

PARLIAMENT OF KENYA

THE SENATE

THE HANSARD

Tuesday, 30th July, 2024

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

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

PRAYER

DETERMINATION OF QUORUM AT COMMENCEMENT OF SITTING

The Speaker (Hon. Kingi): Clerk, do we have quorum?
Serjeant-at-Arms, kindly ring the Quorum Bell for 10 minutes.

(The Quorum Bell was rung)

(Sen. (Dr.) Khalwale consulted Sen. Orwoba)

(Sen. Shakila Abdalla walked into the Chamber)

Order, hon. Senators! Sen. (Dr.) Boni and Sen. Shakila Abdalla, take your seats.
We do have quorum now so, we shall proceed with the day's Business.
Clerk, proceed to call the first Order.
Sen. (Dr.) Boni, I ordered you to take your seat.

COMMUNICATION FROM THE CHAIR

VISITING DELEGATION FROM MINISTRY OF JUSTICE, REPUBLIC OF NAMIBIA

Hon. Senators, I would like to acknowledge the presence in the Speaker's Gallery this afternoon of a delegation from the Ministry of Justice of the Republic of Namibia. The delegation is in the Senate for a benchmarking visit.

I request each member of the delegation to stand when called out, so that you be acknowledged in the Senate tradition.

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1. Ms. Felicity Owoses, Chief Legislative Drafter
2. Ms. Naemi Angula, Deputy Chief Legislative Drafter.

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

I request the Senate Majority Whip to welcome the guests, under one minute.

Sen. (Dr.) Khalwale: Thank you, Mr. Speaker, Sir. It is a privilege for me to welcome the young women from Namibia. I am truly impressed. African women are coming of age. The delegation is composed of women only. It is so nice. Kenyans must learn from this.

Mr. Speaker, Sir, these are very exciting times because up North, Kamala Harris is about to become the President of the United States of America (USA). Good women, go and take care of our men in Namibia, but kindly do not “sit” on them the way Kenyan women do to Kenyan men.

(Laughter)

The Speaker (Hon. Kingi): Order, Sen. Seki and Sen. Tobiko. Kindly take your seats.

Next Order, Clerk.

MESSAGE FROM THE NATIONAL ASSEMBLY

NATIONAL ASSEMBLY DECISION ON SENATE AMENDMENTS TO THE NATIONAL RATING BILL (NATIONAL ASSEMBLY BILLS NO.55 OF 2022)

Hon. Senators, I wish to report to the Senate, that I have pursuant to Standing Order No.46(3), received the following Message from the Speaker of the National Assembly regarding the decision of the National Assembly on the Senate Amendments to the National Rating Bill (National Assembly Bills No.55 of 2022).

The Message dated Wednesday, 24th July, 2024 was received in the Office of the Clerk of the Senate on the same date. Pursuant to Standing Order No.46(4), I will now proceed to report the Message-

Pursuant to the provisions of Standing Order No.44(1) and No.148(b), I hereby convey the following Message from the National Assembly.

WHEREAS, on 11th October, 2023, the National Assembly passed the National Rating Bill (National Assembly Bills No.55 of 2022) with amendments and thereafter referred it to the Senate for consideration in accordance with Article 110(4) of the Constitution; and,

WHEREAS, on the 9th May, 2024, the Senate considered and passed the said Bill with further amendments and referred it back to the National Assembly for consideration;

FURTHER WHEREAS, on the 12th June, 2024, the National Assembly considered and rejected the Senates amendments to the Bill to the effect of which the Bill

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is referred to a mediation committee in accordance with the provisions of Article 112(2)(b) of the Constitution;

NOW THEREFORE, in accordance with the provisions of Article 112 of the Constitution and Standing Order No.44(1) and No.148(b), I hereby convey the said decision of the National Assembly to the Senate and seek the appointment of nine to a Mediation Committee to consider the Bill in accordance with Article 113 of the Constitution.

Hon. Senators, consequent to the said decisions, the Speaker of the National Assembly appointed the following members of the National Assembly to the mediation committee to consider the Bill in accordance to Article 113 of the Constitution -

- (1) Hon. Joash Nyamoko, MP
- (2) Hon. Jane Kihara, MP
- (3) Hon. Josses Lelmengit, MP
- (4) Hon. Joseph Gitari, MP
- (5) Hon. Mathias Robi, MP
- (6) Hon. Paul Katana, MP
- (7) Hon. (Eng.) Thuddeus Nzambia, MP
- (8) Hon. ZamZam Mohammed, MP
- (9) Hon. Fatuma Joho, MP

Hon. Senators, pursuant to the provisions of Standing Order No.166(2) of the Senate and in consultation with the Senate Majority Leader, and the Senate Minority Leader, I will, at an appropriate time, appoint Senators to the Mediation Committee. Kindly stand guided.

I thank you.

Next Order, Clerk.

Senate Majority Leader, proceed.

PAPERS LAID

REPORT ON VARIOUS STATUTORY INSTRUMENTS ON LAND MATTERS

Sen. Gataya Mo Fire: Thank you, Mr. Speaker, Sir. On behalf of the Senate Majority Leader, I beg to lay the following Papers on the Table of the Senate today, 30th of July 2024 –

Report of the Select Committee on Delegated Legislation on the consideration of the various statutory instruments on land matters.

The Physical and Land use Planning (Planning Fees) (Amendment) Regulations, Legal Notice No.72 of 2024.

The Land (Amendment) Regulations, Legal Notice No.74 of 2024.

The Land Registration (General) (Amendment) Regulations, Legal Notice No.77 of 2024.

(Sen. Gataya Mo Fire laid the

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documents on the Table)

The Speaker (Hon. Kingi): Next Order.
Proceed, the Chairperson Committee on Delegated on Legislation.

NOTICES OF MOTIONS

ADOPTION OF REPORT ON VARIOUS STATUTORY INSTRUMENTS ON LAND MATTERS

Sen. Gataya Mo Fire: Thank you, Mr. Speaker, Sir. I beg to give Notice of the following Motion-

THAT, the Senate adopts the Report of the Select Committee on Delegated Legislation on the consideration of-

The Physical and Land use Planning (Planning Fees) (Amendment) Regulations, Legal Notice No.72 of 2024; The Land (Amendment) Regulations, Legal Notice No.74 of 2024; The Land Registration (General) (Amendment) Regulations, Legal Notice No.77 of 2024; laid on the Table of the Senate on Tuesday, 30th July, 2024. That pursuant to Section 18 of the Statutory Instruments Act, and Standing Order No.195(4), the Senate resolves to annul-

(1) The Physical and Land use Planning (Planning Fees) (Amendment) Regulations, Legal Notice No.72 of 2024

(2) The Land (Amendment) Regulations, Legal Notice No.74 of 2024

(3) The Land Registration (General) (Amendment) Regulations, Legal Notice No.77 of 2024.

I thank you.

The Speaker (Hon. Kingi): Next Order.

EXTENSION OF TIME FOR CONSIDERATION OF VALUERS (FORMS AND FEES) (AMENDMENT) RULES, 2024 (LEGAL NOTICE NO.69 OF 2024, THE SURVEY (AMENDMENT) REGULATIONS, 2024 (LEGAL NOTICE NO.71 OF 2024) AND THE LAND ADJUDICATION (AMENDMENT) REGULATIONS, 2024 (LEGAL NOTICE NO.76 OF 2024)

Sen. Gataya Mo Fire: Thank you, Mr. Speaker, Sir. I beg to give Notice of the following Motion as well-

THAT, WHEREAS the Committee on Delegated Legislation is established under Standing Order No.195(1) of the Senate Standing Orders and is mandated to scrutinize statutory instruments laid before the Senate;

RECALLING that on 2nd May, 2024, the Valuers (Forms and Fees) (Amendment) Rules, 2024 (Legal Notice No.69 of 2024), the Survey (Amendment) Regulations, 2024 (Legal Notice No.71 of 2024) and the Land Adjudication (Amendment) Regulations, 2024 (Legal Notice No.76 of 2024) were laid in the Senate and referred to the Committee on Delegated Legislation for

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consideration and scrutiny, pursuant to Section 12(1) of the Statutory Instruments Act, Cap. 2A and Standing Order No. 195(3) of the Senate Standing Orders;

NOTING that these statutory instruments seek to amend the Valuers (Forms and Fees) Rules, 1987, the Survey Regulations, 1994 and the Land Adjudication Regulations, 1970, respectively, which, pursuant to Section 21(1) of the Statutory Instruments Act, expired;

FURTHER NOTING that in course of considering the statutory instruments, the Committee was informed that an order had been issued by the High Court in Machakos Petition No. E002 of 2024 Innocent Musumbi Kimanathi vs the Attorney General and the National Assembly suspending the expiry of the statutory instruments contained in the Statutory Instruments (Exemption from Expiry) Regulations, 2022 (Legal Notice No.218 of 2022) and further suspending the operation of section 21(1) of the Statutory Instruments Act, Cap. 2A;

APPRECIATING that under Section 15(2) of the Statutory Instruments Act, Cap. 2A, the Committee is required to make a report on the statutory instruments within 28 sitting days after the date of referral of the instruments by the Senate and that with regard to the three statutory instruments, the time lapses on 30th July, 2024;

FURTHER APPRECIATING that in light of the court order issued by the High Court in Machakos, the Committee requires additional time in order to conclusively interrogate the matter and scrutinize the statutory instruments;

NOW, THEREFORE, pursuant to Section 15(3) of the Statutory Instruments Act, CAP. 2A, the Senate resolves to extend the timeline for consideration of the Valuers (Forms and Fees) (Amendment) Rules, 2024, (Legal Notice No.69 of 2024), the Survey (Amendment) Regulation, 2024, (Legal Notice No.71 of 2024), and the Land Adjudication (Amendment) Regulation, 2024, (Legal Notice No.76 of 2024), by 21 days in order to enable the Committee to conclusively consider and scrutinize the statutory instruments.

The Speaker (Hon. Kingi): Next Order. Statements pursuant to Standing Order No.52 (1).

Sen. James Lomenen, please, proceed.

QUESTIONS AND STATEMENTS

STATEMENTS

AFFIRMATIVE ACTION TO INCREASE REPRESENTATION OF MARGINALIZED AND UNDERREPRESENTED COMMUNITIES IN PUBLIC SERVICE

Sen. Lomenen: Thank you, Mr. Speaker, Sir. I rise pursuant to Standing Order No.52 (1) to make a Statement on a matter of general topical concern, that is, the need for affirmative action to increase the representation of marginalized and underrepresented communities in the Public Service.

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Mr. Speaker, Sir, despite the Public Service Commission's (PSC) effort to improve inclusivity, much work remains the Constitution of Kenya in Articles 54 and 56 mandates affirmative action and professional representation to ensure that marginalized groups have access to employment opportunities. However, these measures have not been adequately implemented for Turkana County and other similarly marginalized communities.

Turkana County is one of the largest counties in Kenya with a population of 926,976 according to the 2019 Census. Despite its size and the potential of its people, Turkana County is significantly underrepresented in national Government positions and the public service.

This underrepresentation hampers the growth and development of the region and perpetuates economic disparities, causing the community to lag behind others due to inequality in national affairs.

Recent data reveals significant imbalance in the representation of various communities in the public service. Out of 252,007 civil servants employed by the PSC, some of the marginalized communities, including the Konso, Dahalo, Makonde, Aweer, Wayyu, El Molo, Ogaden, Suba, Dorobos, Njemps, Taveta, Burji, Borana, Gabra, Rendile, Garre, Daasanach, Somali, Sakuye, Maasai, Turkana, Samburu and Pokot, have been marginalized and underrepresented.

In contrast, some other communities account for nearly half of all civil servants holding 96,248 positions. These statistics highlight a systematic issue that requires urgent corrective measures.

This underrepresentation has a ripple effect on aforementioned communities, exacerbating poverty and limiting access to opportunities that could lead to other economic and social development. Their lack of representation in national institutions contributes to a cycle of deprivation that affects generations.

Kenya cannot effectively tackle its National Poverty Index without implementing affirmative measures to include these underrepresented communities in opportunities.

Noting the need to advocate for an inclusive and prosperous Kenya, I urge the Standing Committee on National Cohesion, Equal Opportunity, and Regional Integration, in conjunction with the relevant Government institutions, to consider undertaking the following actions to look into this matter-

(i) Review employment policies to ensure that public service recruitment processes are equitable and provide fair consideration to individuals from marginalized and underrepresented communities mentioned above.

(ii) Establish or implement clear affirmative action, targets and measures to increase the representation of marginalized and underrepresented in public service roles.

(iii) Promote active participation by encouraging individuals from the marginalized and underrepresented communities to participate in public service recruitment through outreach and information campaigns.

(iv) Develop robust mechanisms for monitoring and reporting on the progress of affirmative action initiatives to maintain transparency and accountability.

The Speaker (Hon. Kingi): Senator for Turkana County, I am told you have another Statement under Standing Order No.52 (1). So, at what juncture do you wish to give it? Is it tomorrow or now?

Sen. Lomenen: Now, Mr. Speaker, Sir,

The Speaker (Hon. Kingi): Then proceed.

RECRUITMENT OF ADDITIONAL NPRS IN
BANDITRY-PRONE AREAS OF TURKANA COUNTY

Sen. Lomenen: Thank you, Mr. Speaker, Sir. I rise pursuant to Standing Order No.52 (1) to make a statement on a matter of a countrywide and general topical concern, namely the need to recruit additional National Police Reservists (NPRs) in the banditry prone areas of Turkana County, particularly the areas along the international and internal border areas in Turkana East and Turkana South sub-counties.

These areas have regrettably been overrun by lawless bandits who have orchestrated numerous tragic raids against residents and committed heinous killings.

Turkana County has a long-lasting history of inter-community raids with its neighbours, a situation that has metamorphosed into more intricate challenges such as commercialized banditry and fatalities stemming from boundary disputes.

The banditry activities, predominantly orchestrated by lawless bandit groups, present a substantial menace to the lives, livelihoods, general peace and development of the region. The situation has forced some residents to flee their homesteads for several areas.

An earlier disarmament of NPRs resulted in a security vacuum, allowing certain individuals, possibly in collusion with politicians, pursuing boundary expansion agenda to exploit the situation for personal gain.

Despite the commendable efforts and decisive action in October, 2023 by the former Cabinet Secretary for Interior and National Administration, Prof. Kithure Kindiki, of recruiting and deploying at least 1,372 NPRs in the North Rift Region, a critical inadequacy persists in Turkana County. This is particularly so along the international borders with Uganda, Ethiopia and South Sudan, as well as the internal banditry-prone borders with Samburu, Baringo and West Pokot counties.

The glaring deficiency greatly hampers the ability of the NPR to counter and overpower bandits during the raids.

Mr. Speaker, Sir, to tackle the prevailing security challenges, I call upon the Ministry of Interior and National Administration to urgently put in place strategic measures for the recruitment of additional NPR to address the prevailing shortfall and to guarantee the safety and well-being of the communities in Turkana County.

The recruitment of additional NPRs has the following merits:

(i) Cost-effective - Utilising the NPRs will be more cost-effective than deploying regular security services.

(ii) Knowledge of the locality - The NPRs being residents of the area, possess an intricate knowledge of the terrain and communities, thus aiding effective counter-banditry operations.

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(iii) Rapid response - Their immediate availability allows for quick response to banditry attacks and enhances security in vulnerable areas.

(iv) Community trust - NPRs being members of the local community, can easily build trust with locals, facilitating intelligence gathering and cooperation in maintaining security.

(v) Willingness to serve - Recent Government initiatives such as the provision of medical insurance cover to NPRs, indicate improving conditions for those risking their lives in such areas, thereby increasing their readiness to serve.

I further wish to call upon the Standing Committee on National Security, Defence and Foreign Relations to take up this urgent matter and ensure that the Ministry recruits additional NPRs and puts into place other strategic measures to effectively and permanently address the insecurity situation in this region.

Mr. Speaker, Sir, it is imperative that we collectively work towards comprehensive and sustainable solutions to curtail the menace of banditry and enhance the security infrastructure in all vulnerable regions in Kenya for equitable development of every part of Kenya.

Thank you.

The Speaker (Hon. Kingi): Statements pursuant to Standing Order No. 53(1).

Sen. Mwaruma, you may proceed.

BANK ACCOUNTS OPERATED BY
TAITA-TAVETA COUNTY GOVERNMENT

Sen. Mwaruma: Thank you, Mr. Speaker, Sir, for this opportunity to request for these two statements. The first one is on bank accounts operated by the Taita-Taveta County Government.

I rise pursuant to Standing Order No.53(1) to seek a statement from the Standing Committee on Finance and Budget regarding the bank accounts operated by Taita-Taveta County Government.

In the statement, the committee should-

(i) Provide details of all the bank accounts operated by the Taita Taveta County Government, including the purpose for each of the accounts.

(ii) Provide the annual statements for all these bank accounts from the year 2018 to date.

(iii) Give details of all projects funded from funds held in these bank accounts, including their completion status.

OPERATIONS OF SAMRUDDHA RESOURCES KENYA
LIMITED IN TAITA-TAVETA COUNTY

Mr. Speaker, Sir, the second statement is on the operations of Samruddha Resources Kenya Limited in Taita Taveta County.

I rise pursuant to Standing Order No.53 (1) to seek a statement from the Standing Committee on Land, Environment and Natural Resources regarding the operations of

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Samruddha Resources Kenya Limited in Kishushe, Wundanyi Sub-county and Taita Taveta County.

In the statement, the committee should-

(i) Provide copies of the original agreement for the lease of the land by Kishushe Ranching Cooperative Society Limited to Samruddha Resources Kenya Limited for mining activities as well as any other related documents made thereafter stating the total acreage of land leased as well as the annual rent payable.

(ii) Disclose details of the community development agreement between Samruddha Resources Kenya Limited and the local community providing a status update on its implementation that includes a list of all projects undertaken by the company under the said agreement.

(iii) State the amount of money paid out to the company for Corporate Social Responsibility (CSR) activities indicating any pending amount and when it will be paid out.

(iv) Provide details of the rehabilitation policy and plan by Samruddha Resources Kenya Limited indicating the total acreage of land that the company has rehabilitated, so far.

(v) State the amount of money paid, so far, by Samruddha Resources Kenya Limited as mineral royalties to the Government, indicating how the same has been distributed between the national Government, County Government of Taita Taveta and the local community.

I thank you.

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

NON-USE OF THE FIFTY-CENT AND ONE-SHILLING COINS IN TRADING ACTIVITIES

Sen. (Dr.) Khalwale: Thank you, Mr. Speaker, Sir. Pursuant to Standing Order No.53(1), I rise to seek a statement from the Standing Committee on Finance and Budget in respect of the non-use of the 50 cent coins and the one shilling coins in trading activities in this country.

In the statement, the committee should-

(a) State how much money's worth of these coins was minted and released into circulation when the new generation coins were unveiled.

(b) Explain why these coins are no longer in use for trading.

(c) Outline the inflationary impact the failure of using these coins has caused on the economy given that in many instances the price of commodities is normally rounded off at the expense of members of the public.

(d) State any steps the Central Bank of Kenya (CBK) is taking to ensure that hundreds of billions of money worth of these coins held is brought back into circulation.

The Speaker (Hon. Kingi): Before I call Cherarkey, Sen. Sifuna and Sen. Boni, kindly approach the Chair.

(Sen. Sifuna and Sen. (Dr.) Khalwale approached the Chair)

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Sen. Cherarkey, you may proceed.

ALLEGED INFLAMMATORY STATEMENTS, MISINFORMATION,
AND FAKE NEWS ON SOCIAL MEDIA PLATFORMS IN KENYA

Sen. Cherarkey: Thank you, Mr. Speaker, Sir.

It will interest you to know that the floodlight on my right is off. Therefore, it will affect the quality of transmission.

Mr. Speaker, Sir, can I have your attention?

The Speaker (Hon. Kingi): Yes.

Sen. Cherarkey: It would be of interest to know that the floodlight on the right is off and it might affect the quality of the pictorial that is being transmitted because some of us are dark. The secretariat can fix that. The person laughing loudest is Sen. Methu, who is darker than me.

(Laughter)

Request for a statement on inadequate moderation on inflammatory statements, misinformation and manipulated media and fake news circulating across different social media platforms in Kenya.

Mr. Speaker, Sir, I rise pursuant to Standing Order No.53(1) to seek a statement from the Standing Committee on Information, Communication and Technology regarding the inadequate moderation of inflammatory statements, misinformation, manipulated media and fake news circulating across different social media platforms in Kenya.

In recent weeks, Kenyans have witnessed a surge in inflammatory statements, misinformation, disinformation and fake news circulated through various social media platforms, which have fuelled the ongoing violent protests.

Popular social media platforms, including *X*, formerly *Twitter*, *Facebook* and *TikTok* have been used to incite and coordinate these violent protests put into question the effectiveness of content moderation measures put in place by the said platforms.

I, therefore, request the committee to-

(1) Provide an overview of the content moderation policies by *X*, formerly *Twitter*, *Facebook* and *TikTok*, disclosing any plans to implement more rigorous and effective protocols to detect and pull down inflammatory statements, misinformation, disinformation and fake news.

(2) Clarify whether the said social media platforms have a collaboration with fact-checking organisations to help verify the accuracy of information shared on their respective platforms.

(3) Investigate allegations concerning the funding of certain users of *X*, *Facebook* and *TikTok* to incite violent protests through sharing inflammatory statements, misinformation, disinformation and fake news through their social media accounts and provide any financial records and transactions related to these allegations.

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(4) Explain any activities by the aforementioned social media platforms; *Facebook, X and TikTok* to educate their users about how to verify information and the consequences of sharing unverified content.

(5) Outline the consequences of repeatedly violating the aforementioned social media platform content guidelines and policies, explaining how these consequences have been communicated to the respective user basis.

I thank you.

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

APPROVAL OF BUILDING PLANS BY
MOMBASA COUNTY GOVERNMENT

Sen. Mbugua: Mr. Speaker, Sir, I rise pursuant to Standing Order No.53(1) to seek a statement from the Standing Committee on Roads, Transportation and Housing regarding approval of building plans by the County Government of Mombasa.

In the statement, the committee should-

(1) Explain the current delays in issuance of approvals for building plans by the County Government of Mombasa, stating the number of building plans approved from 1st August, 2022 to 30th June, 2024, also indicating the average time for approval upon application.

(2) Outline the fees payable to the County Government of Mombasa for approval of the building plans.

(3) State whether building plans submitted under invoice No. MS/AAA/7888 were subjected to public participation by the developer. If so, clarify whether the developer and the county government have taken into account the views of the public.

(4) Outline any safeguards put in place by the county government to mitigate the impact of plan development as well as any challenges that may arise in the implementation of the plan, considering that plan development is on the beach and is likely to have a huge impact on the ecosystem of the area.

I thank you.

(Interruption of debate on Statements)

The Speaker (Hon. Kingi): Let us go to the next Order.

BILLS

Second Reading

THE HOUSES OF PARLIAMENT (BICAMERAL RELATIONS) BILL
(NATIONAL ASSEMBLY BILLS NO.44 OF 2023)

(Sen. Cheruiyot on 9.5.2024)

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(Resumption of debate interrupted on 28.5.2024)

The Speaker (Hon. Kingi): Hon. Senators, we have eight divisions to undertake. I realise that we have the requisite number of delegates. Therefore, we may proceed with this exercise that has been deferred for the past three weeks. I ask the Serjeant-at-Arms to ring the Division Bell for five minutes.

Sen. Orwoba, what is your intervention?

Sen. Orwoba: Mr. Speaker, Sir, some important statements have been read. We were hoping that we would get a minute or two to add our voice because these are issues facing us, particularly fake news.

Heavy statements have been raised on the Floor of the House. I beg you to allow us to add our voices on the same.

The Speaker (Hon. Kingi): We will come back to that after the Divisions. You will have an opportunity to comment.

(The Division Bell was rung)

Hon. Senators, the five minutes are long spent.

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

(The Bar was drawn and doors closed)

Hon. Senators, we are going to Division on Order No.8. Before we do so, I will need two tellers; one for the Ayes and one for the Noes. Sen. Orwoba is the teller for the Ayes while Sen. Beth Syengo is teller for the Noes.

I am informed that our system is up and running. So, we will vote electronically, in which case, we will not need the tellers. However, should it fail us, Sen. Orwoba and Sen. Beth Syengo are on standby to help us in this regard.

(Sen. Okiya Omtatah and Sen. Kavindu Muthama stood in their places)

Now, take your seats hon. Senators, Sen. Omtatah and Sen. Kavindu. Where has Sen. Kavindu disappeared to?

Hon. Senators, I will now proceed to put the question on Order No.8; that The Houses of Parliament (Bicameral Relations) Bill (National Assembly Bills No.44 of 2023) be now read a Second Time, put)

As I have already stated, voting will be done electronically. At this juncture, I will ask hon. Members to log out by removing your cards from the delegate units.

Serjeant-At-Arms, kindly go around. Any card that is unattended to, please, take it from the delegate unit. Once you have done that, kindly let me know so that we proceed with the voting.

(Sen. Okiya Omtatah stood in his place)

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(Sen. (Dr.) Lelegwe Ltumbesi walked to the Dispatch Box)

Proceed, to your seat, Sen. Okiya Omtatah. Sen. (Dr.) Lelegwe, you do not just roam the Floor of the House when the Chair is upstanding.

(Sen. Onyonka stood next to the Dispatch Box)

Proceed to take your seat, Sen. Onyonka. Proceed, to your rightful place.
Serjeant-at-Arms, are we ready? Hon. Senators, you may log back in and proceed to vote by pressing ‘Yes’, ‘No’ or ‘Abstain.’ Kindly, proceed.

(Voting in progress)

DIVISION

ELECTRONIC VOTING

(Question, that the Houses of Parliament (Bicameral Relations) Bill (National Assembly Bills No.44 of 2023), be now read a Second Time, put and the Senate proceeded to vote by county delegations)

AYES: Sen. Abass, Wajir County; Sen. Boy, Kwale County; Sen. Cherarkey, Nandi County; Sen. Cheruiyot, Kericho County; Sen. Chesang, Trans Nzoia County; Sen. Dullo, Isiolo County; Sen. Faki, Mombasa County; Sen. Gataya Mo Fire, Tharaka-Nithi County; Sen. Githuku, Lamu County; Sen. Kathuri, Meru County; Sen. (Dr.) Khalwale, Kakamega County; Sen. Kinyua, Laikipia County; Sen. Kisang’, Elgeyo-Marakwet County; Sen. (Dr.) Lelegwe Ltumbetsi, Samburu County; Sen. Lomenen, Turkana county; Sen. Mandago, Uasin Gishu County; Sen. Methu, Nyandarua County; Sen. Mwaruma, Taita-Taveta County; Sen. (Dr.) Oburu, Siaya County; Sen. Ogola, Homa Bay County; Sen. Okiya Omtatah, Busia County; Sen. Onyonka, Kisii County; Sen. Osotsi, Vihiga County; Sen. Seki, Kajiado County; Sen. Sifuna, Nairobi City County; and Sen. Wamatinga, Nyeri County.

NOES: Sen. Maanzo, Makueni County.

ABSTENTIONS: Nil

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

AYES: 26

NOES: 1

ABSTENTIONS: 0

The “Ayes” have it.

(Question carried by 26 votes to 1)

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

The Speaker (Hon. Kingi): Next Order, Clerk.

Second Reading

THE PUBLIC FINANCE MANAGEMENT (AMENDMENT) BILL
(SENATE BILLS NO.40 OF 2023)

(Sen. Kibwana on 28.5.2024)

(Resumption of debate interrupted on 30.5.2024)

The Speaker (Hon. Kingi): Hon. Senators, I will now proceed to put the Question. You may proceed to vote once the system is up and running.

DIVISION

ELECTRONIC VOTING

(Question, that the Public Finance Management (Amendment) Bill (Senate Bills No.40 of 2023), be now read a Second Time, put and the Senate proceeded to vote by county delegations)

AYES: Sen. Abass, Wajir County; Sen. Boy, Kwale County; Sen. Cherarkey, Nandi County; Sen. Cheruiyot, Kericho County; Sen. Chesang, Trans Nzoia County; Sen. Dullo, Isiolo County; Sen. Faki, Mombasa County; Sen. Gataya Mo Fire, Tharaka-Nithi County; Sen. Githuku, Lamu County; Sen. Kathuri, Meru County; Sen. (Dr.) Khalwale, Kakamega County; Sen. Kinyua, Laikipia County; Sen. Kisang', Elgeyo-Marakwet County; Sen. (Dr.) Lelegwe Ltumbetsi, Samburu County; Sen. Lomenen, Turkana county; Sen. Maanzo, Makueni County; Sen. Mandago, Uasin Gishu County; Sen. Methu, Nyandarua County; Sen. Mwaruma, Taita-Taveta County; Sen. (Dr.) Oburu, Siaya County; Sen. Ogola, Homa Bay County; Sen. Okiya Omtatah, Busia County; Sen. Onyonka, Kisii County; Sen. Osotsi, Vihiga County; Sen. Seki, Kajiado County; Sen. Sifuna, Nairobi City County; and, Sen. Wamatinga, Nyeri County.

NOES: Nil

ABSTENTIONS: Nil

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

AYES: 27

NOES: 0

ABSTENTIONS: 0

The "Ayes" have it.

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(Question carried by 27 votes to Nil)

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

The Speaker (Hon. Kingi): Next Order, Clerk.

Second Reading

THE STREET VENDORS (PROTECTION OF LIVELIHOOD) BILL
(SENATE BILLS NO.41 OF 2023)

(Sen. Okenyuri on 17.10.2023)

(Resumption of debate interrupted on 11.7.2024)

The Speaker (Hon. Kingi): Hon. Senators, I will now proceed to put the Question.

You may now proceed to vote.

(The Senators proceeded to vote)

Sen. Onyonka, proceed to the Dispatch Box and cast your vote.

(Voting in progress)

DIVISION

ELECTRONIC VOTING

(Question, that the Street Vendors (Protection of Livelihood) Bill (Senate Bills No.41 of 2023) be now read a Second Time Put, and the Senate proceeded to vote by County Delegations)

AYES: Sen. Abass, Wajir County; Sen. Boy, Kwale County; Sen. Cherarkey, Nandi County; Sen. Cheruiyot, Kericho County; Sen. Chesang, Trans Nzoia County; Sen. Dullo, Isiolo County; Sen. Faki, Mombasa County; Sen. Gataya Mo Fire, Tharaka-Nithi County; Sen. Githuku, Lamu County; Sen. Kathuri, Meru County; Sen. (Dr.) Khalwale, Kakamega County; Sen. Kinyua, Laikipia County; Sen. Kisang', Elgeyo-Marakwet County; Sen. (Dr.) Lelegwe Ltumbesi, Samburu County; Sen. Lomenen, Turkana County; Sen. Maanzo, Makueni County; Sen. Mandago, Uasin Gishu County; Sen. Methu, Nyandarua County; Sen. Mwaruma, Taita Taveta County; Sen. (Dr.) Oburu, Siaya County; Sen. Ogola, Homa Bay County; Sen. Okiya Omtatah, Busia County; Sen.

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Osotsi, Vihiga County; Sen. Onyonka, Kisii County; Sen. Seki, Kajiado County; Sen. Sifuna, Nairobi County; Sen. Wamatinga, Nyeri County.

NOES: Nil

The Speaker (Hon. Kingi): Hon. Senators, the result for the Division on Order No. 10 is as follows;

AYES: 27

NOES: 0

ABSENTIONS: Nil

The “Ayes” have it.

(Question carried by 27 votes to Nil)

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

The Speaker (Hon. Kingi): Next Order.

Second Reading

THE LAW OF SUCCESSION (AMENDMENT) BILL
(SENATE BILLS NO.20 OF 2023)

(Sen. Veronica Maina on 16.07.24)

(Resumption of debate interrupted on 16.7.2024)

Hon. Senators, I will proceed to put the question:

That the Law of Succession (Amendment) Bill (Senate Bills No.20 of 2023) be now read a Second Time.

If the system is up and running, you may proceed to vote. Can we get the system running?

(Voting in progress)

DIVISION

ELECTRONIC VOTING

*(Question, that the Law of Succession (Amendment) Bill
(Senate Bills No.20 of 2023) be read a Second Time,
put and the Senate proceeded to vote by county delegations)*

AYES: Sen. Abass, Wajir County; Sen. Boy, Kwale County; Sen. Cherarkey, Nandi County; Sen. Cheruiyot, Kericho County; Sen. Chesang, Trans Nzoia County; Sen.

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Dullo, Isiolo County; Sen. Gataya Mo Fire, Tharaka Nithi County; Sen. Githuku, Lamu County; Sen. Kathuri, Meru County; Sen. (Dr.) Khalwale, Kakamega County; Sen. Kinyua, Laikipia County; Sen. Kisang, Elgeyo-Marakwet County; Sen. (Dr.) Lelegwe Ltumbesi, Samburu County; Sen. Lomenen, Turkana County; Sen. Mandago, Uasin Gishu County; Sen. Methu, Nyandarua County; Sen. Mwaruma, Taita-Taveta County; Sen. (Dr.) Oburu, Siaya County; Sen. Ogola, Homa Bay County; Sen. Onyonka, Kisii County; Sen. Sifuna, Nairobi City County; Sen. Osotsi, Vihiga County and Sen. Wamatinga, Nyeri County,

NOES: Sen. Faki, Mombasa County; Sen. Maanzo, Makueni County; Sen. Okiya Omtatah, Busia County and Sen. Seki, Kajiado County;

ABSTENTIONS: Nil

The Speaker (Hon. Kingi): Hon. Senators, the results of the Division on Order No.11 are as follows:

AYES: 23

NOES: 4

ABSTENTIONS: 0

The Speaker (Hon. Kingi): The Bill has failed to garner the requisite number of delegates---

Sen. Lomenen: On a point of order, Mr. Speaker, Sir.

The Speaker (Hon. Kingi): What is your intervention, Sen. Lomenen?

Sen. Lomenen: Mr. Speaker, Sir, Standing Order No.89 talks of confusion or error. While I was talking with the dignified Member for Busia County, I made an error and placed my vote as “No” instead of “Yes”. I have children and I have taken that responsibility of---

(Laughter)

The Speaker (Hon. Kingi): Take your seat, Sen. Lomenen.

Sen. Okiya Omtatah: No, but I did not confuse him! He is the one who is confusing me to vote---

(Laughter)

The Speaker (Hon. Kingi): Sen. Lomenen, kindly, take your seat. Having listened to you and having listened to Sen. Okiya Omtatah, certainly, there was some confusion. I will, therefore, direct that another round of voting be taken on this particular Order.

(Loud consultations)

The Speaker (Hon. Kingi): No, a fresh round will be taken for everybody. We are going to have another round of electronic voting.

Clerk, can you get the system back so that you allow hon. Senators to vote?

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(Sen. (Dr.) Khalwale spoke off record)

The Speaker (Hon. Kingi): I thought I was very clear, Sen. (Dr.) Khalwale. There was confusion. Under Standing Order No.89, the only recourse we have is for the Speaker to order for another round of electronic voting.

So, let us proceed to vote.

Yes, Sen. (Dr.) Khalwale?

Sen. (Dr.) Khalwale: Mr. Speaker, Sir, I want to thank you for that ruling, but I would like to request you to make a clarification. Kenya is becoming more and more transparent. Gen Z would like to know that the reason why there was confusion is that some of the people wanted to lock out their own children that they have birthed. This law is trying to protect---

The Speaker (Hon. Kingi): You are totally out of order, Sen. (Dr.) Khalwale! Clerk, can you put the system on the screen to allow hon. Senators to vote?

(Voting in progress)

(Loud consultations)

Sen. Okiya Omtatah: I am totally disgusted! I am totally disgusted!

The Speaker (Hon. Kingi): Senator for Busia County, you do not have the Floor. If you want the Floor, you know what to do.

Sen. Okiya Omtatah: Open the door! I am not going to be part of a scam! I have never been a scam and I will not---

The Speaker (Hon. Kingi): Sen. Omtatah, you cannot term the proceedings of the House a scam.

Sen. Okiya Omtatah: It is a scam!

The Speaker (Hon. Kingi): Under Standing Order No.89, it is very clear. The Senator for Turkana County stood. You said that he confused you. Therefore, there was confusion.

Sen. Okiya Omtatah: He confused me.

The Speaker (Hon. Kingi): Exactly, there was confusion.

Sen. Okiya Omtatah: There was no confusion.

The Speaker (Hon. Kingi): Can you put the screen on so that we proceed.

(Loud consultations)

Sen. Okiya Omtatah: I beg to be thrown out.

(Laughter)

The Speaker (Hon. Kingi): I will throw you out once we are done with business.

Sen. Okiya Omtatah: No, throw me out right now because I cannot be part of a scam.

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The Speaker (Hon. Kingi): Let us proceed to vote, hon. Senators. Sen. Omtatah, you may sit down. I will throw you out once the doors are open. For now, they are locked.

(Loud consultations)

Order, hon. Senators! Let us conclude Order No.8.

Sen. Okiya Omtatah: *(Inaudible)*

The Speaker (Hon. Kingi): Hon. Omtatah!

Clerk, can you proceed to collect the results. Time is running, hon. Senators.

(Loud consultations)

Order, hon. Senators! Sen. Omtatah, you cannot invite the Chair to throw you out. You cannot dictate to me on what to do. I will throw you out when I wish, to but for now---

Sen. Okiya Omtatah: Throw me out because while I am in this House, I am an accessory. Throw me out!

(Loud consultations)

The Speaker (Hon. Kingi): Order, hon. Senators. The voting period is concluded. I am waiting for the results. Can you let the Clerk-at-the-Table do his job?

Sen. Orwoba: *Ona sasa*, Sen. Omtatah. Our children, our babies, our Gen Z---

The Speaker (Hon. Kingi): Order, Sen. Gloria!

(Loud consultations)

(Voting in progress)

Sen. Okiya Omtatah and Sen. Osotsi, please proceed to the Dispatch Box.

(Sen. Osotsi proceeded to the Dispatch Box)

Let the hon. Member cast his vote.

(Sen. Orwoba spoke off record)

Order, Sen. Orwoba!

Sen. Okiya Omtatah, please, proceed.

(Sen. Okiya Omtatah proceeded to vote)

Hon. Senators, take your seats.

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(Sen. Maanzo consulted Sen. Sifuna)

Sen. Maanzo, please, take your seat.

DIVISION

ELECTRONIC VOTING

*(Question that the Law of Succession (Amendment) Bill
(Senate Bills No.20 of 2023) be now Read a Second Time, put
and the Senate proceeded to vote by County Delegations)*

AYES: Sen. Abass, Wajir County; Sen. Boy, Kwale County; Sen. Cherarkey, Nandi County; Sen. Cheruiyot, Kericho County; Sen. Chesang', Trans-Nzoia County; Sen. Dullo, Isiolo County; Sen. Gataya Mo Fire, Tharaka Nithi County; Sen. Githuku, Lamu County; Sen. Kathuri, Meru County; Sen. (Dr.) Khalwale, Kakamega County; Sen. Kinyua, Laikipia County; Sen. Kisang, Elgeyo Marakwet County; Sen. Lomenen, Turkana County; Sen. (Dr.) Lelegwe Ltumbesi, Samburu County; Sen. Mandago, Uasin Gishu County; Sen. Methu, Nyandarua County; Sen. Mwaruma, Taita Taveta County; Sen. (Dr.) Oburu, Siaya County; Sen. Ogola, Homa Bay County; Sen. Onyonka, Kisii County; Sen. Osotsi, Vihiga County; Sen. Sifuna, Nairobi City County and, Sen. Wamatinga, Nyeri County.

NOES: Sen. Faki, Mombasa County; Sen Maanzo, Makueni County; Sen. Okiya Omtatah, Busia County; Sen. Seki. Kajiado County.

The Speaker (Hon. Kingi): Now, Hon. Senators, the results of the Division on Order No.11 are as follows:

AYES: 23

NOES: 4

ABSTENTIONS: 0

The Speaker (Hon. Kingi): Hon. Senators, the Bill fails to garner the requisite delegation and therefore it fails.

(The Bill was negated by 23 votes to 4)

Next Order.

Second Reading

THE PUBLIC TRANSPORT (MOTORCYCLE REGULATION) BILL (SENATE BILLS NO.38 OF 2023)

(Sen. (Dr.) Khalwale on 14.5.2024)

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(Resumption of debate interrupted on 23.7.2024)

(Division)

The Speaker (Hon. Kingi): Order, hon. Senators.
Order, Senator for Vihiga County, Sen. Osotsi.
I will proceed to put the Question.

(Sen. Kinyua consulted Sen. Ogola)

Order, Sen. Kinyua and Sen. Ogola

I will proceed to put the Question on Order No.12. Question that the Public Transport (Motorcycle Regulation) Bill (Senate Bill No. 38 of 2023) be now read a Second Time.

Hon. Senators, once the system is up and running, you may proceed to cast your vote.

Sen. Mwaruma, you cannot raise a point of order. If you need clarification---
The system is up.

(Sen. Mwaruma Spoke off record)

Serjeant-at-Arms, kindly draw the Bars, open the Doors and ring the Quorum Bell for five minutes.

(The Bars were undrawn and doors opened)

(The Quorum Bell was rung)

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

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

The Temporary Speaker (Sen. Veronica Maina): Serjeant-at-Arms, you may draw the Bar and close the doors.

(The Bar was drawn and Doors closed)

Please log in a fresh. Serjeant-at-Arms, please, look out for cards that are not attended.

Hon. Senators, kindly, start voting now. Log out and log in again.

(Voting in progress)

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Senate Majority Leader, please, approach the Clerks-at-the Table for assistance in voting.

(Sen. Cheruiyot approached the Clerks-at-the-Table and registered his vote)

(Sen. Orwoba consulted with Sen. Miraj)

Sen. Gloria, please, resume your seat.

(Sen. Orwoba sat at her place)

DIVISION

ELECTRONIC VOTING

(Question, that the Public Transport (Motorcycle Regulation) Bill (Senate Bills No.38 of 2023) be now read a Second Time, put and the Senate proceeded to vote by county delegations)

AYES: Sen. Abass, Wajir County; Sen. Abdul Haji, Garissa County; Sen. Ali Roba, Mandera County; Sen. Cherarkey, Nandi County; Sen. Cheruiyot, Kericho County; Sen. Dullo, Isiolo County; Sen. Faki, Mombasa County; Sen. Gataya Mo Fire, Tharaka Nithi County; Sen. Githuku, Lamu County; Sen. Kathuri, Meru County; Sen. (Dr.) Khalwale, Kakamega County; Sen. Kisang, Elgeyo-Marakwet; Sen. (Dr.) Lelegwe Ltumbesi, Samburu County; Sen. Lomenen, Turkana County; Sen. Maanzo, Makueni County; Sen. Mandago, Uasin Gishu County; Sen. Methu, Nyandarua County; Sen. Munyi Mundigi, Embu County; Sen. Mwaruma, Taita-Taveta County; Sen. (Dr.) Oburu, Siaya County; Sen. Ogola, Homa Bay County; Sen. Omogeni, Nyamira County; Sen. Osotsi, Vihiga County; Sen. Seki, Kajiado County; Sen. Sifuna, Nairobi City County; Sen. Thang'wa, Kiambu County; and, Sen. Wamatinga, Nyeri County.

NOES: Nil.

The Temporary Speaker (Sen. Veronica Maina): Hon. Senators, these are the results on the Division on the Public Transport (Motorcycle Regulation) Bill (Senate Bills No.38 of 2023).

AYES: 27

NOES: 0

ABSENTION: 0

“The Ayes have it.”

(Question carried by 27 votes to 0)

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

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Let us go to the next Order.

Second Reading

THE CONSTITUTION OF KENYA (AMENDMENT) (NO.2) BILL
(SENATE BILLS NO.52 OF 2023)

(Sen. Chimera on 30.5.2024)

(Resumption of debate interrupted on 23.7.2024)

Hon. Senators, please, log out and log in again.

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

Sen. Seki and Sen. (Dr.) Khalwale, please, resume your seats.

Hon. Senators, I will put the question, which is that the Constitution of Kenya (Amendment) (No.2) Bill (Senate Bills No.52 of 2023) be now read a Second Time. You may proceed to vote.

(Voting in progress)

Hon. Senators, do not vote yet. I need to read out certain provisions of the Constitution.

The Division that has been called out is regarding an amendment to the Constitution and I want to read out for you Article 256 (1)(d).

That, the amendment that is on the Floor of the House -

“(d) shall have been passed by Parliament when each House of Parliament has passed the Bill, in both its Second and Third Readings, by not less than two-thirds of all the Members of that House.”

This means all delegations are voting together with all specially elected Senators, that is the nominated Senators.

(Applause)

Hon. Senators, to achieve the two-thirds, we would need 47 votes. What is two-thirds of 67? The Secretariat, can you give me the calculation? It is 45 and not 47 votes. It will only be successful if we achieve 45 votes. That is the Bill you are about to vote on right now.

Sen. (Dr.) Khalwale: Madam Temporary Speaker, may I seek a clarification?

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The Temporary Speaker (Sen. Veronica Maina): Sen. (Dr.) Khalwale, what is the clarification?

Sen. (Dr.) Khalwale: Madam Temporary Speaker, the clarification I seek is that, that being the case, it means even before we take the vote, we must have at least 45 delegations in the House. Since there are no 45 delegations now, we cannot proceed with this vote. Could you issue that clarification?

(Loud consultations)

Sorry, Madam Temporary Speaker, we do need 45 Members. Can you issue that clarification further? We cannot proceed.

The Temporary Speaker (Sen. Veronica Maina): Hon. Senators, in view of the numbers that we have in the House, this vote shall be deferred to the next sitting.

(Putting of the Question on the Bill deferred)

Next Order.

BILL

Second Reading

THE FIRE AND RESCUE SERVICES PROFESSIONALS BILL (SENATE BILLS NO.55 OF 2023)

(Sen. Abass on 24.7.2024)

(Resumption of debate interrupted on 24.7.2024)

(Division)

Hon. Senators, you may log out.

Let me now put the question that the Fire and Rescue Services Professionals Bill (Senate Bills No.55 of 2023) be now read a Second Time.

Hon. Senators, please, log back in. You may proceed to vote.

(Voting in progress)

Sen. Githuku, Sen. Thang'wa and the Majority Leader, please approach the Dispatch Box for assistance.

*(Sen. Githuku, Sen. Thang'wa and Sen. Cheruiyot
approached the Dispatch Box)*

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(Voting in progress)

DIVISION

ELECTRONIC VOTING

(Question, that the Fire and Rescue Services Professionals Bill (Senate Bills No.55 of 2023), be now read a Second Time, put and the Senate proceeded to vote by county delegations)

AYES: Sen. Abass, Wajir County; Sen. Abdul Haji, Garissa County; Sen. Ali Roba, Mandera County; Sen. Cherarkey, Nandi County; Sen. Cheruiyot, Kericho County; Sen. Dullo, Isiolo County; Sen. Faki, Mombasa County; Sen. Gataya Mo Fire, Tharaka Nithi County; Sen. Githuku, Lamu County; Sen. Kathuri, Meru County; Sen. (Dr.) Khalwale, Kakamega County; Sen. Kisang', Elgeyo Marakwet County; Sen. (Dr.) Lelegwe Ltumbetsi, Samburu County; Sen. Lomenen, Turkana county; Sen. Maanzo, Makueni County; Sen. Mandago, Uasin Gishu County; Sen. Methu, Nyandarua County; Sen. Munyi Mundigi, Embu County; Sen. Mwaruma, Taita-Taveta County; Sen. (Dr.) Oburu, Siaya County; Sen. Ogola, Homa Bay County; Sen. Omogeni, Nyamira County; Sen. Osotsi, Vihiga County; Sen. Seki, Kajiado County; Sen. Sifuna, Nairobi City County; Sen. Thangw'a, Kiambu County; and Sen. Wamatinga, Nyeri County.

NOES: Nil

ABSTENTIONS: Nil

The Temporary Speaker (Sen. Veronica Maina): Hon. Senators, the results of the Division are as follows:

AYES: 27

NOES: 0

ABSTENTIONS: 0

The "Ayes" have it.

(Question carried by 27 votes to Nil)

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

Next Order.

MOTION**ADOPTION OF REPORT ON CONSIDERATION OF THE SOCIAL HEALTH INSURANCE (GENERAL) REGULATION, 2024 AND THE SOCIAL HEALTH INSURANCE (TRIBUNAL PROCEDURE) RULES, 2024**

THAT, the Senate adopts the Report of the Select Committee on Delegated Legislation on its consideration of the Social Health Insurance (General) Regulations, 2024 and the Social Health Insurance (Tribunal Procedure) Rules, 2024, laid on the Table of the Senate on Tuesday, 2nd July, 2024; and that pursuant to Section 18 of the Statutory Instruments Act, the Senate resolves to annul: -

- i. the Social Health Insurance (General) Regulations, 2024 (Legal Notice No. 49 of 2024); and
- ii. the Social Health Insurance (Tribunal Procedure) Rules, 2024, (Legal Notice No. 48 of 2024).

(Sen. Gataya Mo Fire on 10.7.2024)

(Resumption of debate interrupted on 10.7.2024P)

The Temporary Speaker (Sen. Veronica Maina): Hon. Senators, can you, please, log out.

(Several Senators stood up in their places)

Hon. Senators, please, resume your seats. Sen. Abass, Sen. Osotsi and Sen. Betty Montet, resume your seats.

DIVISION**ELECTRONIC VOTING**

(Question, that the Senate adopts the Report of the Select Committee on Delegated Legislation on its consideration of the Social Health Insurance (General) Regulations, 2024 and the Social Health Insurance (Tribunal Procedure) Rules, 2024, laid on the Table of the Senate on Tuesday, 2nd July, 2024; and that pursuant to Section 18 of the Statutory Instruments Act, the Senate resolves to annul:-

- i. *the Social Health Insurance (General) Regulations, 2024 (Legal Notice No. 49 of 2024);and*
- ii. *ii. the Social Health Insurance (Tribunal Procedure) Rules, 2024, (Legal Notice No. 48 of 2024), put and the Senate proceeded to vote by county delegations)*

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AYES: Sen. Abass, Wajir County; Sen. Abdul Haji, Garissa County; Sen. Cherarkey, Nandi County; Sen. Dullo, Isiolo County; Sen. Faki, Mombasa County; Sen. Gataya Mo Fire, Tharaka Nithi County; Sen. Githuku, Lamu County; Sen. (Dr.) Khalwale, Kakamega County; Sen. Kisang', Elgeyo Marakwet County; Sen. Lomenen, Turkana county; Sen. Maanzo, Makueni County; Sen. Mwaruma, Taita Taveta County; Sen. (Dr.) Oburu, Siaya County; Sen. Ogola, Homa Bay County; Sen. Omogeni, Nyamira County; Sen. Osotsi, Vihiga County; Sen. Seki, Kajiado County; Sen. Sifuna, Nairobi City County; Sen. Thangw'a, Kiambu County; Sen. Wamatinga, Nyeri County and Sen. Wambua, Kitui County.

NOES: Sen. Ali Roba, Mandera County; Sen. Cheruiyot, Kericho County; Sen. Kathuri, Meru County; Sen. (Dr.) Lelegwe Ltumbetsi, Samburu County; Sen. Mandago, Uasin Gishu County; Sen. Methu, Nyandarua County; Sen. Munyi Mundigi, Embu County;

ABSTENTIONS: Nil

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

AYES: 21

NOES: 7

ABSTENTIONS: 0

The "Ayes" have it.

(Question negatived by 21 votes to 7)

Next Order.

MOTION

ADOPTION OF REPORT ON STATUS OF PROJECTS FUNDED BY THE CONDITIONAL GRANT FOR CONSTRUCTION OF COUNTY HEADQUARTERS

THAT, the Senate adopts the Report of the Standing Committee on Finance and Budget on the status of implementation of projects funded by the Conditional Grant for the construction of County Headquarters laid on the Table of the Senate on Thursday, 28th March, 2024.

(Sen. Ali Roba on 28.03.2024)

(Resumption of debate interrupted on 18.7.2024P)

The Temporary Speaker (Sen. Veronica Maina): Sen. Abass and Sen. (Dr.) Oburu, please approach the Clerk's desk.

(Sen. Abass and Sen. (Dr.) Oburu approached the Clerk's Table)

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Sen. Omogeni, that is distracting Sen. (Dr.) Oburu.

DIVISION

ELECTRONIC VOTING

(Question, that the Senate adopts the Report of the Standing Committee on Finance and Budget on the status of implementation of projects funded by the Conditional Grant for the construction of County Headquarters laid on the Table of the Senate on Thursday, 28th March, 2024, put, and the Senate proceeded to vote by county delegations)

AYES: Sen. Abdul Haji, Garissa County; Sen. All Roba, Mandera County; Sen. Cherarkey, Nandi County; Sen. Cheruiyot, Kericho County; Sen. Dullo, Isiolo County; Sen. Faki, Mombasa County; Sen. Gataya, Tharaka Nithi County; Sen. Githuku, Lamu County; Sen. Kathuri, Meru County; Sen. (Dr.) Khalwale, Kakamega County; Sen. Kisang', Elgeyo Marakwet County; Sen. (Dr.) Lelegwe Ltumbesi, Samburu County; Sen. Lomenen, Turkana County; Sen. Maanzo, Makueni County; Sen. Mandago, Uasin Gishu County; Sen. Methu, Nyandarua County; Sen. Mundigi, Embu County; Sen. Mwaruma, Taita Taveta County; Sen. (Dr.) Oburu, Siaya County; Sen. Ogola, Homa Bay County; Sen. Omogeni, Nyamira County; Sen. Osotsi, Vihiga County; Sen. Seki, Kajiado County; Sen. Sifuna, Nairobi County; Sen. Thang'wa, Kiambu County; and, Sen. Wamatinga, Nyeri County.

NOES: Nil

The Temporary Speaker (Sen. Veronica Maina): Hon. Senators, these are the results of the Division.

AYES: 26

NOES: 0

ABSENTIONS: Nil

The "Ayes" have it.

(Question carried by 26 votes to Nil)

Hon. Senators, we have one Motion that requires urgent attention. For that, I will reorganize the Order Paper so that Order No.28 is called out first. After that, we will have a few minutes for comments on the Statements.

Next Order.

Do not open the Bar. The Chair is in charge. Hold it.

*(The Temporary Speaker (Sen. Veronica Maina)
consulted with the Clerk)*

Hon. Senators, you may resume your seats.

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We want to correct an error that has occurred on record in respect of the results announced in Order No.15 – The Report of the Select Committee on delegated legislation on its consideration of the Social Health Insurance (General) Regulations, 2024 and the Social Health Insurance (Tribunal Procedure) Rules, 2024.

Under Standing Order No.90:

“Errors Corrected.

If, after an Electronic or Roll Call vote has been made, it is discovered that the number has been inaccurately reported or that an error has occurred in the names on the Division lists, that fact shall be reported to the Senate and the Speaker shall direct that the necessary correction be made.”

We noted that Sen. Abdul Haji had voted electronically but he also approached the Clerk’s desk and voted ‘yes’. He assumed that the system had not taken his vote and this changed the vote.

It negatives one vote from the ‘Ayes’; 24 to 23; so, the ‘Ayes’ are 23, the ‘Noes’ are 4, Abstention are 0. It has been negated. Those are the results for Order No.15.

Sen. (Dr.) Khalwale, what is the clarification?

Sen. (Dr.) Khalwale: Madam Temporary Speaker, consequence to that finding, it then makes a very substantive pronouncement on the outcome to the extent that a Motion that had sailed has now been negated. Can you please clarify whether it is, therefore, not necessary that we vote again?

(Loud consultations)

(An Hon. Senator spoke off record)

Kindly clarify. I know you know these things better than I do. Allow the Chair---

The Temporary Speaker (Sen. Veronica Maina): Hon. Senators, the Standing Orders actually give powers for correction of errors. However, just for clarity and to make sure that you are certain of the vote you have given, I will direct that you---

(An Hon. Senator spoke off record)

An Hon. Senator: Which Standing Order is this?

The Temporary Speaker (Sen. Veronica Maina): Standing Order No.89. Once doubt is introduced, it is good to clear the air. I will use Standing Order No.90, so that we uphold the highest levels of integrity in the voting system in the House. Hon. Senators, let us consult in low tones.

Sen. Cherarkey: On a point of order, Madam Temporary Speaker.

The Temporary Speaker (Sen. Veronica Maina): What is your point of order, Sen. Cherarkey?

Sen. Cherarkey: Madam Temporary Speaker, under the same Standing Order No. 89, with all due respect, it says ‘cannot be corrected’. Under Standing Order No.1,

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you have the power to correct that one vote instead of subjecting or unnecessarily calling for another vote. It cannot be corrected. I am inviting---

The Temporary Speaker (Sen. Veronica Maina): Sen. Cherarkey---

Sen. Cherarkey: Madam Temporary Speaker, for clarification. Under Standing Order No.1, could you subsume those powers to correct that one vote because there are Members who want to use the washrooms. You have been holding them for that long and they are becoming uncomfortable.

The Temporary Speaker (Sen. Veronica Maina): Sen. Cherarkey, thank you for your submissions, but I have given the direction. It is proceeding to a vote. Let us proceed to vote. Let us make it easy.

(Loud consultations)

Hon. Senators, let us consult in low tones. Kindly log out and log back in.

What is your point of order, Sen. Sifuna? Proceed.

Sen. Sifuna: Madam Temporary Speaker, you have put a direction on the Floor, but I can see all my colleagues standing up and defying the directive of the Speaker. We have just had a similar situation with the Senator of Turkana County and we put it to a vote. We are all here and we will just clear the air.

I need guidance. I am not doubting what you have told us, but how is it possible for a Member to ascertain that the error involving Sen. Abdul Haji actually happened? How can we ascertain that?

The Temporary Speaker (Sen. Veronica Maina): Senator, you can approach the desk. I have seen the Electronic Vote sheet and where he signed.

Sen. Sifuna: Very well.

The Temporary Speaker (Sen. Veronica Maina): Hon. Senators, kindly resume your seats. Sen. Thang'wa and Sen. Mandago, resume your seats. Sen. Betty Montet, you are on the opposite side of the House. Kindly resume your seat.

Broad-based Government, resume your seat on the Government side. That is welcome. Sen. Orwoba, resume your seat.

This should take us under two minutes. Hon. Senators, please resume your seats. Sen. Munyi Mundigi and Sen. Mandago. Hon. Senators---

(Sen. Mandago spoke off record)

Sen. Mandago, you are out of order now. Senator for Embu County, resume your seat.

The question was put and the Senators proceed to vote.

Please log back in and vote. Kindly start voting.

(Voting in progress)

Sen. Wambua, can you, please approach the Clerks' desk.

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(Sen. Wambua approached the Table)

Hon. Senators, please resume your seats so that we can announce the results of the Division.

DIVISION

ELECTRONIC VOTING

(Question that the Senate Adopts the Report of the Select Committee on Delegated Legislation on the consideration of Social Health Insurance (General) Regulations, 2024 and the Social Health Insurance (Tribunal Procedure) Rules, 2024 laid on the Table of the Senate on Tuesday, 2nd July, 2024; and that pursuant to Section 18 of the Statutory Instruments Act, the Senate resolves to annul

- (i) the Social Insurance (General) Regulation, 2024; (Legal; Notice No.49 of 2024, and*
- (ii) the Social Health Insurance (Tribunal Procedure) Rules, 2024, Legal Notice No. 48 of 2024 put and the Senate proceeded to vote by County Delegations)*

AYES: Sen. Abass, Wajir County; Sen. Abdul Haji, Garissa County; Sen. Cherarkey, Nandi County; Sen. Dullo, Isiolo County; Sen. Faki, Mombasa County; Sen. Gataya Mo Fire, Tharaka Nithi County; Sen. Githuku, Lamu County; Sen. (Dr.) Khalwale, Kakamega County; Sen. Kisang, Elgeyo Marakwet County; Sen. Lomenen, Turkana County; Sen. Maanzo, Kitui County; Sen. Mwaruma, Taita Taveta County; Sen. (Dr.) Oburu, Siaya County; Sen. Ogola, Homa Bay County; Sen. Omogeni, Nyamira County; Sen. Osotsi, Vihiga County; Sen. Seki, Kajiado County; Sen. Sifuna, Nairobi City County; Sen. Thang'wa, Kiambu County; Sen. Wamatinga, Nyeri County; and, Sen. Wambua, Kitui County.

NOES: Sen. Ali Roba, Mandera County; Sen. Cheruiyot, Kericho County; Sen. Kathuri, Meru County; Sen. (Dr.) Lelegwe Ltumbesu, Samburu County; Sen. Mandago, Uasin Gishu County, Sen. Munyi Mundigi; and, Sen. Methu, Nyandarua County.

The Temporary Speaker (Sen. Veronica Maina): Hon. Senators, these are the results of the Division on the Report of the Select Committee on Delegated Legislation on the consideration of Social Health Insurance General Regulations, 2024 and the Social Health Insurance Tribunal Procedure Rules, 2024.

AYES: 21

NOES: 7

ABSTENTIONS: 0

(Question negated by 21 votes to 7)

Sen. Faki: On a point of order, Madam Temporary Speaker.

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The Temporary Speaker (Sen. Veronica Maina): What is your point of order, Sen. Faki?

Sen. Faki: Madam Temporary Speaker, I have counted the Delegations currently in the House and they are 28. I do not know how the 29 who voted comes about.

The Temporary Speaker (Sen. Veronica Maina): Let us confirm.

(The Clerk consulted the Temporary Speaker (Sen. Veronica Maina))

Sen. Faki, have you counted Sen. Beatrice Ogola who is voting on behalf of the Delegation from Homa Bay County?

(Sen. Faki spoke off record)

Just come to the Table and reconcile the names with the Clerks' desk.

(Sen. Faki proceeded to the Dispatch Box)

As you confirm, we will move to the Next Order.
Serjeant-at-Arms, you may open the Doors and---

(Loud consultations)

Order! hon. Senators. It is a small issue that we can resolve. Please, resume your seats so that we can resolve that issue.

Sen. (Dr.) Lelegwe and Sen. Ogola, please resume your seats.

Clerk, have you confirmed the number of votes?

Serjeant-at-Arms, it is always important to withdraw the cards that are not attended to.

(Loud consultations)

Hon. Senators, please resume your seats so that we resolve this issue.

Hon. Kamau, please resume your seat.

Hon. Senators, the Clerk has looked at the list of Senators who have voted on this Bill on the second round. Under Standing Order No. 90, we have corrected the error that it appeared as if Sen. John Kinyua had voted while, in actual fact, that is not the position. So, that has been corrected and even Sen. Munyi Mundigi.

So, these are the results of the vote.

AYES: 21

NOES: 7

ABSTENTIONS: 0

The Question is still negative.

Sen. Omogeni: on a point of order, Madam Temporary Speaker.

The Temporary Speaker (Sen. Veronica Maina): What is your point of order, Sen. Omogeni?

Sen. Omogeni: Madam Temporary Speaker, we have a title called “Hon. Members.” When we sit here as Senators and it transpires that somebody has cast a vote on behalf of two Senators who are not in this House, how does it reflect on our integrity as hon. Members?

There are things we should draw a red line. We cannot degenerate to that level. How do we trust each other if we sit in this House, but when you realize that your colleague is not there and you want to carry the vote, you vote on their behalf? This is a matter that we should refer to the Powers and Privileges Committee; we know who cast that vote so that we bring this to an end.

You do not have to win by all means. You win in a fair contest. These were two votes cast. We request that you refer this matter to the Powers and Privileges Committee so that we know who has voted fraudulently on behalf of Senators who are not in the House. If we do not protect the integrity of this House, we are failing completely.

The Temporary Speaker (Sen. Veronica Maina): Thank you, Sen. Omogeni.

Sen. Cherarkey: On a point of order, Madam Temporary Speaker.

The Temporary Speaker (Sen. Veronica Maina): What is your point of order, Sen. Cherarkey?

Sen. Cherarkey: Madam Temporary Speaker, we should not be emotive about anything and refer Members to the Powers and Privileges Committee just to look good in the eyes of the public.

I am not protecting anybody who voted on behalf of another Senator, but there is nowhere that says that if a Senator votes on behalf of another Senator, he should be referred to the Powers and Privileges Committee.

The conduct and decorum during Division as per Standing Order No. 1 is very clear. Every time we went for Division, you directed that the Serjeant-at-Arms withdraws all the cards that are not active. So, it is not the making of Members, it is the making of your own direction.

The Serjeant-at-Arms should advise us or brief you in camera or otherwise, whether those cards were withdrawn. This is because you have been giving that direction in every Division. So, you cannot shift blame to Members yet the direction had already been issued. I do not think this thing can be referred to the Powers and Privileges Committee as early as now.

In the ‘Lower’ House, a Member alleged that Kshs2 million was given to Members, but the Speaker of that House has not even allowed that matter to be referred to the Powers and Privileges Committee.

This is a small matter. The Bible says to forgive 70 times 70 times. We do not need to create a mountain---

(Loud consultations)

The Temporary Speaker (Sen. Veronica Maina): Order, Senators! Someone is on the Floor.

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Sen. Cherarkey: Madam Temporary Speaker, in conclusion, we do not need to create a mountain out of an anthill. Let bygones be bygones and we move as a House under the broad-based ideology.

I thank you.

The Temporary Speaker (Sen. Veronica Maina): Hon. Senators, let me give guidance---

Several hon. Senators: On a point of order, Madam Temporary Speaker.

The Temporary Speaker (Sen. Veronica Maina): Hon. Senators, I am the one who is guiding the proceedings of the House. Sen. Mundigi, resume your seat.

Sen. Munyi Mundigi: Madam Temporary Speaker---

The Temporary Speaker (Sen. Veronica Maina): Sen. Mundigi, you are out of order! I said you resume your seat.

Sen. Munyi Mundigi: Madam Temporary Speaker---

The Temporary Speaker (Sen. Veronica Maina): Sen. Mundigi, resume your seat or I get you out of the House. When I direct you to resume your seat, that is what you do. Do not argue when you have been given a direction from the Chair. Sen. Mundigi, you are out of order!

I want to give direction on this issue because we are not going to deal with many other---

Sen. Sifuna: On a point of order, Madam Temporary Speaker.

The Temporary Speaker (Sen. Veronica Maina): Sen. Sifuna, what is your point of order?

Sen. Sifuna: Madam Temporary Speaker, under Standing Order---

(Loud consultations)

The Temporary Speaker (Sen. Veronica Maina): Hon. Senators, you all cannot speak at the same time. We must give one another a chance and be reasonable. Please, Senators.

Sen. Sifuna: Madam Temporary Speaker, I will be very brief because I have seen the application of Standing Order No. 89 twice this afternoon. To me, the more concerning issue is how it is possible that an error affected one vote. However, when the question was put again, you see that people have voted totally differently from how they voted just a few minutes earlier. That to me is of great concern and it reflects very badly on the House and on the integrity of the votes that we take here.

The process that you have undertaken there of ascertaining every person's vote is very critical. As you know, we are in an age where we have to explain our individual votes on every single matter that comes before this House. So, it is an important process.

Maybe I would not align myself with the proposal to take it all the way to the Powers and Privileges Committee. However, as a House, we must reflect on this conduct because it is not something that reflects well on us.

Thank you.

The Temporary Speaker (Sen. Veronica Maina): Thank you, Sen. Sifuna.

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Sen. Gloria, I will give you a chance, but you should avoid booing when you do not get your chance as fast as you want it. Be respectful in the House.

Sen. Orwoba: Thank you, Madam Temporary Speaker. I am well guided.

I want to point out that when we had the Speaker Hon. Kingi in the Chair, we started voting on one of the Bills. Even the Speaker himself asked: Where is Sen. Agnes Kavindu who was in the House and the Division Bell had been rung and the doors were already closed, but she was nowhere to be seen. She had probably gone to the toilet or somewhere.

What I am trying to say is that it is very unfair that we have Senators here who are actually casting aspersions towards other Senators. You have seen Sen. Mundigi has just walked back in because he was in the bathroom.

Madam Temporary Speaker, I have been sent to the Powers and Privileges Committee so I know what it means when someone stands and says that we must send someone to the Powers and Privileges Committee. It is not a Committee to be abused.

What, maybe, we need to do is have a system that is transparent so that in case of an error like this one, we can see what the issue was.

Also, what Sen. Sifuna has raised is of more concern than Sen. Mundigi's card being in the system when he is in the bathroom after having voted and he walked away. This is because people are changing their minds within 30 seconds of voting.

The issue here is not that there are Senators who are actually going against the code of conduct of this House. I feel that this issue of misusing the Powers and Privileges Committee should be shunned. As we have been told, the National Assembly have had people stand up and literally paint the House as a House of corruption without any evidence, but they have never been referred to the Powers and Privileges Committee.

Here, when you just say: "Hey, something is wrong" they take you to the Powers and Privileges Committee, where it is the same culprits who are there.

We need to also stop abusing the systems that are here.

The Temporary Speaker (Sen. Veronica Maina): Thank you, Sen. Gloria.

The final point of order will come from Sen. Wambua and then I will give guidance on the issue.

Sen. (Dr. Khalwale): On a point of order, Madam Temporary Speaker.

Sen. Wambua: I am on a point of order.

The Temporary Speaker (Sen. Veronica Maina): Sen. (Dr.) Khalwale, I will give you a chance to raise a point of order. There are many more Senators here, from 47 counties and another 20 Senators; that is a total of 67 Senators. Let us give one another a chance. It is Sen. Wambua's turn.

Sen. Wambua: Thank you, Madam Temporary Speaker. I will also try to be very brief. I have listened to my colleagues and the appeal they have made in relation to the use or misuse of the Powers and Privileges Committee.

There are two things. One, the reference being made to what transpired at the National Assembly was a matter of allegations. An allegation was made that money was paid. It was an allegation. We are not dealing with an allegation here. We are dealing with a fact that a Senator who was not in the Chamber during Division has voted. That is a fact. It is not conjecture or an allegation.

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I will not guide you on how to manage this House and I cannot. Standing Order No.89 talks about confusion or an error in the votes, the numbers; maybe you do your math and you do not get it right. What has happened in this House is a deliberate move by a Senator to vote for and on behalf of another Senator. I can see my friend consulting, which is fine.

Lastly, Sen. Cherarkey made a reference to Standing Order No.91 and said that there is no express provision for a Member to be referred to the Powers and Privileges Committee for voting on behalf of another Member. However, Standing Order No. 1, which you have used many times, gives the Speaker the power on matters that are not expressly provided for by the Standing Orders to give direction.

We will sit here and wait for your ruling. We will be guided by it and deal with it appropriately.

The Temporary Speaker (Sen. Veronica Maina): Hon. Senators, having listened to all points of order that have been raised by different Senators on this issue, that is Sen. Boni, Sen. Cherarkey, Sen. Enock Wambua, Sen. Gloria and Sen. Sifuna, and having been part of the proceedings that have happened in this House, I would like to bring to the attention of the House Standing Order Nos.89 and 90.

The Standing Orders envisage possibilities that there could be a confusion or error and provide how those errors can be corrected. Every time those errors have been raised, the Chair has made sure that there is a serious effort to correct them, just to make sure we have credible results. Any attempt to bring results that are not credible, the Chair has definitely buffed because we want a proper vote and the integrity of the House to be upheld.

Hon. Senators, the much I can say is that if a Senator is absent, nobody should vote for them, unless they are part of the delegation of that specific county. I am not sure how the system captured a vote by Sen. Kinyua. I request the Clerk to ensure that a report is made on how that could have happened.

Sen. Mundigi appears to strongly defend his position. He said he was in the House, but had stepped out to the bathroom. The rest is capable of being reported back to this House, just to give the assurance that the vote has been done properly and that should be the procedure. Office of the Clerk, please prepare a report that will be presented in due course during the Senate proceedings, so that that error is not repeated.

Hon. Senators, all is not lost. The Chair has ensured that results being given is the correct report. After that report is received, it is when a decision will be made as to whether another Senator went to the desk of Sen. Kinyua and voted or not.

Hon. Senators, we will proceed to the next Order. Any further ruling will be made after that report is made. We must always remember that these proceedings are on camera. Therefore, evidence can be gathered on whatever happens or takes place within the Senate.

Those are issues that can be corrected. They do not go to the root, especially when the Standing Orders have provided how corrections can be done on a vote.

I had reorganised the Order Paper so as to have the urgent Motion which lapses today then we will have comments after that. Let us proceed to Order No.28, which has a lapse date in a few hours.

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MOTION

EXTENSION OF TIME FOR CONSIDERATION OF VALUERS (FORMS AND FEES) (AMENDMENT) RULES, 2024 (LEGAL NOTICE NO.69 OF 2024, THE SURVEY (AMENDMENT) REGULATIONS, 2024 (LEGAL NOTICE NO.71 OF 2024) AND THE LAND ADJUDICATION (AMENDMENT) REGULATIONS, 2024 (LEGAL NOTICE NO.76 OF 2024)

The Temporary Speaker (Sen. Veronica Maina): That is a Procedural Motion. Therefore, we do not expect debate on it. Proceed, Sen. Mo Fire.

Sen. Gatya Mo Fire: Madam Temporary Speaker, I beg to move the following Motion-

THAT, WHEREAS the Committee on Delegated Legislation is established under Standing Order 195(1) of the Senate Standing Orders and is mandated to scrutinize statutory instruments laid before the Senate;

RECALLING that on 2nd May, 2024, the Valuers (Forms and Fees) (Amendment) Rules, 2024 (Legal Notice No.69 of 2024), the Survey (Amendment) Regulations, 2024 (Legal Notice No.71 of 2024) and the Land Adjudication (Amendment) Regulations, 2024 (Legal Notice No.76 of 2024) were laid in the Senate and referred to the Committee on Delegated Legislation for consideration and scrutiny, pursuant to Section 12(1) of the Statutory Instruments Act, Cap. 2A and Standing Order 195(3) of the Senate Standing Orders;

NOTING that these statutory instruments seek to amend the Valuers (Forms and Fees) Rules, 1987, the Survey Regulations, 1994 and the Land Adjudication Regulations, 1970, respectively, which, pursuant to Section 21(1) of the Statutory Instruments Act, expired;

FURTHER NOTING that in course of considering the statutory instruments, the Committee was informed that an order had been issued by the High Court in Machakos Petition No. E002 of 2024 Innocent Musumbi Kimanathi vs the Attorney General and the National Assembly suspending the expiry of the statutory instruments contained in the Statutory Instruments (Exemption from Expiry) Regulations, 2022 (Legal Notice No.218 of 2022) and further suspending the operation of Section 21(1) of the Statutory Instruments Act, Cap. 2A;

APPRECIATING that under Section 15(2) of the Statutory Instruments Act, Cap. 2A, the Committee is required to make a report on the statutory instruments within twenty-eight sitting days after the date of referral of the instruments by the Senate and that with regard to the three statutory instruments, the time lapses on 30th July, 2024;

FURTHER APPRECIATING that in light of the court order issued by the High Court in Machakos, the Committee requires additional time in

order to conclusively interrogate the matter and to scrutinize the statutory instruments;

NOW THEREFORE, pursuant to section 15(3) of the Statutory Instruments Act, Cap. 2A, the Senate resolves to extend the timeline for consideration of the Valuers (Forms and Fees) (Amendment) Rules, 2024 (Legal Notice No.69 of 2024), the Survey (Amendment) Regulations, 2024 (Legal Notice No.71 of 2024) and the Land Adjudication (Amendment) Regulations, 2024 (Legal Notice No.76 of 2024) by twenty-one days in order to enable the Committee to conclusively consider and scrutinize the statutory instruments.

I beg to move and request Sen. Maanzo to second.

Sen. Maanzo: Madam Temporary Speaker, to add to what the Chair has indicated, Machakos Petition No. E002 of 2024 is, in fact, *res judicata* because we have a similar matter before the Court of Appeal. If the court in Machakos gets this information, it will make it easier for them to decide the matter pending. Therefore, there is duplicity of suits. Most probably, litigants in Machakos will be advised to join the main suit in this particular matter.

I beg to second.

[The Temporary Speaker (Sen. Veronica Maina) left the Chair]

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

The Temporary Speaker (Sen. Abdul Haji): Hon. Senators, I will now propose the question.

(Question proposed)

The Temporary Speaker (Sen. Abdul Haji): Hon. Senators, it is now open for debate. Proceed, Sen. Thang'wa.

Sen. Thang'wa: Thank you, Mr. Temporary Speaker, Sir, for the opportunity to support this Motion. From the onset, I thank the Committee for doing what our Standing Orders require that whenever you have been tasked to do something and you are not able to finish within the timeframe, you are required to come back to the House and request for the extension.

Mr. Temporary Speaker, Sir, I gladly support this Motion and, yes, the Committee requires more time. As they do require more time, they should remember that the times have changed.

Nowadays, in everything you do, as required by the Constitution, you must involve the people. You must walk with them step by step on what you are doing and scrutinizing, especially on matters of Statutory Instruments, land, fees and all that.

I also urge the Committee to expedite this matter. They should do more research because when you are talking about a law that was passed in 1970 and you are in 2024, a lot has changed. I believe the Committee is up to the task and I support this Motion.

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The Temporary Speaker (Sen. Abdul Haji): Mover, Sen. Gataya Mo Fire, please reply. One moment, Sen. Gataya Mo Fire. Sen. Faki, you wanted to contribute?

Sen. Faki: Yes, Mr. Temporary Speaker, Sir.

The Temporary Speaker (Sen. Abdul Haji): Proceed.

Sen. Faki: Bw. Spika wa Muda, nilikuwa nimebofya lakini inazima ikiwaka.

Asante, Bw. Spika wa Muda, kwa kunipa fursa hii kuunga mkono Hoja ya kuongeza muda kwa Kamati ya Delegated Legislation ya Bunge hili ili kuchunguza na kupitisha zile kanuni za sheria za ardhi. Kanuni hizi, ijapokuwa zililetwa katika Bunge kwa muda unaofaa, lakini baada ya kuvunjwa kwa Baraza la Mawaziri, tukakose nafasi ya kuwasiliana na Waziri. Bw. Waziri anapaswa kuja mbele ya Kamati kujibu maswali kuhusiana na kamati hizo katika kazi ambazo tunafanya wakati tunaangalia kanuni hizo.

Ukosefu wa kupatikana kwa Waziri kwa wakati imechangia pia pakubwa kuweza kukamilisha masuala haya. Kwa hivyo, muda wa siku 21 ambayo umeombwa utasaidia pakubwa kuweza kuwasiliana na Waziri. Bw. Waziri atakuja mbele ya kamati ili aweze kujibu yale maswali ambayo tulitarajia atayajibu.

Pia tumeweza kupitisha kanuni nyingine tatu ambazo zilikuwa pamoja na hizo saba. Zingine nafikiri zitakuja kama ambazo zimekataliwa. Jambo la kusikitisha ni leo mchana, ripoti yetu ya zile kanuni za sheria ya afya zimekukataliwa na Bunge hili.

Jambo lingine la kusikitisha ni kuwa wiki mbili zilizopita, mahakama ya majaji watatu walitupilia mbali sheria hizo za afya na ikaipa Bunge siku 120 kuweza kuangalia tena ni vipi wanaweza kuzirekebisha. Hii kwa sababu zilikuwa zinakwenda kinyume na Katiba.

Kwa hivyo, ina maana kwamba sisi hapa katika Bunge mara nyingine hatuungalii ama hatuzingatii yale yanayotokea sehemu nyingine katika Serikali. Kwa mfano, ule uamuzi wa juzi wa mahakama ni kiungo muhimu kwa sababu zile kanuni ambazo tunaziangalia zilikuwa zimewekwa kwa misingi ya ile sheria ambayo imetupiliwa mbali na mahakama. Kwa hivyo, sheria imetupiliwa mbali na haiwezekani kwamba sisi kama Bunge la Seneti kuweza kuzipitisha zile kanuni.

Bw. Spika wa Muda, kwa hivyo hii ni kuwatanabaisha Maseneta wezangu kwamba ni lazima tuwe macho kwa mambo yanayotendeka mahakamani. Mahakama pia inajaribu kuziangalia zile sheria ambazo tunapitisha katika Bunge hili. Ikiwa sheria ziko kinyume na Katiba, sheria hizo hazitaweza kusimama, basi tutakuwa tumepoteza wakati wetu mwingi wa kujadili na kupiga kura hapa. Hii ni kwa sababu ikifika mahakamani zinatupwa nje na tunarudi tena kuanza upya mchakato wa kuidhinisha sheria zile.

Huu muda ambao tutapewa utasaidia pakubwa kuwezesha Kamati hii kukamilisha kazi yake na iweze kuleta ripoti ambayo itaeleweka katika Bunge hili.

Asante.

The Temporary Speaker (Sen. Abdul Haji): Proceed, Sen. Wambua.

Sen. Wambua: Thank you, Mr. Temporary Speaker, Sir. I also stand in support of the request by the Chair of the Committee on Delegated Legislation for an extension of time to consider their regulations.

The only thing that I want to say on this matter and I wish the Senator for Tharaka Nithi could listen to this because this is important to him. I have realized that there is a

level of disconnect that is not healthy between the Committee on Delegated Legislation and the rest of the House.

These delegated legislations that the committee deals with are very important for actualizing relevant legislations in all sectors of our country. I would urge the committee then in view of what happened a few hours ago, that even as they consider these regulations, it will be important for them to find ways of apprising Members of exactly what these regulations are saying and the import of the nature of the vote that Members cast.

This is to ensure that we do not have these embarrassing situations where a committee has sat on regulations for months. We do not want to see a situation where a Motion is brought here and fall flat on its face on the Floor of the House.

We need to engage and lobby more. However, I do not see a lot of that happening these days. I do not see a lot of lobbying where the chairpersons of committees lobby other Members before a matter comes to a vote.

We do not leave these things to the Whips hoping that they will bring numbers. However, we want to see situations whereby there are no party positions or matters that will affect legislation and regulations. Let the Committee on Delegated Legislation take the lead in lobbying Members before we take a vote.

I support.

The Temporary Speaker (Sen. Abdul Haji): Thank you, Senator.

Sen. Gataya Mo Fire, you can reply.

Sen. Gataya Mo Fire: Thank you very much, Mr. Temporary Speaker, Sir. I sincerely thank the supporters of this Motion on Extension of Time for Consideration of Valuers (Forms and Fees) (Amendment) Rules, 2024 (Legal Notice No.69 of 2024, the Survey (Amendment) Regulations, 2024 (Legal Notice No.71 of 2024) and the Land Adjudication (Amendment) Regulations, 2024 (Legal Notice No.76 of 2024).

Mr. Temporary Speaker, Sir, before I reply, I have taken the guidance from Sen. Wambua. I have read thoroughly the report of the Committee. As Sen. Thangw'a said, this committee is very critical, especially when dealing with statutory instrument. We were seeking extension of time for us to get enough time to look at all the aspects, including public participation.

Some of these matters touch on counties. So, it is important for the committee to get this extra time. This will help us get to know whether all the stakeholders were brought on board. Some of these instruments are very sensitive, especially the stakeholders that they affect. That is why when we sat down, we considered that there is also a case pending in Machakos. This case was filed some time back. The matter is before court.

Mr. Speaker, Sir, I am seeking your guidance on whether we can have this matter discussed at a later date because we cannot raise the numbers for the putting of the question. I am requesting that putting of the question on the Motion be deferred to a later date pursuant to Standing Order No.66 (3).

The Temporary Speaker (Sen. Abdul Haji): Thank you, Senator.

That matter is deferred.

(Putting of question on the Motion deferred)

We will go to the next Order. I am directing that we go back to Order No.17.

MOTION

ADOPTION OF REPORT ON SENATE NOMINEES, ON BEHALF OF
COUNTY GOVERNMENTS, TO THE POSITION OF SRC MEMBER

THAT, the Senate adopts the Report of the Standing Committee on Finance and Budget on the Senate nominees, on behalf of the county governments, to the position of Member of the Salaries and Remuneration Commission, laid on the Table of the Senate on Tuesday, 23rd July, 2024, and further pursuant to Article 230 (2) (b) (vii) of the Constitution and section 7 (2) of the Salaries and Remuneration Commission Act, recommends Ms. Lynette Washiali Muganda and Mr. Mohamed Aden Abdi to the Cabinet Secretary for the National Treasury and Planning for transmission to His Excellency the President for consideration for appointment to the position of Member of the Salaries and Remuneration Commission.

The Temporary Speaker (Sen. Abdul Haji): The Chairman is not here. It is deferred.

(Motion Deferred)

Next Order.

BILL

Second Reading

THE LOCAL CONTENT BILL
(SENATE BILLS NO.50 OF 2023)

(Sen. Wamatinga on 26.3.2024)

(Resumption of debate interrupted on 24.7.2024P)

Sen. Orwoba: On a point of clarification, Mr. Temporary Speaker, Sir.

The Temporary Speaker (Sen. Abdul Haji): What is your point of clarification, Sen. Orwoba?

Sen. Orwoba: Mr. Temporary Speaker, Sir, I have been patiently waiting. We were directed that we would be given a few minutes to comment on the statements. It seems that that has been forgotten.

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(The Clerk-at-the Table consulted with the Temporary Speaker)

The Temporary Speaker (Sen. Abdul Haji): Very well, we shall defer Order No.18 and allow comments on the statements.

(Bill deferred)

(Resumption of debate on Statements)

Sen. Orwoba, proceed.

Sen. Orwoba: Thank you, Mr. Temporary Speaker, Sir, for this opportunity to add my voice and contribute towards the statement of Sen. Cherarkey on the use of social media platforms, all the misinformation, and the inflammatory statements, manipulated media and the issue of fake news that we are currently dealing with in the country. It is imperative---

QUORUM

Sen. Betty Montet: On a point of order, Mr. Temporary Speaker, Sir.

The Temporary Speaker (Sen. Abdul Haji): Just a moment. What is your point of order, Sen. Betty Montet?

Sen. Betty Montet: Thank you, Mr. Temporary Speaker, Sir. We do not have a quorum in this House at the moment.

The Temporary Speaker (Sen. Abdul Haji): Clerk, can we confirm that we have quorum?

(The Clerk-at-the Table consulted with the Temporary Speaker)

Serjeant-at-Arms, ring the Quorum Bell for 10 minutes.

(The Quorum Bell was rung)

ADJOURNMENT

The Temporary Speaker (Sen. Abdul Haji): Hon. Senators, having failed to attain the quorum at the expiry of 10 minutes, the House stands adjourned, pursuant to Standing Order No.41(2)(a), until tomorrow, Wednesday, 31st July, 2024 at 9.30 a.m.

The House rose at 6.05 p.m.