

# PARLIAMENT OF KENYA

## THE SENATE

## THE HANSARD

Wednesday, 20<sup>th</sup> May, 2015

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

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

### PRAYERS

### COMMUNICATION FROM THE CHAIR

INVITATION TO ATTEND BEATIFICATION OF SR. IRENE  
STEFANI NYAATHA IN NYERI COUNTY

**The Speaker** (Hon. Ethuro): Hon. Senators, I have a communication to make as a follow up on what the Senator for Nyeri told the House yesterday. I have also received a letter from the Office of the Governor of Nyeri County inviting all Senators to the main ceremony that will be held on Saturday, 23<sup>rd</sup> May, 2015 at Dedan Kimathi University of Technology, Nyeri at 9.00 a.m. This ceremony is likely to attract over 100,000 pilgrims and guests and has been upgraded to a state function to be graced by His Excellency the President.

I, therefore, urge all hon. Senators who will be attending the ceremony to confirm their attendance with the Office of the Clerk of the Senate at the rise of the Senate today to facilitate the necessary logistical details and protocols.

### PETITION

REPORT ON PETITION: PLIGHT OF RICE FARMERS  
AT MWEA SETTLEMENT SCHEME

**Sen. Ndiema:** Mr. Speaker, Sir, I beg to lay the following Paper on the Table:-  
Report by the Standing Committee on Agriculture, Lands and Natural Resources on the Petition on the plight of farmers at Mwea Settlement Scheme.

**PAPERS LAID****REPORTS ON THE COUNTY EARLY CHILDHOOD  
EDUCATION BILL, 2014/UNIVERSITIES  
(AMENDMENT) BILL, 2014**

**Sen. Karaba:** Mr. Speaker, Sir, I beg to lay the following Papers on the Table of the Senate:-

Reports of the Standing Committee on Education on:-

1. The County Early Childhood Education Bill, 2014;
2. The Universities (Amendment) Bill, 2014.

**Sen. Sang:** On a point of order, Mr. Speaker, Sir. I would like to seek a clarification. The Senator for Trans Nzoia approached the Table and purported to have laid a Paper. That was before the Order on Papers Laid was called out by the Clerk-at-the-Table.

I am seeking clarification on whether he was laying a paper or presenting a petition. That did not come out clearly.

**The Speaker** (Hon. Ethuro): Sen. Sang, the Senator for Trans Nzoia County who is also the Vice Chairperson of the Committee on Agriculture, Lands and Natural Resources Standing Committee was perfectly in order. He rose to the occasion which was Order No.4 as per Order Paper; this was Petitions. The Petition, according to the appendix on the Order Paper is clearly spelt out and he read it as such.

You are the one who is completely out of order. You should also ask your doctor during your next appointment to check whether you are okay.

Let us move to the next Order.

**STATEMENTS****GOVERNMENT POLICY ON TERMS OF ENGAGEMENT  
FOR PART-TIME LECTURERS**

**Sen. Mwakulegwa:** Thank you Mr. Speaker, Sir. I rise to seek a statement from the Chairman of the Committee on Education.

The ever growing number of university students has stretched the ability of lecturers to cope with the capacities. Some universities, therefore, have hired part time lecturers to plug in the deficit.

It has now turned out that some of these part time lecturers are a disgruntled lot due to delayed payments. The common complaint is a breach of contract especially not being paid according to the agreed terms. This has happened mainly in public universities; Nairobi and Kenyatta universities where their arrears are between six months to two years.

In my statement, I seek a clarification on the following issues.

- (1) What is the Government's policy regarding part time lecturer payment terms?
- (2) When will all part time lecturers in all public universities be paid their dues that have accrued and are long overdue?
- (3) Will the arrears be paid, especially for the two years plus interest?

(4) What is the long term solution to this problem so that we motivate the part time lecturers?

**Sen. Karaba:** Mr. Speaker, Sir, I will respond in two weeks' time.

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

CIRCUMSTANCES LEADING TO ROAD ACCIDENT  
AT DARAJA MOJA IN KISII COUNTY

**Sen. Obure:** Thank you Mr. Speaker, Sir. I rise to seek a statement from the Chairperson of the Standing Committee on National Security and Foreign Relations regarding a recent accident near Daraja Moja in Kisii Town involving a truck and a trailer Registration No.KAD 162N which was loaded with electricity poles causing the deaths of two pedestrians, a student and an employee of the nearby Gusii Institute of Technology.

This incident sparked riots extending for over a period of two days leading to several people sustaining injuries, destruction and looting of properties. In the statement, the Chairperson should;

(1) Explain why a police officer was driving the truck at the time of the accident;

(2) whether that particular police officer is licensed to drive this class of motor vehicles; and,

(3) explain why security officers in Kisii failed to stop the riots in time and maintain law and order; and,

(4) whether the national Government will compensate members of the public who suffered injuries and those who lost their property as a result of a breakdown of law and order.

**Sen. Adan:** Mr. Speaker, Sir, I request the Senator to give us one week to respond. Thursday next week will be good for us.

**The Speaker** (Hon. Ethuro): That is so ordered.

SEIZURE OF KENYAN IVORY IN THAILAND

**Sen. (Prof.) Lesan:** Mr. Speaker, Sir, three weeks ago I requested for a Statement from the Chair of the Committee on Agriculture regarding the arrest and confiscation of ivory in Thailand. My concern was the fact that ivory was found packaged along with packets of tea leaves. Two days ago, another consignment of ivory was arrested in Singapore and once again, the Ivory was concealed in package of tea leaves. In this situation tea has continued to be used as packaging material for contrabands like ivory. I want to further request that a Statement be issued on this recent consignment of ivory which was packaged in tea bags.

My concern is on the tea packaging. The tea industry is getting trapped in this ivory business and I am sure its reputation is of concern to me.

**The Speaker** (Hon. Ethuro): Order, Senator. It does not concern you that ivory is being smuggled?

I understand the interest you represent in the House and I am sure the ones for the ivory will speak out.

Where is the Chairperson?

**Sen. Ndiema:** Mr. Speaker, Sir, it is true we undertook to respond within two weeks but the issue is more complicated than I initially thought because it involves multiple agencies. There are so many agencies involved now in trying to find out what happened. It is a matter of

security, wildlife and so on. Therefore, I seek indulgence so that I can bring a comprehensive report in one week.

**The Speaker** (Hon. Ethuro): In any case, you now have an additional homework to do.

**Sen. Ndiema:** In view of the additional homework, I do not know whether one week will be enough. For the first part, I undertake to do within one week but the rest can be done in one week.

**The Speaker** (Hon. Ethuro): Order.

**Sen. Ndiema:** But if I can manage the two at the same time, the better.

**Sen. (Prof.) Lesan:** Mr. Speaker, Sir, the issue of smuggled ivory is of big concern in this country and I am sure it is a security issue also. It is also a huge economic issue and the fact that this country is dealing with corruption at the moment, I expect somebody to take responsibility and be prepared to issue a thorough answer which will cover all the issues that I have raised. So, two weeks will be okay.

**The Speaker** (Hon. Ethuro): Sen. Karaba.

**Sen. Karaba:** Mr. Speaker, Sir, I want to issue a Statement and also seek another one from the Minister for Agriculture.

**The Speaker** (Hon. Ethuro): Start with the Statement you are seeking.

#### CONSTRUCTION OF GATITU-NYAYOTEA FACTORY IN KIRINYAGA EAST SUB-COUNTY

**Sen. Karaba:** I rise to seek a Statement from the Chairperson of the Standing Committee on Agriculture, Livestock and Fisheries regarding the construction of the proposed Gatitu-Nyayo Tea Factory in Kirinyaga East, sub-county of Kirinyaga County. In the Statement, the Chairperson should address the following:-

- (1) when the construction work will commence;
- (2) who was awarded the contract;
- (3) what will be the cost of the construction upon completion;
- (4) what are the social benefits of the people living in the neighbourhood;

**The Speaker** (Hon. Ethuro): Who is the Chairperson? Vice Chair? Any Member of the Committee? Sen. Karaba, which Committee is that?

**Sen. Karaba:** Committee on Agriculture, Livestock and Fisheries.

**Sen. Ndiema:** I request for two weeks.

**The Speaker** (Hon. Ethuro): That is okay. Sen. Karaba, you may now issue your own Statement as Sen. Karaba, Chairman for Education.

#### CONTINUED CLOSURE OF GARISSA TTC

**Sen. Karaba:** Mr. Speaker, Sir, this is the Statement on the predicament of students of Garissa Teachers Training College that was asked by Sen. Obure.

Pursuant to Standing Order No.45(b), Sen. Obure requested for a Statement from the Chairperson of the Standing Committee on Education regarding the predicament of students of Garissa Teachers College. The Senator wanted me to explain whether the Cabinet Secretary Ministry of Education is aware that Garissa Teachers College which is adjacent to Garissa University College remains closed and many students have not reported to college for the second term this year, fearing for their lives.

He also wanted to know if the Cabinet Secretary has considered other options such as transferring those students to other training institutions to enable them continue with their studies. He also wanted the Cabinet Secretary to explain if the students, their parents and guardians can be assured that this temporary setback will not in any way affect the studies and the future of these students. The Cabinet Secretary should also state the appropriate measures the national Government will take to ensure adequate security in all institutions in the country.

Mr. Speaker, Sir, I wish to respond to the questions as follows:-

(1)The Ministry is aware that many students of Garissa Teachers College have not yet reported back to college this term for fear of their lives after what happened in Garissa University College on 2<sup>nd</sup> April, 2015. Out of 610 students enrolled in the college, only 144 students from the local community had reported back to college. As per today, 343 students have reported.

(2)The Ministry has decided that the students should not be transferred to other Teachers Training Colleges because that would mean closing the college. The college is one of its kind in the whole of north eastern region and closing it would affect education in the region. It would also be an indication to the terrorist that the Government has failed on security matters, which is not the case.

(3)The board of management and the county security team will assure students, their parents and guardians of security. Already the following has been done:-

(i) Ten armed security officers have been deployed to the college and have been guarding and surveying the institution day and night.

(ii) The county government has provided three armed police reservist to supplement security.

(iii) All the college staff are undergoing security vetting.

(iv)The county government has promised to set up a police post in the college.

(v) The college's barbed wire fence has been reinforced and the Principal is in the process of working on modalities of putting up a perimeter wall around the college in order to further improve the security of the institution.

(vi) The outer and inner gates of the TTC are now well manned by security officers and movement in and out of the college is closely monitored.

(vii) All college staff have been given identification badges.

(viii) The Principal is in constant communication with the County security intelligence team and has been attending security meetings.

(ix) The County security team has already visited the TTC and inspected the facilities.

(4) The national Government, in liaison with the county security teams in all counties, will ensure that all learning institutions are provided with adequate security, day and night.

Thank you.

**The Speaker** (Hon. Ethuro): Who had sought that statement? Any contribution?

**Sen. Kagwe:** Thank you, Mr. Speaker Sir. I listened very keenly to what my Chairman said in regard to the schools. He said that first of all you wear an identity badge. We know that one of the ways that terrorists identify people to shoot is when they know who you are; if you are a Christian they shoot you. Is a mere badge a way of securing anybody in a terrorist infested area?

One would have expected to hear that there would be units of security personnel. Every education institution would have a sizeable unit of 20 to 30 people taking charge in the vicinity of the school. They would be fully and better armed than any potential attackers of that

institution. That is the only thing that makes sense. Saying that somebody has a badge and, therefore, they are identified and they are safe--- what is a badge against an AK47? My Chairman, be a bit more serious.

**Sen. Okong'o:** Mr. Speaker Sir, what the Chairman has given us is a very shallow Statement especially when he says that they have 10 policemen. He has not told us what the national Government is doing in terms of enhancing surveillance. To revisit my colleague, Sen. Kagwe's assertion, are badges a security issue?

Students from our counties suffered greatly. We have not been told what measures have been taken in relation to those students who are still at home, other than sending 10 policemen to a very porous institution bordering an enemy country. Let me put it that way.

**Sen. Obure:** Mr. Speaker Sir, you will be surprised that I am very disappointed with this answer. You are talking of 610 students at Garissa TTC and at the moment only 44 have gone back to college for this term, meaning that 556 have not reported back. We are being told that they cannot be facilitated to go to other colleges even in the face of personal fear for their lives. Is the Government not being too insensitive to the plight of students and their worries about insecurity in that area?

**Sen. Khaniri:** Mr. Speaker Sir, this is the most absurd and unfortunate answer that this House has been treated to. As much as we do not want to look like we are giving in to the terrorists and losing the war against terror, let me tell the Chairman that nobody will believe this Government with their assurances to these students that they are safe if they go back to this particular college.

Amongst the measures the Chairman has given that the Government is taking, is that the County government has promised to set up a police post in the college. We all know that security is not a devolved function. It is entirely upon the national Government to establish police posts where they are needed. For them to tell us that the County government is putting up a police post, I think this is the biggest joke that we have been treated to.

Can the Chairman and his Committee have some initiative to compel the Cabinet Secretary (CS) to transfer the students who do not want to go back to Garissa to other Government colleges?

**Sen. Billow:** Thank you, Mr. Speaker Sir. Security is the right of every Kenyan. The security situation in north eastern counties is very worrying, to say the least. The education sector that the Chairman represents is totally paralyzed in the north eastern counties from Garissa to Wajir – primary, secondary and tertiary. This is the only college that is open. Next month we are voting Kshs210 billion to security and that is this year alone. It hurts the people of north eastern counties who are residents in this country and are required to assist the Government in fighting terrorists, yet their children in primary and secondary schools and colleges are now at home because there are no teachers and the institutions have been shut down.

Mr. Speaker Sir, what happened in Garissa University College was a disaster but the Government through the Ministry of education has now decided – and I want the chairman to clarify that point – to completely close down the college and move it back to Moi University in Eldoret. This is the only university in that region.

Even the Westgate Mall where dozens of people were killed, has since been rehabilitated and is due for re-opening next month. The Government cannot abandon its people by shutting down the only institutions in this area. Can he confirm and undertake that the Ministry of Education will release the capital expenditure for Garissa University, so that even as the

Government addresses the issue of insecurity, the construction and renovations of the University will continue so that the only university in that region is not shut down?

**Sen. (Dr.) Zani:** Thank you, Mr. Speaker Sir. I think it is never about the number but the level of preparedness of our security officers wherever they are. I know in various places where we wanted to show our might, we have done that very well. We have demonstrated it even here within our precincts. That is what gives people a sense of security. They know that they are well protected and that they can go back to where they need to be. It will be very defeatist for us to move the university to another place because it will show that we cannot keep people safe in that area. It is just about heightening the level of our game as far as security is concerned, especially in the university.

**The Speaker** (Hon Ethuro): Order, Senator, you only need to seek clarification. This is a Statement Hour.

**Sen. (Dr.) Zani:** Mr. Speaker, Sir, I just need an assurance and the progress that has been made in terms of how the future security will be looked into.

Thank you, Mr. Speaker, Sir.

**Sen. Musila:** Mr. Speaker, Sir, when I read the answer to this Statement, I could not believe that this was Prof. Kaimenyi's signature. This is because the answers given to the issues raised here were obviously given by a person who does not even understand issues. The person says that the county government has provided three armed Kenya Police Reservists (KPR) instead of officers from the national police service. The person goes ahead to say that the county government will set up a police post. I think this answer is unsatisfactory.

Mr. Speaker, Sir, my point is, if you are fighting terrorism, you must not show that you are defeated. The action of closing institutions because terrorists have attacked is a clear indication that the Government has given up. The Government should ensure that those institutions remain open and learning activities continue; then terrorists will know that these are resilient people who cannot be defeated.

Therefore, Mr. Speaker, Sir, I appeal to the Government to do everything possible and open those institutions. Everywhere in the country now, students – because of the Government's action of running away – are also afraid. In Kitui, last week, dogs were barking outside the teacher training college and students jumped through the windows and broke their legs. In the same county, people were told that funny people were seen around Zombe Secondary School in Kitui County. The school is now closed.

**The Speaker** (Hon Ethuro): Order, Senator, you are supposed to be seeking clarification.

**Sen. Musila:** Mr. Speaker, Sir, the clarification that I am seeking is: Will the Government take the matter seriously to defeat terrorism or will it succumb to the threats and close down institutions?

**Sen. Mohamud:** Mr. Speaker, Sir, what happened in Garissa University College was a tragedy like what happened in Westgate. The whole education system in north eastern is paralysed. Therefore, I do not agree with the sentiments of Sen. Khaniri suggesting that we transfer students from the college to another university. We know that north eastern is part of Kenya.

The Government should act on the security intelligence because we are aware that the information was given. Transferring students to another institution will not help. The Government should accord students from north eastern province the same opportunities like other Kenyans. Necessary support should be given to the university so that it is opened immediately.

**Sen. Okong'o:** On a point of order, Mr. Speaker, Sir. I have realised that most contributors are from the Committee on Education where I sit. I am wondering whether it is in order for the Chairman of my Committee to table a statement from the Cabinet Secretary without consulting the Committee Members.

**The Speaker** (Hon Ethuro): You have referred to most Members including yourself. However, you started the onslaught.

*(Laughter)*

To deal with that specific matter, the Chair is perfectly in order.

*(Applause)*

Of course, that does not mean that you should not be consulting in the future. Ideally, it also depends on the timing of some of the statements. Some of them come a bit too late for the Chair to convene a meeting yet he is under the obligation to report to the House. Ideally, the statement should be sought in good time so that the committee can interrogate it. I am sure if the Committee interrogated the issue that would have been to the benefit of our contributions before we come to the Plenary.

I will give the last chances for Members to contribute because I see the interest is immense. I do not want more to be added. I will give a chance to Sen. Bule and finally Sen. Sang.

**Sen. Bule:** Mr. Speaker, Sir, first and foremost before I proceed, I thank my Chairman for having given an answer. However, Members should know that the answer that the Chairman has given is borrowed from a Cabinet Secretary (CS). This is second hand information. Members should not take it that the answer is from the Chairman himself. He was answering what they asked but the answer came from the CS. If you want a clear answer from the Chairman, you have to amend the Constitution.

The other issue is that the Government has to use all possible means and ways to assure the people of Tana River or any other place that Kenya is secure. Garissa University College should be opened immediately and maximum security provided. That is the role of the Government.

**Sen. Sang:** Mr. Speaker, Sir, I seek a few clarifications from the Chairman. First, could he clarify that, indeed, the Government, in its attempts to secure all parts of this country especially that region, is receiving the necessary cooperation from the political leaders in that region? He should also confirm whether leaders from the region who gave a promise to share the names of some of the people cooperating with terrorists have shared the details. As the Government continues with the agenda of securing Kenyans, are political leaders in the region cooperating?

**Sen. Bule:** Mr. Speaker, Sir, the issue of sharing names is not our concern. That should be done by the security forces or the people who said that they would do so. We know that the security of Kenyans lies with the Kenya national Government. Our counties need security from the national Government. We also need security. Therefore, the issue of victimising individuals should not arise.

**The Speaker** (Hon Ethuro): Chairman.



**Sen. Karaba:** Mr. Speaker, Sir, I would like to clarify. The question which I was attempting to answer was not about Garissa University College. It was about Garissa Teachers Training College (TTC) which is different from Garissa University College. So, majority of Members who talked about the university were, therefore, misled. They should put another question about the university but contribute on the issue of the college. The answers that I can provide are as follows:

**The Speaker** (Hon. Ethuro): Order, Senators! Order, Chairman! First, Chairman, you have told the House that you are attempting to answer. We do not make attempts here. We respond to Statements and answer questions. This is not a place for attempts. This is a place where Kenyans are seeking information and they must be given, through their elected representatives. Secondly, the issues at hand are about security. The university was attacked on 2<sup>nd</sup> April and you are actually confirming that the students are yet to report. Only 44 out of 610 have reported. So, they are giving Garissa University College as an example on the basis of what else you have done. They have even gone further to ask what the Government is doing to ensure that all those institutions are secured. We are worried about all of them.

Proceed, Chair!

**Sen. Karaba:** Mr. Speaker, Sir, the first concern was about badges. The use of badges is one of the many other measures that the university colleges have taken to ensure that those who operate in and out of the colleges are identified. I think that is a normal practice. Even here we have badges and so, that has nothing to do with the guns or whether or not we can be shot. You can still be killed with or without a badge. The purpose of the badges is to identify those entering and moving out of the college.

The other concern was about those who have already reported. I called Garissa TTC this afternoon and was assured by the Principal that 343 students have since reported. So, the 44 students indicated in the Statement were as at the time it was written by the Minister. I made my own effort and confirmed that 343 students have since reported. Security meetings are still being held up to now. So, a lot is happening in that college as regards security.

The other concern was about a police post. Even in my own county we have created a police post in Kirinyaga University College and it is from the county. So, there is nothing wrong with the county government collaborating with the national Government to put up such security measures. Therefore, I think it is in order for the County Government of Garissa to come up with such an idea. It is a very noble idea and I would encourage many other county governments to think about security before they even think of how the national Government can provide security.

The other issue is about the fate of Garissa University College. It was closed temporarily and not forever. The Government is looking into ways and means of reopening it. Meanwhile, quite a number of university students have been transferred to Moi University, Eldoret and they will be there for some time. As soon as security is restored, I am sure that they will either go back or fresh students will be admitted to the university.

Regarding other security measures, it is true that every other school or college is gripped with fear and not only those in Sen. Musila's constituency. Recently, a student died at the University of Nairobi when a transformer went into flames and students thought that they had been attacked. So, every other school, college and institution of learning should see to it that security measures are put in place both by the local and national Government.

Thank you, Mr. Speaker, Sir.

**Sen. Obure:** Mr. Speaker, Sir, I have one concern that has not been addressed well. I specifically requested to know what appropriate measures the Ministry is taking to ensure adequate security in all institutions of learning in the country. That concern has not been addressed. All he has said is that the national Government will ensure that all learning institutions are provided with adequate security, but what I am asking is: What specific measures are being put in place to ensure that security?

Lastly, we have been told this afternoon that there has been improvement in terms of the number of students who have reported back to Garissa TTC. There are still over 200 students who have not reported back due to personal reasons, particularly fear for their lives. What is the Ministry doing to address the concerns of those 200 students who have not reported back? Could we be given an assurance that these students will be accommodated somehow, so that they can pursue their studies? The Chairman has already assured their parents that they will be allowed to complete their studies, but how will they be able to complete their studies if they do not want to go to Garissa specifically? Could he tell us if they are going to make alternative arrangements to accommodate the 200 students who have not reported back?

**The Speaker** (Hon. Ethuro): Order, Senators! Before the Chair responds, yesterday you did a good job on the three Bills which were on Second Reading. Today they are here for the Third Reading. Therefore, it is important that we embark on them the soonest possible. So, I want to encourage each and every one of you to remain present until that particular business has been disposed.

Chair!

**Mr. Karaba:** Mr. Chairman, Sir, I think that I had addressed that concern in my Statement. I told the House that if 44 students reported when they were opening two weeks ago, and now we are in the second week and there are 343 students. Given that trend, therefore, it is likely that we are going to register maybe 400 or 500 students in the third week. The Senator should encourage students from Kisii to go back because there is peace in Garissa.

Secondly, the Government is doing everything possible to provide security to all institutions by trying to sensitize even the heads themselves. Several meetings are being held countrywide by various schools' associations on how to address security issues, including how to take care of rumours about impending attacks and fear. We are, therefore, advising people not to take propaganda seriously. But let them understand that the Government is out to protect everybody in the country. I even have a Kenya National Union of Teacher (KNUT) statement from Garissa telling community members to live peacefully with the other people who are coming in. So, a lot of measures have been put in place regarding not only security, but also counseling.

**The Speaker** (Hon. Ethuro): Order, Chair! First, I want to commend you for a real attempt to answer, but the House is not satisfied.

It is not enough to tell Senators to ask their constituents to take their children there. That is not in doubt. The issue is whether it is safe for the students to be there? I will give you another one week to report to the House that it is absolutely safe with concrete measures of safety by the national police. We are not going to rely on the Kenya Police Reservists (KPR).

### COMMUNICATION FROM THE CHAIR

VISITING STUDENTS/TEACHERS FROM ALLIANCE  
HIGH SCHOOL AND MEPHIS JUNIOR ACADEMY

Hon. Senators, as per our long established tradition of receiving and welcoming visitors to Parliament, I wish to recognize the presence of the students and teachers from the Alliance High School, Kiambu County, seated in the public gallery, who are visiting the Senate today.

*(Applause)*

I also wish to recognize the presence of the pupils and teachers of Mephis Junior Academy-Nairobi County, seated in the public gallery, who are also visiting us this afternoon. On behalf of the Senate and on my own, I extend a warm welcome to the pupils and teachers of the respective two schools.

*(Applause)*

The Senator for Kiambu County is walking in.

*(Sen. Wamatangi stood in his place)*

**The Speaker** (Hon. Ethuro): What is it Sen. Wamatangi?

**Sen. Wamatangi:** Mr. Speaker, Sir, ---

**The Speaker** (Hon. Ethuro): Order Sen. Wamatangi! My last Statement was on “behalf of the Senate and on my own behalf”; you are part of the Senate, or are you not?

**Sen. Wamatangi:** Mr. Speaker, Sir, I just want to welcome them to the Senate.

## STATEMENTS

### STATUS OF ROADS IN THE COUNTRY

**Sen. Mwakulegwa:** Mr. Speaker, Sir, thank you, for allowing me to request a Statement from the Chairman of the Committee on Roads and Transportation with regard to the Mombasa-Nairobi Road. Due to the rains, the section between Mariakani, Voi and Mutitu Andei has become a killer road. This is because of pot holes in that section and, because the huge trucks are forcing the cars off the tarmac road, there has been an increase in the number of accidents. On Sunday, on my way back, there were six accidents between Voi and Mutitu Andei. In my Statement, I would request the Cabinet Secretary (CS) concerned to respond to the following;

(1) When will the repair work be undertaken as a matter of urgency before we lose more lives?

(2) When repairing, could the Ministry consider erecting bumps at Nyasenye Centre, Voi, Caltex and Ndi Centre, there are so many people who have been killed. These are dangerous spots and many people have lost their lives?

(3) What is the Ministry going to do to make sure that there is a maintenance plan on a continuous basis, so that even during the rainy season, we have men on the site to make sure that any pot holes are dealt with before they increase and the road becomes impassable?

**The Speaker** (Hon. Ethuro): Chair of the Committee on Roads and Transportation?

**Sen. Sijeny:** Mr. Speaker, Sir, I will give a response in two weeks time.

**The Speaker** (Hon. Ethuro): In two week's time. It is so ordered.

**Sen. Mositet:** Mr. Speaker, Sir, I want to ride on what Sen. Mwakulegwa has requested, knowing very well that quite a number of roads are under the Kenya Rural Roads Authority (KERRA) in the counties. We know that during the last rains, at least quite a number of roads were affected. I believe that other counties have similar problems. Is it possible for the Chair to tell us what KERRA is doing for all roads within our counties which have been affected by the last rains?

In Kajiado, a number of bridges and roads have been swept away. So what is KERRA doing for those roads?

**The Speaker** (Hon. Ethuro): It is so ordered, the Chair will include it.

**Sen. Karaba:** Mr. Speaker, Sir, I also stand with regard to the matter of roads, particularly Thika Road which was recently constructed by the Chinese. I am not sure whether the Certificate of Completion has been issued to the Government. Similar problems are there and what they are now doing is to dig the Fiber Optic Cables between the roads and they are damaging the roads, such that it is almost impossible to drive because of the artificial potholes which are created by the shoddy works which they are doing as they dig in the cables in various places.

**The Speaker** (Hon. Ethuro): The Chair has heard. As we mobilize the numbers for the next order, we will go back to Order No. 4 of Petition by Senator for Kiambu, Sen. Wamatangi.

## PETITION

### PASSAGE OF THE KIAMBU COUNTY SUPPLEMENTARY APPROPRIATION BILL, 2015

**Sen. Wamatangi:** Mr. Speaker, Sir, this is a Petition to the Senate by Members of the Kiambu County Assembly, concerning the passage of the Kiambu County Supplementary Appropriation Bill, No.3 of 2015, with respect to funds allocated for purchase of vehicles by the Kiambu County Government.

It reads:-

We, the undersigned citizens of the Republic of Kenya, Members of the Kiambu County Assembly and residents of Kiambu County, draw the attention of the Senate to the following:

(1) On 31<sup>st</sup> March, 2015, the county government of Kiambu submitted to the County Assembly of Kiambu, County Supplementary Appropriation Bill, No.3 of 2015. Among the items listed in the said Bill and which the Assembly was requested to approve was an amount of Kshs221 million for the purchase of 72 vehicles to be utilized by a single department of the county government;

(2) That the county assembly considered the Bill and facilitated public participation during which Kiambu County residents submitted their views, key among which was the reduction of the number of vehicles to be purchased following which the Budget Committee of the assembly recommended the reduction of the vehicles from 72 to 15. Consequently, the Bill was passed in the amended form and forwarded to the governor for assent; and

(3) That the governor declined to assent to the said Bill as amended and passed by the county assembly and returned the same to the assembly with a memorandum indicating that the number of vehicles proposed to be purchased had been reduced from the earlier proposed 72 vehicles to 42 vehicles. However, the money allocated for vehicles remained unchanged at Kshs221million.

(4) That, when the Bill was returned to the county assembly, it was committed to the budget committee which in its report to the assembly, recommended rejection of the Governor's memorandum and for passage of the Bill in the same form as earlier passed by the county assembly.

(5) That, when the matter came before the assembly on Tuesday 12<sup>th</sup> May, 2015. The report of the Budget Committee which should have been debated and adopted in accordance with Section 21(3) of the County Governments Act, on the procedure for consideration of Money Bills was not debated because the Governor instigated a commotion in the assembly.

(6) That, subsequently a Special Sitting of the assembly was convened on Monday 18<sup>th</sup> May, 2015 with the only agenda being consideration of the said Supplementary Appropriation Bill. However, in breach of the said Section 21(3) of the County Governments Act and of the County Assembly Standing Orders, it was ruled that the Bill be committed to the Committee of The Whole House. This was done before those who were opposed to the amendments proposed by the Governor vide his memorandum were required to raise two-thirds of all members of the county assembly to reject the amendments.

(7) That, consequently, it was ruled that those opposed to the Governor's memorandum did not comprise more than two-thirds of all Members of County Assembly (MCAs) and that the Supplementary Appropriations Bill be, therefore, passed in the form proposed by the Governor. That was to reallocate development funds towards purchase of 42 vehicles for one department of the county government at an overly inflated cost of Kshs221million.

(8) That, the residents of the county as evidenced by the contributions made to the budget committee during the consideration of the said supplementary appropriation Bill are wholly opposed to the said reallocation of development funds to purchase the said motor vehicles for the county Government.

(9) That, the views of the county residents informed the recommendations of the Budget Committee both at the first instance and on recommital of the Bill.

(10) That, presently, there is a lot of tension in the county as well as in the county assembly due to the Governor's move to force through the assembly this illegal and unpopular scheme.

(11) That, more fundamentally the implication of the action by the Governor of Kiambu County is that Section 24 of the County Governments Act is open to abuse by Governors who can easily abrogate the law abiding role from the respective county assemblies on the simple basis that once they return a Bill to a county assembly, then the burden is shifted to those who oppose the Governor's proposal to raise two-thirds majority to reject the Bill.

(12) That, we have made the best efforts to have this matter addressed at the level of the county assembly without success. Further, we believe that the Senate is the appropriate body to deal with the matters raised herein, including in considering possible amendments to the County Governments Act.

(13) That, none of the issues raised in this Petition is pending in any court of law, constitutional or any other legal body.

Wherefore, we your humble petitioners pray that the Senate:-

- (a) Urgently investigates the matter raised in this Petition and comes up with appropriate recommendations to protect public funds at the county level including enacting appropriate legislation to insulate the budget making and appropriation process at the county level from abuse by Governors.

- (b) Pronounces itself on what kind of expenditure may be incurred through Supplementary Appropriation Bills at the county level particularly where proposed expenditures have not been disclosed.

This Petition is dated, 20<sup>th</sup> May, 2015 and signed by MCAs of the Kiambu County Assembly.

Mr. Speaker, Sir, with your permission, some of the MCAs who have signed this Petition are here in the House. They are seated in the Speaker's Gallery. With your permission I request that the House honours them and recognises their presence.

*(Loud consultations)*

**The Speaker** (Hon. Ethuro): Order, Senators! That was a request put to me, not to you.

*(Laughter)*

Proceed, Sen. Khaniri.

**Sen. Khaniri:** Mr. Speaker, Sir, listening to the Petition from the honourable Members of Kiambu County Assembly and looking at the trend that the Governors have taken in spending the monies that we sent to them, it is becoming apparent that devolution may not benefit Kenyans as it was envisaged in the Constitution. That is very sad. We know that devolution was the biggest achievement that the people of Kenya gained in the new Constitution of Kenya (2010).

We send money to the counties expecting that our people at the grassroots will get medicine in their hospitals, water supply and good roads. However, officials in the county governments have embarked on buying themselves luxurious cars and Governors building themselves very posh residences; it is very sad. I want to sincerely thank the Members from Kiambu County Assembly who have stood firm and objected to this kind of expenditure and extravagance. We have employed officers in our county Governments and they are paid salaries. Let them buy their cars. We want the little money that we fight for and send there to benefit the people in the counties.

Mr. Speaker, Sir, I know that you will commit this Petition to a Standing Committee. We want this matter to be expedited so that this situation can be resolved once and for all.

We strongly support the Petition.

**The Speaker** (Hon. Ethuro): Proceed, Sen. Hassan. Sen. Abdirahman Hassan not Sen. Hassan "multiplied by two".

**Sen. Abdirahman:** Mr. Speaker, Sir, listening to the Petition presented by our colleague Sen. Wamatangi on behalf of the Kiambu County Assembly, there is evidence - I do not want to talk about things - or indications that there are malpractices that are going on in a number of counties. Many of them do not come to the fore. I thank the Kiambu County Assembly Members for being courageous and coming out openly to bring out this kind of malpractices in our counties.

Immediately after our election, there were issues in Turkana which were ably addressed by this Senate then. It is time for the Senate also to up its sleeves and ensure that we serve Kenyans. This is why we were calling for what we were trying to call the County Development Coordination Board. When issues are not brought to the table for discussion on how we should prioritise our projects, then we are bound to experience these kinds of issues.

I thank Sen. Wamatangi, MCAs and the larger Kiambu public for their good efforts.

**Sen. Mutula Kilonzo Jnr.:** Mr. Speaker, Sir, I lend my hand and voice to this unfair, illegal, unlawful and flights of fancy by the County Government of Kiambu. I would like to ask the MCAs of Kiambu to come here tomorrow because we will be discussing the regulations with regard to the Public Finance Management (PFM) Act Regulations.

This practice where money that is allocated for development is diverted for functions that are not for development will soon come to an end. All is not lost. What is remaining is to take legal action so that proper sanctions are taken against the persons who are involved. This is like a broken record. We have heard about this for too long. Time has come for us to start doing the Nigerian thing; jail a few people.

*(Applause)*

**The Speaker** (Hon. Ethuro): Order, Sen. Mutula Kilonzo Jnr. Are you implying that Senators have powers to jail? We leave that to other arms of Government. We will do our part and I am sure that they will do theirs.

Order Senators! The Petition, according to Standing Order No. 227, will be committed to the Standing Committee on Finance, Commerce and Budget. The Chairperson is present and he has heard his colleagues say that they want the matter to be expedited. So, you do not have to exhaust the 60 days.

### COMMUNICATION FROM THE CHAIR

#### VISITING DELEGATION FROM KIAMBU COUNTY ASSEMBLY

Hon. Members, as requested by the Senator for Kiambu County, Sen. Wamatangi, I am pleased to acknowledge and welcome to the Senate this afternoon, the Members of the Kiambu County Assembly who are seated in the Speaker's Gallery. I request that when their names are called out, they stand so that they may be acknowledged in our usual Senate tradition:-

- 1) Hon. Joseph Muraguru
- 2) Hon. Lawrence Mwaura
- 3) Hon. Moses Kiarie
- 4) Hon. Peter Geche
- 5) Hon. Karung'o wa Thang'wa
- 6) Hon. Martin Njoroge
- 7) Hon. Paul C. Mburu
- 8) Hon. James M. Wanyangi
- 9) Hon. Paul K. Kimani

Hon. Senators, I take this opportunity on behalf of the Senate and on my own behalf to wish the Members of the Kiambu County Assembly a happy and fruitful visit.

I thank you.

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 Temporary Chairperson** (Sen. (Dr.) Machage): Order Senators! We will need the requisite numbers to execute Order Numbers 8, 9, 10, 11 and 12. I request that the Whips make sure that we have the numbers in the House because we have important matters to execute today.

We will start with Order No. 8, The Public Audit Bill (National Assembly bill No. 38 of 2014).

**THE PUBLIC AUDIT BILL  
(NATIONAL ASSEMBLY BILL NO. 38 OF 2014)**

*Clause 3 and 4*

**The Temporary Chairperson** (Sen. (Dr.) Machage): There are no amendments to Clauses 3 and 4 and I see no intervention. Therefore, we will have Division on them at the end.

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

*Clause 5*

**The Temporary Chairperson** (Sen. (Dr.) Machage): I propose the Question that Clause 5 be part of the Bill. I see that there is an amendment.

Mover! Please proceed.

*(The Senate Majority Leader (Sen. (Prof.) Kindiki walked towards the door)*

Order the Senate Majority Leader! We will need your vote today.

**Sen. Billow:** Mr. Temporary Chairman, Sir, I beg to move:-

THAT, clause 5 be amended in-

(a) paragraph (b) by deleting the words "Article 229" appearing immediately after the words "specified in" and substituting therefore the words "Article 229(2)"; and



(b) paragraph (c) by inserting the words “post graduate” immediately after the words “holds a”.

**The Temporary Chairperson** (Sen. (Dr.) Machage): What reason have you for that amendment?

**Sen. Billow:** Mr. Temporary Chairman, Sir, it is just a small adjustment; deleting words like “Article 229” and substituting it with “Article 229(2)”. It is basically typos. It is not going to change the meaning significantly.

*(Loud Consultations)*

**The Temporary Chairperson** (Sen. (Dr.) Machage): Order Members! Can you consult silently? We want to do the business of the House.

*(Question of the amendment proposed)*

*Clauses 6,7,8,9 and 10*

*(Question that Clauses 6,7,8,9 and 10 be part of the Bill, proposed)*

*Clause 11*

**Sen. Billow:** Mr. Temporary Chairman, Sir, I beg to move:-

THAT, clause 11 be amended by inserting the following new sub-clause immediately after sub-clause (5)-

(5A) The members of the selection panel appointed under subsection (5) shall elect a chairperson from among themselves.

It is important that we make it very clear that it is the panel that will appoint its chairman, because it does not provide for it in the Bill.

*(Question of the amendment proposed)*

**The Temporary Chairperson** (Sen. (Dr.) Machage): I see no interest so lets us move to the next.

*Clauses 12, 13, 14, 15, 16, 17 and 18*

**The Temporary Chairperson** (Sen. (Dr.) Machage): There are no amendments to Clauses 12, 13, 14,15,16,17 and 18. I propose that they be part of the Bill.

*(Question, that Clauses 12, 13, 14,15,16,17 and 18 be part of the Bill, proposed)*

*Clause 19*

**Sen. Billow:** Mr. Temporary Chairman, Sir, I beg to move:-

THAT, clause 19 be amended in sub-section (2) by deleting the words “review and” appearing immediately after the words “each year for” at the end of the paragraph.

It is important that we make that amendment. I think that if Members want to read the import of it is when they put in the word “review and”; then they can see that it is important that we make that adjustment.

*(Question of the amendment proposed)*

*Clauses 20, 21, 21, and 23*

*(Question, that Clauses 20, 21, 22  
and 23 be part of the Bill, proposed)*

*Clause 24*

**Sen. Billow:** Mr. Temporary Chairman, Sir, I beg to move:-

THAT, clause 24 be amended in-

(a) paragraph (a) of sub-section (1), by inserting the words “who shall be the chairperson” at the end of the paragraph; and

(b) sub-section (3) by deleting the words “shall appoint a chairperson from among the persons under subsection (1) above and” appearing immediately after the words “the Auditor-General”.

We are suggesting that the Auditor-General shall be the Chairperson of the advisory board like it is the case in all other institutions like the Central Bank and others. I think that it is important that the Auditor-General be the Chairman of the board because the board has a significant role. In sub-section (3), the Auditor-General shall appoint a person from among the persons under section subsection (1) above and may co-opt two other members. We are deleting the words “shall appoint” a Chairperson from among the persons so that it conforms to the earlier one that we have amended.

*(Question of the amendment proposed)*

*Clause 25*

*(Question, that Clause 25 be part of the Bill, proposed)*

*Clause 26*

**Sen. Billow:** Mr. Temporary Chairperson, Sir, I have an amendment which is not on the Order Paper. I propose that Clause 26 be deleted and substituted therefor with the following new clause:-

“26. (1) subject to section 10 the principal function of the Audit Advisory Board shall be to advise the Auditor-General on the exercise of his or her powers and the performance of his or her functions under the Constitution and this Act.

(2) subject to the generality of sub-section (1), the Board shall, in addition to any other function that may be conferred by this Act or any other law, advise the Auditor-General on

- (a) the recruitment of senior managers into the office of the Auditor-General;
- (b) the development and review of organizational development issues;
- (c) the budget estimates and plans of the office of the Auditor-General;
- (d) the remuneration and other terms of appointment of the staff of the office of the Auditor-General in consultation with the Salaries and Remuneration Commission; and
- (e) any other matter that the Auditor-General may refer to the Board from time to time.

I think the Members have the signed and approved copy.

What we are saying is that in the current Bill, it simply says that the principal function of the Audit Advisory Board shall be to advise the Auditor-General on the exercise of his or her powers. This will affect the independence of the Auditor. The Constitution is very clear that the auditor shall be independent functionally, financially and in every way possible. That independence is provided for very clearly in Section 10. It states:-

“Without prejudice to Section 10 which is very clear on the role of the Auditor in terms of his independence without prejudice to section 10 the principle function of the Advisory Board--- “

Basically what we are saying is that in exercising their work, the Board shall not interfere with the functional independence of the Auditor. That is the amendment that I am bringing and it is very clear in the Constitution that the Auditor-General must remain at all times independent.

Although we are saying that the functions of the Board is recruitment, budget estimates and so forth, the way the wording is up there on Clause 26, it says that it shall advise the Auditor on the exercise of his or her powers and the performance of his or her functions under the Constitution. So, you might be giving the Board an opportunity to interfere with the audit. So, I am suggesting that we put there, “without prejudice to Section 10”, so that they do not overstep their mandate.

I can mention what Section 10 says for Members who may not have the Act. It says:-

“The Auditor-General shall not be subject to the direction or control by any person or authority in carrying out his or her functions under the Constitution”

Subject to that Section then that person can carry out that function. The rest of the items remain as they are.

**The Temporary Chairperson** (Sen. (Dr.) Machage): Chairperson, just to remind you of our Standing Orders. The only person that is allowed to move an amendment on the Floor without notice is the mover of the Bill. I may give an exemption, but you are quite out of order to do that. Next time do not do that. You must give us at least 24 hours notice so that the Members can be privy to your thoughts and digest it slowly. You are hijacking the House.

**Sen. Billow:** Mr. Temporary Chairperson, Sir, I actually signed this and gave it to the office of the Clerks-at-the-Table.

**The Temporary Chairperson** (Sen. (Dr.) Machage): Very well! You have the lee way today only.

*(Question of the amendment proposed)*

*Clauses 27, 28, 29, 30 and 31*

*(Question that Clauses 27, 28, 29, 30 and 31  
be part of the Bill proposed)*

*Clause 32*

**Sen. Billow:** Mr. Temporary Chairperson, Sir, I beg to move:-

That, Clause 32 of the Bill be amended in sub-clause (1) by deleting the word “may” appearing immediately after the words “public entity”.

What it means is that the final report by the internal auditor which has been deliberated on and adopted by an audit committee of a State organ or public entity be copied to the Auditor-General. It should not be “maybe”. That is the discretion we are trying to avoid. If you remove “May” then obviously it means that it must be done. I am not a lawyer but I think that makes it.

**The Temporary Chairperson** (Sen. (Dr.) Machage): Sen. Mutula Kilonzo Jnr., I can see you want to speak out.

**Sen. Mutula Kilonzo Jnr.:** Mr. Temporary Chairperson, Sir, I was just reminding my Chairperson that it is not assumed that in the absence of “may” you must say “shall” and it is not “could” or “should”.

**The Temporary Chairperson** (Sen. (Dr.) Machage): Your Chairperson said “should”. Are you disputing his amendment? Can you move another amendment if you want?

**Sen. Mutula Kilonzo Jnr.:** No, Mr. Temporary Speaker, Sir. I was just reminding him to go with the Order Paper. Thank you.

**Sen. Sang:** Mr. Temporary Chairperson, Sir, I agree with Sen. Mutula Kilonzo Jnr. that the Order Paper says “shall” and that is what we are moving.

**The Temporary Chairperson** (Sen. (Dr.) Machage): Now what is it, Chairperson? Is it ‘shall’ or ‘should’ because we have the HANSARD recording you and you should be sure.

**Sen. Billow:** Mr. Temporary Chairperson, Sir, I was explaining as the third person. They must have forgotten the English of the third person. It should actually be copied to the Auditor-General. The word is very clear; it is “shall”.

*(Question of the amendment proposed)*

*Clauses 33, 34, 35, 36 and 37*

*(Question that Clauses 33, 34, 35, 36, 37 and  
38 be part of the Bill proposed)*

*Clause 39*

**Sen. Billow:** Mr. Temporary Chairman Sir, I beg to move:-

THAT, Clause 39 be amended-

(a) by deleting sub-clause (1); and

(b) by deleting sub-clause (2) and substituting therefor with the following new subclause-

(2) Sections of the audit reports on national security organs may remain confidential to the Auditor-General but may, on demand, be submitted to Parliament.

Mr. Temporary Chairperson, Sir, this is a very important clause that deals with the audit of national security organs. What Clause 39 (1) says is that:-

“In auditing national security organs, the Auditor-General, his or her representatives shall hold an inception meeting to agree on areas which may touch on national security or otherwise”. It is kind of limiting the role of the Auditor. So, we said that that one must be deleted.

In sub-section (2) it states:-

“The audit reports on national security may be redacted to shield identities of persons as well as assets and liabilities as the case may be. Because of the historical problems we have had in Anglo Leasing and many other issues of security related contracts, we substitute that with the following:-

“Sections of the audit reports on national security may remain confidential to the Auditor-General, but may on demand be submitted to Parliament”.

Parliament will then know how to do things off camera because they are allowed by the standing orders to go to into camera. That is the substitution we are proposing.

*(Question of the amendment proposed)*

**Sen. Musila:** Mr. Temporary Chairperson, Sir, I stand to very strongly support what the Chairperson has proposed because this is one area where abuse of public funds is done in the name of security. We know for a fact that Kenya is losing billions of shillings through dubious ways of spending including procurement, hiding behind the fact that it is security and, therefore, cannot be audited. I applaud and support the amendment.

**Sen. Bule:** Mr. Temporary Chairman, Sir, mine is just to thank the Chair of this Committee for bringing this amendment. Whatever has been said here is standard and has to be supported by every one of us. It is absolutely good that we have many problems with procurement and control of our funds.

**The Temporary Chairperson** (Sen. (Dr.) Machage): Order. May I get you right? You said it is absolutely good that we have problems?

**Sen. Bule:** It is absolutely good that this amendment can give us light to the problems that we have been encountering all over, every now and then. It is a solution to our problem.

**The Temporary Chairperson** (Sen. (Dr.) Machage): You are now understood.

**Sen. Okongo:** Mr. Temporary Chairman, Sir, let me take this opportunity to support this amendment. From the outset, if you put some vectors on the work of the Auditor-General then he will not be able to do his work. If you are giving a leeway that expenditure to the security cannot be scrutinized by the Auditor-General it would be wrong.

I support.

**The Temporary Chairperson** (Sen. (Dr.) Machage): The amendment is unanimously supported. Is there somebody with a descending voice?

I have heard seven contributors---

**Sen. Mutula Kilonzo Jr.:** Mr. Temporary Chairman, Sir, we might be challenged by the National Assembly on our amendments. So, let us tell the country why we are doing this.

This is a very dangerous clause and that is why I support the amendment. You cannot give the Auditor-General independence in the Constitution and at the same time claw back by proposing that he needs to seek consent. Therefore, what must be said is that Clause 39 as appears in this Bill is unconstitutional to the extent that it limits or claws back the independent power of the Auditor-General to audit any government entity.

Therefore, for the portions where they were suggesting that you put a redaction, we are suggesting that it would remain confidential but for purposes of any person who would require it in Parliament; that information ought to be available. We represent the people of Kenya and we must have an opportunity to question any coin that goes to the security agencies.

Lastly the mischief behind this constitutional provision is because from time immemorial since independence, most of the snakes where stones could not be turned have been in the security sector.

I beg to support.

**Sen. Mositet:** Mr. Temporary Chairman, Sir, I also support this amendment because the biggest cases of corruption have taken place in the Office of the President. We remember that Anglo Leasing was done through restricted tenders. With amendments that we are bringing in, I believe that the Auditor-General will make sure that he captures these restricted tenders and know exactly what is happening. This will ensure that the looting of public funds will not continue.

I do support so that we do not have a situation where a few people collude to steal public funds.

**Sen. G.G. Kariuki:** Mr. Temporary Chairman, Sir, this matter has been exhausted because it is very clear that all public funds have to be audited. Whether the demand is raised by the National Assembly or the Senate, the Auditor-General has to look at it. The current situation is that a lot of money has been spent; it was being spent by just a single officer. They went round to manipulate the committees to make sure that this matter does not come out. It is very important to have this Clause is amended the way it is.

**Sen. Sang:** Mr. Temporary Chairman, Sir, I support this amendment. The Security sector in this country takes a huge chunk of the national budget and I think it is important that whereas we are careful not to compromise the security of this country, we should not leave room for mischief in terms of misuse of public resources. If there is somebody who should help us deal with misuse of resources within this sector, it should be the Auditor-General. Therefore, when I look at the amendment, I do not think it compromises the security of this country but only helps us to ensure that the resources allocated to this sector are utilized for the benefit of this country.

I support.

**Sen. Billow:** Mr. Temporary Chairman, Sir, I seek your guidance. Although the Bill was moved by the Leader of Majority, it was referred to our Committee and I have been handling it. Under the circumstances, can I, under the Standing Orders move an amendment, as the Mover is allowed?

**The Temporary Chairman** (Sen. (Dr.) Machage): You are not the Mover.

**Sen. Billow:** I am standing in for the Mover.

**The Temporary Chairman** (Sen. (Dr.) Machage): Go on then.

*Clause 39(3)*

**Sen. Billow:** Mr. Temporary Chairman, Sir, I beg to amend Clause 39(3) by deleting it.

Sub-section (3) reads as follows:-

“All staff of the Auditor-General carrying out audit under this section shall undergo a vetting process to be carried out by the appropriate security agency.”

There is a risk here. What it means is that if the Auditor-General wants to audit the Kenya Defence Forces (KDF), then the KDF will vet all the staff of the Auditor-General who will be involved in the audit. That means there is a risk where they will say we want so and so and we do

not want so and so. This will compromise the quality of the audit. Since we had said in the amendment to (2) we had made it clear that sections of those audit reports on national security will remain confidential to the Controller and Auditor-General except on the circumstances where Members might want to see, therefore, I am proposing that (3) be deleted because it is likely to compromise the quality of the audit.

**The Temporary Speaker** (Sen. (Dr.) Machage): It is your assumption that the phrase “appropriate” security agency means the group or firm to be audited.

**Sen. Billow**: It means the one that is being audited. You are actually giving a client the opportunity to determine who will audit it or who will not.

**Sen. Haji**: On a point of order, Mr. Temporary Chairperson, Sir.

**Sen. Billow**: Mr. Temporary Chairperson, Sir, we have not seconded yet.

**The Temporary Chairperson** (Sen. (Dr.) Machage): That is a point of order.

**Sen. Billow**: Mr. Temporary Chairperson, Sir, before the seconding ---

**Sen. Haji**: Are you arguing with the Chairperson?

**The Temporary Chairperson** (Sen. (Dr.) Machage): There is no problem. We are in the Committee of the Whole.

**Sen. Haji**: On a point of order, Mr. Temporary Chairperson, Sir. I think the interpretation given by Sen. Billow is totally wrong because all vetting of security ---

**The Temporary Chairperson** (Sen. (Dr.) Machage): Order! I suggest that you let the seconder second then you will have time to discuss.

**Sen. Mutula Kilonzo jnr.**: Mr. Temporary Chairperson, Sir, the spirit of the amendment on (1) is so that we protect the independence of the Auditor-General. When we say the Auditor-General, it includes the members of staff. In the previous clauses, the Auditor-General, in our amendments, has been given authority to vet the officers that will work with him. To provide a second tier vetting process by the person who is being audited is to say that one security organ will pick Mutula, Kamau or another person whom they like to go and audit them. It is like choosing the judge in a court case. Therefore, it is unconstitutional in every sense of the word.

It is my proposal that we must delete this because we will then again, in legal terms, claw back on the authority of the Auditor-General. We must give him the mandate to send you to go there because he is satisfied that you have the qualifications to vet and audit that security agent. Giving them the mandate to choose is to say that at some point, this Auditor-General does not have qualified officers to audit us. It cannot work.

**The Temporary Chairperson** (Sen. (Dr.) Machage): Very well. Just to remind you that seconding an amendment is not really necessary in the Committee of the Whole.

*(Question of the amendment proposed)*

**Sen. Haji**: On a point of order, Mr. Temporary Chairperson, Sir. I oppose on the grounds that I think this is being given the wrong interpretation. It is not the officers who are going to be audited who will vet an officer. Generally, any officer handling matters of security has to be vetted by the Director of security intelligence. In any way, he will not know whether these people will audit him or not. Therefore, I think we should not really put a spanner into things that can be worked in a better way. Vetting is very important. How can you say that matters of security remain confidential if the one handling that confidentiality is not vetted? They have to be vetted and it is not against the Constitution.

**Sen. Muthama:** Mr. Temporary Chairperson, Sir, I think time has come for the things that have to be done in this country to be transparent. The office of the Auditor-General is created within the Constitution and given the mandate to audit. If the Auditor-General moves to audit the security agencies of this country and on top of that he moves up to the door and is told: "Stop there. You have brought the agenda but we are going to give you people now to audit the same people who are supposed to be audited." Why do we cheat Kenyans?

It is appropriate to allow the mandate to take place for the Auditor-General to do his work. He has been auditing since Independence. What secrets are these that are being shielded from being seen and understood by Kenyans? He has been doing the job and audits have been done. Up to this day, we have no threats of what has been audited. Let the Auditor-General do his work and that sub-section must and ought to be deleted to give Kenyans that transparency to be seen that we have absolutely nothing to hide. You cannot take the person to be audited to audit himself and then tell Kenyans that auditing has been done and the work is done.

**Sen. Obure:** Mr. Temporary Chairperson, Sir, I strongly support the deletion of this Clause. We must do everything possible to ensure that the office of the Auditor-General receives the guarantees necessary to enable him do his job. It is very wrong for an institution being audited to be allowed to say who will audit them. This is ridiculous because that would be undermining the independence of the office of the Auditor-General and we must shield that office in every respect by ensuring that this Clause does not find its way into the law.

**Sen. Mositet:** Thank you, Mr. Temporary Chairperson, Sir. Of course, we have agreed and we have passed the law that at least the Auditor-General needs to be given the space to vet the security department. It will really defeat the purpose again if we say that after allowing him to do the audit the same person or institution that will be audited is going to vet the person who is going to do the audit.

With all due respect, I know definitely the people who are going to be assigned to the office of the Auditor-General will be credible. They will not even be a security risk because if they are, even the Auditor-General's office will be a security risk. The issue of imagining that the Auditor-General's office can be a security threat to that department is not there. So, at the introduction of that, you are giving it out there and then blocking it. We must make sure that we delete it and allow the Auditor-General to make sure that the officers he or she sends will go without intimidation. This is because vetting itself will start intimidating those people. So, automatically it will be compromising the principles of the people who are going to audit. With all due respect, that particular Clause needs to be deleted.

I support the deletion.

**Sen. M. Kajwang:** Mr. Temporary Chairperson, Sir, I also support the proposal to delete Clause 39(3). I also sympathise with some of the concerns raised by Sen. Haji but probably those concerns could be misplaced. I still believe that if an auditor has been sent by the Auditor-General to go and audit those security related sectors, there would still be certain procedures that they have to go through; procedures for access to premises and so on.

There would still be procedures that would not need to come here. When you put 39(3) in this Act, it means that the person being audited will be allowed to decide who is coming to audit them. Of course, there is the fear that the Auditor-General might have hired some people who became radicalized along the way and joined funny groupings. When you send them to some of these installations, they can go ahead and pursue their beliefs. I believe there can still be procedures that can be put in place without them coming here. If you put this, then the Auditor-



General will not have the independence and the free hand to send people who are fair and independent minded to carry out the audit.

I support the deletion.

**The Temporary Chairperson** (Sen. (Dr.) Machage): Next Clause.

In any case, Mr. Chairman, are you the one who drafted?

**Sen. Billow:** Yes, Mr. Temporary Chairman, Sir.

**The Temporary Chairperson** (Sen. (Dr.) Machage): Then why do we have very many amendments?

**Sen. Billow:** Mr. Temporary Chairman, Sir, it is the Committee.

No, we did not do the Bill. It came from the National Assembly.

**The Temporary Chairperson** (Sen. (Dr.) Machage): I wanted to hear that because you had said that you did it.

#### *Clause 40*

**Sen. Billow:** Mr. Temporary Chairman, Sir, I beg to move:-

THAT, Clause 40 be amended in sub-clause (2) by deleting the words, “Article 206(1)(b)” appearing immediately after the words “accordance with” and substituting therefor the words “Article 206(1)”.

This is about the financing of the Auditor-General’s Office and it says, in sub-clause (2) of the Bill:

“The receipts and earnings or accruals from the Office of the Auditor-General shall not be paid into the Consolidated Fund but shall be retained for the purposes of this Act in accordance with Article 206(1)(b).”

It should actually be Article 206(1) because Article 206(1)(b) restricts it. It should be on the wider sub-section 1.

*(Question of the amendment proposed)*

**The Temporary Chairperson** (Sen. (Dr.) Machage): I see no intervention. Next Clause.

#### *Clause 41*

**Sen. Billow:** Mr. Temporary Chairman, Sir, I beg to move:-

THAT, clause 41 be amended in paragraph (e) of sub-clause (2), by inserting the words “including statements on processes and systems audit” immediately after the words “of the Auditor-General”.

This is about the financial statements of the Auditor-General who is the Accounting Officer of the Kenya National Audit Office (KNAO). The financial statement shall include, in (e), a statement of performance of the Office of the Auditor-General against predetermined objectives. We want an amendment brought in immediately after the word “Auditor-General” to include statements on processes and systems audit. Therefore, it will become a statement of the performance of the Auditor-General including statements on processes and systems audit against

predetermined objectives. This is just to make the audit of that office more comprehensive to include the systems audit as well.

*(Question of the amendment proposed)*

**The Temporary Chairperson** (Sen. (Dr.) Machage): I see no intervention.

*Clauses 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70 and 71*

*(Question, that Clauses 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70 and 71 be part of the Bill, proposed)*

**The Temporary Chairperson** (Sen. (Dr.) Machage): I see no intervention. Next.

*Clause 26*

**Sen. Billow:** I apologise, Mr. Temporary Chairman, Sir. I seek your indulgence. There is an amendment to Clause 26 that I had proposed earlier which was---

**The Temporary Chairperson** (Sen. (Dr.) Machage): Order, we are now dealing with Clauses 42 to 71.

**Sen. Billow:** Mr. Temporary Chairman, Sir, we are through with that one but before we put the question on Clause 3 and the others, I seek your indulgence on Clause 26 about the amendment that I had brought earlier in in my personal capacity.

Mr. Temporary Chairman, Sir, I have since learnt from my learned friend.

**The Temporary Chairperson** (Sen. (Dr.) Machage): Wait, where is that? Let me get my bearing.

**Sen. Billow:** Mr. Temporary Chairman, Sir, the amendment of Clause 26 is about the choice of words. My learned colleague has advised me that what I wanted to say is not clear.

**The Temporary Chairperson** (Sen. (Dr.) Machage): Are you trying to amend what you had amended?

**Sen. Billow:** Mr. Temporary Chairman, Sir, I am seeking your indulgence on that because we have not yet voted on it. Allow me to make a small amendment.

**The Temporary Chairperson** (Sen. (Dr.) Machage): You know the Standing Orders are very clear. You have to re-do what you had already done because I had already proposed the question on what you had amended. If you have to amend again, then you should seek my permission to allow you to amend because you did not give notice.

Are you amending the amendment?

**Sen. Billow:** No, Mr. Temporary Chairman, Sir. It is just about the choice of words. You can exercise your discretion on that.

**The Temporary Chairperson** (Sen. (Dr.) Machage): But that is already in the HANSARD. How do I do that?

**Sen. Billow:** Mr. Temporary Chairman, Sir, I have learnt that where the Clause says “without prejudice to Section 10”, I have been advised that a better language should be “subject

to Section 10". I am told the meaning would be different. I thought the meaning would be the same.

**The Temporary Chairperson** (Sen. (Dr.) Machage): Let me consult.

*(The Temporary Chairperson (Sen. (Dr.) Machage)  
consulted with the Clerks-at-the-Table)*

I think this is just a polishing up issue. I order the secretariat to polish it as suggested.

The amendment on Clause 26 by the Chairperson is replacing the phrase "without prejudice to" with the phrase "subject to". The Clause will, therefore, read as follows:

26 (1) Subject to section 10, the principal function of the Audit Advisory Board shall be to advise the Auditor-General on the exercise of his or her powers and the performance of his or her functions under the Constitution and this Act.

(2) Subject to the generality of subsection (1) the Board shall, in addition to any other function that may be conferred by this Act or any other law, advise the Auditor-General on-

- (a) the recruitment of senior managers into the Office of the Auditor-General;
  - (b) the development and review of organizational development issues;
  - (c) the budget estimates and plans of the Office of the Auditor-General;
  - (d) the remuneration and other terms of appointment of the staff of the Office of the Auditor-General in consultation with the Salaries and Remuneration Commission, and;
  - (e) any other matter that the Auditor-General may refer to the Board from time to time.
- In the second sub-clause of Clause 26, he is doing the same. That is language semantics.

*Schedule, Clause 2, Title and Clause 1*

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

**The Temporary Chairperson** (Sen. (Dr. Machage): I see no intervention. Do we have the numbers? Could the Division Bell be rung for two minutes?

*(The Division Bell was rung)*

**The Temporary Chairperson** (Sen. (Dr.) Machage): Ring the Division Bell for another minute.

*(The Division Bell was rung)*

Order! Whips, do we have the requisite number? I want us to go to Division. Close the doors and draw the bar.

*(The doors were closed and the bar drawn)*

Senators, we are in Division on Order No.8. We will have three Divisions. The first one will be on clauses without amendments. The second Division will be on clauses with

amendments and the third Division will be on the Schedule, Clause 2, Title and Clause 1. I hope we are all on the same page.

Please, log in. Have we all logged in?

**The Temporary Speaker** (Sen. (Dr.) Machage): Hon. Senators, the electronic voting system is not working. We will have a manual roll call voting and for this, we need Tellers. Sen. (Prof.) Kindiki is for the Ayes and Sen. Sijeny is for the Noes.

*(Voting in progress)*

*(Voting in progress)*

*(An Hon. Senator spoke off record)*

**The Temporary Chairperson** (Sen. (Dr. Machage): Very well, that is a good observation. Your Standing Orders dictate that you must stand to vote.

Let us continue.

*(Voting in progress)*

## DIVISION

### ROLL CALL VOTING

*(Question, that Clauses 3,,4 ,6, 7, 8, 9, 10, 12, 13, 14, 15, 16, 17, 18, 20, 21, 22, 23, 25, 27, 28, 29, 30, 31, 33, 34, 35, 36, 37, 38, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70 and 71, be part of the Bill, put and the Senate proceeded to vote by County Delegations)*

**AYES:** Sen. Abdirahman, Wajir County; Sen. Adan, Isiolo County; Sen. (Prof.) Anyang'-Nyong'o, Kisumu County; Sen. Billow, Mandera County; Sen. Boy Juma Boy, Kwale County; Sen. Bule, Tana River County; Sen. Chelule, Nakuru County; Sen. G.G. Kariuki, Laikipia County; Sen. Haji, Garissa County; Sen. Hassan, Mombasa County; Sen. Kagwe, Nyeri County; Sen. Karaba, Kirinyaga County; Sen. (Prof.) Kindiki, Tharaka-Nithi County; Sen. (Prof.) Lesan, Bomet County; Sen. M. Kajwang, Homa Bay County; Sen. (Dr.) Machage, Migori County; Sen. Madzayo, Kilifi County; Sen. Mositet, Kajiado County; Sen. Mugo, Nairobi County; Sen. Muthama, Machakos County; Sen. Mutula Kilonzo Jnr., Makueni County; Sen. Mwakulegwa, Taita-Taveta County; Sen. Ntutu, Narok County; Sen. Obure, Kisii County; Sen. Okong'o, Nyamira County; and Sen. Sang, Nandi County.

**Teller of the Ayes:** Sen. (Prof.) Kindiki.

**NOES:** Nil.

**Teller of the Noes:** Sen. Sijeny

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

**AYES:** 26

**NOES:** Nil

**ABSENTIONS:** Nil

*(Question carried by 26 votes to 0)*

*(Clauses 3, 4, 6, 7, 8, 9, 10, 12, 13, 14, 15, 16, 17, 18, 20, 21, 22, 23, 25, 27, 28, 29, 30, 31, 33, 34, 35, 36, 37, 38, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70 and 71 agreed to)*

### **DIVISION**

#### **ROLL CALL VOTING**

*(Question, that Clauses, 5, 11, 19, 24, 26, 32, 39, 40 and 41 be amended as proposed and be part of the Bill, put and the Senate proceeded to vote by County Delegations)*

**AYES:** Sen. Abdirahman, Wajir County; Sen. Adan, Isiolo County; Sen. (Prof.) Anyang'-Nyong'o, Kisumu County; Sen. Billow, Mandera County; Sen. Boy Juma Boy, Kwale County; Sen. Bule, Tana River County; Sen. Chelule, Nakuru County; Sen. G.G. Kariuki, Laikipia County; Sen. Haji, Garissa County; Sen. Hassan, Mombasa County; Sen. Kagwe, Nyeri County; Sen. Karaba, Kirinyaga County; Sen. (Prof.) Kindiki, Tharaka-Nithi County; Sen. (Prof.) Lesan, Bomet County; Sen. M. Kajwang, Homa Bay County; Sen. (Dr.) Machage, Migori County; Sen. Madzayo, Kilifi County; Sen. Mositet, Kajiado County; Sen. Mugo, Nairobi County; Sen. Muthama, Mahakos County; Sen. Mutula Kilonzo Jnr., Makueni County; Sen. Mwakulegwa, Taita-Taveta County; Sen. Ntutu, Narok County; Sen. Obure, Kisii County; Sen. Okong'o, Nyamira County; and Sen. Sang, Nandi County.

**Teller of the Ayes:** Sen. (Prof.) Kindiki.

**Teller of the Noes:** Sen. Sijeny

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

**AYES:** 26

**NOES:** Nil

**ABSENTIONS:** Nil

*(Question carried by 26 votes to 0)*

*(Clauses 5, 11, 19, 24, 26, 32, 39, 40 and 41 as amended agreed to)*

### **DIVISION**

#### **ROLL CALL VOTING**

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

**AYES:** Sen. Abdirahman, Wajir County; Sen. Adan, Isiolo County; Sen. (Prof.) Anyang'-Nyong'o, Kisumu County; Sen. Billow, Mandera County; Sen. Boy Juma Boy, Kwale County; Sen. Bule, Tana River County; Sen. Chelule, Nakuru County; Sen. G.G. Kariuki; Laikipia County; Sen. Haji, Garissa County; Sen. Hassan, Mombasa County; Sen. Kagwe, Nyeri County; Sen. Karaba, Kirinyaga County; Sen. (Prof.) Kindiki, Tharaka-Nithi County; Sen. (Prof.) Lesan, Bomet County; Sen. M. Kajwang, Homa Bay County; Sen. (Dr.) Machage, Migori County; Sen. Madzayo, Kilifi County; Sen. Mositet, Kajiado County; Sen. Mugo, Nairobi County; Sen. Muthama, Mahakos County; Sen. Mutula Kilonzo Jnr., Makueni County; Sen. Mwakulegwa, Taita-Taveta County; Sen. Ntutu, Narok County; Sen. Obure, Kisii County; Sen. Okong'o, Nyamira County; and Sen. Sang, Nandi County.

**Teller of the Ayes:** Sen. (Prof.) Kindiki.

**NOES:** Nil.

**Teller of the Noes:** Sen. Sijeny

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

**AYES:**26

**NOES:** Nil

**ABSENTIONS:** Nil

*(Question carried by 26 votes to 0)*

*(Schedule agreed to)*

*(Clause 2 agreed to)*

*(Title agreed to)*

*(Clause 1 agreed to)*

**Sen. Billow:** Mr. Temporary Chairman, Sir, I beg to move that the Committee do report to the Senate its consideration of The Public Audit Bill (National Assembly Bill No.38 of 2014) and its approval thereof with amendments.

*(Question proposed)*

*(Question put and agreed to)*

*(The House resumed)*

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

## **REPORT, CONSIDERATION OF REPORT**

**AND THIRD READING**

THE PUBLIC AUDIT BILL (NATIONAL ASSEMBLY BILL NO. 38 OF 2014)

**Sen. (Dr.) Machage:** Mr. Temporary Speaker, Sir, I beg to report that a Committee of the Whole has considered The Public Audit Bill (National Assembly Bill No.38 of 2014) and approval thereof with amendments.

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

**Sen. Boy Juma Boy** seconded

*(Question proposed)*

*(Question put and agreed to)*

**Sen. Billow:** Mr. Temporary Speaker, Sir, I beg to move that The Public Audit Bill (National Assembly Bill No.38 of 2014) Bill be now read the Third Time

**Sen. Mutula Kilonzo Jnr.** seconded

*(Question of the amendment proposed)*

**Temporary Speaker** (Sen. Mositet): Ring the Division Bell for two minutes.

*(The Division Bell was rung)*

I order the Division Bell be rung for two more minutes. Hon. Senators take your positions so that we can take a Roll Call vote.

Hon. Senators we have two more Bills which we must dispose of. I suggest that after this voting the doors will not be opened so that we continue to the end.

**DIVISION****ROLL CALL VOTING**

*(Question, that the Public Audit Bill (National Assembly Bill No.38 of 2014) be read a Third Time put and the Senate proceeded to vote by County Delegations)*

**AYES:** Sen. Abdirahman, Wajir County; Sen. Adan, Isiolo County; Sen. Anyang'-Nyong'o, Kisumu County; Sen. Billow, Mandera County; Sen. Boy Juma boy, Kwale County; Sen. Bule, Tana River County; Sen. Chelule, Nakuru County; Sen. Hargura, Marsabit County; Sen. Hassan, Mombasa County; Sen. Kagwe, Nyeri County; Sen. M. Kajwang, Homa Bay County; Sen. Karaba, Kirinyaga County; Sen. G.G. Kariuki, Laikipia County; Sen. (Prof.) Kindiki, Tharaka-Nithi County; Sen. Kivuti, Embu County; Sen. (Prof.) Lesan, Bomet County; Sen. (Dr.) Machage, Migori County; Sen. Madzayo, Kilifi County; Sen. Mositet, Kajiado County; Sen. Muthama, Machakos County; Sen. Mutula Kilonzo Jnr., Makueni County; Sen.

Mwakulegwa, Taita-Taveta County; Sen. Obure, Kisii County; Sen. Okong'o, Nyamira County; Sen. Sang, Nandi County; Sen. Sijeny, Nairobi County; and Sen. Wamatangi, Kiambu County.

**Teller of the Ayes:** Sen. (Prof.) Kindiki

**NOES:** Nil.

**Teller of the Noes:** Sen. Sijeny

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

**AYES:** 27

**NOES:** NIL

**ABSTENTIONS:** NIL

*(Question carried by 27 votes to 0)*

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

**The Senate Majority Leader** (Sen. (Prof.) Kindiki): On a point of order, Mr. Temporary Chairman, Sir. I am standing on a point of order to ask the Chair to allow me to move a short procedural Motion before we proceed. This relates to the next two Orders.

### PROCEDURAL MOTION

#### EXTENSION OF SITTING UNTIL END OF BUSINESS

**The Senate Majority Leader** (Sen. (Prof.) Kindiki): Mr. Temporary Chairman, Sir, I beg to move:-

THAT, pursuant to Standing Order No.30(3)(a) the Senate resolves to extend today's sitting until conclusion of business listed in Orders No.9 and 10 in today's Order Paper.

Mr. Temporary Speaker, Sir, we have just concluded the process of finalizing one very important Bill, the Public Audit Bill (National Assembly Bill No.38 of 2014). We have two other Bills which have next week's deadline and which must also be considered by the National Assembly before that time. It is for that reason that I move this Motion requesting that this House resolves to be patient and pass the last two Bills, that is The Fair Administrative Action Bill as well the Public Procurement and Asset Disposal Bill which have similar deadlines. With a little patience, by around 7.00 p.m. we should have finished, all factors remaining constant.

Without much ado, I beg to move and request the Deputy Minority Leader, Sen. Abdirahman to second.

**Sen. Abdirahman:** Mr. Temporary Speaker, Sir, I stand to second the Senate Majority Leader's position, given the fact that we had agreed earlier on that we are going to beat the deadline as proposed by this House.

I beg to second.

*(Question proposed)*

**Sen. Okong'o:** Mr. Temporary Speaker, Sir, I rise to support this procedural Motion with a very heavy heart. This is not a fault of our own. Our sister House has made it a tradition to drag their feet before they sent Bills to this House, then we are being persuaded by my good friend to



deal with it. The nation must know that this House is very important. Our sister House must understand that if they do not want to deal with issues on time, we need to come out with very essential actions. The “Lower” House must understand that this is an “Upper” House. They must understand that we need to be given time to peruse through the Bill. Some of us are lawyers, but sometimes we come here and we do not know what we are passing. I have eminent lawyers who sit in this Committee, especially my good friend, Sen. Mutula Kilonzo Jnr. “the duke”, who does a lot of work. When they give me a go ahead, I understand that we are on the right track.

With those few remarks, I beg to support.

*(Question put and agreed to)*

### 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 FAIR ADMINISTRATIVE ACTION BILL  
(NATIONAL ASSEMBLY BILL NO.10 OF 2015)

**The Temporary Chairperson** (Sen. (Dr.) Machage): Hon. Senators, I will use the same format that I used earlier in the previous Bill.

Let us proceed.

#### *Clause 3*

**Sen. Sang:** Mr. Temporary Chairman, Sir, for the record, Sen. Mutula Kilonzo Jnr. and I, will be moving the amendments on behalf of the Mover.

**The Temporary Chairperson** (Sen. (Dr.) Machage): It can only be one person.

**Sen. Sang:** I will move some and then I will hand over to Sen. Mutula Kilonzo Jnr.

**The Temporary Speaker** (Sen. (Dr.) Machage): Is that what you want?

**Sen. Sang:** Yes, Mr. Temporary Speaker, Sir. We wish to drop the amendment to Clause 3 for the reason that the Bill was poorly drafted and the intention of the Bill will be distorted if we remove that amendment. So, we are dropping any amendment to Clause 3.

*(Proposed amendment to Clause 3 dropped)*

#### *Clause 4*

**Sen. Sang:** Mr. Temporary Chairman, Sir, I beg to move:-

THAT, Clause 4 be amended:-

(a) in sub-clause (3)-

(i) in the introductory phrase by deleting the words “decision making authority” appearing immediately before the words “freedom of any person” and substituting therefor the word “administrator”;

(ii) in paragraph (c) by inserting the word “an” immediately before the words “administrative decision”; and

(iii) in paragraph (f) of sub-clause (3) by: deleting the word “or” appearing immediately before the words “where applicable”;

(b) in sub-clause (4) by deleting the words “decision making body” appearing immediately after the word “the” at the beginning of the sub-clause and substituting therefor the word “administrator”;

(c) by deleting sub-clause (6) and substituting therefor the following new sub-clause-

(6)Where the administrator is empowered by any written law to follow a procedure which conforms to the principles set out in Article 47 of the Constitution, the administrator may act in accordance with that different procedure.

Mr. Temporary Chairman, Sir, for consistency of the drafting of the Bill, every other phrase has used the word “administrator” --- We just want to ensure that we have consistency in terms of drafting. That is the reason for the amendment.

Under sub-section 2(c) by inserting the word “an” immediately before the words “administrative decision” and that is just to make logical sense in terms of proper English.

Sub-Section 3(f) by deleting the word “or” appearing immediately before the words “where applicable”.

Under sub-clause 4(b) by deleting the words “decision making authority ”appearing immediately after the word “the” at the beginning of the sub-clause and substituting with the word “administrator”.

Mr. Temporary Chairman, Sir, again, for the same reason of consistency, by deleting sub-clause 6 and substituting thereof with the following new sub-clause:-

“Where the administrator is empowered by any written law to follow a procedure which conforms to the principles set out in Article 47 of the Constitution, the administrator may act in accordance with that provision. We know that Article 47 provides for fair administration and we want uniformity in terms of procedure. That relates to Clause 4.

*(Question of the amendment proposed)*

*Clause 5*

**Sen. Sang:** Mr. Temporary Chairperson, Sir, I beg to move:-

THAT, Clause 5 of the Bill be amended in sub-clause 2 by deleting paragraph (a) and substituting thereof the following new paragraph:

(a) challenge any administrative action or decision in accordance with the procedure set out under the Commission of Administrative Justice Act, 2011 or any successor to the Commission on Administrative Justice under Section 55 of the Commission in Administrative Justice Act.

Mr. Temporary Chairman, Sir, the rationale for this amendment is to ensure that the existing framework and processes under the Commission of Administrative Justice Act which creates the CAJ, that then the same procedures are synchronized with this provision because the

CAJ is a Commission pursuant to an Act of Parliament that tries to implement Article 47 of the Constitution.

*(Question of the amendment proposed)*

**Sen. Mutula Kilonzo Jnr.:** Mr. Temporary Chairperson, Sir, let me add something small. It is proposed in the Constitution that the CAJ has a sunset clause in the Constitution. It is, therefore, presumed that the action of CAJ would then be merged with the Kenya National Human Rights and Equality Commission (KNHREC). The actions that would be taken by the Commission of administrative action on the presumption after the sunset clause, we have proposed that KNHREC that will take over the work of CAJ continue with its work, hence the words, “the successor of CAJ” in Clause 5.

**Sen. (Prof.) Anyang’-Nyong’o:** On a point of order, Mr. Temporary Chairperson, Sir. Rather than the mover reading verbatim what is in the Order Paper, he could simply say that: “I propose that Clause so and so be amended as contained in the Order Paper” and continue to explain why that amendment is there. Otherwise, I see the amendments are very long. We are going to spend more time listening to what we can read rather than listening to the reasons why the amendments are being proposed.

**The Temporary Chairperson** (Sen. (Dr.) Machage): Quite in order. Let that be done. Next Clause!

*Clause 6*

**Sen. Sang:** Mr. Temporary Chairman, Sir, I beg to move:-

THAT, Clause 6 of the Bill be amended by inserting the following new sub-clauses immediately after sub-clause (2)-

(3) The administrator to whom a request is made under subsection (1), shall, within thirty days after receiving the request, furnish the applicant, in writing, the reasons for the administrative action.

(4) Subject to subsection (5), if an administrator fails to furnish the applicant with the reasons for the administrative decision or action, the administrative action or decision shall, in any proceedings for review of such action or decision and in the absence of proof to the contrary, be presumed to have been taken without good reason.

(5) An administrator may depart from the requirement to furnish adequate reasons if it is reasonable and justifiable in the circumstances, and shall inform the person making the request of such departure.

This Clause relates to requests for reasons for administrative action. We said we need to provide clear timelines to ensure that if somebody has requested for reasons administrative action has been taken, then that should be provided. We have given timelines that ensure that administration of justice is expedited. That is the reason we are amending Clause 6.

*(Question of the amendment proposed)*

*Clause 7*

**Sen. Mutula Kilonzo Jnr.:** Mr. Temporary Chairperson, Sir, I beg to move that Clause 7 be amended as follows:-

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

### **PART III – REVIEW OF ADMINISTRATIVE ACTION**

Institution proceedings

7. (1) Any person who is aggrieved by an administrative action or of decision may apply for review of the administrative action or decision to-

(a) a court in accordance with section 8; or

(b) a tribunal in exercise of its jurisdiction conferred in that regard under any written law.

(2) A court or tribunal under subsection (1) may review an administrative action or decision, if-

(a) the person who made the decision-

(i) was not authorized to do so by the empowering provision;

(ii) acted in excess of jurisdiction or power conferred under any written law;

(iii) acted pursuant to delegated power in contravention of any law prohibiting such delegation;

(iv) was biased or may reasonably be suspected of bias; or

(v) denied the person to whom the administrative action or decision relates, a reasonable opportunity to state the person's case;

(b) a mandatory and material procedure or condition prescribed by an empowering provision was not complied with;

(c) the action or decision was procedurally unfair;

(d) the action or decision was materially influenced by an error of law;

(e) the administrative action or decision in issue was taken with an ulterior motive or purpose calculated to prejudice the legal rights of the applicant;

(f) the administrator failed to take into account relevant considerations;

(g) the administrator acted on the direction of a person or body not authorised or empowered by any written law to give such directions;

(h) the administrative action or decision was made in bad faith;

(i) the administrative action or decision is not rationally connected to-

(i) the purpose for which it was taken;

(ii) the purpose of the empowering provision;

(iii) the information before the administrator; or

(iv) the reasons given for it by the administrator;

(j) there was an abuse of discretion, unreasonable delay or failure to act in discharge of a duty imposed under any written law;

(k) the administrative action or decision is unreasonable;

(l) the administrative action or decision is not proportionate to the interests or rights affected;

(m) the administrative action or decision violates the legitimate expectations of the person to whom it relates;

(n) the administrative action or decision is unfair; or

(o) the administrative action or decision is taken or made in abuse of power.

(3) The court or tribunal shall not consider an application for the review of an administrative action or decision premised on the ground of unreasonable delay unless the court is satisfied that-

(a) the administrator is under duty to act in relation to the matter in issue;

(b) the action or decision is required to be undertaken within a period specified under such law; and

(c) the administrator has refused, failed or neglected to take action within the prescribed period.

Mr. Temporary Chairman, Sir, you will see the title has been amended. The purpose of amending Clause 7 is because the drafters of this particular clause mixed the two principles of law; that is review of administrative and judicial review. We have just amended it so that it is just neater so that any person who wants to review administrative action which is actions taken by administrative tribunals and a person who wants to go to court for judicial review proceeds under different clauses. We have separated Clauses 7 and the Title, so that it appears a little more organized.

*(Question of the amendment proposed)*

*Clause 7A*

**Sen. Mutula Kilonzo Jnr.:** Mr. Temporary Chairman, Sir, we have the following amendments to Clause 7A:-

Period for Determination Of applications and appeals	7A. An application for the review of an administrative action or an appeal under this Act shall be determined within ninety days of filing the application.
--	---

We have proposed the amendment above to ensure that there is a period for limitation for the administrative action appeals. In this case, 90 days and the mischief here is to ensure that the administrator of persons in authority do not sit on a review for eternity. For example, if you transfer a teacher to Mandera without any reason, those reasons and the decision must be determined within 90 days.

*(Question of the amendment proposed)*

*Clause 8*

**Sen. Mutula Kilonzo Jnr.:** Mr. Temporary Chairperson, Sir, following Clause 7, you will notice that now we have separated and put a neater Title which is "Judicial Review" which is now a province of the courts. We have also included the courts that a person will be entitled to pursue judicial review and we have stated that in the amendments as follows:-

### PART IIIA – JUDICIAL REVIEW

Procedure for  
judicial review.

**8.** (1) Subject to subsection (2), a person who is aggrieved by an administrative action may, without unreasonable delay, apply for judicial review of any administrative action to the High Court or to a subordinate court upon which original jurisdiction is conferred pursuant to Article 22(3) of the Constitution. (2) The High Court or a subordinate court under sub-section (1) shall not review an administrative action or decision under this Act unless the mechanisms including internal mechanisms for appeal or review and all remedies available under any other written law are first exhausted.

(3) The High Court or a subordinate Court shall, if it is not satisfied that the remedies referred to in subsection (2) have been exhausted, direct that applicant shall first exhaust such remedy before instituting proceedings under sub-section (1). (4) Notwithstanding subsection (3), the High Court or a subordinate Court may, in exceptional circumstances and on application by the applicant, exempt such person from the obligation to exhaust any remedy if the court considers such exemption to be in the interest of justice.

(5) A person aggrieved by an order made in the exercise of the judicial review jurisdiction of the High Court may appeal to the Court of Appeal.

We have introduced a very novel amendment in Clause 8(1) to conform with Article 22(3) which gives now, under the Constitution the subordinate court an original jurisdiction to determine matters of judicial review.

*(Question of the amendment proposed)*

**The Temporary Chairperson** (Sen. (Dr.) Machage): I see no interventions. Let us move on to the next Clause.

*Clause 9*

**Sen. Mutula Kilonzo Jnr.:** Mr. Temporary Chairman, Sir, I beg to move:-

THAT, Clause 9 be deleted and substituted therefore with the following new

Clause-

Rules.

9. (1) An application for judicial review shall be heard and determined without undue regard to procedural technicalities.

(2) The Chief Justice may make rules of practice for regulating the procedure and practice in matters relating to judicial review of administrative action.

Mr. Temporary Chairman, Sir, this is to ensure that we separate the question of the rules under judicial review which we have proposed under Clause 8. The Chief Justice of Kenya will be required to make rules for regulating the procedure of judicial review on administrative action. The deletion is to make sure that it is neat. The previous Clause had, what I would call, “some confusion.”

This will also regulate the method under which a person can apply for judicial review.

Mr. Temporary Chairman, Sir, the rules that are contemplated under sub-Clause (2) will give the Chief Justice the mandate to provide for the procedure. We thought it was wrong to have the procedure prescribed in an Act before the rules are made by the Chief Justice.

*(Question of the amendment proposed)*

**The Temporary Chairperson** (Sen. (Dr.) Machage): Next Clause

*Clause 10*

**Sen. Mutula Kilonzo Jnr.:** Mr. Temporary Chairman, Sir, I beg to move:-

THAT, Clause 10 be deleted and substituted therefore by the following new Clause-

Orders in proceedings                      10. (1) In proceedings for judicial review under section 8 (1), the court may grant any order that is just and For equitable an order- judicial review.

(a) declaring the rights of the parties in respect of any matter to which the administrative action relates;

(b) restraining the administrator from acting or continuing to act in breach of duty imposed upon the administrator under any written law or from acting or continuing to act in any manner that is prejudicial to the legal rights of an applicant;

(c) directing the administrator to give reasons for the administrative action or decision taken by the administrator;

(d) prohibiting the administrator from acting in a particular manner;

(e) setting aside the administrative action or decision and remitting the matter for reconsideration by the administrator, with or without directions;

(f) compelling the performance by an administrator of a public duty owed in law and in respect of which the applicant has a legally enforceable right;

(g) prohibiting the administrator from acting in a particular manner;

(h) setting aside the administrative action and remitting the matter for reconsideration by the administrator, with or without directions;

(i) granting a temporary interdict or other temporary relief; or

(j) for the award of costs or other pecuniary compensation in appropriate cases.

(2) In proceedings for judicial review relating to failure to take an administrative action, the court may grant any order that is just

- and equitable, including an order-
- (a) directing the taking that decision;
  - (b) declaring the rights of the parties in relation to the taking of the decision;
  - (c) directing any of the parties to do, or to refrain from doing, any act or thing the doing, or the refraining from the doing, of which the court or tribunal considers necessary to do justice between the parties; or
  - (d) as costs and other monetary compensation.

Mr. Temporary Chairman, Sir, we have provided for the orders that a person would seek from the court in the event that they proceed under Clause 8 which is about judicial review to the High Court and subordinate courts.

*(Question of the amendment proposed)*

**The Temporary Chairperson** (Sen. (Dr.) Machage): I see no interventions. Move on to the next Clause.

*Clauses 11 and 12*

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

**The Temporary Chairperson** (Sen. (Dr.) Machage): I see no interventions. Next Clause.

**An hon. Senator:** *Atherere.*

**Senators:** Point of order, Mr. Temporary Chairman, Sir.

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

**Sen. Okong'o:** On a point of order, Mr. Temporary Chairman, Sir. I have heard a language which is unfamiliar with Parliamentary languages. Could you clarify to the House what that means?

**The Temporary Chairperson** (Sen. (Dr.) Machage): I did not hear it.

*(Laughter)*

So, if I did not hear it, there was no other language, but English.

*New Clause 11A*

**Sen. Mutula Kilonzo Jnr.:** Mr. Temporary Chairman, Sir, I beg to move:-

THAT, the Bill be amended by inserting the following new clause immediately after Clause 11-

Regulations 11A. (1) The Cabinet Secretary may, in consultation with the Commission on Administrative Justice, make regulations for the better carrying out of the provisions of this Act.

(2) Regulations made under subsection (5) shall, before publication in the *Gazette*, be approved by Parliament.



**Sen. Sang** seconded.

*(Question of the New Clause proposed)*

*(New Clause 11A read the First Time)*

*(Question, that New Clause 11A be read a  
Second Time proposed)*

**The Temporary Chairperson** (Sen. (Dr.) Machage): We have to go into Division on this. However, let us wait until the end.

*New Clause 12A*

**Sen. Mutula Kilonzo Jnr.:** Mr. Temporary Chairman, Sir, I beg to move:-

THAT, the Bill be amended by inserting the following new clause immediately after Clause 12- Transition provisions

12A.(1) In all proceedings pending whether preparatory or incidental to, or consequential upon any proceedings in court at the time of the coming into force of this Act, the provisions of this Act shall apply, but without prejudice to the validity of anything previously done.

(2) Despite subsection (1)-

(a) if, and in so far as it is impracticable in any proceedings to apply the provisions of this Act, the practice and procedure obtaining before the enactment of this Act shall be followed; and

(a) in any case of difficulty or doubt the Chief Justice may issue practice notes or directions as to the procedure to be adopted.

**Sen. Sang** seconded.

*(Question of the New Clause 12A proposed)*

*(New Clause 12A read the First Time)*

*(Question, that New Clause 12A be read a  
Second Time proposed)*

**The Temporary Chairperson** (Sen. (Dr.) Machage): We will do Division at the end. Next Clause.

*Clause 2*

**Sen. Mutula Kilonzo Jnr.:** Mr. Temporary Chairman, Sir, I beg to move:-

THAT, Clause 2 of the Bill be amended by-

(a) inserting the following new definition after the definition of the word administrative action- “administrator” means a person who takes an administrative action or who makes an administrative decision;

(b) in the definition of the word “decision”, by deleting the words “under any written law” appearing after the words “as the case may be”;

Mr. Temporary Chairman, Sir, in the draft that we got from the National Assembly, they had deleted the definition of name “administrator”. However, in the rest of the clauses, the word “administrator” appears from the beginning to the end. We thought that we reinstate this clause so that the person who is the decision making body in the definitions and all the clauses is consistent.

*(Question of the amendment proposed)*

**The Temporary Chairperson** (Sen. (Dr.) Machage): I see no intervention. Let us move on to the next Title.

*The Title*

*(Question, that the Title be part of the Bill proposed)*

**The Temporary Chairperson** (Sen. (Dr.) Machage): I see no intervention. We move on to Clause 1.

*Clause 1*

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

**The Temporary Chairperson** (Sen. (Dr.) Machage): I see no intervention. We will, therefore, go into Division.

Could the Division Bell be rung for two minutes?

*(The Division Bell was rung)*

Order, Senators! Close the doors and draw the bar.

*(The doors were closed and bar drawn)*

Hon. Senators, we will have four Divisions. The first Division will be on the clauses with amendments. The second one will be on the clauses without amendments. The third one will be on New Clause 11A and New Clause 12A, Second Reading. The fourth Division will be on New Clauses 11A, 12A, Title and Clause 1.

We will start with New Clause 11A and New Clause 12A.

**Sen. Kagwe:** On a point of order, Mr. Temporary Chairman, Sir. There are hon. Senators who are outside. Since we are allowed to open the Bar, perhaps we can open it for two seconds for them to come in. These are hon. Senators and they cannot walk out there aimlessly like goats.

**The Temporary Chairperson** (Sen. (Dr.) Machage): Let the Division Bell be rung for 10 seconds.

*(The Division Bell was rung)*

Draw the Bar and open the door.

*(Several hon. Senators entered the Chamber)*

*(The Bar was drawn and the door was closed)*

We will start with New Clause 11A and New Clause 12A. I will announce the results in the order we are taking these divisions.

### DIVISION

#### ROLL CALL VOTING

*(Question, that New Clause 11A and New Clause 12A be now read a Second Time, put and the Senate proceeded to vote by County Delegations)*

**AYES:** Sen. Abdirahman, Wajir County; Sen. Adan, Isiolo County; Sen. Anyang'-Nyong'o, Kisumu County; Sen. Boy Juma Boy, Kwale County; Sen. Bule, Tana River County; Sen. Chelule, Nakuru County; Sen. Hargura, Marsabit County; Sen. Hassan, Mombasa County; Sen. Kagwe, Nyeri County; Sen. Karaba, Kirinyaga County; Sen. G.G.Kariuki, Laikipia County; Sen. Kivuti, Embu County; Sen. (Prof.) Lesan, Bomet County; Sen. M. Kajwang, Homa Bay County; Sen. (Dr.) Machage, Migori County; Sen. Madzayo, Kilifi County; Sen. Mositet, Kajiado County; Sen. Muthama, Machakos County; Sen. Mutula Kilonzo Jnr., Makueni County; Sen. Mwakulegwa, Taita-Taveta County; Sen. Ntutu, Narok County; Sen. Obure, Kisii County; Sen. Okong'o, Nyamira County; Sen. Sang, Nandi County; Sen. Sijeny, Nairobi County; and Sen. Wamatangi, Kiambu County.

**Teller of the Ayes:** Sen. Chelule

**NOES:** Nil.

**Teller of the Noes:** Sen. Sijeny

**The Temporary Chairperson** (Sen. (Dr.) Machage): Hon. Senators, the results of the Division are as follows:

**AYES:** 26

**NOES:** NIL

**ABSTENTIONS:** NIL

The 'Ayes' have it.

*(Question carried by 26 votes to 0)*

*(New Clause 11A read a Second Time)*

*(New Clause 12A read a Second Time)*

### DIVISION

#### ROLL CALL VOTING

*(Question, that Clauses 2, 4, 5, 6, 7, 8, 9 and 10 be amended as proposed and be part of the Bill put and the Senate proceeded to vote by County Delegations)*

**AYES:** Sen. Abdirahman, Wajir County; Sen. Adan, Isiolo County; Sen. (Prof.) Anyang' Nyong'o, Kisumu County; Sen. Boy Juma Boy, Kwale County; Sen. Bule, Tana River County; Sen. Chelule, Nakuru County; Sen. G.G. Kariuki, Laikipia County; Sen. Hargura, Marsabit County; Sen. Hassan, Mombasa County; Sen. Kagwe, Nyeri County; Sen. Karaba, Kirinyaga County; Sen. (Prof.) Kindiki, Tharaka-Nithi County; Sen. Kivuti, Embu County; Sen. (Prof.) Lesan, Bomet County; Sen. M. Kajwang, Homa Bay County; Sen. (Dr.) Machage, Migori County; Sen. Madzayo, Kilifi County; Sen. Mositet, Kajiado County; Sen. Muthama, Machakos County; Sen. Mutula Kilonzo Jnr., Makueni County; Sen. Mwakulegwa, Taita-Taveta County; Sen. Ntutu, Narok County; Sen. Obure, Kisii County; Sen. Okong'o, Nyamira County; Sen. Sang, Nandi County; Sen. Sijeny, Nairobi County; and Sen. Wamatangi, Kiambu County.

**Teller of the Ayes:** Sen. Chelule

**NOES:** Nil.

**Teller of the Noes:** Sen. Okong'o

**The Temporary Chairperson** (Sen. (Dr.) Machage): Hon. Senators, the results of the Division are as follows:

**AYES:** 27

**NOES:** NIL

**ABSTENTIONS:** NIL

The 'Ayes' have it.

*(Question carried by 27 votes to 0)*

*(Clauses 2, 4, 5, 6, 7, 8, 9 and 10 agreed to)*

## DIVISION

### ROLL CALL VOTING

*(Question, that Clauses 3, 11 and 12 be part of the Bill put and the Senate proceeded to vote by County Delegations)*

**AYES:** Sen. Abdirahman, Wajir County; Sen. Adan, Isiolo County; Sen. (Prof.) Anyang' Nyong'o, Kisumu County; Sen. Boy Juma Boy, Kwale County; Sen. Bule, Tana River County; Sen. Chelule, Nakuru County; Sen. G.G. Kariuki, Laikipia County; Sen. Hargura, Marsabit County; Sen. Hassan, Mombasa County; Sen. Kagwe, Nyeri County; Sen. Karaba, Kirinyaga County; Sen. (Prof.) Kindiki, Tharaka-Nithi County; Sen. Kivuti, Embu County; Sen. (Prof.) Lesan, Bomet County; Sen. M. Kajwang, Homa Bay County; Sen. (Dr.) Machage, Migori County; Sen. Madzayo, Kilifi County; Sen. Mositet, Kajiado County; Sen. Muthama, Machakos County; Sen. Mutula Kilonzo Jnr., Makueni County; Sen. Mwakulegwa, Taita-Taveta County; Sen. Ntutu, Narok County; Sen. Obure, Kisii County; Sen. Okong'o, Nyamira County; Sen. Sang, Nandi County; Sen. Sijeny, Nairobi County; and Sen. Wamatangi, Kiambu County.

**Teller of the Ayes:** Sen. Chelule

**NOES:** Nil.

**Teller of the Noes:** Sen. Okong'o

**The Temporary Chairperson** (Sen. (Dr.) Machage): Hon. Senators, the results of the Division are as follows:

**AYES:** 27

**NOES:** NIL

**ABSTENTIONS:** NIL

The 'Ayes' have it.

*(Question carried by 27 votes to 0)*

*(Clauses 3, 11 and 12 Clauses agreed to)*

## DIVISION

### ROLL CALL VOTING

*(Question, that New Clause 11A and New Clause 12A, the Title and Clause 1 be part of the Bill put and the Senate proceeded to vote by County Delegations)*

**AYES:** Sen. Abdirahman, Wajir County; Sen. Adan, Isiolo County; Sen. (Prof.) Anyang'-Nyong'o, Kisumu County; Sen. Boy Juma Boy, Kwale County; Sen. Bule, Tana River County; Sen. Chelule, Nakuru County; Sen. G.G. Kariuki, Laikipia County; Sen. Hargura, Marsabit County; Sen. Hassan, Mombasa County; Sen. Kagwe, Nyeri County; Sen. Karaba, Kirinyaga County; Sen. (Prof.) Kindiki, Tharaka-Nithi County; Sen. Kivuti, Embu County; Sen. (Prof.) Lesan, Bomet County; Sen. M. Kajwang, Homa Bay County; Sen. (Dr.) Machage, Migori County; Sen. Madzayo, Kilifi County; Sen. Mositet, Kajiado County; Sen. Muthama, Machakos County; Sen. Mutula Kilonzo Jnr., Makueni County; Sen. Mwakulegwa, Taita-Taveta County; Sen. Ntutu, Narok County; Sen. Obure, Kisii County; Sen. Okong'o, Nyamira County; Sen. Orenge, Siaya County; Sen. Sijeny, Nairobi County; and Sen. Wamatangi, Kiambu County.

**Teller of the Ayes:** Sen. Chelule

**NOES:** Nil.

**Teller of the Noes:** Sen. Okong'o

**The Temporary Chairperson** (Sen. (Dr.) Machage): The results of the Division are as follows:

**AYES:** 27

**NOES:** NIL

**ABSTENTIONS:** NIL

The 'Ayes' have it.

*(Question carried by 27 votes to 0)*

*(New Clause 11A agreed to)*

*(New Clause 12A agreed to)*

*(Title agreed to)*

*(Clause I agreed to)*

**The Temporary Chairman** (Sen. (Dr.) Machage: Proceed, Sen. Mutula Kilonzo Jr.  
**Sen. Mutula Kilonzo Jr.:** Mr. Temporary Chairman, Sir, pursuant to Standing Order No.139, I beg to move that the Committee of the Whole do report to the House its consideration of the Fair Administrative Action Bill (National Assembly Bill No.10 of 2015) and its approval thereof with amendments.

**Sen. Sang** seconded

*(Question proposed)*

*(Question put and agreed to)*

*(The House resumed)*

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

*(Loud consultations)*

**Temporary Speaker** (Sen. Mositet): I now call upon the Chairperson to report.

*(Loud consultations)*

Order, Senators! Get seated, please. Consult in low tones. Continue to report, Chairperson.

### **REPORT, CONSIDERATION OF REPORT AND THIRD READING**

THE FAIR ADMINISTRATIVE ACTION BILL  
(NATIONAL ASSEMBLY 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 Fair Administrative Action Bill (National Assembly Bill No.10 of 2015) and its approval thereof with amendments

**Sen. Mutula Kilonzo Jr.:** Mr. Temporary Speaker, Sir, I beg to move that the House do agree with the Committee in the said Report.

**Sen. Sang** seconded

*(Question proposed)*

*(Question put and agreed to)*

**Sen. Mutula Kilonzo Jr.:** Mr. Temporary Speaker, Sir, I beg to move that the Fair Administrative Action Bill (National Assembly Bill No. 10 of 2015) be now read a Third Time.

**Sen. Sang** seconded

*(Question proposed)*

**The Temporary Speaker** (Sen. Mositet): We are going to have a Division. So, ring the Division Bell for one minute.

*(The Division Bell was rung)*

**The Temporary Speaker** (Sen. Mositet): Since we have the numbers, I order that the Division Bell be stopped now.

*(Sen. Mutula Kilonzo Jnr. and Sen. Kagwe consulted loudly)*

**The Temporary Speaker** (Sen. Mositet): Order, Sen. Mutula Kilonzo Jnr. and Sen. Kagwe. Could you, please, consult in low tones?  
Close the door, draw the bar and call the Roll Call.

*(The Bar was drawn and doors closed)*

## DIVISION

### ROLL CALL VOTING

*(Question, that the Fair Administrative Action Bill  
(National Assembly Bill No.10 of 2015) be read a Third Time  
put and the Senate proceeded to vote by County Delegations)*

**AYES:** Sen. Abdirahman, Wajir County; Sen. Adan, Isiolo County; Sen. (Prof.) Anyang'-Nyong'o, Kisumu County; Sen. Boy Juma Boy, Kwale County; Sen. Bule, Tana River County; Sen. Chelule, Nakuru County; Sen. Hargura, Marsabit County; Sen. Hassan, Mombasa County; Sen. Kagwe, Nyeri County; Sen. M. Kajwang, Homa Bay County; Sen. Karaba, Kirinyaga County; Sen. (Prof.) Kindiki, Tharaka-Nithi County; Isiolo County; Sen. (Prof.) Lesan, Bomet County; Sen. (Dr.) Machage, Migori County; Sen. Madzayo, Kilifi County; Sen. Mositet, Kajiado County; Sen. Muthama, Machakos County; Sen. Mutula Kilonzo Jnr., Makueni County; Sen. Mwakulegwa, Taita Taveta County; Sen. Ntutu, Narok County; Sen. Obure, Kisii County; Sen. Okong'o, Nyamira County; Sen. Sang, Nandi County and Sen. Wamatangi, Kiambu County.

**Teller of the Ayes:** Sen. (Prof.) Kindiki.

**NOES:** Nil.

**Teller for the Noes:** Sen. Sijeny.

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

**AYES:** 27

**NOES:** 0

**ABSTENTIONS:** Nil

*(Question carried by 27 votes to 0)*

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

### 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 PUBLIC PROCUREMENT AND ASSET DISPOSAL BILL (NATIONAL ASSEMBLY BILL NO.40 OF 2014)

*(Question that Clauses 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15,  
16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28,  
29, 30, 31 and 32 be part of the Bill proposed)*

#### Clause 33

**Sen. Kagwe:** Mr. Temporary Chairman, Sir, I beg to move:-

That, Clause 33 be amended in sub-clause (2) by inserting the following new paragraph immediately after paragraph (f)-

f (a) promote preference and reservation schemes for residents of the county to ensure a minimum of twenty percent in public procurement at the county.

Mr. Temporary Chairman, Sir, this is simply an amendment to ensure that persons within the counties also get a chance to participate in supply through the procurement process.

*(Question of the amendment proposed)*

*(Question that Clauses 34, 35, 36, 37, 38, 39, 40, 41, 42, 43,  
44, 45, 46, 47, 48, 49 and 50 be part of the Bill proposed)*

#### Clause 51

**Sen. Kagwe:** Mr. Temporary Chairperson, Sir, we proposes:-

That, Clause 51 be amended in sub-clause (3) by deleting the words “and licensed” appearing immediately after the words “agents registered”.



This is to ensure that agents are not just registered, but they are also licensed.

**The Temporary Chairperson** (Sen. (Dr.) Machage): Could use the words “I propose” instead of the words “we propose.”

**Sen. Kagwe:** Mr. Temporary Chairperson, Sir, it is only that these are Committee proposals.

**The Temporary Chairperson** (Sen. (Dr.) Machage): You are presenting to us as the chairperson. So, it is procedural that you say “I propose.”

**Sen. Kagwe:** Mr. Temporary Speaker, Sir, I propose.

*(Question of the amendment proposed)*

*(Question, that Clauses 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122 and 123 be part of the Bill proposed)*

*Clause 124*

**Sen. Kagwe:** Mr. Temporary Chairman, Sir, I beg to move:-

That, Clause 124 be amended by inserting the following new sub-clause immediately after sub-clause (3)-

(3A) In evaluation of tenders by public entities, the financial and technical capability of the tenderers shall be given equal weight.

Mr. Temporary Chairman, Sir, the purpose of this amendment is to ensure that not only do procurement entities consider financial considerations, but also give technical capability equal weight. This is because there are people who can present very attractive financial documents, but cannot technically be able to deliver.

*(Question of the amendment proposed)*

*(Question that Clauses 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163 and 164 be part of the Bill proposed)*

*Clause 165*

**Sen. Kagwe:** Mr. Temporary Chairman, Sir, I beg to move:-

THAT, Clause 165 be amended in sub-clause (1) by deleting paragraph (d).

*(Question of the amendment proposed)*

*(Question that Clauses 166, 167, 168, 169, 170, 171, 172, 173, 174 and 175 be part of the Bill proposed)*

*Clause 176*

**Sen. Mutula Kilonzo Jnr.:** Mr. Temporary Chairman, Sir, I beg to move:-

THAT, Clause 176 of the Bill be amended by-

(a) inserting the following new sub clauses immediately after sub clause (4)-

(5) A procuring entity may lodge a complaint with the relevant professional body for the institution of disciplinary proceedings against a contractor who is a member of a professional body and who contravenes the provisions of this Act.

(6) The penalties imposed by a professional body pursuant to a complaint lodged under subsection (5) shall apply in addition to any penalties that may be imposed under this Act.

I withdraw part (7) because it appears to have been covered under Clause 41. Therefore, it is not necessary.

*(Proposed sub-clause (7) dropped)*

Mr. Temporary Chairman, Sir, under Article 227 (c), the Constitution provides that sanctions against contractors that have not performed according to professionally regulated procedures and contractual agreements and legislations be punished.

In the sanctions provided under Clause 176, there was no method whatsoever to discipline any contractor who has not complied with professional standards as proposed under the Constitution. Therefore, I have proposed that any procurement entity will be at liberty to report engineers, doctors and even road contractors to their respective professional bodies for disciplinary action. Secondly, the penalties provided by their professional bodies be in addition to any penalty imposed under the proposed law.

*(Question of the amendment proposed)*

*(Question that Clause 177, 178, 179, 180, 181, 182 and 183 be part of the Bill proposed)*

*(Question that the First Schedule be part of the Bill proposed)*

*(Question that the Second Schedule be part of the Bill proposed)*

*(Question that the Third Schedule be part of the Bill proposed)*

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

**The Temporary Chairperson** (Sen. (Dr.) Machage): I order that the Division Bell be rung for one minute. We have three divisions to carry out.

*(The Division Bell was rung)*

Order! I remind you that we are at The Public Procurement and Asset Disposal Bill (National Assembly Bill No.40 of 2014). I told you we were going to have three Divisions.

## DIVISION

### ROLL CALL VOTING

*(Question, that Clauses 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57,58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87,88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101,102, 103, 104, 105, 106, 107, 108, 109, 110, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 125, 126, 127,128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139,140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151,152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 177, 178, 179, 180, 181, 182 and 183 be part of the Bill put and the Senate proceeded to vote by County Delegations)*

**AYES:** Sen. Abdirahman, Wajir County; Sen. Adan, Isiolo County; Sen. (Prof.) Anyang'-Nyong'o, Kisumu County; Sen. Boy Juma Boy, Kwale County; Sen. Bule, Tana River County; Sen. Chelule, Nakuru County; Sen. Hassan, Mombasa County; Sen. M. Kajwang, Homa Bay County; Sen. Sen. Karaba, Kirinyaga County; Sen. G.G. Kariuki, Laikipia County; Sen. (Prof.) Kindiki, Tharaka-Nithi County; Sen. (Prof.) Lesan, Bomet County; Sen. (Dr.) Machage, Migori County; Sen. Madzayo, Kilifi County; Sen. Mositet, Kajiado County; Sen. Kagwe, Nyeri County; Sen. Muthama, Machakos County; Sen. Mutula Kilonzo Jnr., Makueni County; Sen. Mwakulegwa, Taita-Taveta County; Sen. Obure, Kisii County; Sen. Okong'o, Nyamira County; Sen. Sang. Nandi County; Sen. Sijeny, Nairobi County and Sen. Wamatangi, Kiambu County.

**Teller of the Ayes:** Sen. (Prof.) Kindiki

**NOES:** Nil.

**Teller of the Noes:** Sen. Hassan

**The Temporary Chairman** (Sen. (Dr.) Machage): Order, hon. Senators. I wish to announce the results as follows:-

**AYES:** 24

**NOES:** Nil

**ABSENTIONS:** Nil

The Ayes have it.

*(Question carried by 24 votes to nil)*

*(Clauses 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12,13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27,28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72,73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87,88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101,102, 103, 104, 105, 106, 107, 108, 109, 110, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 125, 126, 127,128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139,140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 177, 178, 179, 180, 181, 182 and 183 agreed to)*

## DIVISION

### ROLL CALL VOTING

*(Question, that Clauses 33, 51, 124, 165 and 176 be amended as proposed and be part of the Bill put and the Senate proceeded to vote by County Delegations)*

**AYES:** Sen. Abdirahman, Wajir County; Sen. Adan, Isiolo County; Sen. (Prof.) Anyang'-Nyong'o, Kisumu County; Sen. Boy Juma Boy, Kwale County; Sen. Bule, Tana River County; Sen. Chelule, Nakuru County; Sen. Hassan, Mombasa County; Sen. M. Kajwang, Homa Bay County; Sen. Sen. Karaba, Kirinyaga County; Sen. G.G. Kariuki, Laikipia County; Sen. (Prof.) Kindiki, Tharaka-Nithi County; Sen. (Prof.) Lesan, Bomet County; Sen. (Dr.) Machage, Migori County; Sen. Madzayo, Kilifi County; Sen. Mositet, Kajiado County; Sen. Kagwe, Nyeri County; Sen. Muthama, Machakos County; Sen. Mutula Kilonzo Jnr., Makueni County; Sen. Mwakulegwa, Taita-Taveta County; Sen. Obure, Kisii County; Sen. Okong'o, Nyamira County; Sen. Sang. Nandi County; Sen. Sijeny, Nairobi County and Sen. Wamatangi, Kiambu County.

**Teller of the Ayes:** Sen. (Prof.) Kindiki

**NOES:** Nil.

**Teller of the Noes:** Sen. Hassan

**The Temporary Chairman** (Sen. (Dr.) Machage): Order, hon. Senators. I wish to announce the results as follows:-

**AYES:** 24

**NOES:** Nil

**ABSENTIONS:** Nil

The Ayes have it.

*(Question carried by 24 votes to nil)*

*(Clauses 33, 51, 124, 165 and*

*176 as amended agreed to)*

**DIVISION**

**ROLL CALL VOTING**

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

**AYES:** Sen. Abdirahman, Wajir County; Sen. Adan, Isiolo County; Sen. (Prof.) Anyang'-Nyong'o, Kisumu County; Sen. Boy Juma Boy, Kwale County; Sen. Bule, Tana River County; Sen. Chelule, Nakuru County; Sen. Hassan, Mombasa County; Sen. M. Kajwang, Homa Bay County; Sen. Sen. Karaba, Kirinyaga County; Sen. G.G. Kariuki, Laikipia County; Sen. (Prof.) Kindiki, Tharaka-Nithi County; Sen. (Prof.) Lesan, Bomet County; Sen. (Dr.) Machage, Migori County; Sen. Madzayo, Kilifi County; Sen. Mositet, Kajiado County; Sen. Kagwe, Nyeri County; Sen. Muthama, Machakos County; Sen. Mutula Kilonzo Jnr., Makueni County; Sen. Mwakulegwa, Taita-Taveta County; Sen. Obure, Kisii County; Sen. Okong'o, Nyamira County; Sen. Sang, Nandi County; Sen. Sijeny, Nairobi County and Sen. Wamatangi, Kiambu County.

**Teller of the Ayes:** Sen. (Prof.) Kindiki

**NOES:** Nil.

**Teller of the Noes:** Sen. Hassan

**The Temporary Chairman** (Sen. (Dr.) Machage): Hon. Senators, I wish to announce the results as follows:-

**AYES:** 24

**NOES:** Nil

**ABSENTIONS:** Nil

*(Question carried by 24 votes to 0)*

*(First Schedule agreed to)*

*(Second Schedule agreed to)*

*(Third Schedule agreed to)*

*Clause 2 agreed to)*

*(Title agreed to)*

*(Clause 1 agreed to)*

The Temporary Chairperson (Sen. (Dr.) Machage): Hon. Senators, remember that we have one more Division. So, please, do not leave the Chamber.

**Sen. Kagwe:** Mr. Temporary Chairman, Sir, I beg to move the Committee do report to the Senate its consideration of The Public Procurement and Asset Disposal Bill (National Assembly Bill No.40 of 2014) and its approval thereof with amendments.

**The Senate Majority Leader** (Sen. (Prof.) Kindiki) seconded

*(Question proposed)*

*(Question put and agreed to)*

*[The House resumed]*

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

### **REPORT, CONSIDERATION OF REPORT AND THIRD READING**

#### **THE PUBLIC PROCUREMENT AND ASSET DISPOSAL BILL (NATIONAL ASSEMBLY BILL NO.40 OF 2014)**

**Sen. (Dr.)Machage:** Mr. Temporary Speaker, Sir, I beg to report that the Committee of the Whole has considered the Public Procurement and Asset Disposal Bill (National Assembly Bill No.40 of 2014) and approved the same with amendments.

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

**Sen. Hassan** seconded.

*(Question proposed)*

*(Question put and agreed to)*

**Sen. Kagwe:** Mr. Temporary Speaker, Sir, I beg to move that the Public Procurement and Asset Disposal Bill (National Assembly Bill No.40 of 2014) be now read a Third Time.

**Sen. Hassan** seconded.

*(Question proposed)*

**The Temporary Speaker** (Sen. Mositet): We are going to vote by Division because all of us are here and we had not drawn the Bar.

Let us use the roll call voting.

### **DIVISION**

#### **ROLL CALL VOTING**

*(Question, that the Public Procurement and Asset Disposal Bill (National Assembly Bill No. 40 of 2014) be read a Third Time put and the Senate proceeded to vote by County Delegations)*

**AYES:** Sen. Abdirahman, Wajir County; Sen. Adan, Isiolo County; Sen. (Prof.) Anyang'-Nyong'o, Kisumu County; Sen. Boy Juma Boy, Kwale County; Sen. Bule, Tana River

County; Sen. Chelule, Nakuru County; Sen. G.G. Kariuki, Laikipia County; Sen. Hassan, Mombasa County; Sen. Kagwe, Nyeri County; Sen. Karaba, Kirinyaga County; Sen. (Prof.) Kindiki, Tharaka-Nithi County; Sen. (Prof.) Lesan, Bomet County; Sen. M. Kajwang, Homa Bay County; Sen. (Dr.) Machage, Migori County; Sen. Madzayo, Kilifi County; Sen. Mositet, Kajiado County; Sen. Muthama, Machakos County; Sen. Mutula Kilonzo Jnr., Makueni County; Sen. Mwakulegwa, Taita-Taveta County; Sen. Obure, Kisii County; Sen. Okong'o, Nyamira County; Sen. Sang, Nandi County; Sen. Sijeny, Nairobi County; and Sen. Wamatangi, Kiambu County.

**Teller of the Ayes:** Sen. (Prof.) Kindiki

**Teller of the Noes:** Sen. Hassan

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

**AYES:** 24

**NOES:** Nil

**ABSTENTIONS:** Nil

The "Ayes" have it.

*(Question carried by 24 votes to 0)*

*(Applause)*

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

### **ADJOURNMENT**

**The Temporary Speaker** (Sen. Mositet): Hon. Senators, there being no other business, the Senate stands adjourned until tomorrow Thursday, 21<sup>st</sup> May, 2015 at 2.30 p.m.

The Senate rose at 7.15 p.m.