

PARLIAMENT OF KENYA

THE SENATE

THE HANSARD

Thursday, 30th July, 2015

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

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

PRAYERS

PAPERS LAID

REPORT OF THE MEDIATION COMMITTEE ON THE FERTILISER AND ANIMAL FOODSTUFFS (AMENDMENT) BILL, 2013

Sen. Ndiema: Mr. Speaker, Sir, I beg to lay the following paper on the Table of the Senate today, Thursday, 30th July, 2015.

Report of the Mediation Committee on the Fertiliser and Animal Foodstuffs (Amendment) Bill 2013.

CASH DISBURSEMENT SCHEDULE TO COUNTY GOVERNMENTS

Cash Disbursement Schedule to County Governments for the Financial Year 2015/2016.

(Sen. Ndiema laid the documents on the Table)

NOTICES OF MOTIONS

ADOPTION OF REPORT ON THE SECURITY SITUATION IN MANDERA, LAIKIPIA AND KAPEDO

Sen. Haji: Mr. Speaker, Sir, I beg to give notice of the following Motion.

THAT, this House adopts the Report on the assessment of security situation in Mandera County, Laikipia County, Kapedo border town of Turkana

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and Baringo Counties, conducted between 19th January and 5th February, 2015 and laid on the Table of the House on Wednesday, 29th July, 2015.

APPROVAL OF CASH DISBURSEMENT SCHEDULE
TO COUNTY GOVERNMENTS FOR 2015/2016
FINANCIAL YEAR

Sen. Ndiema: Thank you Mr. Speaker, Sir, I beg to give notice of the following Motion:-

THAT, the Senate approves the Cash Disbursement Schedule to County Governments for 2015/2016 Financial Year laid on the Table of the Senate on Thursday, 30th July, 2015, pursuant to Section 17 of the Public Finance Management Act, 2012.

APPROVAL OF THE REPORT OF THE MEDIATION
COMMITTEE ON THE FERTILISER AND ANIMAL
FOODSTUFFS (AMENDMENT) BILL, 2013

Sen. Ndiema: Mr. Speaker, Sir, I beg to give notice of the following Motion.

THAT, the House approves the report of the mediation committee on the Fertiliser and Animal Foodstuffs (Amendment) Bill (National Assembly Bill No.36 of 2013) laid on the Table of the Senate on Thursday, 30th July, 2015.

COMMUNICATION FROM THE CHAIR

INVITATION TO THE 46TH CPA (AFRICAN REGION)
AND THE 6TH CWP CONFERENCES

The Speaker (Hon. Ethuro): Order, hon. Members. Before we proceed to that particular Order, I have a communication to make on two Commonwealth Parliamentary Associations (African Region) conferences to be held in Nairobi this August.

Hon. Senators, I wish to notify all Senators that this August, our Parliament (both Houses) will have the honour of hosting two very important international conferences under the auspices of the Commonwealth Parliamentary Association (CPA) African Region.

The main event, namely, the 46th CPA African Region Conference is scheduled to take place from 9th to 15th August, 2015. It will be preceded by the 6th Commonwealth Women Parliamentarians (CWP) Conference which will take place from 6th to 9th August, 2015. Both Conferences will be held at Safari Park Hotel, Nairobi County.

Hon. Senators, my office has nominated Senators who will fully participate in the two conferences as delegates and observers. However, I am encouraging all of you to attend, particularly, the opening and closing ceremonies.

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Hon. Senators, it is my pleasure, therefore, and honour to invite each one of you to the two conferences. The CWP is expected to attract more than 100 participants from the Commonwealth countries in Africa, Government officials and civil society organisations. Her Excellency the First Lady of the Republic of Kenya has been invited and has graciously accepted to officially open this Conference on Friday, 7th August, 2015.

All Senators, especially women Senators, are encouraged to attend. The following week, Tuesday, 11th August, 2015, His Excellency the President of the Republic of Kenya will officially open the second and main Conference where over 400 delegates are expected to attend.

Hon. Senators, as you may be aware, the CPA has been the voice of parliamentary democracy across the Commonwealth for more than nine decades. The CPA also develops, promotes and supports parliamentarians and their staff to identify benchmarks of good governance and the implementation of enduring values of the Commonwealth and, the membership of African countries to the Commonwealth has been increasing. It is, therefore, an honour for Kenya to be the host of the two events this year. These two conferences come at a time when the country is positioning itself as the preferred conference tourism destination.

The Conference will, therefore, go a long way in enhancing that aspiration in addition to advancing the objectives of the Commonwealth family of nations. I hope that each one of us will take an interest in the said events and will endeavour to interact, network and share experiences with colleagues from other jurisdictions.

I thank you.

STATEMENTS

The Speaker (Hon. Ethuro): Hon. Members, today, we have a lot of business. We need to operate more efficiently than before.

Sen. Chelule is not here.

Senate Majority Leader, do you have the weekly statement?

BUSINESS FOR THE WEEK COMMENCING TUESDAY, 15TH SEPTEMBER, 2015

The Senate Majority Leader (Sen. (Prof.) Kindiki): Mr. Speaker, Sir, I rise on Standing Order No.45 to issue a statement of the Majority Leader under this Order.

As you may be aware, as per the Senate Calendar which was adopted on 28th February, 2015, the Senate proceeds to the August recess today for a period of one-and-half months to resume on 15th September, 2015.

Pursuant to the provisions of Standing Order No.45, I hereby present the Senate business for the first week after recess.

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Hon. Senators, on Tuesday, 15th September, 2015, there will be a meeting of the Rules and Business Committee (RBC) at 12.00 noon to schedule the business of the Senate for that week. Subject to the directions of the Committee during that meeting, the Senate will continue with the business that will not have been concluded in today's Order Paper focusing on debate on Bills at Second Reading and Committee of the Whole.

On Wednesday, 16th September, 2015, the Senate will continue with the business that will not be concluded at Tuesday's sitting focusing, once again, on Bills at the Second Reading and Committee of the Whole.

Mr. Speaker, Sir, on Thursday, 17th September, 2015, the Senate will consider Bills at the Second Reading. It will also deliberate on Motions and any other business that will be scheduled by the RBC. Hon. Senators, I take this opportunity to thank you for a job well done since the beginning of this session. The Senate has since, 16th June, 2015 to date, considered and passed five Bills. These are;

- (1) The Parliamentary Service (Amendment) Bill (Senate Bill No.21 of 2014);
- (2) The National Government Coordination (Amendment) Bill (Senate Bill No.30 of 2014);
- (3) The Natural Resources Benefits Sharing Bill (Senate Bill No.34 of 2014);
- (4) The National Drought Management Authority Bill (National Assembly Bill No.42 of 2013); and,
- (5) The County Allocation of Revenue Bill (Senate Bill No.5 of 2015).

The Senate is also currently considering several Bills that are at different stages with three pending divisions at the Committee of the Whole which are listed in the Order Paper for today.

Hon. Senators, we still have some urgent business pending before the Senate. These include: The Public Procurement and Asset Disposal Bill (National Assembly Bill No.40 of 2014) and the Public Audit Bill (National Assembly Bill No.38 of 2015) that were sent back to Parliament with a memorandum from His Excellency the President and which are being considered by a Joint Committee of Parliament.

Mr. Speaker, Sir, that being the case, there may be need to have a Special Sitting during the recess to consider the Joint Committee reports on the Bills. I encourage Senators to be on the lookout for a Special Sitting and when convened to avail themselves to deal with the business that will be gazetted. As hon. Senators may know, these Bills have a constitutional deadline of 27th August, 2015. Therefore, we cannot wait to come and consider the reports of the Joint Committees after the recess. The recess will end much later, after 27th August.

Hon. Senators, we also have before the Senate the Community Land Bill (Senate Bill No. 38 of 2014) which also has a constitutional timeline of 27th August, 2015 and is listed in today's Order Paper for Second Reading and Committee of the Whole, by leave of the Senate. I, therefore, urge hon. Senators to remain in the Chamber today and finalise this Bill and all the business listed in the Order Paper today.

Hon. Senators, let me take this opportunity to wish all of you a fruitful recess as you connect with your families and constituents after today's sitting.

Mr. Speaker, Sir, hon. Senators, I thank you. I now lay this Statement on the Table of the House.

(Sen. (Prof.) Kindiki laid the document on the Table)

The Speaker (Hon. Ethuro): Order, Senators! The Senate Majority Leader deserves some appreciation. He has appreciated you. You must also return the compliment to him.

(Applause)

There is business with a fixed timeline. It is important that we try to sort that today if you do not want to be recalled.

Proceed, Sen. Chelule.

ACCESS TO FINANCES BY THE YOUTH, WOMEN
AND PWDs TO EXECUTE TENDERS WON

Sen. Chelule: Mr. Speaker, Sir, I rise pursuant to Standing Order No.45(2)(b) to request for a statement from the Chairperson of the Standing Committee on Labour and Social Welfare on access to finances by the youth, women and persons with disabilities to execute tenders won through 30 per cent access to Government procurement.

In the statement, the Chairperson should explain the following:-

(1) Whether the Government is aware that the youth, women and persons with disabilities face challenges in executing Government tenders that are won due to lack of collateral required by financial institutions to secure the loans.

(2) Provide a comprehensive report on the youth, women and persons with disabilities who have benefitted from *Uwezo* Fund in all the sub counties.

The Speaker (Hon. Ethuro): Proceed, Chairperson. Where is Sen. Madzayo?

Sen. Madzayo: Mr. Speaker, Sir, we are aware of these challenges that are faced by the youth. We shall be in a position to respond to that question when we come back from recess. I believe in the mid of September.

The Speaker (Hon. Ethuro): Order, Chairperson! We know our calendar and the days therein. So, which one?

Sen. Madzayo: Mr. Speaker, Sir, the first Tuesday after we come back from recess.

The Speaker (Hon. Ethuro): The statement will be issued on 15th September, 2015. What is it, Sen. Chelule?

Sen. Chelule: Mr. Speaker, Sir, I just wanted to respond. It is okay with me.

The Speaker (Hon. Ethuro): Order, Sen. Chelule! Just because you have sought a statement, that does not give you a field day. You still need to request for permission to speak. We have a number of statements to be responded to. Where is the Chairperson or

the Vice Chairperson of the County Public Accounts and Investments Committee? That is Statement (b).

Proceed, Sen. Hassan.

Sen. Hassan: Mr. Speaker, Sir, I am aware that this statement is not yet ready. However, the Chairperson will advise further as he walks in.

The Speaker (Hon. Ethuro): As the Chairperson is being briefed, proceed, Sen. Haji. However, I do not see the Senator who sought the statement.

INTERNATIONAL BOUNDARY DISPUTES IN TURKANA

Sen. Haji: Mr. Speaker, Sir, I have two statements to issue. However, the Senators who requested for them are not here. One was requested by Sen. Musila and the other one by Sen. Munyes. Therefore, I do not know whether I should issue them now or we wait until after recess.

The Speaker (Hon. Ethuro): Let us wait till then since we have time constraint.

Proceed, Chairperson of the County Public Accounts and Investments. I am sure that you have been briefed.

STATUS OF VARIOUS PROJECTS IN NAROK COUNTY GOVERNMENT

Sen. (Dr.) Khalwale: yes, Mr. Speaker, Sir. I had an opportunity on Tuesday to address this issue. Thank God you were in the Chair that day. I confirmed that we shall be ready in a week's time from Tuesday.

The Speaker (Hon. Ethuro): Order! I am glad that you invoked the name of God in thanking me for being present then and now. You said that you will be ready in one week's time. However, with a bit of pressing, you also said that you would attempt to see if you can respond today. So, you need to give an explanation why you are unable. It is not just about saying that you said in one week's time. You said that much, but there was much more you said.

Sen. (Dr.) Khalwale: Mr. Speaker, Sir, I am reminded. I am not able to make any interim report on it. We have been busy the whole of this week with a matter concerning Homa Bay County. So, there was no room in which we could bring in any other witnesses in respect of what we were inquiring from the Ministry. I, therefore, seek for your indulgence. We are proud that we have now finished with Homa Bay, both the Executive and the County Assembly.

Sen. Ntutu: Mr. Speaker, Sir, since the Chairperson is unable to give the answer within the time we had agreed, I will be patient until we come back from recess. I suggest the first Tuesday, if possible.

The Speaker (Hon. Ethuro): It helps to be accurate and truthful.
What is it, Sen. (Dr.) Khalwale?

Sen. (Dr.) Khalwale: Mr. Speaker, Sir, allow me to thank Sen. Ntutu for his indulgence. I wish to confirm that this is not because of any reason connected to the fact that he is my brother-in-law. However, I thank him all the same.

SEIZURE OF KENYAN IVORY IN THAILAND

Sen. Ndiema: Mr. Speaker, Sir, I am ready with the statement in respect of the seizure of Kenyan ivory hidden in tea leaves by Thailand Customs officials. This statement was sought by Sen. (Prof.) Lesan. I had undertaken to issue it.

The Speaker (Hon. Ethuro): By when?

Sen. Ndiema: Mr. Speaker, Sir, It was supposed to be issued on Tuesday. However, we were not in a position to do so then.

The Speaker (Hon. Ethuro): Proceed, Chairperson.

Sen. Ndiema: Mr. Speaker, Sir, the statement is a bit lengthy because Sen. (Prof.) Lesan had sought a lot of details. He wanted to know:

(1) Whether Kenya currently exports tea to the Kingdom of Thailand, Laos and other countries in the Middle East.

According to available records captured by Agriculture, Fisheries and Food Authority (AFFA), Tea Directorate Office, Mombasa, Kenya did not export any tea to the Kingdom of Thailand or Laos in the days preceding 28th April, 2015. However, in that month, tea was exported to the following destinations among others; Kazakhstan, Russia, United Arab Emirates (UAE), Egypt, China, Saudi Arabia, Afghanistan and Azerbaijan.

(2) Circumstances under which 500 pieces of elephant ivory were found hidden in tea sacks, containing Kenya tea leaves by Thailand Customs on 28th April, 2015.

The Ministry of Agriculture, Livestock and Fisheries received information from KRA through AFFA, Tea Directorate that custom officials had seized 511 elephant tusks weighing 3.1 tonnes with a reported street value of US\$6 million on 27th April, 2015 inside a container that had been shipped from Mombasa on 6th April, 2015. The tea was allegedly exported by Almasi Chai Kenya Limited and declared to contain 220 bags of various tea destined for UAE. The tea was stored by Siginon Global Warehouse before export.

(3) Provide the details regarding the consignment and clarify whether it actually came from Kenya considering that the same was found hidden in tea leaves sacks allegedly from Kenya; if so, whether necessary levies such as *ad valorem* was paid to KRA in respect of the consignment.

Preliminary investigations indicate that Almasi Chai Kenya Limited and or Siginon Group exported the tea through an entity known as Potential Quality Supplies who are not registered to deal in tea. This is in contravention of the Crops Act 2013, the Tea Licensing Registration and---

(Loud consultations)

Protect me, Mr. Speaker, Sir. There are two Senators who are holding a *baraza*.

The Speaker (Hon. Ethuro): Sen. Ndiema, you are completely out of order. A *baraza* cannot possibly consist of only two participants.

Sen. Ndiema: Mr. Speaker, Sir, this is in contravention of the Crops Act 2013 and the Tea (Licensing Registration and the Trade) Regulations of 2008 that prohibit transfer of registration certificate to a third party as well as the East African Tea Traders Association (EATTA) Trading Rules. The circumstances under which the tea consignment was found in Thailand on 28th, April 2015, yet it was destined for the United Arabs Emirates, are currently under police investigations. The Agriculture, Fisheries and Food Authority, Tea Directorate collected levy on this consignment since the tea was brought from the auction and all the relevant export documentation lodged were valid.

(4) The other aspect was whether the Kenya Tea Development Agency (KTDA) godowns in Mombasa which provide storage for teas in transit were used to store the particular consignment.

Once tea is bought in the auction, various buyers pick the tea and handle the same in their various warehouses before shipping the same to their various international markets. In this case, storage for this tea was provided by Siginon Group Warehouse. Chai Trading Company, a subsidiary of KTDA, did not handle this particular consignment.

(5) The other issue was the role of EATTA in the export of the tea in line of the finding of ivory or other contraband among Kenyan tea.

EATTA as an association has no role in the export of tea as this is handled directly by the members, buyers and exporters. The customs procedures are handled by Kenya Revenue Authority (KRA) while export registration is carried out by Agriculture, Fisheries and Food Authority, Tea Directorate. The role of EATTA ends with the auction. However, EATTA has a code of conduct governing the trading and auction of the tea. It has since expelled Almasi Chai (K) Limited from trading in tea auction as a punishment for breaching this code of conduct.

(6) The other issue was with regard to the measures put into place to ensure that KTDA and EATTA are held to account regarding the credibility of tea products and the tea industry generally.

The Ministry has held consultations with stakeholders and agreed on the following measures to streamline the tea trade:-

(1) All buyers and exporters should not deal with unregistered buyers/packers within the country. If they are found culpable, their licences will be invalid.

(2) EATTA should not allow trading at the auction by proxies of the registered buyers. This is against the Crop Act, 2013, and Section 29 of the Tea (Licensing, Registration and Trade) Regulations of 2008 that prohibits transfer of licences to unregistered parties.

(3) AFFA Tea Directorate should immediately profile tea buyers, exporters and importers by 30th June, 2015 before renewal of their registration on 1st July, 2015.

(4) The licence of any company found culpable of malpractice shall be suspended with immediate effect until they are cleared by investigative agencies of Government.

(5) All tea warehouses should be installed with functional Closed Circuit Television (CCTV) cameras and other security measures.

(6) The KRA and the Kenya Ports Authority (KPA) have been asked to install appropriate and efficient surveillance equipment for inspection of tea for export.

(7) The KRA and the KPA should not allow exports without a mark of authentication from AFFA.

(8) The KRA should hasten the implementation of the national single window system for purposes of transparency.

To deter traders from dealing with contraband goods under the guise of tea, the Ministry has revoked the licence of Almasi Chai (L) Limited and suspended the licence for Siginon Group until they are exonerated by the ongoing investigation.

Sen. (Prof.) Lesan: Mr. Speaker, Sir, first of all, I want to thank the Chairman of the Committee on Agriculture, Livestock and Fisheries for the elaborate answer that he has given. However, I would like to seek further clarification. I am thankful that there are some investigations which are going on regarding this consignment and the subsequent consignment which was arrested thereafter. From the answer which has been given, there is an entity that was mentioned which is called Potential Quality Services. I think that this is the culprit in terms of introduction of ivory into this business. No action has been taken or is being taken with regard to specifically identifying the company named Potential Quality Services. I want some further clarification in this area and specifically as to who owns this particular company and what its role is in terms of ivory trade.

Mr. Speaker, Sir, secondly, there has been some recommendation on the action to be taken on the various entities. It is not clear what the exporting entities do once they have bought their products from the auction until the time they export them. It looks like there is a little window here--

The Speaker (Hon. Ethuro): Order, Sen. (Prof.) Lesan. Seek clarification, do not make Statements.

Sen. (Prof.) Lesan: Mr. Speaker, Sir, I wish to seek clarification as to what is done to the goods once they have been bought from the auction before they are exported and what is their security? When the material is exported, it is held in bonded warehouses. I want to know whether even the exported material can be held in bonded warehouses before they are exported to close this little loophole that has allowed the ivory to come in.

Thirdly, I want to seek a clarification on the action that has been taken against the KRA officers that were handling this commodity because their negligence resulted in the export of contraband material.

Sen. Hassan: Mr. Speaker, Sir, I come from the County of Mombasa. What concerns me most is the fact that the Port of Mombasa has become a major transit point for most illicit trade, from ivory and drugs in all the United Nations (UN) reports and other reports of multinational organizations. What measures are being taken to strengthen

our legal regime to punish strongly those organizations or institutions that are involved in this type of illicit trade?

Secondly, what action is being taken by the Government of Kenya to restore faith in the overall handling of goods at the Port of Mombasa by the KPA? This might be one of the many other areas of illicit trade that has transited through the Port of Mombasa. I beg the Chair to respond to these two particular fundamental issues which will help us to return sanity to the Port of Mombasa.

Sen. Ongoro: Mr. Speaker, Sir, over the years, we have seen these kind of cases where exporters use the goods that they are supposed to export so has to camouflage illicit trade. Could the Chair give more clarification and a list of the companies that have been deregistered over the years for engaging in this kind of trade?

Sen. Billow: Mr. Speaker, Sir, if there is the one thing that the Government fumbles on is when it is investigating the smuggling of ivory at the Port of Mombasa. The Chairman of the Committee on Agriculture, Livestock and Fisheries needs to pay attention. Could he explain the specific actions being taken against the directors? It is not about suspension or revoking of licences. That is not a punishment. What action has been taken against the tea suppliers and exporters who were involved in the export of these contraband goods disguised as Kenyan tea? What specific action has been taken against the directors and owners of those companies?

Sen. Ndiema: Mr. Speaker, Sir, regarding the issue of Potential Quality Services that was involved, it was not licenced to deal with tea. Therefore, the Ministry concerned has no authority over it. As I have said, investigations are going on and prosecutions will be carried out on the culprits, whether they are companies, individuals or Government officials, if they are found culpable. The response about the investigations came back and as rightly put by Sen. (Prof.) Lesan, some action has already been reported to have taken place. Investigations are going on and action will be taken against the directors found to be culpable.

Sen. Billow: Mr. Speaker, Sir, the Chairman must desist from deceiving this House. If a company has been found culpable and their licence is revoked, how is it that the directors of those companies can be above suspicion and they have not been arrested by now? How do you revoke a licence if the company is not an entity on paper? Does the company not involve people?

Sen. (Prof.) Lesan: On a point of order, Mr. Speaker, Sir. I am a bit concerned by what the Chairman has said that the Cabinet Secretary of Agriculture, Livestock and Fisheries has nothing to do with this particular company called Potential Quality Services. If you look at the investigations that have gone on, it is this company that has caused all these problems. To say that the Cabinet Secretary for the Ministry concerned has no control over it- this is a Kenyan company - and I am sure that somebody will deal with it. I am sure that any institution of Government will deal with it. He should give us information without passing the buck.

Sen. Ndiema: Mr. Speaker, Sir, I have said that in as far as licensing is concerned; this company has not been licensed by the Ministry for Agriculture, Livestock

and Fisheries or its institutions to handle tea. I am not saying that if they committed an offence, they cannot be prosecuted under any other law. The police are investigating and this answer says that investigations are going on and they have recommended appropriate actions to be taken against all the culprits. Let us wait for the police to come up with the result of the investigation.

Mr. Speaker, Sir, if need be, we will bring a report at a later stage when investigations are complete on the actions that would have been taken against the culprits.

Sen. (Dr.) Machage: Mr. Speaker, Sir, you have heard the Chair agree and confess that the report is incomplete. Would I be in order to suggest that the Chair brings us a comprehensive report in the next sitting when he will have enough information on the subject?

Sen. Khaniri: Mr. Speaker, Sir, you just heard the Chairperson say that “if need be, we can bring the report?” That is precisely what this House is asking for, the report. Therefore, if there are investigations that are going on, then there must be some timelines as to when they will be complete and a report produced. Could he tell us exactly when he will table the report and not if need be? We need the report.

The Speaker (Hon. Ethuro): Order, Sen. Khaniri.

Please proceed, Chairman.

Sen. Ndiema: Mr. Speaker, Sir, I have said that the report is complete. What is remaining as at the time the report was prepared was the investigation. The report was required urgently and I had to submit it. Therefore, the report is complete.

The Speaker (Hon. Ethuro): Order, Senators. The Chairperson is crystal clear. He has responded to the Statement that was sought. What you are asking and he agrees to, is that his response talks about investigations whose findings are not yet known. So, you are saying that he should now bring the report of the investigations. I think that is what he has just done.

Chairperson, you are ordered to bring the report because you must do a complete job. How long does it take to complete investigations? We cannot keep waiting forever. That is what the House is telling you. Therefore, let us get the report on Thursday of the first week we resume after recess.

That is the end of Statement Hour. Let us move to the next Order. I hope that we all now have copies of the Supplementary Order Paper.

What is it Sen. Mutula Kilonzo Jnr.?

Sen. Mutula Kilonzo Jnr.: Mr. Speaker, Sir, there is a Paper that you have allowed our Committee to table. Can I proceed?

The Speaker (Hon. Ethuro): Please, proceed, Sen. Mutula Kilonzo Jnr.

PAPERS LAID

REPORT OF THE 5TH ADTD SEMINAR HELD IN CHINA AND
STUDY VISIT TO THE UNITED KINGDOM OF THAILAND

Sen. Mutula Kilonzo Jnr.: Mr. Speaker, Sir, I beg to lay the following Paper on the Table of the Senate today, Thursday, 30th July, 2015:-

The Report of the 5th African Digital Television Development Seminar held in China from 8th to 12th June, 2015 and a study visit to the United Kingdom of Thailand held on 15th to 17th June, 2015.

(Sen. Mutula Kilonzo Jnr. laid the document on the Table)

The Speaker (Hon. Ethuro): Sen. Ndiema, do you also have a Paper to lay on the Table?

REPORT ON THE FOOD SECURITY BILL 2014

Sen. Ndiema: Mr. Speaker, Sir, I beg to lay the following Papers on the Table of the House:-

A Report on the Food Security Bill, 2014.

REPORT OF THE AGRICULTURE COMMITTEE ON
COUNTY VISIT TO MOMBASA

A Report on the county visit to Mombasa by the Senate Standing Committee on Agriculture, Livestock and Fisheries from 12th to 16th April, 2015.

REPORT ON THE PETITION BY MAJ. (RTD.) JOEL KIPRONO ROP
ON THE STATE OF THE TEA INDUSTRY IN KENYA.

A Report on the Petition made to the Senate by Maj. (Rtd.) Joel Kiprono Rop on the state of the tea industry in Kenya.

(Sen. Ndiema laid the documents on the Table)

Sen. Hassan: On a point of order, Mr. Speaker, Sir. I do recall Sen. Murungi, the Chairperson of the Standing Committee on Agriculture, Livestock and Fisheries informing me that they would be coming to Mombasa County. I want to urge Members that in keeping with the good tradition of the Senate, when we do county visits, we continue to inform host Senators, so that they can join those visits. I was not informed of

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that visit despite the verbal communication by Sen. Murungi and I complained to him on account of the same.

The Speaker (Hon. Ethuro): The Chair cannot agree more. Sen. Murungi, please respond to that.

Sen. Murungi: Mr. Speaker, Sir, I know that Sen. Hassan is just provoking me to speak because he knows that we are good friends. In terms of good manners and traditions, whenever I enter the Mombasa airspace, I always let him know that I am within his territory.

The Speaker (Hon. Ethuro): Order, Sen. Murungi. I thought that mobile phones are normally off in the plane.

Sen. Murungi: After takeoff, you can make your calls.

(Laughter)

Mr. Speaker, Sir, I do agree with Sen. Hassan that whenever a Committee visits any county, it should always inform the Senator for that county to be there to welcome them. It is true that our Committee made a visit to Mombasa County. Judge, Sen. Madzayo, who is a neighbour to Sen. Hassan, is a Member of our Committee. Since, I was not present in that meeting, I requested him to lead our delegation to Mombasa County. I am informed that he tried to look for you, but maybe you were so busy with Gov. Joho that they were not able to get him in time. Since I will be coming for the Mombasa Agricultural Show; I will make sure that I give you my itinerary before I leave Nairobi. I would like you to be with me from the beginning to the end.

The Speaker (Hon. Ethuro): I am not sure that Sen. Hassan was looking for all that, especially the commitment from the beginning to the end.

(Sen. Hassan stood in his place)

The Speaker (Hon. Ethuro): Order, Sen. Hassan. This is not a matter we should be debating. That matter is concluded. Let us proceed to the next Order.

Please look at your Supplementary Order Paper. We need to vote on Order Nos.8, 9 and 10. However, we do not have the numbers yet. Therefore, as the Whips are whipping Members, we would like to proceed with Order No. 11. As soon as we get the numbers, we will proceed with the voting. Of course, Order Nos.8, 9, 10 and 12 fall in the same category, if Order No.11 has been exhausted. After Order No.11, we will move to Order No.16. So, be advised.

Let us move to Order No.11.

(Several Members withdrew from the Chamber)

The Speaker (Hon. Ethuro): Hon. Members, I encourage that you remain in the House, including the Judge and good neighbour of Sen. Hassan.

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An hon. Senator: Including the Senate Majority Leader

The Speaker (Hon. Ethuro): The Senate Majority Leader is going to Whip. They have exchanged the roles with the Whip for today.

BILL

Second Reading

THE COMMUNITY LAND BILL (SENATE BILL NO.38 OF 2014)

(By Sen. (Prof.) Kindiki on 29.7.2015)

(Resumption of Debate interrupted on 29.7.2015)

The Speaker (Hon. Ethuro): Hon. Senators, in the interest of time, let us make very brief interventions or else, we run the risk of extending the sitting.

Please proceed, Sen. Ongoro.

Sen. Ongoro: Mr. Speaker, Sir, I rise to support this Bill. Community land is what was previously known as trust land. As you are aware, this has been a source of contentious issues, especially in areas like the coastal region, Masai Mara and other communities where the boundaries of ancestral land that was then referred to as trust land or used for other purposes like tourism, has been a real source of contention.

If you go through this Bill, it makes a lot of provisions that will help in the administration of what is known as community land. It actually even restricts those who formerly gave themselves the responsibility of administering these kinds of lands; the so-called council of elders and such like people. They are no longer going to have the opportunity to unilaterally make decisions that affect an entire community.

Mr. Speaker, Sir, this Bill even has provision that can actually transfer land back to the community that is already owned by individuals. According to me, the few provisions that I have noted in this Bill are quite exciting considering the issues of land, that have affected the people living along the Coast, where you find indigenous people living as squatters, generation after generation. With this Bill, certain provisions can be used to actually transfer this land owned by individuals along the Coast – those who own thousands upon thousands of acres as one family or individual. Through this Bill such land can be transferred back to the community and by extension, allow indigenous community members to own land and not be squatters in their own home.

I beg to support.

The Speaker (Hon. Ethuro): Please, proceed; Sen. Ndiema.

Sen. Ndiema: Thank you, Mr. Speaker, Sir. I rise to support this Bill. Ownership of land in trust has for a long time remained unregulated and unregistered, thus causing confusion and at times conflict within members, residents and neighbouring

communities. I am glad that this Bill has come to confer specific status of ownership of that land to the communities who have a right to it and protect their rights. This is because the rights have hitherto not being protected.

A community could own land today, but because it is not registered, they can be easily displaced by neighbouring communities or even the Government in some instances. The Government could take their land without compensation leading to displacement of communities, especially in the Arid and Semi Arid Areas (ASALs). When communities have to move to look for pasture elsewhere, by the time they come back they may not be assured that their land is safe. This Bill seeks to confer permanent ownership to the communities concerned.

Mr. Speaker, Sir, this Bill also seeks to ensure proper utilization of the land where the communities will have to sit together and form committees to ensure that land is used in the most appropriate manner. This is because most of the area of trust land regime today is land that is available to everybody leading to mismanagement, overuse and particularly due to over grazing that has rendered such land fragile and the ecosystem almost destroyed.

Over the years, the Government has tried to issue title deeds to individual owners. Despite all the efforts, the process has been very slow particularly in counties with trust land. I hope that when we enact this Bill into an Act of Parliament. The Government will put more resources into surveying and adjudication so that the owners of this land can own it immediately we enact this Bill. It will not be appropriate if after enacting the law, it takes another 30 or 50 years for the owners to get registration.

I support this Bill but we should also realise that in some counties, trust land is in some people's pockets. Perhaps not all the land in a particular county is trust land. It is very important that when committees are formed, whether at the county or national level, membership is drawn entirely from the area and the affected communities so that those who have no interest in that community land have no business being there.

Mr. Speaker, Sir, I also note that county governments have been allowed to transfer community land. I think this item must be looked at and perhaps an amendment made. We cannot say that county governments should have the authority to decide for a community and transfer community land without the consent of the community.

The National Land Commission (NLC) has been put there by virtue of the Constitution to ensure that it administers public land on behalf of county and national governments. Once delegation has been given by the county and national Government, the Commission cannot again delegate the same authority to the county government as contained in this Bill. I believe that at the appropriate time, this should be deleted so that the Commission takes the responsibility of ensuring that it performs all its functions without delegating backwards to county governments.

With those few remarks, I support.

Sen. Sijeny: Thank you, Mr. Speaker, Sir, for giving me this opportunity to contribute to this Bill. Land is man's most valuable resource that wholly deals with the

economic, social and political status of Kenyans. It has to be treated very carefully because it determines whether a nation succeeds or flops.

When we narrow into community land, if you give a proper legal framework as this Bill intends to do, then all those injustices which occurred due to mismanagement of land issues will be sorted out. We have had cases where community land is taken away by private developers and institutions or certain greedy individuals. We have seen how Kenyans have suffered because of these injustices. We saw the Syokimau incident where people built houses using all their money. Some individuals had grabbed the land which belonged to a community and sold it to unsuspecting buyers.

Generally, lack of proper guidance within the land factor brought all these problems. We have even seen many nomadic communities thinking that they own a ranch and before you know it, an individual has acquired it. So, all those communal things that would bring cohesion within the region suffer. They end up being unable to do some traditional or customary functions that were ordinarily done on certain land. If it is communal cultivation, then the food that is produced is not sufficient because someone has converted the land ownership illegally or unfairly.

Mr. Speaker, Sir, although the Constitution defines what community land is in Article 63(2), there are some people who still abuse this provision. The Bill properly gives the identification, registration and management of community land. This is very important as it brings sanity within the land sector and ensures that people do not act arbitrarily, corruption is curbed and there is fairness so that people live in cohesion and improve their income.

With those few remarks, I beg to support.

The Speaker (Hon. Ethuro): Sen. Mutula Kilonzo Jnr., you are next. I am directing the rest of you that you will only have a maximum of three minutes.

Sen. Mutula Kilonzo Jnr.: Mr. Speaker, Sir, does that apply to me too? I thought you would give me an exception.

The Speaker (Hon. Ethuro): I will not give you an exception because it happened while you were on your feet. Okay, I will give you the five minutes. For the rest, take it as notice.

Sen. Mutula Kilonzo Jnr.: Mr. Speaker, Sir, this is a very important Bill. I am surprised that we have waited for so long to debate it and the deadline is coming up soon. For the Senators of Kwale, Kilifi, Tana River, Lamu and Taita Taveta counties, look at the Third Schedule very carefully because it converts all public land in those areas into community land. The category goes on including continental shelf, all rivers, and lakes and so on.

It is now our opportunity to reclaim our rivers, lakes and land that had been acquired unlawfully particularly in Mombasa, Kilifi and Taita-Taveta counties. This land will now be converted to public land and the people of Taita-Taveta County will stop living amongst sisal plantations and now live on land that they are entitled to.

I have read the Bill extensively and I agree with Sen. Ndiema about conversion of this land and the role of county governments on community land. We have no objection

whatsoever about the role of counties but the idea that county governments can hold those lands in trust for the community is unsettling. This is because of the role that county governments have played. In some cases, they have operated with bias. You have then put communities in the hands of county governments that can turn rogue. Therefore, now that that portion of law is in the Constitution, I would look for a method of how, who and the period which that trust would be held. Otherwise, county governments will convert this land into an avenue to blacklist communities. As a result, governors will become the new landlords in community land which is not the objective of this Bill.

Mr. Speaker, Sir, the Certificate of Title that is proposed under Clause 35 is not very clear. It presupposes that a person can be registered as a proprietor of community land. There is an article in *The Standard* newspaper today about a community in Murang'a County who are famous for killing their directors. They are doing so because of lands held in trust and titles held by those directors. It will be dangerous to register one person as a proprietor of community land under this proposal.

There is a small portion that I think we should amend. Unknown to many people, the Land and Environment Division of the High Court has been stopped by an order of the Court of Appeal. The reason is that the Land and Environmental Division of the High Court has been stopped by a ruling of the Court of Appeal to the extent that the Court of Appeal has said that no judge should sit on a land and an environment matter unless he is appointed under land and environment. Therefore, all matters that are pending on land issues have been put on hold until the Chief Justice (CJ) resolves the dispute. That ruling and jurisdiction of who should determine issues and disputes on land should also be placed in this law. That way, we will not have land issues which are so sensitive put on hold because of those conflicting rulings of our courts.

Lastly, I am happy that we have proposed alternative dispute resolution methods because in communities like in Makueni County, the bulk of the land there, from Makindu to Kibwezi is all community land. I am surprised that in the Third Schedule, the parcels of land contemplated to be converted to community land do not include Makueni County. We have large tracts of land being occupied by persons and which should be converted to community land for purposes of communities.

I support.

Sen. Murungi: Thank you, Mr. Speaker, Sir. I rise to support this Bill. You all know that under Vision 2030, we are trying to move Kenya from a backward third world economy to a modern industrialised economy in which Kenyans will enjoy a high quality of life even in these areas.

Given the limited time, allow me to focus on only one aspect. We are trying to encourage investors to invest in Kenya especially in areas outside Nairobi and where land is owned under communal systems; where there is no title deed to the land. Investors are facing great challenges. Investors face numerous community challenges that are delaying the implementation of these projects especially in the area of renewable energy where investors have to deal with communities for purposes of setting up wind power plants or solar firms which are going to require a lot of land. Once an investor gets licences from

the national Government in Nairobi and they try to go and set up their investments in various places in the counties, they meet communities there who do not seem to be aware that these people have been licensed to carry out those projects.

The investors do not know who to deal with. I know, for instance, that when it was the county council, the investors would go and engage the county council and then other rivals from the same community would come and say: No, no, this county council has no authority to deal with this land; we are the clan. So we start dealing with the clan and then the NGOs will come and say that they are representing the community. So, it takes time to resolve these ambiguities in the ownership of community land and sometimes projects do not get implemented.

Mr. Speaker, Sir, I am so happy that we are now going to have land management committees of community land with the powers which are set out in the Act that will come out of this Bill.

I beg to support.

Sen. Nabwala: Mr. Speaker, Sir, I also stand to support this Bill which is very important as it gives effect to Article 63(5) of the Constitution which talks about community land which shall vest in and be held by communities identified on the basis of community, culture or similar community of interest.

This Bill is very important because it seeks to set up boards in communities that are going to be responsible for the management and protection of community land. We know that community land is very sensitive. In most counties, you will find that always there is a struggle of who owns the community land, unless land is properly defined and has a title.

I support this Bill because it seeks to issue titles so that there is proper ownership to avoid conflict particularly on land that borders with other communities and the border has not been properly defined. For instance, Migingo Island has been a big dispute and up to today, the Government has not come out clearly to state who owns it. We have also seen other disputes concerning land which is owned by groups. We have seen shareholders being killed. This is, maybe, because the land has not been properly defined and the people are very many.

For every community land, there will be a title so that there is no grabbing. This will also ward off corruption where people wait to grab any vacant land that is not owned by anybody.

I support.

Sen. Kagwe: Mr. Speaker, Sir, I also rise to support the Bill with one or two provisos. Land must in future be seen as a means to an end and not an end in itself. There is a tendency for us to say that we have got community land, we hold it; we get the title and it just sits there. The most important thing is the implementation part of this Bill. That is to say; what are we going to do with this community land?

The Bill proposes, for instance, that waterways and so on are made community land and I support it completely. I support, for example, the acquisition of all riparian land to be owned collectively by the community, but having riparian land as an end in

itself does not help anybody. If we can get the riparian land vegetated, planted with trees and so on, then we can help the community because the water becomes cleaner and we have less diseases. In the place where I come from, Nyeri County, cancer is finishing all of us.

I am convinced that part of the reason why cancer is so prevalent in those areas is because fertilizers, farm chemicals fall directly without any form of treatment into the rivers, the people then drink the water from those rivers because the riparian land is now individually owned but in law, it is there. In law, it says that riparian land is owned by the county governments but nothing is happening. We must focus a little bit more on how, once we have acquired the land as a community, how then do we implement what needs to be implemented in those communities because that, to me, is the major challenge.

Mr. Speaker, Sir, the second one is the issue of how we can use the private sector to also engage it in the use of community land. We know that that is a minefield. That people can start grabbing that property, but I think that we must see the advantages of having private sector capital that can be utilized to develop community land. For example, if you look at some of the areas that have got wildlife and the community itself is not able to exploit that wildlife for tourism, it is good for us to have an infrastructure where the community can invite the private sector to work with them so that the land can be of use not only to the current generation but for the future generation.

All in all, it is a good Bill. We support it but let us look on the issue of land use.

The Speaker (Hon. Ethuro): Hon. Senators, since there are no more requests, I will call upon the Mover to reply.

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

Sen. Haji: On a point of order, Mr. Speaker, Sir, I am requesting---

The Speaker (Hon. Ethuro): You are requesting who? Because this screen has been very clear, and it is only now that you are attempting to indicate that interest. I am afraid it is coming too late. The debate has been closed.

Proceed, Sen. (Prof.) Kindiki!

The Senate Majority Leader (Sen. (Prof.) Kindiki): Mr. Speaker, Sir, I rise under Standing Order No.54(3) requesting that you defer the putting of the Question. Considering that we are going on recess under that Standing Order, I do not know if we start the Motion of voting and we do not have the numbers what the implications are. I need your guidance. Maybe you could order the Bell to be rung and then we see whether we have the numbers before the Question is put.

The Speaker (Hon. Ethuro): We will make an attempt and before I put the Question, you will give an indication to me whether we have the numbers or not.

Sen. Haji: On a point of order, Mr. Speaker, Sir. In view of the fact that we are not voting on this, can I appeal to you to allow me to say only ten words on this Bill?

The Speaker (Hon. Ethuro): I am really sympathetic Sen. Haji, but my hands are tied. Maybe if I had acknowledged you before the Mover replied, I would have easily

done something. Now it is just a matter of when to vote. If you can assist in getting numbers, the better, knowing your other portfolio.

Hon. Senators, let us ring the Bell for two minutes. Before I put the question, I will get an indication from the Senate Majority Leader as to whether we have the numbers to vote.

The Speaker (Hon. Ethuro): Could the Division Bell be rung for another two minutes?

(The Division Bell was rung)

Order, Senators! The Chair is encouraged by the numbers and the work of the Whips. However, we are short by one or two Members but I know that some are on their way coming. Therefore, we should put the waiting time to some good use.

Order Nos.13 and 14 on the Order Paper will require the same vote. I encourage the Movers to use one minute each. The Seconders should just nod their heads in agreement. Thereafter, I will propose the questions. This is what we will do so that by the time we have a full House, we will have exhausted the two. That is the best use of our time.

Order, Members. The voting is put in abeyance for a short while. I encourage the spirit of waiting in the Chamber for just a few minutes. I promise not more than 15 minutes but preferably 10.

Let us move to Order No.13.

MOTION

APPROVAL OF CASH DISBURSEMENT SCHEDULE TO COUNTY GOVERNMENTS FOR 2015/2016 FINANCIAL YEAR

Sen. Billow: Mr. Speaker, Sir, I beg to move:-

THAT, the Senate approves the Cash Disbursement Schedule to County Governments for 2015/2016 Financial Year laid on the Table of the Senate today, Thursday, 30th July, 2015 pursuant to Section 17 of the Public Finance Management Act, 2012. This is a straightforward Motion.

Mr. Speaker, Sir, this House is mandated by the Public Finance Management Act to approve a cash disbursement schedule which shows how funds from the national Treasury will be transferred to county governments for the next 12 months. These Funds are county allocations which are contained in the County Allocation of Revenue Act which we passed last month. What the Treasury does – if Members could look at their copies – is to prepare a schedule. Once we approve it, then, it will be used to transfer the money on a monthly basis to the county governments. It is urgent in the sense that if we do not pass it, then the Treasury will not – within the law – be in a position to send the

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money to the counties. It is important that we pass this Schedule because we are at the end of the month. That is something very simple.

Mr. Speaker, Sir, the total amount of money that will go to the counties according to the County Allocation of Revenue Act is Kshs287 billion. However, we know that some of the conditional allocations do not form part of the money that will be sent to counties. It will be money that will be spent on behalf of counties, for example, Kshs4.5 billion related to the leases and so on. Therefore, the actual amount of the transfers which will be made for the next 12 months – on the last page of Schedule – is Kshs259,774,500,000. This is the Equitable Share. Members can see that in July, the Treasury proposes to send Kshs20,781,960,000 and Kshs23,379,705,000 in August. The difference between one month and the other is shown.

Sen. Hassan: On a point of order, Mr. Speaker, Sir. I am grateful to Sen. Billow for taking us through these figures. However, I do not know---

The Speaker (Hon. Ethuro): Just go straight to the point, Senator.

Sen. Hassan: Mr. Speaker, Sir, if you look at the document that we were given, you will see that it is not legible. We are trying to see the figures because they have been written using a very small font. I can hear some Senators – including one that has the best eyesight, Sen. Ongoro – complaining that they cannot see the figures clearly.

Sen. Billow: Mr. Speaker, Sir, I am pretty older than the Senator. I also wear spectacles but I can see the figures very clearly. However, I plead that the hon. Member bears with me because the figures are not complicated. If you look at that last row, you will find that the total Equitable Share is Kshs259,774,500,000, the Fuel Levy Fund is Kshs3.3 billion, the Maternity Health Care is Kshs4,298,000,000, the User Fees Foregone is Kshs900 million, the Level 5 Hospitals is Kshs3,600,480,000, the Health Facilities – DANIDA is Kshs844,710,000 and the World Bank (WB) is Kshs508,245,204. The total comes to Kshs273,225,935,204.

Therefore, the Kshs273,225,935,204 will be disbursed in the manner shown. In July, Kshs22,088,077,200 will be disbursed while Kshs24,468,568,199 will be disbursed in August. That will happen for the next 12 months up to June, 2016.

This is basically what the Schedule is about. The actual disbursement is based on the revenue inflows by the Treasury. That is why you will find figures changing from one month to another. This is based on the projections of the revenue that the Kenya Revenue Authority (KRA) has. The Schedule is a straightforward thing. I urge Members to support it.

Mr. Speaker, Sir, I ask Sen. Nabwala to second.

I beg to move.

Sen. Nabwala: Mr. Speaker, Sir, I stand to support the Cash Disbursement Schedule to County Governments for 2015/2016 Financial Year. The Schedule is very clear. Figures have been calculated by the national Treasury and disbursements will be done on a monthly basis. Of notable importance is the amount that will go to counties; that is the Equitable Share which is Kshs259,774,500,000. The other amounts make up to

Kshs273,225,935,204. These include; the Fuel Levy Fund, Maternal Health Care, User Fees Foregone, Level 5 Hospitals, Health Facilities---

The Speaker (Hon. Ethuro): Sen. Nabwala, you are being repetitive.

Sen. Nabwala: That makes a total of Kshs273,225,935,204.

Mr. Speaker, Sir, I beg to second.

The Speaker (Hon. Ethuro): Order, Senators. I, therefore, wish to propose the question.

(Question proposed)

Sen. Orenge: Mr. Speaker, Sir, I support the Motion. We are performing a very important constitutional and legislative function. The Chairman has said quite rightly that if we do not approve the Schedule, then the Treasury will not oblige by sending these funds although issues of audit will come back to us later. I just want to emphasise the point that there cannot be these allocations and approvals without accountability. If we had time to debate this matter, it would have been an occasion to demonstrate to governors and county governments that having performed a constitutional function of making sure that they get these funds, they should not hesitate to come to the Senate when we ask questions about how money has been spent.

I say this because there was something that was going on out there about whether the Parliament is responsible for the wastage, loss and corruption being witnessed all over. The unanimous decision was that Parliament is not exercising its functions accordingly. Therefore, as we pass this Motion, I encourage the Committees; the Committee on Finance, Commerce and Budget and the County Public Accounts and Investment Committee to do the work of oversight even more vigorously so that next time we allocate funds with the speed that the Chairman wants; we will ensure that what belongs to the people goes to them.

With those remarks, Mr. Speaker, Sir, I beg to support.

Sen. Bule: Asante Bw. Spika kwa kunipa fursa kuchangia. Ni muhimu kupitisha Hoja hii. Hata hivyo, si vyema ikiwa tutapitisha Hoja muhimu kama hii inayohusu pesa kwenda mashinani ilhali zikifika huko zinatumiwa vibaya kwa sababu hakuna njia ya kuifuatilia. Sisi, Maseneta, tunaonekana kama mazuzu na watu wasioelewa wanalofanya.

Bw. Spika, juzi, kule mashinani katika bunge---

Sen. Billow: Jambo la nidhamu, Bw. Spika. Seneta anayechangia Hoja hii amesema kwamba sisi Maseneta tunaonekana kama zuzu. Je, anaweza kutueleza maana ya “zuzu?”

Sen. Bule: Bw. Spika, namaanisha kwamba Maseneta wanaonekana kama watu ambao hawajielewi.

The Speaker (Hon. Ethuro): Sen. Bule. Kwanza, ningependa kumueleza Sen. Billow kwamba hufai kusimama kwa hoja ya nidhamu ili ufunzwe lugha.

Endelea, Sen. Bule.

Sen. Bule: Bw. Spika, hivi majuzi kulikuwa na Hoja ya kupitisha Bajeti katika Bunge la Kitaifa. Wenzetu katika Bunge hilo waliondoa pesa kutoka Bajeti za kuwawezesha Maseneta kufuata matumizi ya pesa katika kaunti zetu. Hivi leo kila Mkenya anafaa kuelewa kwamba sisi, Maseneta, tuna umuhimu mkubwa katika maendeleo ya Kenya. Hii ni kwa sababu tukiamua kutopitisha Hoja hii leo, hakuna hata shilingi moja itakayofika kule mashinani. Magavana ambao wanajigamba na kusema kwamba Seneti haina umuhimu wowote wanafaa kuelewa kwamba bila Seneti ugatuzi hauwezi kutekelezwa.

Bw. Spika, nimesema kwamba sisi Maseneta tunakaa kama zuzu kwa sababu sisi tunapitisha pesa za kwenda katika kaunti lakini hatujawezeshwa kuchunguza vile pesa hizo zinatumika. Kwa hivyo, Maseneta wanafaa kuwezeshwa kuchunguza vile pesa za nchi hii zinatumika katika kaunti.

The Speaker (Hon. Ethuro): Sen. Bule, maliza sasa.

Sen. Bule: Bw. Spika, jukumu letu kama Maseneta ni kutunga sheria. Wabunge katika Bunge la Kitaifa pia wanajukumu hilo hilo. Lakini wao wamejitengea mamilioni ya pesa ilhali hawatumii pesa hizo kufanya maendeleo. Hivi majuzi nilichunguza vile pesa hizo zinatumika na nikagundua jina la mtu mmoja ambaye inasemekana kwamba anasomea katika vyuo vikuu vitatu---

Tukipitisha Hoja hii, ningetaka magavana na Wabunge wajue kwamba Seneti ni kiungo muhimu katika ugatuzi na ni lazima Maseneta wapate pesa za kuwawezesha kuchunguza vile pesa zinazotengewa Kaunti zinatumika.

Asante, Bw. Spika.

Sen. Hassan: Thank you, Mr. Speaker, Sir, for this opportunity to support this Motion. As I mentioned before, I think it is the high time as we go for this recess that we try to qualify what our mandate in terms of oversight should be, even as we internalize.

We are in very adverse circumstances. The Auditor General's reports are out and they have created a national uproar and here we are approving money. I think this is the time we should have spoken about some of the issues in this Chamber, so that we actually demonstrate to the Kenyan people that we are executing our constitutional mandate, conscious that at certain points, due financial discipline is not being observed in counties. In fact, as Sen. Orengo said, a substantial part of our responsibility, for lack of audit of county governors, is being attached unfortunately, not to the institution of the Senate, but the Senator individually in the respective county. I started a debate in my own county and part of the backlash is: "How comes Senators across the country are not speaking to these issues, almost with the same kind of zeal and courage?"

Mr. Speaker, Sir, I want to assure each and every colleague here that most of the county reports are extremely of a shocking nature. Therefore, if you do not appear to speak in person as the Senator of those counties, people might take it that you are complicit to part of those excesses.

Mr. Speaker, Sir, finally, let us defend the office of the Auditor General. The Auditor General has done no mistake. He has simply given a reflection of what he feels is the accounting position in each county. It is not for us to start attacking offices that are

not political in nature. We have developed that type of a situation where people who have political authority start attacking independent institutions. So, this Senate must rally itself behind the Auditor General and demand answers.

Mr. Speaker, Sir, I beg to support.

Sen. Haji: Asante sana, Bw. Spika. Nakubaliana na Seneta wa Tana River na Seneta wa Mombasa kwamba pesa nyingi sana zinapitishwa na Seneti hii pamoja na Bunge la Kitaifa kwenda kwa serikali za kaunti. Ni kweli pia kwamba wananchi wengi hawafahamu jukumu la Seneti hii. Ingawa Katiba inaongea kuhusu majukumu ya Seneti, jukumu la kufuatilia vile pesa zinazotengewa kaunti zinatumika limesahaulika. Sen. Sang alileta Mswada hapa wa kuwawezesha Maseneta kufadhiliwa na kuwawezesha kutekeleze jukumu hili, lakini kwa bahati mbaya magavana walipeleka kesi kortini na korti ikaamua kwamba hatuna mamlaka ya kufanya hivyo. Lakini raia kule mashinani, vile Sen. Hassan alisema, wanafikiria kwamba Maseneta wanakubaliana na kuporwa kwa pesa ambazo zimetengewa kaunti.

Hatua ambayo Seneti inaweza kuchukua, kama vile Seneta wa Tana River alisema, ni kuzuia pesa hizi kwenda kwa kaunti. Lakini tukizuia pesa hizi, wetu wengi ambao wameajiriwa katika serikali za kaunti na huduma zingine muhimu zitaathiriwa. Kwa hivyo, Seneti hii ni lazima isimame kidete na kusema kwamba vile Wabunge wanafaidika kutokana na rasilimali za nchi hii, pia---

(Several Senators walked out of the Chamber)

The Speaker (Hon. Ethuro): Order, Senators. I hope that you are within the building.

Sen. Haji: Bw. Spika, Maseneta pia wanafaa kutengewa pesa ili waweze kukagua miradi na vitabu vya matumizi ya pesa ili kuzuia uporaji wa mali ya umma.

Asante sana, Bw. Spika.

The Speaker (Hon. Ethuro): Senators, you have a maximum of three minutes to contribute.

Sen. (Prof.) Lonyangapuo.

Sen. (Prof.) Lonyangapuo: Mr. Speaker, Sir, I want to thank the Chairperson of the Committee on Finance, Commerce and Budget for bringing this Motion which I support. This Motion seeks the Senate to approve the cash disbursement schedule for every county.

From this schedule, my county is supposed to receive Kshs431 million by the end of July. I want every governor, county executive and county assembly to know that without the Senate no shilling whatsoever will be released to the county governments by the national Treasury, as indicated here. Therefore, if we delay passing this Motion, no money will be released to them.

This has to be understood by everybody working in the county governments, because a lot of lies are being told in those counties. In my county, the governor had the audacity to speak before me and tell people that the Senator has nothing to bring to the

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county, yet I am here asking that Kshs431 million be disbursed to the county as soon as possible and a further Kshs343 million be disbursed next month. This means that we are not working.

As we go on recess, I will personally move from place to place to find out how money allocated in the previous financial year was spent. I am told that they are waiting for this money to be released so that they can move around fighting some of the office holders. Today in our meeting in the Committee on Finance, Commerce and Budget, we saw how money has been misused by purchasing unnecessary items. Some county bought 72 vehicles when they only need motorcycles, just to show how powerful some people are. These are some of the wastages that we do not want to see in this country. Some hospitals have no drugs, yet money has been allocated for the same. They have diverted that money to initiate building projects, just to enable them misappropriate funds.

Lastly, the county assemblies have seemingly gone to complete slumber. They do not know their duty in the counties. I say this without fear because today county government officers from a county in Nyanza appeared before our Committee and could not even tell us what authority they had in giving every member of the county assembly Kshs50,000 every month to entertain themselves in the wards and Kshs20,000 to rent offices.

Mr. Speaker, Sir, I beg to support.

Sen. G. G. Kariuki: Thank you, Mr. Speaker, Sir. If it were not for the constitutional requirement, we should have debated this Motion the whole day, because it really affects our political life.

We have about one-and-a-half years to the next general election---

The Speaker (Hon. Ethuro): Order, Members! By the way, do not feel so frustrated. Yesterday, the Deputy Speaker actually put the Chair of the Committee on County Public Accounts and Investments Committee on the spot and he agreed that he is going to fast-track the process of looking at all the audited accounts of the counties. So, by the time you resume from recess, you will have a complete report. The reports were not coming, but they are now coming. We will even defer the interim Motion, so that he can give us a comprehensive report by the time we resume. So, that will be a good opportunity also to contribute.

Sen. G.G. Kariuki: Thank you, Mr. Speaker, Sir. If you sit in one of the Committees where a petition has been referred to and listen to the people who call themselves “ministers” and governors, you will wonder whether they are really running the county or it is run by itself. We have all the facilities that we can use to deal with the situation on the ground. We appear to be helpless when talking about the county governments. But when you send money to the county governments and you are not satisfied that it was put into good use, why do we have to approve another amount of money the following year?

There is going to be a political crisis during the elections. Our re-election will be challenged. Some of us are comforting themselves by saying that we do not have money to give to the public, but that public is asking: If you give someone money and he cannot

account for it and you give him some more money, what does that mean? Does it not mean that you are sharing that money with that person? We shall be accused of sharing all the things with the governors and some county governments.

Mr. Speaker, Sir, therefore, if we are incompetent and we cannot do anything about this, I suggest we create a department within the Senate to monitor what is happening in all counties. We, politicians, cannot do it. We have no time. However, if four officers will do that job on a daily basis, they shall keep us informed and advise us accordingly. It should not be done in the manner in which it is done currently by the National Assembly and the Senate. It is not proper for us, as politicians, to direct officers of Parliament on what to do. It is them to tell us what is ailing this country.

Sen. Khaniri: Mr. Speaker, Sir, I rise to support this Cash Disbursement Schedule. I begin by thanking the Chairperson of the Committee on Finance, Commerce and Budget for bringing this schedule. In fact, I believe it is long overdue. In future, as we pass the County Allocation Bill, we should do it alongside this Disbursement Schedule. According to the Schedule, the first disbursement to the counties is supposed to have gone by 15th every month. However, we are passing it after 15th.

What we are doing is in line with our core mandate of protecting the interest of the counties. By doing this, we are ensuring that the counties get the monies allocated to them timely, so that they can work with certainty. At the moment, Vihiga County and the county assembly has no money to operate or pay salaries. They are struggling to borrow a loan from the bank to continue operating before they get the disbursement. Therefore, it is absolutely important that it is certain when monies are supposed to be disbursed to our counties. We strongly support this.

I echo the words of Sen. Orendo. By passing this Schedule, we are sending a very strong message to the county executives and county assemblies to ensure that our people get value for this money. They must be ready to be over sighted by us because this is a responsibility bestowed on us by the Constitution. We, in the County Public Accounts and Investments Committee will not get tired of scrutinizing the reports of the Auditor-General. The reports have delayed to come, but as you rightly observed, the reports are now all in. For example, we are through with Homa Bay, both the county assembly and the county executive. We will work expeditiously on all these reports in good time.

With those remarks, I beg to support.

Sen. (Dr.) Machage: Asante, Bw. Spika. Leo tunatekeleza wajibu wetu kama Bunge la Seneti ili kuelekeza pesa mashinani. Kila Kaunti imepata haki yake. Lakini sijui kama tutatabasamu ama tuanze kulia na kusaga meno kwa sababu hatujui zitatumika namna gani huko.

Leo ninapiga kura Kaunti ya Migori ipatiwe Kshs5,836,852,127. Leo tukipitisha Hoja hii Kaunti hii itapata Kshs465,900,000. Lakini kuna wale walafi ambao wanazingoja waanze kuzitumia kwa sera zisizokubalika.

Nawatangazia watu wa Migori kwamba mimi niko tayari kugongana na Gavana na Spika iwapo hawatatekeleza wajibu wao kwa haki. Tutakutana kwa mikutano na nitawajulisha wananchi kuhusu ulafi, ulevi na ufidhuli wao mpaka wajukikane walivyo.

Sisi tunataka kuona maendeleo mashinani, si uchafu. Ninayakemea yanayotendeka huko. Siku moja mtu ni fukara na siku nyingine ana majumba mengi Nairobi na majiji yote nchini Kenya. Amezipata wapi hizo pesa? Wachunguzwe, wapelekwe kortini na washitakiwe kwa kuchafua na kutumia pesa za umma vibaya.

Bw. Spika, kwa hayo machache, ninaunga mkono.

Sen. Okong'o: Mr. Speaker, Sir, thank you for giving me this opportunity to support this crucial Motion. First, the Chairperson has done a very good job, although the font used in this document is too small. So, next time, he should improve on this.

Secondly, the office of the Auditor-General has security of tenure. There are efforts to bring amendments to the Public Audit Bill to reduce the powers enjoyed by the Auditor-General. This Senate must make sure those efforts do not see the light of day. The Auditor-General has had an opportunity to pinpoint the wastage in our counties and the national Government. Therefore, it is incumbent upon us to ensure the powers of the Auditor-General are not diluted because he is doing a very good work.

Thirdly, as we go for recess, it is incumbent upon us, as citizens of this country and part of individual social responsibility, to engage our electorates even if we were denied money for our oversight role. We should strive to explain to them the audit reports that we have received. For instance, how the money has been expended in the county assemblies and the governors' offices so that *wananchi* can understand the devolved system of government.

In the County Public Accounts and Investments Committee, we have noticed misuse of tax payers' money in the counties. We will be visiting those counties during recess. If we do not get explanations on how that money was spent, we will make relevant recommendations.

With those few remarks, I beg to support.

Sen. Ongoro: Mr. Speaker, Sir, I rise to support this Motion. However, I have a specific issue with the fact that we are receiving this Schedule on the last day when we have time constraints. It is a pity that we do not have enough time to interrogate an important Schedule like this. In future, I believe we need to debate it thoroughly and give our input for necessary action.

This should be a wake up call to the governors. There is no way that we can be summoning them to the Senate and some of them refuse to come when the responsibility of allocating them funds lies with this Senate. We should put them on notice. From the next financial year, any county government that does not respond to any summons by the Senate will face specific action. We cannot give money without accountability.

Mr. Speaker, Sir, regarding any audit queries raised in any county government, we will use these schedules in the next financial year to see how this money has been spent. We shall deduct the amount which is not accounted for from their next allocation.

Lastly, we, as a Senate, must realise that the office of the Auditor-General is our strategic partner. We should ask the Auditor-General to give us a synthesized analysis of any report from his office on every county so that even as we interrogate this kind of schedule brought to the Senate, we have in-depth knowledge.

The Chairperson of the Committee on Finance, Commerce and Budget should kindly take specific note that the Senators would want him to bring this on time and give us time to interrogate. This is very important to the Senate.

With those remarks, I beg to support.

Sen. (Prof.) Lesan: Mr. Speaker, Sir, I also join my colleagues in supporting this important Motion. Let me just raise one or two points which are of concern.

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

Sen. Elachi: Mr. Speaker, Sir, would I be in order to request the Mover be called upon to reply?

The Speaker (Hon. Ethuro): Let Sen. (Prof.) Lesan conclude.

Sen. (Prof.) Lesan: Mr. Speaker, Sir, as we discuss this Motion, we are aware of the raging debate in the country. In fact, it is a raging confrontation between the county assemblies and the governors. As I speak, in Bomet County, for example, the issue of the Appropriation Bill and the budget is in court. Therefore, the monies that we are appropriating here will, probably, not reach the people of Bomet County. There are many court cases ongoing, not only in my county, but in several counties where the county assemblies and the executive are fighting over these resources. It is incumbent upon this House to resolve some of these problems so that these monies go to the counties.

Secondly, we are seriously curtailed in our oversight role in the counties due to lack of facilitation. It is a fact that this House is aware of. I am sure that this is the only House that can resolve that problem.

Thirdly, the Auditor-General is complaining of lack of personnel. This House is aware that we cannot get audit reports unless we have the personnel to do this. It is time that we demand to have a special audit unit that can audit the county funds and bring us reports as soon as possible so that we can act on them in time.

I beg to support.

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

Sen. Kagwe: Mr. Speaker, Sir, in view of the importance of this data and the fact that we do not have time to debate it fully today, would I be in order to propose that it be sent via email to all Members of this House?

An hon. Senator: The font is small.

Sen. Kagwe: When you get it on email you can make it smaller or bigger.

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

(Question, that the mover be now called upon to reply, put and agreed to)

Proceed, Mover.

Sen. Billow: Mr. Speaker, Sir, I thank all the Members who have contributed on this Motion and others who very passionately wanted to contribute.

First, in future, as suggested, we will have this schedule as part of the county allocation so that immediately after, hon. Members can have adequate time to debate.

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Secondly, I agree to undertake, through the secretariat, to have it emailed to hon. Members so that they can follow up on the monthly disbursement to their counties. Some county governments will tell you that they have not got the money. However, this Schedule will tell you how much money will go to the county governments every month. The problem has been delaying the money and not complying in terms of the Schedule which requires that the money be sent by the 15th of every month. We want to urge the National Treasury to remain committed to the law and make sure that the money goes to the counties on time.

Lastly, as Sen. Orengo said, county governments should take note in terms of accountability. It is incumbent upon all of us to hold the county governments to account to ensure that Kshs773 billion does not go to waste.

I beg to move.

Sen. Obure: On a point of order, Mr. Speaker, Sir. I did not have the opportunity to make my comments at that time, but the Chairman has clearly confirmed that this money would be payable on the 15th of every month commencing 15th of August this year. The counties have accumulated huge pending bills. The explanation they are giving is that the National Treasury delays in disbursing this money. The money is not disbursed on the day it is given.

The Speaker (Hon. Ethuro): Order, Senator! Are you not contributing?

Sen. Obure: No, I wanted the Chairman to take note of that so that he can take it up with the National Treasury at some appropriate moment. The county governments are giving that excuse for failing to pay their bills.

Sen. Orengo: Mr. Speaker, Sir, I want to follow up on what Sen. Kagwe said. Is it possible to send the schedule together with the resolution of the Senate so that when I go to Siaya County tomorrow, I can demonstrate the Schedule and the resolution and tell them that without me, they would not have had the money?

(Laughter)

(Sen. Billow stood up in his place)

The Speaker (Hon. Ethuro): Order, Chairman! That is information for you to implement. You do not have to respond to it now. We will appreciate if you implement it.

I will defer the putting of the question. We will do it together with the one for the Community Land Bill (Senate Bill No.38 of 2014).

(Putting of the question deferred)

MOTION

APPROVAL OF THE REPORT OF THE MEDIATION
COMMITTEE ON THE FERTILIZER AND ANIMAL
FOODSTUFFS (AMENDMENT) BILL
(NATIONAL ASSEMBLY BILL NO. 36 OF 2013)

The Speaker (Hon. Ethuro): There will be no discussion on this Motion. It is already a mediated thing.

Proceed, Sen. Ndiema.

Sen. Ndiema: Mr. Speaker, Sir, I move that the report of the Mediation Committee on the Fertilizer and Animal Foodstuff (Amendment) Bill (National Assembly Bill No.36 of 2013) laid on the Table of the Senate on Thursday, 30th July 2015, be approved.

(Loud Consultations)

The Speaker (Hon. Ethuro): Who is seconding the Motion?

Sen. Murungi seconded

The Speaker (Hon. Ethuro): Order, Sen. Obure! Do not make me say the things that I do not want to say.

(Question proposed)

(Sen. Ndiema consulted loudly)

Order, Sen. Ndiema! We are doing you a great favour, you should appreciate.

I will also defer the putting of this question until that other process which will commence now.

(Putting of the question deferred)

Therefore, I order the Division Bell be rung for two minutes.

(The Division Bell was rung)

Hon. Senators, you need to appreciate what we are doing today because it is critical and important for your counties.

(The Bar was drawn and the doors closed)

Order, Senators! We will proceed to vote along these lines. We will vote on Bills on Second Reading, then we proceed to the Committee of the Whole and others will be disposed of; that is, Order Nos.8, 11 and 13. We will vote on Order No.8, 11, 13 and 14, respectively in the first instance and then there will be a second round of voting. Get your cards logged in.

I, therefore, wish to put the Question, that the Climate Change Bill (National Assembly Bill No.1 of 2014) be now read a Second Time.

Let us vote for one minute. If you are an assisted voter, you better be at the Table waiting.

(The Senators proceeded to vote)

Order, Senators! I will not announce the results now. We will move on to the next Order.

I now wish to put the Question, that the Community Land Bill (Senate Bill No.38 of 2014) be now read a Second Time.

Let us proceed to vote for 60 seconds.

(The Senators proceeded to vote)

Order, Senators! I, therefore, wish to put the Question on Order No.13:-

THAT, the Senate approves the Cash Disbursement Schedule to County Governments for 2015/2016 Financial Year laid on the Table of the Senate on Thursday, 30th July, 2015 pursuant to Section 17 of the Public Finance Management Act, 2012.

Proceed to vote for 60 seconds.

(The Senators proceeded to vote)

Order, Senators! I wish to put the Question on Order No.14:-

THAT, the Report of the Mediation Committee on the Fertilizer and Animal Foodstuffs (Amendment) Bill (National Assembly Bill No.36 of 2013) laid on the Table of the Senate on Thursday, 30th July 2015 be approved.

You have 60 seconds to vote.

(The Senators proceeded to vote)

Order, Senators! Can we now have the assisted voters? Start with Order No.13 and then Order No.14.

(The Senators proceeded to vote)

BILLS*Second Reading*

THE CLIMATE CHANGE BILL
(NATIONAL ASSEMBLY BILL NO. 1 OF 2014)

(Sen. (Prof.) Kindiki on 28.7.2015)

(Resumption of Debate interrupted on 29.7.2015)

DIVISION**ROLL CALL VOTING**

(Question, that the Climate Change Bill (National Assembly Bill No.1 of 2014) be now read a Second Time put and the Senate proceeded to vote by County Delegations)

AYES: Sen. Abdirahman, Wajir County; Sen. Billow, Mandera County; Sen. Boy Juma Boy, Kwale County; Sen. Bule, Tana River County; Sen. Elachi, Nairobi County; Sen. Haji, Garissa County; Sen. Hassan, Mombasa County; Sen. Kagwe, Nyeri County; Sen. Karaba, Kirinyaga County; Sen. G.G. Kariuki, Laikipia County; Sen. Keter, Kericho County; Sen. Khaniri, Vihiga County; Sen. (Prof.) Kindiki, Tharaka-Nithi County; Sen. Kivuti, Embu County; Sen. (Prof.) Lesan, Bomet County; Sen. (Prof.) Lonyangapuo, West Pokot County; Sen. (Dr.) Machage, Migori County; Sen. (Eng.) Muriuki, Nyandarua County; Sen. Murungi, Meru County; Sen. Mutula Kilonzo, Jnr., Makueni County; Sen. Ndiema, Trans Nzoia County; Sen. Obure, Kisii County; Sen. Okong'o, Nyamira County; Sen. Orengo, Siaya County; Sen. Sang, Nandi County; and, Sen. Wamatangi, Kiambu County.

NOES: Nil

The Speaker (Hon. Ethuro): Hon. Senators, I wish to announce the results of the Division as follows:-

AYES: 26

NOES: 0

ABSENTIONS: 0

The "Ayes" have it.

(Question carried by 26 votes to 0)

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

Second Reading

THE COMMUNITY LAND BILL
(SENATE BILL NO. 38 OF 2014)

(Sen. (Prof.) on 29.7.2015)

(Resumption of Debate interrupted on 30.7.2015)

DIVISION

ROLL CALL VOTING

*(Question, that the Community Land Bill
(Senate Bill No.38 of 2014) be now read a
Second Time put and the Senate proceeded
to vote by County Delegations)*

AYES: Sen. Abdirahman, Wajir County; Sen. Billow, Mandera County; Sen. Boy Juma Boy, Kwale County; Sen. Bule, Tana River County; Sen. Elachi, Nairobi County; Sen. Kagwe, Nyeri County; Sen. Karaba, Kirinyaga County; Sen. G.G. Kariuki, Laikipia County; Sen. Keter, Kericho County; Sen. Khaniri, Vihiga County; Sen. (Prof.) Kindiki, Tharaka-Nithi County; Sen. Kivuti, Embu County; Sen. (Prof.) Lesan, Kericho County; Sen. (Prof.) Lonyangapuo, West Pokot County; Sen. (Dr.) Machage, Migori County; Sen. (Eng.) Muriuki, Nyandarua County; Sen. Murungi, Meru County; Sen. Mutula Kilonzo, Jnr., Makueni County; Sen. Ndiema, Trans Nzoia County; Sen. Obure, Kisii County; Sen. Okong'o, Nyamira County; Sen. Orengo, Siaya County; Sen. Sang, Nandi County and Sen. Wamatangi, Kiambu County.

NOES: Nil

ABSTENTIONS: Sen. Haji, Garissa County and Sen. Hassan, Mombasa County.

The Speaker (Hon. Ethuro): Hon. Senators, I wish to announce the results of the Division as follows:-

AYES: 24

NOES: 0

ABSENTIONS: 2

The "Ayes" have it.

(Question carried by 24 votes to 0)

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(The Bill was read a Second Time and committed to a Committee of the Whole today by leave of the House)

MOTIONS

APPROVAL OF CASH DISBURSEMENT SCHEDULE TO COUNTY GOVERNMENTS FOR 2015/2016 FINANCIAL YEAR

THAT, the Senate approves the Cash Disbursement Schedule to County Governments for 2015/2016 FY laid on the Table of the Senate on Thursday, 30th July, 2015, be approved.

(Sen. Billow on 30.7.2015)

DIVISION

ROLL CALL VOTING

(Question, that the Senate approves the Cash Disbursement Schedule to county governments for 2015/2016 Financial Year put, and the Senate proceeded to vote by county delegations)

AYES: Sen. Abdirahman, Wajir County; Sen. Billow, Mandera County; Sen. Boy Juma Boy, Kwale County; Sen. Bule, Tana River County; Sen. Elachi, Nairobi County; Sen. Haji, Garissa County; Sen. Hassan, Mombasa County; Sen. Kagwe, Nyeri County; Sen. Karaba, Kirinyaga County; Sen. G.G. Kariuki, Laikipia County; Sen. Keter, Kericho County; Sen. Khaniri, Vihiga County; Sen. (Prof.) Kindiki, Tharaka-Nithi County; Sen. Kivuti, Embu County; Sen. (Prof.) Lesan, Kericho County; Sen. (Prof.) Lonyangapuo, West Pokot County; Sen. (Dr.) Machage, Migori County; Sen. (Eng.) Muriuki, Nyandarua County; Sen. Murungi, Meru County; Sen. Mutula Kilonzo, Jr., Makueni County; Sen. Ndiema, Trans Nzoia County; Sen. Obure, Kisii County; Sen. Okong'o, Nyamira County; Sen. Orengo, Siaya County; Sen. Sang, Nandi County; and, Sen. Wamatangi, Kiambu County.

NOES: Nil

The Speaker (Hon. Ethuro): Hon. Senators, I wish to announce the results of the Division as follows:-

AYES: 26

NOES: 0

ABSENTIONS: 0

The "Ayes" have it.

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(Question carried by 26 votes to 0)

APPROVAL OF THE REPORT OF THE MEDIATION
COMMITTEE ON THE FERTILIZER AND ANIMAL
FOODSTUFFS (AMENDMENT) BILL
(NATIONAL ASSEMBLY BILL NO. 36 OF 2013)

THAT, the Report of the Mediation Committee on the Fertilizer and Animal Foodstuffs (Amendment) Bill (National Assembly Bill No. 36 of 2013) laid on the Table of the Senate on Thursday, 30th July, 2015, be approved.

(Sen. Ndiema on 30.7.2015)

DIVISION

ROLL CALL VOTING

(Question, that the Senate approves the report of the Mediation Committee on the Fertilizer and Animal Foodstuffs (Amendment) Bill (National Assembly Bill No. 36 of 2014) put, and the Senate proceeded to vote by County Delegations)

AYES: Sen. Abdirahman, Wajir County; Sen. Billow, Mandera County; Sen. Boy Juma Boy, Kwale County; Sen. Bule, Tana River County; Sen. Elachi, Nairobi County; Sen. Haji, Garissa County; Sen. Hassan, Mombasa County; Sen. Kagwe, Nyeri County; Sen. Karaba, Kirinyaga County; Sen. G.G. Kariuki, Laikipia County; Sen. Keter, Kericho County; Sen. Khaniri, Vihiga County; Sen. (Prof.) Kindiki, Tharaka-Nithi County; Sen. Kivuti, Embu County; Sen. (Prof.) Lesan, Kericho County; Sen. (Prof.) Lonyangapuo, West Pokot County; Sen. (Dr.) Machage, Migori County; Sen. (Eng.) Muriuki, Nyandarua County; Sen. Murungi, Meru County; Sen. Mutula Kilonzo, Jr., Makueni County; Sen. Ndiema, Trans Nzoia County; Sen. Obure, Kisii County; Sen. Okong'o, Nyamira County; Sen. Orenge, Siaya County; Sen. Sang, Nandi County; and Sen. Wamatangi, Kiambu County.

NOES: Nil

The Speaker (Hon. Ethuro): Hon. Senators, I wish to announce the results of the Division as follows:-

AYES: 26

NOES: 0

ABSENTIONS: 0

The "Ayes" have it.

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(Question carried by 26 votes to 0)

The Speaker (Hon. Ethuro): You may now draw the bar and open the door.
Order, Members! As you take a well-deserved break, I direct that we will go to the Committee of the Whole for Order Nos.12, 10 and 9 in that order.
Next order!

COMMITTEE OF THE WHOLE

(Order for Committee read)

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

IN THE COMMITTEE

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

THE COMMUNITY LAND BILL
(SENATE BILL NO. 38 OF 2014)

The Temporary Chairperson (Sen. (Dr.) Machage): We will start by looking at the amendments and then final voting will be done with the others.

Sen. Ndiema: On a point of order, Mr. Temporary Chairperson, Sir. We have just debated on this Bill. You recall when I was debating, I said that there would be amendments to some clauses. If you move very fast and we are not given time to bring those amendments, I do not think we will be doing justice to this Bill. This is a very important Bill which concerns community land. I thought we would be given time to go to Committees and have time to propose amendments.

Sen. Elachi: On a point of order, Mr. Temporary Chairperson, Sir. The Committee has had this Bill since October last year. May be, I am also confused.

The Temporary Chairperson (Sen. (Dr.) Machage): Who is the Mover?

Sen. Ndiema, you are now a seasoned Member of this House and I think you have enough experience. The Mover is the only person who may do what you are requesting the Chair to do. Only the Mover can request the Chair through invoking Standing Order No.139 and request to report. Nobody else can do so.

Whereas I sympathise with your desire to think further and make more amendments and as you convince the Mover to do what you want to do, you are time barred.

Unless the Mover has something to say, let us continue.

Sen. (Prof.) Kindiki: Mr. Temporary Chairperson, Sir, I have not seen the amendment. I do not know whether I am still time barred. If I look at it and it is suitable, I can assist Sen. Ndiema.

The Temporary Chairperson (Sen. (Dr.) Machage): Sen. Ndiema you are at liberty to cross the Floor and be assisted appropriately.

Let us now continue with the Committee of the Whole on Order No. 12.

Clauses 3, 4, 5, and 6

*(Question, that Clauses 3, 4, 5 and 6
be part of the Bill proposed)*

The Temporary Chairperson (Sen. (Dr.) Machage): I see not intervention. Next Clause.

Clause 7

The Temporary Chairperson (Sen. (Dr.) Machage): There is an amendment.

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

THAT, Clause 7 of the Bill be amended by deleting sub-clause (3) and substituting thereof the following new sub-clause –

(3) No right on community land may be expropriated or confiscated except by law in the public interest and upon prompt payment in full of just compensation to the person or persons

This is just correction of the sentence and no material issue

(Question of the amendment proposed)

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

Clause 8

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

THAT, Clause 8 of the Bill be amended—

(a) by inserting the following new sub-clause immediately after sub-clause (1)—

(1A) The Commission shall prepare guidelines on the procedure to be applied in the formation of a committee under sub-section (1)(b)(ii).

(b) in sub-clause (2) by deleting the word “before” appearing immediately after the words “the community” and substituting therefor the words “upon formal”; and

(c) by inserting the following new sub-clause immediately after sub-clause (2)

—

(2A) The Registrar may issue a provisional certificate of title pending formal adjudication of the community land.

The Committee noted that the guidelines of administering this law should come in the regulations.

(Question of the amendment proposed)

(Question, that Clauses 9, 10, 11, 12 and 13 be part of the Bill proposed)

Clause 14

Sen. Kivuti: Mr. Temporary Chairman, Sir, I beg to move:

THAT, Clause 14 of the Bill be amended by deleting sub-clause 5.

The sub-clause that we want to remove is the delegation of responsibilities under the Act to the County Assembly which is not necessary.

(Question of the amendment proposed)

(Question, that Clauses 15, 16, 17, 18 and 19 be part of the Bill proposed)

Clause 20

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

THAT, Clause 20 of the Bill be amended in sub clause (1) by inserting the following new paragraph immediately after paragraph (a) —

(a)(a) develop land use plans;

Mr. Temporary Chairman, Sir, this is a simple inclusion of the development of land use plans as required in the Constitution of Kenya.

(Question of the amendment proposed)

(Question, that Clauses 21, 22, 23, 24, 25, 26 and 27 be part of the Bill proposed)

Clause 28

Sen. Kivuti: Mr. Temporary Chairman, Sir, I beg to move::

THAT, Clause 28 of the Bill be amended in sub-clause (1) by deleting paragraph (b).

Mr. Temporary Chairman, Sir, the objective of this amendment is to make sure that the board does not supervise the land committees on their daily functions.

(Question of the amendment proposed)

(Question, that Clauses 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53 and 54 be part of the Bill proposed)

Clause 55

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

THAT, Clause 55 of the Bill be amended by deleting paragraph (d).

The object of this amendment is the requirement for transfer of technology maybe difficult to enforce when dealing with this particular sub-clause.

(Question of the amendment proposed)

Clause 56

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

THAT, the Bill be amended by deleting Clause 56.

We need to delete this Clause because it contravenes other laws that we have passed here on revenues to communities.

(Question of the amendment proposed)

(Question, that Clauses 57, 58, 59, 60, 61, 62, 63, 64, 65, 66 and 67 be part of the Bill proposed)

Clause 68

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

THAT, Clause 68 of the Bill be amended in sub-clause (1) by deleting the words “the Commission or” appearing at the beginning of the sub-clause.

This is just an amendment in the wording of the sentence. There is no material change in the Bill.

(Question of the amendment proposed)

Clause 69

(Question, that Clause 69 be part of the Bill proposed)

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First Schedule

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

Second Schedule

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

Third Schedule

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

Fourth Schedule

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

Clause 2

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

THAT, Clause 2 of the Bill be amended by inserting the following new definition in its alphabetical order;

“natural resources” has the meaning assigned to it under Article 260 of the Constitution.”

Mr. Temporary Chairman, Sir, you notice in the other amendments we have introduced the terminology of natural resources and this has, therefore, to be defined in Clause 2. We did not go into a lot of definition. We just gave it the same meaning as in Article 260 of the Constitution of Kenya.

(Question of the amendment proposed)

Title

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

Clause 1

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

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The Temporary Chairperson (Sen. (Dr.) Machage): Could the Division Bell be rung for two minutes?

(The Division Bell was rung)

The Temporary Chairperson (Sen. (Dr.) Machage): Hon. Senators, we are supposed to go to Division, but I see that we do not have the numbers. I will call upon the Mover, therefore, to move and report progress.

PROGRESS REPORTED

THE COMMUNITY LAND BILL (SENATE BILL NO. 38 OF 2014)

The Senate Majority Leader (Sen. (Prof.) Kindiki): Mr. Temporary Chairperson, Sir, pursuant to Standing Order No.139, I beg to move that the Committee of the Whole report progress on its consideration of the Community Land Bill (Senate Bill No.38 of 2014) and seek leave to sit again tomorrow.

(Question proposed)

(Question put and agreed to)

(The House resumed)

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

REPORT

THE COMMUNITY LAND BILL (SENATE BILL NO. 38 OF 2014)

Sen. (Dr.) Machage: Mr. Temporary Speaker, I beg to report that the Committee of the Whole has considered the Community Land Bill (Senate Bill No.38 of 2014) and seeks leave to sit again tomorrow.

The Senate Majority Leader (Sen. (Prof.) Kindiki): Madam Temporary Speaker, I beg to move that the Senate do agree with the Committee in the said report.

Sen. Keter seconded.

(Question proposed)

(Question put and agreed to)

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

MOTION FOR ADJOURNMENT

ADJOURNMENT OF THE HOUSE PURSUANT TO THE APPROVED CALENDAR FOR THE 2015 SESSION

The Temporary Speaker (Sen. Ongoro): The Senate Majority Leader, please, move the Motion.

The Senate Majority Leader (Sen. (Prof.) Kindiki): Madam Temporary Speaker, I beg to move that---

Sen. (Eng.) Muriuki: On a point of order, Madam Temporary Speaker. When the substantive Speaker was on the Chair, he ruled that after Order No.14, we would move to Order No.16.

The Temporary Speaker (Sen. Ongoro): There have been changes and consultations with the Chair. That is why we are moving as ordered.

Proceed, Senator.

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

THAT, the Senate adjourns until Tuesday, 15th September, 2015.

We have adopted our calendar for this Session. The calendar requires that today, the Senate adjourns so that Senators have an opportunity to catch up with committee work, county responsibilities and personal commitments.

Madam Temporary Speaker, I take this opportunity to thank Senators for the work we have done for the past two months since we came back from the other recess. I am very gratified to note that Senators passed five Bills in two months, not to mention very many Motions and reports that we have adopted and petitions that we have handled. Therefore, as I move this Motion, I am very gratified. I take this opportunity to thank colleagues from both the Majority and the Minority sides. We have, once again, demonstrated that this Senate is setting a very good precedent as the first Senate under this Constitution.

Madam Temporary Speaker, I also appreciate the sacrifices that Senators have made to be in the House to debate Motions and Bills and to do committee work which is quite involving. I am very confident that this adjournment is well deserved and will go a long way in terms of helping Senators to balance their other responsibilities. As I have said, committee work will continue even during the recess. The only thing we will not have are the usual sittings.

Thirdly, Madam Temporary Speaker, I also want to remind hon. Senators that we still have business that is urgent which should be transacted within a particular period of time as demanded by the Constitution. For that reason, we intend to request the Speaker to convene the House at some point during recess. However, we will make sure that the

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timing is not very disruptive of the recess. This is because sometimes you can undermine the whole purpose of a recess by having sittings which are not, perhaps, arrived at through consultation.

Madam Temporary Speaker, I take this opportunity to wish the Senators a happy recess and wish them well. As they reconnect with their counties and families, I pray that the Almighty God will protect all of us and keep us together. Now that we are still celebrating the recent visit by the President of the USA, hon. Barack Obama, we should build on the momentum. We should put the country together, minimise rhetoric, be focused on the issues and understand that diversity is not supposed to bring us down. Diversity of opinion, belief and whatever---

The Temporary Speaker (Sen. Ongoro): Order, Senator! Please, take your seat.

After further consultations, there are some rearrangements that we must make. I will invoke the provisions of Standing Order No.39(3) to allow Sen. (Eng.) Muriuki to reply to his Motion so that during recess, the Committee could work on his Motion. Please, bear with us because we can still spare some time for that. That provision is allowed.

(Interruption of Debate on Motion of Adjournment)

INQUIRY BY DEVOLUTION COMMITTEE TO ESTABLISH THE
COUNTIES THAT NEED FACILITIES FOR COUNTY HEADQUARTERS

THAT, noting that County governments were allocated offices and premises formerly occupied by the defunct local authorities and, to some extent, by former provincial administration;

OBSERVING that these arrangements were satisfactory in most counties;

AWARE that some counties had little or no such offices or premises to inherit resulting in serious operational challenges of such county governments;

APPRECIATING that there are many counties with inadequate physical facilities whether they inherited the envisaged facilities or not;

CONCERNED that the situation, continues to impact negatively on the performance of the said counties;

ACKNOWLEDGING that it is the mandate of the Senate to protect the interests of the counties and to ensure that their governments are fully operational;

NOW THEREFORE, in order to form the basis for possible assistance to counties for headquarter facilities, the Senate resolves to establish a Select Committee to conduct an inquiry into the needs of each of the forty – seven counties and report to the Senate within three months, and further that the select committee shall comprise the following Senators-

1. Sen. (Eng.) Muriuki Karue Muriuki;

2. Sen. George Khaniri;
3. Sen. Abu Chiaba;
4. Sen. Abdirahman Hassan;
5. Sen. Stephen Sang;
6. Sen. Fatuma Dullo; and
7. Sen. Judith Sijeny.

(Sen. (Eng.) Muriuki on 15.7.2015)

(Resumption of Debate interrupted on 16.7.2015)

The Temporary Speaker (Sen. Ongoro): Sen. (Eng.) Muriuki, proceed. You can make a statement in two minutes.

Sen. (Eng.) Muriuki: Madam Temporary Speaker, procedurally, there is need for the House to resolve that I reply.

The Temporary Speaker (Sen. Ongoro): I have already given you the Floor.

Sen. (Eng.) Muriuki: Thank you, Madam Temporary Speaker. I take this opportunity to thank all the Members who had contributed on this Motion. Many issues came out, but there are only two issues I wish to mention. There were one or two Members who gave sentiments that it would be a lot of work going round all the counties looking at county headquarters and other facilities. I confirm that that is not the intention because we intend to borrow heavily from experts.

A report had already been done. We will be revisiting it to see its adequacy and inclusiveness. In our final amendment, we included a Member who was the Permanent Secretary in the Ministry of Public Works who is now a Senator. He will be an important resource person.

With those few words, Madam Temporary Speaker, I beg to reply.

The Temporary Speaker (Sen. Ongoro): Very well. I will now put the question and this does not affect counties. So, it will be decided on through acclamation.

(Question put and agreed to)

The Senate Majority Leader, you may resume your contribution.

*(Resumption of Debate on Motion of Adjournment of the House
Pursuant to the Approved Calendar for the 2015 Session)*

The Senate Majority Leader (Sen. (Prof.) Kindiki): Madam Temporary Speaker, I was winding up my remarks. As we go on recess, let us take this opportunity to build on the very good momentum that we had started of making the country look better than anything else. We should also understand that unanimity is not possible in human endeavour. You are bound to have differences and diversity. However, diversity is not

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supposed to destroy us. It is supposed to make us better. It exists to make us realise that sometimes, it is possible to subvert personal or sectional interests for the greater good. That is what makes us human.

I hope that during this recess, Members of this House will help this country rejuvenate, restart and reorganise itself. I have said here before, in this House, that I am a very strong believer that the Senate – more than any other institution and organ of our Constitution as currently crafted – is the only institution that has both the moral and, more importantly, the legal infrastructure to bring the unity and equity of our country back. I say this because all the other institutions and organs – especially organs of representation at different levels – are very concerned with very specific and, if you like, sectional interests.

The National Assembly is a majoritarian House where everybody has one vote irrespective of the numbers of Members that may come from a particular constituency. For example, in the National Assembly, Nairobi County has 18 independent votes while Lamu and Isiolo counties have three votes each. In county assemblies, the situation is the same. However, in the Senate, each county – whether it is Isiolo or Lamu on one end or Nairobi, Kakamega and Kiambu on the other end – has one vote.

Madam Temporary Speaker, economically speaking and in terms of reconstructing our country, this is the panacea to the inequality and discrepancies in terms of developments that have been brought by virtue of the operation of some of the offensive sections of the Sessional Paper No.10 of 1965. It is a brilliant piece of policy, but which made our country suffer great harm by simply saying that development, attention and resources should be concentrated to the so called “high potential” areas which were described, of course, not expressly, but implied, to be areas where there is a lot of rainfall and not very far from the railway line.

Madam Temporary Speaker, I am convinced that this House has a date with destiny. It has an extraordinary opportunity of making our country rise again in a new spirit of equity in terms of resources. When I say so, examples are not too far. Already we have seen for the first time the people of Mandera – despite the challenges of governance and security that might be in that county - talking about tarmacked roads, courtesy of devolution and this system. So, this House, without overemphasizing the point, is sitting on throes of history; the potential of devolution for which we stand transforming our country and helping us have a better society is immense and incredible.

I am a very proud Member of this House. As we go on recess, let us recalibrate our politics in this country. We have enough divisive elements and politicians among us. Going forward through this recess, I hope we will reorganise ourselves, be bridge makers and promote the reaching out so that our country heals and reconnects with the vision of the people who fought for the liberation and the freedom of our land.

Madam Temporary Speaker, without much ado, I beg to move. I request my brother and senior, Sen. Orenge from Siaya County to second.

Sen. Orenge: Madam Temporary Speaker, let me congratulate the Senate Majority Leader because when it comes to matters to do with the Senate, he has stood

firm, not just inside, but also outside the Chamber. I wish that he continues in that regard in so far as the Senate is concerned. I am not saying this because he has given me an opportunity to second this Motion.

Secondly, it would be appropriate for the leadership of the Senate – that includes the Senate Majority Leader and the Senate Minority Leader – to go out and tell the people what we have done today. This is because sometimes it is taken for granted when we pass and allocate resources to the counties. It is just a matter of cause; the Senate has no alternative. We are doing it as a matter of obligation.

If the leadership of this House could go out there tomorrow and talk to the public through the media, as way of even reviewing the work we have done; that we have made resources available to the counties and our expectation is that the counties are going to use these resources in the manner in which the budgetary allocations have been made and so on, the people are going to get services. As Sen. G.G. Kariuki said earlier, there is a political question that we are going to answer to the electorate. Since there is a lot of wastage and pilferage, we will be asked the question: “Where was the Senate?”

Madam Temporary Speaker, we have tried our best to ensure that resources are available and play our oversight role in so much as the law and Constitution allows. However, it is important now to put our foot down in the subsequent days, to ensure that these resources are used properly and the oversight role is intensified. This is because given a cursory look of what is happening in the counties, if we do not put a strong voice, people may unwittingly begin to lose confidence in the devolved units; the counties. I, therefore, plead with the leadership of the Senate. I think that we are a bit shy and have too much decorum sometimes. Sometimes we need to pat ourselves on the back instead of waiting for other people to do so.

Thirdly, the other day in reaction to the visit by President Obama, I said that although the Senate Majority Leader is a very strong Member of the Jubilee Coalition and Sen. Orendo is a Member of the CORD Coalition, when we are talking about the country, there is no CORD or Jubilee country. The country that we have is the Republic of Kenya, which is bigger than anyone of us. Therefore, the Senate having been the House that, in many instances, has shown political maturity, but needs to start a conversation or narrative that on the important issues like the ones which President Obama talked about – corruption, national reconciliation and unit and inclusivity – probably, we should begin to talk with one voice.

I have been thinking that as we open the new assembly building in Siaya, for example, if we could have as many Senators from both sides of the House, under the leadership of the Speaker, we may have an opportunity to tell the Members of the County Assemblies (MCAs) that they have got a greater responsibility. This responsibility does not lie on them because they are Members of CORD, ODM or the Jubilee; there is a constitutional duty which they must perform. If they perform it well, then the system will succeed. If we can follow up with many other meetings in the county assemblies, including Kiambu and Tharaka-Nithi, I for one would like to go there, so that we begin to

give our people a sense that in Kenya there is no them or us. We are just one people. Like Obama was saying, we are one tribe.

Gor Mahia Football Club is now winning many matches in Dar es Salaam and people are just thinking of Kenya. When they are there, they remember to carry the Kenyan flag very high. As our athletes also do well in international athletic meetings, you see the Kenyan flag being carried very high. I would not have said this if I was in the National Assembly. I am saying it because this Senate has demonstrated that it is easy to unite the county and move together. Kenya is on the move; I have no doubt about that.

There were days when we would go on recess and by the time we came back, somebody would have been shot, assassinated, taken to detention or, as in one memorable case; “Waruru Kanja has been imprisoned for returning dollars to the Central Bank and his only offence is keeping it for two weeks’. That cannot happen in Kenya anymore. We have gone past that. I plead that politically we have to be tolerant. I like what Mr. Tekere, who was a Minister in the Zimbabwean Government told us; that once you are a politician be prepared for everything to be said against you, but take it in good stride.

Madam Temporary Speaker, with those remarks I beg to support.

(Question proposed)

The Temporary Speaker (Sen. Ongoro): As I allow Members to contribute, I want to limit debate to five minutes, so that everybody can have an opportunity.

Sen. Elachi: Madam Temporary Speaker, I want to join the Senate Majority Leader and the Senator for Siaya in supporting this Motion. I thank all the Senators for the work we have done so far.

Many Bills and Motions have been passed during this period and I want to thank the Senators for that. Even the work in the Committees has been tremendous. The Committee on Finance, Commerce and Budget has been working for the last three weeks and I want to thank the Members. We were able to clear most of the work that was pending. As we go for recess, I think it is our opportunity also to ensure that the counties understand that, indeed, they should be accountable.

If you look at the reports of the Auditor-General they are very worrying. We are a rich country, but it seems like most of our resources, as President Obama said, are going to people’s pockets, when actually many young people would have benefited. Therefore, I wish to remind the county governments that, indeed, it was the wish of the Kenyan people to ensure that we have devolution, but ensure that services are given to them. Whenever we see misuse of resources we ask ourselves whether we devolved corruption among the functions under the Fourth Schedule. I hope the governors will take responsibility knowing that we are now going to the third year since the last general election.

When we come back from recess I hope that we shall get a report and recommendations of the Select Committee that we tasked to review the Constitution.

With those few remarks, I beg to support.

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The Temporary Speaker (Sen. Ongoro): Since interest has increased, I will limit debate further to three minutes.

Sen. Okong'o: Thank you, Madam Temporary Speaker. From the outset, let me thank the Senate Majority Leader for defending this House, even when it is most dangerous, politically, for him to do so, especially when he stood against the powers that be.

Gradually, the citizens of Kenya have realized that the Senate is the safeguard of their interests, especially devolution. I have said here before that even if we have been denied oversight funds, most Senators are doing social work for the people of Kenya. As we move on, maybe we will have a separate Senate service commission and the Senators who will come after us will enjoy the benefits. Everyday when I share the wisdom of "Senator 1," Sen. G.G. Kariuki, the knowledge and experience of Sen. (Eng.) Muriuki and Sen. (Dr.) Machage I feel proud to be representing Nyamira County in this Senate.

As we go on our recess it is incumbent upon us, especially the Members of the County Public Accounts and Investments Committee, to look at how the funds that have been devolved have been spent. I also pray for all us to stay on course as we fight for the interests of this country, as we swore when we were given this opportunity by the people of Kenya.

Madam Temporary Speaker, with those few remarks, I beg to support.

Sen. G.G. Kariuki: Thank you, Madam Temporary Speaker. First, I can confirm that this House has done a good job since we resumed from the last recess. I hope that we will do more when we come back. Perhaps, we will have collected a lot of information which can assist the progress of this House and nation.

Madam Temporary Speaker, we were elected to protect the interests of the county governments. I cannot, therefore, represent people whom I do not understand. We may, therefore, need to come up with a strategy. We appointed a Select Committee to review the Constitution, but I think our problem is not to review the Constitution. All of us understand the Constitution. Even if there is a Member who does not understand it, there is always somebody next to that Member; a lawyer or a learned person like Professor here, to explain to him or her. I, therefore, think that we are using diversionary tactics. We are not holding the bull by the horns.

Let us be clear and open to county governments. There is no county government which is performing to our expectations. They are all in total mess because of the money they receive from the national Government. Suppose the Members of the Senate received similar amount of money; we would be living in the house of Babylon. I believe some of them will do the same thing that county governments are doing. We must give direction.

The Temporary Speaker (Sen. Ongoro): Order, Senator! Your time is up! Proceed, Sen. Ong'era.

Sen. Ong'era: Madam Temporary Speaker, thank you for giving me this opportunity to contribute to this Motion. I thank the Senate Majority Leader and the distinguished Senator for Siaya for moving and seconding this Motion, respectively. It comes at a unique time in the history of this country. We have just had the President of

the United States of America (USA) visiting Kenya. We have many other distinguished visitors lined up to come to our country. I am told that the Pope will also be visiting us. It is a unique time for Senators to go on recess.

I thank all the distinguished Senators of this House for responding to the timely calls that we have been making to them to attend House sittings, vote on crucial Motions and Bills. Indeed, for the last two months the record has been very good. On behalf of my fellow whips, I thank them. I request that we continue in the same spirit.

As we go home for recess, distinguished Senators should go out and meet the electorate. We should not lose sight of our oversight role and not be worried by the fact we did not receive the Kshs1 billion that we wanted in order to conduct our oversight role. We should go on with our role. We are the guardians of counties. Let us visit the county executive, the county assembly and our electorate.

Madam Temporary Speaker, in conclusion, I wish all distinguished Senators a very good recess. Let us come back on 15th September, 2015 ready to continue passing legislation that can help our Kenyan nation grow into the prosperity that we want.

Although, we are leaving at a time when we have problems in this country, we have noted that there are audit queries. There is a lot of money that is missing in the accounts of the county and national Government. I urge all Senators to speak clearly on these issues. They should take a leading role. Corruption is something that we should not condone in this country.

I beg to support.

Sen. (Prof.) Lesan: Mr. Speaker, Sir, I also thank the Senate leadership for guiding the House this far. As we break for recess, my heart goes out to the youths of this country for the challenges that they are facing. I hope that as we go for recess, we should remember to build on the good that is helpful to the youth.

In the last two or three weeks, there was a determined fight against alcohol. We can convincingly say that there has been relative peace and a complete reduction of crime in this country as a result of the positive efforts to fight illicit brews. I hope this will continue so that we can save our youth from this menace and bring peace in our homes.

Secondly, we know the vibrancy of the youth. We will be with them. They often learn from examples. Around this time of the year, there are numerous unrests in our schools. School infrastructure is burnt down by students owing to disobedience of the youth. As we go for recess, it is incumbent upon the leadership to talk in a manner that we can educate and caution our youth against behaviour that destroys the infrastructure that has been put up at enormous cost and effort so that it can be used to improve their lot.

Lastly, this is an agricultural economy. We are going out of the city and out of the Chamber to the countryside where the agricultural activity is going on. As we go to recess, it is also upon us, the leadership, to educate our farmers in the countryside whose critical deficiency is lack of know-how and knowledge to better themselves using the land resource. I am sure that this is one of the areas which we will deal with when we are on recess. I come from an agricultural area where tea is an important economic activity. I

hope that as we look at these issues as the Members of the Senate, the Government will also listen, improve and use this economic activity of land to benefit the country.

With those few remarks, I wish all the Senators a happy recess. I hope that all of us will come back to the House in the next sitting.

The Temporary Speaker (Sen. Ongoro): Amen. Thank you, Senator.

Sen. Mohamud: Mr. Temporary Speaker, Sir, I want to join my colleagues in supporting this Motion. I applaud Senators for the work well done. We did a lot of work in terms of Bills, Motions and Statements which clearly tackle the urgent matters in this country.

As we proceed, I would like all the Senators to pray for this country because we are facing a lot of challenges in terms of insecurity, corruption and so many other issues.

This is the August holiday; sometimes we will be re-energized and meet with our electorate and our families. We, as parents, need to meet with our children who are students so that we guide them in terms of careers. Some of us who have small children need to spend time with them and allow them to adapt to us so that in future, they do not call us auntie.

With those few remarks, I wish all Senators a good recess. It is my prayer that we will all come back safely.

Sen. (Prof.) Lonyangapuo: Madam Temporary Speaker, I join my colleagues in congratulating the Senate Majority Leader for bringing this Motion of Adjournment. Senators will visit their counties during recess time. Some of them will be sitting in Committees to handle issues of petitions. The Auditors-General's reports for the last financial year have all come. I am not forgetting some of us from the North Rift who had problems of cattle rustling. This Session, Senators from the North Rift region decided to work together to fight the problem of cattle rustling head on, led by Sen. Moi, Sen. Leshore and myself. I can report that there has been significant improvement and we do not hear those problems again. I want to believe that we will continue to do the same during recess.

At the same time, hon. Senators need to be on the ground to disseminate and explain the functions of the Senate. There is a lot of misunderstanding on the ground. Citizens think that Senators have money that they are supposed to use for development. The people who are perpetuating this are the governors, whom we have just given money today. We have just released the payments for the County Governments Disbursement Schedule for the Financial Year 2015/2016. Unfortunately, some of this money will be used for running campaigns.

In some instances, I am surprised that some governors have decided to become the rallying points for campaigns. They have already created their governors, Senators, MCAs and Members of Parliament (MPs) for themselves. In my county, there is one "governor" who has been given money and he is everywhere digging boreholes. He is saying that "You are the real Senator. " Which boreholes have been drilled by this man?" My responsibility is not to dig boreholes. I am not supposed to build anything. I am

supposed to represent and protect counties, including those which are digging the boreholes. This is not coming out clearly. We must come out boldly.

I like what Sen. Orendo said, that when he has a function in Siaya County, we will all go and we will be led by Sen. G.G Kariuki. We will not be campaigning for Sen. Orendo because Sen. Orendo already is a name, but to explain what the Senate is all about instead of people thinking that it is all about money. We will go there to explain what the Senate is all about.

Lastly, regarding the money that is given for building schools, the cheques that they issue---

The Temporary Speaker (Sen. Orendo): Your time is up, Senator!

Please, proceed, Sen. (Eng.) Muriuki.

Sen. (Eng.) Muriuki: Thank you, Madam Temporary Speaker. I will start by wishing my fellow Senators a good recess. I only have one substantive point to make. We are going on recess at a time when the Auditor-General has just released reports for the county governments and Ministries. It is a very sad day that we are now saying that so-and-so is ours, we know him and he should be left alone.

At the moment, some MCAs are demanding that governors should be left alone because they are good people. But if they are being investigated by the Ethics Anti-Corruption Commission (EACC) or are charged in court, they should go there and say so. On the other hand, we have also now coined a new song, saying that so-and-so is a very hardworking person. We shall congratulate somebody for being hardworking, but if money is being embezzled or stolen under his watch, being hardworking has nothing to do with what the Auditor-General and the EACC team says. Therefore, one should not work hard and then put our money in his pocket.

We are now going for recess when many governors appear in the Auditor-General's report. I can promise Senators that they will see the MCAs up in arms saying that we are now interfering with the governors. These documents are public and we have to talk about them. Therefore, I would like to call upon the whole nation to stand up and be counted. The funds which are under your watch are not yours.

With those few words, I beg to support.

Sen. (Dr.) Machage: Thank you, Madam Temporary Speaker. As we take our recess, we look back and see our achievements and failures. The Senate has had more achievements in the form of Bills that we have passed and the contributions to the welfare of this country, especially in the form of advice that we have given to the leadership. The Senate is the most sober House of Parliament and that has been seen to be so.

There is a lot of dirty linen out there that the Senate will unfortunately have to see in the form of works of the governors and their cohorts; corruption, left and right, misappropriation of resources and direct stealing that we have to go and abhor and comment on. It may not be easy because the system may not really be supporting the Senate. However, devolution is here to stay and the people have decided that it is a good system. If it is a good system, then the Senate will stay whether they like it or not. The

other option is that they could change the Constitution to the contrary and get the wrath of the people.

The Senate is going on recess for us to go and see for ourselves what is happening in the counties, using our own finances. Most of us are able to use whatever meagre resources we have, but let the country listen to us carefully as we make comments, observations and recommendations on what we will see on the ground, because that will be the truth and nothing but the truth

Thank you, Madam Temporary Speaker.

The Temporary Speaker (Sen. Ongoro): On behalf of the Speaker's Panel, the Speaker and my own behalf, I take this opportunity to wish all the Senators a constructive and fruitful engagement during the recess. I hope that all of you will be positively engaged.

Thank you.

ADJOURNMENT

The Temporary Speaker (Sen. Ongoro): Hon. Senators, it is now time to interrupt the business of the Senate. The Senate stands adjourned until Tuesday, 15th September, 2015, at 2.30 p.m.

The Senate rose at 6.47 p.m.