COMMITTEE OF THE WHOLE HOUSE

Date: 25th May

Member of Parliament: Sen. Janet Onge’ra

Contribution she made: VARIATION OF THE BOUNDARIES OF NYANGWETA FOREST

‘Mr. Speaker, Sir, thank you for giving me this opportunity to make my comments regarding the petition by the Governor of Kisii County, His Excellency James Ongwae. From the onset, I congratulate the Governor for coming up with such an excellent idea of putting up a sugar cane factory in South Mugirango. The essence of devolution was to take services closer to the people. By putting up the sugar factory in South Mugirango, it will be a big catchment area for our farmers. The intended sugar factory will serve close to 50,000 farmers from the whole of the former Gucha District. It has a catchment of South Mugirango, Bobasi and Bomachoge constituencies. The nearest factories have been Trans Mara and SONY Sugar companies. Many times, you find that the farmers in south Mugirango are not able to deliver their cane to those two factories because of the distance. You will find that sometimes these two factories want to, first of all, serve their catchment areas. Therefore, I want to laud the Governor for bringing the services closer to the people. If our people in South Mugirango have the factory, they will have their cane harvested in time and processed to produce sugar. That also means that we will have sufficient sugar for the people of Kisii County. Mr. Speaker, Sir, I want to note that the various necessary licenses and consents have already been received. The county assembly has already given its approval and a license has already been given---’

‘Mr. Speaker, Sir, I am speaking on rights but I stand to be guided.’

‘I stand to be guided. Mr. Speaker, Sir, as I was saying, this is a very commendable petition. Just like the Senator for Kisii County, I also request that the relevant committee moves with speed, so that we have the factory up and running. I thank you.’

Date: 25th May

Member of Parliament: Sen. Judith Sijeny

Contribution she made: VARIATION OF THE BOUNDARIES OF NYANGWETA FOREST

‘Mr. Speaker, Sir, I commend and thank the Governor for having brought this Petition. It is a clear indication that some of our governors have the best interest of “Wanjiku” at heart and they are doing what they should be doing. I hope and believe that the committee will look into it so that he gets what he needs. I also hope that proper structures will be put up for accountability for the next Parliaments so that money is utilised properly and the best results are achieved.’
Date: 25th May

Member of Parliament: Sen. Godliver Omondi

Contribution she made: VARIATION OF THE BOUNDARIES OF NYANGWETA FOREST

‘: Mr. Speaker, Sir, thank you for giving me the opportunity to add my voice to the petition. My contribution is on the petition on the establishment of a sugarcane factory in Kisii County. I support the idea, the vision and the governor. I believe it is because it will create more opportunities to the people of Kisii and improve the economic growth and status of the county in terms of physical accessibility and development. That is a noble cause in terms of counties and devolution because a county is a country on its own and such establishments improve the growth of a county. I support.’

Date: 25th May

Member of Parliament: Sen. Judith Sijeny

Contribution she made: ADOPTION OF REPORT ON THE ELECTION OF MEMBERS TO EALA

‘Thank you Mr. Speaker, Sir; I second the amendment by Sen. M. Kajwang. This is because this amendment puts the records very clear. So far, there is no justification whatsoever for giving the recommendations numbers 3,5 and 7. This is just a deliberate attempt to delay the nomination for the members of the EALA due to ulterior motives. It has nothing about trying to set the record straight or trying to abide by the law. The majority side should not attempt to do work for the minority side, if the minority side has complied with this rule 6.1 who are they to come and do work for us? The Senate Majority Leader is trying to mislead the House and the whole country. The fact is in the East African Court of Justice case which is famously known as “Prof. Anyang’ Nyong’o” were not the same. I was one of the lawyers in that case and I know very well what happened What the minority side has done is to comply with the law, they should listen. They have actually submitted all the documents. As long as the parties have followed the law there is no need for trying to delay this matter deliberately due to political reasons. Though some people are hanging in, those who lost the nominations and the party primaries want another opportunity so that their names can be submitted. This should not be allowed, I therefore, urge this house to move and support the amendments sought by Sen. M. Kajwang, I beg to second.’

Date: 25th May

Member of Parliament: Sen. Godliver Omondi

Contribution she made: ADOPTION OF REPORT ON THE ELECTION OF MEMBERS TO EALA

‘Thank you Mr. Temporary Speaker, Sir. I want to oppose the report on EALA. I do not see the reason as to why we should open--- I know that the political parties have been given legal powers to nominate their candidates. People applied for the positions, they have been interviewed and we are now adopting the report. I want to urge my fellow Senators to adopt the report the way it is. I oppose the extension of
time so as to allow us to add more names. That will be cutting the powers of the political parties. If there is a Member amongst us who feels that he has a personal interest on why we should open this, let them come out clearly. This is something that has gone through the legal process and it has come to this House. Our work is to adopt the report unless otherwise. I oppose.’

Date: 25th May

Member of Parliament: Sen. Beatrice Elachi

Contribution she made: ADOPTION OF REPORT ON THE ELECTION OF MEMBERS TO EALA

‘Mr. Temporary Speaker, Sir, I rise to support but I also want to question my party Jubilee which has forwarded 15 names. The most important thing that we need to ask ourselves as we nominate these candidates is whether women have been considered. This is because I know that many women have worked in these political parties. These slots are not just to be given. They are to be used to appreciate those who have worked hard in their political parties. People have spent money to ensure that their political party functions. However, we are not afraid to talk about our political parties. All we want to do is to stand and listen to those who come and take things. People go through nominations and they spend their money. When they do so, they are building the party. There is no fear or favour when a party says that it has chosen five names. There is a reason as to why they do that. It is for the party to decide. It is the party to ask itself if the five names are people who have worked for that party even when the party was in a storm. If Jubilee brings 15 names, I would want to see 15 names of men and women who have sacrificed themselves. This is because nobody pays anyone salary in a political party. You volunteer. Therefore, when there is such chance, it is important for those people to be appreciated. It is true that they are going there to serve Kenya but the law is very clear that they must go through a political party. We do have independent candidates who can also apply. This is because we have independent people who have also sacrificed and they believe in one of those parties. As we make recommendations and ask for more time, let us not ask for time to play side shows. If the political parties have someone who has worked diligently for the party for the last ten or five years, I believe that a woman or a man deserves to be nominated. This is a political party issue and until we change the law, it is the parties to decide. We should not start infringing on this because we want to show that we have the numbers. I want to tell Jubilee that while we say that we have the numbers, we cannot interfere with EALA. In fact, the best Jubilee would have done to us was to bring the five names. Why should we put so many names and yet we know that it is so and so who is going to take it? When that is done, people go through a lot of anxiety yet you know very well that you are not going to pick them. I think it is fair to finish the process, present the five names and give reasons each of them deserves to be in EALA. The other thing we need to bring to the attention of the parties is that if somebody has served for two terms, he or she has done the best. He or she can get another job and give an opportunity to other people. Sometimes we find ourselves so engaged in something that when it comes to handing over, we do not want to do so. We want to make it look as if it is a position that is reserved for a specific person. There is even a slot that has become a tradition such that if we remove it today, you will find the community from which that person comes fighting. It appears like that position is reserved for them. Those are some of the things we need to change. We should think about what Kenya will achieve by
having representatives at the East African Legislative Assembly (EALA). The person nominated by the party should sit down with their political party and point out some of the things that are not friendly to our country. Sometimes it is not just about giving a job but serving Kenya. We should appreciate that we send representatives to the EALA as Kenyans to serve our country. As much as the Committee recommends that the Minority Party should bring twelve nominees and the Majority Party, fifteen, we are being unfair to our people. In the end, we are only going to pick five. The processes should be done within the parties after which they come to Parliament to tell us the particular names they have agreed on. If anyone has a petition, he has a right to bring it to Parliament. A name can then be changed after we look at the petition and agree. There could be an integrity issue that we have to resolve or any other issue arising. However, as parties, let us not antagonize anybody, especially, now that we are going into the general elections. If we do not want a specific name we should sit down and agree because this issue requires consensus. If we follow this process, we will agree on the report. When the report goes to the National Assembly, it will not have an issue. However, we are to choose from 15 names, it will be very unfortunate to those who have applied. Finally, it is important to look at those laws critically. Any Member of Parliament does not need to go for these positions because the law is very clear. Even on the Majority side I have seen names of Members of Parliament. The law is very clear that they cannot go for the EALA positions. Even if they have only two months to serve as Members of Parliament, they are still Members of Parliament. The Jubilee Party should, therefore, be right on the process. With those few remarks, I beg to support.

Date: 25th May

Member of Parliament: Sen. Judith Sijeny

Contribution she made: ADOPTION OF REPORT ON THE ELECTION OF MEMBERS TO EALA

‘Thank you, Mr. Temporary Speaker, Sir. I do not agree with the recommendations of this Committee. I think they went beyond their mandate. After listening to what was being said, I believe there is no justification for giving all these recommendations. Political parties have been given the powers by the East African Court of Justice Rules, which they have abided by to the letter. A few leaders may feel that since the people they wanted were not nominated and they did not succeed through any other process to get what they wanted, the process must be canceled. That nullification is unfair and not legal at all. Mr. Temporary Speaker, Sir, you listened to the submissions of most of our colleagues, and in your wisdom, expunged those proceedings. It is clear that the only reason the list of nominees to the EALA has been submitted to Parliament by various political parties is because they all have their personal views. Some have personal vendetta which, in my view, should not be settled in Parliament. Take the scenario of a Kenyan, and more particularly, a youth who has applied for a position and met all the requirements. He has gone through the rigorous panel of interviews and vetting. Due diligence has been done and his integrity confirmed. The academic qualification befit and he has justified why he wants to join the EALA. He has demonstrated his passion and enumerated the things he has done for more than two years. Just because you happen to be a son of a politician, it does not mean that you are condemned. I believe that is not the case. The Bill of Rights is there to protect everybody. Why should you discriminate someone just because their names are similar to that of a politician who is not even in
Parliament? We know how Parliament has treated the same politician. However, that is not the issue. There should not be any discrimination. I would not want my children to work hard, get education, graduate and be barred from getting a job because I am a politician; whether former or current. I am also a child of a former politician who is deceased – may the good Lord rest his soul in peace - but I am here. If I had been denied a chance just because my father was a politician, that would not be justice. I am certainly not in support of these recommendations at all. There is no legal justification. The facts in the Anyang-Nyong’o case are so different. Sen. (Prof.) Anyang-Nyong’o clarified that the facts are not similar to this. What we - and I was one of the lawyers - wanted to correct is not what was done here. The political parties here have followed the due process of what they ought to have done. It is not because there was a complaint and he has clarified the fact. Misleading people and trying to settle personal scores, I repeat - When you are given the opportunity to do it within your political party and you do not because you are coming to the Senate or Parliament to exercise your muscles is, for me really, abuse of office. We cannot say that the youth cannot be empowered. We need to empower them irrespective of their background. This is just one job. Leaders should be creating more jobs. Just last weekend as a Committee on Delegated Legislation, we went to Mombasa to look at a series of regulations which had been brought to us by the Cabinet Secretary (CS) Kazungu to support the Mining Act. There are several jobs which are going to be created once the Act starts being implemented. Those are the kind of things we should be doing, but not to fight people for only one job; the entire country cannot sit on that seat but one person at a time Mr. Speaker, Sir, I find it very unfortunate that we can stand and discriminate against our people, oppose things just for the sake of it and waste time because others want to buy time for their personal reasons. Kenya is again going to look bad when we have followed the due process. The law says that at most three times. I am a lawyer and most of these political parties have a panel of lawyers. Why did they sit and agree and bring it to Parliament then for others to start thinking that it was wrong? That has been the interpretation. Why can they not move to court if they want that proper interpretation to be done again? The law is clear. These are the times if I was a lawyer going to court I would just be nodding without even working. The judge would just wake up and read and ask: “Why has that application been brought here while it has abided by the law? Dismissed off record.” Why is the Senate trying to entertain injustice in the name of: “It is I who decides who to go where?” I totally disagree and I do not support the recommendations and I find that the Committee went beyond their mandate, they acted ultra vires and they are subjecting innocent Kenyans who have worked--- They are going to make the youth to shy off from applying because one of their own is applying and is being subjected to all these. If they wanted to put in gender, I speak for my party the Wiper Democratic, there was no woman who applied. How and from where are you going to get a woman? Are you going to break the law? That is what would have happened. If FORD-(K) or any other political party wanted to bring in a lady they had opportunity from the word go. Why wait till when the entire exercise has been done? I beg to oppose.’
Date: 25th May

Member of Parliament: Sen. Janet Ongera

Contribution she made: ADOPTION OF REPORT ON THE ELECTION OF MEMBERS TO EALA

‘Thank you, Mr. Temporary Speaker, Sir, for giving me this opportunity to make my contribution. From the onset, I rise to support this report. One of the reasons we set up EALA body was to ensure that we have high representation among the partner states within the East Africa region. We wanted to have a body which could legislate and make laws that would help run the East African Community. One of the great reasons that we went to Arusha with regard to Sen. (Prof) Anyang’-Nyong’o’s case where I was one of the counsels with my sister here Sen. Sijeny and led by the late distinguished Sen. Mutula Kilonzo Snr, was precisely to ensure that the elections are held within political parties when they are making presentation to Parliament. It behooves that even within CORD to ensure that we have due process. We are not saying that the names presented here by CORD Coalition are wrong names. These are distinguished people who have ‘died’ for the CORD coalition. They are people who have fought in the terrain and are loyal party members. For example, hon. Judy Pareno is someone who has really fought for ODM party. However, our concern here is due process. Did CORD hold due process? I am a member of the National Executive Committee of CORD, but I was not called so that we could hold elections for these nominees. It is necessary for us, Members of Parliament, not to be taken for a ride by CORD for just presenting four names. They are blocking us from making a right democratic choice of elections by limiting our choice to only four names. It is very clear in the rules that an election must be held. No elections have been held.

I would request, as this report says, let us defer this matter and get more representation so that we can have a range of choices. It might be right, but at the end of the day, these four nominees are people who will be elected. We would like to exercise our rights as legislators to choose and to elect because that is what an election means. By gagging our mouths as legislators then it can mean that political parties can just forward the names directly. We, as legislators, do not want to be used as a rubberstamp, we want to be given an opportunity to elect members to this distinguished august House which represents our region. I support this Report and request our coalition; CORD, to look further into this matter so that we increase the space and create more opportunities for others. Mr. Temporary Speaker, Sir, there is the question of regional balance. When I look at this list I wonder. A region like western is very big. In fact, the block of the votes for CORD, come from that region. We cannot see representation from that region yet I see that among the 41 applicants from CORD, there were many applicants from that region. It is necessary to include regional balance, gender and youth. I am happy that at least there is one youth and one woman but in terms of regional balance, I do not think we have met that criterion. Mr. Temporary Speaker, Sir, with those few remarks, I beg to support this report.’