

PARLIAMENT OF KENYA

THE SENATE

THE HANSARD

Thursday, 5th January, 2017

Special Sitting

*(Convened via Kenya Gazette Notice
No.10691 of 30th December, 2016)*

*The House met at the Senate Chamber,
Parliament Buildings, at 10.00 a.m.*

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

PRAYER

COMMUNICATION FROM THE CHAIR

CONVENING OF SPECIAL SITTING OF THE SENATE

The Speaker (Hon. Ethuro): Hon. Members, I have a Communication to make on the convening of this particular Special Sitting.

Hon. Senators, I wish to welcome you back to the Senate for the Special Sittings today. The Special Sittings come very early in the year and only days after the New Year festivities.

Hon. Senators, let me take this opportunity to wish all of you a Happy New Year 2017.

Hon. Senators, these sittings also come against the backdrop of another Special Sitting that we had on 28th December, 2016. As you will recall, during the said sitting, I deferred further consideration of the Election Laws (Amendment) (No.3) Bill (National Assembly Bill No.63 of 2015) to allow scrutiny by the Committee and public participation by the Standing Committee on Legal Affairs and Human Rights together with the Standing Committee on Information and Technology. Most of the Joint Committee deliberations were streamed live by media, and most Kenyans followed the debate very keenly.

Hon. Senators, I wish to take this opportunity to commend the two Committees led by the Chairpersons, Sen. Wako and Sen. Kagwe, respectively, for working tirelessly, and in the midst of New Year festivities, to complete the assigned task on time and I hope they are now ready to table their Report today.

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I also wish to extend the same appreciation to the Members of the Committee and the members of the public who undertook their civic duty and presented their views on the Bill to the Committees.

Hon. Senators, by a letter dated 28th December, 2016, and pursuant to Standing Order No. 29 (1), the Senate Majority Leader and Senate Minority Leader, supported by the requisite number of Senators, requested me to convene Special Sitzings of the Senate to conclude consideration of the Election Laws (Amendment) (No. 3) Bill (National Assembly Bill No. 63 of 2015).

Following this request and further considerations, I was satisfied that it met the requirements of Standing Order No. 29 (2). It is in this respect that I convened these Special Sitzings of the Senate via Gazette Notice No.10691 dated 30th December, 2016. The Gazette Notice specified the business to be transacted at these sittings. The first Special Sitting will last until 12.30 p.m. while the Special Sitting for this afternoon will commence at 2.30 p.m. and run until conclusion of business or at midnight, whichever comes first.

Hon. Members, you may also wish to recall that by the time we ended the Special Sitting of the 28th December, 2016, we had agreed to convene on 4th January, 2017. However, when the Joint Committee looked at the work programme, they made a presentation to me and in consultation with the political leadership, we agreed and that is what necessitated that these Special Sitzings take place today, 5th January, 2017.

Hon. Senators, please, note that pursuant to Standing Order No. 29 (5), the business specified in the Gazette Notice shall be the only business before the Senate during these Special Sitzings, following which the Senate shall stand adjourned until Tuesday, 14th February, 2017 at 2.30 p.m. in accordance with the Senate Calendar.

I, therefore, wish to appeal to you, Hon. Senators; you have distinguished yourself before and this is another time that will call for that sobriety so that you may debate the matter before us with the seriousness it deserves and display the same level of sobriety as you have always done.

I thank you.

MESSAGES FROM THE NATIONAL ASSEMBLY

Hon. Senators, while the Senate was on recess, we received a number of messages from the National Assembly. The first one---

Order Sen. Billow.

(Laughter)

(Sen. Billow requested Sen. Wangari to move from his seat.)

You cannot sit when I am standing. So that does not arise.

PASSAGE OF THE COUNTY GOVERNMENTS (AMENDMENT)
BILL (SENATE BILL NO. 4 OF 2016)

Hon. Senators, I wish to report to the Senate that pursuant to Standing Order No.40(3) and (5), I received the following Message from the Speaker of the National Assembly on 23rd December, 2016 regarding the passage by the Assembly of the County Governments (Amendment) Bill (Senate Bill No.4 of 2016).

“PURSUANT to the provisions of Standing Orders No.41 and 144 of the National Assembly Standing Orders, I hereby convey the following Message from the National Assembly:-

WHEREAS, the County Governments (Amendment) Bill (Senate Bill No.4 of 2016), published vide the Kenya Gazette Supplement No.61 of 29th April, 2016 as a Bill originating in the Senate to amend the County Governments Act (No. 17 of 2012) in respect of the headquarters for Kirinyaga and Taita/Taveta counties, was referred to the National Assembly for consideration following its passage by the Senate on 1st November, 2016;

AND WHEREAS, on 20th December 2016, the National Assembly passed the said Bill without amendments and in the form passed by the Senate;

NOW THEREFORE, in accordance with the provisions of Article 110(4) of the Constitution and Standing Order No.144 of the National Assembly Standing Orders, I hereby convey the decision of the National Assembly to the Senate”.

Hon. Senators, this Message was received on 23rd December, 2016 when the Senate was on recess and pursuant to Standing Order 40 (5), I conveyed the same to all Senators vide letter Ref. SEN/L&P/MSG.2016 (66) dated 28th December, 2016.

Hon. Senators, Article 110 (5) of the Constitution provides that:-

"If both Houses pass the Bill in the same form, the Speaker of the House in which the Bill originated shall, within seven days refer the Bill to the President for assent".

It is in this regard I have processed the Bill and presented it to His Excellency the President for assent.

Thank you.

DECISION OF THE NATIONAL ASSEMBLY ON THE APPOINTMENT
OF MEMBERS TO THE NATIONAL CLIMATE CHANGE COUNCIL

The Speaker (Hon Ethuro):Hon. Senators, I wish to report to the Senate that pursuant to Standing Order 40 (3) and (5), I received the following Message from the Speaker of the National Assembly, on 23rd December, 2016, regarding the decision of the National Assembly on the appointment of Members to the National Climate Change Council.

I quote:-

“PURSUANT to the provisions of Standing Order No.41 of the National Assembly Standing Orders, I hereby convey the following Message from the National Assembly:-

WHEREAS, the Report of the Joint Sitzings of the relevant Committees of the Houses of Parliament regarding the vetting of nominees to the National Climate Change Council was considered and adopted by the National Assembly on 20th December, 2016;

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AND WHEREAS, the National Assembly approved the appointment of Messrs. Patel Suresh and John Kioli as Members of the National Climate Change Council and rejected the proposed appointment of Ms. Cynthia Wechabe and Dr. Jane Mutheu Mutune to the National Climate Change Council;

NOW THEREFORE, in accordance with the provisions of Section 7 of the National Climate Change Act, 2016 and Standing Order 41 of the National Assembly Standing Orders, I hereby convey the said decision of the National Assembly to the Senate for concurrence".

Hon. Senators, this Message was received on 23rd December, 2016, at a time when the Senate was on recess and pursuant to Standing Order 40 (5), I transmitted the Message to every Senator, vide letter Ref. SEN/L&P/MSG.2016 (66) dated 28th December, 2016.

Hon. Senators, the vetting of nominees to the National Climate Change Council was done jointly by the Standing Committee on Land and Natural Resources and the National Assembly Departmental Committee on Environment and Natural Resources. As you may recall, on 28th December, 2016, the Chairperson of the Standing Committee on Land and Natural Resources tabled the Report on the vetting and gave the necessary Notice of Motion on the same.

I, therefore, direct that the Motion be prioritized for debate when the Senate resumes its regular sittings for the Fifth Session.

Thank you.

Next Order!

BILL

Second Reading

THE ELECTION LAWS (AMENDMENT) (NO.3) BILL (NATIONAL ASSEMBLY BILLS NO.63 OF 2015)

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

That the Election Laws (Amendment) (No.3) Bill (National Assembly Bills No.63 of 2015) ---

POINT OF ORDER

REQUEST TO DELAY DEBATE ON ELECTIONS LAWS (AMENDMENT) BILL PENDING SUBMISSION OF COMMITTEE REPORT TO THE HOUSE

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

The Speaker (Hon Ethuro): Proceed.

The Senate Minority Leader (Sen. Wetangula): Mr. Speaker, Sir, I know that this Bill is the principal business of the day. I want to request the House, through the

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Chair and my brother the Senate Majority Leader, that since the matter was referred to the Committee which is busy preparing a Report of whatever nature, it will be desirable that we give the Committee an opportunity to bring the Report that will inform debate in the House.

This is because at the end of the day, the reason we referred this matter to the Committee was for them to go through technical details, carry out public hearings and bring a Report that may assist this House in arriving at a rational or otherwise decision that will help the country.

I, therefore, want to urge that since I have seen the Committee sitting in a Committee room opposite your office, it will be desirable to find out how much time they require and it will not be asking too much to request you to stay this proceedings for an hour or so, as we await this Report so that Members can go through the Report and see how we can debate this matter.

I say this because if the Senate Majority Leader moves the Bill and I come and debate on the Bill as is where is and then the Report comes and has something different, the rules of the House will not allow me to come and comment on the content of the Report.

I would want us to have an opportunity to deal with both the Bill and the Report as brought by our Committee so that it makes things easier and more orderly and can help the House in arriving at whatever decision we may want to make.

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

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

Sen. Murkomen: Mr. Speaker, Sir, I thank the Senate Minority Leader for raising that point of order, but I beg to disagree. All the time we have proceeded notwithstanding the pending Report of the Committee, knowing that a Report of the Committee only changes or is applicable in amending at the Committee Stage.

It is understandable that Members would like to debate from a point of information in the Report. Even if the Report was brought here, in the next 30 minutes or so - I am a Member of that Committee, it might be ready in an hour or whatever time - you cannot tell me that as it arrives, one will have read all of it as it is.

What is relevant and important and the reason we agreed that the Committee should work first was for public views to be received for Members to follow what has been proposed by the public. However, as Senators, we have our personal views and suggestions that need to be incorporated at the Committee Stage which is why the Second Reading is the place where Senators propose what they think should be the position at the Committee Stage.

In fact, Mr. Speaker, Sir---

The Speaker (Hon. Ethuro): Conclude, Senator.

Sen. Murkomen: Mr. Speaker, Sir, the Senate Minority Leader has had a long time so there are issues to respond to.

In fact, and I am losing my thought on that issue, even where the Report of a Committee comes to the House and a Member does not agree but wants to propose amendments or has a certain position on the Bill, still the Second Reading gives opportunity for that Member to provide convincing arguments to the Senate so that at the Committee Stage we can make the necessary amendments.

I think in the interest of time, we can be able to proceed as we wait for the Report to arrive.

The Speaker (Hon. Ethuro): Order Members. This is a procedural matter for my sole determination. I can only be generous to some extent. So, do not abuse it. With that clarification, I am going to allow three Members from either side a maximum of two minutes each.

Sen. (Prof.) Anyang'-Nyong'o: Thank you, Mr. Speaker, Sir for allowing me to contribute to this discussion. Whereas, I appreciate Sen. Murkomen's point of view, you know how weighty this matter is and you know how important those public hearings were and the Committee was there to listen to the public, synthesize those views and bring them to us so that as we debate the substance of the amendments in the Second Reading before we go to the Committee Stage, we can also digest the Committee's proposal, which would then help us in making further amendments at the Committee Stage.

It will be penny wise and pound foolish if we jumped the Report and started debating before we listen to our Committee. This is a particular amendment of an important law that we cannot subject to an ordinary procedure in this House. We should concentrate on ensuring that the debate in the Second Reading is substantial, given the input of the Committee that was looking at those amendments. It has taken its time to make its proposals to this House. I would like to appeal to the other side to see that point.

Mr. Speaker, Sir, you have the powers to even extend the hours that we are going to discuss to ensure that we give this issue the weight it deserves.

The Speaker (Hon. Ethuro): Sen. (Prof.) Lonyangapuo!

Sen. (Prof.) Lonyangapuo: Mr. Speaker, Sir, I thank you and happy new year to you and all the Senators. I concur with what Sen. (Prof.) Anyang'-Nyong'o has just said; that it makes sense that the last business of 28th December, 2016 was to send the Committee to do the business they have done. It has no harm if we can wait until the document is ready and tabled here for us to discuss. You had declared that we can go up to midnight. So, there is enough time for that.

The Speaker (Hon. Ethuro): Sen. Khaniri!

Sen. Khaniri: Thank you, Mr. Speaker, Sir. At the outset, I want to appeal to my colleagues that we approach this matter with a lot of sobriety, reason and tolerance. It is an important matter for this country. I fully subscribe to the sentiments that were raised by the Minority Leader and seconded by the two professors; Sen. (Prof.) Anyang'-Nyong'o and Sen. (Prof.) Lonyangapuo. I want to plead with you that this is not an ordinary Bill and we cannot treat it ordinarily. Our debate will be informed by the Report of the Committee which, in your wisdom, you appointed to look at this matter on behalf of the entire Senate. We want to appeal that we defer this debate until Members have had a glance at the Report of our own Committee.

Secondly, Mr. Speaker, Sir, I want to bring it to your attention and I want your ruling on this because I am looking at the Bill that came from the National Assembly which is the Elections Laws (Amendment) (No. 3) Bill (National Assembly Bill No. 63 of 2015). It says that a Bill for an act of Parliament to give effect to Article 99 (1) (b) of the Constitution. I want to refer you to the said Article 99 (1) (b). It talks about the qualifications and disqualifications for election as a Member of Parliament. To be

precise, Article 99 (1) (b) says unless disqualified under Clause (2), a person is eligible for election as a Member of Parliament if the person satisfies any educational, moral, ethical requirements prescribed by this Constitution or by any Act of Parliament.

Mr. Speaker, Sir, are you satisfied that we are looking at the right Bill? The headline of the Bill says that it is giving effect to Article 99 (1) (b) of the Constitution. It is totally irrelevant. I think we have the wrong document, and I want your ruling on this.

The Speaker (Hon. Ethuro): Sen. Wangari!

Sen. Wangari: Thank you, Mr. Speaker, Sir. If you remember in the last Special Sitting, there was an attempt to have the First Reading followed by the Second Reading which was thoroughly opposed in this House because it was clear that most Senators wanted that it goes for public participation and it be treated like a Bill is normally treated in this House. I am surprised that, today, we say that we do not treat it the way we treat Bills. My submission is that we have the written way on how Bills are dealt with. We did the First Reading, committed the Bill for public participation and that report can only inform of the Third Reading. That is how we deal with Bills. So, it is double standards to say we treat it as an extra-ordinary Bill. It is a Bill. To be honest, we need to continue to Second Reading and that Report will inform the deliberations in the Committee of the Whole.

The Speaker (Hon. Ethuro): Sen. (Dr.) Machage!

Sen. (Dr.) Machage: Mr. Speaker, Sir, I rise in reference to Standing Order No.88 (3), which states:-

“In determining whether a debate is out of order on the grounds of anticipation, regard shall be had to the probability of the matter anticipated being brought before the Senate within a reasonable time”.

In your wise ruling in the last Sitting, you did give a window for public participation, and members of the public have participated. It will be naive for you to forget your ruling as earlier determined and ignore the details of public participation to be a matter of importance in our determination on this discussion. I appeal to the Leader of Majority and Members of the majority side that it is to your advantage that you let this window open. Let us look at what the Committee did find in the Committee meetings.

Sen. Madzayo: No!

The Speaker (Hon. Ethuro): I think I have exhausted three from this side. Order, Members! Sen. Madzayo, you cannot say “no” just because you want to speak. You plead with the Chair for an opportunity but you cannot deny the obvious facts. Because I see quite a bit of interest, I will give the third person here and allow two from either side. Let us be satisfied with that.

Sen. Haji: Mr. Speaker, Sir, I did not want to speak but it is just a point of order. I do not know whether you heard Sen. (Dr.) Machage saying that it will be naïve of you after you made your ruling last time. Is he in order to use such words?

The Speaker (Hon. Ethuro): He is completely in order. Sen. Haji, I appreciate your defense but Sen. (Dr.) Machage is in order because he says if I did something which I have not done. So, he has not made a particular statement on what I have said. In his view, it would be.

Sen. Orenge: Thank you, Mr. Speaker, Sir. I also wish you a happy new year and colleagues, Senators. This is a matter which has had some contestation. In fact, that is why there is a Special Sitting. Otherwise, we would have waited until February 2017.

Mr. Speaker, Sir, the approach we had in the Senate was that we should have a sober, well-informed and reasoned debate on the matter that is before us. If I remember very well, one of the reasons why we adjourned last time without debate on this Bill was not only to allow public participation but also to create an enabling environment for us to talk and agree through consensus. Now that we are at this juncture, it will be important to know what is in the report before we begin saying what we think about the Bill as it is. This is because if we begin to speak about the Bill as it is, the possibility of the inclination of most Members would be to support or criticise the Bill for what it is while not knowing what the Committee is recommending. In order to continue to generate the spirit of consensus and agreement, it will be good to allow us to look at the report.

Mr. Speaker, Sir, you will remember that even last time when we had the Joint Parliamentary Select Committee, a report was brought to the House first. People not only knew what was in the report but also the draft Bill was in the report for people to know what it was all about. So, I am pleading with you. Out of the remarks that you made about how we have conducted debates in this Chamber, the most convenient thing to do is to allow us to look at that report and debate on the basis of what the Committee has recommended.

Finally, Third Reading is not a time for debate but Members make presentations of amendments and fairly short comments. So, I beg you to allow us to look at the report before we continue.

Sen. Billow: Mr. Speaker, Sir, listening to the arguments from both sides, there is no reason for the positions we are taking. I agree with the Senate Minority Leader for saying that the report will inform Members on what the public input is in the Bill. In the past, you have also ruled in similar situations and allowed us 30 minutes' break to get copies of reports and that is not a big deal. In my view, the report will not necessarily change views or inform us because we have our own positions.

However, it is important to give the public respect because they spent time to come and give views. It will only appear fair that the Senate takes into consideration public participation. From that perspective, it is worth giving ourselves half an hour perhaps to read the report.

Sen. Madzayo: Bw. Spika, asante kwa nafasi hii. Kitu cha kwanza in kwamba hili jambo tunalotaka kujadiliana ni nzito sana katika nchi yetu ya Kenya hivi sasa. Sisi kama Bunge la Seneti tukizingatia hilo kama jukumu letu, kuna umuhimu kwamba sote tuwe katika fahamu ya ripoti hiyo. Hivi sasa tunaambiwa kuwa tuingie katika msururu wa kujadiliana. Hivyo si vibaya lakini ripoti iko wapi? Hatuna ripoti katika mikono yetu. Ukishajadili halafu ripoti ije kivingine, kisheria utakuwa huna haki ya kumjibu mwenzako. Kwa hivyo, ombi langu ni kwamba tusijadiliane kwa sasa ikiwa ripoti haiko hapa ndani ya Bunge la Seneti. Tunakusihi utupe nafasi kidogo ili tuweze kujadiliana kisawasawa na kinagaubaga kuhusu ripoti hiyo.

Bw. Spika, hii ni kama kunoa kisu. Ukishanoa kisu na ng'ombe na kamba viko hapo kisha umpeleke ng'ombe huyo kichinjioni, hatakubali kwa sababu kamba uliyo nayo haitafaulu hata kidogo. Huu ni mtego na sisi hatuwezi kukubaliana nao hata kidogo.

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Sen. Wamatangi: Mr. Speaker, Sir, notwithstanding that my colleagues have also ventilated on this issue and especially given the procedure on Bills, it is also important to note and remember that the sole purpose why exceptionally we agreed to commit this Bill to the Committee was to allow for public participation. It is also noteworthy and important to say that the public participation process and the views given by members of the public to the committee do not necessarily mean that the committee will think or make decisions on behalf of the Members. It is also factual that all the views that have been given by members of the public have been done so publicly on public television channels and other radio channels.

It will also not be solely honest if Members of this House say – with the importance we have said and indeed it is true that this Bill is very important – that they already do not have our views on it. Every Member sitting here now is adequately informed and has been following keenly what has been happening and all the views given. Most of the Members here already have their views. Irrespective of whatever the Committee may say in their report, they cannot and do not have the mandate to think or decide on behalf of any of these Members. So, the debate that will continue will barely, in all honesty, change the views of Members of this House. The Bill can proceed after this as any ordinarily Bill and we can make amendments at the Committee Stage.

Hon. Senators: Point of order!

The Speaker (Hon. Ethuro): Order, Members, I appreciate my screen is full but there is also something called being repetitive and that all of you are on the same topic. The topic is to allow the Committee to finalise the report and bring it so that Members can debate with the benefit of the report.

The second matter from the ventilation of the Floor is about effecting Article 99(1)(b) of the Constitution which was raised by Sen. Khaniri. Sen. Khaniri, if you look at the Bill before you on Page 253, Section 22 of the Elections Act, 2011 is amended in sub section 1 by deleting Paragraph (b) and substituting therefor the following new paragraph 8(b) which says that in the case of a Member of Parliament holds a degree from a university recognised in Kenya and in the case of a Members of a County Assembly holds a degree from a university recognised in Kenya.

So, in terms of the qualifications in 1(b), that is what that section is referring to. So, it is very relevant to the title.

To the matter before us, this is my determination.

Standing Order No.129 states:-

“First Reading

Every Bill shall be read a First Time without Motion made or question put.”

That is what we did on 28th December, 2016. We committed it to the joint Committees. Ordinarily the Committee has 30 days. I directed that time the Committee to have finished its work on 3rd January, 2017 and submit the report on 4th January, 2017 for us because the session should have been yesterday not today.

At the presentation by the Committee and in consultation with the political leadership, we agreed to give them one more day on account of the fact that the 1st and 2nd January, 2017 were public holidays. That argument had a lot of merit and was carried to today.

Regarding Seconding Reading, we need to be honest to ourselves, most of our Bills that have come before us; we have proceeded with the Second Reading without the Committee submitting the report. The reports become critical – I have always directed that we cannot move to the Third Reading where we may be considering amendments because that is where everybody in totality informs the debate. When you do Second Reading, you will not make any amendments. That is provided for in Standing Order No.131.

So, once the Bill was committed to the House, on First Reading, each Member was seized of the Bill. That was your opportunity to interrogate the Bill; look at it in preparation for Second Reading. The Committee, will on our behalf, carry out public participation and get some ideas, and then, the totality of your contributions, as well as the Committee contributions, will help inform whether you want to alter the content of the Bill. That can only be done in Third Reading.

Therefore, my directive is that, I have sought from the Committee and that they should have been ready at 10.00 a.m. I would like to give them another 1 hour so that they can finalise. Before we finish this session, that report should have been tabled on the Floor so that as we break for lunch, we will get an opportunity to read the report. When we go for Third Reading, we can comment. Why do I say so? Part of the reasoning was, if you look at the way we gazetted today's sitting and compare it with the way we gazetted last time – you keep tying my hands – last time, I was liberal. Representations were made to this House to tie my hands.

So, this time I became more specific in terms of those stages of reading the Bill so that the morning is Second Reading and the afternoon is Third Reading. To do otherwise, we will go into the “headwinds” of the kind of issues we are trying to avoid. Previously, when I left it a bit open, I could even vary time; now I cannot even vary time because we must clear Second Reading at 12.30 p.m. We must start the Third Reading in the afternoon sitting. That one, at least, has a bit of time up to midnight which is the end of the day, whichever comes earlier if we finish.

So, this is a straight forward matter. We have done it before. I am sure all of us have opinions. I appreciate that the Committee Report, with the benefit of public participation, will make the debate richer, but all is not lost. Before we conclude the business on the Bill, that Committee report will be available for our consideration. In addition, you do not want to deny yourself the opportunity to make your presentations. So, I direct that you proceed on Second Reading.

I thank you.

Proceed, Sen. Majority Leader.

What is it, Sen. Ndiema?

Sen. Ndiema: On a point of order, Mr. Speaker, Sir. Aarising from your ruling, and looking at the clock, we have very limited time; and considering the interest that Members have, will it be adequate to have a debate at the Second Reading between now and 12.30 p.m.

The Speaker (Hon. Ethuro): Order, Member. That is anticipating the capacity of the Members to summarise issues.

Proceed, Sen. Majority Leader.

BILL*Second Reading*THE ELECTION LAWS (AMENDMENT) (NO.3) BILL
(NATIONAL ASSEMBLY BILLS NO.63 OF 2015)

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

That, the Election Laws (Amendment) (No.3) Bill (National Assembly Bill No.63 of 2015) be read a Second Time.

Mr. Speaker, Sir, I want to take the shortest time possible in moving this Bill. This Bill is largely about elections. Elections are about democracy. Our country has done well. Despite the challenges we have had since Independence, we have tried, as a nation, to aspire to be a democratic state. One of the tenets of that aspiration is the holding of period General Elections and by elections when vacancies arise.

We already have a comprehensive electoral law which was passed in 2011. This amendment Bill is aimed at strengthening what we already have ahead of the next election which is just over seven months away from now. Therefore, the importance of this Bill cannot be overemphasized. The earlier we dispense with the proposed legislative issues, the better for the country so that we can give clarity, stability and certainty to our electoral process.

Mr. Speaker, Sir, allow me to highlight a few clauses that I consider critical. First and foremost, it is proposed that all political parties must hear and determine intra-party disputes concerning party primaries. This must happen at least 60 days before the election. As you are aware, one of the most difficult challenges we have in our electoral practice is the issue of intra-party democracy. As much as I have said our elections have largely been competitive and democratic, we have a big challenge as a country with regard to intraparty democracy.

Therefore, this Bill is clarifying that all disputes within parties must be heard, determined and finalised in good time so as to allow the other preparations concerning elections, especially, the issue of printing of ballot papers which must be certain. You must be certain who the candidates are. For that to happen, issues arising from political party primaries must be resolve in good time so that all the candidates, their images, parties and symbols can be available for the IEBC to print and deliver ballot papers in good time.

Secondly, the Bill provides for a review of academic qualifications for people seeking elective leadership in our country.

Mr. Speaker, Sir, at the moment, there are minimum qualifications for all seats. There has been debate in our nation on whether we should review the academic requirements for people running for the office of Member of Parliament (MPs), including the National Assembly and the Senate as well as county assemblies. Much of the debate has concentrated on those positions because already with regard to the office of the President, Deputy President, governor and deputy governor, the qualifications which are

there – namely, at least a university degree – many people have felt that that is an adequate requirement.

This Bill proposes to provide similar qualifications for the position of MP for the two Houses of Parliament as well as county assemblies, so that they could also be adequately intellectually prepared to discharge their legislative and oversight functions. It has been argued and I think it is worth considering that, perhaps, the representational role of an MP may not require much academic education. However, the roles of oversight which include scrutinising budgets, holding State agencies at the two levels of Government accountable for public funds, being able to question Government functionaries and engage them for purposes of oversight as well as the legislative function of Parliament and County Assemblies, requires some academic qualifications.

Mr. Speaker, Sir, it is proposed in this Bill, so that you do not disenfranchise a large number of leaders in our country who have done so well, despite the fact that they do not have university degree---. In fact, some of the best debaters and brilliant and productive MPs in the past in our country have been people who did not necessarily have an academic degree. There are good reasons why somebody may not have one. One reason could be that they did not get an opportunity to get an education because of financial or other reasons. In the past, we even had leaders who were thrown out of college simply because of bad politics and could not, therefore, complete their studies.

So, there could be reasons why we may have good leaders who do not have the qualifications. Let me be clear on this one and this is my personal belief; what education does is just to improve the leadership in you. Leadership is all the other things that we do other than the things that we know about the science and the other things that we learn in college.

Mr. Speaker, Sir, times are changing and so is the dynamics of parliamentary democracy over the world. Therefore, we need to ask ourselves whether this is not the time to start relooking at these things. To provide an opportunity for leaders who may not have the proposed qualifications to adjust and acquire the necessary qualifications, so that they are not locked out of future elections, it is proposed in this Bill to suspend the operations of these requirements to the general election following the elections of 2017. In this case, we are proposing to suspend this requirement to August 2022.

Thirdly, there is a small amendment regarding referendum committees in the event of a Referendum. I am happy to note that our country is also entrenching our democratic practices around referenda. This is because the way you listen to citizens is not just through periodic elections, but in between, there could be issues that can wait for a general election or those that you want to isolate. Such issues could be like those of general public or foreign policy and issues of governance which you want people to directly tell you as leaders what they want about them. So, we have a good practice of referenda.

We have had several referenda now. However, we do have a referendum law. So, we have bits and pieces mentioned in the Constitution and also like what I am about to say now in this amendment Bill. Therefore, the need for a comprehensive referendum law is something that is urgent so that we can also entrench our democratic practice around referenda. Referenda are a very good way of gauging the public mood and Government

assessing the feelings of the public outside the confines of a general election which can be emotive and clouded.

It is proposed that referendum committees may appoint at least one agent per polling station across the country. This is in order to avoid a situation where the issue of agents during a referendum becomes like a matter which is not entrenched. Further, in the event of a vacancy in the office of a governor after a death, resignation or removal by other constitutional means, any independent candidate may submit their party symbols and so on seven days before nominations. In the current election law, there was no mention of independent candidates. This amendment is trying to take care of that.

Fifth, a public officer who intends to participate in a by-election shall resign from public office within seven days after declaration of a vacancy. We have had a problem in this country before on the question of public officers and participation in elections. The law, as it is now, clearly provides that, in a case of a general election, holders of public office are required to resign six months before the general elections. However, there is no similar provision for by-elections. So, the net effect is that a by-election is declared somewhere, somebody is holding public office and technically, that person can campaign while in office until they are elected without resigning. These are things that were not anticipated or were overlooked during the drafting of the Elections Act of 2011.

Sixth, this Bill proposes that the Independent Electoral and Boundaries Commission (IEBC) shall provide for the inspection of the register 90 days to the general elections. This is very important in this country where there have been disputes and disagreements on the content, nature and accuracy of the voters' register. It is important that the IEBC is commanded, as it is through this Bill, to provide for the inspection of the register 90 days before the general election. The inspection period is proposed to be a minimum of 30 days or any further period that the Commission may consider necessary.

Mr. Speaker, Sir, one of the two last things is the issue of campaign financing which is also another addition to our democratic journey. We have enacted a campaign financing law and now we are in the process of trying to make it professional. There have been some contentious issues of late concerning this matter and, therefore, it is proposed that certain aspects of that law be suspended until after the next general election.

One particular issue, which was in the public domain a few weeks ago, is the matter of candidates or aspirants who want to run for office in the 2017 election being required by the Independent Electoral and Boundaries Commission (IEBC), through regulations, to open campaign finance accounts and appoint campaign finance committees. That was to be done by 7th December, 2016. Some of the aspirants complied while others have not. Some have gone to court for interpretation on this matter.

Mr. Speaker, Sir, the regulations that gave rise to that requirement are not in operation. Draft regulations were submitted to the National Assembly. The National Assembly rejected them and the process of making fresh regulation is in course. Therefore, except for what I have said, the issue of appointing campaign finance committees and opening campaign finance accounts is proposed to be suspended or the time reduced from eight months to two months.

Finally, this Bill proposes to amend Section 44 of the Elections Act, 2011. This has been the most talked about proposal. I am sure and convinced beyond peradventure that the Committee of the Senate has done a good job and they have listened to Kenyans.

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Mr. Speaker, Sir, I commend you and the entire House for collectively taking the route that was in the interest of our country. The effect of cooling down tempers was dramatic. The faith in this House has increased---

(Loud consultations)

The Senate Minority Leader (Sen. Wetangula): On a point of order, Mr. Speaker, Sir. Do you notice that the opposite side has literally turned the Sitting into a *baraza*? There are so many caucuses and consultations. We cannot hear what the Senator Majority Leader is saying about the Bill.

The Speaker (Hon. Ethuro): Order, Members! Order, Sen. Cheruiyot! How can you not recognize and appreciate your Leader when he is moving the Motion?

Proceed, Sen. (Prof.) Kindiki.

The Senate Majority Leader (Sen. (Prof) Kindiki): Thank you, Mr. Speaker, Sir. I am tempted to thank the Senate Minority Leader.

The Speaker (Hon. Ethuro): Order, Sen. (Prof) Kindiki. You should not be tempted; he even bailed you out from your own side.

The Senate Majority Leader (Sen. (Prof) Kindiki): Mr. Speaker, Sir, I hear you. The choice of the word was deliberate.

The proposed amendment to Section 44 has raised a lot of public interest, which I personally commend because it is healthy in a democracy. The route that this House took has been applauded, encouraged and praised by many quarters, including those that have been skeptical in the past about the capacity of this House.

Mr. Speaker, Sir, I thank you and all the Senators, irrespective of our party affiliations. The route and decision we took have helped the country to talk to itself and look for a solution. I am hopeful that, today, in one way or the other, through our Committees, we will resolve this matter amicably and in the interest of our nation.

I end by saying that the proposal is to create---

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

The Speaker (Hon. Ethuro): What is Sen. (Dr.) Khalwale? He is about to conclude.

Sen. (Dr.) Khalwale: Mr. Speaker, Sir, it is precisely because he is about to conclude that I decided to request you that I interrupt him. The Senate Majority Leader, having persuaded you to allow Second Reading to go on before the Committee Report is tabled, has taken a lot of time speaking to the other amendments. Today, the country is in tension not because of the education levels of the Members of County Assembly (MCAs) and other people; it is because of an attempt to amend Section 44.

The Speaker (Hon. Ethuro): Order, Sen. (Dr.) Khalwale. That is a point of argument.

Sen. (Dr.) Khalwale: Mr. Speaker, Sir, I want to point the discretion.

The Speaker (Hon. Ethuro): In fact, if you are opposed to that particular provision and the Senate Majority Leader has failed to persuade you, the better for you. Why would you want aid him?

Sen. (Dr.) Khalwale: Mr. Speaker, Sir, you have guided me. However, the point I want to make is not to invite him to convince me; I want to imagine what will happen in the afternoon when we shall have the Third Reading and the report will have been tabled.

The Speaker (Hon. Ethuro): Order, Sen. (Dr.) Khalwale. I am always reluctant to order you out of order for obvious reason, because you are good at what you do. However, on this one you are anticipating debate. This is just the first contribution to the debate and there will be more contributors. Why do you think that other people will not contribute on the same issue, including yourself? Wait for your moment.

Sen. (Dr.) Khalwale: Mr. Speaker, Sir, I request you that in view of the failure by the Leader of Government side to speak to the amendment that has brought tension to the country, and because the Third Reading is not time for debate, you should allow us to debate this point when it comes to Third Reading. We do not---

The Speaker (Hon. Ethuro): Order, Sen. (Dr.) Khalwale. You are completely out of order. You are an authority on our procedures, but there is a difference between contributing to a Motion and a point of order. The point of order should have been if the Senate Majority Leader had said something that is not accurate or appropriate. What you are raising is a major contribution.

It is about 11.12 a.m. and our session ends at 12.30m p.m. I encourage Sen. (Dr.) Khalwale to hold his horses because there are more contributors to contribute. If one Member fails, the Seconder or any other person will speak to the same point.

Complete, Senate Majority Leader. We need to make progress.

The Senate Majority Leader (Sen. (Prof) Kindiki): Thank you, Mr. Speaker, Sir. The amendment on Section 44 of the Elections Act is aimed at providing clarity and certainty to the provision on electronic voter register.

The Speaker (Hon. Ethuro): Conclude, Senate Majority Leader.

The Senate Majority Leader (Sen. (Prof) Kindiki): Mr. Speaker, Sir, this provision proposes that the IEBC shall put in place a complementary mechanism, for purposes of ensuring that in the event of the failure of the electronic gadgets, alternative or complementary mechanism can be utilised. There is nowhere the proposal mentions the word 'manual,' which I have heard being used a lot. The words used are 'complementary mechanism,' which is just complementary.

Under Section 109 of the Elections Act, the IEBC is entitled to make regulations. I am sure that should there be any ambiguities left out, that provision will help. This is common legislation. I would like to request Senators to keep up with the good work that we started the last time we were here and give this country a way forward in a respectful manner. As we emphasized last time, whatever decision is made, it should be for the advancement of democracy in our country. It is not about this way or that way. However, it is about democracy, persuasion and making decisions. The majority will have their way and the minority will have their say.

Without much ado, I beg to move. I request Sen. Murkomen to second this Motion.

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

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

The Senate Minority Leader (Sen. Wetangula): Mr. Speaker, Sir, I take cognizant of the fact that my distinguished younger brother is running away from me today.

I am standing on Standing Order No.100 in relation to your ruling that we end this debate at 12.30 p.m. This Standing Order gives me and my counterpart an opportunity to address the House on a Bill for not more than 60 minutes. I want to bring to your attention that with the material that I have, I intend to address the House on this matter for about 60 minutes.

I know that there are many Members who want to debate and there are equally many Members who are itching to vote. It is important and imperative that those who are itching to vote can wait and we debate this matter fully for the country to understand and appreciate what we are trying to visit upon the country.

I intend to speak for one hour. Your direction that we end at 12.30 p.m. means that if I take the Floor at 11.30 p.m., nobody else will have an opportunity to speak and that is not fair to the House either. We need a variation to that.

The Speaker (Hon. Ethuro): Order, Members.

Proceed, Sen. Murkomen, to second. However, I want to agree entirely with the Senate Minority Leader. Something should be done, including persuading him not to exhaust his one hour.

Sen. Murkomen: Thank you, Mr. Speaker, Sir. I would like to, first of all, appreciate the Senate Majority Leader for moving this Bill eloquently. I beg to second.

I did not have the opportunity to congratulate you and this House last week. We demonstrated that we are a House of debate, a sober House where consultations take place and we work towards bipartisan approaches. We, as a country, also respect the Constitution when it comes to democracy. I also want to thank you and the Committee on Legal Affairs and Human Rights, where I sit as a Member, for the opportunity of listening to Kenyans who appeared before us. They were not less than 59. We read the memoranda that came from them. It was a good opportunity for us to debunk some of the myths that have been debated out there that do not exist in the actual texture of this Bill. We had Presidential candidates before us, Sen. Orengo, ordinary Kenyans and even people in civil society. We are happy to say that we are making a decision having gone through the process of listening to Kenyans and given them an opportunity to give their views on the Bill.

This Bill is very important. I want to point out a few things. First, Kenyans have the impression that there was a Bill to only amend Section 44 of the Elections Act. I had an opportunity to serve in the Joint Committee of the National Assembly and the Senate led by Sen. Murungi and Sen. Orengo respectively. Therefore, I have institutional memory of where we came from and where we are at the moment.

I want to start by talking about education qualification. People who came here were very emotive when they were presenting on the amendment on education qualification---

The Speaker (Hon. Ethuro): Order, Senator! This is where I need to make the interpretation because the point was raised. That matter has been canvassed. You can deal with the other matters remaining, so that there is a position in moving the Bill.

Sen. Murkomen: Mr. Speaker, Sir, all the issues on the report have been canvassed. However, various angles of the same issue need to be canvassed.

I need to mention this on academic qualifications. I was in the task force that worked on the laws that are related to devolution. At that time, what drove us that to say that there must be some semblance of academic qualification for the Members of the County Assembly (MCAs) was in the understanding that these were new systems of governance. It was necessary to have some educated people to inform the debate in the Finance Committee, among others.

Having reflected on this matter over time and although this Bill is postponing the qualification of degree for another five years, I have a different view. This is because when you go to an interview and you appear before the interview panel, it is expected that those who interview you have similar, equal or even better qualification than yourself.

All of us who are seeking elective offices are appearing before Kenyan citizens who 70 or 80 per cent do not have academic qualifications. I agree with the public participants who made presentations and challenged us when they said that if the interviewer who is sitting in the panel does not have a degree or any certificate, who are we to legislate that the person is not qualified to run for office?

I agree with them that in the fullness of time, we should scrap any academic qualification as a basis of entering into public office. Let the citizens sit down and say that they want to vote for someone who has a law degree this year and vote for someone who has no degree next time. This is because they are the ones who make the decision. They are the bosses who make the decision. That will help stop the craziness and madness where public officers and leaders who have been elected run around buying degrees. Some of them tell us that they sat for an exam on a day when we are so sure that he was having nomination for his county yet records indicate that he was sitting for an exam in university 'x'.

I want to encourage the Minister for Education to take university reform very seriously. I have seen some people graduate with Phd, but they cannot write a single sentence. They cannot complete a sentence or pronounce basic words yet they are called Dr. so-and-so. This is because we have made having academic papers to be so colorful that everybody is running around. You are told that somebody got a degree from Kampala, but Mr. Speaker, he has never crossed---

Sen. (Prof.) Lonyangapuo: On a point of order, Mr. Speaker, Sir.

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

(Loud Consultations)

Order. Give Sen. (Prof.) Lonyangapuo the microphone.

Sen. (Prof.) Lonyangapuo: Mr. Speaker, Sir, you have heard the way Sen. Murkomen has eloquently and fluently tried to tell us that there are people---

The Speaker (Hon. Ethuro): What is your point of order?

Sen. (Prof.) Lonyangapuo: Can he name the people he purports to have seen with degrees that were purchased? You cannot dilute this House, Parliament or county assembly to that extent.

Sen. Murkomen: Mr. Speaker Sir, Gamaliel was told in the Bible: “Are you the only man who is a stranger in Jerusalem? I do not think Professor is the only Kenyan who is a stranger. There are leaders who are in court being prosecuted for having fake degrees and being investigated for whether they stepped in a classroom. It is up to each of us to do the research and find out. I am just trying to say that---

The Speaker (Hon. Ethuro): Order Members! I agree with you Sen. Murkomen. That is a Biblical statement not a doctrine. You can only challenge him if he mentioned you in an adverse manner. He did not mention names. Proceed.

Sen. Murkomen: Mr. Speaker, Sir, that is why I needed to make that contribution because we do not want persons who are in offices of power and influence. We do not know whether they were classmates in school, but we do not want them to go and influence the university by trying to make that university use shortcuts hence reduce the quality of education in this country.

I totally agree with Kenyans who are saying that in the long run we need to do away with any academic qualifications in public office. We are perhaps the only country in the world that requires academic qualifications for any person to run for office---

Sen. (Dr.) Khalwale: On a point of order, Mr. Speaker, Sir. The rules of debate are very clear; that Members shall not be repetitive. For half an hour, the Senate Majority Leader harped on the issue of education. Now for ten minutes, his Deputy is doing precisely that. Is he in order to be repetitive or is it a deliberate effort to play to the gallery so that the gallery thinks that we came here to discuss qualifications of candidates?

We came here to discuss and sort out the mischief of Jubilee party to want to bring manual voting instead of technology. Is he in order?

The Speaker (Hon. Ethuro): Order Members. Every Member here - that is why I allowed the Second Reading - will speak to a point or various points. So, if Sen. (Dr.) Khalwale is obsessed with a particular contribution; that is yours. If the majority side is obsessed with another one, that is theirs. Everybody has a right to decide what to contribute on.

I want to agree with Sen. (Dr.) Khalwale and repeat that the majority leader and his deputy are running the danger of being repetitive. In fact, I am concerned that the people who are praising illiteracy are the same people who have scaled the academic heights to the very top.

Proceed.

Sen. Murkomen: Mr. Speaker, Sir, it should go on record that I and my senior Sen. (Prof.) Kindiki taught at the University.

I want to come to the amendment of Section 44. There have been too many things about that Section.

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

Sen. Murkomen: Mr. Speaker, Sir, I request that my time be held if there will be too many points of order.

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

Sen. Khaniri: Mr. Speaker, Sir, I rise under Standing Order No.30 (3) (a). Given the interest that we have in this matter, and we want to debate it exhaustively, the time that we have as earlier noted by the Senate Minority Leader may not be adequate.

I want to move under Standing Order No.30 (3) (a), that we extend the sitting from 12:30 p.m., to 1:30 p.m. Similarly---

The Speaker (Hon. Ethuro): Order. Sen. Khaniri. It helps to consult the Chair since there are already parallel consultations. I am not refusing, but it is not fair to ambush the Chair especially on such a day.

Approach the Chair and we will agree how to proceed including appreciating the technicalities. We do not have to deal with all those issues in the Plenary. Proceed, Sen. Murkomen as Sen. Khaniri approaches the Chair.

(Sen. Khaniri approached the Chair)

Sen. Murkomen: Mr. Speaker, Sir, I want to come to the most debated amendment on Section 44 and say three things:

First, there has been misguided debate out there that there is an amendment written somewhere that in case electronic voting fails, we go to manual. That is a lie. There is no such a provision in Section 44. Section 44(a) says that in case the biometric voter identification systems of transmission and identification fail, the Independent Electoral and Boundaries Commission (IEBC) must put in place a complementary mechanism for identification of voters and transmission of results.

This is important because all Kenyans who came before us, not a single one said that we do not have a backup system. In fact, to the contrary, what Kenyans---

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

The Speaker(Hon. Ethuro): Proceed, Sen. Wetangula.

The Senate Minority Leader (Sen. Wetangula):Mr. Speaker, Sir---

(Sen. Murkomen continued standing)

The Senate Minority Leader (Sen. Wetangula): Please sit down, Sen. Murkomen. We cannot be both on our feet.

The Speaker(Hon. Ethuro): Order. Sen. Murkomen. The rules are very clear. Unfortunately, you have to assume your seat when another Member has been given---

The Senate Minority Leader (Sen. Wetangula): Mr. Speaker, Sir, when I raised this issue earlier on in the morning; that we needed the report to debate the matter, none other than the distinguished Senator for Elgeyo-Marakwet virulently opposed the application arguing that we are now in Second Reading and we are debating the Bill before the House.

However - I want to know if he is in order – he has been taking advantage of his Membership of the Committee to tell the House who said what at the Committee and he is debating a report that we have not seen. Is he in order?

The Speaker (Hon. Ethuro): Order, Sen. Murkomen. Did you quote from a report?

Sen. Murkomen: Not at all, Mr. Speaker, Sir. On the contrary, I did not mention anything about a report. I said the people who appeared before us. It is my personal observation. That is a contrary and completely nebulous point of order.

The Speaker (Hon. Ethuro): Order Members. Order, Sen. Murkomen. I am afraid the Senate Minority Leader may be having a point. A matter before the Committee cannot be quoted outside the Committee until that report is brought.

Before you ran into trouble, you had already given us your credentials of you and your boss having taught at the university. I am sure you will not miss other ways of dealing with the same issue.

Sen. Murkomen: Mr. Speaker, Sir, I appreciate your direction. A complementary system and a backup system is necessary in every situation---

(The microphone was switched off)

How can my time end?

The Speaker (Hon. Ethuro): Order. Let me grant the Deputy Senate Majority Leader two minutes.

Sen. Murkomen: Only two minutes, Mr. Speaker, Sir?

The Speaker (Hon. Ethuro): Two minutes, so, that you learn not to invite trouble.

Sen. Murkomen: Mr. Speaker, Sir that is---

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

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

Sen. Orengo: On a point of order, Mr. Speaker, Sir. I am concerned with your generosity because people who speak at the beginning have 10 minutes. If you begin becoming generous to the people who have 10 minutes and towards the end, a Motion is moved that we have two minutes, I think equality of arms is important. So, those who have the advantage of 10 minutes, the Chair should not be overly generous to those who are speaking.

The Speaker (Hon. Ethuro): Order, Members! I am a bit surprised that Sen. Orengo is worried about my generosity. I thought generosity was a good thing. You are making a valid point. If those 10 minutes were used continuously, I would not be generous. All of us are alive to the fact that there were many points of interruption on the Member on the Floor. So, I was just giving him additional two minutes. The point is made so that future contributors take note of what Sen. Orengo has said.

Sen. Murkomen: Mr. Speaker, Sir, for the record, this is important for Kenyans to appreciate that we are voting manually, results are announced manually but it is only the question of transmission of results that has been provided for by this Bill.

Mr. Speaker, Sir, as a Committee----, my recommendation as a Senator is that the regulations that are going to ensue in Article 109 will be able to capture all the proceedings that we have discussed here as to; when do you resort to the complimentary system that we are going to apply. So, having sat and listened to Kenyans both on television, at the Committee and many other fora, I have realized that it was necessary for us to commit this issue to a Committee of Parliament so that the myths are debunked, the lies are exposed and the truth will remain for us to make a decision today.

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I stand in this House to celebrate democracy knowing that at the end of this Session, we will make a determination and decision as a House where both sides of the House sat together and went through the process, using democratic processes. All of us who were elected here including yourself will go through a process of voting in this House to make a determination as to the right position that we need to take as a nation when it comes to this system that we need as a backup.

Mr. Speaker, Sir, I am elated and encouraged that this House has this great opportunity to, once again, in a sober and intelligent manner, demonstrate to Kenyans that we can agree or disagree but in the process, we must uphold the principles of democracy which says that the majority will have their way and the minority will have their say.

With those few remarks, I second this Bill and urge my colleagues to support the Bill that is before this House.

I second.

(Question proposed)

Sen. Ongoro: Thank you, Mr. Speaker, Sir. To start with, today is an important day in this country because the Bill before us could be said to hold the future of this nation. All of us are mature Kenyans who have been here for as long as we have lived, all of us do not have options, we do not have Kenyan number, two or three where any of us can take Kenya number two. If we destroy Kenya number one, then you go to Kenya number two. All of us have one country and one life; that Kenya is one.

Mr. Speaker, Sir, before us is a Bill that holds literally the future of this nation. Three-quarters of this country are saying “no” to the proposed amendments and a quarter of this country is insisting on the process. I want to laud this House as I did before for the sobriety with which we handled this matter before. This matter was referred to a committee of this House to give the public the benefit of participation. That has now happened. I am a bit surprised that even before we look at the proposals from the Committee, I have sat here and heard sentiments from Members of the Senate stating that it does not matter what inputs the public has already given to the Committee and that at our position, we have heard and confirmed. That is not true. I believe I am speaking for many Kenyans.

Mr. Speaker, Sir, I came here to read and have the benefit of knowing exactly what the other Kenyans who presented themselves before that Senate Committee had to say and it could change my position. I do not know how to have a firm stand if I can be convinced that a process as important as the system that we want to have for voting and transmission of results which was the bone of contention in 2007 and it led to bloodshed is still coming up. It is like a big giant that is still coming up to swallow our children and we are in a dilemma whether to kill this snake or to allow it to bite. I am here to be convinced and to convince the other Members on what I think is the right way forward.

Mr. Speaker, Sir, my only worry is that I am shocked. In 2013, my side of the Coalition insisted that we go manual. The other side insisted on electronic voting process. They carried the day and they had electronic voting system. We contested and we still do even the process and the results thereof. Now, because we have one country, we

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conceded and said they might have a point. Let us as a country have an electronic voting system. I am not aware of any system that can be 50/50. It is either manual or electronic. There is no way in any system that you can say I am either sick or not sick. It is either you have malaria or not. You can never be given an under dose of anything. Therefore, I am shocked that after convincing us and after going through everything, we have now said it makes sense for us as a nation to have a system that is devoid of any---

(Sen. Sang stood up in his place)

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

PROCEDURAL MOTION

LIMITATION OF DEBATE ON MOTION PURSUANT TO S.O No.100 (1) AND (2)

Sen. Sang: Mr. Speaker, Sir, looking at the time and the communication that you gave and the Gazette Notice for this sitting, I beg to move;

THAT, pursuant to Standing Order No.100 (1) and (2) and notwithstanding the provision of Standing Order No. 100 (4), the Senate resolves that the speaking time during the debate on the Second Reading of the Election Laws (Amendment) (No. 3) Bill be limited as follows:-

The Senate Minority, not more than 20 minutes; the mover in replying, not more than 5 minutes, any other Senator Speaking be given not more than five minutes and the Speaker to vary these further on need basis.

Mr. Speaker, Sir, this is because we only have less than an hour. This is an important matter and it would be important that many of the Senators are able to have an opportunity to speak out their points.

I beg to move and ask Sen. Kittony to second.

Sen. Kittony: Thank you, Mr. Speaker, Sir. Realizing what the Mover has said, I think it is of great importance that I support that we continue with this Motion. I second.

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

The Senate Minority Leader (Sen. Wetangula): On a point of order, Mr. Speaker, Sir. We oppose this procedural Motion by the distinguished Senator for Nandi County. It is in perpetuation of a mischief---

The Speaker (Hon. Ethuro): Order, Sen. Wetangula! I have not yet proposed the question. Sen. Sang, let me have a copy of the Motion.

*(The Clerk-at-the-Table handed a copy of the
Motion to the Speaker)*

Order, Members, I therefore wish to propose the question.

(Question proposed)

The Senate Minority Leader (Sen. Wetangula): Mr. Speaker, Sir, we oppose this procedural Motion. We want to go on record very briefly that this is a fraudulent attempt to truncate debate. The country is watching this House very keenly not on how you are going to vote but on what you are going to say in furtherance of helping the country remain at peace with itself.

Mr. Speaker, Sir, those of us who have come here armed with a vote and nothing else are the enemies of this country. We want the country to hear, understand and appreciate why there has been the necessity to bring such a divisive, contentious and hypocritical amendment to the law that is likely to cascade the country back to 2007/2008. We need to say this by debating this Bill fully. My distinguished friend from Nandi cannot unilaterally seek to cut away three quarters of my entitlement to debate this Bill when I am ready to do so on behalf of the people who are not represented here and the people whom we sit with on this side who may not have a chance to speak.

Mr. Speaker, Sir, we oppose this procedural Motion. A mechanism must be found to expand the debating time. If it is not possible, we are ready for you to gazette another sitting tomorrow for us to come and debate this matter fully and inform Kenyans on the mischief that the Jubilee Government wants to visit on this country.

Sen. Mutula Kilonzo Jnr.: Mr. Speaker, Sir, in the last sitting, I requested for your direction on Standing Order No.29(5) and your direction was that you called us because this matter is urgent and exceptional. That is why you recalled us from our holiday.

Mr. Speaker, Sir, I want to report that the Committee has not had even a week because we have been working overnight. Maybe because Sen. Sang wants to go and sleep, we should not limit debate to five minutes on such grave matters. Even before I mentioned amendment to Section 44(a), I had used two minutes.

In this particular circumstance, I am afraid even if we have to sit overnight, tomorrow and the day after, we have already sacrificed our holidays. We have come for a Senate Special Sitting and if our colleagues want to go, allow us to debate for as long as we can. The country is watching not for us to vote but because out there, there is a misconception that we are talking about different things and debate here will correct those impressions. Therefore, Sen. Sang must wait for us to speak and listen carefully because today, we are going to talk and he shall listen.

Mr. Speaker, Sir, I thank you.

Hon. Senators: Point of order!

The Speaker (Hon. Ethuro): Order! Members! First, at least Sen. Sang has excited the House. So, let us have Sen. Elachi.

Sen. Elachi: Mr. Speaker, Sir, are we in order knowing very well that we curtailed public participation on this Bill? Now, we want to show Kenyans how we want to talk and debate yet the most important process in the Constitution is that public participation is very key. We have just forgotten we gave them a few days but here we are now fighting for our own time. Are we fair to Kenyans in a new year?

Sen. Orengo: Mr. Speaker, Sir, I thank you. I want to oppose this procedural Motion. I think there is a tendency to minimise debate in both the National Assembly and the Senate. This tradition should not continue because it is a very bad tradition. The

Constitution says that there shall be freedom of speech in Parliament. I think that is Article 18 of the Constitution.

Mr. Speaker, Sir, in the olden days of one party era, if people debated the way we are debating, then the issue of Seroney should never have arisen because, at the end of the day, Members always had their time to speak. So, I beg you that this is a matter that we want to be heard.

I heard Sen. Murkomen addressing this august Assembly on Clause 44. Those are provisions that we want to be heard fully on so that the country understands us. So, we should not have debate limited. Let us have our traditional 10 minutes and continue with the debate.

The Speaker (Hon. Ethuro): Order, Members, let me give the following directions. First, this matter is not strange to the House. It was alluded to by the Senate Minority Leader and also by Sen. Khaniri. The Motion is before us and as we contribute to it, the leadership of the House can retreat behind here and give us directions. I will deal with the technicalities. That one you cannot take away from me but I will give opportunity for the political leadership to see if we can get a compromise on the way forward in terms of Second Reading.

Sen. Ongoro, proceed.

Sen. Ongoro: Thank you very much Mr. Speaker, Sir. It is sad that Sen. Sang stopped the flow of my points to Kenyans. I was saying, this is very important and any Kenyan who speaks in this House---First of all, I started by lauding all of us. This is a House of debate. Unless somebody wants us to come here and behave otherwise such as start fighting, doing all manner of things or walking out, we have no such intention. We come here to talk and let Kenyans know our mind, speak to each other and not at each other and to have these records preserved for eternity so that whichever way this country goes, Kenyans will know who said what and what they stood for when they were given an opportunity to lead this country, either to save or burn it.

So, as I was saying, we are all shocked that after agreeing, that we go electronic, why the sudden change? What shocks me is that the most contentious aspect of the electronic system is being attacked; the electronic results transmission. That was the bone of contention in 2007 and 2013, which almost burnt this country. It almost sent this country packing and divided it into 47 states of Kenya instead of a united Kenya.

When we speak, know that there is nobody with the authority to force anything on anybody. Kenyans are living together peacefully as ordained by God and respecting their leaders; and not being forced into slavery or an attitude of servitude. You can say something that can bind us together or split this nation. That is why I am very careful with my words. I am really shocked when we still hear from the Majority Leader and his deputy that the system we are talking about is not manual but they are only stating that there should be some “complementary” system in place. Which is this ambiguous complementary system that should be put in place to help an electronic system?

People go digital and electronic to perfect a system. Now, we are being told that it is worse than we thought. We thought that they were even saying that we need a manual system alongside the electronic one. The Majority Leader and his deputy have stated that they did not mean that it is a manual system but there is just some

complementary system that is supposed to be available. This system has not been exposed to Kenyans. It has not been interrogated. Nobody knows what it is.

Therefore, on the voting day, they could present anything else other than the electronic transmission of results. They will say, we told Kenyans that we are putting in place some other system to complement what we have.

The Speaker (Hon. Ethuro): What is your point of order, Sen. (Prof.) Lonyangapuo?

Sen. (Prof.) Lonyangapuo: On a point of order, Mr. Speaker, Sir. We heard you clearly when you said the leadership of this House can retreat to the back, in your office, to discuss. There is a major obstruction. We are not following the debate because of the manner they are consulting right in front of us here.

The Speaker (Hon. Ethuro): Order, Sen. (Prof.) Lonyangapuo! You must appreciate some of these things. I agree with you, they should be in a better place, but if they chose to do it in the most transparent manner, who are we to deny them? There are more substantive issues. In fact, you are at the very other end of where they are seated. So, you are not obstructed at all.

Proceed, Sen. Ongoro.

Sen. Ongoro: Mr. Speaker, Sir, my conclusion on this matter is this; there is somebody or a group of people hell-bent on taking this country back to where it is trying to come from. There is somebody who wants a repeat of 2007. We may sit here and the 67 of us can either say we have the tyranny of numbers or whatever. You are forgetting that the real tyranny of numbers is out there. You do not have the ability to control the decisions and whichever way Kenyans will think or act. You can only add fuel to a fire that is already burning or decide to pour water on a small fire.

The Jubilee administration is hell-bent on stealing elections. They are putting in place, carefully, a system to ensure stolen elections. Now that they know that we are not averse to the electronic voting system, and maybe some loopholes have been sealed, they are trying to reintroduce the manual aspect to this system or another more ambiguous system which is not even being discussed to allow that process to take place.

The Speaker (Hon. Ethuro): Order, Member! What is it, Sen. Wangari? It must be a valid point of order.

Sen. Wangari: It is. On a point of order, Mr. Speaker, Sir. Is it in order for Sen. Ongoro to state on this Floor and mislead Kenyans that Jubilee is hell-bent in stealing elections? Can she substantiate or withdraw?

(Loud consultations)

The Speaker (Hon. Ethuro): Order! That is a substantive one.

Sen. Ongoro: Mr. Speaker, Sir, I repeat, in case Sen. Wangari did not hear me well and I mean it; that the Jubilee administration is not only hell-bent on stealing elections, they are putting in place structures to steal elections and take this country to where it came from. I am speaking as a leader representing sentiments from Kenyans. They are saying they decide to support the electronic system ---

The Speaker (Hon. Ethuro): Order, Sen. Ongoro! Your time is up!

(The Senate Majority and Minority Leader consulted the Speaker)

Proceed, Sen. Elachi.

Sen. Elachi: Mr. Speaker, Sir, today is a very special day. It is a day that Kenyans would wish to see us do what we do when we have a Special Sitting. However, it looks as if it will also be a very sad say.

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

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

If we decide to go into this in a divisive manner, then the sober leadership that the country is waiting from us will be elusive. It is also sad because the two co-chairs of the Select Committee came from this House. Being a member of that Select Committee, we should be asking ourselves, what happened? We were not supposed to come back to such a scenario but when I look at the report of the Select Committee, it is very clear. It indicates the way we are supposed to vote. It takes into account Article 38 of the Constitution. It brings out the human rights that we have.

Therefore, if this Senate wants to guide our country and say “no” to the events of 2007, then we have to be open enough to discuss and bring out issues. When we talk about a complementary system, it is upon us to ask ourselves whether we need a laptop which is electronic to be used to guide us or any other means. Kenyans want us to guide the country that whatever happened in 2007 can never happen again.

However, if we take it in a political ---

The Deputy Speaker (Sen. Kembi-Gitura): Order, Sen. Elachi. If I am following the debate correctly, we are on the Motion of timeliness. That is what we are dealing with. The Speaker proposed it and it was seconded. That is the debate on the Floor of the House. I hope it will be a brief debate.

(Loud consultations)

Order, Senators! I was sitting here. The ruling is that the Motion was proposed, seconded and then the Speaker ordered the leadership to go and negotiate at the back. That is the Motion on the Floor at the moment. It is not on the substantive debate. That is the correct position. So, if you want to debate now, just for the sake of good order, you are not debating on the substantive Motion. You are not on the Second Reading, but now on the Motion by Sen. Sang. I hope I am clear. So, if you want to speak to that Motion---

(Sen. Khaniri spoke off record)

The trouble, of course, like Sen. Khaniri says is that the screen is for the main Motion, but it is full even on interventions as it were. So, maybe I would just have to recognise you if you want to speak to the Motion on adjustment of time.

I hope you allow me to have that discretion because the screen is full. I can recognise each and every one of you.

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Sen. Muthama: On a point of order, Mr. Deputy Speaker, Sir. If I got it clearly from the Speaker who was on the Chair, the substantive Motion was to continue while the Motion brought by Sen. Sang is being discussed by the political parties at the back room.

The Deputy Speaker (Sen. Kembi-Gitura): That can never happen once a motion has been proposed and seconded. You can check the HANSARD and prove me wrong. However, the ruling of the Speaker was that the Motion on adjustment of time will go on pending the discussion by the leadership to the House. There cannot be any other procedure. It would not be correct.

Sen. Muthama: Mr. Deputy Speaker, Sir, I am not challenging the Chair, but the meeting that was being held there was to discuss and sort out the Motion that was raised by Sen. Sang. That stopped there. We are now on the substantive Motion, but I stand to be guided.

The Deputy Speaker (Sen. Kembi-Gitura): You cannot suspend a Motion that has been proposed and seconded by the Speaker, right? At least, he did not. Are we clear?

Sen. Wamatangi, I know you do not want to interfere with the screen. So, I will recognise you if you want to speak.

Sen. Wamatangi: Mr. Deputy Speaker, Sir, I hope I am not one of the victims of that procedure because I noted that my name has moved a few slots.

The Deputy Speaker (Sen. Kembi-Gitura): Order, Sen. Wamatangi! I have no control over the screen.

Sen. Wamatangi: Mr. Deputy Speaker, Sir, I am just bringing it to your attention because I also have a lot to say about the substantive Motion. However, on this Motion as moved by Sen. Sang, we are a House of procedures, order and we have Standing Orders. One, we need to remember that we already have a Gazette Notice that has already stipulated two sittings with timings. The second sitting is gazetted to commence at 2.30 p.m. Therefore, the only time that we can move forward the first sitting is between the time it commenced at 10.00 a.m. and 2.30 p.m. and not beyond 2.30 p.m. This is because one is already gazetted.

Following what was moved by the Senate Minority Leader that he takes 60 minutes and each Senator contribute for 10 minutes. If you look at the clock now, we have barely between now and 2.30 p.m. two-and-a-half hours. We have 67 Senators in this House. If you allocated them 10 minutes each, those are 670 minutes. So, it is not practical that we can debate this according to what the procedure provides for. There has to be a compromise on reduction of time. We have to acknowledge that if we do not want to interfere with what has already been gazetted. It is not lawful, legal and procedural.

Mr. Deputy Speaker, Sir, the only way forward is for us to be truthful to our own Standing Orders, accept that Motion. So, the only variation would be, how many minutes would we allow for the leadership and the other Members to fit into that time between now and 2.30 p.m.

Sen. Orengo: On a point of order, Mr. Deputy Speaker, Sir. I rise on Standing Order No.99(1) on adjournment of debate.

“A Senator who wishes to postpone to some future occasion the further discussion of a question which has been proposed by the Chair may claim to move “That, the debate be now adjourned---”

Mr. Deputy Speaker, Sir, I beg to move, the debate on the dilatory Motion moved by Sen. Sang be adjourned until we receive a report from the leadership of the House.

That Standing Order is to allow somebody, like I am doing, to move a dilatory Motion which means that you suspend debate on a Motion that has been moved, seconded and proposed by the Chair. The Chair had already proposed. So, I move that we adjourn debate on the Sen. Sang Motion.

Sen. (Dr.) Machage seconded.

(Loud consultations)

The Deputy Speaker (Sen. Kembi-Gitura): Order, Senators! Sen. Orenge, what you are doing under Standing Order No.99 is correct and it can be done. It makes a lot of sense because we will not stop the debate, but adjourn it so that we can get an outcome from the leadership. So, I agree with Sen. Orenge. The only problem, of course, is that he, under Standing Order No.99, has already contributed to the dilatory Motion. So, somebody else will have to make that proposal to validate what you are doing.

Sen. Orenge: Mr. Deputy Speaker, Sir, I stand guided.

The Deputy Speaker (Sen. Kembi-Gitura): The proposal makes a lot of sense.

Sen. Elachi: On a point of order, Deputy Mr. Speaker, Sir. While I agree ---

The Senate Minority Leader (Sen. Wetangula): There is no Motion now.

Sen. Elachi: On a point of order, Deputy Mr. Speaker, Sir. While I agree with that Standing Order, could you guide us on what Standing Order No.99(4) means?

The Deputy Speaker (Sen. Kembi-Gitura): Exactly what I have said. Sen. Orenge cannot, but somebody else can make the proposal for the adjournment.

Sen. Elachi: Mr. Deputy Speaker, Sir, can the Mover do it?

The Deputy Speaker (Sen. Kembi-Gitura): If there is nobody then, the debate continues.

Sen. Murungi: Mr. Deputy Speaker, Sir, we agree with your correct reading of the Standing Orders as far as Sen. Orenge's Motion is concerned. It is incumbent upon you to make a ruling regarding the Motion that Sen. Orenge was moving. You have said that because Sen. Orenge had already spoken on another Motion, his Motion cannot be proceeded with. It is not correct to invite somebody else to move a Motion once you have ruled---

The Deputy Speaker (Sen. Kembi-Gitura): Order, Sen. Kiraitu Murungi. I ruled that Sen. Orenge will not be the right person to move that Motion because he has already spoken on the dilatory Motion. However, that does not stop anybody else from moving the Motion. I did not invite anybody to move that Motion. In the event that there is nobody moving that Motion, it is finished for now until somebody moves it. That is the point I am making.

PROCEDURAL MOTIONADJOURNMENT OF DEBATE PURSUANT TO
STANDING ORDER NO.99

Sen. (Dr.) Machage: Mr. Deputy Speaker, Sir, I rise pursuant to Standing Order No. 99 on adjournment of debate on a Motion proposed to the House by Sen. Sang on limitation of time. You had hitherto ruled that the leadership of the House was to meet and make a decision on the same. Therefore, I move the Motion that we adjourn debate on the same until the leadership of the House gives us their decision.

(Question put and agreed to)

The Deputy Speaker (Sen. Kembi-Gitura): Sen. Elachi, you had the Floor on the substantive Motion.

Sen. Elachi: Mr. Deputy Speaker, Sir, some of us have carried a burden for the last 10 years and we must release it today. I am sure no one celebrated after winning the election in 2007 because many people died. We have an opportunity to change these things this year. Many of us seated here were part of the process. We have an opportunity to do what is right.

Even when I am sick I can choose a doctor. Likewise, we should agree to save our country by having an alternative process. Kenyans want to have a successful election. This election is for all of us and not a few people. A Member of County Assembly (MCA) will be most affected by the process that we have today. Even 20 votes can make a Member of County Assembly (MCA) lose an election. It is time for the leaders, especially those who were elected in 2007, to do the right thing for this country.

Mr. Deputy Speaker, Sir, I support the amendments.

The Deputy Speaker (Sen. Kembi-Gitura): Sen. Elachi, are you through?

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

Sen. (Prof.) Anyang'-Nyong'o: Thank you, Mr. Deputy Speaker, Sir. When I look at the law as was done by the Committee Chaired by Sen. Orengo and Sen. Kiraitu, I do not see any contradiction at all that requires this amendment. In any case, Section 44 (5) states clearly that:-

“The Commission shall for purposes of this Section and in consultations with relevant agencies, institutions and stakeholders, including political parties, make regulations for the implementation of this Section, and in particular providing for:-

- (b) testing and certification of the system;
- (c) mechanisms for the conduct of a system of audit;
- (d) data storage and information security.”

Mr. Deputy Speaker, Sir, if there are regulations done by the Commission in consultation with relevant agencies dealing with those three things, then, we do not need an amendment which introduces discretion. In Government, discretion is a dangerous matter. This amendment states that notwithstanding the provision of Section 39 and 44--- In other words, it ignores Section 39 and 44 and produces a discretion which is contrary

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to what was written in law. The discretion is that ‘the commission shall put in place a complementary mechanism for identification of voters.’ In the word ‘complementary’ lies a discretion because we do not know what the complementary is.

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

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

In Clause 44 regarding the regulations, how to make those regulations and what those regulations should be made about is very clear in law. Unless we are introducing a mischief in law, this particular amendment is highly unnecessary. It has introduced an unnecessary certainty by people speculating whether that complementary system is manual or electronic. Precisely, it is because of that uncertainty---

Sen. Wamatangi: On a point of order, Mr. Speaker, Sir. Is the Senator for Kisumu in order to mislead the House and the country that he does not understand what the word ‘complementary’ means? In the basic English dictionary the word ‘complementary’ means ‘favourable.’ He is trying to introduce mischief around an English word that clearly means ‘a favourable alternative.’ Is he in order?

Sen. (Prof.) Anyang’-Nyong’o: Mr. Speaker, Sir, I will ignore that unnecessary point of order and proceed to what I was saying. Sen. Orenge and I went to the same high school. Sen. Kajwang also did go to the same high school. I do not see any other person in this House who went to that school; the Alliance High School---

The Speaker (Hon. Ethuro): Order, Sen. (Prof.) Anyang’-Nyong’o! When you miss such basic things---

Sen. (Prof.) Anyang’-Nyong’o: Yes, Mr. Speaker, Sir, also went to Alliance High School.

The Speaker (Hon. Ethuro): That is correct.

Sen. (Prof.) Anyang’-Nyong’o: Mr. Speaker, Sir, why do I say so? I would like to make a very simple point---

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

Sen. (Dr.) Khalwale: On a point of order, Mr. Speaker, Sir. With due respect to Sen. (Prof.) Anyang’-Nyong’o, is he in order to impute improper motives on others that it is only those who went to Alliance High School that are up to it? We know that some Members who were never in Alliance High School at the same time with those who are here who were in Alliance High School did better than those who were in Alliance High School at that exam.

Sen. (Prof.) Anyang’-Nyong’o: Mr. Speaker, Sir, I wish Sen. (Dr.) Khalwale, the bullfighter, was patient enough to wait for the point I was going to make. He is presuming that I was going to speak about what he has spoken about but I was not going to do so.

If you remember well in the play *Othello*, Othello was a moor and a very good soldier. He fell in love with a lovely girl called Desdemona, the daughter of an old man called Brabantio. Brabantio was very angry that a black man was falling in love with his daughter. He, therefore, marshalled some soldiers to go and attack Othello because he had fallen in love with his daughter. Othello approached the soldiers, something that is

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very important regarding the point that I am going to make. He bravely told the soldiers who had drawn their swords to kill him:- *keep up your bright swords for the dew will rust them*. When addressing Brabantio he said:- *good signior, you shall more command with your years than with your weapons*. Put in modern English, it says the following:- “Put away your swords, they will get rusty in the dew. Sir, your age and status inspire more respect than your weapons do.”

I am making the following point; it seems as if this particular amendment was made with a force of swords. In other words, there was a conclusion that in order to have free and fair elections, you must have something a complementary even before you make a good argument for it. Notwithstanding the fact that there was already a law that was already very clear. The feeling I get in this House is that there is intimidation. By drawing in the specter of 2007---

The Speaker (Hon. Ethuro): Order, Sen. (Prof.) Anyang'-Nyong'o. You will have the balance of your time another time.

Sen. (Prof.) Anyang'-Nyong'o: What is happening?

The Speaker (Hon. Ethuro): It will be announced shortly.

Before we get to 12.30 p.m., I want to state that following consultations which I directed to be undertaken by the political sides of the House on the matter of Sen. Sang's Motion, of limitation of debate and on how to move forward, I am informed, therefore, that the following agreement has been reached. First, the Motion by Sen. Sang shall be withdrawn by leave of the Senate, pursuant to Standing Order No.59.

Secondly, the Senate shall proceed with the debate on the Second Reading of the Bill until 12.30 p.m. when this sitting ends. The debate on this Bill at the Second Reading will resume at 2.30 p.m. until 6.30 p.m. when the House shall proceed to the Committee of the Whole by leave of the Senate and shall proceed with the Bill until further disposal. That will definitely be before midnight.

I shall now invite Sen. Sang to withdraw the Motion.

Sen. Sang: Mr. Speaker, Sir, I stand guided. I am happy that through the Motion, the leadership of this House has been able to agree on this matter. It is important that the intention of my Motion from the word go was to ensure that a majority of the Senators who have interest to contribute to this matter are able to do so. In the confines of the communication that you had given, it was going to be impossible for more than three or so Members of this House to contribute.

With that agreement between the leadership of this House, I am excited to withdraw and look forward to contribute to this particular matter.

I thank you.

(Motion withdrawn)

ADJOURNMENT

The Speaker (Hon. Ethuro): With the leave of the House, the House stands adjourned until 2.30 p.m. this afternoon.

The House rose at 12.30 p.m.

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