

PARLIAMENT OF KENYA

THE SENATE

THE HANSARD

Thursday, 3rd October, 2013

*The Senate met at the Kenyatta International
Conference Centre 2.30 p.m.*

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

PRAYERS

QUORUM CALL AT COMMENCEMENT OF SITTING

The Deputy Speaker (Sen. Kembi-Gitura): Do we have quorum?

The Clerk of Senate (Mr. Nyegenye): Yes, Mr. Deputy Speaker, Sir.

The Deputy Speaker (Sen. Kembi-Gitura): Hon. Senators, we have a quorum.
So, we will proceed with the business on the Order Paper.

NOTICE OF MOTION

INTEGRATION/COMPENSATION OF KENYANS CURRENTLY REGISTERED AS REFUGEES

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

THAT, recognizing that subsequent droughts in northern Kenya, in the 1970's and 1980's decimated livestock which is the main source of livelihood of the pastoral community in the area, leaving them destitute; aware that neither Government nor Non-Governmental Organisations (NGOs) effectively responded by extending assistance to these victims of adverse weather; aware that the collapse of the Government in Somalia in 1990 resulted in the displacement of thousands of refugees which fled to camps in Kenya located at Liboi and Dabaab in Garissa County; further aware that some Kenyan pastoralists due to their abject poverty disguised themselves as refugees and registered in the United Nations (UN) camps; noting that the Government recognized that by 2005 such Kenyans totalled over 4,000 from Ijara Constituency alone; cognizant that the number is now estimated at 12,000 from Garissa, Wajir and Mandera County; noting with concern that the children of these people cannot access or obtain identity cards since their parents are registered as refugees; appreciating

the excellent work of His Excellency the President in settling the Internally Displaced Persons (IDPs); the Senate calls on the national Government to conduct a census of these Kenyans with the aim of deregistering them from UNHCR, issue them with Identity Cards, compensate and integrate them into the community.

The Deputy Speaker (Sen. Kembi-Gitura): Thank you, Senator.
Next Order!

STATEMENTS

STATUS OF “ONE MILLION ACRES” IRRIGATION PROGRAMME”

Sen. (Prof.) Lonyangapuo: Mr. Deputy Speaker, Sir, I rise to seek a Statement from the Chairperson of the Standing Committee on Agriculture, Land and Natural Resources. The Statement relates to the policy on irrigation in Kenya. In this Statement, I would like the Chairperson of the Committee to:-

(i) Confirm whether the Government is committed to putting over one million acres of land under irrigation during the current financial year as promised by His Excellency the President.

(ii) State whether the exercise has commenced. If not, when it will commence, especially in the interest of elapsing time.

(iii) Specify areas ear-marked for the implementation of the programme indicating in which counties and quantify the work done, if any, during the first quarter of the current Financial Year 2013/2014.

(iv) State the amount of money set aside for the programme indicating how much has been spent so far and for what purpose.

(v) Indicate which level of Government, national or county, is managing the programme.

RAID BY CATTLE RUSTLERS AT APUKE IN WEST POKOT COUNTY

Mr. Temporary Speaker, Sir, secondly, I seek this Statement under Standing Order No. 43(2)(c) and it goes to the Chairperson of the Standing Committee on National Security and Foreign Relations with regard to raid by a gang of cattle rustlers at Apuke in West Pokot County on the morning of Monday, 30th September, 2013, in which four people were killed, over 700 head of cattle and unspecified number of goats and camels stolen. In the Statement, the Chairperson should:-

(i) Provide details of the cattle rustlers behind the raid and to confirm whether they have been arrested and arraigned in court.

(ii) Give concrete steps that the Government has undertaken to ensure the animals are recovered.

(iii) Confirm to the Senate if there are any plans to compensate the families who have lost their loved ones and also indicate when that will be done.

(iv) To outline the measures the Government is putting in place to address cattle rustling along the West Pokot County-Turkana County border and other borders as well.

Mr. Deputy Speaker, Sir, I would like to bring to your attention that in July, I sought two Statements, but I have not received any response yet.

The Deputy Speaker (Sen. Kembi-Gitura): Let us deal with the Order for this afternoon first. You can raise that issue once you have finished with request for Statements.

Before we go to Sen. (Dr.) Khalwale, could the Committee on Agriculture, Land and Natural Resources respond to the first Statement sought? When is the Statement going to be issued?

Sen. Khaniri: Mr. Deputy Speaker, Sir, the Chairperson is not here and I am the Vice-Chairman of the Committee. I want to give an undertaking that we will issue that Statement in two weeks' time.

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

Sen. (Prof.) Lonyangapuo: Yes, Mr. Deputy Speaker, Sir.

The Deputy Speaker (Sen. Kembi-Gitura): The second Statement goes to the Chairperson for the Committee on National Security and Foreign Relations. When are you going to issue the Statement sought by Sen. Lonyangapuo?

Sen. Haji: Mr. Deputy Speaker, Sir, I am asking for one week to issue that Statement.

The Deputy Speaker (Sen. Kembi-Gitura): Sen. (Prof.) Lonyangapuo, is one week okay with you?

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

The Deputy Speaker (Sen. Kembi-Gitura): Sen. Khaniri, do you wish to seek for a Statement?

GOVERNMENT SUPPORT TO VICTIMS OF WESTGATE MALL TERROR ATTACK

Sen. Khaniri: Mr. Deputy Speaker, Sir, I rise under Standing Order No. 43(2) (c) to seek a Statement from the Chairperson of the Committee on National Security and Foreign Relations. The Statement relates to the recent terrorist attack at the Westgate Mall in Westlands Nairobi County. It has nothing to do with security, but it is more of humanitarian. In the Statement, I would like the Chairperson of the Committee to clarify whether the Government will provide any form of financial support to the victims of the attack or their next of kin.

Mr. Deputy Speaker, Sir, a few days after the tragedy, none other than His Excellency the President himself gave a Statement at State House and he assured the victims and their families that the Government would come in to support them in terms of medical bills, funeral expenses and so on. As I said earlier, my county lost five

individuals in this tragedy. So far, we have buried two and we are going to bury two others on Saturday. I have been presiding over Harambees or funds drives to help families give their loved ones a good send off. I expected that the Government would come in and give support on the funeral expenses, but we did not see any support.

Secondly, the Chairperson should state how much money was raised through the voluntary monetary contributions made to the Red Cross Organization and explain how it will be utilized for the benefit of the victims of the attack and their next of kin.

Mr. Deputy Speaker, Sir, at this juncture, I want to take this opportunity to thank Kenyans of goodwill who came out in their thousands to support or contribute to this kitty. There are those who donated blood and we thank them. Even the Senate made a contribution to this particular kitty. Therefore, it is important, for accountability purposes, for us to know how this money will be distributed, what the formula for distribution is and when the beneficiaries will get this support.

Thirdly, the Chairperson should inform the Senate why no logistical or financial support has been provided to the affected families, so far. This is the time they need support.

Mr. Deputy Speaker, Sir, I come from a community where we attach a lot of importance to giving a good send off to our departed relatives. This is the time the families need this support so that they can accord their loved ones a decent send off.

Finally, the Chairperson should explain what logistical support the relevant Ministry is giving to this affected families. Those who perished in this attack are our heroes. They paid the ultimate prize on behalf of all Kenyans because we know it is Kenya as a country that was targeted. Therefore, we must treat them as heroes. I want to request you to consider this matter as urgent. I know that under that standing order, you have the powers to direct that the Statement be issued now or at the earliest convenient time.

The Deputy Speaker (Sen. Kembi-Gitura): Thank you, Sen. Khaniri. Allow me not to direct that it be given now due to its seriousness so that it can be given due consideration, but as you say, there is urgency to the issue.

The Chairperson of the Committee, what do you have to say about it, appreciating what Sen. Khaniri has stated and requested?

Sen. Haji: Mr. Deputy Speaker, Sir, I will require your guidance in this matter because it is possible to find out the amount of money raised from the Red Cross and how that money is being spent. However, I am wondering whether, as a Chairman, I can comment on the issue of compensation in view of the fact that His Excellency the President himself gave a Statement at State House saying that assistance will be extended to the casualties and to those who were affected. So, before I commit myself as to when I can respond, I want your guidance whether I can issue a Statement if the President himself spoke about it.

The Deputy Speaker (Sen. Kembi-Gitura): Sen. Haji, please, take your seat.

An hon. Senator has raised an issue which is very important and I also know that the President has spoken on the matter. The President spoke about what his Government proposes to do and I think the hon. Senator has the right to know how far that would be taken. So, if you are seeking my guidance on the issue, you must respond to that issue to

the best of your ability. Once it comes to the Floor of the House and it is the property of the House, then, at that moment, we will determine to what extent you can go, where you are not able to reach and what kind of answer you are giving. If there are areas of privilege, I am sure you will plead with them at that time when you will be issuing the Statement.

Sen. Haji: Mr. Deputy Speaker, Sir, in view of the magnitude of the matter, I will issue the Statement after ten days.

The Deputy Speaker (Sen. Kembi-Gitura): Can I ask you to request them to give you the information within a week because it is not just Sen. Khaniri who is interested, but all of us?

Sen. Haji: Mr. Deputy Speaker, Sir, that is fine.

STATE OF SUGAR INDUSTRY AND CANE FARMING IN
KENYA IN RELATION TO COMESA

Sen. (Dr.) Khalwale: On a point of order, Mr. Deputy Speaker, Sir. Two weeks ago, the Deputy Majority Leader indicated that they will respond to a Statement I had sought from the Committee on Agriculture, Land and Natural Resources in respect of the state of the sugar industry and sugar cane growing vis-à-vis the dynamics in the Common Market for Eastern and South African (COMESA) market. Now that the two weeks are ending today, is it possible for the Statement to be issued today?

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

The Deputy Speaker (Sen. Kembi-Gitura): Sen. (Prof.) Lonyangapuo, is it a Statement you want to seek? I want to deal with Sen. (Dr.) Khalwale on the issue he has raised because I know that there are several Statements that are still pending. The schedule I have shows that there are very many Statements still pending. There is one by Sen. (Dr.) Khalwale asking about transfer of national Government functions to counties. There are several statements that have not been issued. I would like to emphasize to the Chairpersons of these Committees that when you have committed yourself to give a Statement - because some of them are pending from June or July - it is imperative that we should have those Statements. Indeed, I think I should go through this schedule and look at the Statements that are still pending. The Chairpersons are here and should indicate to the House why the Statements have not been issued or when they hope to issue them.

There is a Statement that was sought by Sen. (Dr.) Khalwale on 20th June, 2013, on the transfer of national Government functions to county governments. It was supposed to have been issued on 4th July, 2013. Sen. (Dr.) Khalwale, have you received that Statement?

Sen. (Dr.) Khalwale: No, Mr. Deputy Speaker, Sir.

The Deputy Speaker (Sen. Kembi-Gitura): You have not and you required this from the Chairperson of the Committee on Devolved Government, could he tell us why there has been this laxity.

Sen. Murkomen: Mr. Deputy Speaker, Sir, if my memory serves me right, the Vice-Chair of this Committee---

The Deputy Speaker (Sen. Kembi-Gitura): Sen. Murkomen, unless the schedule I have from the Clerk's Office is wrong, it shows that this Statement has not been issued.

Sen. Murkomen: On transfer of functions, I think we need to cross-check with the Clerk's Office, because it was issued.

The Deputy Speaker (Sen. Kembi-Gitura): You need to because the schedule I have shows that it has not been issued.

Sen. Murkomen: Mr. Deputy Speaker, Sir, if it was not issued, then by Tuesday, it will be issued.

The Deputy Speaker (Sen. Kembi-Gitura): There is a Statement sought by Sen. Murungi on the security of speakers of county assemblies. It was sought on 4th July, 2013.

Sen. Murungi, has it been issued?

Sen. Murungi: Mr. Deputy Speaker, I got a copy.

The Deputy Speaker (Sen. Kembi-Gitura): The problem here, Sen. Murungi, is that once you have sought a Statement from the Floor of the House, it becomes the property of the House. So, again, that Statement has not been issued. There are several Statements that are pending. It is important that the Chairpersons of these Committees issue the Statements on the due date or state that they are seeking an extension of time within which to issue those Statements because Senators seek them not for their interest, but for national interest, to make sure that people know exactly what is happening.

Sen. (Dr.) Kuti: On a point of order, Mr. Deputy Speaker, Sir. Since you have the schedule, it would be important that the Clerk's Office communicates with various Chairs so that some which are registered as not issued could be clarified.

The Deputy Speaker (Sen. Kembi-Gitura): Yes, indeed. I am here directing the Clerk's Office to consult the Chairperson of Committees, so that all the pending Statements if not issued on the due date, we should know when they expect to issue them.

Sen. Abdirahman: On a point of order, Mr. Deputy Speaker, Sir. I am sure quite a number of my colleagues and even yourself, are aware that we have a pending issue on the manner in which business relating to Statements from Government sources has to be determined as it is a new tradition. We are yet to get some determination from the Speaker's Office, but I thank you very much for the prudence in which you are able to give directions this afternoon. When such a lapse occurs, for those who purport to represent the Government, particularly the Chairpersons of Committees, who told us the other day that the Opposition cannot represent the Government---

The Deputy Speaker (Sen. Kembi-Gitura): Sorry, Sen. Abdirahman, I am not going to allow you to make a statement on that issue.

Sen. Abdirahman: Mr. Deputy Speaker, Sir, I do not intend to make a statement and I apologise for that. But when there is a lapse, it impacts negatively in terms of our proceedings. It transcends the Clerk's office. They must take their work seriously.

The Deputy Speaker (Sen. Kembi-Gitura): That is why I have made that direction and I expect that it will be taken very seriously.

Sen. Murungi: On a point of order, Mr. Deputy Speaker, Sir. This is on the same issue. It is true there are very many pending Statements. We need to request that we get a status report on all the pending Statements. The Clerk should write a letter to all the

Chairpersons so that they appear in the Chamber on Thursday, next week and those with Statements to issue them. If they are not ready, they should explain to us why they are not ready.

So, I was just requesting you to give a time-indication so that we do not leave it open.

The Deputy Speaker (Sen. Kembi-Gitura): Let me take some other points of orders and see whether they are related.

Sen. Kagwe: On a point of order, Mr. Deputy Speaker, Sir. I was going to seek your guidance. There is an issue that the Chairpersons of Committees are facing. I am one of them and I have shared this with other Committee Chairpersons. What happens when the delay is not actually the Chairman's making, but the Ministers' or the Cabinet Secretaries' who have not responded to issues? I know that the Committees can always summon these people. But I think there is an element of frustration coming from the Government circles.

The Deputy Speaker (Sen. Kembi-Gitura): Thank you, Sen. Kagwe.

Sen. Karaba: On a point of order, Mr. Deputy Speaker, Sir. I thank you for the ruling, but I did not hear anything about the petition that I had presented on behalf of Mwea rice farmers even before we went for recess. When we came back, I have not heard any response today. Could you go back and make a ruling on petitions? I think the problem we are having is that some of the Committees are combining very many sections. The Committees should be split as we had agreed earlier. I can see Sen. Murungi here; could he tell us what happened to the suggestion that the Committees should be split so that they are more effective?

The Deputy Speaker (Sen. Kembi-Gitura): Thank you, Senators. You have raised important issues and I would like to give a short direction on them.

From what Sen. Murungi has said, it is important to note that the Clerk's Office has done a good job because we have a schedule. I can take you through all the Statements, when they were due and whether or not they were given. Up to that point, the Clerk's Office has done what it is supposed to have done. But you see; equity assists the vigilant. That is what we were taught in law. You, as a person who seeks a Statement, it is also upon you not just to wait for me to go through the schedule, but to raise these issues on Thursday afternoons and seek to know what has happened to your Statement and why it has not been issued. I would also like to request the Chairpersons of Committees that if your Statement is due to be given on a specific date, then it is only courteous, that even if the Member has not risen, to tell the House that you expect to issue the Statement on another date.

Sen. Kagwe talked about frustrations from the Executive. These Senators look upon you because you are the Chairperson of that Committee and we do not want to look too far behind you to know what you are going through. This is because this House entrusted you with working and making sure that we get the Statements when they are due. Should that be the reason those Statements are not coming when they are supposed to, and should you require any assistance from the Speaker's Office, or from the Floor of this House, please, raise it when you are supposed to have given that Statement. Let us know the frustrations or reasons you have for not giving the Statements on their due date.

My direction is that Statements should be taken seriously and when Members seek them, it is not for their own sake. We represent people in counties. So, you must take their work very seriously.

Sen. Murkomen: On a point of order, Mr. Deputy Speaker, Sir. I would like to speak on behalf of the Chairperson of the various Committees and ask for your direction. There should be a better monitor process---

The Deputy Speaker (Sen. Kembi-Gitura): What do you mean Chairman of various Committees?

Sen. Murkomen: I am a Chair of a Committee, so let me speak as the Chairperson of the Committee on Devolved Government.

The Deputy Speaker (Sen. Kembi-Gitura): So, you are not speaking as the Chairman of the Liaison Committee?

Sen. Murkomen: No, Mr. Deputy Speaker, Sir. I am speaking on my own behalf.

The Deputy Speaker (Sen. Kembi-Gitura): Okay, let us hear you.

Sen. Murkomen: Mr. Deputy Speaker, sometimes a question is asked here and somebody is not in the House, but some other person undertakes to go and remind that person. There should be a neater way through the Clerk's Office where Statements that have been sought from a particular Chair or Committee are formally processed and given to the various Chairs in their offices.

The Deputy Speaker (Sen. Kembi-Gitura): Thank you, Sen. Murkomen. I think the Secretariat has noted that.

Sen. Wako.

Sen. Wako: Mr. Deputy Speaker, Sir, as per your directive, I was supposed to make a Statement and the time for making that Statement expired about two weeks ago. But I did approach the Ministry concerned and told them that if I mention in the House---

The Deputy Speaker (Sen. Kembi-Gitura): What Statement were you supposed to make?

Sen. Wako: Mr. Deputy Speaker, Sir, I was supposed to make a Statement that was asked by Sen. Lonyangapuo. It was about the fact that the police reservists who participated in the last general elections, had not been paid. But I was promised, after a bit of tact, which I know how to, as the former Attorney General, that by today I will have a full answer. So, I am expecting that by the close of business today, I will have a full answer, and next week I should be able to comply.

The Deputy Speaker (Sen. Kembi-Gitura): So, you are undertaking to give it on Thursday, next week?

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

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

Hon. Senators, if you look at the appendix we are supposed to get a Statement from the Senate Majority Leader on the business of the Senate for the coming week.

Who is going to do that?

(Sen. Murkomen stood up in his place)

Sen. Murkomen, that can only be given by the Senate Majority Leader or a Member of the Rules and Business Committee (RBC).

Sen. Lonyangapuo, are you not a Member of the RBC?

Sen. Murkomen: Mr. Deputy Speaker, Sir, that is what I was going to say. I was going to request that a Member of the RBC should come and read the Statement, but I have it.

The Deputy Speaker (Sen. Kembi-Gitura): Are you a Member of the RBC?

Sen. Murkomen: No, Mr. Deputy Speaker, Sir.

The Deputy Speaker (Sen. Kembi-Gitura): Then you cannot read it. Sen. Murkomen, we must do things correctly.

BUSINESS FOR THE WEEK COMMENCING
TUESDAY, 8TH OCTOBER, 2013

Sen. (Prof.) Lonyangapuo: Mr. Deputy Speaker, Sir, pursuant to the provisions of Standing Order No.43 (2), I wish to present the Senate business for the coming week.

On Tuesday 8th October, 2013, the Rules and Business Committee will meet at exactly 12.00 p.m. to schedule the business of the Senate for the week commencing 8th October, 2013. The Senate will continue with the business in today's Order Paper that will not be concluded, including the Motion by Sen. Munyes, on controlling the spread of a tree species *Prosopis juliflora* and *Prosopis chilensis*.

Mr. Deputy Speaker, Sir, on Wednesday 9th October, 2013, morning sitting, the Senate will continue with business not concluded on Tuesday 8th, October, 2013. The Senate will also commence debate on the Motion by Sen. Yusuf Haji, calling upon the national Government to conduct a census in the United Nations refugee camps, to establish Kenyans who have registered as refugees, with a view to deregistering and integrating them back into the community.

Mr. Deputy Speaker, Sir, in the afternoon sitting, the Senate will continue with the business not concluded on Tuesday and Wednesday morning, and consider any other business scheduled by the Rules and Business Committee.

Mr. Deputy Speaker, Sir, on Thursday 10th October, 2013, the Senate will continue with business not concluded on Wednesday afternoon.

Mr. Deputy Speaker, Sir, I hereby lay the Statement on the Table.

*(Sen. (Prof.) Lonyangapuo laid the
document on the Table)*

The Deputy Speaker (Sen. Kembi-Gitura): Thank you very much, Senator.
Next Order!

MOTIONS

The Deputy Speaker (Sen. Kembi-Gitura): Hon. Senators, you note that the three Motions under Order Nos.8, 9 and 10 are for Division. In other words, we are going to

vote. All those three Motions relate to matters county. So, we are going to have Divisions and that is why the Order Paper talks about them as “Divisions.”

Hon. Senators, I have stated this in the past, and want to give a direction on how we will go about this voting. I would like you to, please, listen to this, so that if anybody has an issue on it, you can raise it now in the House. These Divisions, as you know, can tend to take a lot of time. So, in the interest of time and because justice or due process is not going to be affected in any way, I will propose that we proceed in the following manner. I will put the Question on each of the three Motions separately, that is, under Order Nos.8, 9 and 10. After I have put the Question, in the usual manner, we will then ring the Bell only once. The doors will be locked and we will carry out the Division separately; Motion by Motion.

We will deal with Order No.8 and announce results of the vote separately. Then, we will go to Order Nos.9 and 10 and do the same, using the same number of tellers. The results for each of the votes shall be announced separately because of expediency and since we do not have all the time. If we do Division per Motion, we could be here until much later, and we have work to do. There are other Motions that are pending.

Hon. Senators, I believe that it is both equitable and right that we should proceed in that manner, because in no way are we going to affect the vote. Each of you will be able to vote. That is my direction. I have done it before and that is how I propose to move on issues of Division, particularly, when we are in the Committee stage and have to vote on many amendments. We cannot go into a Division on each separate clause or article that we will be trying to deal with in the Committee stage.

Hon. Senators, that is my direction.

Sen. (Dr.) Kuti: On a point of order, Mr. Deputy Speaker, Sir. We congratulate you for that wise direction. But since it is in the interest of time, and it also does not affect any just conclusion on any of the Motions and you will be putting the Questions one after the other, would it be in order for the Senators to also vote on the Motions one after the other, just as you will put the Question one after the other? The tellers could have three lists for the three Motions and tally according to the votes given, so that we can conclude all of them at the same time.

The Deputy Speaker (Sen. Kembi-Gitura): To me the end is the same, whichever way we do it. But I take your advice very seriously. I do not know whether the Clerk should read out the three Orders first, one by one. But let me start with the Motion under Order No.8.

I will now put the Question, so that we can go to Division.

CONNECTION OF ALL COUNTY HEADQUARTERS TO THE NATIONAL FIBRE OPTIC NETWORK

THAT, considering the need for Implementation of an Integrated Financial Management Information System (IFMIS) as required by the law; noting that most counties are not linked to the National Optic Fibre Broadband Infrastructure (NOFBI); aware that the rolling out of e-government will be hindered by lack of such infrastructure; recognizing

the principles of good governance, integrity, transparency and accountability set out in the Constitution and the need for public participation and access to information; further recognizing that investment in ICT creates opportunities for youth employment; the Senate calls on the National Government, to connect all county headquarters to the Fibre Optic National Network and to link all county headquarters to relevant national institutions such as the Senate and the Treasury through video conferencing capability to save unnecessary expenses, enhance efficiency and accountability and improve the performance of county governments.

(Sen. Kagwe on 25.9.2013 – Morning Sitting)

*(Resumption of Debate interrupted
on 25.9.2013 – Morning Sitting)*

The Deputy Speaker (Sen. Kembi-Gitura): Hon. Senators, all the three Motions concern counties. So, we will go into Division. The Division Bell will be rung, after which, we will then do the voting. The Division Bell may now be rung.

(The Division Bell was rung)

DIVISION

ROLL CALL VOTING

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

AYES: Sen, Abdirahman, Wajir County; Sen. (Prof.) Anyang'-Nyong'o, Kisumu County; Sen. Boy Juma Boy, Kwale County; Sen. Haji, Garissa 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. Khaniri, Vihiga County; Sen. Kittony, Trans Nzoia County; Sen. (Dr.) Kuti, Isiolo County; Sen. (Prof.) Lesan, Bomet County; Sen. (Prof.) Lonyangapuo, West Pokot County; Sen.(Dr.) Machage, Migori County; Sen. Moi, Baringo County; Sen. Mositet, Kajiado County; Sen. Munyes, Turkana County; Sen. Murkomen, Elgeyo-Marakwet County; Sen. Murungi, Meru County; Sen. Obure, Kisii County; Sen. Okong'o, Nyamira County; Sen. Orengo, Siaya County; Sen. Sang, Nandi County; Sen. Wako, Busia County and Sen. Wamatangi, Kiambu County.

AYES: 26

Tellers of the Ayes: Sen. Kanainza

NOES: Nil

Teller of the Noes: Sen. Mohamud

ABSENTION: Nil

(Question carried by 26 votes to nil)

The Deputy Speaker (Sen. Kembi-Gitura): Hon. Senators, as I had indicated earlier we shall now go Division on the Motion as contained on Order No.9.

ADOPTION OF REPORT ON COUNTY GOVERNMENT
CASH DISBURSEMENT SCHEDULE FOR
FISCAL YEAR 2013/2014

THAT, pursuant to the provisions of Section 17 (7) of the Public Finance Management Act, the Senate adopts the report of the Standing Committee on Finance, Commerce and Economic Affairs on the County Government Cash Disbursement Schedule for Fiscal Year 2013/2014.

(Sen. Kagwe, on behalf of Sen. Billow, on 24.9.2013)

*(Resumption of Debate interrupted on
25.9.2013 – Afternoon Sitting)*

DIVISION

ROLL CALL VOTING

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

AYES: Sen. Abdirahman, Wajir County; Sen. (Prof.) Anyang'-Nyong'o, Kisumu County; Sen. Boy Juma Boy, Kwale County; Sen. Haji, Garissa 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. Khaniri, Vihiga County; Sen. Kittony, Trans Nzoia County; Sen. (Dr.) Kuti, Isiolo County; Sen. (Prof.) Lesan, Bomet County; Sen. (Prof.) Lonyangapuo, West Pokot County; Sen. (Dr.) Machage, Migori County; Sen. Moi, Baringo County; Sen. Mositet, Kajiado County; Sen. Murkomen, Elgeyo-Marakwet County; Sen. Murungi, Meru County; Sen. Munyes, Turkana County; Sen. Obure, Kisii County; Sen. Okong'o, Nyamira County; Sen. Orendo, Siaya County; Sen. Sang, Nandi County; Sen. Wako, Busia County and Sen. Wamatangi, Kiambu County.

Teller of the Ayes: Sen. Kanainza

NOES: Nil

Teller of the Noes: Sen. Mohamud

The Deputy Speaker (Sen. Kembi-Gitura): Hon. Senators, I noted that Sen. Moi in his vote said "Yes, as amended". There is no amendment to this Motion. I think Sen.

Moi is confusing this Motion with the one at Order No.1. That is the one that was amended last night. This is a completely different Motion. This is just for the sake of good order, so, that your answer does not read “Yes as amended” because it is misleading.

Hon. Senators, I wish to announce the results as follows:

AYES: 26

NOES: Nil

ABSENTIONS: Nil

(Question carried by 26 votes to 0)

Hon. Senators, we will now move on to the Division on Order No.10. This is the Motion by Sen. Mositet.

TRANSFER OF ALL KeRRA FUNCTIONS TO COUNTY GOVERNMENTS

THAT, aware that Schedule Four to the Constitution assigns the responsibility of construction and operation of national trunk roads to the National Government and that county transport including county roads are the responsibility of the County Governments; acknowledging that the Kenya Rural Roads Authority (KeRRA) is mandated, under the Kenya Roads Act, 2007, to administer funds for the development, rehabilitation and maintenance of roads in constituencies which are roads within counties and which fall under Class D category and below; cognizant of the fact that there are already established KeRRA structures in each of Kenya’s 47 counties; the Senate urges the National Government to transfer all the functions of KeRRA to the County Governments in order to ensure faster and more efficient delivery of services.

(Sen. Mositet on 26.9.2013)

(Resumption of Debate interrupted on 1.10.2013)

DIVISION

ROLL CALL VOTING

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

AYES: Sen. Abdirahman, Wajir County; Sen. (Prof.) Anyang’-Nyong’o, Kisumu County; Sen. Boy Juma Boy, Kwale County; Sen. Haji, Garissa 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. Khaniri,

Vihiga County; Sen. Kittony, Trans Nzoia County; Sen. (Dr.) Kuti, Isiolo County; Sen. (Prof.) Lesan, Bomet County; Sen. (Prof.) Lonyangapuo, West Pokot County; Sen. (Dr.) Machage, Migori County; Sen. Moi, Baringo County; Sen. Mositet, Kajiado County; Sen. Murkomen, Elgeyo-Marakwet County; Sen. Murungi, Meru County; Sen. Munyes, Turkana County; Sen. Obure, Kisii County; Sen. Okong'o, Nyamira County; Sen. Orendo, Siaya County; Sen. Sang, Nandi County; Sen. Wako, Busia County and Sen. Wamatangi, Kiambu County.

Teller of the Ayes: Sen. Kanainza

NOES: Nil

Teller of the Noes: Sen. Mohamud

The Deputy Speaker (Sen. Kembi-Gitura): Hon. Senators, the results are in for Order No.10 by Sen. Mositet as follows:

AYES: 26

NOES: Nil

ABSENTIONS: Nil

(Question carried by 26 votes to 0)

I wish to now release the Tellers. Open the doors then we can proceed to the next order.

Sen. Okong'o: On a point of order, Mr. Deputy Speaker, Sir.

The Deputy Speaker (Sen. Kembi-Gitura): Sen. Okong'o, let us have the doors open then you can stand on a point of order.

(The doors were opened)

Next Order.

FAILURE TO CALL OUT THE NAME OF BUNGOMA COUNTY
SENATOR DURING ROLL CALL

Sen. Okong'o: On a point of order, Mr. Deputy Speaker, Sir.

The Deputy Speaker (Sen. Kembi-Gitura): Sen. Okong'o, do you want to raise your point of order before the next Order is called out?

Sen. Okong'o: Yes, Mr. Deputy Speaker, Sir.

The Deputy Speaker (Sen. Kembi-Gitura): Proceed.

Sen. Okong'o: Mr. Deputy Speaker, Sir, there is some lacuna in the proceedings. I did not hear the County of Bungoma being called out when we were voting. I want to be guided on this.

The Deputy Speaker (Sen. Kembi-Gitura): Well, I did not hear it being called either. So, where is the point of order?

(Laughter)

Sen. Okong'o: Mr. Deputy Speaker, Sir, is it in order for us to continue with the process of voting without calling out the Bungoma Delegation or has the House taken judicial notice of the proceedings outside this House? As far as I am concerned, the writs have not been issued. I think Bungoma County is duly represented in these proceedings.

Hon. Senators: Yes! Very good Okong'o!

The Deputy Speaker (Sen. Kembi-Gitura): Does anybody else wish to speak on this matter? First, let me address that point of order. It is an important one. If it has been raised by Sen. Okong'o with a view to impeaching the proceedings that we have just concluded, my immediate ruling, although I could defer the ruling for a more considered ruling, is that as pertains to the voting that we have just done, that is finished. Your point of order has come after I have announced the results. So, the proceedings that we have had on Orders Nos.8, 9 and 10 are legal. We have done them in due process. The voting is finished, that is it. If your point of order is towards something else now, we can deal with it. But as far as I know, if it has to do with the voting that we have just done, that is finished, legal and in order.

Sen. Okong'o: On a point of order, Mr. Deputy Speaker, Sir.

The Deputy Speaker (Sen. Kembi-Gitura): On the same issue?

Sen. Okong'o: Yes, Mr. Deputy Speaker, Sir.

The Deputy Speaker (Sen. Kembi-Gitura): Let us hear Sen. Murkomen first.

Sen. Murkomen: Mr. Deputy Speaker, Sir, considering the business that is in this House – if the Senator for Elgeyo-Marakwet County, for example, is not in the House and his name is not called out, his presence would have enabled him to raise a point of order as to why his county has not been called out. So, it is obvious is that if the Senator for Bungoma County was in the House, he would have been able to stand and ask for his opportunity to vote. So, I do not think we need to make a mountain out of this matter. It is an obvious fact that it could have been an oversight, one that can even occur in future.

The Deputy Speaker (Sen. Kembi-Gitura): Let us hear Sen. Okong'o.

Sen. Okong'o: Mr. Deputy Speaker, Sir, this House has to set precedents that are very clearly grounded on law and procedure. I have heard counties like Kilifi and Laikipia being called out. Was the name Bungoma County inadvertently---

The Deputy Speaker (Sen. Kembi-Gitura): Order, Sen. Okong'o! I have given you an answer on that point. If you are pursuing the same point, I will not allow you. If you have something else more substantial than what you had said first, I shall deal with it.

Sen. Okong'o: Much obliged, Mr. Deputy Speaker, Sir.

Sen. (Dr.) Khalwale: On a point of order, Mr. Deputy Speaker, Sir. There is the principle of separation of powers. The delegation from Bugoma County has not been called out to vote and an assumption has apparently been made. I respect your ruling, but it clearly now shows that this House, as part of Parliament, is not separate from the Judiciary. It is making itself part of the on-goings in the Judiciary without formally being informed?

Just to revisit the issue raised by Sen. Okong'o, we would like to set proper precedents because this being the first Senate, we would like it, not only to set standards, but the highest standards. I request that you make a considered ruling on this matter.

The Deputy Speaker (Sen. Kembi-Gitura): Do hon. Senators have any other issue to raise on this matter?

Yes, Sen. Orengo?

Sen. Orengo: Mr. Deputy Speaker, Sir, I think this is an important point for consideration, not in relation to the Order Nos.8, 9 and 10, but generally in relation to the question of when a seat becomes vacant, because I think it is the assumption by the Clerk that the seat for the Senator for Bungoma County---

The Deputy Speaker (Sen. Kembi-Gitura): Sen. Orengo, you are a very senior lawyer and you know I have a lot of respect for you. But I think you are pre-empting the situation because two issues have arisen; whether it was an oversight on the part of the Clerk, or whatever else. That is what I got Sen. Mong'are to say. I promise that if you demand it, I can give a considered ruling or opinion on the issue. But, now, if you talk about Sen. Wetangula, who again is a very senior lawyer, and then talk about a vacancy of a seat which has not arisen in the House as of now, I think it will be unfair to the House and it shall be pre-empting a situation, which we should not do at this time.

Sen. Orengo: Mr. Deputy Speaker, Sir, I think you have answered my question. The only problem is that it could not have been an oversight because---

The Deputy Speaker (Sen. Kembi-Gitura): I do not know, Sen. Orengo. As I sit here as your Deputy Speaker, I do not know, because I have no control over the Clerk calling the names. I have absolutely no idea.

Sen. Orengo: Unfortunately, Mr. Deputy Speaker, Sir, it was three times; I was looking at him right in the face, expecting that something else will emerge or, probably, a communication will be made from the Chair. But you have already answered my question by saying there is no seat that is vacant in the Senate, so far.

The Deputy Speaker (Sen. Kembi-Gitura): I did not say that. What I said and the HANSARD can bear me witness is that as I sit on this Chair now, I have not heard anybody talk about a vacancy in any seat. All I know – and which is common knowledge now is that the name of Sen. Moses Wetangula was not read out. The reason it was not read out may be administrative or it could be anything else. It is an issue I am willing to deal with.

But the thing I will find difficult to allow, Sen. Orengo, with all due respect to you because you are my senior in the profession, is for us to debate an issue that is not currently before this House. It will be unfair to the House and to hon. Members, and I do not think it will be a good thing for me to allow, or to use Sen. (Dr.) Khalwale's words, I will be setting an extremely bad precedent if I allowed us to discuss an issue that is not currently before the House. I heard you say that the name of the Senator for Bungoma was not read out; it is only on that point that we can discuss this issue.

Sen. Orengo: Mr. Deputy Speaker, Sir, you are not giving me sufficient time to prosecute the point. The manner in which we vote is provided by the Constitution so that the public out there, when the name of the Senator is called, and it is not just the name of the Senator that is called, but the name of the county which is also being called. When there is no response, then the public assumes the Senator is not there, or there is no representation. Normally, what the Clerk does is that he reads out the name of the Senator and the county. As far as we are concerned, the problem is compounded by the fact that,

not only is the name of the Senator not being called out, but the name of the county is also not being called yet there may be somebody in the room who is part of the delegation from Bungoma who would want to vote. So, I am not saying that you make the point now, but it should be noted that it happened three times. That could not have been an oversight. I plead with you, because I think our system of voting is a little bit different from the National Assembly. It is important that every county knows the status not only in respect to the county, but in respect of the fact that their vote was not called as a county.

Probably, Mr. Deputy Speaker, Sir, you can pronounce yourself on that later.

The Deputy Speaker (Sen. Kembi-Gitura): Thank you, Sen. Orengo.

Sen. Kiraitu Murungi.

Sen. Murungi: Mr. Deputy Speaker, Sir, sometimes an occasion like this one arises when the House has to make a precedent which will be quoted in future when similar occasions do arise. We can deal with the question which Members are raising around this issue, head on. What is the position of a Senator whose election has been nullified by the High Court, but the writs have not been issued by the Speaker? What is his status during that intervening period? I think it is an important question of law and custom. We will request you to take some time, study what the position is within the Commonwealth and jurisprudence and enlighten the House because, in future, this question might arise again. So, it is our request that you consider the matter in your own time and pronounce yourself on the same.

Thank you, Mr. Deputy Speaker, Sir.

Sen. (Prof.) Anyang'Nyong'o: On a point of order, Mr. Deputy Speaker, Sir.

The Deputy Speaker (Sen. Kembi-Gitura): Can I deal with Sen. Kiraitu's point of order first, Sen. (Prof.) Anyang'Nyong'o?

Sen. Kiraitu Murungi, the issue you are raising is germane to the issue we are dealing with because, like I said earlier, I am not ruling on whether or not Sen. Moses Wetangula's name or Bungoma County was not called out because of any other reason apart from the fact that it was not called. Now, you are pushing me to make a ruling based on a hypothesis that it was not called pursuant to the petition that we all know was in court. I will not make that ruling on that point because it has not arisen, but should it arise out of this Order we are dealing with now, I will not shy away from making a considered ruling on that specific issue. But right now, you cannot assume that as I sit here, the name was not called out because of the issues that you have referred to. Like I told Sen. Mong'are, with a lot of respect, you are making me to make a pre-emption to a situation that I am not aware of.

Sen. (Prof.) Anyang'Nyong'o: I am afraid, Mr. Deputy Speaker, Sir, that lawyers are making this thing more complicated than it is. I mean, it is common sense that the name was not read out three times. It is also known that what you are calling are not individuals, but counties. There are 47 counties in the Republic of Kenya. Any time there is a division, counties are called by their name, whether something has happened to the individual on the seat or not; you do not know where the individual would be, but you call counties. I think it is simple knowledge that the Clerk made a mistake and he should

apologize to the House so that we proceed. He did not call out the name of the county three times.

(Several hon. Members stood up in their places)

The Deputy Speaker (Sen. Kembi-Gitura): Sen. Janet Ong'era.

(The Clerk consulted the Deputy Speaker)

Sen. Ong'era: Mr. Deputy Speaker, Sir, in fact, the Clerk is just doing what I wanted to propose. The Clerk should have approached the Chair and indicated whether it was a typographical error or a mistake that happened.

It is, indeed, a very disturbing matter, especially for me standing here as a Deputy Whip, to see Bungoma County, being one of our counties in the Republic of Kenya, omitted. Particularly, we know that, that county belongs to our Senate Minority Leader who happens to be the Senator for Bungoma County.

Mr. Deputy Speaker, Sir, we, as a House, will be very happy if you could find out whether it is an administrative issue or not. Once you find out what was the reason, because we know all of us are human beings; you will make a ruling. Probably, the Clerk could have missed that name, but he called out Lamu and Kilifi counties. We need a ruling on what happened.

The Deputy Speaker (Sen. Kembi-Gitura): Thank you, Sen. Janet Ong'era.

Yes, Sen. (Dr.) Machage?

Sen. (Dr.) Machage: Mr. Deputy Speaker, Sir, with all due respect, the Clerk's Office and all those offices that fall under the Speaker's Office are actually the Speaker's Office. Therefore, if an omission has been done by the Clerk, we do not expect an apology from the Clerk, but from the Speaker.

(Laughter and applause)

The Deputy Speaker (Sen. Kembi-Gitura): The only problem is that I am not going to make an apology for a transgression I have not made. I think you should accept that. But you have observed correctly; that the Clerk cannot be called upon to apologize because he is not a Member of this House. He cannot possibly make a statement for that reason.

But having said that, I listened to all of you; I have heard what Sen. Janet Ong'era has to say and, maybe, that is the line I would like to pursue so that, at the end of it all, we have an answer to this situation.

Sen. Ong'era: I am most obliged, Mr. Deputy Speaker, Sir.

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

Can we proceed to the next Order?

ADOPTION OF REPORT ON IRREGULAR ALTERATION
OF BUDGET ESTIMATES FOR TURKANA COUNTY
FOR FISCAL YEAR 2013/14

THAT, the Senate adopts the report of the Standing Committee on Finance, Commerce and Economic Affairs on the investigations carried out by the Controller of Budget on the irregular alteration to the Budget Estimates for Turkana County for Fiscal Year 2013/14.

(Sen. Mositet on 2.10.2013- Afternoon sitting)

*(Resumption of debate interrupted on
2.10. 2013 - Afternoon sitting)*

The Deputy Speaker (Sen. Kembi-Gitura): Sen. James Orengo, you had five minutes. Do you want to utilize them?

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

I think I addressed the Senate or the Chamber at length on this Motion, but also on the amendment. But I would urge the House to support the amendment and for those who, probably, were not here yesterday, it was the general view at least of all the Senators who were here and who expressed and pronounced themselves on this amendment that it was necessary for the issue to be recommitted back to the Committee so that it can come back with a more comprehensive report.

Mr. Deputy Speaker, Sir, it is so because looking at the report by the Office of the Controller of Budget, which set certain objectives of the investigations that they carried out, on one particular issue, they did not address themselves. They purely made recommendations without stating precisely who should carry out the investigations to determine those who were responsible for the alterations and in what circumstances. The House Committee also did not address itself on that very important issue.

Mr. Deputy Speaker, Sir, without taking too much time, I beg to support the amendment. I also invite my colleagues also to support the Motion brought by the very able Sen. (Prof.) Lonyangapuo.

Thank you very much.

The Deputy Speaker (Sen. Kembi-Gitura): Sen. Orengo, we are still on the amendment. I want to make a request to hon. Members and I have done this before. Please, I can still hear that there are phones ringing in the House and I heard Sen. (Dr.) Machage – when he was chairing yesterday as I was watching – also making that point. I think it is important that, at least, we put our phones on silent mode if you want to google or to go through it to check your messages; you can do it quietly. But when the phone rings in the House, it does not look good for the House. That is the only point I would like to make.

Are we having any more contributions on the amendment?

Yes, Sen. Munyes?

Sen. Munyes: Mr. Deputy Speaker, Sir, the amendment is not very clear to me, but I want to proceed by highlighting the anxiety in Turkana County that was received yesterday by the deliberations over this matter. This is a very sensitive matter that touches on illegality, impunity and other wrongs that should be taken as lessons. When something wrong happens, the whole country should take it as a lesson. We want to draw lessons from what is happening in Turkana.

As you know, Senators may not be in possession of all the information on this matter. However, when it happened, I took some steps to bring together the Executive and the County Assembly. The letter reached the Controller of Budget and funds were withheld for one month. However, we went ahead to constitute a team. I want to thank the Speaker of Turkana County Assembly for what he did for Turkana and for Kenya. We went ahead and started investigations. The investigations came up with recommendations and I realised that they wanted to acknowledge ignorance on the matter. They suggested that in future, they should pick culprits who were engaged in the matter.

Therefore, I want to propose that we should not try to blame the Governor or the individuals there because it is not clear who did what. The people of Turkana want a situation where this matter is referred back for private investigations. That is what I am gathering. The matter should be discussed further. Probably the Standing Committee of the Senate should go back to the Turkana County Executive and County Assembly so that we draw lessons from this matter.

With those few remarks, I thank you.

The Deputy Speaker (Sen. Kembi-Gitura): Hon. Senators, I know that an amendment on this Motion was brought yesterday. I can see that there are no people interested in it but before I put the question, this amendment, just like the Motion, touches on the counties. So, if I put the question---

Sen. Orenge: On a point of order, Mr. Deputy Speaker, Sir. I beg your indulgence that the vote on this particular Motion and the amendment be postponed. That has been the trend. Today, we voted for Orders No.8, 9 and 10 and debates were finalised at an earlier date.

It appears as if once we vote on the amendment, the Motion may suffer the same consequences. So, I plead with you.

The Deputy Speaker (Sen. Kembi-Gitura): First of all, before I put the question, it is mandatory that I rule on whether or not it affects counties. This one affects counties. If I put the question, then we must vote. We may dispense of the amendment and proceed with debate on the main Motion.

I take it that Sen. Orenge is asking, under Standing Order No.51 (3), that we should postpone voting on this. If we do, we must also postpone debate on the Motion itself so that we vote on the amendment and proceed with the main Motion should the amendment succeed or fail as the case may be. Sen. Orenge has made a request. This Motion is very important and so is the amendment. I listened to the contributions yesterday, the whole day.

I rule that the voting be deferred to the next sitting day which is Tuesday, 8th October, 2003 at 2.30 pm.

*(Putting of the question and voting
on the amendment and the main Motion deferred)*

Sen. Munyes: Thank you, Mr. Deputy Speaker, Sir. I wish to move this Motion which resolves to curtail the effects of the *prosopis* species that is expanding widely in counties in the northern part of this country.

Prosopis is a tree species that was introduced by the Norwegian Agency for Development Co-operation (NORAD) in 1982. I am told that this species is from South America. The tree species is called *mathenge* here in Kenya. It comes in different species but I want us to address the species that is affecting our country, the *prosopis juliflora* and *prosopis chilensis*.

The Deputy Speaker (Sen. Kembi-Gitura): Senator Munyes, I do not intend to interrupt you but you have not moved your Motion.

You can do it at any point but since I do not want us to lose the point, it is important that you move the Motion and proceed with your argument to support it.

Sen. Munyes: Mr. Deputy Speaker, Sir, I wanted to give a short background first.

CONTROL AND ECONOMIC EXPLOITATION
OF “MATHENGE” TREE SPECIES

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

THAT, aware that a tree species *Prosopis juliflora* and *Prosopis chilensis*, locally known as “Mathenge” was introduced by foreign researchers to fight desertification in arid and semi-arid areas of northern Kenya; noting with concern that the spread of the species has now turned into an environmental hazard destroying grazing lands and pasture; recognizing that it also affects fishing grounds and water installations thus creating food insecurity and poverty in a majority of counties in arid and semi-arid areas of the country; the Senate urges the relevant government agencies both at the national and county levels to effectively control the spread of this tree species and also create economic benefits from the exploitation of this product.

This is a matter that affects the public in my county. As we know, Turkana is largely a pastoralist community. The problem is also affecting other counties like Baringo, Tana River and Garissa just to name a few. This species, as I said, was introduced erroneously, the purpose was meant to control desertification in a country that was getting drier and drier. At that time, Turkana was getting affected by frequent droughts. NORAD decided to introduce a tree species from South America in conjunction with the African Union (AU) and the European Union (EU). The tree species were given to the Forestry Department through NORAD and implemented by the Turkana Rehabilitation Project. The same project was replicated in other areas and did very well. In a few months, we saw the growth of this species.

The problem we are now facing is a scientific thing that no one had discovered. *Prosopis* was a good species that started covering the vast grounds of Turkana and northern Kenya. Gradually, we started seeing the tree system colonising the eco-system. It evaded thousands of land that was meant for grazing. We saw this tree drying up the other tree species and extracting so much water in the ground.

Recently, we discovered a lot of water in Turkana at Lotikipi Aquifer Basin. We discovered 250 million cubic metres ground water in Turkana. This tree species has occupied all the land. We are getting worried that the tree is extracting all the water that is meant for agriculture. You cannot graze your livestock in this area because the whole ground is covered.

This species is also found along rivers and all the fishing grounds. It has started destroying the eco-system there and is making it difficult for the fisher-folks to get their fish from the lake. We know of a case where this species destroys the water system. It is so robust because it gets into pipes and breaks them making it very expensive for counties to run water projects. This would start impacting on the poverty of our county. This is also affecting other communities.

If you drive to Turkana, you will see that the species is also covering the roads. We must do bush clearing every year because when the species is cleared today, in six months time, it will have covered the roads making it difficult for road users to effectively see the oncoming traffic. This is a major cause of accidents. In towns, we have seen the negative effects where it grows wild, therefore, a cause for mosquitoes and malaria. This has also been seen as the problems it is causing out there.

I remember a case where we were shown some goats which had been presented in court to display how the tree destroys the dental formula of goats which leads to the death of these animals. This is not something positive *per sé*, as we may want it to be. *Prosopis juliflora* and *Prosopis chilensis* is a very poisonous tree that has health hazards in some places. If you stepped on it and got injured, we could easily lose you.

I want a situation where the species is controlled.

(Sen. Munyes phone rung)

The Deputy Speaker (Sen. Kembi-Gitura): I had just talked about phones ringing in the House. Please, switch off your phone.

Sen. Munyes: Mr. Deputy Speaker, Sir, the public would want to get full advantage of the grazing lands and fishing grounds in order to increase productivity in all these areas. But at a time when Kenya is facing with food scarcity and the people of Turkana are relying on food relief--- We introduced food for work in Turkana in the early days to bring afforestation and increase food production through rain water harvesting. The concept was meant really to improve the amounts of rain and ensure afforestation in the whole of Turkana, Garissa and other areas, but instead we are losing grazing grounds and pasture lands. We cannot grow our crops because of these species.

Mr. Deputy Speaker, Sir, this Motion is actually pro and against in some way. We should find a way of minimizing *prosopis chilensis* and *prosopis juliflora* in areas where we intend to increase food production, like pasture lands and fishing grounds. We should

keep them away from water installations. It is only in isolated areas where we can cultivate and use them for economic purposes. I am told of the case of Kakuma Refugee Camp which is only reliant now on firewood of these particular species. So, we could confine them in some areas where we can use and exploit them for economic purposes, like firewood and fodder. Some research could be done so that we actually make some products out of them.

Mr. Deputy Speaker, Sir, the issue that affects the public is the fact that the foreign scientists--- The challenge that should go to our own researchers in this country is that we cannot just copy ideas from other countries. One should have gone to Africa or some other parts of the world, tried this particular species in a small environment and controlled it there. But these were donors, and I do not want to underrate the work that the Norwegians did in this country. There was free money at that time in the 1980s. What the donors wanted to do was to try things without doing control analysis. That is why this idea came and in no time, it was spread all over without control.

Mr. Deputy Speaker, Sir, in my county, we are introducing different species of livestock. I was in the village yesterday and saw a small goat from Tharaka Nithi in the desert of Turkana. The donors, again, are giving them to us to try. One old man said: "By introducing a small goat like that one – and we know that it has more milk – how do we know if it might affect the immunity of the livestock in Turkana?" They should, first, be consulted and things tried in a small area. Money should not just be "poured" in the county. Somebody is trying out ideas because they want to run away with this money. That is what I saw in the 1980s. Eddie Burrows, the researcher who started this project, just wanted to try ideas without experimenting. Those same ideas have brought hazards and destroyed our ecosystem.

Mr. Deputy Speaker, Sir, we have resources now going to counties. I saw some alterations in the budget for Turkana County, and this is already coming up as an issue. We need the county governments to try their own ideas. In this particular matter, we want to see how we can use our county resources to curtail the expansion of these issues, so that we can increase food production in Turkana. One of the rivers in Turkana, River Turkwel, has ten times the potential of Trans Nzoia if we used it for irrigation. Trans Nzoia is the breadbasket of this country and here is one river in Turkana that has ten times the potential of one county. These tree species are attempting to actually destroy the whole river. That is why I feel that this is a very important Motion for me and the country.

Mr. Deputy Speaker, Sir, I want to thank you and the House for listening to me. I urge other Members to support this Motion.

Mr. Deputy Speaker, Sir, I beg to move and call upon Sen. (Prof.) Lonyangapuo to second the Motion.

Sen. (Prof.) Lonyangapuo: Mr. Deputy Speaker, Sir, I rise to second this Motion that has been moved by my neighbour and brother, Sen. Munyes.

Mr. Deputy Speaker, Sir, before 1982 when this plant was introduced with the sole purpose of remedying the people, there were human beings who were living in Turkana, but it has now turned to be a nightmare, as was displayed almost four years ago. A living goat was brought all the way to Nairobi from Marigat, the belt of the area. This

plant was also introduced in Baringo County, which neighbours Turkana County. What we saw was not very good. For those of us who love animals and goat meat, if you saw the way that the animal had been affected, it actually sent a signal that some of our animals are consuming poisonous plants.

This plant christened “*Mathenge*” has, indeed, been a source of problems in the whole of northern Kenya and North Rift, in particular. For example, in West Pokot County, which neighbours Turkana County, this plant has encroached on the Great North Road, from Kitale, Kapenguria and all the way to Lodwar and Lokichoggio. This is one stubborn plant that can even grow through the tarmac. There is no tarmac road now between Marich Pass and Lokichoggio, courtesy of this plant that was introduced about 30 years ago.

Mr. Deputy Speaker, Sir, it is, therefore, a crisis and disaster for us, Kenyans, who live in those areas. Sen. Haji says that it is not only in North Rift, but has gone all the way and follows River Tana to the Indian Ocean. We have had problems on the border of Samburu and Turkana and occasionally, between West Pokot and Turkana, because of cattle rustling. These cattle rustlers hide in the bushes. Hence, this plant has become the safest place where these people hide. This is because it grows into very thick forests, regardless of whether or not there is water. As a result, all the grass that the pastoralists were depending on is gone, because the plant has covered huge areas. Therefore, something has to be done.

Mr. Deputy Speaker, Sir, early this week, there are criminals who hid in the bushes and went to a place called Apuke and killed some people who were sleeping. They took many cows and cannot be traced. You cannot move because of these thickets. It, therefore, calls upon the national Government and the county governments on the ground to see how this plant, “*Mathenge*” can be removed from these areas where we have problems. You will remember the effects that were left by the wattle tree in Uasin Gishu, where even if the plant was removed, it would cost a lot of money to treat the soil back to normal for crop production. It is the same scenario with this plant and the effects that it is causing in the region where it grows. We note with a lot of concern that this came as a donation in the form of research. We should have followed up with the scientists to find out how we can kill this plant. This is because what has a beginning also has an end. The researchers should come back and find out how they can slow the growth of this plant or even eradicate it completely.

Mr. Deputy Speaker, Sir, we also have another disaster that has now attacked Lake Victoria, that is, the water hyacinth. I am told that when people who do not live very close to the lake see the green plantation, they think that it is land. Do you not think that all of us here need to assess the havoc that some of the experiments that were done, in the name of doing research, have left behind? We do not know how this plant spreads. A small “*Mathenge*” plant was put in pot in Turkana and now, it has gone all the way. We do not know how it spreads. The same applies to the water hyacinth. You will find it growing in even small man-made lakes and dams. The Government should determine how we can solve this situation.

Somebody has suggested that we should create an economic benefit out of it, but I do not know what benefit we can get out of this. This is because the plant is very small

with very dangerous thorns I have met some people who have suffered after stepping on this plant. The wounds do not heal fast because the plant is poisonous. We need to see how this can be removed, so that it does not spread as fast as it is doing. The Senate and Government need to find ways of stepping in and recalling the people who gave us the donation to remove it.

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

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

Mr. Temporary Speaker, Sir, snakes also hide in these thickets, as has been stated. Also, we have now a serious outbreak of malaria in dry areas, where we should not have mosquitoes. This is because of this plant, which has become very perfect. It grows regardless of whether it is the dry or rainy season. It is forever green.

Mr. Temporary Speaker, Sir, I second this Motion and say that with the discovery of oil in Turkana and huge reservoirs of water, if this plant is green every day, it means that it has very deep roots. Even in Baringo and Pokot counties where this plant is, we have deep wells of water. So, why is it always green? We should remove this plant at the earliest time possible. Where are our scientists in the universities and researchers? Can they not remove this plant and see what chemical composition it has? We also want to know if we can put it to any other use after we have uprooted it. It could be of medicinal value. Since God did not give us this plant in Kenya; it is a foreign plant, we should remove it.

I second the Motion.

(Question proposed)

The Senate Majority Leader (Sen. (Prof.) Kindiki): Mr. Temporary Speaker, Sir, I rise to support this Motion. I first encountered literature on *Prosopis juliflora* and *Prosopis chilensis* a few years before it was brought to our country. That was in my other life as a professor of international law. I was actually doing research on the emerging case law on environmental hazards and how governments are increasingly being held accountable for certain hazards in public health. So, we had done a bit of research in other parts of the world including Australia and covered a number of environmental threats including huge masts that we see in our country and the world. When they cause public health problems like cancer and brain damage, and the kind of awards the courts had been awarding. So, we were trying to establish that. That was the first time I came across this plant in respect to some of the desert countries in North Africa; Mali and Tunisia where there was a project like this one which backfired badly.

Mr. Temporary Speaker, Sir, a few years later, a toothless goat was brought by one of the minority communities in the High Court of Kenya as an exhibit before the court to show how this goat had lost its teeth after chewing this plant in Baringo. I think it was brought by either the Njemps or the Ilchamus communities. I watched the development of this case with a lot of interest but I was saddened that the judge before

whom this case was brought threw out this case on a technicality and, therefore, robbing us of an opportunity to get jurisprudence on this important issue.

I want to say that in supporting this Motion, there must be a way in which this House can follow through this issue because the rate at which this plant is spreading, the kind of damage and effects on public health and animal health that this plant is causing, I fear that going forward, if litigation is brought back on this issue, the Government could be slapped with very huge costs of compensation by the courts because there is a connection between the introduction of this plant and the Government. It came as a research experiment promoted by some of the Government agencies. I do not know whether it was the Kenya Agricultural Institute (KARI) or some of these organizations in the agricultural sector that are Government agencies. So, it is proper that this thing be checked, and as the Senate, if this Motion is passed, we should make a follow up to see to it that this issue is addressed.

Mr. Temporary Speaker, Sir, we do not have to wait for more deaths or for people to lose limbs more than it has happened. Under the new Constitution, Article 25, these treaties that have some of these proposals that I want to share with you briefly are part of the laws of our country as supported by the Environmental Management and Coordination Act of 1999. We cannot be the generation that caused so much damage, death and health problems for whatever reason. I believe the people who introduced this plant may have had good intentions but it has now come to pass that whatever benefits that this plant could be bringing in the name of reducing desertification are outweighed tremendously by the health hazards.

We need to remember that we have a duty as this generation to ensure that future generations in this country can enjoy a proper environment because the rate at which this plant is causing damage is attaining disproportionate levels and I think this is going to be a very big public menace. So, we should be guided by the principle of international equity which is part of the international environmental law and part of our constitutional order under our own legislation, especially the Environmental Management and Coordination Act of 1999.

Mr. Temporary Speaker, Sir, in any case, I have heard some of the arguments within the literature. Some people say that there is very little evidence to prove that some of the hazards that Sen. (Prof.) Lonyangapuo and Sen. Munyes have associated with this plant do not have scientific link or nexus. It is also a general point in this area of law and responsibility that we take precaution. The fact that there is absence of the absolute proof or linkage between the public health hazard and this plant should not be an excuse. We are better off mitigating, arresting or removing this plant even if some of the effects have not been proven, than to wait until we have more people and livestock dying or losing their teeth and limbs. We should take precaution.

Finally, I think as much as afforestation is good and the reduction of desertification, we also need to know as a country that especially with certain ecological conditions that have existed in our country for such a long time--- For example, we have had certain areas being covered by forests for the last 100 years and certain parts of our country being desert territories for over 100 years, it is scientifically established that sometimes it is very damaging to start interfering with the ecological balance which has

crystallized over a very long time. In other words, if we had the Mau Forest and because of our greed, we have cut down trees in the last ten years, we can plant trees to replace the ones we cut without affecting the environment. But to try and create a desert out of an area which has been under forest cover for the last 200 years is to interfere with the ecological balance which is established and this brings some of the effects that we are seeing right now.

It is high time we started looking at better ways of using our dry lands because they are not necessarily wastelands and we have seen that. For example, we now have oil and water in Turkana and we really do not need much. So, let us not be obsessed with this idea that green is everything. There is a way in which some of the dry lands could be useful to this country without us necessarily interfering with certain long-term permanent environmental conditions.

Mr. Temporary Deputy Speaker, Sir, it is for that reason that there is even an international treaty to which Kenya is a party; the United Nations International Agreement on the Prohibition of Environmental Modification. This is modification where through human effort you introduce alien ingredients into the environment to suit certain things. That is why things like the bombing of clouds with nitrogen have been discouraged because we are interfering simply because we want an area where it does not rain, to start raining. You end up introducing foreign things which have other effects on the environment.

So, I fully support this Motion and I think over and above this Motion being passed, I urge that we take the implementation of what this Motion requires as a priority of this House and if possible, try to see if there can be a legislative amendment to the environmental law that we have to avoid a situation like this in future and also under the polluter pays principle to apportion responsibility for agencies or other people who introduce things like this which have implications on public health.

With those many words, I support.

Sen. Sijeny: Thank you, Mr. Temporary Speaker, Sir, for giving me this opportunity to contribute to this Motion. I wish to support this Motion because it is quite clear that this wonder plant that was brought called *Prosopis juliflora* - the name is foreign - *Mathenge* is the easier name that we know. At first, when I saw exhibits in court, I thought this was one big joke. The goat looked so ugly. I thought the natives were up to some mischief and were just rebelling. This came up a while ago. It is sad that since then, life in this area has not improved and people are still suffering. This means the situation is more serious.

Mr. Temporary Speaker, Sir, I agree that the intention of those who brought this plant was very good. The donors were trying to help a country which was in a grave situation because of extreme drought and harsh weather conditions. It is high time we tried something else. As the Mover of the Motion has said, something has to be done to address this issue. However, I urge that they tread carefully, systematically and thoroughly, so that the problem is solved once and for all. We should not remove all the vegetation and cause suffering.

We know that there are more valuable things like oil and minerals that have been discovered in this country. But we also know that Kenyans generally have an agricultural

background. We could exploit irrigation to facilitate farming of crops as has been tried in various arid areas, so that the livelihood of Kenyans living around the area improves. It is unfortunate that people from these areas have been suffering. Other than consuming water for the wrong reasons, this is not benefiting people. Malaria and other health hazards are coming up. This has certainly become a nightmare.

Mr. Temporary Speaker, Sir, this problem has been with us for too long. It is destroying the countryside. This reminds me of the once upon a time very beautiful Lake Victoria. When we would fly over the lake going to land in Kisumu City, one would see a very beautiful lake. It reached a point when we would proceed to land and I would say: "Where are we? We are about to land and we are not seeing the lake." The lake had become green, dirty and a health hazard. Even the fish disappeared. No wonder all the fish have migrated to the Migingo area. There is now no fish in Lake Victoria. This generally shows that all the good things we would have got from this land are being destroyed. This plant is of no economic value yet we have Vision 2030 and the Millennium Development Goals (MDGs). We are also fighting to eradicate poverty. But by losing lives – I know nobody has done thorough research on this – but I am sure many people have died as a result of side effects of the *Mathenge* tree.

Mr. Temporary Speaker, Sir, I support this Motion. But I urge that the Senate works with the national Government and the county governments to get a more systematic, permanent and final answer to this problem.

Sen. (Prof.) Lesan: Thank you, Mr. Temporary Speaker, Sir. I also rise to support this Motion. I wish to say a few things. First, I would not like us to speak as if we are blaming foreigners for introducing this plant. Indeed, we should all take responsibility, both the researchers and the Government of Kenya, which used its wise counsel, at that time, to think that this was the best way to solve a problem. It is on this point that we all need to take responsibility and use this occasion to learn lessons. These are very difficult lessons.

We now need to learn the lesson that although the plant actually changed what was arid land to grazing land - right now we want to reclaim grazing land - I assume that because of this plant, there is some grass which has also grown. Therefore, there is some achievement that was gained by the introduction of this plant.

Mr. Temporary Speaker, Sir, the reason I mention this is that we had a challenge and we had to make very hard decisions at that time. I really want to use this as an occasion to warn this country that we are yet, and indeed, are about to make very hard decisions. Today, the world is preparing to feed itself using modified plants, the GMO plants. The reasons for introducing and using the GMOs are so compelling that we would have no option but to introduce them. We already know that there are problems with this alien or foreign germs introduced by the variation of the genetic composition of plants. We need, as a country, to make a very serious decision because it directly affects the lives of human beings.

We know that GMO products that have been introduced to fight hunger will be widely consumed throughout the world. I am sure there will be some medical consequences arising from this as a result of interfering with the natural environment as it is. We need to learn serious lessons emanating from the *Mathenge* plant, which is

affecting livestock only. So far, from the records and the research that we have, it has not affected humans directly. But we need to use this as a very serious lesson. As a country, we must make very serious decisions, whether we should accept to introduce GMOs in this country or not.

Mr. Temporary Speaker, Sir, the consequences of altering the environment are so unforgiving, irreversible and sometimes they appear like epidemics, which is mass murder of populations. We need to start putting money into research in order to reverse the process. For example, we know that the *Mathenge* plant is a biological plant and, therefore, we need to start fighting a biological war as well. We need to introduce the germs that will negate the growth of these things. In this case, we are looking at the bacterial and viral organisms and other things that researchers might have to introduce to be able to reverse this plant. This is a monumental exercise that requires technical knowhow and an enormous investment. There is, therefore, very good reason to make sure that we do not introduce germs into the environment without appreciating the full consequences.

Mr. Temporary Speaker, Sir, it is important that while we are looking at international law that governs these issues, that we also look at the local laws and regulations that govern the introduction of germs or new plants into the country. I have in mind the Kenya Plant Health Inspectorate Services (KEPHIS). This is a body that makes sure that there are no new plants which are introduced in the country without studying the consequences of such a move. This is one of the institutions in this country that we might have to invest in and strengthen. We need to safeguard our capacity to introduce plants that we do not know. This Motion has come at the right time. We need to be very concerned and use every ingenuity and knowhow that we have to ensure that these mistakes are not continuously repeated because we know the consequences are far reaching.

Mr. Temporary Speaker, Sir, obviously, there will be some research done to try and draw some usefulness out of this plant. Again, we know that research is a very expensive exercise. Therefore, this will take time but it is not all about time. We should not give up on this aspect. It is important that we look at some useful value from this plant that was introduced but caused devastation. We know that there is always hope in any research. It is important that we encourage research and try and find something useful from this otherwise devastating plant. The important thing is that this country must be careful with such new phenomena. We must act on legislation that safeguards our country from foreign elements like the introduction of these plants.

Mr. Temporary Speaker, Sir, with that contribution, I wish to support this Motion that the Government actually starts to pay special attention and takes remedial action to remove some of these destructive plants.

Thank you, Mr. Temporary Speaker, Sir.

Sen. Mungai: Thank you, Mr. Temporary Speaker, Sir, for giving me this opportunity to contribute to this wonderful Motion that seeks to eradicate *Mathenge* in the areas that it is growing. Every time that I have visited Lake Bogoria and the outlying areas, I always wonder where this green shrub that is growing alongside the road came from. I assume that it was brought in to apparently serve as fodder for livestock. But,

unfortunately, by the fact that it covers even the surface of tarmac roads means that animals have never benefited from its introduction. I feel that if the introduction of *Mathenge* did not serve any purpose rather than destruction of the digestive system and teeth of animals and was not able to control the wind that is blowing in the arid areas, it means that maybe the kind of research that was done for its introduction had a mistake somewhere.

In that regard, I would request that the Government takes the matter of the *Mathenge* plant very seriously because currently, I heard there are Chinese that are interested in buying meat from our country. It is from some of these areas where meat, especially goat meat, comes from. This meat is consumed in our towns and cities. It is important, therefore, that this matter is taken seriously in order to help communities living in these areas. Some areas have set aside money in their budgets focusing on the construction of abattoirs of international standards so that they could start exporting our meat, which is very delicious, to countries outside our country. It is important that this matter is addressed urgently.

While supporting the removal of *Mathenge*, I would also like to touch on the water hyacinth menace, which has been talked about for so long. Water hyacinth has apparently been in Lake Victoria for a long time; it is suspected that it came to our country as a flower but, unfortunately, after covering parts of Lake Victoria, it is sad that the weed is now choking Lake Naivasha. There are a lot of fish that are dying in Lake Naivasha because of water hyacinth. So, it is important that measures are adopted to remove some of these harmful plants that are affecting the daily livelihoods of our citizenry. These measures should be taken urgently because when we look at the inflation index, it is going up and our people are complaining very seriously. For example, yesterday, I was in an agricultural forum where our people are really crying about the Value Added Tax (VAT) on agricultural equipment.

Therefore, Mr. Temporary Speaker, Sir, it is important that the issue of the water hyacinth be also looked into because when we hear of the Ugandans coming to Migingo Island because of fish, they are coming and meeting with our people there because there is very little fish left on our side or on the side of Migingo. They are coming there because the demand for fish worldwide is very high because we saw the world population is going to be several billions by the year 2050. So, it is important that this issue is taken seriously.

Mr. Temporary Speaker, Sir, still on the same note, I would like to also bring to the attention of the Senate the existence of another weed in Nakuru County that is called *kulasi*, which was apparently introduced by the colonialists. It was planted along the boundaries between the farms and the natives. This plant is a menace because you cannot burn it and once its thorns pierce your body, they are apparently pulled in by your blood. So, when our people are faced with such a menace, because after sometimes it continues growing and you can have a very wide area infested with *kulasi*, and since the thorns are very poisonous and people even fear them because if they prick you, they are pulled by your blood into the veins; then it becomes a serious problem to anybody who encounters such an occurrence. So, it is important that the *kulasi* menace is also taken into consideration.

I remember when I was a young boy, we apparently used to eat the *kulasi* fruit; it is very sweet, but the most unfortunate thing about it is that it also brings some very high levels of constipation. So, the only animal that benefits from the *kulasi* fruit is the baboon. When the baboon takes this fruit, because it is very, very sweet and anywhere it goes to relieve itself, that seed starts growing. That is how it has now moved from the boundaries to farms and areas. So, considering that the fruit of the *kulasi* and its sweetness brings in the baboons, and the baboons also feed on maize grown by our farmers, then you can see that it is a serious problem within the farming areas in Nakuru County where *kulasi* is growing.

Mr. Temporary Speaker, Sir, when I went to Turkana, I, of course, saw the challenges that Mr. Munyes and the other leaders from the area are facing. God himself has, of course, brought a solution; now there is oil and water. So, it is important that if they can be helped this early to eradicate the *Mathenge*, it would mean that livestock farming would also become a very huge income earner to the people of Turkana.

As I conclude, Mr. Temporary Speaker, Sir, I would request that an amendment to this Motion is made to include the water hyacinth and also the *kulasi* weeds.

With those few remarks, Mr. Temporary Speaker, Sir, I beg to support this Motion.

Thank you, Mr. Temporary Speaker, Sir.

The Temporary Speaker (Sen. Murkomen): Sen. Munyes.

Sen. Hargura: Thank you, Mr. Temporary Speaker, Sir, for giving me this opportunity to contribute to this important Motion.

Mr. Temporary Speaker, Sir, vegetation is very important in the arid areas, and the kind of vegetation which grows there is very hardy and that is what the communities from around there have adopted. Similarly, animals in those areas also rely on such vegetation. But in this case, we have a crop or a plant which was introduced and which, along the way, is now becoming a problem by causing some ecological imbalances by trying to conquer the plants, weeds and grass which grow in that area. So, I support this Motion because this is a serious issue, especially for people in arid areas, because the ecosystem is fragile. The ecosystem is so fragile such that, for instance, when they are doing oil exploration, the tracks or the cut lines which were done in the mid 1980s are still there. They have removed the trees which were there and none has grown on its own. So, it is a very fragile ecosystem. The locals have perfected a way of using that ecosystem without damaging it, and that is why they are mostly pastoralists. They use an area to a certain level and then they move to another area so that, that one regenerates.

But, now, with the introduction of this tree, which we are told from existing literature that it is from Tropical America, and which first came to Kenya in the 1970s to rehabilitate a quarry in Bamburi, Mombasa---. I am told that it was taken to Baringo for re-afforestation and for a fuel program. But in most cases, right now we are told it covers seven out of the former eight provinces of this country. It moves on its own; it is kind of a self propelling tree in the sense that it has some very hardy seeds which are in the pods, and once they are consumed by the animals which move from area to area, they propagate the growth of that tree in those areas. Because of that, it has kind-of colonized most of the areas, and that is why most of the pastoralist communities in the Arid and

Semi-Arid Lands (ASALS) are complaining because it actually grows in those areas which are of potential to these communities.

These are areas such as along the water courses, in flood plains and in the irrigation schemes. These are the areas which these communities rely on because when it rains, it is in the flood plains where you get grass; and it is along the water points where you get some good pasture. But now this weed has taken root in those areas and it grows in such a way that it forms green, thick bushes which kind of exclusively do away with other plants there. So, it affects the ecosystem as it takes over and colonizes the other plants. Grass does not grow because by nature of its cover, very little light or rain goes through. Basically where it grows, like those who have been to North Eastern around River Tana and Garissa area on your way to Hola, you do not see any other plant; it is only that one. It is thick and nothing grows below it or within it. So, it messes up the ecosystem. This is a problem which has to be dealt with.

Mr. Temporary Speaker, Sir, as it was mentioned earlier, there are also other weeds like the water hyacinth. In Marsabit on the mountains, where we have some very good lakes like Lake Paradise, of late, there is another weed called the “Nile Cabbage” which grows until you do not see anything; it is just light green and you do not see the water. So, it also messes up the ecosystem and the life in that lake, and the tourist attraction is no longer there. So, there are many things which we do not know where they come from and which are actually affecting our ecosystems.

So, there is need for the Government, both at the national and county levels, to come up with effective ways of controlling these plants which were thought to be useful, but which are actually messing up our ecosystem and affecting our pastoralist way of life because our pasture lands have been taken over. The areas like the flood plains, which would easily grow grass, have also been taken over by these plants and now we have that problem.

Mr. Temporary Speaker, Sir, these weeds also have brought other problems; a good example are the goats from Baringo. We are told that the pods, which are sweet, are also acidic in a way because when they are taken by these animals, it leads to their teeth being corroded and at the end of the day, the animal starves because it does not have the teeth to now feed on other plants. So, it also affects the livelihood of the pastoralists because it affects the animals.

Mr. Temporary Speaker, Sir, one of the Senators said that nothing much is known about the effects of the thorns on human beings, but what we have realized is that once the thorn pricks you, it is very difficult for that wound to heal. It is even said to be cancerous in a way. So, it also has some negative effects on the human beings themselves.

So, Mr. Temporary Speaker, Sir, because of that, I support this Motion and urge the governments, both at the county and the national level, to take this issue seriously because it has the potential of affecting the lives of the residents of the ASALS. These residents rely on livestock, which rely on pasture, and this plant is colonizing the pasture lands exclusively. In the process, it is doing away with the plants which have been used in these areas, hence affecting the ecosystem yet they, themselves, are not useful because, as it has been said, no animal feeds on its leaves. It is only the goats which feed on the

Pods, which have also been discovered to be harmful to them. So, there must be some way of dealing with this weed because somebody might think that, maybe, it has some use, in the sense that it could be used as wood fuel. But the problem is that before it can grow to a level where you can use it, it would have already destroyed the ecosystems.

Therefore, Mr. Temporary Speaker, Sir, I beg to support this Motion and urge, as it was suggested by the previous contributor, that it be amended to include other weeds so that we do not talk about *Mathenge* today and, tomorrow, somebody else comes to talk about the water hyacinth and then I talk of the Nile Cabbage. It is better we have all these colonizing weeds and plants which are actually foreign to our ecosystem included in this Motion.

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

The Temporary Speaker (Sen. Murkomen): Thank you.

Hon. Members, there being no other contributor, I will call on the Mover of the Motion to reply.

Sen. Munyes: Thank you, Mr. Temporary Speaker, Sir. It is just unfortunate that we have some amendments and there is no Member to bring those amendments to increase the scope of this Motion. But I want to thank those who have contributed and take this opportunity to say that this is a disaster, it is a legal issue as well as water conservation issue. As I said earlier, the new Constitution has given us freedom and rights to seek redress. From the look of things and the public outcry that is out there, we are allowing *Mathenge*, water hyacinth and other species of weeds to destroy the ecosystem, to bring poverty and food insecurity to Kenyans. It is, therefore, incumbent upon us to actually get ways of controlling alien species that actually bring disaster and affect the lives of our people.

If you go to Turkana, you will find very many rivers that have dried up because of the *mathenge* tree. We have been proudly talking about Turkana having a lot of water potential, however, for as long as we have the *mathenge* tree standing, there will be nothing. It will destroy everything.

I want to end there and hope that this Motion will control the expansive nature of *mathenge* and other alien species that want to destroy pasture, fishing and other economic activities.

With those few remarks, I beg to move.

The Temporary Speaker (Sen. Murkomen): Now that the Motion has been exhaustively debated by the Senators who were around today, I will put the question. Under Standing Order No.69, I need to clarify whether the Motion affects counties or not. This is a Motion that does not necessarily affect one county or the other. The Motion affects the whole country's environment for that matter. Therefore, we do not need to have 24 Senators here. It will be voted on by Senators who are present.

(Question put and agreed to)

ADJOURNMENT

The Temporary Speaker (Sen. Murkomen): Hon. Senators, that concludes the business on the Order Paper. The House, therefore, stands adjourned until Tuesday, 8th October, 2013, at 2.30 p.m.

The Senate rose at 5.20 p.m.