Dr) Khalwale is right.

Sen. Madzayo: Thank you, Mr. Temporary Chairman, Sir.

The Temporary Chairperson (Sen. (Dr) Machage): Before you continue, can the clause be read.

(Consideration of Clause 4 resumed)

Clause 4

Sen. Madzayo: Mr. Temporary Chairman, Sir, let me read the paragraph that we are deleting, for the benefit of Sen. (Dr) Khalwale.

The Temporary Chairperson (Sen. (Dr) Machage): Order! It is for the benefit of the House.

Sen. Madzayo: Mr. Temporary Chairman, Sir, he is the one who asked the question.

The Temporary Chairperson (Sen. (Dr) Machage): Order! It is for the benefit of the House, because the same question was raised by Sen. Sang.

Sen. Madzayo: I stand guided, Mr. Temporary Chairman, Sir.

The paragraph that we are deleting reads:-

“Establishing research centres for the production of high yield maize, wheat and scheduled agricultural produce in the county.”

Mr. Temporary Chairman, Sir, all I wanted to submit was that---

(Sen. Ndiema consulted with Sen. Madzayo)

The Temporary Chairperson (Sen. (Dr) Machage): Order, Sen. Ndiema! That is corruption.

Sen. Madzayo: Mr. Temporary Chairman, Sir, I agree with you 100 per cent. We do not want corruption in this country. We know where it originates from.

Sen. Elachi: On a point of order, Mr. Temporary Chairman, Sir. Could the Senator, who is my senior and mentor, advise the House where corruption originates from? I would wish to know so that we can close the shop where it originates from. Could the Senator tell us the name and the place?

(Senators consulted loudly)

The Temporary Chairman (Sen. (Dr) Machage): Order! The Standing Orders dictate that when a Senator is challenged to substantiate an issue that he or she has stated, he or she has to do that. So, you are challenged.

Sen. (Dr) Khalwale: On a point of order Mr. Temporary Chairman, Sir. Did you observe that Sen. Madzayo never mentioned anybody, party or any part of the House? Could it be that Sen. Elachi, in the proverbial phrase ‘the guilty are afraid,’ is already aware that Sen. Madzayo is referring to the Jubilee, and that is why she stood?

(Laughter)

Sen. Sang: On a point of order, Mr. Temporary Chairman, Sir. The rules in this House are clear; that once a Senator makes an allegation and another Senator stands on a point of order to request for substantiation, the process of substantiating is clear. Is Sen.

(Dr) Khalwale, therefore, in order to take us in circles, instead of giving time to the Senator for Kilifi County to substantiate, having been asked to do so?

The Temporary Chairman (Sen. (Dr) Machage): Indeed, Sen. (Dr) Khalwale is completely out of order. I order that Sen. Madzayo, under Standing Order No.94 substantiates.

Sen. Kisasa: Mr. Temporary Chairman, Sir, I think my Senator is in order because today, Kilifi County is full of---

The Temporary Chairman (Sen. (Dr) Machage): Order! There is only one Chair in this House, and that is me. You are out of order.

Sen. Chelule: On a point of order, Mr. Temporary Chairman, Sir. Is it in order for Sen. (Dr.) Khalwale to act on behalf of Sen. Madzayo every time a question is directed to him? He should give us the reasons for the amendments to this important Bill. Is it in order for "Mr. Khalwale" to stand every time a question is directed to Sen. Madzayo?

The Temporary Chairperson (Sen. (Dr.) Machage): I want to inform you that in the medical profession, if you are called 'Mister', you are a surgeon. I do not remember knowing Sen. (Dr.) Khalwale as a surgeon. You are out of order to refer to him as 'Mister.'

Secondly, it has not come to my notice that every time Sen. Madzayo stands on an issue, Sen. (Dr.) Khalwale defends it. I will start to be observant from today.

Sen. Madzayo, could you substantiate?

Sen. Madzayo: Mr. Temporary Chairman, Sir, I have not instructed anybody in this House to act on my behalf. I am an advocate of the High Court of Kenya and a former judge of the High Court in the Industrial Court Division. I have not given any instructions to any Senator.

I hope that I have made myself clear on that.

If I may respond, the establishment of research centres---

The Temporary Chairperson (Sen. (Dr.) Machage): Order! You have the obligation to address this House on the issue of substantiation. Having enumerated your capacities, I expect you to execute this one properly.

Sen. Madzayo: Mr. Temporary Chairman, Sir, first and foremost, I did not accuse anyone. Secondly, that allegation was not directed at anybody or any party whatsoever.

With your kind permission, may I proceed?

The Temporary Chairperson (Sen. (Dr.) Machage): To my understanding, Standing Order No.94 does not direct you to only substantiate if you have addressed an issue to a person or the subject you have so mentioned. I will give you another one minute to read Standing Order No.94. Being an advocate, I expect you to have a grasp of this. Please, substantiate and if you cannot, simply withdraw and apologize; it is noble to do that.

Sen. Madzayo: Mr. Temporary Chairman, Sir, you surprise me with that ruling. I am inclined to believe that your decision is prejudiced.

Sen. Sang: On a point of order, Mr. Temporary Chairman, Sir. It is important that this House maintains the dignity and accords the Chair the respect he deserves. Is the hon. Member, who has illustrated in his own terms the illustrious career he has had as a judge, lawyer and Senator, in order to impute improper motives and, with impunity,

defy the directions of the Chair? If we encourage this kind of behavior, we will not have a House.

The Temporary Chairperson (Sen. (Dr.) Machage): Let me remind him about Standing Order Nos. 110(i) and 111. I do not need to read because you are a lawyer. If anybody stands under Standing Order No. 111, you will lose three days in Parliament. I will be fair to assume that I did not hear what you said in your last comment and just demand that you withdraw and apologize for the first mistake. I am still thinking about how to deal with the second mistake.

Sen. (Dr.) Khalwale: On a point of information, Mr. Temporary Chairman, Sir.

The Temporary Chairperson (Sen. (Dr.) Machage): Sen. (Dr.) Khalwale, whom do you want to inform?

Sen. (Dr.) Khalwale: Mr. Temporary Chairman, Sir, I want to inform Sen. Madzayo.

The Temporary Chairperson (Sen. (Dr.) Machage): Sen. Madzayo, do you want to be informed?

Sen. Madzayo: Yes, Mr. Temporary Chairman, Sir.

The Temporary Chairperson (Sen. (Dr.) Machage): Go ahead, Sen. (Dr.) Khalwale.

Sen. (Dr.) Khalwale: Mr. Temporary Chairman, Sir, I would like to inform Sen. Madzayo that the corruption he is talking about, and for which he is under a lot of pressure to apologize, refers to the corruption in the Jubilee Government, as evidenced by the scandals in the Standard Gauge Railway (SGR), Eurobond, the National Youth Service (NYS)---

The Temporary Chairperson (Sen. (Dr.) Machage): Order, Sen. (Dr.) Khalwale! Sen. Madzayo vehemently and clearly stated on the Floor of this House that he has never and may never instruct you to talk for him. In any case, you are not even a lawyer.

Sen. Madzayo, do you accept that information? For the sake of saving time, simply apologize and we continue.

Sen. Sang: On a point of order, Mr. Temporary Chairman, Sir. There is always a temptation by people who have been convicted and stayed in prison to develop some imaginary thinking that they could be lawyers and could understand the law. Sometimes, they purport to represent others even when they clearly do not have those qualifications. Could it be that we are seeing the same come from a Member in this House who, every other time, wants to present himself as if he is representing somebody, just because of that record in the past?

The Temporary Chairperson (Sen. (Dr.) Machage): Sen. Sang, whereas you are critical in your thinking, I may not be inclined to think that is what is in his mind. However, I want to remind the Senator of the consequences if he so desires not to withdraw and apologize. I will invoke Standing Order No. 110 and throw him out of the House. He will, therefore, miss the opportunity to defend his amendment. I will subject it to vote without him being around---

Sen. Mutula Kilonzo Jnr.: On a point of order, Mr. Temporary Chairman, Sir. So that we can all be on the same page, Standing Order No.94 (2) states that:-

“If a Senator has sufficient reason to convince Speaker that the Senator is unable to substantiate the allegations instantly, the Speaker shall require that such Senator substantiates the allegations not later than the next sitting day.”

Mr. Temporary Chairman, Sir, for good order and for all of us who want to follow your directions, before you exercise your powers to throw out people, I propose that the HANSARD be provided. There is something called 'public notoriety.' If these are matters of public notoriety, then he will not be required to substantiate. Since you are the Chair and I am standing here, I propose that you order that the HANSARD be provided and that he substantiates tomorrow. If that statement is inaccurate, he will then withdraw and apologize. However, if the statement is a matter of public notoriety, you will have to invoke Standing Order No.1, where matters of public notoriety constitute evidence under the Evidence Act.

The Temporary Chairperson (Sen. (Dr.) Machage): I will, therefore, give Sen. Madzayo another opportunity to substantiate. He has not indicated that he is unable to substantiate now. I would want that to be said by the said Senator for me to invoke that Standing Order.

Sen. Madzayo: Mr. Temporary Chairperson, Sir, thank you so much for your directives. I would not want to withdraw. All I would ask is that the HANSARD be produced and I will be ready to make my remarks tomorrow.

The Temporary Chairperson (Sen. (Dr.) Machage): Very well. Let us continue. Can you explain why you want the amendment done? I have ordered that you substantiate tomorrow.

Sen. Madzayo: Mr. Temporary Chairperson, Sir, do you have to repeat all the time? I thought I heard you!

The Temporary Chairperson (Sen. (Dr.) Machage): Order, Senator Madzayo. You are out of order to do that. As a former judge, I believe you have that power. Just relax and continue to explain your amendment.

Sen. Muthama: On a point of Order Mr. Temporary Chairperson, Sir.

The Temporary Chairperson (Sen. (Dr.) Machage): What is it, Sen. Muthama?

Sen. Muthama: Mr. Temporary Chairperson, Sir, it should be noted that Sen. Madzayo is getting agitated because as a former and retired judge, he is used to giving rulings the way the Chair gave and there should be no more comments after the ruling. The person who has to be hanged is hanged and that is all. He should be given that benefit of the doubt and be understood to have received the orders of the Chair.

The Temporary Chairperson (Sen. (Dr.) Machage): Very well. I am sure that is what Sen. Madzayo has done. All I did was to ask under which Standing Order he was being instructed to act tomorrow. I think it is within the powers of this House to remind him of that Standing Order.

Continue, Sen. Madzayo.

Sen. Madzayo: Mr. Temporary Chairperson, Sir, this function is currently being handled by the National Cereals and Produce Board (NCPB) which is now the intention of the House to have this Bill so that it becomes a national issue which the Government should be able to handle. This is because all researches are being handled by the Kenya Agricultural and Livestock Research Organization (KARLO) instead of the NCPB. That is why that amendment is necessary.

The Temporary Chairperson (Sen. (Dr.) Machage): Yes, Sen. Haji.

Sen. Haji: Mr. Temporary Chairperson, Sir, while I am not disputing what Sen. Madzayo is saying, does the NCPB have the expertise and researches on improving the quality of maize?

The Temporary Chairperson (Sen. (Dr.) Machage): May be before we discuss the amendment as laid on the Floor by Sen. Madzayo, I have to propose the Question that Clause 4 be amended as proposed.

(Question of the amendment proposed)

I thought you are standing on a point of order. You can now start the debate.

Sen. Haji: Mr. Temporary Chairperson, Sir, I was just wondering; if I understood my brother correctly, that the research being done by KARLO now on the improvement of maize quality, the Committee on Agriculture intends to transfer it to the NCPB. I do not think they have the technical people who can do such research, and the land on which they do proper research to help the farmers in this country to produce better seeds.

The Temporary Chairperson (Sen. (Dr.) Machage): Sen.Ndiema.

Sen.Ndiema: Mr. Temporary Chairperson, Sir, I think Sen. Haji is right and that is specifically why that clause is being deleted because the Bill proposes that NCPB does research and establishes research institutions. That clause is being deleted because that is not its function.

The Temporary Chairperson (Sen. (Dr.) Machage): Sen. Haji.

Sen. Haji. Sir, I think I misunderstood.

The Temporary Chairperson (Sen. (Dr.) Machage): Any other contribution?

Sen. Moses Kajwang: Mr. Temporary Chairperson, Sir, I also support the amendment by Sen. Madzayo to establish the County Cereals and Produce Boards (CCPB). The functions of the board are being amended by Sen. Madzayo, and when we establish a County Cereals and Produce Board, it cannot undertake research. Research should be undertaken at the national level by the NCPB which is a national state corporation.

The Temporary Chairperson (Sen. (Dr.) Machage): I see no other interest and will therefore put the question.

(Question, that Clause 4 be amended as proposed, put)

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

Clause 2, Title and Clause 1

(Question that Clause 2, the Title and Clause 1 be part of the Bill proposed)

The Temporary Chairperson (Sen. (Dr.) Machage): Division will be at the end. Since we do not have the numbers, I call upon the Mover to report progress.

Sen. Kittony: Mr. Temporary Chairperson, Sir, I beg to move that the House do agree with the Committee on agriculture in the said report.

The Temporary Chairperson (Sen. (Dr.) Machage): Order. Just approach the Bench so that I show you what to do.

(Sen. Kittony approached the Bench)

Sen. Kittony: Mr. Temporary Chairperson, Sir, pursuant to Standing Order No. 139, I beg to move that the Committee of the Whole do report its consideration of The National Cereals and Produce Board (Amendment) Bill (Senate Bill No. 15 of 2015) 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]

PROGRESS REPORTED

THE NATIONAL CEREALS AND PRODUCE BOARD (AMENDMENT) BILL (SENATE BILL NO. 15 OF 2015)

The Temporary Speaker (Sen. Mositet): Order, Senators! Chairperson, can you report!

Sen. (Dr.) Machage: Mr. Temporary Speaker, Sir, I beg to report that the Committee of the Whole has considered The National Cereals and Produce Board (Amendment) Bill (Senate Bill No. 15 of 2015) and seeks leave to sit again tomorrow.

Sen. Kittony: Mr. Temporary Speaker, Sir, pursuant to Standing Order No. 139, I beg to move that the Committee of the Whole do report its considerations of The National Cereals and Produce Board (Amendment) Bill (Senate Bill No. 15 of 2015) and--

The Temporary Speaker (Sen. Mositet): Order, Sen. Kittony! I think you are reading something else. Approach the bench and you will be shown what to read.

Sen. Kittony: Mr. Temporary Speaker, Sir, I beg to move that the House do agree with the Committee in the said report.

The Temporary Speaker (Sen. Mositet): Sen. Kittony, you need to have a seconder.

Sen. Chelule: Mr. Temporary Speaker, Sir, I beg to second.

The Temporary Speaker (Sen. Mositet): What is your point of order, Sen. (Dr.) Khalwale?

Sen. (Dr.) Khalwale: On a point of order, Mr. Temporary Speaker, Sir. Did you notice that Sen. Cheruiyot upon coming from the back of the Speaker's Chair passed there without bowing to you? Is he in order to lack respect for the Chair?

The Temporary Speaker (Sen. Mositet): I did not see that. Sen. Cheruiyot, if that happened, just stand up, go back and respect the Chair before you sit down. Do the needful and be serious.

(Sen. Cheruiyot went back to the Bar and bowed to the Chair)

(Question proposed)

(Question put and agreed to)

Next order! Sen. Mutula Kilonzo Jnr., are you ready for us to move to the Committee of the Whole?

Sen. Mutula Kilonzo Jnr.: Mr. Temporary Speaker, Sir, there is a representative of the Committee, Sen. Chelule, who can give that information in the best way.

Sen. Chelule: Mr. Temporary Speaker, Sir, I do not think we are ready to discuss the The Physical Planning Bill (National Assembly Bill No. 46 of 2015) today because we postponed our meeting to tomorrow. We have arranged tomorrow for the same purpose.

The Temporary Speaker (Sen. Mositet): What is your point of order, Majority Leader?

The Senate Majority Leader (Sen. (Prof.) Kindiki): On a point of order, Mr. Temporary Speaker, Sir. I want to bring to your attention as you give direction on that particular Order that The Physical Planning Bill (National Assembly Bill No. 46 of 2015) is one of the Bills that ought to have been passed by 27th August, 2016. So, it is an urgent Bill and I have received a lot of pressure from the relevant Ministry because it will streamline the sector of physical planning. There is a lot of confusion especially after devolution. I wanted to plead with you and the Committee that you expedite the finalization of this Bill. I have enough letters reminding us to process this Bill and we are way beyond the constitutional deadline.

The Temporary Speaker (Sen. Mositet): Sen. Mutula Kilonzo Jnr., do you want to say something?

Sen. Mutula Kilonzo Jnr.: Mr. Temporary Speaker, Sir, I want to agree with the Majority Leader but the issues that I have raised and those we disagreed with the Committee are so fundamental to this Bill that we cannot just do it for expediency. I have said before that physical planning is a devolved function and the Bill itself is national Government heavy. Therefore, the Majority Leader should be invited to that Committee because the matters we have raised are of concern. My amendments were not considered by the Committee. Therefore, we are in this situation because we are not consulting enough. I promise that we are going to have a resolution soon.

The Temporary Speaker (Sen. Mositet): Let me order the Chairperson of the Committee and the Committee that you need to sit down with Sen. Mutula Kilonzo Jnr. It is a very serious Bill with severe implications if you will not look at it properly on how the interests of the counties are taken care of. So, do it fast so that the Majority Leader will not be in a position where he is not fast tracking. By Tuesday next week, it has to be in the Order Paper.

Next Order!

BILLS*Second Readings*

THE CYBER SECURITY AND PROTECTION BILL
(SENATE BILL NO. 12 OF 2016)

THE IMPEACHMENT PROCEDURE BILL
(SENATE BILL NO. 8 OF 2016)

(Bills deferred)

Second Reading

THE WAREHOUSE RECEIPTS SYSTEM BILL
(NATIONAL ASSEMBLY BILL NO. 12 OF 2015)

The Senate Majority Leader (Sen. (Prof.) Kindiki): Mr. Temporary Speaker, Sir, I beg to move that the The Warehouse Receipts System Bill (National Assembly Bill No. 12 of 2015) be read a Second Time.

This Bill addresses a very fundamental problem facing the agricultural sector today. Normally when there is a harvest, a lot of food in terms of grains and cereals go to waste. In this country, we have a situation where in a season a lot of food is harvested but most of that food is either disposed of at a very low price because farmers do not have the wherewithal for storage or even when farmers want to store the food awaiting better prices or awaiting market research in terms of where they can sell at good prices, the food, especially cereals and grains, go to waste. It is estimated that about 60 per cent of food goes to waste somewhere between harvesting and post-harvesting stages.

Mr. Temporary Speaker, Sir, this Bill is trying to address a very important problem. We know that in this country we have a system which involves Government storing all cereals and, especially maize which is the staple food in our country. This is done through the National Cereals and Produce Board (NCPB). However, the legal system that governs how farmers can access the NCPB stores, its obligations and the rights of farmers, does not exist. Therefore, this Bill is trying to provide that legal framework.

As I have said, the Bill is aimed at ensuring that when there is a glut or overproduction of agricultural commodities – not just exclusive of cereals and grains, but any agricultural produce - and the prices are not good, farmers can have certified, licensed and registered warehouse keepers. They can receive those goods and warehouse for them. In return, the farmers are issued with a receipt known as a warehouse receipt. The purpose of the receipt is:-

- (1) Evidence that you have delivered the said and the described amount of goods.
- (2) It is a negotiable instrument. This means the farmer can actually transfer those commodities that are in the warehouse without returning to the warehouse. They can transfer proprietary rights or ownership rights of that commodity by endorsing that receipt to another person. It is like a cheque in the days of endorsement. Therefore, it is to

enable farmers to transfer propriety rights over the warehoused commodities without going back to the warehouse.

- (3) The receipt can be used as collateral to enable farmers to access credit. It is evidence that farmer "x" has 100 bags of potatoes or maize or beans stored in a particular warehouse which is described in that receipt. So, they can use that to get credit and, later on, when the commodity is sold or received back, they can pay back that loan that they have taken. It is a form of collateral.

Therefore, this has come at a very important time in our country when we are oscillating between seasons of plenty and seasons of lack. This Bill will help our country to deal with finality, once and for all, with the shame and the humiliation that we have put our people through in many parts of our country in times of insufficient rain or in times of drought. There is no connection between drought and farming. There are countries in this world where there is perennial drought, but there is no farming. For example, there are countries in the Middle East where it does not rain throughout the year, but we have never heard of famine in the Middle East. Not a single person has died in those countries because of lack of food.

Mr. Temporary Speaker, Sir, our problem is very simple. As I have said, one is we have seasons when there is overproduction followed maybe after a while with seasons when there is no production. The fact that we do not have a way of storing the food we have and making sure that we store it to take care of us on a rainy day, farmers end up storing it in poor facilities. It ends up getting bad in the individual stores that our farmers have across the country. We have seen maize, especially in Ukambani going bad because of aflatoxin where the moisture content exceeds what is allowed. This is because of poor storage and poor post-harvesting techniques. The other problem we have in our country is that it is not always true that when there is drought in the country that the entire country is dry. You can have one part of the country suffering and people dying of hunger while at the other corner people are struggling on what to do with the crop which is going bad right before them in their farms and stores. This is an issue of distribution.

Therefore, the warehouse receipts system will help us store food, map the country and see where that food is needed so that they can save lives. Further, you can have a country which is famine free by just making sure that the storage is proper and there is a system which enables storage of agricultural commodities to take care of the tense in terms of demand and supply. In the Bible in the book of Exodus, a story is told of how one man who had gone there as a refugee called Joseph. Later on, he was put to prison and he eventually became the Prime Minister of that country. What promoted him from prison to the position of being the third in command in the country was his ability to design a food warehousing system for Egypt. They were able to predict that for seven years Egypt would have plenty of rain and plenty of food, but that would be followed by another seven years of drought. He said that if you have to save the country during the seven years of hardship, there must be a warehousing system to ensure that the food harvested in excess for the first seven years is stored and does not go bad. This is a modern day version of what I normally call the "Joseph Concept of Warehousing." Thus solving farming by simply organizing the storage system.

Mr. Temporary Speaker, Sir, this is an important Bill that will enable our farmers not to sell food at throw away prices. Where I come from in Tharaka-Nithi, there are

seasons when there is a lot of production of grains and cereals like green grams, peas, beans and maize. However, most of that food goes bad as farmers watch helplessly. The storage system is not so good because farmers are not trained on how to regulate the moisture content. Therefore, even when they store it properly, the food ends up going bad and I am sure that is the problem in many other counties across the country. Secondly, because of lack of proper storage, farmers end up selling that crop at a price which doubles up within three months after farmers have sold all the produce. What happens then is that the famine that follows compels the same farmers that sold, for example, one kilogramme of green grams for Kshs50 to buy the same produce from brokers from up to Kshs300 per kilogramme. So, this is an important Bill for our country, and I encourage Senators to support it. This is an important Bill for our country and I encourage Senators to support it because it provides for the registration, licensing and inspection of warehouses. It will help us know who is qualified to maintain a warehouse. This is because not everybody can store people's commodities just the way we do not allow everybody to run a bank. The warehouse will do what the banks do with our money. It is only recently after the advent of county governments that we have seen county officials storing money in their homes because they do not want to take them to the banks. It is illegal to run a bank from your house or from a place that is not authorized or licensed to provide banking facilities.

There will be a system of registering, licensing and periodically inspecting the warehouses. There will also be a Council that will be known as the Warehouse Receipt System Council. The Council will license those people who will receive agricultural commodities on behalf of farmers and keep them for the agreed period of time. In the meantime, the person who has submitted the goods can negotiate that receipt by transferring proprietary or ownership rights to a third person or they can also use it as collateral to get credit.

Finally, both the public and private sector participation in warehousing is envisaged. This is because we have very few National Cereals and Produce Board stores in Kenya. This Bill is encouraging private investors to put up warehouses across the country. However, they must be registered and their premises must have been inspected and certified as proper to store goods on behalf of other people. I am sure that this Bill will go a long way in curbing hunger and famine that has been witnessed in our country. Those who will keep agricultural commodities on behalf of others must make sure that people do not con others by taking their produce and making profit from their sweat.

I do not want to over-emphasize the fact that this is an important Bill. I pray that the Senators will find this Bill to be timely and appropriate as we continue to seek a permanent solution for food insecurity that this country faces.

With those few remarks, I beg to move. I request the Senator for Trans Nzoia, who is an expert in these things and who comes from an area where warehousing of agricultural product is important, to second this Bill.

(Sen. Ndiema rose on his feet)

The Temporary Speaker (Sen. Mositet): Sen. Ndiema, you have to wait for the Chair to give you the chance. You may continue.

Sen. Ndiema: Thank you, Mr. Temporary Speaker, Sir. I was eager to stand and fully support this Bill because it is about food security in our country. This Bill seeks to bring legislation that will regulate warehousing which is long overdue for an agricultural country like Kenya.

As we all know, farmers are very hard working and Kenya is known for its agricultural production yet a lot of what we produce goes to waste within a short time. This happens because of post-harvest losses which could well be managed. For a long time---

I need some protection Mr. Temporary Speaker, Sir.

(Loud consultations)

The Temporary Speaker (Sen. Mositet): Senators, kindly consult in low tones.

Sen. Ndiema: Thank you, Mr. Temporary Speaker, Sir. We lose a lot of grains in the farms and in the stores because majority of our farmers are small-scale farmers who do not have the capacity or the knowledge of ensuring proper storage of grains and other agricultural products. That has led to losses to the farmers and the Government. The institutions that finance farmers such as Agricultural Finance Corporation (AFC) and the banks also go at a loss when farmers do not get any profit.

It is not strange that some farmers have to buy food and even go without food in about two months after the harvest even in areas where there is high production like Trans Nzoia County. This is because they are small-scale farmers and are forced to dispose of the produce to meet their daily needs such as buying medicine for their children or paying school fees. Majority of the farmers depend on farming as a means of sustaining themselves. In most cases, they have to sell quickly to earn and pay loans thus they are sometimes forced to sell when the prices are not good. Seasonality of production and harvest happen at the same time and some farmers do not have stores. Some of them do not build stores because they do not own the farms hence they are forced to sell their produce at a throwaway price. There are cases where they do not make any returns.

Other than cutting down on losses of the grain itself or the produce, the warehousing system will ensure that losses to the farmers are cut. It will also reduce economic losses. The Mover of this Bill has told us that with this system, the farmer does not need to sell his produce to get make money. He can deposit in a warehouse, get a receipt confirming that he has deposited the produce and he can use the receipt at the banks to get advance loans. Currently, if you have any produce in your house, you cannot go to any bank and argue or persuade them to give you any loan. This is because there is no guarantee that the produce in your house meets the required standard, it is secure and will be available.

Mr. Temporary Speaker, Sir the Warehouse Receipt System will ensure that, that receipt bears the integrity to be exchanged. It will also ensure that the farmers specialize in production. It is not the business of the farmer to specialize in storage or even selling eventually. The farmer will be left with ample time and opportunity to concentrate on production. Those who will specialize with storing will specialize on warehousing. They will procure the adequate machines, driers, chemicals and proper infrastructure to store the produce.

This choice to have a warehouse for produce will not be for anybody. One would need to satisfy inspectors that, indeed, their buildings or stores are safe for purposes of warehousing. It will also ensure that any produce that is delivered there meets the standards that have been set by the Government. If it is maize, there will be perhaps Grade One, Two or Three and they will be stored as such. The farmers who deliver Grade One will ensure that they get the money for Grade One eventually when it is sold. The grade there will not deteriorate. Even if it deteriorates by natural means, it will not deteriorate at the expense and the hands of the farmer.

For instance, when one delivers Grade One grains, if the same grains are sold two years down the line, it is not the same grains that will be sold. It will be rolled over. Whatever one stores can be sold but they are guaranteed that their grade is safe because somebody else will bring at a later stage a Grade One to the place. It will be rolling stock rather than permanent stock. Just like money, when one deposits money in the bank, it does not lose value in terms of how long it has been in the bank.

Some farmers are persuaded to dispose off their produce because of insecurity. Perhaps one does not have a watchman to watch over it or perhaps they are leasing a farm far from their residence and they are not sure of security. However, because of this facility, one will be able to keep it safe and be sure that there is guarantee that it will be secure.

Those countries that have succeeded in feeding their own people have done it. For instance, India established this system and has run very smoothly. In fact, it has guaranteed food security for India. It is also possible that when one warehouses in big quantities to estimate what they hold as a country such that if there is excess, they can export. However, at the moment, there is no straightforward way or accurate way of pre-determining how much we hold. We can only estimate. However, if they were in warehouses, one would know how much the country holds and how much we consume. We may then decide that if we have excess, we export to other countries which need it and hence earn foreign exchange.

Also, there are firms which specialize in processing of agricultural products. Some of them are forced to go directly procure from the farmers. They should instead specialize in processing. They are all over the country hunting for the produce. Since they are not experts in handling, sometimes they end up processing products which are not of the desired standards because of wastage. It also becomes expensive for them. That expense eventually translates into costly products. Unga becomes very costly to the consumer.

The Temporary Speaker (Sen. Mositet): Sen. Ndiema, I can see you are an expert in this. I will add you more time. Therefore, do not rush because you will not be timed.

Sen. Ndiema: Thank you, Mr. Temporary Speaker, Sir. I still have time. There are so many people, say, the brokers, the millers handling the storage and transportation. The products end up being very expensive. This system will ensure that the issue of brokers will be minimized, the farmer will deliver their grain to the store and even handling the product will be hustle-free.

We know of cases where maize has been transported all the way to the NCPB stores in Nairobi and when there is hunger or lack of food in Turkana, it is again transported through Kitale again all the way to Turkana because of lack of logistics. If

this system was there, the firm, whether private or public, would establish a warehouse in Turkana. Whenever there is food shortage, whether it is the national or the county government which wants to procure for the people, they will do it there.

This system will also be open to the private sector. Therefore, the Government will also be relieved of the burden of running stores all over the country. In fact, the National Cereals and Produce Board (NCPB) might consider leasing out its stores to warehousing companies. Even keeping grain for emergency by the Government may not be necessary.

All the Government needs is to keep some funds for contingency purposes and then when there is shortage, it is procured from the local warehouses instead of storing it at NCPB. The NCPB has ended up keeping it for about six to eight years because they are not sure. At the end of the day, it is declared unfit for human consumption. This would obviate that problem.

The Warehouse Receipt System is very opportune. Some countries in the region have already established it. Rwanda has such a system and they are not in the state where we have been. Tanzania has started it. We should not be left behind. The issue of lack of storage for farmers has made them so desperate that they would want to offload their produce to where it promises a good price. Even brokers and fraudsters have come to counties like Trans-Nzoia, where they promise to give a good price, take the maize and say they will pay in a week, then a week becomes a month. At the end of the day, one cannot trace those people and can only imagine their faces.

Many farmers have lost through fraudsters. However, with this system now in place, the people who hold warehouses will be vetted. They will be known by name and company. There will be some form of insurance to ensure that if there is any loss, at least somebody will be held responsible. Even the Government can be held responsible because they are the ones licensing the warehouses. If a warehouse cons farmers, the Government, in a way should compensate because it is known and there is a record. Right now, there is no record. When you disagree with somebody who is buying maize, he does not pay you. Instead, he will tell you that if you do not wait, you are free to go to court.

Mr. Temporary Speaker, Sir, court processes are very long. Sometimes, farmers have ended up even selling the little land they have to follow up the little that they lost. Therefore, I urge this House to approve the warehousing receipt system because it will go a long way in ensuring food security to our country and prosperity for our farmers. It will also ensure that those who are involved in agro-processing make profit.

Mr. Temporary Speaker, Sir, with those few remarks, I beg to Second this Bill. I fully support it and encourage all Senators to vote for it.

(Question Proposed)

Sen. Mutula Kilonzo Jnr.: Mr. Temporary Speaker, Sir, I rise to support this Bill. Let me use one minute to say that once again, we have proved that once a Bill comes from the National Assembly, we consider it irrespective of the fact that the National Assembly does not reciprocate our kindness at all.

Secondly, this is a very innovative Bill in terms of the system that it proposes. It seeks the process of depositing commodities in a licensed warehouse, the issuance of a

warehouse receipt reflecting the quantity and quality of the deposited commodity, the management of the transfer of the receipt as a document of title and also but not limited to regulation of houses and actors associated in the process.

Mr. Temporary Speaker, Sir, one of the counties that have suffered most in terms of warehousing of commodities is Makueni County. If there is a place where weevils have been given all sorts of names from “Osama” to any other, it is Makueni County because the weevils have terrorized farmers’ produce that they have been given a name associated with a terrorist.

Mr. Temporary Speaker, Sir, I have not confirmed but I am told that due to some historical injustices, warehouses that are on the lower part of eastern side, which includes Makueni, do not have driers. However, warehouses that are on the upper side such as Naivasha or part of the Rift Valley have driers. So, maize is collected from my county which is Makueni and then taken to Rift Valley and stored there after being dried. Maize from Rift Valley is then taken to warehouses in Makueni. During the drought season, they then bring maize that was from Makueni and sell it at three times the cost. It is no wonder that although Makueni is an agricultural area, it has remained poor yet the farmers work very hard.

Mr. Temporary Speaker, Sir, I have heard Sen. Ndiema say that the NCPB can now lease its warehouses. The correct information is that they are already leasing their warehouses to “private developers” or licensees. That is like a tragedy in a country where we are talking about food security. Some people are suffering and others are already facing starvation yet there are warehouses in this country that have got more maize than is supposed to be kept in those warehouses.

Mr. Temporary Speaker, Sir, we have farmers who have not been paid and the NCPB has been mentioned in all the scandals that you can name. Money is not being utilised properly. Farmers sell their produce but they do not get their returns. If they happen to get their returns, it is normally too late or too little and the value then reduces. If a farmer in Makueni knows that when he delivers 50 bags of maize and the receipt that is proposed in this Bill becomes a title to be used as collateral, then we will be talking. That farmer will likely be able to return his investment even if he loses on the price of maize or whatever commodity that is stored but he will generate more income by using that as collateral. Therefore, to that extent, I support this Bill and its purpose.

I have always had an issue about councils that we form in every little thing that we do. For every little thing and Bill, we always form a council of 10 or 15 people and that is absolutely unnecessary in my view. That is a matter that will be handled at the county level by county governments.

When the Meteorological Department – in the few times that they appear to know what they are saying – predicted that there was going to be drought in Makueni, I had proposed that the county government should purchase maize from farmers and store it. That could have solved the problem only that the councils will consume a lot of public funds because we shall have many officers employed. In my view, all these people are absolutely unnecessary. To that extent, we should desist the idea of creating more councils and more bureaucracy because bureaucracy defeats the purpose for which we are attempting to alleviate a problem associated with poverty and hunger. We will also solve the problem of farmers like those in Makueni who have chosen to stop growing some

cash crops because it is not necessary to do so. In any event, it has actually rendered them poor.

Mr. Temporary Speaker, Sir, the proposal to set up an elaborate structure in Clause 16 is something that I support entirely. Again, since licensing is a function of county governments, I would have proposed that the council should be at county level. If that is the case, there will be no extra expense to the Exchequer. In each of the 47 counties where Sen. (Dr.) Khalwale will be sitting beginning August, 2017, there will be a council consisting of the people sitting in the executive and those who will be seconded by the national Government to the various counties. It is a much better system than having people in the Agriculture House in Nairobi spending public money for no apparent cause.

Although the particulars in Clause 25(3) are very elaborate, in view of my submission that one of the problems with people storing their goods is because a poor farmer in this country does not have the mechanism of measuring the dryness or moisture content of agricultural products. I would have thought that one of things that this warehouse receipt mechanism would include would be a mechanism where they can measure moisture content. When you say grade, in most cases, it is not even the size of the seed. For purposes of a poor farmer in Makueni, it would be the moisture content. They plant high grade maize.

Therefore, I would be proposing an amendment that upon receipt where they accept, they would issue a certificate of moisture in terms of grade so that the farmer – in fact, in terms of using his licence as a collateral, the higher the quality the grade of the grains that you are storing, the better it is, the better title that you would be having.

Mr. Temporary Speaker, Sir, Clause 29 on the obligations and rights is fairly straightforward, nothing out of the ordinary.

Part VI is on negotiation and transfer of receipts. Again, this is the beauty of having a document that you can use as a negotiable instrument that you can use and exchange. Clause 34 says that it can be negotiated for delivery by a person. It can be negotiated in a manner and a person can purchase it. It creates a negotiable instrument. You would be holding a cheque.

Mr. Temporary Speaker, Sir, therefore, in view of our work in protecting counties and their interests, transforming them and the people we represent, this Bill is on all fours in terms of making sure that we alleviate poverty in every sense of the word.

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

Sen. (Dr.) Khalwale: Mr. Temporary Speaker, Sir, I rise to support this Bill. I am very excited because it is innovative to the extent that we are now moving to learn from the best international practices. This has made it possible for a country of over 1 billion people, namely India, to remain self-reliant in food.

I, therefore, wish to congratulate the Mover for the admission that what we have been doing in the country has not been the best. Why? Some of Kenya's worst scandals have taken place in the maize sector. One is reminded of the scandal of 2009 where a Minister for Agriculture sat in Nairobi and started dishing out chits that enabled unscrupulous business people to mint hundreds of millions of shillings out of maize and other cereals that had been kept at the National Cereals and Produce Board (NCPB). I recall that this was such a major scandal that it led to the then, Prime Minister, hon. Raila Odinga to suspend the Minister in question.

Mr. Temporary Speaker, Sir, having acknowledged that, allow me to quickly look at a few clauses. I will start with Clause 3. I beg to disagree with my brother, Sen. Mutula Kilonzo Jnr., when he says we are forming yet another council. This is such a critical area. If you do not have the council which is provided for in this law, the amount of abuse and loss that will be incurred by the farmers who would have been given receipts by warehouse operators will be unimaginable. I, therefore, insist from point number one that the Mover of the Motion, without us having to move him, should quickly ensure that this Bill is aligned with the new Constitution. The new Constitution has taken the entire function of agriculture to the counties. Why are we still in this Act, attempting to form a council that will be controlled by the national Government? Just look at it: Clause 3(a) Principal Secretary responsible for matters related to agriculture – national Government; 3(b) Principal Secretary for the time being responsible for matters related to finance – national Government; d) Director of Agriculture, Food and Fisheries Authority (AFFA) or his representative, again, from the national Government. This is failure to acknowledge the fact that agriculture is fully devolved. I would not like to deny the national Government an opportunity to play a critical role in this.

However, I invite the Mover to consider aligning it in this manner; that, Clause 3 (f), (g), (h) and (i) be maintained but be changed so that in (c) where you have one person nominated by the Council of Governors (CoG) it stands but then, provide that the person nominated by the Financial Sectors and Regulators Forum, (f) and (g), the person nominated by the Kenya Farmers Association (KFA) and (h), the person nominated by the Kenya Members of the East African Growing Council and (i), the person nominated by the Consumer Federation of Kenya be nominated but be appointed by the CoG; so that the CoG is satisfied that all these array of people will defend this resource as a resource that falls under the devolved structure of Government.

The Temporary Speaker (Sen. Mositot): Sen. (Dr.) Khalwale, for the representation of the financial sector, you are trying to standardize. Do you not think that the National Treasury will be the appointing authority?

Sen. (Dr.) Khalwale: Yes, Mr. Temporary Speaker, Sir. I concur with you but I was just worried that we are bloating this council with the national Government. I have indicated the areas but this is subject to debate. I am just provoking the thinking of the Mover. What you have said is debatable. I would agree with you if that was the best way to go. Corruption at the national Government is just as unacceptable as corruption at the county government.

Mr. Temporary Speaker, Sir, were the Mover of the Motion to concur with me, then I would be moving that Clause 4 be amended to add that the person appointed as a member of the council should be appointed by the CoG or the Cabinet Secretary.

I quickly move to Clause 4 on the functions of the council. They are enumerated but my attention is drawn to (i) and (j). (i) which says that the council may suspend operations of warehouse operators, inspectors, waiters or graders operating under the Act for failure to comply with any provision of this Act; nothing could be more important. You will take your good grains to warehouse “X” then the graders then just decide to grade your grain at a low grade and then make profit from the high grade that you delivered. So, it should then create an opportunity for the person with the receipt to have a chance to complain to the council that whereas I supplied first class grade, look, these

people, led by the warehouse operator where I received the receipt, are now grading my grain as second or third grade.

The Temporary Speaker (Sen. Mositet): Maybe just to enhance your contribution, this receipt is a document that you will use as collateral or to negotiate with the bank. In fact, the farmer will take the receipt to the bank and maybe paid at 60 per cent. Therefore, whoever will be buying, will just go to the bank again, pay and the farmer will be given the balance. So, is there any loophole where maybe some people can get another receipt? I thought it is just one receipt according to this Bill.

Sen. (Dr.) Khalwale: Yes, Mr. Temporary Speaker, Sir. That is true to the best of intentions. However, if you ask Sen. Omondi and I, who come from the sugar industry, we can confirm to you that with the best of intentions, the miller sends his tractors to collect cane, and it is harvested with the best of intentions. However, when it reaches the weigh bridge, the tonnage that is then announced, the poor farmer who in some instances might be illiterate, is completely shortchanged. Do not forget that some of these farmers might not be as highly educated. Therefore, when he is given his receipt, he may not know that inside it, his produce has been graded poorly. It is only when he wants to exchange it as Sen. Mutula Kilonzo Jnr. said as collateral in the bank to get money, he is told you your receipt shows you delivered 100 tonnes of maize, but unfortunately, we cannot give you the amount of money that you want because according to the credit in the receipt, it is third grade." Then, the farmer will find that he cannot get a loan of Kshs2million, as soon as possible using it where he expected that amount based on the tonnage that is in the store. This is because they are being told: "No, you can only get Kshs500,000 because your grade is low."

This is something that through this debate, we want to either push the Mover to improve on it or ensure that subsequently, once we pass the Bill, the rules and regulations that will then accompany this Bill will capture all those loopholes.

Mr. Temporary Speaker, Sir, (j) says that the Council will prescribe fees and other charges payable for examination, inspection, issuance and renewal of registrations and licenses under this Act. Again, nothing could be more important. This is because if the Council will not be in charge of the fees that are charged, then one warehouse, for example, in Lugari in Kakamega County, might choose to charge a farmer a fee that is reasonable for all those services. However, when this farmer stores the same cereals in the neighbouring Trans-Nzoia County, if there is no standard, then there, they might make it prohibitive so that when a farmer does not have a warehouse that has space in his county, for example, when he moves to the next warehouse, he is shortchanged and makes no profit.

Mr. Temporary Speaker, Sir, Clause 26 speaks to the establishment of a central registry which shall be operated by the Council. The purpose of this is so critical because the information in small warehouses all over the country, unless you have a central registry that has a record of that, it is akin to operating a computer system without backup. Once the computers fail or are stolen, the way they have been stolen in Kakamega County without a back up, you have no idea what was originally stored in that computer. Therefore, farmers who had kept their cereals at the various warehouses would end up losing.

Mr. Temporary Speaker, Sir, Clause 29 is attempting to obligate a warehouse operator to deliver. This is critical because a farmer comes and delivers 50 tonnes of

beans grown with hard labour of Kakamega County. At the time of demanding that I want the dues in kind or the actual beans to come, the warehouse operator tells you: "You brought here 50 tonnes of beans, but they have been destroyed by weevils. We will only give you half of it." Then, the receipt holder will have lost out his entire farming for that year or half of that year. However, when you obligate the operator, it means that the operator is aware that when the farmer comes to make a claim after six months, if he brought 50 tonnes of beans, then 50 tonnes of beans the warehouse operator shall give. This is because he is obligated. Where he is unable to give because of whatever reasons, then he must give it in form of cash.

I am so proud that the National Assembly has come up with this Bill. I congratulate them again and again hoping that they will move away from exercising their tyranny of numbers in supporting the thieving and corruption by the Jubilee Government and expend their energies and numbers on such a good course.

I support.

Sen. G.G Kariuki: Mr. Temporary Speaker, Sir, thank you for allowing me to contribute to this Bill. Looking at the memorandum and objects of reason, it explains the purpose for this Bill, I find as if we are trying to assist people, but we are on the periphery. We were elected by the people of this country to deliver. The biggest problem here like my friend, Sen. (Dr.) Khalwale, was talking about – he talks so well and all Senators here talk so well as if they are talking to people who do not belong to this country – is that there is nothing special that we are talking here that is unknown. Sometimes, I find it very difficult and feel more comfortable keeping quiet and look at things that---

The Temporary Speaker (Sen. Mositet): Senator, you requested to talk. That is why I gave you the chance. I did not force you.

Sen. G.G Kariuki: Mr. Temporary Speaker, Sir, pardon.

The Temporary Speaker (Sen. Mositet): You are saying that sometimes you prefer not to talk, but you requested to talk.

Sen. G.G Kariuki: Mr. Temporary Speaker, Sir, I have my conviction about political life. When you keep on nagging, telling people what they need to do and they know it, then you become a little bit troubled. You then become revolutionary and that is something that some of us cannot do. We can continue to plead with people like Sen. (Dr.) Khalwale by speaking some of the things that we cannot speak. There is a Bill that was sponsored by Sen. Kittony, which was passed. If you look at that Bill and this system of receipt, you will wonder why we are running away from the facts. The fact remains that the current National Cereals and Produce Board needs to be abolished and a new one created in line with the current thinking and international standards of storing food.

Mr. Temporary Speaker, Sir, this has been done in many countries, including India, as mentioned by a Member. They suspended their budget for the sake of food for five years. They were not doing that without a proper system. However, in this country, in a system or a proposed board like this one, some people somewhere know what they want to do. It is most unfortunate. If they were genuinely doing it for the sake of the country, people would understand. Look at the corruption involved in the distribution of seeds. Places like Laikipia and few other areas are totally affected because whenever people go to collect the so-called free seeds by the Government, they find the people in charge of the stores selling them.

Until the day corruption is minimised to at least 20 per cent then--- Keep your corruption at 20 per cent and eat what you want.

The Temporary Speaker (Sen. Mositet): Sen. (Dr.) G.G. Kariuki, you are saying that it should be reduced to 20 per cent. At what percentage are you trying to suggest it is?

Sen. (Dr) G.G. Kariuki: Mr. Temporary Speaker, Sir, I am talking about 20 per cent. People should not eat more than they can give.

The Temporary Speaker (Sen. Mositet): We should not tolerate corruption at all, not even at 20 per cent.

Sen. (Dr) G.G. Kariuki: Mr. Temporary Speaker, Sir, I agree we should never tolerate it. However, what is managing us today is corruption. Let us all be ready to fight it. Take the case of the farmers in your constituency. The small-scale farmers will continue to suffer because whenever they harvest, all that harvest goes to few people who call themselves middlemen. They will buy a bag of maize at Kshs1, 800 because they know that the farmers do not have facilities to store their produce or reach the other buyers. I hope that we will come back to the next Parliament as people who understand the problem and can be trusted.

If the receipt system is started now in my county where there is a lot of maize, people will still suffer. These receipts will come out and everybody will expect it to go on. In the old days, there were no special people to trace a thief. A thief was traceable by everybody including the police, Criminal Investigation Department (CID) officers and wananchi. Nowadays, that is an area that is handled by specific departments; nobody is allowed to interfere with it.

Mr. Temporary Speaker, Sir, I support this Bill because there is nothing else I can do. I wish there was something that Sen. (Dr.) Khalwale and I could do over this matter.

Thank you, Mr. Temporary Speaker, Sir.

Sen. Chelule: Mr. Temporary Speaker, Sir, I rise to support this Bill that provides a good system for farmers. As we deliberate on this issue, we know the categories of farmers that we have. We have large-scale and small-scale farmers.

I wish to speak on behalf of the horticultural and dairy farmers. With regard to dairy farmers, we need to have another element of value addition and marketing in this Bill. If we discuss about the cereals alone, what will happen to the dairy farmers and small-scale farmers who grow carrots, cabbages and *sukumaw iki*. Whenever we come up with a Bill like this one, it should cover all categories of farmers.

Mr. Temporary Speaker, Sir, I am happy about this Bill, except that it excludes some farmers. I do not know if it will be possible to amend it to include the elements that I have mentioned. We could as well come up with another Bill to deal with marketing or value addition. We all know that we have the dairy farmers. Since most dairy farmers do not have storage facilities, we should think of value addition and marketing.

With those few remarks, I beg to support.

The Temporary Speaker (Sen. Mositet): I now call upon the Senate Majority Leader to reply. I would have wished to contribute to this Bill, but since my fellow Members of the Speaker's Panel are not in the House, I cannot do so.

The Senate Majority Leader (Sen. (Prof.) Kindiki): Thank you, Mr. Temporary Speaker, Sir. I sympathise with your situation, but sometimes we have to make sacrifices in the line of duty.

I wish to thank the Members who have supported this Bill. As I said in my remarks while moving the Bill, this Bill is a game-changer in terms of addressing the perennial famine problem. It will help the farmers to access facilities where they can store their produce. These facilities will be inspected and have the necessary equipment to make sure that the storage is done in accordance with health as well as vital sanitary standards; where pests, rodents and insects that are harmful to agricultural produce are addressed.

Mr. Temporary Speaker, Sir, first, this Bill addresses the bigger question of storage for commodities and not just agricultural commodities. Nothing prevents the storage of other things including minerals. The Bill talks about agricultural produce, but nothing prevents a broader idea of warehousing, even if it means amending this Bill. Storage is a critical thing that can help us complete the production chain that is currently broken, because people do not have a place to store their things.

Second, there have been efforts in the past by the public sector to provide warehousing for commodities. Many Kenyans are still nostalgic about the days of the Kenya National Trading Corporation (KNTC) which used to store sugar, flour and other commodities to ensure that the rules of market and supply do not distort the market conditions. There was the Kenya Farmer's Association (KFA) which had many warehouses across the country, which are lying idle in many counties today. The KFA has a lot of idle warehouses in Nakuru, Laikipia and Meru. The same applies for Kenya Sugar Board (KSB) and other public bodies.

The ideal thing will be that after the passage of this Bill, the proposed Warehousing Receipts System Council should convert some of those idle public facilities to fit into this system. It can even acquire some of these facilities because some of them are moribund and are no longer operational. These facilities should be refurbished, modernized and their equipment increased. This will bring down the cost of storage. We have not brought it out in this Bill that the storage will not be for free. The person storing the product will pay a small fee to the public or private body that will store the product. If we acquire most of these warehouses that belong to moribund institutions, it will cut the cost that farmers and other people who want to keep their products in warehouses will pay, because they are already existing public warehouses. It will even reduce the number of private warehouses. If there are more private players in such a market, we might end up having the same problem of exploitation, where the storage prices are way behind the affordability of many farmers.

Mr. Temporary Speaker, Sir, finally, other than acquisition of the existing public storage facilities of moribund public institutions, this Bill envisages that the private sector will also play a role. I am convinced that if there is a good private investor who wants to offer storage facilities at a small fee, they will still make their money and also save many people, especially in the rural areas, lots of trouble which is associated with harvest and post-harvest losses.

Mr. Temporary Speaker, Sir, once again, I want to thank all my colleagues for supporting this Bill.

I beg to move and request that, under Standing Order No. 54 (3), you defer the putting of the question to another day, because we do not have the necessary numbers to allow us to take a vote.

The Temporary Speaker (Sen. Mositet): Well done, Senate Majority Leader. This is one of the most innovative Bills that will make our youth get jobs and our farmers to become rich. I believe that with the genius in you, any amendment will make it better.

I defer the putting of the question, as requested by the Senate Majority Leader.

(Putting of the Question on the Bill deferred)

Next Order!

THE LOCAL CONTENT BILL (SENATE BILL NO. 13 OF 2016)

The Temporary Speaker (Sen. Mositet): Since Sen. Gideon Moi is not here, we will defer the Bill.

(Bill deferred)

MOTIONS

COUNTRYWIDE AUDIT ON DISTRIBUTION
OF TEACHERS IN PUBLIC SCHOOLS

THAT, WHEREAS Article 43(1) (f) and 53(1) (b) of the Constitution guarantees every citizen a right to education and every child a right to free and compulsory basic education, respectively;

NOTING that the Teachers Service Commission is mandated to handle employment, deployment, remuneration and discipline of teachers in public schools in Kenya;

CONCERNED that there are great disparities in the distribution of teachers in public schools across the country leading to oversupply in some schools and undersupply in others and ultimately leading to major teacher shortage especially in rural and marginalized areas;

APPRECIATING efforts made by the national government to improve the teacher pupil ratio to international standards in all public schools through yearly employment of teachers;

FURTHER CONCERNED that the statistics on the number and distribution of teachers in public schools is not readily available;

NOW THEREFORE, the Senate directs the Ministry of Education, Science and Technology to conduct a countrywide audit on the distribution of teachers in all public schools indicating the requisite establishment per school and the corresponding number of teachers who are in-post and further that the Ministry submits a report to the House on the matter within ninety (90) days.

The Temporary Speaker (Sen. Mositet): Since Sen. Khaniri is also not here, so we defer the Motion.

(Motion deferred)

CREATION OF AN OFFICE TO AUDIT THE
BASIC EDUCATION INSTITUTIONS' FUNDS

THAT, whereas Article 53 (1) (b) of the Constitution provides that every child in Kenya has the right to free and compulsory basic education;

RECOGNIZING the importance of education in the alleviation of the main challenges facing Kenya's sovereignty identified at independence, namely; poverty, illiteracy and disease;

APPRECIATING the gains made following the implementation of the free primary education program in 2003 and cognizant of the principles set out in the Basic Education Act of 2013 whose objectives include promotion and regulation of free and compulsory basic education besides providing for accreditation, registration and management of basic education institutions;

NOTING the substantial resources invested by the national and county governments, parents, sponsors and development partners in the provision of basic education;

FURTHER NOTING that pursuant to the Basic Education Act, the County Director of Education is vested with numerous responsibilities including facilitation of auditing of all basic educational institutions in the respective county thereby leaving fundamental gaps of governance especially in the management of the available resources;

NOW THEREFORE, the House recommends to the Cabinet Secretary for Education to facilitate the creation of the office of an auditor to specifically audit the basic education institutions' funds to enhance transparency and accountability and improve governance in the management of these institutions.

The Temporary Speaker (Sen. Mositet): Sen. (Prof.) Lonyangapuo is also committed in another Committee. We will, therefore, defer the Motion.

(Motion deferred)

INSTALLATION OF CCTV CAMERAS IN ALL
POLICE STATIONS AND POLICE POSTS

CONCERNED about the numerous reports of the arbitrary arrests of innocent people by the police;

FURTHER CONCERNED that a large number of those arrested are allegedly locked up in police cells without being recorded either in the Occurrence Book or elsewhere;

DEEPLY CONCERNED that some of the arrested people disappear without a trace and that many who are subsequently traced are found dead away from where they were known to have been locked up;

ALARMED by the recent incident where three young men were locked up for hours at Syokimau Police Post without any record indicating

they had been at the police post, only for them to be found days later, in another area far from the police post, having been brutally killed;

APPRECIATING that the Closed Circuit Television (CCTV) system installed by the Government in Nairobi has helped a lot in criminal investigations;

NOW THEREFORE, the Senate calls upon the National Government to-

(a) install CCTV cameras in all police stations and police posts in order to record each and every person going in and out of the station;

(b) have the CCTV system designed in such a way that it is capable of capturing the Occurrence Book entries every twelve hours; and,

(c) ensure the CCTV system is connected to a central depository in order to minimize chances of subsequent tampering.

The Temporary Speaker (Sen. Mositet): Sen. (Eng.) Muriuki is also committed in another Committee. We will defer the Motion.

(Motion deferred)

INQUIRY INTO THE IMPLEMENTATION OF THE NATIONAL
SPECIAL NEEDS EDUCATION POLICY FRAMEWORK

AWARE that Article 43 (1) (f) of the Constitution of Kenya provides that every person has the right to education and that Article 53 (1) (b) of the Constitution provides that every child has the right to free and compulsory basic education;

COGNIZANT that Article 54 (1) (b) of the Constitution provides that a person with any disability is entitled to access educational institutions and facilities for persons with disabilities that are integrated into society to the extent compatible with the interests of the person;

RECOGNIZING that education in Kenya is a shared function of both the county and national governments;

CONCERNED that while significant gains have been made under the Free Education Programme introduced in the year 2003, access and participation of children with special needs is generally low across the country and their needs have not been specifically addressed;

NOW THEREFORE the Senate directs the Standing Committee on Education to inquire into the performance of the Ministry of Education, Science and Technology in the implementation of the policy statements and strategies made in the National Special Needs Education Policy Framework, 2009 and report back to the Senate within three months.

The Temporary Speaker (Sen. Mositet): This is my Motion and since the Standing Orders cannot allow me to move it, we will defer it.

(Motion deferred)

When we began there was re-arrangement of the Order Paper because we expected to have the requisite numbers to dispose of Order Nos.8, 9 and 10. Since we do not have the requisite numbers, we will also defer them.

BILLS

Second Readings

THE COUNTY STATISTICS BILL (SENATE BILL NO. 11 OF 2016)

THE TREATY MAKING AND RATIFICATION (AMENDMENT) BILL
(SENATE BILL NO. 5 OF 2016)

THE CONSTITUTION OF KENYA (AMENDMENT) BILL
(NATIONAL ASSEMBLY BILL NO. 26 OF 2013)

(Bills deferred)

ADJOURNMENT

The Temporary Speaker (Sen. Mositet): Hon. Senators, there being no other business, the Senate stands adjourned until tomorrow, Thursday 17th November, 2016, at 2.30 p.m.

The Senate rose at 5.10 p.m.