

# PARLIAMENT OF KENYA

## THE SENATE

### THE HANSARD

Thursday, 26<sup>th</sup> June, 2014

*The Senate met at the County Hall,  
Parliament Buildings at 2.30 p.m.*

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

#### PRAYERS

#### COMMUNICATIONS FROM THE CHAIR

##### RELOCATION OF THE SENATE FROM COUNTY HALL TO THE REFURBISHED SENATE CHAMBER IN MAIN PARLIAMENT BUILDINGS

**The Deputy Speaker** (Sen. Kembi-Gitura): Hon. Senators, I have a short communication to make regarding the relocation of the Senate to the refurbished Senate Chamber in the main Parliament Buildings. You may recall that during yesterday's sitting, I informed the House that from Tuesday, 1<sup>st</sup> July, 2014, the Senate will start using the refurbished Senate Chamber at the main Parliament Buildings. I would like to reiterate this position and add that today will be the last day the Senate will hold its plenary sittings in this Chamber. For your information, the Senate leadership or most of them and the administration are now housed in the main Parliament Building on the First and the Ground floors, next to the refurbished Chamber. Further, I would like to inform you, hon. Senators, that the new Chamber has been fitted with modern electronic devices which we shall henceforth use to transact business. Business will no longer be transacted manually once we relocate.

In order for us to be trained on the use of electronic devices, there will be a briefing session for all Senators on Tuesday, 1<sup>st</sup> July, 2014, at 9.30 a.m., in the refurbished Chamber. It is very important that we all attend the briefing session in order to learn how to operate the electronic system.

Thank you.

##### KAMUKUNJI TO DISCUSS ADMINISTRATIVE SUPPORT TO HON. SENATORS

Hon. Senators, yesterday you also requested for an informal meeting with the Speaker. I am proposing that immediately after we have sat to be shown how to use electronic devices because I am sure most of you do not know how to use them and do

not know what they are, then we shall be able to have a meeting with the Speaker on the issues that you were discussing yesterday.

Next Order!

### PAPERS LAID

#### ELEVENTH BIENNIAL REPORT OF THE MONETARY POLICY COMMITTEE OF THE CBK

**Sen. Mositet:** Mr. Deputy Speaker, Sir, I beg to lay the following Papers on the Table:-

The Eleventh Biannual Report of the Monetary Policy Committee from the Central Bank of Kenya (CBK)

#### THE COUNTY BUDGET IMPLEMENTATION REVIEW REPORT

The County Budget Implementation Review Report on the office of the Controller of Budget, third quarter, Fiscal Year 2013/2014

#### MONETARY POLICY STATEMENT FROM THE CBK

The Monetary Policy Statement from the Central Bank of Kenya (CBK)

#### THE BUDGET IMPLEMENTATION REVIEW REPORT

The Budget Implementation Review Report on the office of the Controller of Budget, third quarter, Fiscal Year 2013/2014.

*(Sen. Mositet laid the Papers on the Table)*

#### BUSINESS FOR THE WEEK COMMENCING TUESDAY 1<sup>ST</sup> JULY, 2014

**The Senate Majority Leader** (Sen. (Prof.) Kindiki): Mr. Deputy Speaker, Sir, I beg to lay the following Paper on the Table:-

Business for the week commencing Tuesday 1<sup>st</sup> July, 2014

*(Sen. (Prof.) Kindiki laid the Paper on the Table)*

### STATEMENTS

**The Deputy Speaker** (Sen. Kembi-Gitura): Sen. Karaba, do you have a statement to make?

#### NON-ACCREDITATION OF THE TECHNICAL UNIVERSITY OF MOMBASA BY THE ENGINEERS BOARD OF KENYA

**Sen. Karaba:** Yes, Mr. Deputy Speaker, Sir.

**The Deputy Speaker,** (Sen. Kembi-Gitura): That Statement was sought by Sen. (Eng.) Karue and I know it is now the property of the House and it can be given in his absence. However, I really would have preferred that it was given when he is here, but we have no knowledge where he is.

**Sen. Karaba:** Mr. Deputy Speaker, Sir, you have to guide me over that issue.

**The Deputy Speaker** (Sen. Kembi-Gitura): Could you give us a few moments? Let us go to the other Statements and then I will call you again.

**Sen. Karaba:** Thank you, Sir.

#### MANAGEMENT OF *MAENDELEO YA WANAWAKE* ORGANIZATION

**Sen. (Prof.) Lonyangapuo:** Thank you, Mr. Deputy Speaker, Sir. I rise to seek a Statement from the Chairperson of the Standing Committee on Labour and Social Welfare concerning the management of *Maendeleo ya Wanawake* Organization which has been undergoing challenges.

In the Statement, I would like the Chairperson to:-

(1) Explain whether he is aware that the organization is planning to hold its elections in July 2014.

(2) State whether he is aware that the organization has increased membership fees from Kshs100 and that those wishing to vie for various positions in the organization for the following categories are required to pay as follows:-

(a) If you are vying for a position at the ward level, you are required to pay Kshs2,000.

(b) If you are seeking any position at the sub-county level, you are required to pay Kshs5,000.

(c) If you are seeking for any position at the county level, you are required to pay Kshs10,000.

(d) If you are seeking any national position, you pay Kshs20,000.

(3) Since the above criteria is likely to lock out many ordinary Kenyan women from vying for the various positions, could the Government intervene and order the organization to revert to the old membership fee of Kshs100 and refund the poor women who have already paid the new rates?

Thank you.

**The Deputy Speaker** (Sen. Kembi-Gitura): Who is the Chairperson for the Committee on Labour and Social Welfare?

**Sen. (Prof.) Lonyangapuo:** It is Sen. Madzayo.

**The Deputy Speaker** (Sen. Kembi-Gitura): He is not here! The Senate Leader of Majority, could you, please, tell us when that Statement can be given?

**The Senate Majority Leader** (Sen. (Prof.) Kindiki): Mr. Deputy Speaker, Sir, the Statement can be availed next week, but I do not know whether the responsibility is on me or the Chairman. I can undertake to convey that request to the Chairman.

**Sen. (Prof.) Lonyangapuo:** Could you give us a day?

**The Senate Majority Leader** (Sen. (Prof.) Kindiki): Thursday next week.

**The Deputy Speaker** (Sen. Kembi-Gitura): That would be on 3<sup>rd</sup> July, 2014. Is that okay, Sen. (Prof.) Lonyangapuo or would it have been overtaken by events?

**Sen. (Prof.) Lonyangapuo:** Mr. Deputy Speaker, Sir, the question is a bit urgent. There is a possibility that the elections will be held on Tuesday, so I would rather he gives us the answer on Tuesday next week.

**The Deputy Speaker** (Sen. Kembi-Gitura): Today is Thursday and we are not sitting tomorrow, the Chairman may not be in the precincts tomorrow. So I think it would be putting too much pressure on the Committee. Could we try for Wednesday, 2<sup>nd</sup> July?

**The Senate Majority Leader** (Sen. (Prof.) Kindiki): That is okay, Mr. Deputy Speaker, Sir.

**The Deputy Speaker** (Sen. Kembi-Gitura): Are there anymore statements? I notice that there were some statements to be sought by Sen. Murungi but he is not here and so we are going to adjourn them. Before the Senate Majority Leader lays his Paper on the House, I would like to inform Sen. Karaba that Sen. (Eng.) Karue is not in the House and I have no knowledge of where he is. I have been informed by the Clerk's office that there was a ruling by the Speaker that the Statements should ideally be issued when the person seeking the Statement is in the House, notwithstanding that the Statement is the property of the House. Since Sen. Karue is not here, may I request you to issue the Statement on Tuesday next week. Does that prejudice you in any way?

**Sen. Karaba:** Mr. Deputy Speaker, Sir, I have no problem with that ruling but it is also important to put on record that when you are put under a lot of pressure to look for these answers and we get the answers after we have really labored into it, it is important that whoever had sought the Statement be available. I have suffered a lot.

**The Deputy Speaker** (Sen. Kembi-Gitura): You have not suffered; you were doing what you are supposed to do. But I know where you are coming from and I appreciate that very much. If the ruling of the Speaker had not been made to that effect, I would have had the Statement issued, because like I said, it is the property of the House. If there is that ruling by the Speaker, I am not going to change it now, maybe some other time.

**Sen. Karaba:** Mr. Deputy Speaker, Sir, suppose he will not be there on Tuesday?

**The Deputy Speaker** (Sen. Kembi-Gitura): Sen. Karaba, let us not pre-empt the situation. Just be prepared to give the Statement on Tuesday, 1<sup>st</sup> July.

**Sen. Karaba:** In the new Chamber, Sir.

**The Deputy Speaker** (Sen. Kembi-Gitura): Fortunately, you will be the first Senator to issue a Statement in the new Chamber.

**Sen. Karaba:** Thank you very much. Most obliged.

**The Deputy Speaker** (Sen. Kembi-Gitura): If Sen. (Eng.) Karue comes before we finish with the Statements, I will request you to issue it.

**The Senate Majority Leader** (Sen. (Prof.) Kindiki): Mr. Deputy Speaker, Sir, I am informed that Sen. (Eng.) Karue is on an official trip to the Guinea Bissau, led by the Deputy President of the Republic of Kenya.

**The Deputy Speaker** (Sen. Kembi-Gitura): I think then he will come over the weekend and so you can issue it on Tuesday.

**Sen. (Dr.) Zani:** Mr. Deputy Speaker, Sir, I just wanted to indicate that in a case where somebody is ready to issue a Statement and the person who requested for that Statement is not there, that it be recorded.

**The Deputy Speaker** (Sen. Kembi-Gitura): Have you risen on a point of order or what? I thought you were coming to seek a Statement.

**Sen. (Dr.) Zani:** No, I am not coming to seek a Statement. I wanted to contribute on the discussion about issuing of statements.

**The Deputy Speaker** (Sen. Kembi-Gitura): I did not give you permission to continue that debate. I thought you were seeking a Statement.

**Sen. (Dr.) Zani:** Mr. Deputy Speaker, Sir, I am not seeking a Statement.

**The Deputy Speaker** (Sen. Kembi-Gitura): But you did not rise on a point of order. Did you?

**Sen. (Dr.) Zani:** I just stood and you asked me to speak!

**The Deputy Speaker** (Sen. Kembi-Gitura): It was because I did not know what you wanted, but now I know what you want because you have said it, but I am not going to allow you.

**Sen. (Dr.) Zani:** On a point of order, Mr. Deputy Speaker, Sir.

**The Deputy Speaker** (Sen. Kembi-Gitura): What is the point of order that you want to raise?

**Sen. (Dr.) Zani:** On a point of order, Mr. Deputy Speaker, Sir. For our sessions and procedures to become even clearer and helpful for us, I wanted to make a suggestion that where somebody has sought for a Statement, and the Statement is ready to be issued but the person who sought it is not there, it goes on record very clearly so that another time when the person who sought the Statement asks for that Statement when the person who was ready to give the Statement is not there, then they refer to that record.

**The Deputy Speaker** (Sen. Kembi-Gitura): Thank you, Sen. (Dr.) Zani, but if you heard me, I said that I am with you and I am with Sen. Karaba on all aspects on that issue, but that there is a ruling by the Speaker on the matter which has not been changed. Until it is changed, that is the ruling of the House. I understand what you have exactly said and in fact, I am quite appreciative of the Senate Leader of Majority for having told us where Sen. (Eng.) Karue is because then it would have been a very awkward situation. I think we can proceed on that premise.

The Senate Majority Leader, you can now give your Statement.

BUSINESS FOR THE WEEK COMMENCING  
TUESDAY 1<sup>ST</sup> JULY, 2014

**The Senate Majority Leader** (Sen. Prof.) Kindiki): Mr. Deputy Speaker, Sir, I wish to read the Statement of the Senate Business for the week commencing 1<sup>st</sup> July, 2014, pursuant to Standing Order No.45.

On Tuesday, 1<sup>st</sup> July, the Rules and Business Committee (RBC) will meet at noon to schedule the business of the House for the week starting 1<sup>st</sup> July. The Senate will also continue on that day with business that will not be concluded in today's Order Paper and will also commence the Second Reading on the Political Parties (Amendment) Bill of 2014.

Wednesday is normally a Motions day and, therefore, on that day, the business which will not be concluded on Tuesday will be considered and any other business that will be scheduled by the RBC including the debate on the following Motions:-

(1) Motion by the Chairperson of the Standing Committee on Information and Technology on the adoption of the Report of the Standing Committee on Education, Information and Technology on the retreats with County Executive Committee members in charge of education and ICT.

(2) Motion by Sen. Mositet on restructuring of the Kenya Urban Roads Authority (KURA) and expanding its mandate to cover road infrastructure in all the 47 county headquarters.

(3) Motion by Sen. Ongoro on the need to give incentives to coconut farmers.

(4) Motion by Sen. Ndiema on addressing the concerns of medical practitioners in counties.

(5) Motion by Sen. Karaba on measures to streamline education and training for learners with special needs and disabilities.

(6) Motion by the Chairperson of the *ad hoc* committee on the adoption of the Committee Report on legislation on royalties accruing from exploitation of natural resources in the counties.

Mr. Deputy Speaker, Sir, on Thursday, 3<sup>rd</sup> July, 2014, the Senate will continue with the business not concluded on Tuesday and Wednesday and consider any other business that will be scheduled by the Rules and Business Committee.

I hereby lay this Statement on the Table of the Senate.

*(Sen.(Prof.) Kindiki laid the Statement on the Table)*

**The Deputy Speaker** (Sen. Kembi-Gitura): Thank you, Senate Leader of Majority. It appears there are no other Statements now.

STATUS OF BILLS PASSED BY THE SENATE AND  
REFERRED TO THE NATIONAL ASSEMBLY  
FOR CONCURRENCE

**The Senate Majority Leader** (Sen. Prof.) Kindiki: Mr. Deputy Speaker, Sir, there is one more Statement which was due today. It was my responsibility to provide a statement that was requested by Sen. (Prof.) Lonyangapuo. That Statement regarding the fate of Senate Bills that have been submitted to the lower House is not ready. I wanted to ask the indulgence of Sen. (Prof.) Lonyangapuo and the House to give me until Tuesday next week to be able to provide a comprehensive Statement.

*(Statement deferred)*

INSECURITY ALONG THE WEST  
POKOT-TURKANA BORDER

**The Deputy Speaker** (Sen. Kembi-Gitura): Is that okay, Sen. (Prof.) Lonyangapuo? I also note that you had another Statement which was supposed to be given today by the Chairperson of the Standing Committee on National Security and Foreign Relations concerning insecurity along West Pokot-Turkana county Borders. I

thought I saw the Chairperson here. It seems he has left. Well, you did not raise the issue either.

Sen. (Prof.) Lonyangapuo, for the record, you had that Statement coming today.

**Sen. (Prof.) Lonyangapuo:** Mr. Deputy Speaker, Sir, the two statements were supposed to be responded to today as you have rightfully put. But I am surprised that the chairperson is not in, particularly for the last one because of the insecurity situation that my people are facing along the border of the two counties. Can we go and look for him?

**The Deputy Speaker** (Sen. Kembi-Gitura): Well, I saw Sen. Haji not so long ago. But you know equity assists the vigilant. It was up to you to ask him whether he was ready to give the statement.

**Sen. (Prof.) Lonyangapuo:** Since he is not in, we can wait for Tuesday, next week.

**The Deputy Speaker** (Sen. Kembi-Gitura): Is that okay with you?

**Sen. (Prof.) Lonyangapuo:** Yes.

**The Deputy Speaker** (Sen. Kembi-Gitura): So, the statement will be issued on Tuesday, next week.

GOVERNMENT POLICY ON DEVELOPMENT  
AND USE OF INDIGENOUS LANGUAGES

**Sen. Murungi:** On a point of order, Mr. Deputy Speaker, Sir. I rise to draw the Speaker's attention to the fact that I am still awaiting my famous statement from the Chairperson of the Committee on Education. Sen. Karaba has not yet delivered the statement which he promised to deliver last week. I know he had travelled but could you now give a final date when that statement will be delivered to this House? We have been waiting for it and the time that we have been given has already expired.

Secondly, I had requested a statement from the chairperson of the Committee on Roads and Transport, Sen. Chiaba. I know there have been a lot of problems in Lamu County and that could explain why he is not here. But there is another Member of that Committee who has that statement. He could deliver it on his behalf.

**The Deputy Speaker** (Sen. Kembi-Gitura): Sen. Karaba, it is true that you were supposed to have given a statement on 24<sup>th</sup> April, 2014, 19<sup>th</sup> June, 2014 and today, it is still outstanding. Do you have any reaction to that?

**Sen. Karaba:** Mr. Deputy Speaker, Sir, I agree with the sentiments raised by my friend, Sen. Murungi. We were discussing with him how difficult it is to get these people. I was informed by staff of an office that I went to yesterday of curriculum developers that they are looking for the answer because it is complicated. I am told that by next week, they will have the answer.

**The Deputy Speaker** (Sen. Kembi-Gitura): The statement sought by Sen. Murungi is on the promotion, development and use of indigenous languages in schools. What are you saying is complicated about that?

**Sen. Karaba:** Mr. Deputy Speaker, Sir, according to the way I am getting, it is supposed to be tested by the curriculum developers yet the ones who are supposed to supervise are the Teachers Service Commission (TSC) because they are the ones who provide the teachers. Then it is supposed to be examined by the Ministry of Education.

So, the three departments are meeting to decide on the fate of this because it becomes a policy matter of the Ministry.

**The Deputy Speaker** (Sen. Kembi-Gitura): You said it becomes a what?

**Sen. Karaba:** After this, it will become a policy matter.

**The Deputy Speaker** (Sen. Kembi-Gitura): So, the statement that will be made will then be a matter of policy?

**Sen. Karaba:** Yes.

**The Deputy Speaker** (Sen. Kembi-Gitura): And that is the fear they have, that they do not want to communicate?

**Sen. Karaba:** Mr. Deputy Speaker, Sir, the fear is that they have to coordinate with all departments.

**Sen. Abdirahman:** On a point of order, Mr. Deputy Speaker, Sir. With due respect to my very good friend, Sen. Karaba, he has been a high school principal for many years. I feel he is equipped with knowledge, information and skills on matters that relate to education. For him to come and tell this House that this is a policy matter----

**The Deputy Speaker** (Sen. Kembi-Gitura): What is your point of order?

**Sen. Abdirahman:** Mr. Deputy Speaker, Sir, my point of order is that the statement sought by Sen. Murungi talks of promotion of indigenous languages in schools, if we got it right. Now, the Committee Chair is talking about the TSC and so on. Is he in order to constantly mislead this House? Policy issues are discussed at the Ministry level. This is not a matter that requires many things.

**The Deputy Speaker** (Sen. Kembi-Gitura): But is he actually misleading the House?

**Sen. Abdirahman:** I think he is misleading this House because---

**The Deputy Speaker** (Sen. Kembi-Gitura): The statement that is sought is on the promotion, development and use of indigenous languages, something that is not happening now, except Kiswahili.

**Sen. Abdirahman:** Which are the indigenous languages? Indigenous language is mother tongue!

**The Deputy Speaker** (Sen. Kembi-Gitura): Just a minute, Sen. Abdirahman. Let us not be argumentative!

**Sen. Abdirahman:** Do you want me to continue?

**The Deputy Speaker** (Sen. Kembi-Gitura): Do you want to be argumentative?

**Sen. Abdirahman:** No, Mr. Deputy Speaker, Sir.

**The Deputy Speaker** (Sen. Kembi-Gitura): Then listen to me. I am saying; if you look at the way that statement is sought, it is on promotion, development and use of indigenous languages in schools. I do not believe that a statement can come and just be issued to say that a certain language is going to be used in school.

*(Sen. Abdirahman consulted other Senators)*

The trouble now is; you are not listening to me.

**Sen. Abdirahman:** I am listening to you, Mr. Deputy Speaker, Sir. I am saying there exists at the Ministry level a policy that says indigenous languages can be taught in schools. To a certain level, these things have been developed unless he really does not want to get the information or he is not getting it right. His constant delay is causing an



unnecessary delay in this House. He is not giving us the information rightly. That is my understanding.

**The Deputy Speaker** (Sen. Kembi-Gitura): Fortunately, I think you have inside information. Sen. Karaba, are you in order? Are you misleading the House? That is what Sen. Abdirahman thinks.

**Sen. Karaba:** Mr. Deputy Speaker, Sir, to my surprise, I am shocked that I am misleading the House when I am telling the truth. I have been in those offices physically. I even talked to the Director who was my college mate at one time. She assured me that as soon as this statement is ready, she will release it to me. When I have it, I will table it to the House. That is all I can say.

**The Deputy Speaker** (Sen. Kembi-Gitura): Sen. Murungi.

**Sen. Murungi:** Mr. Deputy Speaker, Sir, I sought a statement from the Cabinet Secretary for Education. Sen. Karaba went to see some junior officers in the Ministry. There is no question of policy here because the Constitution is very clear that the state has a duty to promote indigenous languages.

Secondly, the Education Act which was passed in 2013 states that the first three years of schooling should have an element of indigenous languages being taught. So, the policy is already set. I was asking what steps are being taken to implement this policy and the Constitution. Is Sen. Karaba in order to mislead this House that he is going to look for a statement from junior officers in the Ministry of Education and his classmates while we asked for the statement from the Cabinet Secretary?

**The Deputy Speaker** (Sen. Kembi-Gitura): Yes, Sen. (Dr.) Machage. Please move to the front.

**Sen. (Dr.) Machage:** Mr. Deputy Speaker, Sir, from my knowledge, we seek statements from committee chairs. Therefore, is hon. Murungi in order to reprimand the chairperson of the committee for having sought information from whichever level of officers he so desired?

**The Deputy Speaker** (Sen. Kembi-Gitura): Sen. (Dr.) Machage, I hear you. However look at this issue and with a lot of respect to Sen. Abdirahman and Sen. Murungi, I know it is in the Constitution and the Education Act. But the statement that will be issued finally here will satisfy Sen. Karaba as the chairperson and you, as Senators will still have to set out a certain - I do not know whether you want to call it policy or a way forward on how indigenous languages will be promoted. So, however you look at it, there must be a policy issue. Who he seeks it from, as long as he gives us a satisfactory answer, frankly, is neither here nor there. If he seeks it from a junior officer - I do not know what level you call junior - but as long as we get an answer that is satisfactory, the House will be satisfied. We will leave it at that.

Sen. Karaba, did you give an undertaking on when you will give that statement?

**Sen. Karaba:** Mr. Deputy Speaker, Sir, it is also important to recognise that the effort I have taken---

**The Deputy Speaker** (Sen. Kembi-Gitura): I heard you, Sen. Karaba. Are you giving an undertaking on a date that you will issue the statement?

**Sen. Karaba:** Mr. Deputy Speaker, Sir, the undertaking is that I will issue the statement next week.

**The Deputy Speaker** (Sen. Kembi-Gitura): What date next week? Monday, Tuesday or Wednesday?

**Sen. Karaba:** Mr. Deputy Speaker, Sir, Wednesday.

**The Deputy Speaker** (Sen. Kembi-Gitura): That will be 2<sup>nd</sup> July, 2014?

**Sen. Karaba:** Yes, Mr. Deputy Speaker, Sir.

**The Deputy Speaker** (Sen. Kembi-Gitura): Sen. Murungi.

*(Sen. Murungi spoke off record)*

Sen. Murungi, for HANSARD purposes, you have to come to the front. I am sorry about the inconvenience.

**Sen. Murungi:** Mr. Deputy Speaker, Sir, I might be out of the Senate next week. I request, with the indulgence of the Chair, for the statement to be issued the following Tuesday.

**The Deputy Speaker** (Sen. Kembi-Gitura): That will be on 8<sup>th</sup> July, 2014.

**Sen. Murungi:** Yes, Mr. Deputy Speaker, Sir.

**The Deputy Speaker** (Sen. Kembi-Gitura): Sen. Karaba, that gives you an extra week. It is so ordered.

**Sen. Sijeny:** Mr. Deputy Speaker, Sir, the chairperson is not available today but as the Vice Chairperson of the Committee, I am ready to issue the statement.

**The Deputy Speaker** (Sen. Kembi-Gitura): Go on and give the statement. Which one are you giving now? There are two statements for Sen. Murungi.

**Sen. Sijeny:** Both, Mr. Deputy Speaker, Sir.

**The Deputy Speaker** (Sen. Kembi-Gitura): Okay, proceed.

#### STATUS OF MIKINDURI-MAUA ROAD

**Sen. Sijeny:** Mr. Deputy Speaker, Sir, on 12<sup>th</sup> June, 2014, the Senator for Meru County, Sen. Murungi, requested a statement from the Chairperson of the Standing Committee on Roads and Transportation regarding the status of Mikinduri-Maua Road. In the statement sought, the Senator wished to be informed of the following:-

- (a) the current status of the Mikinduri-Maua Road;
- (b) the cost of the project and the contractor;
- (c) why it has taken so long to complete this short road;
- (d) how much money has been allocated to this road this financial year; and
- (e) when the road is expected to be completed.

Mr. Deputy Speaker, Sir, I wish to respond as follows:-

(a) The Mikinduri-Maua Road is located in Meru County and it is 18 kilometres long, out of which 8.5 kilometres has been completed to bitumen standards.

(b) The contract sum is Kshs1,721,871,230 and the contractor is M/s Mulji Devraj & Brothers Limited.

(c) The construction of this road has taken longer than the contract period due to budgetary provisions in the past financial years, that is 2012/2013 and 2013/2014.

(d) In the Financial Year 2012/2013, the allocation for the project was Kshs469 million while in the Financial Year 2013/2014, the allocation for the project was Kshs155,496,897. The contractor is still on site but no work is going on. In this Financial Year 2013/2014, the project was allocated Kshs155,496,897,000 which was not adequate to complete the works as per the initial expected time of completion in September, 2013.

(e) The Ministry, through the Kenya Rural Roads Authority, (KeRRA) plans to complete the remaining part of 9.5 kilometres before the end of the Financial Year, 2014/2015. The budget estimates next Financial Year, 2014/2015 for the Mikinduri Maua Road is Kshs400 million.

Enclosed are the contract details and the project location map.  
I beg to submit the statement.

*(Sen. Sijeny laid the document on the Table)*

**The Deputy Speaker** (Sen. Kembi-Gitura): Sen. Murungi, do you have any reaction to the statement?

**Sen. Murungi:** Mr. Deputy Speaker, Sir, it is the tradition of the House for a Senator who has requested for a statement to be given a copy of the statement in writing to enable him or her interrogate it. Having just heard the statement, I need some time to study it for me to be able to put appropriate questions.

Mr. Deputy Speaker, Sir, I request that I be served with a copy of the statement so that I check the facts. May be I could be given another time when I can raise issues regarding that statement.

**The Deputy Speaker** (Sen. Kembi-Gitura): Sen. Sijeny, is there any reason why Sen. Murungi has not been given a copy of the statement before now because that is the normal practice?

**Sen. Sijeny:** Mr. Deputy Speaker, Sir, I apologise for the anomaly. Our committee clerk is out of the country and he had asked his associate to stand in for him. I think that is where there was a communication breakdown. Had I known, I would have made sure he had a copy. I apologise for that little mishap. I could give him my copy or ensure that he gets one by the end of the day.

**The Deputy Speaker** (Sen. Kembi-Gitura): I know other Senators may want to raise issues with you. I can see Sen. Musila almost on his feet. We have to make a decision. Sen. Murungi says he wants to interrogate your statement. He wants to do so in such a way he can raise issues with you. Does it make a difference if you re-issue the statement on Tuesday, 1<sup>st</sup> July, 2014? Give him a copy, so that he can go through it and verify the facts. Sorry, not to re-issue it, but so that he can be able to raise issues with you on that day. Do you have any problem with that?

**Sen. Sijeny:** Mr. Deputy Speaker, Sir, I do not have a problem. I will be happy for him to grill me on my birthday. 1<sup>st</sup> July, 2014 is my birthday.

**The Deputy Speaker** (Sen. Kembi-Gitura): That may preempt the other Senators who may have wanted to react to your statement.

**Sen. Sijeny:** That is in order. We can ensure that. If he accepts that, we will make sure that he has everything.

**The Deputy Speaker** (Sen. Kembi-Gitura): Is that okay, Sen. Murungi?

**Sen. Murungi:** Mr. Deputy Speaker, Sir, is it possible for the statement to come back to the House on 8<sup>th</sup> July, 2014 because of the same reasons that I gave regarding Sen. Karaba's statement?

**The Deputy Speaker** (Sen. Kembi-Gitura): But the Statement will not be issued afresh. It will be now for you to interrogate it, because it has already been issued.

**Sen. Murungi:** Mr. Deputy Speaker, Sir, a copy should be given to me now and then, I will raise issues on 8<sup>th</sup> July.

**The Deputy Speaker** (Sen. Kembi-Gitura): Is that okay?

**Sen. Sijeny:** Mr. Deputy Speaker, Sir, I have served him before credible witnesses.

**The Deputy Speaker** (Sen. Kembi-Gitura): Before you issue the second Statement to Sen. Murungi – because I do not want the same thing to happen – have you given him a copy of the other Statement? I am talking about the second Statement that you are supposed to issue to him.

**Sen. Sijeny:** Mr. Deputy Speaker, Sir, I think that the position is the same.

**The Deputy Speaker** (Sen. Kembi-Gitura): Have you not given him a copy?

**Sen. Sijeny:** No, Mr. Deputy Speaker, Sir.

**The Deputy Speaker** (Sen. Kembi-Gitura): Can we postpone it also to 8<sup>th</sup> July, 2014? Is that okay, Sen. Kiraitu?

**Sen. Murungi:** Yes, Mr. Deputy Speaker, Sir.

**The Deputy Speaker** (Sen. Kembi-Gitura): It is so ordered!

**Sen. Sijeny:** Mr. Deputy Speaker, Sir, since I have not read this one, can it come for reading then?

**The Deputy Speaker** (Sen. Kembi-Gitura): I know and that is why I am saying that instead of issuing it now, you will issue it on 8<sup>th</sup> July, 2014, at the same time that you will be interrogated on the other Statement.

**Sen. Sijeny:** Much obliged, Mr. Deputy Speaker, Sir.

*(Statement deferred)*

**Sen. Musila:** Mr. Deputy Speaker, Sir, I am standing on a point of procedure. Did you hear Sen. Sijeny say “I have served him with a copy?” The language here is: “I have laid it on the Table.” This is not a court process.

Mr. Deputy Speaker, Sir, secondly, I think that we are overwhelming our Chairpersons by requiring them to deliver copies of their Statements to the Members who have sought them. That is the work of the clerks. When a Statement is received, I would like you to direct that the clerks should ensure that those who asked questions are given those copies before they come to the House. What has happened here now is the Chairperson exchanging with the Senator, when the Clerks are sitting here pretty.

**The Deputy Speaker** (Sen. Kembi-Gitura): Sen. Sijeny, you are a lawyer and you must learn the language of the House. I am not asking you to answer to anything, but just telling you that Sen. Musila is right in that regard. I am sure that the Clerk’s office has heard also. But the normal procedure – and it is the practice throughout – is that a Statement is given to the Senator seeking it in good time, so that they look at it and are able, therefore, to raise issues or questions on it or accept it as it is. I am sure that the Clerk’s office now will know that it is their role and duty to make sure that the Statements have been given to the relevant Senators in good time.

**Sen. Karaba:** Mr. Deputy Speaker, Sir, it is apparent that requests for Statements on roads seem to be recurring in this House more often than not. I had also raised a similar concern of a road in my county and not much has been given in the form of an answer. I would, therefore, suggest that Statements pertaining to roads should be all

lumped together and then we get one answer, so that some of us can be satisfied. This is because I requested for one last year and nothing has happened so far. If it elapses, do we also say that the money that was allocated by the Ministry to complete the road has also elapsed?

**The Deputy Speaker** (Sen. Kembi-Gitura): I have heard you, but have you pursued your answer? You cannot just say that you had sought a Statement which is not on the schedule. I think that it would be impractical to say that all Statements on roads be given at the same time, because they have been sought individually at different times. I think that it would be difficult to make a specific ruling on that. But if your Statement is outstanding, and you think that it has elapsed, you can ask again, because this is a new Session. You can hope to get an answer sometime.

That is it for Statements.

Next Order!

### MOTION

#### TRANSFORMATION OF NAIROBI INSPECTORATE DEPARTMENT INTO A MODERN METROPOLITAN SECURITY AGENCY

THAT, aware that pursuant to Article 6(2) of the Constitution, the National and County levels of government are distinct and interdependent and that they conduct their mutual relations on the basis of consultation and cooperation; recognizing that the respective functions and powers of National and County Governments are provided for in Article 186 and the Fourth Schedule of the Constitution, and that under paragraphs 6 and 7 of Part 1 of the Fourth Schedule, national security is a function of the national government; further recognizing that Article 187 of the Constitution provides for the transfer of functions and powers from one level of government to the other; cognizant that Nairobi city is the main gateway to Kenya; concerned, however that the threat of terrorism continues to be a major challenge to Nairobi city and the country at large which adversely affects Kenya's image internationally and hampers investment; recognizing that Article 247 of the Constitution allows for establishment of police formations to supplement the National Police Service; the Senate urges the National Government to:-

a) enter into agreements with the County Government of Nairobi with a view to transforming its City Inspectorate Department into a modern Metropolitan Security Agency capable of detecting and combating criminal activities; and,

b) initiate legislation to provide for a legal framework for the complementary roles of the proposed Nairobi Metropolitan Security Agency to supplement the role of National Security Agencies in Nairobi and its environs.

*(By Sen. (Prof.) Kindiki on 18.6.2014)*

*(Resumption of Debate interrupted on 25.6.2014)*

**The Deputy Speaker** (Sen. Kembi-Gitura): Where is the Senate Majority Leader? Is this not Sen. (Prof.) Kindiki's Motion which is coming for Division?

**Sen. Murkomen:** Mr. Deputy Speaker, Sir, I do not know whether I should have said "point of order," but I just want a clarification from you. Once a Motion brought by any person has been debated in the House, I thought that it is already the property of the House and, therefore, owned by the House.

*(Sen. (Prof.) Kindiki walked into the Chamber)*

Mr. Deputy Speaker, Sir, now that the Senate Majority Leader is here, he will guide us whether we have the numbers to vote.

**The Deputy Speaker** (Sen. Kembi-Gitura): I do not understand you. What is your point of order? Were you buying time for the Senate Majority Leader to come in or what were you standing up on?

**Sen. Murkomen:** Mr. Deputy Speaker, Sir, I have asked for two clarifications from the Chair. One is as to whether, in future, if a Motion is coming for division and the Mover of the Motion is not in the House, that is sufficient ground to postpone it. But now that the Senate Majority Leader is here, that may not apply to the current Motion. But for future ruling, you can take your time to make a decision.

**An hon. Senator:** Have you withdrawn the point of order?

**Sen. Murkomen:** No! I have just said that the clarification for that substantively may not be today. You can retire and make a decision in future.

**The Deputy Speaker** (Sen. Kembi-Gitura): Thank you very much, Sen. Murkomen.

Sen. Kindiki, this is your Motion and it is going for division. Can we go on and put the question now?

**The Senate Majority Leader** (Sen. (Prof.) Kindiki): Mr. Deputy Speaker, Sir, we have about 26 delegations in the House and since this is not a contentious Motion, maybe we should just carry on.

**The Deputy Speaker** (Sen. Kembi-Gitura): I just wanted to know whether we have the threshold to proceed to put the question.

**The Senate Majority Leader** (Sen. (Prof.) Kindiki): We have the threshold, Mr. Deputy Speaker, Sir. I think that we have about 26 delegations as per my count.

**The Deputy Speaker** (Sen. Kembi-Gitura): Order! Order, Senators! This is a Motion which is coming for division and it is to do with counties. So, we are going to vote by county delegations. I am now going to put the question. Ring the Division Bell.

*(The Division Bell was rung)*

*(Several hon. Senators stood up in their places)*

Order, Senators! Order! Take your seats. Can the doors be locked and the Bar drawn?

*(The doors were locked and the Bar drawn)*

The Teller for the Ayes will be Sen. Beatrice Elachi and the Teller for the Noes will be Sen. Judith Sijeny. Under Standing Order No.77 (4), I am supposed to put the question again on this very long Motion. I have announced the tellers; they are Sen. Elachi and Sen. Sijeny.

## DIVISION

### ROLL CALL VOTING

*(Question put and the Senate proceeded to vote by County Delegations)*

*(Both Sen. Sijeny and Sen. Mugo voted for Nairobi County)*

**The Deputy Speaker** (Sen. Kembi-Gitura): How many votes are we getting from Nairobi County? There is only one delegation.

*(Sen. Wetangula stood up in his place)*

Yes, Sen. Wetangula, are you rising on a point of order? What are you doing? If you want to rise on a point of order, then do so.

Who voted for Nairobi County? I heard two voices.

*(Loud consultations)*

*(Sen. Wetangula consulted loudly)*

*(Roll Call voting interrupted)*

Order, Sen. Wetangula! Are you making a point of order? I can hear you talking to me from there.

**The Senate Minority Leader** (Sen. Wetangula): Yes, I am, Mr. Deputy Speaker.

**The Deputy Speaker** (Sen. Kembi-Gitura): Then rise and make your point of order, if you want to.

**The Senate Minority Leader** (Sen. Wetangula): Mr. Deputy Speaker, I want to raise an issue about the procedure in this House. There may be votes in this House; but each vote is critical and it counts. This is a Motion that we all support and we are all voting, yes. But there maybe be serious contentious issues that the proxy vote must be proved to be a proxy vote. A proxy vote must be based on instruction. That is what the Standing Orders say; and that is what the Constitution provides. If you care to listen, you can answer me.

Mr. Deputy Speaker, Sir, you, yourself, have said from the Chair that you will be demanding to see the proxies. Some things you can let pass – like I have said this is a

Motion that we are all supporting – but we may reach a level where when the distinguished Senator, the teller, says “Yes” and the distinguished Senator, Beth Mugo, says “Yes.” The ultimate is that they have no proxy; they are just voting and voting is not just a ritual in this House.

*(Sen. Mugo spoke off record)*

**The Deputy Speaker** (Sen. Kembi-Gitura): Order, Sen. Mugo! I have not allowed you to speak. I have said many times that you cannot just rise and start talking; that is not going to be done in a House that I am presiding over! I have made it clear that you will not just rise and start talking. I will not allow that. As you know in my procedure, I do not normally refuse points of order, but the rules of this House must be obeyed. So, if you want to rise on a point of order, you need to stand in your place, say “On a point of order;” then you will either be called or not.

Now, Sen. Beth Mugo, do you have a point of order? Come to the front because the microphones there are not working.

**Sen. Mugo:** Thank you, Mr. Deputy Speaker, Sir. I do have a standing authority in writing from the substantive Senator for Nairobi, Sen. Mike Sonko.

**The Senate Minority Leader** (Sen. Wetangula): On a point of order, Mr. Deputy Speaker, Sir. If my memory serves me right, the ruling from the Chair was from yourself. You did rule, when we were sitting in the ‘garage’ at the Kenyatta International Conference Centre (KICC) that every vote is an independent vote; it is treated on its own merit. There is nothing like a standing instruction or a standing proxy. The proxy must be relevant to each vote; that was your ruling and the HANSARD can be checked. I am not preventing anybody from voting; I am not even saying that Sen. Mugo does not have the proxy. But what she has said defeats what the rules say; each proxy is relevant to each vote. It becomes even more difficult when two Senators from the same county purport to be carrying one proxy from one delegation leader.

**The Deputy Speaker** (Sen. Kembi-Gitura): Yes, Sen. (Prof.) Kindiki?

**The Senate Majority Leader** (Sen. (Prof.) Kindiki): Mr. Deputy Speaker, Sir, I agree with the Senate Minority Leader to a large extent. But so far, the voting in this House, including proxy voting, has gone on without any big issues of suspicion or irregularity. I would have been worried if one Senator, purporting – if I can say that – to be voting on proxy, voted “yes;” and another one voted “no.” Then I would have been very worried.

So, Mr. Deputy Speaker, Sir, as much as the Senate Minority Leader is raising a very relevant and legitimate point, I think the fact that both Senators have said “yes” should also inform the decision; but it depends on the Chair’s ruling.

**The Deputy Speaker** (Sen. Kembi-Gitura): Sen. Sijeny.

**Sen. Sijeny:** Mr. Deputy Speaker, Sir, I wish to explain the confusion---

**The Deputy Speaker** (Sen. Kembi-Gitura): Sen. Sijeny, I am not seeking any clarification from you. Is that a point of order? You rose on a point of order, did you not? What is your point of order?

**Sen. Sijeny:** Mr. Deputy Speaker, Sir, it is a further point of order.

**The Deputy Speaker** (Sen. Kembi-Gitura): Then I do not need an explanation. My mind is very clear on this issue.



**Sen. Sijeny:** I am most obliged, Mr. Deputy Speaker, Sir.

**The Deputy Speaker** (Sen. Kembi-Gitura): Yes, Sen. Murkomen?

**Sen. Murkomen:** Mr. Deputy Speaker, Sir, whereas I agree with the Senate Minority Leader in so far as one person to be designated to vote at a time, reading the Constitution and again the same Standing Order No.71(2), you will find that it says:-

“Except as otherwise provided in the Constitution, in any matter in the Senate affecting counties-”

(a) each county delegation shall have one vote to be cast on behalf of the county by the head of county delegation or in the absence of the head of the delegation, by another member of the delegation designated by the head of the delegation;”

Mr. Deputy Speaker, Sir, it does not say that for every vote, you need to guide every delegation. My reading of this is that you could actually be having even a standing designation as long as it is there. I agree with the Senate Minority Leader in as far as one person is designated and not more than one person. But you do not tell us that you must get a specific designation for a specific vote; it can be a standing designation.

**The Deputy Speaker** (Sen. Kembi-Gitura): Well, hon. Senators; is there any other point of order on that issue?

Hon. Senators, I have made a ruling on this issue in the past. Like I said, my mind is extremely clear on it; and that is one area that I do not think you are going to depart from. The only thing that I know I have not said is what Sen. Wetangula said last; that each vote has to be specific. I have not said that. In fact, what I had proposed was that the Clerk’s Office needs to have a register of designations so that we know that in Nairobi County, for instance, the substantive Senator for Nairobi has designated, for the sake of argument, Sen. Beth Mugo and, in her absence, Sen. Elizabeth Ongoro; in her absence, another Senator and so on, and so forth. That is what I have said in the past.

*(Applause)*

It may not be possible at every instance to have a designation at every one point. But my position still stands clear that it has to be designated, because that is what Article 123 of the Constitution says; and that is what Standing Order No.71 of the rules of this House says. That is one area I am not willing to depart from. So, every time a Senator votes, it must be clear that they have been designated, whether as a standing designation or a time to time designation.

Hon. Senators, let me give you an example. I have in front of me here a letter from Sen. Tiolo Ndiema dated 19<sup>th</sup> of June, addressed to the Speaker of the Senate. It says clearly that:-

“This is to authorize Sen. Catherine Mukite to vote on behalf of the delegation for Trans Nzoia County from the date of this letter until 30<sup>th</sup> of June, as I shall be out of the country on official duties of the Senate.”

So, come 1<sup>st</sup> of July, Sen. Mukite will not have authority to vote, unless another letter like this one has been written. That is a very clear position as far as I am concerned. So, when the Senators vote and both Sen. Sijeny and Sen. Mugo said “I vote yes;” then there could be a problem, like Sen. Wetangula said; or maybe there is no clarity of purpose as to what Sen. Sonko has said on his designation. But it is not for me, as I sit here, to ask for a designation letter. The Clerk’s Office ought to either have a register or something to

indicate to the Speaker that when Sen. Mugo votes, she is actually authorized to vote. For me, that is a very clear situation indeed. That has been my stand and my ruling; and that is my ruling again for the avoidance of doubt.

Yes, Sen. (Dr.) Machage?

**Sen. (Dr.) Machage:** Mr. Deputy Speaker, Sir, as we appreciate the clarity with which you have ruled on this matter, not once, but severally, would I be in order, therefore, to request that you clarify on the issue of Sen. Mugo and Sen. Sijeny today? One, do you have any information from the Clerk's Office that there are any instructions allowing either of them to vote? Two, who is senior of the two to take the mandate, because if they are two, there should be a senior one? Three, if none of them---

**The Deputy Speaker** (Sen. Kembi-Gitura): Sen. (Dr.) Machage, it is going to be hard---

**Sen. (Dr.) Machage:** If there is no permission or order that any of them represents the Senator, then rule them out of order and punish them.

*(Laughter)*

**The Deputy Speaker** (Sen. Kembi-Gitura): Yes, Sen. Wetangula?

**The Senate Minority Leader** (Sen. Wetangula): Mr. Deputy Speaker, Sir, we are the first Senate in a long time in this country after the first Senate was truncated within a year or two. It is good that we set a good precedence for the future. There will come a time when what looks like a casual vote can have far reaching ramifications on other issues. Article 123(4) (a), which Sen. (Prof.) Murkomen read, is very clear. I think you have made it more abundantly clear by reading the letter from Sen. Tiolo Ndiema. What probably you, as the Chair, should help this House for now and for the future, is to give a direction that will be in line with what Sen. Tiolo Ndiema has done; or alternatively, the Senators who make technical appearances in this Senate – like the Senator for Nairobi, who is the head of delegation – should, every Monday, send a letter to the Clerk's Office to say that “if there is a vote in any matter, I have designated Sen. Beth Mugo to vote for Nairobi.”

Mr. Deputy Speaker, Sir, we know that as we are voting, some Senators are probably standing out here; and it is inconceivable that they had, in fact, instructed anybody to vote. So, it is good to have clarity for the future because we can actually make a decision here and one Omtata can walk to court and say “Sen. Chelule voted without authority.” If the authority is not clear, the Senate can find itself in a very embarrassing situation, yet this is something that we can very clearly design, define and give direction on for application in the future. I am not blocking anybody from voting; I am simply saying that we need to have things clear.

**The Deputy Speaker** (Sen. Kembi-Gitura): Sen. Kiraitu Murungi.

**Sen. Murungi:** Mr. Deputy Speaker, Sir, as we are in the process of voting, is it in order for the Senate Minority Leader to engage the House in prolonged statements which are not even based on any provisions of the Standing Order, interrupting this important exercise?

*(Applause)*

**The Deputy Speaker** (Sen. Kembi-Gitura): Order, hon. Senators! If you look at Standing Order No.80(4), it says that during division like we are in, Senators shall maintain order in the Senate and shall be in their designated seats and shall remain seated until the result is announced. I appreciate that and I allowed this point of order from Sen. Wetangula with my eyes open because although the Standing Order says that, I do not believe that it means that the Constitution or the Standing Orders can be flouted just because Standing Order says we must be seated. The point of order that Sen. Wetangula raised is extremely important because like he says correctly, if we vote and a delegation votes against the provisions of Article 123 of the Constitution, that vote can be declared to be null and void *ab initio*. I am sure nobody wants that to happen. That is why you see us adjourning voting to the following day so that we can have delegations and numbers or threshold to vote. So, I do not think it is a frivolous point of order.

Sen. Sijeny has explained to me and I have no reason to doubt that Sen. Sonko has given her a standing order or designation in which he has given the order. This also includes Sen. Mugo, in her absence, Sen. Ongoro in her absence, Sen. Sijeny and so on. So, it is important to recognize that. What I hope is not going to happen and Sen. Sijeny said so and I have no reason not to believe her; that she had not seen Sen. Mugo when she said “I vote Yes”. That for me, I accept, because we are honourable Members of this House. What I hope is not going to happen is for any Senator to purport to have authority when they have none because the records are going to be clear.

As a matter of direction, I have done this in the past. I would like to see the Clerk’s office keeping a copy or a register of those designations and it should be here when you are doing divisions just in case any issue should arise because if one delegation has a problem amongst itself and one says he or she has the authority and another one also says so, then it is going to be a very difficult situation. So, the vote would be null and void.

Let us proceed but I want to thank Sen. Wetangula for raising that issue because it is very important. I have talked about it in the past and I will continue talking about it until all of us understand the provisions of the Constitution in that regard.

Can we proceed?

## DIVISION

*(Roll Call Voting resumed)*

*(Question 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. Hargura, Marsabit County; Sen. Kagwe, Nyeri County; Sen. Karaba, Kirinyaga County; Sen. Kembi-Gitura, Murang’a County; Sen. (Dr.) Khalwale, Kakamega County; Sen. (Prof.) Kindiki, Tharaka Nithi County; Sen. (Prof.) Lesan, Bomet County; Sen. Leshore, Samburu County; Sen. (Prof.) Lonyangapuo, West Pokot County; Sen. (Dr.) Machage, Migori County; Sen. Madzayo, Kilifi County; Sen. Mositet, Kajiado County; Sen. Mugo, Nairobi County; Sen. Mungai, Nakuru County; Sen. Murkomen, Elgeyo Marakwet County; Sen. Murungi, Meru County; Sen. Musila,

Kitui County; Sen. Nabwala, Trans Nzoia County; Sen. Ntutu, Narok County; Sen. Obure, Kisii County; Sen. Wako, Busia County and Sen. Wetangula, Bungoma County.

**Teller of the Ayes:** Sen. Elachi

**NOES:** Nil

**Teller of the Noes:** Sen. Sijeny

**The Deputy Speaker** (Sen. Kembi-Gitura): Hon. Senators, the results of the Division are as follows:-

**AYES:** 25

**NOES:** Nil

**ABSTENTIONS:** Nil

*(Question carried by 25 votes to nil)*

You may now open the door.

Next Order!

## **BILL**

### *Second Reading*

#### THE STATUTE LAW (MISCELLANEOUS AMENDMENTS) BILL

*(Sen. Wako on 24.6.2014)*

*(Resumption of Debate interrupted on 24.6.2014)*

**The Deputy Speaker** (Sen. Kembi-Gitura): Sen. Wako, you have a balance of 25 minutes.

**Sen. Wako:** Mr. Deputy Speaker, Sir, as I was submitting last time, I had already touched on the Cancer Prevention and Control Act, I had also talked about the National Transport and Safety Authority Act and the National Authority for the Campaign Against Alcohol and Drug Abuse Act. I had already introduced the amendments to the Sports Act. As I stated, the common feature throughout these amendments is to ensure that the County Governments who have functions and powers over the subject matter of those Acts are given the necessary recognition not only in terms of the functions of the various institutes and boards established under the Act, but also in terms of the membership of those boards.

Mr. Deputy Speaker, Sir, I believe that in introducing amendments to the Sports Act, I had mentioned that Kenya worldwide is known for sports particularly athletics especially the middle and long distance running. Kenya is very well known all over the world. In fact, those runners are better known than most of the people in this House internationally. I can tell you, for example, that the marathon runners from Elgeyo-Marakwet are better known than the Senator of that county worldwide. I had mentioned that in some of the counties, like Busia County, we have soccer players who are now playing in international leagues. Most of them come from Busia. The only Olympic gold

medalist boxer from the entire Africa came from Busia. We were also reminded that there is an international referee from Kuria.

Mr. Deputy Speaker, Sir, sports is very important and I want to take this opportunity to say that in as much as our success in sports will depend on identifying the talents in our youths at a very early age, there is no use knowing at my age I can run because I do not have the energy now. When somebody is young, he can be molded to ensure that that potential is there and is realized. You cannot do that unless you involve the county governments. That is why I want to take this opportunity to say that in as much as the functions of sports and sports education is a national function, I would like to appeal to the national Government to make an extra special effort to support the counties so that each county has a sports academy. This academy will not only be for athletics but for games such as swimming, javelin, tennis, basketball and so on. Those academies should not just be confined to some areas which are well-established. The national Government should ensure that sports academies are set throughout all the counties in Kenya.

Mr. Deputy Speaker, Sir, Kenyans crave for education and a lot of money is going into it. We have seen a proliferation of universities in this country. I was somewhere in River Road and I saw a university and school of law. I wondered whether a school of law is in that side. It is all because of the craving for education. This craving for education through formal, parallel programmes, evening studies and so on is going on all the time. As much as we laud the spirit of Kenyans to have that education, the fact of the matter is that unemployment even amongst graduates is very high. If the same vigour can also be given to the establishment of sports academies, most likely the people who will go in those academies will find employment very easily which will make them overnight millionaires for the benefit of the people of those areas. Therefore, the amendment to the Sports Act is to ensure that the county governments have a definite role.

Mr. Deputy Speaker, Sir, under Section 4 of the Act, we are now saying that whereas before at page 108 the functions of Sports Kenya was to promote, coordinate and implement programmes, we are saying, in the opening paragraph of Section 4, that the functions of Sports Kenya shall be to; in liaison with the national and county governments, to promote and implement sports policies, programmes and so on. We are also adding another paragraph, paragraph (bb) that the functions of Sports Kenya will be to manage and maintain sports facilities in counties whenever requested to do so by the concerned county governments. This is because the Act gives the Sports Kenya the function of putting up stadia all over the country. In fact, it is provided that they can put up on their own or in co-operation with others. We are here saying that the Sports Kenya, apart from the national stadia that are there, should now focus on ensuring that each county has stadia with all the facilities almost equal to the national stadia because we are promoting athletics and sports in this country.

Mr. Deputy Speaker, Sir, the Board as currently constituted did not take into account that the county governments should also be involved. So, we are adding in Section 6 of the Sports Act that three persons nominated by the Council of Governors should sit on that Board. To cut the long story short, we have put the words "in liaison with the national and county governments" everywhere within the Act. This relates to all the sections throughout the Act. I do not have to go through those sections now.

We have what we call the omnibus clause. The omnibus clause is just to ensure that no provision in this Act shall prevent a county government from undertaking its functions as provided for in the Fourth Schedule. This is for the avoidance of doubt. In Section 61, apart from the three persons, we are also adding another three persons nominated by the Council of Governors established under Section 19 of the Governmental Relations Act, all of whom shall be holders of at least a degree of a university recognized in Kenya and at least one of them shall be from the other gender.

Mr. Deputy Speaker, Sir, quickly coming to the Pyrethrum Act, you will notice that under our Constitution, in fact, part (ii) paragraph one of the Fourth Schedule to the Constitution talks about issues relating to agriculture; crop and animal husbandry, livestock, abattoirs, plant and animal disease control and so on. All these are functions of the county. When the Pyrethrum Act was enacted, they did not take into account that county governments have that function. So, the same principle which I outlined earlier applies here. We are now saying that addition is not to the Cabinet Secretary but also Council of County Governors.

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

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

In the Council of County Governments, Governors come into play in establishing a board constituted under that Act.

We have some additions as a result of the public hearings that we had. We will add this - Senators will confirm - when it comes to agricultural matters on the ground, it is our mothers who are involved in this. Therefore, there was a submission from the public that this Board should be gender sensitive in accordance with the Constitution.

The Pyrethrum Board has all the time been governed by men. That is why we are adding that in nominating members under this Section, the nominating members and bodies shall uphold the principle of one-third gender representation to ensure that the Pyrethrum Board operates in accordance with the spirit of our Constitution. It should also be in accordance of our national values which recognizes all of us; men and women as equal. We enjoy rights equally and we must have equal opportunities to serve on the various boards. There is no area which can be said to be a domain of one person.

I will now come to the prevention, protection and assistance to Internally Displaced Persons (IDPs) and affected communities. The issues of national disasters are a concurrent jurisdiction. Part one of the Fourth Schedule, paragraph 24, shows that disaster management is given to the national Government. Part 2 deals with the functions of county governments.

Paragraph 12 talks about fire fighting services and disaster management. This is a concurrent jurisdiction. All we have done in this Act, which did not recognize the role of county governments, is that in every section where the national government appears, we have replaced with the national Government and the county governments. That is a common phraseology. The functions remain the same. What is different is that the functions must be performed together by the national Government and the county governments. That is all.

If you read from pages 93 to 95 – this may appear long but was a question of drafting. The wording is the same. However, we will be recognizing that the county governments are also involved. Therefore, the phraseology will be the national and the county governments.

The last one is the National Honours Act where we are deleting the word “elected” and substituting thereof with the word “nominated.” This concerns nomination of members to that Committee which recommends the award of honours. There is a bit of contradiction. This amendment says that to be on the National and County Governments Honours Advisory Committee, we will have two Governors elected by the Council of County Governor and the Chairperson of the County Service Board elected by the Council of County Governments. We are substituting the word “election” with the word “nomination.” Those people should be nominated by the Council of County Governors rather than being elected. Those people representing the County Public Service Boards should also be nominated rather than being elected by the Council of County Governors. I hope that concludes the main amendments.

One of the things we heard during public hearings is that since the Council of Governors is now getting involved in these appointments to the various boards and so on, we should have some law or regulation on how the Council of Governors will be doing nominations. They should have a procedure of being nominated to various boards that are already there. The boards will be very many and will be exercising that very important function. These are the boards which are established under various Acts. The various Acts touch on the Constitution. That is the recommendation that the Committee on Legal Affairs and Human Rights will look into. We should regularize the procedure by the Council of Governors.

With those few remarks, I beg to reply. I would like to ask Onesmus Murkomen, a lawyer and professor to come and second me. I can have no better person than him because we are touching on county governments and he is the Chairman of the Committee on Devolved Governments.

**The Temporary Speaker** (Sen. (Dr.) Machage): The Standing Orders demand that you refer to him as Senator. Can you call him Senator?

**Sen. Wako:** I call him Sen. Onesmus Murkomen.  
Please, second me.

**Sen. Murkomen:** Thank you, Mr. Temporary Speaker, Sir. He should also have referred me as the Temporary Speaker.

**The Temporary Speaker** (Sen. (Dr.) Machage): Order! Is there anything that is temporary on me here?

**Sen. Murkomen:** Mr. Temporary Speaker, Sir, I want to thank the Attorney-General Emeritus and Senator for Busia, Sen. Amos Wako, a man I truly respect because I must have done an examination which asked who was the Attorney-General of Kenya. If I got it right, this was Amos Wako. The Chairman of our Committee – I am a Member of the Legal and Human Rights Committee – has done a very tremendous job in presenting to the House this Statute Law Miscellaneous Amendments of 2014 that have been generated by this House with the sole objective of responding to our needs and to constitutionally align all the legislations to be in line with the new devolved systems of Government.

Many people ask themselves what the Senate is doing as far as devolution is concerned. It is true that a Senator may not go and supervise the construction of a road. However, it is this House that determines, through legislation – the Division of Revenue law - as to how much money will go into that county. It is this House that determines who will be allocated which function under which law in terms of unbundling allocation of functions. So, it is important that the Republic and the people of this country appreciate that in the separation of powers doctrine, this House was given the responsibility to make law. There is no better thing to do in this initial stage than to assist the Transition Authority to devolve systems of Government by aligning all the legislations to be in line with the Constitution.

To start with, on the Statute Law Miscellaneous (Amendment), Bill, we have an amendment on the Cancer, Prevention and Control Act. Access to medicine is a very integral provision of our Constitution in terms of ensuring that there is right to health. The right to health as provided for under Article 43 of the Constitution is primarily a function of County Governments and to a small extent when it comes to the national referral facilities, a function of the national government and policy making.

Cancer, in the recent past, has become a menace in our country. The statistics are worrying. If you go to many funerals, you are told that the person died of cancer. One of the things that doctors like yourself – you are an expert in this area – have said that the biggest problem is diagnosis. Cancer should be diagnosed in good time. Due to lack of equipment, ability and access to diagnose that becomes a problem in terms of prevention.

Therefore, the amendment to this Act will allow county governments to partner with the national Government and to get proper representation in the institutions that will ensure county governments play their role in allowing people to access medicine. The referral hospitals, which are known, in this country are only two. Therefore, it is important that there is a clear partnership and support of the facilities that are within a county. In my county, one of the medical infrastructures we have is a mission hospital. Therefore, one of the innovative ways we have suggested is that as counties continue equipping and building public hospitals, they must also partner with mission hospitals that are there to provide certain equipment like the testing equipment.

The equipment should be designated as county equipment. The facilities should charge fairly so that our people can access medicine. This is a welcome amendment in terms of ensuring that the role played by the institution in partnership with county governments is recognized and in particular in the appointments of the person that will sit in that board; respecting Article 62 of the Constitution that talks about consultations and cooperation between national and county governments.

One of the biggest problems we have is that every time a county officer has a problem with the national Government – this is an advice to the Council of Governors – there is a feeling that we are anti-devolution. We should not always create a chorus that talks about anti-devolution. Every person who does not agree with your point of view becomes anti-devolution because they must put a lot of work and energy in facilitating the implementation of Article 62 in terms of consultation and cooperation. Every time we have a problem we should not be shouting and banging tables.

I heard you, Mr. Temporary Speaker, advising the President, one day, that dialogue is a good thing. I wish everybody would accept that dialogue is a good thing. This is going with a free mind and discussing about the country. County governments and



national Governments should have mutual quality dialogue that looks at issues with mutual respect knowing as it is said in our culture that at times, the hare can advise the elephant. Knowledge is not a preserve of a particular breed of people. Therefore, I support that this amendment is important in terms of driving an environment that will ensure that Council of Governors have an opportunity to make their appointments.

As they do it, they must ensure that there is national and regional balance in their appointments across the board. They must not look for political expediency. They must go for qualified persons. If the Chairperson of the Council of Governors or any member thereof, does not agree with a certain citizen, that should not be an impediment in appointing the person who may be qualified. The same applies to the National Transport and Safety Authority.

Transport is a shared function just like health. Therefore, it is important that necessary amendments are done to ensure that the Council of Governors, on behalf of the counties, makes certain contributions in terms of amendments. When they do, we will be converting all the institutions into a truly intergovernmental institution where the national and the county government have a joint responsibility in the appointments, delivery of services and in the management of the institutions because they have a say and a hand in those appointments. The same applies to the National Authority on the Campaign Against Drug Abuse (NACADA).

We debated about alcoholism being declared a disease. I can tell you for a fact that if there is something that should be declared a national disaster in this country, it is alcohol abuse. This is worse than drug abuse although they go together. This is worse than bang, *marijuana* or abuse of any other drug. The manner in which people are abusing this cheap liquor in the villages is terrible. You will find many young people who are at a prime age being lost to alcoholism. Alcoholism is a national disaster. It is important to note that no level of Government can pride itself that it will eradicate alcoholism on their own. Therefore, it is important that counties, which have power to license brewing and distribution of liquor partner with the national Government so that we have a clear and very important solutions to eradicate alcoholism and alcohol abuse.

It is important to point out that sports are a function of counties. Sports development is a function of counties. It is important that institutions that are managing sports at the national level have representation of counties through the Council of Governors. It is important for me to say that there is no other county in the Republic of Kenya that has contributed the highest number of world champions in athletics than Elgeyo-Marakwet. We hold the record. Every person who has held a record as far as the 3,000 meters steeplechase is concerned; this is a signature race for this country, have come from Elgeyo-Marakwet; whether Ezekiel Kemboi, Moses Kiptanui or Brimin Kipruto. All those people come from Elgeyo-Marakwet.

The marathoners, all those who hold the World Marathon Championships, including my friend, Wilson Kipsang come from Elgeyo-Marakwet. Whether we are talking about Edna or Ms. Keittany, they come from Elgeyo-Marakwet. It is interesting to learn that the London Marathon was won by a lady from Elgeyo-Marakwet County and a man from the same county. Sports, to us, are very important.

**The Temporary Speaker** (Sen. (Dr.) Machage: What record might you be holding?

**Sen. Murkomen:** Mr. Temporary Speaker, Sir, we need to admit here that William Chirchir, when he beat Helguraj from Morocco, was my desk mate. We agreed that I should pursue the academic angle as he pursues sports. In another world, it is possible that I would have been a world champion on the 3,000 steeplechase.

It is important, therefore, for our counties to start realizing development of sports. In this period of World Cup, we should not just be celebrating the exploits of Messi, Neymar – Suarez is not a good example because he beat somebody the other day – and many other wonderful champions in the world.

Can you imagine countries like Ecuador and Costa Rica are proceeding to the second round at the expense of countries like England, Spain and Italy? Can you imagine what kind of promotion that has given Costa Rica as a destination for tourism? What kind of wealth has it generated for superstars that were playing in local leagues? They will now go to play in Europe, in the most expensive leagues and earn foreign exchange for their countries just like Oliech and Mariga have done. We must be proud of Origi who scored a goal recently. He is a Belgian Kenyan who is making us proud. We must appreciate the fact that this country has immense talent. If Mr. Origi could do it, how many Origis are out there that have not been developed?

Therefore, this law is very useful in assisting our counties to work together, partner with national Government and invest in sports. It is through sports that many countries have been able to get people from slums to become superstars. People like Mr. Oliech and others have become superstars and changed their families and our country. Therefore, I recommend that this Bill be passed by this House to give greater participation by the counties and the national Government.

Mr. Temporary Speaker, Sir, I want to speak about the rights based approach to Internally Displaced Persons (IDPs). This is very important. The disaster management is a function of both levels of Government. Today if you go everywhere in the country, everybody has been displaced by something, somebody, some event; a landslide, an act of God or an act of man. That is a serious catastrophe. There is also the balance between the right to environment, the inter-generation rights that we want to bequeath our children, forests and wildlife for the next millions of years and also the fact that we must have our people live a decent life. That balance is very important and we must achieve it. The best way to do it is to ensure that country governments who are working with the local people can find solutions.

Mr. Temporary Speaker, Sir, I am speaking about this from experience as a person from Embobut. There is no reason we must chase people from the Embobut Forest or other indigenous forests. We can adopt the most historical ways of co-existence between the environment and the people, so that we do not remove people all the time and get them land elsewhere. Why can we not tell them that if they are living with the forests, they should forget about farming or cutting trees? We should create an incentive from those trees to benefit our people. How can they benefit from trees and help this country earn foreign exchange that comes from tourism? They do not need to farm, but they can take care of our forests. We want our children to feel safe as we conserve the environment. They can graze in areas that are acceptable to be grazed and, at the same time, they live a decent life. These ways have been applied in places like Brazil, Argentina and other countries where there are indigenous forests. It is not possible to look for alternative land for everybody who was living somewhere closer to the forest.

We can actually make legislations or legal framework at the local level that is responsive to indigenous ways of protecting the environment.

Finally, Mr. Temporary Speaker, Sir, I want to say that devolution is working. I have just come from Machakos where the Governor of Machakos has built a tarmac road of 33 kilometres within three months using Kshs650 million. It was built within three months by 11 contractors; each contractor building three kilometres. It is possible that if we apply our procurement laws well, this country can achieve a lot. Can you imagine, therefore, that if this Governor was to build 150 kilometres in his county? Can you imagine if 47 counties were to do that? This country would have over 5,000 kilometres of tarmac road within five years. Devolution can work and it can be done.

I second and support.

*(Question proposed)*

**Sen. Gwendu:** Thank you, Mr. Temporary Speaker, Sir, for giving me the chance to support this Bill. One reason I would like to support this Bill is the fact that the Mover has chosen to take the fight against cancer back to the counties by engaging the county leadership. In fact, all of us are addressing things that engage us directly. I believe the Statute Law (Miscellaneous Amendments) Bill talks about that too.

When we look at the cancer statistics and even on road safety, which are issues that have been highlighted in this Bill, all these affect us in this House, in our families and the people we interact with everyday. Many of our people have died from cancer. It is very sad that we loss many people through cancer. Some of these diseases are preventable if we had good medical care and the right information. When we passed the Constitution, the health sector was devolved to the counties. So, if we improve our health status and we give the right facilitation to the hospitals in the counties and give the right information on cancer, we will be able to save lives. This is the only way we can join the fight against the cancer pandemic in our country. As I support this Bill, I know very well that when we give the right information with regard to the treatment and care, then we will be helping our people.

Mr. Temporary Speaker, Sir, with regard to road safety, this is not something that we should take lightly. Road safety is something that involves everybody, including the police and the county government. Some of these issues should not be left to the national Government. We are able to solve many things when people join hands together to make it a priority because there are things that affect us directly and indirectly. Thank you.

I support.

**Sen. Sijeny:** Mr. Temporary Speaker, Sir, I thank you for giving me the opportunity to contribute to this Bill. First and foremost, I support this Bill because it recognizes devolution. Secondly, it is adhering to the new Constitution and harmonizing all those laws which were unconstitutional or which contravened the provisions of the Constitution. It is very important to amend the Cancer Prevention and Control Act. We know that when everybody is healthy and protected, then we know that they will be more productive. This is the only way for us to improve on the economic and social status of everybody. That means that inflationary trends will be reduced and Kenya will become a richer and safer country.

It is the right of Kenyans to have quality healthcare facilities as it is stated in the Constitution. So, when this Act is amended, it is in line with the new Constitution. When we devolve the road services to the counties by amending the National Transport and Authority Act, it is the county government which knows which roads link them to where. They have the know the local infrastructure---

*(Sen. Wako engaged in consultations with another Senator)*

**The Temporary Deputy Speaker** (Sen. (Dr.) Machage): Order! Sen. Wako, you know you are supposed to listen so that you can pick a few facts which will be important when you will be replying and so, really, pay attention.

**Sen. Sijeny:** Thank you, Mr. Temporary Speaker, Sir, for that intervention and protection.

Mr. Temporary Speaker, Sir, as I was saying, it also seeks to impose an obligation on the National Transport and Safety Authority (NTSA) to advise and make recommendations to the county governments on all matters that pertain to the insuring demand and elimination of drugs.

Mr. Temporary Speaker, Sir, with all these amendments the country will see the benefits of devolution. People will be able to improve on trade and access to all the facilities that they may need. It will also reduce rural-urban migration. Kenyans will now go back to their counties and develop their rural areas. As a result, this will generally improve the economic and social status of the country.

Mr. Temporary Speaker, Sir, once the National Authority on the Campaign Against Alcohol and Drug Abuse (NACADA) Act is amended, it will recognize that the county governments have a duty to perform. They will be responsible for liquor licensing and control of drugs, in accordance with the Constitution.

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

**Sen. (Prof.) Lesan:** Thank you, Mr. Temporary Speaker, Sir, for giving me this opportunity to contribute to this Motion.

Mr. Temporary Speaker, Sir, from the outset, I wish to thank the Professor *Emeritus* for moving this Bill that touches on the lives---

**The Temporary Speaker** (Sen. (Dr.) Machage): Did you call him a professor?

**Sen. (Prof.) Lesan:** Mr. Temporary Speaker, Sir, he looks like one and has not resented my calling him so.

Mr. Temporary Speaker, Sir, I want to address only one aspect of this very important Bill; that is, the Act that develops the structures of the Cancer Prevention and Control Act. After we promulgated the new Constitution and set up the two levels of Government, we have realized that it is very important for the two levels to work together and share responsibilities. This Bill actually has to make sure that the two levels of Government work together to try and improve the delivery of service, particularly in this area of cancer. The cancer menace is, perhaps, one of the biggest challenges that we have in the world at the moment. In fact, the expenditure for cancer research in most of the countries is almost equal to the budget for security. The consequences of cancer are always fatal. I am sure that you know that. It is very important that we look at it as such, so that we can pay specific attention. This Bill actually encourages the two levels of Government to pay attention to this disease.

Mr. Temporary Speaker, Sir, one of the things that we could do about this disease in trying to handle it is early diagnosis and detection. We can only do early detection if we are aware that this possibility is there. If we do not do this the consequences of us not detecting this disease early are going to be very fatal. The development of the Cancer research, prevention and control is very important. We will need the total support of both levels of Government.

Mr. Temporary Speaker, Sir, as we continue to handle cancer diseases, we generate a lot of data. This data is scattered in all the institutions which manage or attempt to manage these diseases. It is the generation of this data that forms a very important bank, in which we can have data to do research and improve the way that we shall fight this menace. This data will be held both at the county governments and national Government levels. I believe that with the establishment of an institution like this, all this data will be put under one roof. This data can be analyzed and a way can be found in which it can be utilized for the betterment of the management of these diseases. I, therefore, support this Bill because it goes a long way in actually enabling the facilitation of the usage of the data which is generated, to handle this very serious ailment that is a growing global problem which is affecting us in our country, both nationally and at the county level.

Mr. Temporary Speaker, Sir, I urge all Senators to support this Bill, particularly the area of cancer research. This is a new area, although we know that some attempts have been made by the national Government to try and set up a central control where we can manage these diseases. It would be better if the counties also could have a base from which we can collect this data.

Mr. Temporary Speaker, Sir, I beg to support the Bill.

*(Sen. G.G. Kariuki stood up on his feet)*

**The Temporary Speaker** (Sen. (Dr.) Machage): Yes, Sen. G.G Kariuki!

*(Loud consultations)*

Order! Order! It was evident that Sen. G.G. Kariuki was on his feet and being a very senior Member of this Senate, I gave him the Floor.

Do you want to proceed?

**Sen. G.G. Kariuki:** Mr. Temporary Speaker, Sir, I was standing to let my brother pass, but not to speak. But---

**The Temporary Speaker** (Sen. (Dr.) Machage): Order! Order! Are you ready to speak or you are still standing to let your colleague pass?

**Sen. G.G. Kariuki:** Mr. Temporary Speaker, Sir, I am saying this because of my sister over there. If I am out of order, I am sorry. But let me continue.

**The Temporary Speaker** (Sen. (Dr.) Machage): Very well. Continue.

**Sen. G.G. Kariuki:** Mr. Temporary Speaker, Sir, unfortunately we did not have a lot of time to look at this Bill. It is not because of the management of the Senate or the Mover of this Bill, but our reluctance sometimes to take some things very seriously. That is why I feel guilty that I did not have enough time to look at this Bill.

Mr. Temporary Speaker, Sir, given the little that I have gone through the Bill, it is very important that it is being moved by a Senator that we respect in terms of the management of law in this country. He has done it for quite sometime. During the Statute Law (Miscellaneous Amendment) Bills I know that many amendments are pushed through without many Senators and Members of the National Assembly knowing what is happening. I believe that this is what is also happening here.

Mr. Temporary Speaker, Sir, the Mover has touched on quite a number of issues. There is one issue that I have gone through, that is, the NACADA Act. This is a matter that we spent about four hours this morning on; to find a way of amending the existing law to make it a lit bit more powerful than it is. We were also trying to find a way to make it agree with the new dispensation. That is a very major point that I believe that my dear colleague has taken into account. I am satisfied that he really has done a good job.

About sports, Mr. Temporary Speaker, Sir, it is not a matter of debate. I think if we want to compete internationally, we have to spend money. We have to be sure that what we want to do is right because we have a habit, as a country, that we always welcome the people who have gone out when they come back with the gold medals. But on their way out, quite a number of us do not see them off at the airport because we are not committed ourselves or this country enough to feel that they have an obligation to come back here with some gold medals. I think we have tried young women and young men and they have proved be worthwhile.

Mr. Temporary Speaker, Sir, I think that this is time those who take care of the sports arrangements need to make sure that they do not treat sports the way we are treating wildlife. We have always claimed that wildlife are our natural resources, but when you look at the budget approved to protect and also compensate people who go through these problems and who suffer due to the human-wildlife conflicts, you will find three years ago, the compensation paid out when a human being is killed by an animal was Kshs30,000. However, they have now improved this figure to Kshs200,000.

The Ministry hijacked the Bill that we were to bring here. I brought it here, but it was not assented to by former President Kibaki. This Bill was not assented to because of the insistence. The Minister said: "We shall bring you a law that would be more elaborate than the one which has been proposed and passed by the National Assembly." Three months became seven years. Can we look at that matter, because it is very serious? So, when we came back, we decided to reintroduce that law, but it was hijacked. Indeed, we are still going to pursue that matter so that we bring the Government to bear all the responsibility when a person is killed by wildlife.

Mr. Temporary Speaker, Sir, Section 4, on the prevention, protection and assistance to Internally Displaced Persons (IDPs) is very important. I am happy with the way it has been sneaked in, if I am not out of order. I think it has very intelligently been brought into the Bill. I feel very strongly that my dear brother over there---

**The Temporary Speaker** (Sen. (Dr.) Machage): Sen. Wako, do you agree that you just sneaked it in?

**Sen. G.G. Kariuki:** Mr. Temporary Speaker, Sir, I think he sneaked in the thing here because we have an existing law and he is trying to amend it.

Mr. Temporary Speaker, Sir, I do not know why Kenyans are ashamed to talk about IDPs. I really do not know why we are so ashamed to say that 1,000 Luos have been chased away from Laikipia. We have just been talking as if it was only one

community that was affected. When are we going to be open to each other and say that 50 Kikuyus have been killed; or 45 Luos have been killed; or 500 people have been chased away from Mpeketoni and they belong to the following tribes? What is wrong with that? When we were trying to bring a Motion here to profile the number of people who were displaced, that Motion was just stepped on by my colleagues here and it did not pass.

Now, I am very happy that it is coming when the situation is a bit normal. Again, I think the emotional thinking of supporting a particular tribe is dying off. Therefore, we will now be guided by the problem of the people. I think that from there, we will be moving to the right direction. We should not be ashamed of our country. If there is any problem, it is our problem. We are just behaving like a person who is hiding a person with disability. You will hide and lock him in your house so that he is not seen by the public. I think this is a most regrettable situation that Kenyans still find themselves in, yet 95 per cent of us are said to be Christians. We are called names and yet we do not know the meaning of such names. However, we believe in them. I think time has come that whatever is happening; whether good or bad, it is our country. If you are poor, let people know that you eat nothing, but your *ugali*, and you sleep well. If you are sleeping on the pavement, let the people know that you live on the pavement. That is the only way you can be a gentleman in this world; by being honest and true to yourself.

Mr. Temporary Speaker, Sir, if you look at this thing from 1992, 1997, 1998 and also 2007, if you imagine the number of people who were destabilized, just like in 1986 when President Moi's Government decided to get rid of everybody who was living in the forests. In fact, several thousand people were chased away. They all became destitute and they did not know where to go. But during that time, it was a one man show; we used to call it "personal rule" and we could not have challenged it.

God is great that we are now able to say that, that was wrong. We are able to go home happily, having said what I have said. But these matters would not have been mentioned anywhere. Imagine how many people the system itself has displaced? If not the system, it must have been happening under their watch, because how can you chase about 1,000 people say, for example, from Eldoret? Some of them would go to Kisumu, others to Western and there is nothing happening just because my tribe was not touched. If we move in that direction, every tribe will find themselves in the same problem.

Mr. Temporary Speaker, Sir, I am very happy that my brother is trying to introduce new clauses here to make sure that all the displaced people are protected and recognized according to the human right laws; and also even according to natural justice. That is why we are here. We are not here just to say that people should be employed. We must look for job opportunities for our people. We cannot be saying we must do this or that; we must bring tourists, *et cetera*, and yet we cannot manage what we have. If we start talking about people outside yet we have these people who are destitute here next to us, and we cannot look after them and we are now talking about people you cannot even see, what are we doing at that particular time? We are addressing the gallery and you are also making a political statement. In the process, you are just playing politics in and outside the National Assembly and the Senate.

Mr. Temporary Speaker, Sir, I would like to tell Sen. Wako from Busia County, that he has done this Chamber and this country proud. When you say that we should apply non-partisan politics, this is where it should start because we are all of us affected. Imagine for the five times I have just mentioned, if one incident has displaced about

5,000 people then if it is five times we are talking about 2.5 million people loitering around, not having something to eat. Therefore, they turn to be criminals. How can you stop that? Their children become prostitutes. We do not want to see such kind of things.

People are dying because of lack of drugs. For example, we mentioned cancer here. It is very unfortunate that we as the Senators and Members of the National Assembly do not have time to go to Kenyatta National Hospital (KNH) to see the number of people. Sometimes I queue with others waiting to see a doctor. They are given a prescription for medicine, but they do not have money. Sometimes they start begging when they are there. In a country like this one which claims to be a Christian nation, if Jesus comes back, none of us will go to heaven. I can assure you that unless we play harder than we are doing. You can pray and pray, but a stone cannot be turned to food. So, we have to change our attitude and look at our country the way it is. We must be honest, true to ourselves when dealing with all the matters affecting this country. The issue of trying to hide who is wrong by the name, it is wrong. I think from today we need to say, for example, in Mpeketoni we want to hear how many people died there and from which tribe. There is no harm. As you are sitting there, we know you come from Kuria. I come from Kikuyu. I am a Kikuyu. Even if I come from Rift Valley, I am a Kikuyu and there is no shame about it.

Thank you, Mr. Temporary Speaker, Sir, I support.

**Sen. Ongoro:** Mr. Temporary Speaker, Sir, getting an opportunity to speak after so many truths have been spoken by a wise man like Senator number one, G.G. Kariuki is quite a task. Nevertheless, I feel privileged to support this Statute Law (Miscellaneous Amendments) Bill by Sen. Wako. It is very well thought, very intelligent and timely. I was in the Tenth Parliament when most of these Bills were passed. At that time, we had not factored in the new system of governance that we are now operating within. You know that with the promulgation of the new Constitution, the governance structures were shifted from a more central system to a devolved system. If we want to implement what was passed and to make them effective to have them benefit people directly and have maximum impact, we have to factor in the other level of government. We must find a way of including the county government because we are now dealing with the two levels. We know that these two levels are inter-dependent and no level can claim to operate wholly without the other, especially the new devolved unit.

Mr. Temporary Speaker, Sir, it is critical, therefore, that inclusion of the county governments in terms consultations, constitution of the boards, implementation and even help us have some tailor-made solutions which are specific to certain regions which are beneficiaries of certain issues that we are going to deal with. For example, if we are talking about the Pyrethrum Act, Act. No.22 of 2013, if that county where pyrethrum is grown is not included in the implementation of this, then we would not be doing ourselves a favour.

Let me talk about something that really touched me when it was being debated in the Tenth Parliament; that is, the Cancer Prevention and Control Act, No.15 of 2012. At that time we were dealing with issues of HIV/AIDS pandemic having been decentralized almost to the constituency level. At that time, the data that was presented in the House of the number of women that die from ovarian cancer and other cancer related ailments was shocking. At that time, we were of the opinion that in the same manner that we have devolved HIV/AIDS control and prevention to the village level, then we could follow the



same system and factor in the input of county governments. We can allow them to synthesize this information, have it even in the local language when we are talking to women so that they know about how to go for testing and how to prevent some of these types of cancer that are more specific to women like breast cancer, it would do this country a big favour. So, when you look critically at some of those Acts and the objectives for having them, you will find that this Bill is critical. It is only proper that the Senate supports and passes it so that we can have a more synthesized and effective way of implementing some of these Bills that we pass for maximum effect.

Take for example, this campaign against alcohol and drug abuse, that is Act No.14 of 2012. Just this morning, as Sen. G.G. Kariuki has told us, that we, as a Committee, were listening to public views on this issue. It is very shocking the kind of abuse that we are dealing with. Most of our youth are degenerating very rapidly into alcohol and drug abuse. It is only proper that we give counties the opportunity to give their own tailor-made solutions. The way we would deal with alcohol abuse in Nyandarua County could not be the same effective way that we would deal with it in Nairobi County. It would be a different strategy for Siaya, Kwale and Kirinyaga counties and so on. Therefore, it is very important that the Council of Governors are given an opportunity to input when we are implementing some of these Acts, so that we come up with tailor-made solutions that are specific to regions or certain areas that would give them maximum results.

Mr. Temporary Speaker, Sir, let us take for example the Sports Act, I remember when my fellow Senator went and took a straw with Elgeyo-Marakwet having produced maximum number of marathoners. When we are dealing with this, I believe that the way in which they would want to have their own implemented in Elgeyo-Marakwet County might be a little bit different from the way they would, probably, want to implement it in Mandera or Wajir County. If you look at those issues, you will find that it is critical that we support this Bill. Of specific interest to me is the Bill that talks about the Internally Displaced Persons (IDPs) and affected communities, Act 56 of 2012. We all know what we went through in this country in 2008. God forbid we do not want to again experience or even witness such a scenario.

It is only in the counties, with county governments that you can truly know those who were affected and who were internally displaced. These people have the records and interact more with the persons living in the counties. Within the county, they also know where land is available within the same county and the issues that can one's location not conducive for resettlement. This is very important.

Look at the National Honours Act. We sit in Nairobi and come up with a list of people who qualify to have this honour bestowed upon them. If we allowed counties to have their input you would see that there is some input which is critical, but who are very silent. These people can only be brought to the fore through the county system. It is people from that community and from that region who know exactly, their input and how the input has helped this nation to grow, to become cohesive and to move on in unity.

Considering all the Acts that have been passed, it is critical that we pass this Bill and we allow the input of counties so that we have the opportunity to address the information gaps. In my opinion, whether we want to accept it or not, me and you could have read the Constitution and understood. However, I believe a very big percentage of Kenyans have not internalized the Constitution.

The inclusion of County Governments will give us an opportunity to bridge the information gap with a lot of civic education that can come up with more synthesized information that can be passed on to the population of a specific county, probably, even in the local language, if need be. We should use examples that are relevant to that community so that they understand the Constitution. They should give their input from a position of information knowing exactly what they are dealing with.

With those few remarks, I do not want to repeat myself. I support the Bill.

**Sen. Karaba:** Thank you, Mr. Temporary Speaker, Sir for giving me the chance to contribute in support of the Statutes Law (Miscellaneous Amendment) Bill, 2014 which has been brought by a very well informed person. If something like this comes from such people, we do not need to dwell so much in discussing the law since they know what they know what they are doing. If it came from someone else, you would doubt. However, this is a gentleman who has been dealing with law.

**Sen. Ongoro:** On a point of order, Mr. Temporary Speaker, Sir. Is the hon. Senator in order to input improper motive on the mental capability of some Senators in this House?

**The Temporary Speaker** (Sen. (Dr.) Machage): He is totally out of order. Can you apologise and withdraw?

**Sen. Karaba:** Thank you very much. If it will please, I withdraw and apologise.

**The Temporary Speaker** (Sen. (Dr.) Machage): Continue.

**Sen. Karaba:** Mr. Temporary Speaker, Sir, Sen. Wako has done papers which are well researched, from the first page to the last. The Committee has come up with various amendments to various Acts that had been passed earlier. This is very much in order. As far as we are concerned, we are living in a society which is dynamic. This dynamism keeps in changing. As it keeps on changing, we should also change with time.

That is what these amendments are all about. Things have changed since that time. Sen. Wako has brought in relevant clauses which need to be amended and we are in support of them. The Bill articulates how we need to carry out more research on prevention of cancer.

The Bill articulates how we need to do more research on prevention of cancer. We need to ask ourselves why most Kenyans have to travel to India to be treated over this disease. When our patients travel to various destinations in the world, we spend colossal amounts of money that could have been used in the improvement of roads, airports and schools. This is not possible because we have not had enough research done. We are yet to buy life support machines for our hospitals. For that reason, we move out to spend a lot of money. That is the money we need to use in other projects.

I support this Bill and all the amendments that have been brought. I believe that these are the amendments that have been discussed by the Committee at length.

With regard to the National Transport Safety Authority and the Bill concerning sports, I agree with what is contained there. Recently, I was in Germany and I was amazed to see that when Germany was playing the first match with another country, we were all supposed to go for a German-funded party. It was preconceived that Germans would win and they won. They did not win because we were there, but because of the support that they got. The Germans were supporting the players out there in Brazil and there was a lot of euphoria in that country. Vehicles were hooting and everybody was happy that the German team had won 4 to 1. That was a very great thing. You could see

what we were trying to translate into the Kenyan situation. When we have people doing things on behalf of the country; for instance, sportsmen, we need to support them because they raise our flag very high when they win.

Recently, our Harambee Stars won in the Confederation of East and Central Africa Football Association (CECAFA) Cup. We do not care who was in the team. This was a Kenyan team. We note that there are some tribes that do not feature so much in football. We are there to support them. As a result of that, they got tickets to go to Brazil to watch a few matches. I believe they have learnt a few tricks which they can add to their skills and acumen of the same team.

That is our team. When you travel out, you see what other countries are doing. They own their teams. You will hear them talking about something that is German or English. This is what the amendments are craving to do. The moment these amendments are passed because we have support from many Senators, they will remind us those countries like America which gained its Independence on Tuesday, 4<sup>th</sup> July, 1776. From that time, so many things have happened in the United States of America (USA). As a result of those many things happening, the USA has been able to fit in various adjustments and amendments to their Constitution so that they can also live in the present. Without doing that you will find that a country like that one which has so many states will have so many problems.

In Kenya, for example, now we are talking about 47 counties. The USA has 52 states, but they talk about the USA. This is not in vain; it is because they want to belong to the USA and we should borrow a leaf from this. In America, it is a sin not to imagine of being an American. If we can borrow a few lessons from what we get from overseas history, we can elevate ourselves to greater heights and we shall be able to recognize the efforts of those people who are struggling to raise our flag high out there. So, as we support this Bill, I would like to urge the national Government and the county governments to make sure that they at least bridge the gaps which are not required. That is what the Bill is asking for. Those which are supposed to be repealed be repealed. That is what we are doing as we continue adding and reaping what is necessary. There are so many other things that are mentioned in this Bill, but it is also important for us to ask ourselves if we fit in it.

Mr. Temporary Speaker, Sir, when it comes to the campaign against alcohol and drugs, recently we saw very many people dying even more than those that have been killed by *Al Shabaab*. Over 100 people died over one weekend. It is like they had prepared themselves to die at that time. You would ask yourself why they died within a short time. It is either they took a brew from one manufacturer who distributed to particular destinations in the country. This is a research which is yet to be completed so that we get to know why the drugs and alcohol should not be controlled so that our people can drink reasonably. We should make sure that what is brewed in our breweries is good for our people. We should support this Bill and congratulate Sen. Wako for bringing it to the House.

There is something I observed the other day when I arrived at the airport. I travelled in business class and was also treated business class in other countries. You alight from the aircraft to the airport, you are driven in business class type of vehicles to further destinations at the airport. However, when you come to Kenya, from the aircraft, you are lumped into one bus where you are not recognized as, for example, Sen. Wako

who has come from a very busy meeting from France. You are lumped there and transported to an area which is not fit to be referred to as either first class or second class. This is what should now distinguish our airports. We should make sure that our airports are modern. Since most of the countries are modernizing their airports, we should also modernize ours so that we can at least appear to be moving to the right direction. I hope this will be captured in the spirit of this Bill.

Mr. Temporary Speaker, Sir, we have noted many issues in this Bill. I am sure when they are followed to the letter and discussed to the full, we are going to make this country better than many of us found it.

The other problem is what we grow in our country. Many parts of this country which are arable grow different kinds of crops. There are some people who are very good in growing particular crops while others are not. There are some who are good in trying to make sure that at least they make the best use of the environment that they are in, for example, the pastoralism, fishing, farming, transport and doing business. Since we all live in Kenya, we should let every other person maximize their environments to the optimum. For example, if there is somebody who can do very well in farming and there is an arable area some people, and other people cannot do it, let there be no problem letting that person do what he can do best. This is because the whole of it, will add to the net profit of our country; Kenya which we so much love. Ethnic fighting brings a lot of problems.

We deny our own communities to occupy land in certain parts of this country and yet there are many foreigners occupying land in Kenya. When it comes to tribal conflicts, many people do not remember those foreigners; they only remember the locals. I am aware that there are many "White" farmers who own what use to be called the White Highlands. Long time ago, those highlands were owned by the White settlers and nobody was complaining about that. They used to own very big tracts of land. The moment certain indigenous people started settling on them, ethnic clashes started to erupt. This issue has been captured here.

People should be tolerant with one another so that everybody can continue to contribute to the economy of this country. Some people should not suffer for doing what they think they can do best. That is what we are looking forward to. Those Kenyans who are displaced in their own country should not be let to become refugees in their own country. We should not have any refugees in Kenya from Kenya. We should only allow refugees from other countries coming to our country because it is more secure than where they are coming from. Therefore, the Bill is trying to address the issue of ethnic clashes and how they can be settled. There should be no ethnic clashes because we should be living like brothers and sisters all through.

Leaders like ourselves should be able to preach which is supposed to be preached. We should not preach water and drink wine. We must be specific and to the point. We should only be one tribe called Kenya. We should not be segmented into different regions of this country. Nobody is where they are by choice, but it happens that we were born in some of these areas. We have to make use of the environment to the best of our ability so that we will not be seen like we are letting down our fore-fathers.

This is a very good Bill and I support it 100 per cent.

**Sen. Kanainza:** Thank you, Mr. Temporary Speaker, Sir, for giving me this opportunity to support this Bill. I also want to congratulate Sen. Wako who is also my neighbour for bringing these amendments which are very important.

Mr. Temporary Speaker, Sir, collaboration between the national Government and county governments is very important. It is at this point that the Senate needs to come out very strongly. I am happy that many Senators have supported this Bill on the Floor of the House.

Mr. Temporary Speaker, Sir, Kenya is a great nation in terms of sports and the young people play a very big role in this area. A legacy has been set and it is important that we uphold it by nurturing talent. That is why the county governments are very important. As we try to ensure that devolution works, it is very important that we remember that every county is very unique in its own sense. They have different capacities. That is why the Senator for Elgeyo-Marakwet proudly talked about the young people from his county that are able to run and make this country proud.

In the Luhya Community, for example, people are good in boxing and football. That is why we celebrate players like Shikokoti and Allan Wanga who play for AFC Leopards. We also have Willys Ambaka who plays in the Rugby Sevens team. Internationally, we have Victor Wanyama who plays for a football team in England and McDonald Mariga, who comes from Busia County. Sports make people physically fit and active. They also engage people's minds so that they are not idle.

*[The Temporary Speaker (Sen. (Dr.) Machage left the Chair]*

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

Madam Temporary Speaker, as we engage the county governments, we need to develop new sports. I concur with Sen. G.G Kariuki that we have bullfighting in Kakamega County and donkey racing in Lamu County. We can, therefore, develop these sports. We can move from one county to another to see what other Kenyans are able to do. In Kakamega County, for example, we also have cock fighting. It will be a privilege for Senators to visit Kakamega and see how this activity is done. That is why the county governments are very important.

Madam Temporary Speaker, during the President's Speech in the First Session, he talked about building five stadia. But with the involvement of the Council of Governors, we will ensure that, at least, a stadium is built in every county to boost sporting activities. As we know the national Government tried, through the Kenya Football Federation, to ensure that, at least, structures are set up in the sub-counties. With the support of the county Governments, these structures will be developed in a better way. At the moment, we are enjoying watching champions from other parts of the world. But it is also important we enjoy watching our own local champions.

Madam Temporary Speaker, I have also seen the amendment regarding alcohol and drug abuse in this country. Alcohol and drug abuse have become a disaster in this country. As a result, it is the women and children who suffer most. Therefore, it is important that we consider this amendment so that, at least, even the county assemblies are able to come up with Bills that will regulate alcohol and drug abuse. This is because our young people and fathers are dying because of consuming illicit brews.

Madam Temporary Speaker, I have also seen amendments to the Pyrethrum Act. When I was growing up, pyrethrum was a very important cash crop, but along the way, something happened. We are losing in the international market. It is important that we put

this into consideration and revive this sector. This is important because it is going to create jobs and the one-third gender rule will be considered.

Madam Temporary Speaker, I beg to support the Bill.

**Sen. (Prof.) Lonyangapuo:** Thank you, Madam Temporary Speaker. Let me join my colleagues in lauding and thanking Sen. Amos Wako and the Committee that sat to look at the statutes and came up with the relevant amendments as stated here.

Madam Temporary Speaker, we are lauding the Committee for looking at these seven Statutes. Considering that we have gone into devolution there are many things that will require the expertise of Sen. Wako in interpreting the new law and anchoring it very well. You can already see some of the challenges that the Senate is going through. Since we are privileged to have Sen. Wako, who is the longest serving Attorney General, if we were in the university, we would have given him professorship for working for that long, we can look at some of the key statutes that need to be amended and aligned to the Constitution. This is because of the many challenges that we have seen in devolution.

Madam Temporary Speaker, coming directly to the statutes that have been mentioned here, we have the Cancer Prevention and Control Act No.15 of 2012. The greatest killer of mankind now, as we have been told, is from cancer related sicknesses. The Committee sat and decided that we need to also share this role, noting that the Fourth Schedule has transferred a lot of medical functions to the county governments. The National Cancer Institute still falls within the functions of the National Governments, but we need the national Government to share and work so much closely with the county governments.

Madam Temporary Speaker, a number of our people are ferried to very expensive hospitals outside Kenya. India, for example, is the latest destination because it is slightly cheaper when it comes to the treatment of cancer related diseases. Many deaths have occurred as result of cancer related diseases. Therefore, this means that we need to have the national Government working with the county governments to identify some of the county hospitals that really need to be centres of excellence when it comes to the management and treatment of cancer. If need be, we need to consider what was presented here as a Motion by Sen. (Prof.) Lesan, where we do not need expert consultants physically in the hospitals. They can consult and assist in the treatment of patients in those county hospitals through first optic cable connectivity. This, therefore, means that we need to have experts as well.

Madam Temporary Speaker, since the Bill talks about the two levels of Government working together, every county must identify specialists. We may go further and send some of them for intensive training, like I am told it happens in some developed countries. They identify brilliant people and give them full scholarships to study in top universities or hospitals in the world. Those people then go back and work for their countries and they are paid well, so that they do not go away. In Kenya, for example, we do not have laws that are very stringent. Many people are actually assisting other countries. We have not really strengthened our human resource capacity.

There is nothing that is equivalent to good health. There is nothing we can do; just as we are talking about education and roads, but the number one priority should be our health. What will our people eat? We do not know what the cost of cancer is, but we now hear that it has increased from what it used to be. So, a lot of these things need to be identified; for example, is it related to the foods that we eat, and so on?

Madam Temporary Speaker, I want to laud the Committee for addressing this issue at the very early stages of devolution so that every county can pay special attention to the same. We may not be able to have every county hospital specializing in this; but we can have regional hospitals that are dedicated, like Level 5 or referral hospitals or even the former provincial hospitals because of the amount required to upgrade facilities to have a hospital running cancer treatment centres.

Madam Temporary Speaker, they have talked about the National Transport and Safety Authority (NTSA) (No.33) Act of 2012. This is another area where we have been reading almost every day about accidents happening in our roads and we only see reactionary measures being taken by the officers in charge. One hot spot or they call it “black spot” which everybody knows, is between Nakuru and Kericho, it is known as Salgaa. Everybody knows it, but we do not take any action. People are coming up with very interesting results of how it should be sorted out. The road network between Nakuru and Sagaa is still of the same width that we inherited in 1963. So, when we are talking about the NTSA, one quick interpretation – which is a layman’s interpretation on how we can deal with some of these issues – is to expand the size of the road. We have large lorries which frequently use our roads. We try to curtail them, but there are still people who are doing business using these lorries.

The best thing to do is to mark our long highways from Mombasa to Nairobi. How much will it cost us and what loss will we incur if we decided to do the Nairobi Mombasa Road? Even if it takes 10 years by doing 100 kilometers per year, doing two lanes coming direct and two lanes going. We normally visit the developed world and we just enjoy using their roads. There are few cases of accidents. I have personally driven from Nairobi to Kitale with a video camera. You can see the strain and stress that the drivers go through on the steering wheel while trying to overtake lorries on a very narrow road. Sometimes I say that our roads are like a pipe. Even if you are a very brilliant driver, you will get tired, whether you like it or not.

Madam Temporary Speaker, we need to mark our roads and say “expand the highways that haul goods and the people of Kenya properly all the way from Mombasa to Busia.” Then, similarly expand the road going to Ethiopia and Sudan. Like now, when we are talking about this NTSA working closely with all the counties, where does the food of South Sudan come from today? Most of it is manufactured here in Industrial Area and in Thika. They run very fast from Thika to the city here, because the road has been expanded. But from here to Sudan, you have to sing the *Amazing Grace* when you are going after Kapenguria all the way to South Sudan. When you come back, you have to go repair or sell that lorry.

So, you can see the challenges that we have. We need to have all the two governments working together on this issue, with the national Government mapping and see how they can have good roads. When you have a national highway, it must pass through a county. Those counties must work in collaboration with the national Government.

Madam Temporary Speaker, I want to revisit what Sen. Murkomen talked; about what Governor Mutua did in Machakos County. We read this in the newspapers. The county government has constructed 33 kilometers of road. They allocated a contractor three kilometers each to construct. So, 11 contractors competed to complete their part. The contractors quote - and if you bring the quotation that we normally have, because I

was in the Ministry of Public Works, the quotation for the 33 kilometers was supposed to cost Kshs1.8 billion. But for Mutua and company, when people chose to work together, they spent Kshs600 million. That is to say that for one kilometer, they spent Kshs20 million; whereas previously in the Ministry, one kilometer would cost Kshs60million yet it is the same Kenyans calculating.

When we calculate using the arithmetic of 1932, we have a standard document that has been written that is still being used by those people as though money is coming from a foreign nation. That way, we will not go anywhere. To make it very beautiful – because I asked the County Executive Committee (CEC) Member who was my officer in the other administration, Munguti, and he said that every morning, every CEC must visit the road and there is a duty roster to ensure that they check whether the contractors are doing anything. Suddenly, it has happened. So, we must ask these Governors – do you think they know anything? Sometimes they refuse to go and benchmark in the nearest county. In West Pokot, for example, they have run away from Wei Wei Irrigation Scheme, which is in our own county and they have not seen it. But all the Members of County Assembly (MCAs) have gone to Israel to see drip irrigation. We do not need drip irrigation; we have rivers there that we can dam, just like we have dammed there. I think they went to see the Christian historical sites, and so on, and so forth. These are some of the things that we need to do.

Madam Temporary Speaker, I want to laud the Committee for coming up with the amendments to the National Authority Campaign against Alcohol and Drug Abuse (NACADA) Act. Today, many people are dying because of funny brews that are being manufactured and sold within the counties. If the counties can work together with the national Government, we will arrest this problem. I come from the Trans Nzoia-West Pokot border, and our people are affected by brews that are coming from Uganda. They call it “Mandule;” and it is a very dangerous drink. I do not know who licenses them, but these drinks have paralyzed humankind. In the years to come, we may have a problem that we usually hear happening in central province.

We now want to step in and ask the governor, the county government and the national Government to step in and see how these drinks can be stopped from harming our people. Why would somebody, who has an appetite for more money, kill others to get more money yet they can still make money because people want to drink if they can manufacture decent drinks? As a Christian, I want all of them to get saved so that they stop drinking.

*(Laughter)*

Madam Temporary Speaker, the amendments proposed to the Sports Act are brilliant. Did you know that every year, the whole world must pay attention because of Kenyan athletes? That attention is also seen here in Kenya because we must watch television and see our people running. I have never heard of any time when we have a very serious competition here where we are excited to watch; like now the way we are glued to the television sets and some people are fighting over English football leagues like Manchester United. When you mention this name, somebody wakes up at night and says “you have mentioned my team” and they fight physically! I have found boys fighting because the other one just made a remark trying to demean the other team. We



do not love our sports people. If God gave us this privilege to give birth to people who can run and bring fame and money to Kenya, why do we not support them? Why do we praise football more? Sen. Wako should have mentioned the Abaluhya Football Club of the 1970s.

Madam Temporary Speaker, if the counties can carve a niche in sports that do not exist anywhere else, we will all support them. I would love to go and see cock fighting in Western Kenya, although I am told that they are taxing the owners of chicken at Kshs20 per year. Kisii and Luo Nyanza were good in short races. What happened to them?

Madam Temporary Speaker, I can see that we are coming up with legislation regarding the Internally Displaced Persons (IDPs), but we also need to remember that there are people who have been externally displaced by nature. What do we call those people who have been displaced by landslides? I have never heard of them being assisted. There are some in West Pokot County who are still stuck in Tapach area and grow a lot of pyrethrum. The pyrethrum that is found there has the highest pyrethroid in the world.

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

**The Temporary Speaker** (Sen. Ongoro): Hon. Senators, every Senator in the House has contributed to this Bill. Therefore, I now call upon the Mover to reply.

**Sen. Wako:** Thank you, Madam Temporary Speaker. First of all, I want to thank very profusely all those who have contributed to this Bill, and even more important, all those who have stayed on up to now when I am replying. Some Members come in, contribute and go out. It is always good to sit around and see what other Members are saying on a particular issue. I think that, that should be encouraged, rather than just jetting in and out. We now have times for Committees and so, it cannot be a Committee which takes you out. It must be something personal, whereas when the Sitting is on, I think we should give priority to coming in and listening to everybody else, then at 6.30 p.m. we can leave. That is my appeal.

I really want to thank the beautiful eight who are here. You are wonderful. We have Sen. Murkomen who, of course, seconded, Sen. Gwendo, Sen. Sijeny, Sen. (Prof.) Lesan, Sen. G.G. Kariuki, Sen. Ongoro, Sen. Karaba, Sen. Kanainza and Sen. (Prof.) Lonyangapuo. Thank you very much for your contributions.

Madam Temporary Speaker, if I may start with Sen. (Prof.) Lonyangapuo's point, the Committee on Legal Affairs and Human Rights began by looking at the legislation passed at the tail-end of the Tenth Parliament. We identified this as being very unconstitutional. We are now beginning to audit what the national Parliament has passed since, which means when you are now here and the procedures were not quite followed--- In other words, there are a number of Acts of Parliament which have been enacted, which actually touch on county governments, but we were never involved, although we are here. We want to look and interrogate them and see if there is any unconstitutionality because they have not taken into account the interests of the counties.

We shall, again, bring here a Statute Law (Miscellaneous Amendments) Bill. But the bigger problem is the hundreds of Acts of Parliament which were passed before the new Constitution was promulgated. We cannot blame anybody because they were passed at a time when we had the national Government. So, we really have to go through them to make sure that they comply with the new Constitution. I am trying to write a proposal so that we can get some funding in terms of human personnel, that is, the drafters. It is really a gigantic task. We are talking about over 600 Acts of Parliament.

Madam Temporary Speaker, coming to this Bill, I think that most of you have said what needs to be said on cancer. Of course, there are the main types of cancers like breast, cervical and prostate cancers. But there are some types of cancers which are more prevalent in some areas than others. For example, in Busia throat cancer and may be brain tumor, which can be cancerous also, are very prevalent. Some research is going on to find out whether it is because of the food that we eat. One would say that if it is found through research that a type of cancer is more prevalent in a particular area, that area should develop a centre of excellence for treatment of that particular type of cancer. If we approach it that way, we shall have many centres of excellence for different types of cancers throughout the country.

If I am suffering from a particular type of cancer which is more prevalent, say, in Coast Province, then I will go there and get treated. Likewise, if a person from the Coast is suffering from a type of cancer which is more prevalent in Busia, he will come to Busia to be treated in that centre of excellence. India has reached where it is now because it has developed many centres of excellence in any type of disease. If it is brain tumor, there are centres in India where doctors deal with nothing else but brain tumors. You will find even ten patients being operated on everyday and they know exactly what to do, because that is their speciality. That is really the way to go on some of these things.

Madam Temporary Speaker, I take into account what Sen. G.G. Kariuki and Sen. Karaba talked about the IDPs. It is a big shame that any country should within it have IDPs. These issues have arisen in the international community for many years. The problem of IDPs was never thought of as a problem internationally. It was thought of as a problem if people cross the border and become refugees in a neighbouring country. That is why the United Nations High Commission for Refugees (UNHCR) was established. There were also many conventions which protected the rights of refugees. But this new concept of IDPs is a recent phenomenon. Maybe it started in the last ten years or so, but the number has really gone up.

That is why in the drafting of this, we have to borrow the concept that in dealing with it, it must be human rights based. These people should enjoy as much human rights as anybody else. But as somebody here has said, we have to manage our affairs in such a way that we do not have any IDPs in the Republic of Kenya or any other country. The fact that both the national Government and county governments now have to deal with this matter in accordance with our Constitution, I think could well be a pointer in the right direction.

Enough has been said about National Authority for the Campaign Against Drug Abuse (NACADA) and I do not have to say more. A lot has also been said about sports. There are many areas of sports that Kenyans can excel in just as much as our athletes are excelling. I mentioned the wrestlers of Bundalang'i. Bundalang'i area has people with wrestling physique. We have a wrestling competition there every year. Some of our porters in Mombasa are from that area. With proper training, we can have some of the best wrestlers in this country. I hope that Sen. Karaba will agree with me on these issues.

With regard to swimming, the sons of the owners of Tamarind who have been getting medals have been there because they have been swimming all the time. I believe we have better swimmers only that the talent is not recognized as much as that of runners. Running has become a dominical effect. Every child born in a certain area wants to run because if they run very well, they will get a lot of money and build their parents very

good homes among other things. Everybody in such an area is encouraged to run. Tennis players should also be encouraged. Everybody now wants to be a soccer player because they have seen what our international players in Europe are bringing back home. Soccer is also in our blood.

Sports are very important. I am glad that the forum for the national Government and County Government cooperating to promote sports and put up stadiums is there. I want to reiterate my appeal that the national Government, as much as it focuses on putting up polytechnics throughout counties to make our youth self employed, should also put up sports academies throughout counties. Through the sports academies, our youth will also get jobs.

I thank you all for developing great interest in this Bill. I hope you will walk along with me as we bring more changes to the Statutes Law Miscellaneous (Amendment) Bill.

An issue was raised about the Committee which you, Madam Temporary Speaker and Sen. G.G. Kariuki, attended this morning on NACADA. You were wondering how it can be strengthened. As I said from the very beginning, these amendments are trying to make us compliant with our Constitution. We expect various Committees to come up with proper amendments to strengthen the provisions of those Bills. The amendments that will come up to strengthen the provisions of those Bills are not very many. They can be accommodated in the next Statute Law (Miscellaneous Amendments) Bill. If they are very many, we can have a proper amendment Bill on that Act which the Committee has focused its mind. I encourage Committees to go down to work. In this Senate, we should debate more Bills more than Motions. A Bill becomes a Bill of Parliament and can be enforced.

With regard to a Motion, you can come up with a Committee to follow it up but how far would you go? As far as I know, when I was in Government, Motions were termed as recommendations and we did not bother about them much. They just died a natural death. We should focus on legislation being enacted in this House. It is legislation that will force the national Government and county governments to implement matters in obedience to the law.

**The Temporary Speaker** (Sen. Ongoro): Hon. Senators, you will realise that many of these amendments and Bills affect counties. Do you want us to take a vote at a later date?

**Sen. Wako:** Madam Temporary Speaker, if I had the power, I would give each one of these Members four votes and it would go through. There should be a provision for voting by proxy.

Standing Order No.54(2) states:

“At the conclusion of debate, the speaker shall put the question.”

We have now concluded this Debate but I ask that you do not put the question because we do not, obviously, have the necessary numbers.

I would like to make a request under Standing Order No.54(3) which states:-

“Despite paragraph (2), the Speaker may, on request of a Senator, defer the putting of the question to the following day in which case the Speaker shall thereupon nominate a time at which the question shall be put.”

What I do not know is whether we will have it on Tuesday or Thursday.

**The Temporary Speaker** (Sen. Ongoro): We have set aside Wednesdays for Bills.

**Sen. Wako:** I hope Members will be around on Monday.

**The Temporary Speaker** (Sen. Ongoro): We do not sit on Monday. I direct that we put the question on Tuesday at 3.00 pm.

*(Voting on the Bill deferred)*

Members, you are aware that the business of the Senate is guided by the Standing Orders. We are guided by Standing Order No.39 which states that the business of the Senate shall always be guided by the Standing Orders. We are guided by Standing Order No.39 which states that the business of the Senate shall proceed in the sequence it is laid in the Order Paper. However, we had the same scenario obtaining yesterday and I made a ruling.

I made use of Standing Order No.32(2) which states:

“Business shall be disposed of in the sequence in which it appears in the Order Paper or in such other sequence as the Speaker may, for the convenience of the Senate, direct.”

Yesterday, Sen. (Dr.) Khalwale was not in the House and I ordered that we move to the next Order which was the Motion by Prof. Lonyangapuo. It was moved and seconded and we adjourned. I will, therefore, direct we move on with the Motion by Sen. (Prof.) Lonyangapuo.

## MOTION

### MEASURES TO DEVELOP RESEARCH IN KENYA

THAT, aware that research is a mystified domain which remains a preserve of selected Government agencies, academic institutions of higher learning and a few other organizations; concerned that even in the said institutions of learning, research is usually introduced at post-graduate level; further concerned that research has not been prioritized and very low funding is channeled towards it; the Senate calls upon the National Government to:-

(a) take deliberate measures to cascade research to lower levels of education right from early childhood education level;

(b) inculcate and institutionalize research by introducing it as a compulsory discipline at all levels of education;

(c) develop a clear policy and legal framework to guide the development and sustainability of research at all levels of education; and,

(d) increase funding for research by allocating at least 1 per cent of the National Budget to research.

*(Sen. (Prof.) Lonyangapuo on 25.6.2014)*

*(Resumption of debate interrupted on 25.6.2014)*

**Sen. Karaba:** Thank you very much, Madam Temporary Speaker, for allowing me to contribute in support of this Motion which has been ably moved by Sen. (Prof.) Lonyangapuo. He is known to be knowledgeable about institutions of higher learning and as usual what happens is that professors think in the same line. The spirit of this Motion is to motivate most of us to think in the same line. What the professor is thinking is true in the sense that we cannot continue doing things before undertaking research on them. When you do research you tend to come up with new ideas, and as you perfect the new ideas, you move forward and rise to greater heights. That is what happens in the world. We should not stay in isolation but move in the direction that most countries are moving to internationally. This is happening every time and no wonder you hear of Nobel prize winners coming from either Norway, Sweden, Germany and other European countries because they know that without research, life cannot be the same.

It is important that even in Kenya, what we are reaping after the 51 years of Independence is different from what we used to do before Independence. We had so many problems before but with good researchers and education levels, it has become possible for university lecturers to devote a lot of their time to do a lot of wonderful research even without Government funding. I am aware that quite a number of our university lecturers and professors at the University of Nairobi and even those lecturers who are lecturing elsewhere have come up with very classic ideas and research programmes. Some of them have even been put in newspapers and journals. For one to qualify to become a professor, he or she has to produce so many journals, books and other written literature. This is what research is all about. It therefore means that without money and commitment, most scholars in Kenya will not realize this dream and yet it is a dream that needs to be followed up. It is something that we should be proud of. We should identify ourselves with progress which is dynamic. We should be seen to be in a dynamic society.

Madam Temporary Speaker, visiting other places outside Kenya, you will get to know that that is what is happening. Research has become the bread winner for many people who have to do a lot of research on very many issues. They even do research on infrastructure, education, climate, marine life, shipping behaviour, birds' behaviour, the migration of animals *et cetera*. All these things are in this country. We should do more research in Kenya and relate it to what is written in other journals. These journals will be read outside this country and we will have very many people to see whether what is written in those countries is the true picture on the ground. This is what the Motion seeks us to understand. We can even generate a lot of money through what we call invisible exports. This is enough to generate enough money which we can plough back to our economy and prosper.

This calls for a concerted effort; that Kenya being an agricultural country, we need to know more about what happens in the agricultural sector. We should be articulate in the way we do research on agricultural production. We should know that the Genetic Modified Organisms (GMOs) or foods are new to us and some people are not even aware of what happens because the information is not even made available through continuous reading or research methods. The Motion is asking us and the Government to make it public that people living in Kenya should know the effects and the benefits of research methods that should be carried out in the Republic. They are very many. We have just concluded a Bill here on how we can research on various diseases like cancer because we

have different types of cancer. Unless you travel to India or America, you cannot get the cure, yet the cure could be here in Kenya. We have herbs in the forest and even some animals here in Kenya which are of medicinal value. Sheer ignorance has made our people to even die. Through research it is possible to come up with clear cut policies and cure for what has been a problem in Kenya.

Madam Temporary Speaker, our education system should be taken very seriously. We have started off with Early Childhood Development (ECD) classes. But you will find that every county has been given a raw deal. You will find a child going to a nursery school class in the company of a sister or brother who is in class two or even class eight. That child will sit in class until the sibling comes out of class at 6.00 p.m. The moment that child gets home, he or she will be tired and will not even have internalized anything. Research has shown that even mental development has its own capacity to absorb. At a certain level we should let the child grow like other children. This is the kind of research that we calling for. We need to consider the psychomotor and cognitive domains of a child. We also need to appreciate that the environment where a child grows can be very useful in that child's development. Therefore, you will find that counties with very good ECD classrooms will certainly register better results in Class Eight and even Form Four. That is why we are asking for such research methods to be brought forward.

Madam Temporary Speaker, we have many institutions which can do research in various sectors in Kenya. For example, we have the International Livestock Research Institute (ILRI) which undertakes research on livestock. We also have Kenya Forestry Research Institute (KEFRI) and marine research stations in Mombasa. We can even conduct research to find out why people in some regions have brown teeth. Such kind of research can help us to develop our own people. Without research, we are failing Kenyans.

Madam Temporary Speaker, the Motion is clear because it is asking the Government to give us more money. It is true that if we have to develop we must spend on research. If the Government could allocate more money for research in the Budget, I am sure that we will be better than we have ever been in this country.

Madam Temporary Speaker, I support this Motion and ask Prof. Lonyangapuo to follow it up further and bring a Bill, so that we can see whether we can convince the national Government and county governments to allocate more money for research work at the county level. That will be of great help and use to our country, going by the multiplier effect.

Madam Temporary Speaker, I beg to support.

**Sen. Wako:** Thank you very much, Madam Temporary Speaker, for giving me this opportunity to contribute to this very important Motion by Sen. (Prof.) Lonyangapuo. I must say something personal here, because it is research and it reminded me of my own father. That is why I felt that I should talk about it. My father was employed in 1960 by the then East African High Commission as a clerk to the East African Legislative Assembly (EALA). He was then promoted to the level of a Permanent Secretary (PS) in charge of Higher Education, Research and Social Services, which was a common services organization. That meant that he was in charge of all the research stations in East Africa. For higher education, it meant that the universities in East Africa and the constituent colleges of Makerere, Dar Es Salaam and Nairobi. But then I asked him this question: I can understand higher education, but I do not understand research; is it all that important?

Why can we not just depend on what the *wazungu*'s had brought us? Why must we do research? He, being an educationist, took me around the nearest Alupe Hospital in Busia, which was specializing in the treatment of leprosy. Then it occurred to me. Then, of course, as I grew up, I began knowing the importance of research.

Madam Temporary Speaker, the problem why we may continue to be a developing country for many years to come, despite all the things that are going on, is that we have attached very little importance to the issue of research; research which is consistent with our own conditions here. In other words, we tend to depend on the research products of the western countries and we feel that they can be applied here wholesome, whereas really, they cannot. That is why I support this Bill, because developed countries are where they are today because of the importance they put on research. Even when we are in the international fora and we are talking about the development of third world countries, we normally say "no, we do not want aid; what we want is trade; but more importantly, what we want is transfer of technology."

This technology does not just come about just like that; it is as a result of research. But even if that technology is transferred to you and it is not customized to your country and the conditions in your country, of what use is that technology that you are now getting, yet it is going to be transferred to you at a great cost? One can say that because we have not emphasized on research, our people are not aware of the importance of research, that is why third world countries have been exploited by the developed countries who have undertaken research. This is research from the knowledge which has come from us.

Madam Temporary Speaker, you know about the medicine called quinine, which used to treat malaria. The United States of America used to use it but they had not realized the importance of quinine. Somebody there, coming from a developed country, goes there and started asking questions like "what do you do?" like a joke. He then wrote the answers down, went back to his country and said that he had discovered the treatment for Quinine; he got millions of Dollars out of the information that he got from our poor peasants from Latin America.

Madam Temporary Speaker, when you talk about plant varieties and so on, India was able to reach sufficiency in food because of research to produce the right variety of wheat. But the Americans said that the Government of India sort of stole their research on wheat. There was a very big case at the World Trade Organization (WTO). The WTO is all the time dealing with disputes that arise as a result of research, because everybody knows that, that research has resulted in this and that. Since it has resulted in a particular type of product and the amount of money involved is immense, you will find people fighting on these issues. So, research is very important.

Madam Temporary Speaker, in Kenya Prof. Obel and Dr. Davy Koech came up with medicine to cure HIV/AIDS through research. I asked Prof. Obel at one time: "If really this can treat HIV/AIDS why do you not share the formula and everything else with your colleagues, so that they can now agree with you, in a scientific way, that this medicine can actually treat?" But he said that what he had found was so important that he even sleeps with it. He did not want anybody to know or steal it. It is all out of research.

Madam Temporary Speaker, we have been talking about the various types of medicines. At one time I thought that research can only be done at the national level, whereas actually it is very important that it is also done at the county level. This is

because from county to county situations and circumstances differ. The problem being faced in one county, including what grows there differs from another county. So, as we try to find solutions to these problems, each county will be enabled to know the importance of research. They should research on their own problems and find solutions to those problems.

Madam Temporary Speaker, we have been talking about teaching methods. The teaching methods that are used in Early Childhood Development (ECD) education, for example, in America must be different from the ones in the United Kingdom (UK) or China. The teaching methods that you may use on a Maasai may be different from those used on a Luhya. You must find ways of transferring this knowledge, taking into account the environment. You cannot just do that by having teaching methods imposed on you from outside. They must be teaching methods that are grown from within.

Madam Temporary Speaker, even if you take into account our own Constitution, for example, one of the outcries was that the old Constitution was imposed on us from outside, and so, we must have an autochthonous Constitution which is grown from within. This is what we are talking about here.

### COMMUNICATION FROM THE CHAIR

RELOCATION OF THE SENATE FROM COUNTY  
HALL TO THE REFURBISHED SENATE CHAMBER  
IN MAIN PARLIAMENT BUILDINGS

**The Temporary Speaker** (Sen. Ongoro): Order! Order! Hon. Senators, before we adjourn, I want to take this opportunity, once again, to state that this is the last day that the Senate is sitting in this Chamber. On Tuesday 1<sup>st</sup> July, 2014 we will have our first sitting in our refurbished Chamber. I think that sometimes privileges come in little bits and you are privileged to be the last seven Senators present in the House, on the last day of the Sitting of the Senate in this Chamber.

Hon. Senators, at 9.30 a.m. on the same day we shall have a debriefing in the refurbished Chamber, because as you are aware, we have now moved from analogue to digital. We will be using our new electronic devices, which shall be used henceforth in transacting business in that Chamber.

### ADJOURNMENT

**The Temporary Speaker** (Sen. Ongoro): Hon. Senators, it is now 6.30 p.m. The Senate stands adjourned until Tuesday 1<sup>st</sup> July, 2014, at 2.30 p.m., in the refurbished Chamber.

The Senate rose at 6.30 p.m.