Thank you, Mr. Speaker, Sir. If you remember in the last Special Sitting, there was an attempt to have the First Reading followed by the Second Reading which was thoroughly opposed in this House because it was clear that most Senators wanted that it goes for public participation and it be treated like a Bill is normally treated in this House. I am surprised that, today, we say that we do not treat it the way we treat Bills. My submission is that we have the written way on how Bills are dealt with. We did the First Reading, committed the Bill for public participation and that report can only inform of the Third Reading. That is how we deal with Bills. So, it is double standards to say we treat it as an extra-ordinary Bill. It is a Bill. To be honest, we need to continue to Second Reading and that Report will inform the deliberations in the Committee of the Whole.
DATE: 5th January

MEMBER OF PARLIAMENT: Sen. Elizabeth Ongoro

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

‘Thank you, Mr. Speaker, Sir. To start with, today is an important day in this country because the Bill before us could be said to hold the future of this nation. All of us are mature Kenyans who have been here for as long as we have lived, all of us do not have options, we do not have Kenyan number two or three where any of us can take Kenya number two. If we destroy Kenya number one, then you go to Kenya number two. All of us have one country and one life; that Kenya is one. Mr. Speaker, Sir, before us is a Bill that holds literally the future of this nation. Three-quarters of this country are saying “no” to the proposed amendments and a quarter of this country is insisting on the process. I want to laud this House as I did before for the sobriety with which we handled this matter before. This matter was referred to a committee of this House to give the public the benefit of participation. That has now happened. I am a bit surprised that even before we look at the proposals from the Committee, I have sat here and heard sentiments from Members of the Senate stating that it does not matter what inputs the public has already given to the Committee and that at our position, we have heard and confirmed. That is not true. I believe I am speaking for many Kenyans. Mr. Speaker, Sir, I came here to read and have the benefit of knowing exactly what the other Kenyans who presented themselves before that Senate Committee had to say and it could change my position. I do not know how to have a firm stand if I can be convinced that a process as important as the system that we want to have for voting and
transmission of results which was the bone of contention in 2007 and it led to bloodshed is still coming up. It is like a big giant that is still coming up to swallow our children and we are in a dilemma whether to kill this snake or to allow it to bite. I am here to be convinced and to convince the other Members on what I think is the right way forward. Mr. Speaker, Sir, my only worry is that I am shocked. In 2013, my side of the Coalition insisted that we go manual. The other side insisted on electronic voting process. They carried the day and they had electronic voting system. We contested and we still do even the process and the results thereof. Now, because we have one country, we conceded and said they might have a point. Let us as a country have an electronic voting system. I am not aware of any system that can be 50/50. It is either manual or electronic. There is no way in any system that you can say I am either sick or not sick. It is either you have malaria or not. You can never be given an underdose of anything. Therefore, I am shocked that after convincing us and after going through everything, we have now said it makes sense for us as a nation to have a system that is devoid of any---

(Sen. Sang stood up in his place)

DATE: 5th January

MEMBER OF PARLIAMENT: Sen. Beatrice Elachi

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

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

DATE: 5th January

MEMBER OF PARLIAMENT: Sen. Elizabeth Ongoro

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

‘Thank you very much Mr. Speaker, Sir. It is sad that Sen. Sang stopped the flow of my points to
Kenyans. I was saying, this is very important and any Kenyan who speaks in this House---First
of all, I started by lauding all of us. This is a House of debate. Unless somebody wants us to
come here and behave otherwise such as start fighting, doing all manner of things or walking out,
we have no such intention. We come here to talk and let Kenyans know our mind, speak to each
other and not at each other and to have these records preserved for eternity so that whichever
way this country goes, Kenyans will know who said what and what they stood for when they
were given an opportunity to lead this country, either to save or burn it. So, as I was saying, we
are all shocked that after agreeing, that we go electronic, why the sudden change? What shocks
me is that the most contentious aspect of the electronic system is being attacked; the electronic
results transmission. That was the bone of contention in 2007 and 2013, which almost burnt this
country. It almost sent this country packing and divided it into 47 states of Kenya instead of a
united Kenya. When we speak, know that there is nobody with the authority to force anything on
anybody. Kenyans are living together peacefully as ordained by God and respecting their leaders;
and not being forced into slavery or an attitude of servitude. You can say something that can bind
us together or split this nation. That is why I am very careful with my words. I am really shocked when we still hear from the Majority Leader and his deputy that the system we are talking about is not manual but they are only stating that there should be some “complementary” system in place. Which is this ambiguous complementary system that should be put in place to help an electronic system? People go digital and electronic to perfect a system. Now, we are being told that it is worse than we thought. We thought that they were even saying that we need a manual system alongside the electronic one. The Majority Leader and his deputy have stated that they did not mean that it is a manual system but there is just some complementary system that is supposed to be available. This system has not been exposed to Kenyans. It has not been interrogated. Nobody knows what it is. Therefore, on the voting day, they could present anything else other than the electronic transmission of results. They will say, we told Kenyans that we are putting in place some other system to complement what we have.’

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

DATE: 5th January

MEMBER OF PARLIAMENT: Sen. Beatrice Elachi

CONTRIBUTION SHE MADE: REQUEST TO DELAY DEBATE ON ELECTIONS LAWS (AMENDMENT) BILL PENDING SUBMISSION OF COMMITTEE REPORT TO THE HOUSE
‘Mr. Speaker, Sir, today is a very special day. It is a day that Kenyans would wish to see us do what we do when we have a Special Sitting. However, it looks as if it will also be a very sad say. [The Speaker (Hon. Ethuro) left the Chair] [The Deputy Speaker (Sen. Kembi-Gitura) took the Chair] If we decide to go into this in a divisive manner, then the sober leadership that the country is waiting from us will be elusive. It is also sad because the two co-chairs of the Select Committee came from this House. Being a member of that Select Committee, we should be asking ourselves, what happened? We were not supposed to come back to such a scenario but when I look at the report of the Select Committee, it is very clear. It indicates the way we are supposed to vote. It takes into account Article 38 of the Constitution. It brings out the human rights that we have. Therefore, if this Senate wants to guide our country and say “no” to the events of 2007, then we have to be open enough to discuss and bring out issues. When we talk about a complementary system, it is upon us to ask ourselves whether we need a laptop which is electronic to be used to guide us or any other means. Kenyans want us to guide the country that whatever happened in 2007 can never happen again. However, if we take it in a political ---‘

DATE: 5th January

MEMBER OF PARLIAMENT: Sen. Beatrice Elachi

CONTRIBUTION SHE MADE: ADJOURNMENT OF DEBATE PURSUANT TO STANDING ORDER NO.99

‘Mr. Deputy Speaker, Sir, some of us have carried a burden for the last 10 years and we must release it today. I am sure no one celebrated after winning the election in 2007 because many people died. We have an opportunity to change these things this year. Many of us seated here
were part of the process. We have an opportunity to do what is right. Even when I am sick I can choose a doctor. Likewise, we should agree to save our country by having an alternative process. Kenyans want to have a successful election. This election is for all of us and not a few people. A Member of County Assembly (MCA) will be most affected by the process that we have today. Even 20 votes can make a Member of County Assembly (MCA) lose an election. It is time for the leaders, especially those who were elected in 2007, to do the right thing for this country. Mr. Deputy Speaker, Sir, I support the amendments.’

DATE: 5th January

MEMBER OF PARLIAMENT: Sen. Elizabeth Ongoro

CONTRIBUTION SHE MADE: GUIDELINES ON PROCESSING OF THE ELECTION LAWS (AMENDMENT) (NO.3) BILL (NATIONAL ASSEMBLY BILL NO.63 OF 2015

‘On a point of order, Mr. Speaker, Sir. With all due respect, we are now making reference to a document which all of us have. Is it in order for the Chairperson of the Committee on Information and Technology to keep misleading this House and the nation that there is a specific complementary system that they are making reference to when the Report I have here, on page 12(47) actually under that subtitle of use of complementary mechanism says:- “To introduce a complementary mechanism for identification of voters and transmission of election results that is simple, accurate, verifiable, secure and accountable.” It does not actually state as he is stating here that it is an electronic system. He is misleading the House.’

DATE: 5th January

MEMBER OF PARLIAMENT: Sen. Janet Ongera
CONTRIBUTION SHE MADE: GUIDELINES ON PROCESSING OF THE ELECTION LAWS (AMENDMENT) (NO.3) BILL (NATIONAL ASSEMBLY BILL NO.63 OF 2015)

‘Thank you, Mr. Speaker, Sir, for giving me this opportunity to oppose this Report. From the outset, I rise to oppose it because majority of Kenyans are opposed to this Report. There were over 54 Kenyans who represented the rest of the Kenyans’ views in the just concluded Report of the Committee. Out of this, majority of them opposed these amendments. Mr. Speaker, Sir, I want to appeal to my colleagues across the Floor that we are here to make good laws. We are not here to make laws that will be at the behest of a fear driven Government. I believe that the Jubilee Government has lost it. They know they are losing it. That is why they want to oppose and remove this amendment. When you know somebody has lost something and is driven by fear, that is when you act in the manner in which these people are acting. After having the Kiraitu and Orento Select Committee, we agreed on a consensus. We decided that we will make good laws for Kenya. We said let us have a Voter Registration Identification and Transmission System. A system that is credible and transparent. Why do we come back and say we amend? What is the hurry for? Mr. Speaker, Sir, I tend to agree with what Sen. (Prof.) Anyang’-Nyong’o said. We need to correct that he is not the Member of Parliament for Kisumu Rural but the distinguished Senator for Kisumu. He said that he heard somewhere in the grapevine that maybe some lawyers went to see the President, and at the behest of these lawyers who were driven by fear, decided to change and bring these amendments. Thank you, Mr. Speaker, Sir. It seems that distinguished Senator for Elgeyo-Marakwet County did not understand English. The word I used was ‘maybe’. I tend to agree with what Sen. (Prof.) Anyang’-Nyong’o said. He heard somewhere in the grapevine. I was alluding to it. I did not say that I saw it categorically. These amendments---e amendments. We are setting up this country on a dangerous coalition path.’
DATE: 5th January

MEMBER OF PARLIAMENT: Sen. Naisula Lesuuda

CONTRIBUTION SHE MADE: GUIDELINES ON PROCESSING OF THE ELECTION LAWS (AMENDMENT) (NO.3) BILL (NATIONAL ASSEMBLY BILL NO.63 OF 2015)

‘On a point of order, Mr. Speaker, Sir. I want to ask whether Sen. Ong’era is in order to continuously mislead this House. It is a narrative that is continuing to say that we rely on what we have heard out there. If we cannot rely on the media, how can we rely on the grapevine; that you have heard anyone discussing anywhere and we state it here almost sounding like a fact? This is a House of records and facts.’

DATE: 5th January

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CONTRIBUTION SHE MADE: GUIDELINES ON PROCESSING OF THE ELECTION LAWS (AMENDMENT) (NO.3) BILL (NATIONAL ASSEMBLY BILL NO.63 OF 2015)

‘Mr. Speaker, Sir, I stand guided. However, I was merely quoting what Sen. (Prof.) Anyang’-Nyong’o had said. Mr. Speaker, Sir, these amendments are setting this country on a collision path. I want to say categorically and without fear that Kenyans who are citizens of this country have reached a critical mass and they will never fear to even go to the streets or forests of this country because they have had enough. They are ready to fight for their democratic rights because these are inalienable rights.’

‘Mr. Speaker, Sir, thank you for that wise decision. I was saying that Kenyans have achieved a critical mass. They are now enlightened and for sure they will not hesitate to fight for their
democratic rights because these are inalienable rights. Mr. Speaker, Sir, you cannot make law in anticipation of a happening by saying that we think there is a phobia or this system will fail and therefore let us anticipate for the worst. You make laws that can stand the test of time. You make laws that can improve this country. By refusing not to have an electronic system, we are going a thousand steps back. We know that for a long time, this country had electoral malpractices which have been emanating from a manual system. It is because of that that in the wisdom of Sen. Kiraitu and Sen. Orengo - led Select Committee that they decided to ensure that we have voter identification, registration and transmission system that can stand the test of time. Mr. Speaker, Sir, I want to conclude by telling my colleagues on that side this: The late Mwangale said that even though you refused to listen, you have heard me. Thank you.’

DATE: 5th January

MEMBER OF PARLIAMENT: Sen. Elizabeth Ongoro

CONTRIBUTION SHE MADE: GUIDELINES ON PROCESSING OF THE ELECTION LAWS (AMENDMENT) (NO.3) BILL (NATIONAL ASSEMBLY BILL NO.63 OF 2015)

‘On a point of order, Mr. Speaker, Sir. Did you hear the hon. Senator making a very extreme statement that even as we debate a very important Bill, that some of the leaders on this side are very close to some powers out which we do not know. Is he in order to incense this country even further? This electronic results transmission was an idea of the Jubilee administration. What we did was just to say yes to what you already initiated. Is he in order to further confuse and mislead this country?’

‘: Mr. Speaker, Sir, may I stand here and proudly state that not only am I close to that particular politician you are trying to insinuate, I believe he is the best leader for this country. I have no
apologies to make. I want to tell Sen. Sang that it is my right under the freedom of association. Is he in order to offload the electronic voting issue on us, when it was a child of the Jubilee administration, which we are trying to adopt?’

DATE: 5th January

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CONTRIBUTION SHE MADE: GUIDELINES ON PROCESSING OF THE ELECTION LAWS (AMENDMENT) (NO.3) BILL (NATIONAL ASSEMBLY BILL NO.63 OF 2015)

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DATE: 5th January

MEMBER OF PARLIAMENT: Sen. Naisula Lesuuda

CONTRIBUTION SHE MADE: GUIDELINES ON PROCESSING OF THE ELECTION LAWS (AMENDMENT) (NO.3) BILL (NATIONAL ASSEMBLY BILL NO.63 OF 2015

‘On a point of order, Mr. Speaker, Sir. I want to ask whether Sen. Ong’era is in order to continuously mislead this House. It is a narrative that is continuing to say that we rely on what we have heard out there. If we cannot rely on the media, how can we rely on the grapevine; that you have heard anyone discussing anywhere and we state it here almost sounding like a fact? This is a House of records and facts.’
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‘Mr. Speaker, Sir, thank you for that wise decision. I was saying that Kenyans have achieved a critical mass. They are now enlightened and for sure they will not hesitate to fight for their democratic rights because these are inalienable rights. Mr. Speaker, Sir, you cannot make law in anticipation of a happening by saying that we think there is a phobia or this system will fail and therefore let us anticipate for the worst. You make laws that can stand the test of time. You make laws that can improve this country. By refusing not to have an electronic system, we are going a thousand steps back. We know that for a long time, this country had electoral malpractices which have been emanating from a manual system. It is because of that that in the wisdom of Sen. Kiraitu and Sen. Orengo - led Select Committee that they decided to ensure that we have voter identification, registration and transmission system that can stand the test of time. Mr. Speaker, Sir, I want to conclude by telling my colleagues on that side this: The late Mwangale said that even though you refused to listen, you have heard me. Thank you’
DATE: 5th January

MEMBER OF PARLIAMENT: Sen. Elizabeth Ongoro

CONTRIBUTION SHE MADE: GUIDELINES ON PROCESSING OF THE ELECTION LAWS (AMENDMENT) (NO.3) BILL (NATIONAL ASSEMBLY BILL NO.63 OF 2015)

‘On a point of order, Mr. Speaker, Sir. Did you hear the hon. Senator making a very extreme statement that even as we debate a very important Bill, that some of the leaders on this side are very close to some powers out which we do not know. Is he in order to incense this country even further? This electronic results transmission was an idea of the Jubilee administration. What we did was just to say yes to what you already initiated. Is he in order to further confuse and mislead this country?’

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DATE: 5th January

MEMBER OF PARLIAMENT: Sen. Beatrice Elachi

CONTRIBUTION SHE MADE: GUIDELINES ON PROCESSING OF THE ELECTION LAWS (AMENDMENT) (NO.3) BILL (NATIONAL ASSEMBLY BILL NO.63 OF 2015)

‘Mr. Speaker, Sir, is it in order to mislead Kenyans that the electronic or Biometric Voter Registration (BVR) has started now yet even in the Select Committee we returned the process
that we had in 2013? I do not know which electronic voting we are now talking about. The former Prime Minister introduced this process. Is it in order to tell Kenyans that we have changed the system, while we are still on the same process? We will still use the same gadgets in 2013.’

(Loud Consultations)

(Sen. Ongoro spoke off record)

DATE: 5th January

MEMBER OF PARLIAMENT: Sen. Martha Wangari

CONTRIBUTION SHE MADE: GUIDELINES ON PROCESSING OF THE ELECTION LAWS (AMENDMENT) (NO.3) BILL (NATIONAL ASSEMBLY BILL NO.63 OF 2015)

‘Thank you, Mr. Speaker, Sir. I rise to support this Bill. There have been several myths out there that have been propagated through the media and other platforms that we wish to clarify. First is that the only issue that is contained in this Bill is just Section 44 (a). In fact, there are many others that are positive. One that I relate with is the issue of solving of disputes after nominations. That is key; that we have a timeline. The issue of timelines that had been proposed by the consumers and practitioners that include IEBC have been dealt with in this Bill. The contentious one like in section 44 (a), if you look at the minority report that is a product of the process that Sen. Hassan and colleagues were in and you look at page four, it says; “views were expressed that a backup system in the event of failure must also be technology based. Whereas various IT experts expressed various opinions stating that only a manual system can backup an
electronic system, we are guided and persuaded by the experts who advised that it is possible to backup an electronic system through technology based mechanism”. Mr. Speaker, Sir, the reason I read that is that I also followed the submissions and as Sen. Kembi-Gitura said, only one person was proposing this kind of backup. More importantly, if you look at the submission by the Coalition for Reforms and Democracy (CORD) to the Joint Committee, the issue of possible failures and digital alternative; if you look at page 17 of the submission by CORD, they acknowledge that electronic systems may fail but recommend alternative digital backups rather than manual backups. If you read the second paragraph, they talked of ViaSat; database failures would have disaster recovery centers. You have so many polling stations in this country. I do not know how that is possible apart from being good on paper. More importantly is the implementation of what has been recommended. Section 44 (a) has been misinterpreted. We are in agreement that a backup is required. The issue of a spare wheel as stated by Sen. Kagwe; it is now about if it is a Michelin or a firestone. I have listened to comparisons by Sen. Orengo of Section 2 (a). The freedom of expression that is in this country cannot be compared to the time that Section 2 (a) was amended. We have given such space that people can insult the President and get away with it. I want to allude to one Bill that was brought by Hon. Millie Odhiambo to this House of Intro-Vitro Fertilization. Is Intro-Vitro Fertilization the first way to conceive? It is not the primary way to conceive. If it fails, I seconded that Bill because I believed if it the primary one does not work, then you can use another way to backup. There cannot be two definitions of complementary. It is adding value to a system that is there; it can only be in addition. So, I want to support and hope that we can be able to push and tell Kenyans the truth. We cannot get another definition of democracy. We do not define democracy with majority and minority when you are in the minority. When you are in the majority which can happen
sometime, you now back the definition of democracy. Mr. Speaker, Sir, let us tell Kenyans the
truth and be genuine. We cannot be defending and debating in this Floor and before we exit that
door, we have a case in court. It is dishonest. That trust that they seek from us can only be two
way. You cannot say we debate the issue of procedures and you go to court before we even
finish that debate. It is dishonest and hypocritical. I support.’

DATE: 5th January

MEMBER OF PARLIAMENT: Sen. Godliver Omondi

CONTRIBUTION SHE MADE: GUIDELINES ON PROCESSING OF THE ELECTION
LAWS (AMENDMENT) (NO.3) BILL (NATIONAL ASSEMBLY BILL NO.63 OF 2015)

‘Thank you, Mr. Speaker, Sir, for allowing me to make my contribution to this Bill. As I make
my contribution, I want to start by opposing the Bill.

(Loud consultations)

Mr. Speaker, Sir, can you protect me from Members consulting loudly? From the beginning, I
said I oppose this amendment because I must listen to the voice of Kenyans who entrusted me to
be in this House to represent them. This Bill is reducing the power given to Kenyans by the
Constitution to make a decision during elections, to make choices and to speak. I want to say that
the Jubilee government was digital from the beginning as they said. I do not see the reason why
they should look for analogue procedures unless they have something behind. I want to say that
we are disappointed. The Jubilee Government has failed and it is continuing to fail by forcing
laws through tyranny of numbers.

DATE: 5th January
MEMBER OF PARLIAMENT: Sen. Godliver Omondi

CONTRIBUTION SHE MADE: GUIDELINES ON PROCESSING OF THE ELECTION LAWS (AMENDMENT) (NO.3) BILL (NATIONAL ASSEMBLY BILL NO.63 OF 2015)

‘Mr. Speaker, Sir, we disagree to agree but if we have to agree, we must agree on something that will help Kenyans and not our personal interests. We must come out of self interest, selfishness and respect the rule of law and Kenyans. If we do not agree in this House, I want to request my fellow Senators that we give it back to Kenyans to rule on what they feel is workable for them. Kenyans have been giving feedback to us and every Kenyan is against this Bill. Everybody in the country is not happy about what is happening. They have condemned what the National Assembly did. We forget about the people we represent and we feel like we are representing ourselves. We should not forget about the people we represent. Mr. Speaker, Sir, Kenyans are tied of the character of imposing things that are impossible to them. This evening, I want it to go on record that if we vote for this Bill, we will be welcoming a lot of issues in this country and I do not want to be part and parcel of the messes that come in this country. However, I want history to judge me correctly that I did my part. This Bill should be dropped and if we have to be forced by tyranny of numbers from the beginning---. The way things have been moving, it is like my fellow Senators from the other side came with a fixed mind; they are only voting to pass this Bill. I want to remind them that as they vote to pass this Bill, we are almost going for elections. I will ask Kenyans not to vote for them but send them home because after being given opportunity to be here to make laws that are friendly to Kenyans, they want to forget that they are here because of Kenyans. Mr. Speaker, Sir, if this Bill will be voted for, I want to ask Kenyans to be on the watch out for whoever voted for it to be send home. With those remarks, I oppose.’
DATE: 5th January

MEMBER OF PARLIAMENT: Sen. Beth Mugo

CONTRIBUTION SHE MADE: GUIDELINES ON PROCESSING OF THE ELECTION LAWS (AMENDMENT) (NO.3) BILL (NATIONAL ASSEMBLY BILL NO.63 OF 2015)

‘Thank you, Mr. Speaker, Sir, for giving me the opportunity to contribute to this Bill which I support. The other side keeps on repeating that Jubilee wants to revert back to manual. However, it has been clearly explained that a back-up does not mean reversing. It is only to make sure that everybody who has a right to vote, votes in case where a machine does not work. Looking at the internet, there are many instances of countries where this method has been used, but the machines did not work. The things they cite are very similar to here. They talk of dirty hands thus the print does not come through. We know that the rural folks come from the shamba and go straight to vote. It is the same thing for the mechanics and the mama mbogas who rush to vote. They will not have time to clean their fingers. There will, therefore, be a lot of rejection of the finger prints. Therefore, we will be denying a chance to the people who are meant to vote.

Jubilee is supporting this Bill because if you are held responsible to run the country, you must also make sure elections are run properly. You do not want to hear that the elections have failed in the middle of the elections and then there will be more chaos than ever. In your houses, you have a lamp or a torch in case electricity fails. They say the temperature and rain are things that can make the machines to fail. I urge you that we look at this as a way of making sure that we have credible elections where nobody is shut out. It is also known that some people who fix those machines can do a small thing somewhere and ruin that machine when they are installing it. You cannot say that machines are 100 per cent effective. In the State of Virginia in April
2014, the Virginia Board of Elections voted to decertify voting machines used in over 30 counties. It cited security concerns. Edgardo who was in charge, Commissioner of the State Elections Department, said using the machines creates an acceptable risk to the integrity of the election process in the Commonwealth. You know the State of Virginia is referred to as Commonwealth. We just need to have integrity. You can rig with the machine or you can rig manually. I was being rigged out in 2007. My 15,000 votes had been removed. It is the High Court that declared me a winner after three days of goons from Kibera not allowing my votes to be counted. The court added the 15,000 votes. Yes the courts, because the matter went to court. I was a Member of the Government, who was rigging me out? You should not say that Jubilee rigs. It is not Jubilee or PNU, there are many---'

DATE: 5th January

MEMBER OF PARLIAMENT: Sen. Judith Sijeny’

CONTRIBUTION SHE MADE: GUIDELINES ON PROCESSING OF THE ELECTION LAWS (AMENDMENT) (NO.3) BILL (NATIONAL ASSEMBLY BILL NO.63 OF 2015)

‘Mr. Speaker, Sir, I wish to oppose this Bill because there is a lot of dishonesty. When the Cabinet Secretary (CS) Mr. Mucheru came, he told us that he was proposing and wants a manual backup. Now the Jubilee side is trying to run away from that and yet the people they have given the job are insisting on manual. We heard from Mr. Macharia of Royal Media, who demonstrated how---’

‘Mr. Speaker, Sir, I need protection from Sen. Hassan. Mr. Macharia demonstrated how elections are done. They have collected results for a long time ago. The President goes to most remote areas even Isiolo, yet it is broadcast. It is, therefore, possible that technology can assist where
there is no network or there is. It was demonstrated. We have just seen that CS Matiang’i has given results---‘

‘Mr. Speaker, Sir, like now, we have seen one leader who is one of the authors of this ill Bill trying to harass a certain community from their area and these are the places where if you put manual registers the ghost voters will be the ones chased away. I, therefore, object and say that digital or electronic backup is the way to go and we should not be taken back and just pass unconstitutional Bills because we are in a hurry. I oppose’

DATE: 5th January

MEMBER OF PARLIAMENT: Sen. Elizabeth Ongoro

CONTRIBUTION SHE MADE: GUIDELINES ON PROCESSING OF THE ELECTION LAWS (AMENDMENT) (NO.3) BILL (NATIONAL ASSEMBLY BILL NO.63 OF 2015)

‘Thank you, Mr. Speaker, Sir. I still want to take us back to Standing Order No.71 (2) (a). It is true as it states that each county delegation shall have one vote to be cast on behalf of the county. Therefore, what is the spirit of this statement? It means the person voting as head of that delegation or on behalf of the head carries the aspirations and feelings of that county. I want to stand here to ask Sen. Onchwangi to prove if his voting card does not read Nairobi County. I do not understand whether he has the letter or not. If he truly carries the aspirations of the people of Kisii County, does he understand how they want this way to go? Because of that, that letter given to him is null and void. We must give it to somebody who votes in Kisii, knows about Kisii politics and who understands the aspirations of the people of Kisii.’

DATE: 5th January
MEMBER OF PARLIAMENT: Sen. Beatrice Elachi

CONTRIBUTION SHE MADE: THE ELECTION LAWS (AMENDMENT) (NO.3) BILL (NATIONAL ASSEMBLY BILL NO 63 OF 2015)

‘Mr. Chairman, Sir, while I agree with all, today Kenyans are waiting for us to give any alternative of what those who made presentations to the Committee wanted. People with disability presented and requested this Senate to ensure that we have backup of any kind. There are many lawyers and that is why we decided that all Members of the Committee should be lawyers.’

‘The Committee in the Senate is full of lawyers but at the same time, in the interpretations you have given us, you have left us wondering

‘You have left us wondering whether Articles 83, 86 and 38 is the principle of any Kenyan who is eligible to vote ---’

(Sen. Omondi spoke off record)

DATE: 5th January

MEMBER OF PARLIAMENT: Sen. Godliver Omondi

CONTRIBUTION SHE MADE: THE ELECTION LAWS (AMENDMENT) (NO.3) BILL (NATIONAL ASSEMBLY BILL NO 63 OF 2015)

‘Mr. Chairman, I asked for another time to rise on a point of order.’

‘Mr. Chairman, Sir, is Sen. Elachi in order to tell us that they mind about persons with disabilities when it comes now to voting while they do not mind about them getting Identity
cards? Is she in order to mess us by pretending to have interest of persons with disabilities when in the real sense, they have not even bothered to get them identity cards? Is she in order?’

DATE: 5th January

MEMBER OF PARLIAMENT: Sen. Beatrice Elachi

CONTRIBUTION SHE MADE: THE ELECTION LAWS (AMENDMENT) (NO.3) BILL (NATIONAL ASSEMBLY BILL NO 63 OF 2015)

‘Mr. Chairman, I would like to repeat what I said. I said that persons with disabilities got an opportunity to present their views. Persons with disabilities have benefited from this Government. Having said that, I would like to understand that since even the dissenting report gives an expression very well that indeed we need a backup system, is it fair for Kenyans to go to bed tonight knowing that this Senate could not give an alternative for 2017 election yet the Constitution is very clear. Article 38 or 83 states that one is eligible to vote. Is it fair for this Senate to do that to Kenyans today?’

DATE: 5th January

MEMBER OF PARLIAMENT: Sen. (Dr.) Agnes Zani

CONTRIBUTION SHE MADE: THE ELECTION LAWS (AMENDMENT) (NO.3) BILL (NATIONAL ASSEMBLY BILL NO 63 OF 2015)

‘Mr. Chairperson, Sir, the use of the word “complementary” is not as simple as we would like to believe it is. It creates a complication in terms of when exactly do we trigger in the complementary aspect. When do we realise that we need to turn to a complementary system? Whichever that system is, that sought of ambiguity will create a lot of problems at the election
time. I do not know who will control, at what point, we will proceed with the previous arrangement of having BVR, EVID and RTS, and where we will change to an alternative system. Unless that is very clear, we will have a lot of ambiguity. Secondly, we have the whole issue of a commission that has been put in charge of this. One Senator has already said we do not have regulations. Also, it has been alluded to already that there are issues with the IEBC. I have been looking at the report from the Select Committee where the IEBC, in terms of competency, there were failures in 2013 as far as technology was concerned. There was failure to ensure that there were no multiple registers. There was also the failure to ensure that the staff where well trained and would work well. With all those levels of integrity, it creates a niche. We should move towards more about looking at a complimentary system in terms of making it better. If you look at that report on the current status, even on BVR, how many they are, we should be thinking about how to enhance and make it better. We have already quoted countries such as Gambia, India and Philippines. India dealt with 1.33 billion voters. They gave that information within a very short time. It is all about ensuring that we have free and fair elections.’

DATE: 5th January

MEMBER OF PARLIAMENT: Sen. Catherine Nabwala

CONTRIBUTION SHE MADE: THE ELECTION LAWS (AMENDMENT) (NO.3) BILL (NATIONAL ASSEMBLY BILL NO 63 OF 2015)

‘Thank you Mr. Chairman. I would like to also contribute on the contentious Clause 44(a). This Bill was committed to the Committee and there was public participation. When you look at the Report, you can see that those who participated raised concerns regarding words like ‘complementary’ and many other words which they said are not clear and should be defined.
What was the purpose of public participation if we will ignore their contributions? We need to take the views of the public as per the Constitution. I think the Law Society of Kenya (LSK) and the Kenya National Chamber of Commerce and Industry (KNCCI) did a good job. They made very crucial comments, which we must take into account as we move forward, to prepare a law that is good for this country and will help us to conduct a free and fair election. I do not support.’

‘Mr. Chairperson, Sir, I rise to support the amendment. I read a sinister motive in this Clause. The National Assembly wants to hive off some of the words and before you realize it, you will find that the Senator is irrelevant. The mandate of the Senate is to protect counties. There is no reason why they should remove the Senate to give themselves the role of delimiting the boundaries. According to the Constitution, the commission has this role of determining boundaries. So, I do not see the reason why the National Assembly should take over a role that is not theirs. I, therefore, support the amendment because we shall be committing suicide if we are to support this kind of amendment to eliminate the Senate from the role of protecting counties.’

‘Mr. Temporary Chairperson, Sir. I also support these amendments because it is like the Senate is signing its own death warrant. I cannot trust the National Assembly, particularly when they short-changed us in the oversight money after we had agreed that they were would support the legislation. We have also seen that they have been by-passing us when they pass legislation which they send to the President to assent to, without our input. We must exert our position because the country looks to the Senate for protection. Our role is to protect counties. I support the amendment.’

‘Mr. Temporary Chairman, Sir, I also stand to protest about the issue of one minute. When you look at Article 117 of the Constitution, it gives privileges and immunities of Parliament to the
majority leader and the leader of the minority party. Therefore, I find it a bit of an insult when the microphone is switched off when the Senate Minority Leader is speaking on behalf of the people. I support the amendment.’