

PARLIAMENT OF KENYA

THE SENATE

THE HANSARD

Thursday, 7th August, 2014

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

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

PRAYERS

COMMUNICATIONS FROM THE CHAIR

OPERATIONS OF THE SELECT COMMITTEE ON THE PROPOSED
REMOVAL FROM OFFICE BY IMPEACHMENT OF THE DEPUTY
GOVERNOR OF MACHAKOS COUNTY

The Speaker (Hon. Ethuro): Hon. Senators, I wish to make a communication on the date on which the Select Committee on the impeachment of the Deputy Governor of Machakos County would be reporting to the House. Yesterday, I had indicated that it would be Monday, 11th August, 2014 but because of the fact that the Committee was formed on Tuesday, those timelines have been revised to take into account the ten days that are necessary for the Committee to complete its work. So, the new date will be Friday, 15th August, 2014 at 2.30 p.m.

NOTICES OF MOTIONS

COMMENDATION TO THE KENYAN TEAM FOR THEIR STERLING
PERFORMANCE IN THE COMMONWEALTH GAMES
IN GLASGOW, SCOTLAND

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

THAT, aware that Kenya is known for its splendid performance in athletics; noting that athletics is part of Brand Kenya; appreciating that Kenyan athletes are good ambassadors and have done the country proud; noting further that the Kenyan team took part in the recently concluded

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Commonwealth Games in Glasgow Scotland and were ranked number nine overall; appreciating that the team put up a good performance and won a total of 25 medals of which ten were gold, ten silver and five bronze; appreciating that it was the first time for Kenya to win a gold medal in the field events; cognizant of the fact that such performance will inspire upcoming athletes, the Senate records its commendation to the Kenyan team for their sterling performance in the Commonwealth Games held in Glasgow, Scotland.

The Speaker (Hon. Ethuro): Hon. Senators, I hope you are seized of the Supplementary Order Paper.

STOPPAGE OF TRANSFER OF FUNDS TO COUNTIES DUE TO
GOVERNORS' FAILURE TO HONOUR SENATE SUMMONSES

Sen. (Dr.) Khalwale: Mr. Speaker, Sir, I beg to give notice of the following Motion.

THAT, whereas pursuant to Article 196(1) of the Constitution, the Senate represents the counties and serves to protect the interest of their counties and their governments; and whereas pursuant to Article 96(3) of the Constitution, the Senate exercises oversight over national revenue allocated to county governments; and further whereas the County Public Accounts and Investment Committee is mandated under Standing Order No.212(3) of the Senate Standing Orders to, amongst other things:-

(1) exercise oversight over national revenue allocated to County Governments pursuant to Article 96(3) of the Constitution;

(2) examine reports of the Controller of Budget on the implementation of the budgets of the county governments pursuant to Article 228(6) of the Constitution;

(3) examine reports of the Auditor General of the annual accounts of county governments pursuant to Article 229(7) and (8)

And pursuant to Article 125 of the Constitution, the Senate Public Accounts Committee invited the following governors in their capacities in accordance with Article 179(4) of the Constitution as the Chief Executive Officers of their respective counties to appear before it to respond to audit queries that were raised by the Auditor General pursuant to Article 229 of the Constitution:-

(1) Gov. Isaac Ruto of Bomet County;

(2) Gov. Jack Ranguma of Kisumu County;

(3) Gov. William Kabogo of Kiambu County; and

(4) Gov. Mwangi wa Iria of Murang'a County;

And whereas, despite the invitation by the Committee, the said governors who were duly invited have failed and/or refused to appear before the Committee to answer the audit queries raised by the Auditor General with respect to whether or not public monies have been applied lawfully and in an effective manner by the respective county governments;

Now therefore, the Senate resolves that pursuant to Article 228(4) and (5) of the Constitution, the Controller of Budget should not authorize any withdrawal of public funds by the following county governments until they have responded to the audit queries to the satisfaction of the Senate:-

- (1) The County Government of Bomet
- (2) The County Government of Kisumu
- (3) The County Government of Kiambu
- (4) The County Government of Murang'a

Sen. (Dr.) Machage: On a point of order, Mr. Speaker, Sir. May I request that you authorize us to get copies of that Motion so that we can look at it in detail.

The Speaker (Hon. Ethuro): The Motion should be circulated to all the Members. Next Order!

STATEMENTS

THE STATUS OF ISEBANIA-KEHANCHANGWITEMBE ROAD (E166) AND MUHURU BAY-MIGORI-KEHANCHANGGORENKORE ROAD (C13)

Sen. Sijeny: Mr. Speaker, Sir, there was a Statement which was sought from the Committee on Roads and Transportation by Sen. (Dr.) Machage. I would like to issue it now.

This is the Standing Committee on Roads and Transportation Statement pursuant to Order No.45(2)(b) on status of Isebania-Kehancha-Gwitembe Road (E166) and Muhuru Bay-Migori-Kehancha-Ngorenkore Road (C13).

Mr. Speaker, Sir, on Tuesday 22nd July, 2014, the Senator for Migori County, Sen. (Dr.) Machage, requested for a Statement from the Chairperson of the Standing Committee on Roads and Transportation regarding the Status of Isebania-Kehancha-Gwitembe Road and Muhuru Bay-Migori-Kehancha-Ngorenkore Road. In the Statement, the Senator wished to be informed of the following:-

(i) whether the Ministry of Transport and Infrastructure is aware that the two roads stated above are in a dilapidated state;

(ii) whether the Government of Slovak Republic is financing the construction of the road E166 to the tune of Kshs4.3 billion loan and the reasons why the construction of the road has stalled;

(iii) whether China Wu Yi Construction Company was awarded the contract to construct Road C13 and why the construction has not taken off; and,

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(iv) when the construction of the two roads would be completed.

Mr. Speaker, Sir, on behalf of the Chairperson of the Standing Committee on Roads and Transportation, the response is as follows:-

The Isebania-Kehancha-Gwitembe Road (E166) is under the purview of the Kenya Rural Roads Authority (KeRRA) and is approximately 50 kilometres. The section between Isebania and Kehancha is 20 kilometres long and in a good motorable state. Out of the 20 kilometres, five kilometres is bitumen standards while 15 kilometres is gravel. The remaining 22 kilometres is in an unsatisfactory state because it is being worked on by the County Government of Migori to restore it to a motorable state.

A proposal has been made by the Government of Kenya to the Government of Slovak Republic through the National Treasury and the Ministry of Transport and Infrastructure for funding the project at an estimated cost of Kshs4.3 billion. Negotiations are currently ongoing towards finalization of this proposal. The road has however been fully designed and its construction shall therefore follow once an agreement is reached. The indicative date of completion of the Isebania-Kehancha-Gwitembe Road will be ascertained once the financing agreement referred to above is finalized.

Regarding Muhuru Bay-Migori-Kehancha-Ngorenkore Road C13, the road is under continuous maintenance in accordance with the Kenya National Highways Authority (KeNHA) roads maintenance programme. The maintenance programme for the roads in the current financial year is as follows:-

- Bush clearing,
- Culvert cleaning,
- Heavy/light grading,
- Spot gravelling improvement.
- Installation of culverts.

In the last financial year, that is, 2013/2014, the amount of money allocated for the maintenance of the Road C13 was Kshs105.7 million. The budgeted amount for the financial year 2014/2015 is Kshs59.5 million. The project allocation for the financial year 2015/2016 is totaling to Kshs132 million. At the moment, the road is motorable although some section of about 5 kilometres around Mara area is challenging due to the rain season.

The tenders for the construction of the first phase of the project; that is, Masara-Suna-Kehancha were advertised on 23rd November, 2011. About 20 contractors showed interest, however, only 10 firms submitted their bids at the close of the bids submission deadline which was on 15th January, 2013 at 1200hrs. The bid responses were as follows:-

S/No.	Bidder Name	Amount (Kshs)
1.	China Railway No.5 Engineering Group Co. Ltd	4.5 billion
2.	H. Young & Co. EA Ltd	5.2 billion

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3.	China Wu Yi Co. EA Ltd	4.5 billion
4.	Hayer Bishan Singh & Sons Ltd	6.0 billion
5.	Put Sarajevo General Engineering Co. Ltd	4.8 billion
6.	Kundan Singh & Sons Co. Ltd	4.1 billion
7.	Intex Construction Co. Ltd	5.3 billion
8.	Shengli Engineering Group	4.8 billion
9.	China Jiangix International (K) Ltd	3.8 billion
10.	Sino Hydro Corporation Ltd	5.0 billion

The engineers estimate was Kshs5.2 billion. On evaluation, the successful bidder was M/s China Wu Yi Co. Ltd at their bid price of Kshs4.5 billion. There was no design for road C13 as a separate consultancy contract. The entire road was designed as a package which included best alternative route under the Northern Corridor Transport Improvement Project (NCTIP) linking the lake side north of Tanzania and Narok Town totaling to 135 kilometres and related link roads totaling to 209.45 kilometres. The link roads included *inter alia* C13 from Muhuru Bay to Logarian and D202 from Awendo to Oyani Maasai.

The construction delayed to take off due to unavailability of money to pay the advance payment. The contractor's mobilization was slower but was able to commence construction works on 20th August, 2013. The contractor has to date been paid 10 per cent advance payment equivalent to Kshs456 billion. The contractor is currently on site, he started mobilization of equipment at the site office in May, 2013 and has been on site since.

The Masara-Kehancha Road section is part of Road C13 and is being implemented as phase one of the above improvement project. The construction of the Masara-Suna-Kehancha Road section was contracted to M/s. China Wu Yi Construction Limited at a contract sum of Kshs4,561,451,451. The work commenced in August 2013 and is projected to be completed by January, 2016.

I beg to submit the Statement.

Sen. (Dr.) Machage: Mr. Speaker, Sir, today is the worst day of my stay in this Senate to be directly insulted by the Ministry of Roads and Infrastructure over the status of the Roads E166 and C13 which are currently not even better than cattle tracks, but I am being told that they are satisfactorily motorable. I could not even pass with my V8 four-wheel drive vehicle. I had to alight to reduce some weight for it to negotiate some sections. Could the Chair of this Committee plan to visit this road and ascertain what a satisfactory road is as defined by this Ministry? Could the China Wu Yi Construction Company be directed to forward clear plans to grade the roads for easy motorization as they continue mobilization of equipment for construction of C13?

Sen. Mositet: Mr. Speaker, Sir, I was also listening to the answer from the Chair of the Committee and I sympathize because maybe they never even had time to interrogate the Statement. If at all they did, then a lot needs to be answered. You even heard in the Statement that part of the road has been left for the county to work on and they are talking about 22 kilometres. The Ministry of Roads and Infrastructure owes Kenyans a lot in terms of whatever they are supposed to be constructing and maintaining.

The Speaker (Hon. Ethuro): Order, Senator. It is time for clarification.

Sen. Mositet: Mr. Speaker, Sir, I am not just talking about the two roads but I believe there are quite a number in Kenya where the Senate needs to tell the Ministry to be much more serious. They maybe saying that the contractors are on the roads---

The Speaker (Hon. Ethuro): Order, Sen. Mositet. I will rule you out of order.

This is a specific Statement referring to specific roads. You will have an opportunity to address other roads on Wednesday next week at 11 a.m.

Sen. Mositet: Thank you, Mr. Speaker, Sir.

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

Sen. Sijeny: Mr. Speaker, Sir, regarding Sen. (Dr.) Machage's reactions, we could perhaps give a response when we come during the next session maybe the first Thursday after recess because he wants us to visit that road and ascertain its status. We shall have ensured that we know the proper position and also get the report that he requires the contractor to supply.

The Speaker (Hon. Ethuro): Order, Vice-Chair. Are you confirming that you will visit the site before then because one purpose of recess is to allow Committees more time to do their work?

Sen. Sijeny: No. Before then it cannot be possible because it involves many stakeholders. We will require more time, about two months. If I consider the programme we have, we are not going to that region immediately. We are prepared to go to other regions but we shall ensure that we get satisfactory information on what he requires. It is the visit that I am saying it may not be possible but we can do it later.

The Speaker (Hon. Ethuro): What do you say, Sen. (Dr.) Machage.

Sen. (Dr.) Machage: Mr. Speaker, Sir, you have heard the level of marginalization and discrimination on certain parts of this country. Now, Migori County is put on the forefront and that it cannot be visited because other areas must be visited first. It is unfair. Could the Chair say when she will visit the site before the recess is over because the meteorological department has forecasted *El Nino* and if I cannot pass through that road with a four-wheel drive vehicle, what will happen? I cannot afford a chopper neither can my people from the county to take them home.

The Ministry has refused to release the KeRRA to the county governments and yet the Chair is talking about the county government grading a road which is not happening at all. Could she clarify on this point? Has KeRRA been released to the county governments for that to be effected as she had stated?

The Senate Minority Leader (Sen. Wetangula): Mr. Speaker, Sir, it is very clear from the concern being raised by the distinguished Senator for Migori that it is unlikely that the Vice-Chair answering or giving the Statement may have ready answers for those interventions. Since the Cabinet Secretary is coming to the Senate for a plenary with Senators on Wednesday, perhaps it would be a good idea if those anger-laced questions from Sen. (Dr.) Machage can be reserved for Wednesday so that the Minister can answer us properly.

Sen. Sijeny: Mr. Speaker, Sir, I would also urge my colleague, Sen. (Dr.) Machage, that we are having a meeting with the Cabinet Secretary next week and I will make sure that I put forward some of these concerns. Therefore, I urge him to wait for next week to get comprehensive answers like the arrangement between the county governments and the national Government.

The Speaker (Hon. Ethuro): I think Sen. (Dr.) Machage, you have an opportunity on Wednesday because the meeting will be discussing all the reports but I want to direct the Committee that your programme must be aligned to realities and concerns of the Senate. If a Senator has raised a matter like the one by the Senator for Migori, then you need to also re-adjust your programme so that you can factor in that before the recess is over. In any case, you have promised the House that you will give a report the first week we resume. It would be good if you visited the site to satisfy that kind of description. It is so ordered, Vice-Chair.

Sen. (Prof.) Lesan! Who is Temporary No.4?

Sen. Murungi: Mr. Speaker, Sir, it is me.

The Speaker (Hon. Ethuro): What is it, Temporary No.4, Sen. Kiraitu, for the record?

(Laughter)

Sen. Murungi: Mr. Speaker, Sir, I forgot my card at home. That is why I am called "Temporary No.4". The matter I wish to raise regards the anticipated visit to the Committee of the Whole by the Cabinet Secretary for Transport and Infrastructure. It is good for the Chairperson of the Committee to give a proper brief to the Cabinet Secretary about our expectations because he might come here to give us the general presentations that they usually do when they appear before us. We have raised certain specific issues. Can the Cabinet Secretary be requested to deal with the specific issues that we have raised with him first before they give us their broad framework about what they intend to do?

Sen. Sijeny: Mr. Speaker, Sir, we shall advice accordingly. But I would like to request that the copies of the report that I presented the other day be circulated to hon. Senators because I saw some of the answers they had asking for. If there are other issues not included, at least the explanation part can be given. I think the report that we tabled was quite comprehensive.

The Speaker (Hon. Ethuro): The report was tabled yesterday for the purpose of ensuring that Members have sufficient time to read it. Sen. Sijeny, it is still important that you let the Cabinet Secretary have a sense of the expectations from the House because maybe they have not been following the proceedings.

Sen. (Prof.) Lesan.

STATE OF THE NATION'S PREPAREDNESS TO PROTECT
KENYANS FROM AN OUTBREAK OF EBOLA

Sen. (Prof.) Lesan: Mr. Speaker, Sir, I rise to request a statement from the Chairperson of the Committee on Health regarding the following:-

(1) What is the state's national preparedness to protect Kenyans from the Ebola virus?

(2) What information should the public know on the signs and symptoms of the Ebola virus at the onset and in progress?

(3) What action is the Government taking at all entry points into Kenya especially, airports and sea ports?

(3) Is there any concerted and collaborative effort by Kenya and neighbouring nations to prevent the Ebola virus from entering their territories?

The Speaker (Hon. Ethuro): This is directed to the Committee on Health.

Yes, Sen. (Dr.) Machage.

Sen. (Dr.) Machage: Mr. Speaker, Sir, on behalf of the Chairperson and the Vice Chairperson who are not in the House, I am a Member of the Committee and I wish to respond as follows:-

I appreciate that this is a very important statement that has been sought by the Member, who is also a Member of the Committee on Health. I believe it is for the purpose of immediate information to the public that he has raised his concern.

The House is going on recess; the statement may not be answered immediately in the House. The first sitting of the House after the recess will be appropriate. But I will pass this information to the Ministry to have this information availed in the media even before the answer is brought to this House because of the importance and urgent nature of this question.

The Speaker (Hon. Ethuro): Let the matter be seized by the Committee. As you are saying, also for public consumption, the media will be a good avenue to do so. The full report should come to the House as reporting implementation rather than proposed actions.

Sen. Wangari, do you have something to say on the same issue?

Sen. Wangari: Mr. Speaker, Sir, mine is on a point of procedure. Though I appreciate the issue is of public interest, I was wondering whether it is in order that when we request for a statement we agree that the response be aired in the media instead of bringing the answer to the House. Is it in order?

The Speaker (Hon. Ethuro): Good question. But the point is really a statement being sought from the relevant Government agencies on what they are doing. Given the immense public interest on this particular matter, this information needs to go out there to the media. The Committee can act as a catalyst for the relevant Government agencies to relay the message.

Any more comments on this matter? Yes, Sen. Wetangula.

The Senate Minority Leader (Sen. Wetangula): Mr. Speaker, Sir, allow me to raise a brief point on this and a request for a statement that I am expecting which I do not see on the Order Paper.

Ebola is ravaging West Africa. The British Broadcasting Corporation (BBC) announced that this morning the President of Liberia declared it a national disaster and has declared a state of emergency to curb the spread. The BBC also announced that a doctor from Saudi Arabia who was in Sierra Leone arrived in Saudi Arabia and died. There are some Americans who are being quarantined in America having visited West Africa. Most of the victims in West Africa are, in fact, medics who were handling patients. Since we are going on recess, I would implore you to issue some directives from the Chair other than wait for the Committee, to direct the Government to take urgent steps in terms of public awareness, tighten screening at our entry points and have serious preparedness in the event we have any Kenyan that could contract the virus. More particularly, Kenyans travelling to and from West Africa and our West African brothers and sisters who travel to Kenya need to be thoroughly screened. As you know Nairobi is a major hub, being a transit point from the West to the Orient and particularly also being a very busy route for Kenya Airways.

I would urge you not to wait until the recess is over for the Committee to bring a statement, which I hope they will bring, but for you to issue some direction from the Chair which the Government can pick up.

IRREGULAR RETIREMENT OF MR. FRANCIS AWOLI
AND MS. JACKLINE MUGO FROM THE NSSF BOARD

Mr. Speaker, Sir, my second point is that I am expecting a statement over the ignominious and unlawful removal of Francis Atwoli and Jackline Mugo from the Board of NSSF. We were promised that this statement will be delivered within two weeks, which are long over. We are meant to proceed on recess, but the statement is not listed on the Order Paper.

The Speaker (Hon. Ethuro): On the first issue, Sen. Wetangula, it is a very good suggestion but I am very reluctant to start assuming executive functions from the Chair of the Speaker of the Senate.

Two, the Chairperson of a committee has sufficient powers as the Chair to interrogate Government and agree with the Government agencies on the way forward, including definitely, the suggestions that you have made on this Floor, which I would

imagine any sensible Government agency, and I believe they are sensible and responsive, they will do so. Our job is just to ensure that, that has been acted upon and if there are any other loopholes, then we can close them and ensure that the safety of our people is guaranteed.

On the second issue, I would expect the Committee on Labour and Social Welfare to respond in the course of the deliberations.

Sen. (Prof.) Lesan.

Sen. (Prof.) Lesan: Mr. Speaker, Sir, the seriousness of the issue has been raised and I appreciate your directives as you have mentioned. There is a world conference in Guinea in West Africa in the next two weeks. I am sure there should be some delegation from this country going to that conference. That emphasises the significance of us being aware of what is going on. I am happy that the Committee on Health which was going to attend that meeting from this Senate has resolved that they are not going. I hope that they stick to that position because we want to be careful about this because the consequences of this are worse than terrorism. We should be careful about this as much as possible.

The Speaker (Hon. Ethuro): Maybe, from the Committee, how fast can you get this done?

Sen. (Dr.) Machage: Mr. Speaker, Sir, I believe with your instructions today the committee will be calling for an urgent meeting with the Cabinet Secretary for Health, as urgent as tomorrow if possible or the day after. After the meeting the information can be disseminated to the Press because the House will not be meeting.

Secondly, the African World Health Organisation (AWHO) meeting was to take place in Benin. Two of us from this House, myself and Sen. Kisasa were supposed to attend, but we have declined to go for obvious reasons.

The Speaker (Hon. Ethuro): Chairperson, Committee on Labour and Social Welfare, what do you have to say on the statement that was sought by Sen. Wetangula?

*(Sen. Sang moved from his place and
consulted other Senators)*

I thought I got a request from Sen. Sang. Where is he?

(Sen. Sang resumed his seat)

Sen. Sang: Sorry, Mr. Speaker, Sir. I was consulting the Senate Majority Leader.

I want to apologise to Sen. Wetangula, the Leader of the Minority. We agreed and gave an undertaking that we were going to respond to this issue in two weeks' time. It is now one week after the deadline. We sought the statement from the Attorney-General. We have done a lot of follow up but the Attorney-General responded to us that the right information would come from the Director of Public Prosecution (DPP). That is still pending. The DPP has not responded.

I have just intimated to the Senate Minority Leader that I mischievously requested for the same statement from the Minister of Labour. He responded but since this was a statement sought from the Attorney-General's office and since we are meeting the Attorney-General on Tuesday, one of the agenda issues that we intend to discuss with him is the delay that this House continues to get from the Attorney-General's office in terms of responding to statements sought by this House. I, therefore, request that the House still grants us that indulgence, so that within the first week from our recess, we should be able to respond to this question. But I also undertake that, as a Committee, when we meet the Attorney-General next week on Tuesday, that will be one of the issues that will be addressed. I, therefore, seek the indulgence of the Senator for Bungoma County to give us a little more time on this issue.

The Senate Minority Leader (Sen. Wetangula): Mr. Speaker, Sir, the distinguished Senator for Nandi has explained to me. I will be ready to wait for the statement from the Attorney-General's office as I suspect any answer from the Ministry of Labour will be purely self serving and inadequate because they will be protecting what they have done unlawfully.

RECRUITMENT OF POLICE OFFICERS

Sen. Bule: Mr. Speaker, Sir, I rise on a matter of national concern regarding security. Last month, there was recruitment of youth to the police service. It is alleged there was corruption in the recruitment. We reported this matter. However, we do not have a way forward on whether this issue was banned or it still continues. I want to get this information from the Committee on National Security and Foreign Relations.

The Speaker (Hon. Ethuro): Order, Sen. Bule. Maybe you were not in the House last week. That matter was dealt with. The statement had been sought by Sen. Daisy Kanainza. It was answered by the Chairperson of the Committee on National Security and Foreign Relations. So, that matter was concluded last week. We cannot revisit it.

Sen. Kanainza, I thought I had represented you effectively. What is it?

Sen. Kanainza: Mr. Speaker, Sir, the Committee was to come back with information on whether the whole process of recruitment would be cancelled or not as we wait for the commission that is investigating the matter to go on. I believe Sen. Bule of Tana River County is right to ask that question.

The Speaker (Hon. Ethuro): When were they to bring that information?

Sen. Kanainza: Mr. Speaker, Sir, now that we were to go on recess last week, you advised that this should be done when we meet again. Now that we are in the House today, I believe they are able to give feedback on the same.

The Speaker (Hon. Ethuro): My response of last week still applies this week since today, just like last week, we have a Motion on proceeding on recess. So, let us wait for the resumption after the recess.

Sen. Elachi, proceed.

BUSINESS FOR THE WEEK COMMENCING
TUESDAY, 12TH AUGUST, 2014

Sen. Elachi: Mr. Speaker, Sir, pursuant to the provisions of Standing Order No.45, I wish to draw the attention of the Senate that in accordance with our calendar, the Senate will adjourn this afternoon until Tuesday, 23rd September, 2014 as indicated in the Order Paper.

As Senators are also aware, the matter of impeachment proceedings in respect of the Deputy Governor of Machakos County is before a Special Committee which has ten days to present its report. Therefore, I want to notify Senators that the Speaker will at some point convene a Special Sitting to deliberate on the report of the Committee.

Let me take this opportunity on my own behalf, and on behalf of the Rules and Business Committee, to thank you for your efforts during the current second session which has been productive in terms of Bills introduced and passed and Motions and Statements considered. It is worth noting that all the important legislation such as the Division of Revenue Act, 2014 is behind us after the process of mediation as it has already been assented to and so is the County Governments (Amendment) Act, 2014, sponsored by Sen. Sang, which also went through the mediation committee.

In particular, this week alone, the Senate has passed three significant Bills amongst them the County Allocation of Revenue Bill and as you can see on the Order Paper, two more are scheduled for Committee of the Whole. I, therefore, applaud all Senators and wish you all the best as you interact with your respective counties and especially in actualizing or operationalizing the County Governments (Amendment) Act, 2014.

I hereby lay the statement on the Table.

(Sen. Elachi laid the document on the Table)

The Speaker (Hon. Ethuro): I think we need to applaud the Chief Whip for commending us.

(Applause)

COMMUNICATIONS FROM THE CHAIR

APPEARANCE OF CABINET
SECRETARIES BEFORE THE SENATE

The Speaker (Hon. Ethuro): Hon. Senators, arising from that statement, I have one point which the Chief Whip mentioned, about a special sitting to deliberate on the

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report of the select committee. I had communicated a while earlier that, that will be on Friday, 15th August, 2014 at 2.30 p.m.

The second one is that there will be a Committee of the Whole next week on Tuesday, 12th August, 2014 at 10.30 a.m. where the Committee will be engaging the Attorney-General of the Republic, the one Prof. Githu Muigai.

On Wednesday, 13th August, 2014 at 11.00 a.m., there will also be another Committee of the Whole where we will be interrogating the Cabinet Secretary in charge of Transport and Infrastructure.

OPERATIONALIZATION OF THE COUNTY GOVERNMENTS
(AMENDMENT) ACT NO.13 OF 2014

Finally, one communication from me; hon. Senators I am pleased to report to you that the County Governments (Amendment) Act No.13 of 2014 was assented to on 30th July, 2014 and subsequently published on 4th August, 2014. This, therefore, means that the commencement date of the Act is 18th August, 2014.

(Applause)

As you are all aware, the Senate approved the report of the Mediation Committee on the County Governments (Amendment) (No.2) Bill, Senate Bill No.4 of 2013 on 9th July, 2014 after the National Assembly similarly adopted the same on 3rd July, 2014.

Hon. Senators, you will note that in accordance with the new Section 91(a)(7) of the County Governments (Amendment) Act, a County Development Board (CDB) is to be established in each county within 30 days of the commencement of the Act. Thus in accordance with the law, the CDBs should be established and convened in each and every county on or before Thursday, 18th September, 2014. Copies of the said Act are available at the Senate Journals Office opposite the entrance to the Senate Chamber on the Ground Floor, Main Parliament Building.

Hon. Senators, I also wish to take this opportunity of this Act to also make the following remarks: That a false and malicious impression has been created that the Senate intends to usurp the executive powers of governors and to control the billions of shillings for development in the counties as the law establishing the CDBs becomes operational. Nothing can be further from truth. Such allegations are false, misleading and without any foundation in fact and in law. The amendment to the County Governments (Act) has been enacted by Parliament in accordance with the letter and the spirit of the Constitution following all the necessary processes and procedures required by the law and the Constitution. Indeed, the Senate and the National Assembly, through a mediation process, agreed by consensus on the constitutionality and the content of this amendment.

I would like to make further clarification that, first, the law is established in line with Article 96 of the Constitution which stipulates and I quote in part one that:-

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“The Senate represents the counties, and serves to protect the interests of the counties and their governments.”

This Board is critical in implementing this constitutional provision for devolution to work effectively.

(Applause)

Secondly, in developing the original Bill presented by the distinguished Senator of Nandi County, Sen. Stephen Sang, the Senate Legal Affairs and Human Rights Committee carefully scrutinized the Bill and received useful views from stakeholders as expected by the Constitution, including the Commission on the Implementation of the Constitution (CIC), the Law Society of Kenya (LSK), the Federation of Kenya Women Lawyers (FIDA), the County Speakers Assemblies Forum (CSAF), the Council of Governors (CoG) and the general public. Their views were duly taken into account in drafting the final Bill.

Thirdly, it is worth pointing out that the only contentious issue with the Council of Governors was the issue of the chairmanship of the Board. It was the contention of the Council of Governors that the Governors chair the Boards. This Board brings together the National Government, the County Executive, the County Assembly, Members of the National Assembly and the Senate as the ultimate oversight body in the county government. It is meant to ensure planning, coordination and prioritization of the development projects in the county. It was, therefore, found very appropriate that one organ that is a key player cannot be the one chairing and implementing at the same time. The Senate in its oversight role was, therefore, found to be the most appropriate body to chair the Board.

The Board does not take away any decision making powers vested in the governor, the county executive or the county assembly as constitutionally provided or provided by any other statute.

Fourth, at the moment, there are various development funds handled by different elected persons and entities from both levels of the Government within the county. It is only the Senators who do not have any funds assigned to them. Therefore, left uncoordinated and poorly planned for, they can fall to misuse and duplication of initiatives leading to inefficiency and at the very minimum, a waste of public funds.

The Board will provide a platform for consultation, planning, coordination and oversight with advisory powers, not compulsion or directive to the county government. It has, therefore, no direct role in the implementation of the programmes and projects at the county level.

Fifth, Article 6(2) of the Constitution provides as follows:-

“The governments at the national and county levels are distinct and inter-dependent and shall conduct their mutual relations on the basis of consultation and cooperation.”

Sometimes we seem to emphasize the word “distinct” without emphasizing the words “inter-dependent, mutual relations on the basis of consultation and cooperation.” This Board provides that mechanism in which the mutual relations can be conducted on the basis of consultations and cooperation. The Senate, therefore, is the only constitutional inter governmental institution. This Board provides a proper structural relationship between the Senate and the county governments as well as the national Government in order to facilitate access to information and, therefore, effective and qualitative oversight.

Finally, I wish to inform the public to realise and be aware that the constitutional responsibility of the Senate is to the people of Kenya in the counties and not simply to any particular entity including specific office holders like the Governors. Devolution has various actors and Governors must work with all the actors. Governors as the Chief Executives and the Deputy Governors as the Deputy Chief Executives do not have the monopoly on planning and policy making.

As provided for in the Constitution, they need input from the public and various stakeholders through participatory frameworks as provided for in this Board. In fact, the County Governments Act provides that a forum shall be created, and I think that this is the forum that was being anticipated by law. Thank you.

Sen. Billow: On a point of order, Mr. Speaker, Sir. I want to thank you for giving that communication. For a long time, this House has been taken for granted because of the fact that as Senators, we have always held ourselves in dignity and decided not to react to every statement or speech made in this regard to safeguard the dignity and respect of this House. I want to thank you because the points you have given, particularly the reasons behind that law are very noble indeed.

As we speak, many Kenyans, as a matter of fact are quite appreciative because of one important reason; that, our Constitution underlines one matter that is very important and this is consultation. In every Chapter of this Constitution, one thing that is emphasized is consultation; in the process of making laws, in making budgets, in integrated development plans and everything that has to be done, be it at the county level or at the national level, public consultation is critical. This law has brought together leaders of a county.

There is a perception that has been created by County Governors that hon. Members of Parliament; National Assembly and the Senate are not Members of the county. That is a notion that is going round. We are being referred to as the people of Nairobi and being told to leave alone the people of counties. Where did we come from? We were elected in those counties and represent the grassroots. We were voted for by the same people who voted for County Governors. So, this is a board that brings together Members of the National Assembly, Senators, MCAs and the other county government members who are the elected representation of the county. Those are the leaders who represent people in the county. It is incumbent upon those leaders to sit down, plan and prioritise development of their counties.

The Speaker (Hon. Ethuro): Remember you are on a point of order, Sen. Billow. Please, conclude.

Sen. Billow: Mr. Speaker, Sir, I will conclude. It, therefore, does not make sense for people to argue that those leaders who have been elected in the counties cannot--- The statement that you made makes it very clear that we have a responsibility and a mandate. We have a stake in the county in the same way that the county governments have. It is important that we have that board so that we can all share in the planning and development of our counties. We are not interested in running county governments.

Sen. Omondi: On a point of order, Mr. Speaker, Sir. I want to thank you for the communication. This message should go clearly to our Governors. They should not just look at the issue of finances as one way of violating the Constitution or going against the will of Kenyans. I want to tell them this afternoon that the Constitution is being violated in very many ways. We want it to be clear that the issue of representation of people with disability within county governments is wanting, right from the county assemblies up to the employment processes. These are the things that the Senate should be looking at.

The Senate, as the custodian of the county governments' interests, will be looking into these issues. So, it is very important for this Board to help us to look into details of how county governments are being run. We should put everybody on the board.

As a legislator with a disability, I am very happy. I support the Board to be in place. My prayers will be answered through these Boards. Issues concerning people with disability will be anchored through these boards. Agitating for people with disabilities within the county governments will be looked into.

I support.

Sen. (Dr.) Machage: Asante, Bw. Spika, kwa usia ambao umeutoa leo. Ilani imeshatolewa kwa muundo msingi ambao umewekwa wakfu hasa kwa kutekeleza na kuunda kamati ya halmashauri ya maeneo ya ugatuzi katika kaunti. Tunajua kwamba wiki hii, magavana walikutana na kuafikiana kwamba hawataheshimu wala kuhudhuria vikao vya kamati hii. Ningetaka wajue kwamba kuna sheria. Korti haijaamua kwamba sheria haitafanya kazi. Ni jukumu lao kuheshimu sheria. Jana, niliongea na Gavana wa Migori na hatukuafikiana. Alianza kuteta nami nikamwambia sheria ni lazima itekelezwe. Wakati wa mtu mmoja kuamua maendeleo na utekelezaji umepita. Tungetaka kuona Migori ikionekana Kenya nzima kwamba ina mipango kamili inayotekelezwa kwa utaratibu.

The Speaker (Hon. Ethuro): Hon. Senators, I want to urge that when we are in this kind of situation, please, do not deal with specifics. Let us deal with the general or the principles.

Sen. Mutula Kilonzo Jnr.: On a point of order, Mr. Speaker, Sir. I want to thank you for communicating to the public that whatever they are reading out there about county boards is completely false in terms of the law. I want to confirm that the county

boards comply with the law and that at no time, whatsoever, did this Senate pass any Bill that was signed into law insisting that we want to control funds.

In addition, it is fair that I saw that unlike what the nay-sayers are talking about, the National Assembly passed the CDF Act and sections 36 and 37 contain a committee known as the County Projects Committee. The County of Makeni proudly formed this Committee which includes the Governor. So, the model we have at the county level is similar to a law that already exists. Therefore, if that was assented to at that particular time, then the one that has been assented to by the President is also constitutional.

I urge Senators to go out there to educate the public. It appears that we, Senators, are supposed to do civic education on people who were elected if they do not understand what the law requires. If the County Governments Act says that the County Integrated Development Plan (CIDP) of every county will be done in public with all elected leaders, that is already an integrated plan. If we talk about spatial plans to be done with all elected leaders, I see no reason why somebody should think that this law specifically excluded Senators. If Parliament, in the last session, excluded Senators from management of counties and issues involving counties, nothing would have been easier than for the law to say so. It is fair that we tell the public that they elected us to participate in the projects.

Lastly, since this Senate has been given a very specific jurisdiction by the people of Kenya under Article 96 which is the “determination” – the word “determination” is very important because it is equivalent to the word “judgment.” If this is about passing judgment on how much money should go into each county, we have an equal right, if not a converse right, to go out there and find out how the money is being spent.

Hon. Senators, I would like to say, without fear of contradiction that we are within the law and should keep our heads high because it is this Senate that will save devolution in Kenya.

Sen. Mositet: Thank you, Mr. Speaker, Sir. I want to thank you for communicating to the nation. From the word go, I request, if possible, using the powers of your Chair that we put your statement in the dailies. The statement was quite clear and will clarify the falsehoods that have been preached out there. The public will also know the truth about this matter.

The whole country knows that this Senate is a House of wisdom. When the Board is formed at the county level, I have no doubt that for sure; we will defend our counties properly since we will know exactly what we are defending.

Once again, I want to thank you for that communication. I believe that those who had preached a lot of falsehood will read something from this.

Sen. (Dr.) Zani: Thank you, Mr. Speaker, Sir, for that very important communication. It is true that devolution has many actors and has been misinterpreted especially at the county level. This has been misinterpreted by the Governor to mean that devolution and development is their responsibility. This is the responsibility of the elected leaders, nominated leaders and that of all citizens. That is why at the various articles, participation is encouraged. For us, intuitively, this would be the only logical

forum where everybody can come on board at the county level. I suggest that a mechanism be put in place to ensure a broader participation from other stakeholders in whatever form possible so that everybody can come and dream about their county, plan and look at the development plans and look at ways of conceptualizing them and operationalising them. Finally, they should also look for a way to come back and see whether what they set out to achieve has been achieved.

If the dreams and ideals of our Constitution are to show that there is enough consultation, participation and accountability to be attained, then they cannot be attained in this Board. For a long time even as we began, the whole importance of the oversight role, especially that being played by the Senate was going to be very critical for us. I do not think we have any apology to make to anybody because we are the ones who are the custodians of our counties and we are taking up that responsibility. We are not doing that to please the Governors or anybody else. We are doing that because we are the Senate of the Republic of Kenya and we want to see devolution work. We want to see a difference in all the counties that have begun to dream. For the first time, some counties have actually begun to see a figment of development, courtesy of devolution. If it takes the County Development Boards to make that devolution work, so be it. Let those County Development Boards come on board and let us see the difference they are going to make.

Thank you.

Sen. Murungi: Mr. Speaker, Sir, I want to thank and congratulate you for the very clear statement that you have made regarding the boards. I think the Governors have misinterpreted their role in the counties. To exercise executive functions means that you are the person to implement. Issues about conceptualization; dreaming about the counties are for everybody. There is nothing which can prevent Senators, who are the most experienced politicians in the counties. It would be a tragedy to remove them from providing ideas about development of their counties.

I think this is a very good forum for us to meet with all the other leaders to share ideas. Once we agree on what should be done, the Governor can go and implement what we agree. I see it largely as a sitting room in your own house where the children sleep in their own bedroom or with their grandparents when they visit them and then we meet at the sitting room all of us. What there is now is that the Governor is hiding in his own bedroom, the County Commissioner is in his bedroom, the Member of the County Assembly (MCA) is in his bedroom, the Member of Parliament (MP) is in his bedroom, and none is coming out. So, what this forum provides is for all of us to come to the sitting room and discuss what is happening in our counties.

Mr. Speaker, Sir, we have had issues where one road is being done by the MP, the MCA comes and promises to do the same road and the Governor will still come and promise to do the same road. So, we are simply duplicating and overlapping resources because we are not talking. The purpose of this forum is really to streamline and make sure that there is sufficient use of resources and even the plans that are being made are plans that we have all agreed and they are sound.

Finally, we agree that the Governors are the drivers of the vehicle in the counties, but you do not just carry passengers merely because you are a driver. You have to talk to them, ask them where they are going and where they would like to alight. It is not just because you are a driver you have to drive and nobody else should talk to you. This is a forum for us to discuss the destinations we want to go to. It is for us to advise the driver whether he is driving too fast or too slow. That is why we are saying that let us not have a monopoly of ideas; let us share.

Thank you.

The Speaker (Hon. Ethuro): This sounds a bit popular, so limit your contributions to a maximum of two minutes.

Sen. Khaniri: Mr. Speaker, Sir, I want to join my colleagues in thanking you and congratulating you for the very well thought out communication that you have made to this House and the nation at large. This goes a long way in correcting the falsehood that has been created out there that the Senators want to usurp the powers of the Governors and be in charge of funds. Nothing could be far from the truth. On the contrary, we do not want to be in charge of any funds. We know our constitutional role is legislation and oversight and we will stick to that.

It is so refreshing to hear from Sen. Mutula Kilonzo Jnr. the assurance that we were perfectly in order and the Bill that was passed that is now an Act is constitutional. Article 96 (1) of our Constitution tells me that the Senate represents the counties and serves to protect the interests of the counties and their governments. How am I going to protect the interests of what I do not know? The purpose of this Board is to create a nexus. This was the missing link. As I come to the Senate in Nairobi to represent my county in Nairobi, I need to know what is happening on the ground. There is no other forum that makes me meet my Governor and the other leaders in the county other than this Board. So, we want to tell them that this is perfectly in order. If there is anything they were trying to hide, their days have come to an end. We are there and they have to know that there is a new Sheriff in town. We will not relent on our constitutional duty of ensuring that devolution works. That is our duty and we will do all we can to ensure that Kenyans reap from the devolution that they voted for.

Thank you.

Sen. Hargura: Mr. Speaker, Sir, I would like to join my colleagues and thank you for giving this very elaborate communication to clear the air of the misconception that is being spread around mainly by the Governors. We voted for a Constitution which came up with the devolved units of governance and we have counties in place. What Kenyans wanted was to bring the services closer to them and decision making to also be done by them. We have heard one year and we all have our experiences. We have a situation where county governments are in place, we have funds going to the counties, but what we had been complaining of at the centre is actually now happening at the counties. We have had the Executive at the national level making decisions without consulting the ground. Now we have brought the funds and a government at the county

level, but for the last one year, what we have experienced is a situation which might even be worse than the national Government. At least, the national Government has been giving its Printed Estimates. We have cases where you cannot even access the budget that the Governor is implementing. It has become a secret weapon. They go around holding *barazas* and making promises whereas the elected leaders have no input. You cannot even get the printed estimates of what they are going to implement that year.

I think the direction the county governments had started to take was very wrong because we were devolving the funding whereas the participation of the public and the elected leaders was lacking. It is good that this Act is in place from the experience we got. They should let everybody participate in the development of the counties.

Sen. Murkomen: Thank you, Mr. Speaker, Sir. First of all, I would like to congratulate you for giving a well thought out, intelligent and very solid statement for posterity. You never disappoint in this House. Every time the occasion presents itself, you are always being that great Speaker - and lawyers know that there was a renowned judge in the House of Lords called Lord Denning who always never disappointed. You are the Lord Denning of this House.

I would like to, first, say that when the people of Elgeyo-Marakwet elected me to be a Senator, the issues that we presented to the people as to what the county would do to them, we never presented to them abstract issues. We talked about roads, water and other development. It can never be an excuse for my people that if I visit them this weekend, that I go and tell them that I do not know what is happening in the county; that if they ask how far a certain road construction or a water project has reached, I tell them that I do not know. This business of passing the buck between this leader and the other leader will come to an end because then the leaders will have what we can call a global picture of what is happening in the county and, therefore, accountable to the people out of knowledge.

Mr. Speaker, Sir, this Senate in Article 96 is the umbilical cord between the county governments and the national Government. There is no way the county can be fed without the cord being able to connect the food from Nairobi to the various parts of the county. You cannot tell me that it will be wrong for me to send food to children who are at the local level and you tell me not to ask whether the food is being eaten by the children or the housemaid. We have to sit down and make the decision together. The greatest beneficiaries of this law are the Governors, because in the absence of information by the other leaders, it has forced in the last one year--- Without mentioning the particular counties, there are some counties where some Senators, MCAs or MPs are organizing protests against the county government. That will be something of the past because now you will have an opportunity to table the issues and correct them before you can go to the streets and say that you are protesting against the county government. That process of going to the streets will be the last resort because the leaders will have an avenue to have their say. This forum is a peer review mechanism where all leaders come together. Why

should the Governor complain if the MP does not complain and yet the projects being run by CDF and others will be discussed? We must look at it from that perspective.

Finally, devolution is like a football team and as you said, it has many actors; the goalkeeper, the defenders, the strikers and the mid fielders. You were such a wonderful player when you played the last time on behalf of the Senate. In fact, the person who scored the goal for Senate against the National Assembly was not a striker. It was Sen. Madzayo who had the responsibility to play in position five and six. When I made the corner kick, he headed the ball to the goal.

(Laughter)

Because this was a team, the objective was to score and the goal we want to score in this country is the goal of development. Sometimes the only goal that is scored is scored by the defender and the Constitution says that we are the defenders of the counties. Who said that we cannot score goals? We have the capacity, the capability, the knowledge and the wisdom that can be tapped from these Senators that can be of immense benefit to the country and to the counties.

Thank you.

Sen. (Eng.) Muriuki: Thank you, Mr. Speaker, Sir, for that communication and also to bring two aspects on this County Development Board which have not been much talked about. We are all on a five year mandate including the Governors. Some of the very good programmes that the Governors may have, we wish them well, but not all of them are going to find their way back to their seats, and each one of them would wish to see the programmes that they started still progressing even when a new Governor takes office. Unless there is a body of leadership in that county which can ensure that the development which started with the last Governor is still continuing, there will come in another Governor who will rubbish it. At the same time, none of the current Governors, just for the record are going to be there ten years from today.

It, therefore, means that some of the programmes which the county governments will be doing are long-term; well past their five-year mandate. As per the Constitution, wananchi can say whatever they want or through their leaders. The body which will ensure that the aspirations of people continue from one regime of governorship to the other is the County Development Board.

Mr. Speaker, Sir, if the Governors were to get it clear, they would support this board more than anybody else, because it is the one which will safeguard their legacy long after they have gone, so that the incoming county governments do not rubbish what they were doing.

Thank you, Mr. Speaker, Sir.

Sen. (Prof.) Anyang'-Nyong'o: Thank you, Mr. Speaker, Sir. When we were going for elections last year, there was a general belief in the Republic of Kenya that Governors should be people with managerial capabilities. It was a general assumption

that Governors should be professionals. If you read Article 179 of the Constitution, it says that the executive authority of the county is vested in and exercised by a county executive committee. The chief executive of that executive committee is the Governor and the deputy chief executive is the Deputy Governor.

Mr. Speaker, Sir, if you look at a corporation like Kenya Airways, you will find that the Chief Executive Officer (CEO) is Mr. Naikuni. Then he has a Board of Directors which is chaired by a chairman, without necessarily keeping way the CEO as a member. Now, I liken this County Development Board to a board of directors; the owners and runners of the company. The executive function of running that company is given under Article 179 of the Constitution. You cannot possibly be a CEO and then chair the board of directors. It happens nowhere, because you need the board of directors to give you advice. If you look at the amendment to the Act, it says exactly that this board is an advisory and consultative board that facilitates participation of the directors in one kind of consultative meeting. Nowhere in this amendment does it say that this board assumes executive powers. I have not seen it.

Secondly, there has been a rumour going on that Governors are secretaries. What I see in the amendment is that the Governors are deputy chairpersons. In their absence, the Deputy Governor becomes the deputy chairperson. If the Chairman is not there, they assume the Chair. So, this amendment is so democratic and fair that to subvert it by rumours and innuendos means that the Governors fear to be advised and consulted. This is completely against the Constitution because participation and consultation is enshrined in the same Constitution. So, I think that it should be made very clear to the Republic of Kenya that this amendment and mediation was done by people who are very well informed about the Constitution and have good intentions for the counties.

Mr. Speaker, Sir, I think that we stand on very good grounds and by your encouragement, we should go ahead and start this process. I am quite sure that right thinking Kenyans will realize that what we are dealing with is some kind of impunity. As Ayi Kwei Armah said “the beautiful ones are not yet born,” I am beginning to feel that with regard to impunity, the guilty ones are not yet born. This is because those who are guilty do not seem to accept that they are guilty of certain things and they go on rooftops and claim their innocence when their intentions are quite wicked.

Mr. Speaker, Sir, I would like to appeal to my fellow Governors that we mean very well. We want to consult and advise. In the final analysis, as many Senators have said today, this board is going to be very useful to them in terms of improving their executive functions and having a sounding board, to find out what it is that may be going wrong in the counties that can improve efficiency, engagement, feedback and make sure that they link up and connect with the electorate.

Thank you, Mr. Speaker, Sir.

The Speaker (Hon. Ethuro): Senators, time is not on our side. I think that we have ventilated on this matter. It was a Communication from the Chair and not a debate. So, if the remaining ones can be very brief, I would really appreciate.

Sen. Kembi-Gitura: Thank you, Mr. Speaker, Sir, for the Communication that you have made from the Chair. As it is published today and tomorrow, the nation will understand better the truth about what is happening about the County Development Boards.

Mr. Speaker, Sir, an example has been given about a board of directors and the one that we have formed. A simpler example closer home would be a board of management in a high school. The principal is the chief executive officer of a school, but the chairman with the board of management directs generally what is going to be done in that school. That is all we are asking. I wish the Governors had come to Mombasa when we had a seminar last week. If they had shared with us, they would have understood that we have no interest in the executive authority of a county, because we know that the Constitution gives that to the Governor. All that we want is to see that things are being done correctly in the counties.

The Governors are going to come up with the issues of separation of powers and say that we are interfering with their executive authority. But that is all pretence, because, first of all, there is no clinical separation of powers that is going to keep a player, like a Senator of a county, from wanting to know and see how things are done in the county. That is why we want to disabuse the notion that Governors have; that Senators have no role to play in the events of a county and our work is to remain in Nairobi to make laws. But Article 96 is very clear. It is futile for anybody to think that we can be making laws and passing the Division of Revenue Bill and the County Allocation of Revenue Bill and then, allowing the counties to spend the money the way they want without any oversight from the Senators. I am a strong believer and proponent that our role as Senators is both collegial as a House of Senate and also individual in wanting to follow up and know what is going on in the counties.

Mr. Speaker, Sir, I was very amused to see one or two Governors saying that because of this, they are going to do a referendum for the abolishment of the Senate. This clearly tells me that they do not understand devolution and what their roles are. This is because without the Senate and county governments, there cannot be any devolution at all. I think that there needs to be civic education. People need to understand that all we want to do is to see that the correct thing is done. I want to reiterate what one Senator has said; that this actually goes to underline and help the Governors in the governance of counties. With these boards sitting, there will be very few cases of impeachments of Governors. This is because we shall all be there and deciding or advising generally what needs to be done. We shall be oversighting with the full knowledge of what is going to happen. As a result, most Governors will do their work more proficiently and there will be less corruption in the counties.

Mr. Speaker, Sir, finally, like I have always said, democracy is always work in progress. It is not a finished product and, therefore, we cannot say that it must be clinical; this or that. Our interest is the development of the counties, which is going to spur development of this nation and bring us closer to realizing Vision 2030 much earlier.

Thank you, Mr. Speaker, Sir.

VISITING DELEGATION OF PUPILS FROM TANGUL
PRIMARY SCHOOL AND MARELL ACADEMY

The Speaker (Hon. Ethuro): Before I call the next speaker, I wish to inform the House, in the spirit of even the Communication that I have made and as a national institution that is mandated by the Constitution to engage in public participation, that in the Public Gallery, there is a delegation of students from Tangul Primary School in Elgeyo-Marakwet County. We wish to welcome them to the Senate and confirm that their Senator is in the House.

(Applause)

Before then, there was a delegation from Marell Academy in Bungoma County. We also need to applaud them after they have left. They have to take turns because of limitation of space. We also want to confirm to them that their Senator is in the House and working very hard. He is part of the leadership of the House, specifically, the Senate Minority Leader.

(Applause)

Sen. Sang: On a point of order, Mr. Speaker, Sir. While appreciating the gesture that you have just showed to my good friend, Sen. Kipchumba Murkomen and the Senate Minority Leader, the whole of yesterday and Tuesday, we had serious delegations from Nandi County. It is unfortunate that the Chair did not recognize them, particularly on the very nice compliments that you have shared that their Senators are part of the leadership of the Senate, present in the House and actively contributing, I believe that I should have also benefited from those compliments.

(Laughter)

The Speaker (Hon. Ethuro): Order, Sen. Sang! First, it was not brought to the attention to the Chair that you had those delegations. I would gladly have done so.

Secondly, Sen. Sang really needs no introduction. I think that this country knows Sen. Sang. The communication is about Sen. Sang and the County Development Board is about Sen. Sang. The issues canvassed at the High Court are about Sen. Sang. You have sufficient opportunities to be recognized but we take your sentiments. In future, if there are delegations visiting the Senate, let the Chair know and we will acknowledge them accordingly.

The Senate Majority Leader (Sen. (Prof.) Kindiki): On point of order, Mr. Speaker, Sir. We are proceeding well, but I was wondering, given that we have an equally important Motion by Sen. Khalwale this afternoon, if it would not be in order for my colleagues who would want to contribute to defer that contribution, because most of what we are saying now falls squarely within the relevance of that Motion. I seek the indulgence of my colleagues and the direction of the Chair.

The Speaker (Hon. Ethuro): I agree completely and will ask Sen. Muthama to indulge the House. I will give those who want to speak priority. For clarity on my list, so that if I depart I shall immediately be alerted and held responsible, I have Sen. Muthama, Sen. Wako, Sen. Melly, Sen. Wamatangi, Sen. Mong'are, Sen. Kanainza and Sen. Hassan Omar. You will get an opportunity during Sen. Khalwale's Motion on priority basis.

Priority will then depend on certain circumstances; one, the Mover must move the Motion and the Seconder must be there to second. The Senate Majority Leader and the Senate Minority Leader must have their rightful places under the heavens. So, we will proceed accordingly if priority is not in a vacuum to overthrow the proper ordering of nature.

So, let us move on to the next order. Chairperson of the Finance, Commerce and Budget, this is a procedural matter. Therefore, we should minimize the contributions. Sen. (Dr.) Khalwale's Motion is where we expect a bit more of debate.

MOTION

ADOPTION OF REPORT ON THE CASH DISBURSEMENT SCHEDULE FOR THE FISCAL YEAR 2014/2015

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

THAT, this House adopts the report of the Standing Committee on Finance, Commerce and Budget and, pursuant to the provisions of Section 17(7) of the Public Finance Management Act, the Senate approves the County Governments Cash disbursement schedule for the Fiscal Year 2014/2015 laid on the Table of the House on Wednesday, 6th August, 2014.

Mr. Speaker, Sir, this Cash Disbursement Schedule has been prepared and submitted to the Senate pursuant to the provisions of Section 17 of the Public Finance Management Act (PFMA). This Schedule is prepared in accordance with the revenue sharing formula as required by the PFMA. Every year, once the County Revenue Allocation Bill is passed, this schedule is prepared by the Treasury. It is the one that is used to transfer funds to the county governments.

Last year, Mr. Speaker, Sir, I want to appreciate the Treasury because they transferred all the disbursement to the county governments as required by law. The requirement by law is that by 15th of the preceding month, the money must have been

transferred. Indeed, we will all appreciate that as at 30th June, in the last financial year, county governments had money in excess of Kshs40 billion in their accounts. This is clear evidence that the Treasury transferred money to all counties.

Mr. Speaker, Sir, I want to encourage hon. Senators to familiarise themselves with the schedule which is on the Order Paper. This one shows three different funds being transferred. There is the equitable share of revenue which every county is entitled to and which is disbursed on monthly basis. Since we are already in August, the allocation of July is spread out in the month of August and the balance in the other month. In the 11th month, up to June next year, the entire equitable share for the county will be included on this schedule.

Mr. Speaker, Sir, the second item shown again on the schedule is the money for Level 5 Hospitals. This is for the 11 counties that have Level 5 Hospitals. The amounts for Level 5 Hospitals are also spread out on monthly basis in the schedule. Third, there is county allocation for health facilities.

Mr. Speaker, Sir, this is a conditional grant that is given by donors of about Kshs732 million. This is also shared out to all counties. This is disbursed to counties on quarterly basis. If you look at the schedule for Baringo, for example, you will find the equitable share there. You will also find the one for health facilities of Kshs23 million which is disbursed on quarterly basis for four quarters. That is the schedule. On monthly basis, you will find some variance between the months depending on the performance trend of revenue at the Treasury. So, in months where revenue collection is perceived to be better, then the allocations are higher. If you look at the second page, you will find that the total disbursements to the county governments are Kshs229,263,650,000. This is when you take all the three, the Kshs226 billion of the equitable plus the Level 5 Hospitals plus the county health facilities. So, all the totals are there. This is the schedule that the Treasury is expected to comply with.

Mr. Speaker, Sir, the Treasury has published, on monthly basis, when they will do the disbursements. That publication is also very important. I want to encourage the Treasury to continue publishing the disbursements or transfers that they have made so that the Senate and other users or stakeholders in the counties can know how much money stands in the account of a particular county. The publication of these disbursements is very important.

Mr. Speaker, Sir, I want to urge Members of the Senate to take note of this money. If this money is not spent, you will find that, at the end of the year, there will be billions of shillings being held in the accounts of the county governments. At the end of the month, if you find billions of shillings being held, this also means that, perhaps, there are challenges with regard to procurement and expenditure management. It is important for Members to know that.

Mr. Speaker, Sir, now that we are sending this money every month, no doubt that counties will get their money. Hon. Senators need to be concerned about accountability. We did not set up the County Public Accounts and Investments Committee (CPAIC) in

vain. When the Auditor-General submits his report, the CPAIC examines the report and obtains the information that they need.

Mr. Speaker, Sir, the challenge we have today is that the county governments are challenging the Auditor-General's Report. They have even challenged the report by the Controller of Budget. They have challenged even when they have been summoned by the Ethics and Anti-Corruption Commission (EACC) by going to court. If you do not accept accountability or oversight by Parliament or by constitutional commissions or independent offices, then that clearly means that you want to set up a situation where you want to be your own judge, prosecutor and to be completely independent.

Mr. Speaker, Sir, some of us in this House, contrary to what some county governors are saying, pioneered the Constitution that brought about devolution. In fact, we spent two years at the Bomas trying to come up with this Constitution. Our main focus was the issue of devolution. When we came up with devolution, it was not the intention of the framers of the Constitution to replicate the functions of the national Government. It was not the intention of the framers of the Constitution to replicate the wastage, inefficiencies, corruption and mismanagement that we have seen in the national Government in the last 50 years in the county governments. That was not the intention.

Mr. Speaker, Sir, we do not want to do things, therefore, the same way they are being done at the national Government. If any county governor thinks that he has his own county government, he is independent and they are above accountability and reproach, then they are missing the point. This House is the one that determines how much money each county government receives.

Mr. Speaker, Sir, this House and the National Assembly are the ones that determine the resources that go to counties. In the same way that we allocate resources, we also have responsibilities under Article 96(3) of oversight. Governors should not miss that point. The point is that our work is not simply to allocate resource.

Mr. Speaker, Sir, under Article 96(3), it is also our mandate to oversight them and to hold them responsible. I want to be brief and say that Sen. (Dr.) Khalwale's committee should exercise the same commitment that the Senate exercises in increasing allocation. This must be matched equally to accountability. We, as Senators, must not focus only on the aspect of making sure that resources go to the counties. I want Members here to spend time thinking that they will be held by Kenyans responsible; for accountability for money that will go to counties. That is important.

Mr. Speaker, Sir, I expect the Committee of Sen. (Dr.) Khalwale, going forward, to submit reports to this House on the audit reports that they have examined. That is one of the mandates that we need to exercise. We must start cracking the whip. In cracking the whip, we must start to apply the provisions of PFMA. That Act has wide ranging provisions for controlling money spending in the county government and the Senate has a major role in that regard. We must start cracking the whip.

Mr. Speaker, Sir, I do not want to anticipate debate, but I think it is now time for this House to say no to some issues. If you do not comply, if you are not accountable, if

you do not accept to be invited by the Senate, then there is no way you can be sent money and be given a freehand to spend it the way you want.

Mr. Speaker, Sir, I want Members to approve this schedule. It is important that it is passed because it will enable the Treasury to disburse money in accordance with it.

Mr. Speaker, Sir, with those few remarks, I beg to move and request Sen. Mutula Kilonzo Jnr. to second.

Sen. Mutula Kilonzo Jnr.: Thank you, Mr. Speaker, Sir. First and foremost, I would like to thank the Committee on Finance, Commerce and Budget. I must say that they have done a good job on the Division of Revenue Bill, the County Revenue Allocation Bill and now on the Cash Disbursement Report.

Mr. Speaker, Sir, if there was any notion that the Senate of the Republic of Kenya intended to allocate itself funds, this schedule proves otherwise. In fact, this Senate is approving the disbursement of cash schedules monthly including the Conditional Allocation of Kshs733 million and the Level 5 Hospital funding to counties.

In doing so, Mr. Speaker, Sir, in this financial year, this Senate has fulfilled its mandate in full. This schedule could not have come at a better time when we have formed the county boards. Every Senator here should carry the schedule to the first meeting so that we tell the public that every month; their counties will be receiving certain funds.

Mr. Speaker, Sir, as we do so, I propose that we should find a method of disseminating this information to our counties so that people whom we represent can be sure that, in fact, counties have funds allocated to them every month until the end of next year. When we hold governors to account, we will be using this schedule to tell the people we represent that money is available. Therefore, there is no excuse why counties should not have development and people should not lack medicine or other facilities in hospitals in the Republic.

Mr. Speaker, Sir, with those remarks, I beg to second.

(Question proposed)

The Speaker (Hon. Ethuro): Hon. Members, since there no more interested contributors, I would, therefore, put the Question. This is a matter affecting counties because even from the wording of it, you cannot escape from that fact.

Sen. (Dr.) Khalwale: On a point of order, Mr. Speaker, Sir---

The Speaker (Hon. Ethuro): Sen. (Dr.) Khalwale, I can help you. We can push the voting together with the next one.

Sen. (Dr.) Khalwale: Exactly. That is what I wanted to ask for under Standing Order No.90.

The Speaker (Hon. Ethuro): I read your mind.
Next Order.

MOTION**STOPPAGE OF TRANSFER OF FUNDS TO COUNTIES DUE TO
GOVERNORS' FAILURE TO HONOUR SENATE SUMMONSES**

Sen. (Dr.) Khalwale: Mr. Speaker, Sir, I rise to move the following Motion:-

THAT, pursuant to Article 96(1) of the Constitution, the Senate represents the counties and serves to protect the interests of the counties and their governments, AND WHEREAS, pursuant to Article 96 (3) of the Constitution, the Senate exercises oversight over national revenue allocated to the county governments,

AND FURTHER WHEREAS the County Public Accounts Committee is mandated under Standing Order No.212 (3) of the Senate Standing Orders to amongst other things-

- (1) exercise oversight over the national revenue allocated to the county governments pursuant to Article 96 (3);
- (2) examine reports of the Controller of Budget on the implementation of budgets of the county governments pursuant to Article 229 (6) of the Constitution and
- (3) examine reports of the Auditor-General of the annual accounts of county governments, Article 229 (7) and(8);

AND PURSUANT TO Article 125 of the Constitution, the Senate Public Accounts Committee invited the following Governors in their capacities in accordance with Article 179 (4) of the Constitution as the Chief Executive Officers of their respective counties to appear before it to respond to audit queries raised by the Auditor-General, pursuant to Article 229 of the Constitution-

- (1) Governor Isaac Ruto of Bomet County;
- (2) Governor Jack Ranguma of Kisumu County;
- (3) Governor William Kabogo of Kiambu County
- (4) Governor Mwangi wa Iria of Murang'a County;

AND WHEREAS, despite invitation by the Committee, the said Governors who were dully invited have failed and or refused to appear before the Committee to answer the respective audit queries raised by the Auditor-General with respect to whether or not public monies have been applied lawfully and in an effective manner by the respective county governments;

NOW THEREFORE, the Senate resolves that pursuant to Article 228 (4) and (5) of the Constitution, the Controller of Budget should not authorize any withdrawal of public funds by the following county

governments until the county governments have responded to the audit queries to the satisfaction of the Senate-

1. The County Government of Bomet;
2. The County Government of Kisumu;
3. The County Government of Kiambu; and,
4. The County Government of Murang'a; and the national Treasury, pursuant to Article 225 of the Constitution and Section 96 of the Public Finance Management Act, 2012 shall stop forthwith the transfer of funds to the said county governments.

Mr. Speaker, Sir, may I clarify that the Notice of Motion which I gave and, in consultation with you, I have moved the Motion in its amended form by adding the last sentence. I will be very brief.

Mr. Speaker, Sir, this is a matter which is very clear to all the Senators in view of what has been going on in the public domain. I just want to give evidence that the Committee on Public Accounts and Investments has tried again and again to accommodate them, but they have refused. Starting with the County Government of Kisumu, the Committee has invited the Governor severally and I want to table evidence in letters dated 10th June, 5th June, and again, 5th June and 9th July. In all instances, Governor Ranguma has defied. What is most shocking about Kisumu is that when the Governor refused to come he sent the Secretary of the County Executive Committee (CEC) and the Secretary misled the Committee.

Mr. Speaker, Sir, in the first incidence, he told us that the reason the Governor was not coming was because he was bereaved. When Sen. Wako pinned him down to bring evidence of demise of the said relative, and upon realizing that the matter was becoming very serious, he quickly moved away from bereavement and now talked about copies of letters that had been sent to your office and the office of the Clerk of the Senate. We dismissed them and made the recommendation which will come in our final report. We said the expenditure by the county government on the delegation that came to tell us that the Governor was bereaved amounted to wastage and we concluded that he be surcharged for the cost of that trip.

Mr. Speaker, Sir, the second group of documents is our efforts to get the Governor of Murang'a. He was communicated to through letters written on 5th June, 10th June, 19th June and 9th July, but he did not come. We invited Governor Isaac Ruto through letters written on 5th June, 12th June, 19th June and 14th July. In this particular case, the day the Governor was meant to come before us, he chose to go for a live talk show on one of the media stations where he categorically said as he repeated in the letter written to you that he has directed all the governors never to honour summons to this House. He went further to mislead us by referring to the decision of the High Court sitting in Kerugoya. He alleged that the High Court sitting in Kerugoya absolved them from the responsibility of appearing before this Committee. This Senate is well aware of what the Kerugoya Court said. It said that Senators must oversight governors.

He went further to mislead the public that when the governors went to the High Court for interpretation to see whether they could be summoned to the Senate, that the High Court ruled in their favour. However, he again contradicted himself very quickly in the same letter, by saying that following that High Court ruling which purportedly ruled in their favour, they have gone to the Court of Appeal. So, if they had gone to the Court of Appeal and yet the High Court had ruled in their favour, what were they going to do in the Court of Appeal? It is because during interpretation, the Senate is perfectly in order to summon them.

Mr. Speaker, Sir, the evidence in the case of Governor William Kabogo shows that he has been really headstrong. He not only has defied, but he has even written letters to us, warning the Committee and by extension the Senate. I want to give evidence in letters written on 5th June, 16th June, 10th June, 19th June, 25th June, 14th July, 16th July, 31st July and 18th July. In one of these letters written to us by Governor Kabogo, the Clerk had reminded him that we will be left with no option, but to proceed under the provisions of Article 125 of the Constitution that when it comes to invitations to come before the Senate, Parliamentary business takes precedence over any other business. Governor Kabogo wrote to us and warned us to realize that he is a Government and, therefore, the Senate cannot purport to say that the business of the Senate supersedes the business of his Government.

I, therefore, want to request that we all support this Motion because of the success in Nigeria. In Nigeria, when devolution came for the first time, up to five Governors were jailed, but after that lesson, devolution has been working in Nigeria so well that Nigeria has now overtaken the great South Africa as Africa's first economy; thanks to devolution. If we, as Senators, put our foot down, not only by passing this Motion, but by also stepping up our oversight mandate and stepping up our positions as Chairpersons of the County Development Boards, devolution will work. I am sure Kenya will overtake South Africa and Morocco and become Africa's second largest economy.

I beg to move and request the Vice Chairperson of my Committee, Sen. Hassan to second the Motion.

Sen. Hassan: Mr. Speaker, Sir, I rise to second this Motion, because I think at this point in time, devolution should have been seamless; Governors should have respected the authority of the Senate and the Senate would be facilitating the development agenda of our counties.

Mr. Speaker, Sir, let me also take this opportunity to also state my case. I have tirelessly tried to work with my county Governor to ensure that we meet the objectives and the vision of devolution. In doing so, I have tried to build a very harmonious and cordial relationship within the County of Mombasa. I did this with the full knowledge that it is imperative that the governors and the Senators must work together to ensure harmony in devolution as critical in ensuring that devolution succeeds.

Mr. Speaker, Sir, as the Vice Chairperson of this Committee and other Committee Members, we can attest to the fact that we have been dragged through one instance of

adjournment to another. It has been an expensive affair both in terms of the time, travel and convenience of the Senate. Some of these adjournments or lack of presentations to the Committee are done in total disregard of even decency and courtesy, where somebody would communicate in good time. Officers of the county assemblies or executive will allude to a myriad of excuses as to why some of the governors are unable to attend the sessions of the Committee.

Mr. Speaker, Sir, governors must realize that even their executive functions come with responsibilities. Kenyans must hold them to account and one of the institutions provided to hold governors to account is the Senate. We have the responsibility over the resources that are utilized in the counties. In that regard, this Senate cannot abdicate its own mandate. The Senate will ensure that governors account for every resource and penny that comes from the taxpayers.

Mr. Speaker, Sir, it would be a travesty or tragedy to the very public trust that we have for governors to continue to avoid spheres of responsibility and expect monies to keep flowing to them. This action which has been proposed by the Chairperson of our Committee is one of those areas where we are trying to fully appreciate the provisions of the Constitution, where the Senate and Parliament in its totality can assert its authority over people who think that this devolution was just about giving them positions without responsibility and accountability.

Mr. Speaker, Sir, I particularly chaired the session when the Governor for Murang'a was expected to appear before us. In our usual decorum in the Committee, we invited the Senators from that county. There was Sen. Kembi-Gitura, who is also the Deputy Speaker and Sen. Martha Wangari who is a Nominated Senator. They appeared before that Committee, simply as a matter of courtesy to ensure that we had the kind of collegiate responsibility moving forward. However, we were treated to a myriad of excuses. We did believe at that point in time that it was not intentional and we extended an olive branch and other invitations to the Governor. But, again, these invitations were futile. I, therefore, wish that this Senate considers this Motion. This Motion should be acted upon with immediate effect, as is the provision of the Constitution, so that further transfer of funds to these particular counties of Bomet, Kisumu, Kiambu and Murang'a is stopped, until such time when the monies that were given in the previous financial circle are accounted for. We, as the Senate, and other authorities, including the National Treasury, should be satisfied that due diligence and accountability has been given with regard to the monies allocated to those counties.

Mr. Speaker, Sir, this is not to mean that we, as a Committee or Senate, are on a war path with governors. If anything it does not take away the fact that the governors and Senators have certain responsibilities. This is simply a measure that is provided in the Constitution. This is because the drafters, in their wisdom, did anticipate that there might be a time when governors will decide not to appear before the Senate or other Committees or institutions that are duly charged with the care of the monies of this Republic. It is in this contemplation, therefore, that the Constitution did make available

certain sanctions. It is important for us to apply these sanctions, so that in future, governors and other people who are given public trust, will realize that there are accountability machineries that are provided for within the Constitution which must be respected.

Mr. Speaker, Sir, based on the evidence that has been tabled here by the Chairperson of the Senate Public Accounts Committee, it is imperative that we consider this resolution, ventilate on the issues expressed therein. In that regard, we should also ensure that we send a polite, but firm constitutional message to other governors, that the Senate shall assert its authority and where necessary, act in such a manner that will take the national interest. For us, it is in our interest to protect the resources of the Kenyan taxpayers.

Mr. Speaker, Sir, I beg to second the Motion.

(Question proposed)

Sen. Wamatangi: Thank you, Mr. Speaker, Sir. Today is, indeed, a very sad day for the people of Kiambu, this Senate, the Republic of Kenya and devolution. It is, indeed, heart-wrenching that the mother, father and protector of devolution has had to turn to pinching the child to enforce compliance.

Mr. Speaker, Sir, even more unfortunate, is that the people who are bound to suffer from this move are the innocent *wananchi*; the taxpayers who everyday struggle in their businesses and activities. Some of them are farmers who eke out a living honestly. They participated in the elections and elected leaders in full and firm faith that those leaders will represent them properly, adequately and competently.

Mr. Speaker, Sir, just two days ago, when we were passing the County Allocation of Revenue Bill, as the Senator for Kiambu County, I lamented and made my concerns known to this House and the country at large, on the fact that on the allocation to Level 5 Hospitals, the Thika Hospital in Kiambu had a reduction of Kshs300 million from the last allocation. Against a budget of Kshs500 million, we were allocated Kshs87 million for Thika Level 5 Hospital. I declared here and do so one more time that there will be a crisis in that hospital, as there will be in other hospitals in the whole country. We need to be very clear and articulate on this, as we address the matter. First, I want to apologize to the people of Kiambu County. In my capacity as the Senator of Kiambu, I also want to assure them that I will endeavour and search high and low to make sure that they get their allocations, so that this fate is not suffered by innocent people.

As I listened to the Chairperson of the Committee on Public Accounts and Investments reading out the allegations against my county and nine invitations which have been issued, it left me as the Senator in a very compromised situation. However, I want to take this opportunity to say to the people of my county that, indeed, the window is not closed. There is hope and a remedy if the county government, especially the Governor, county executive member in charge of finance and the county assembly, will

urgently and expeditiously move to make sure that they comply to come and answer to the audit queries which have been raised by the Auditor General. I am sure when the other allocations for the rest of the country is being disbursed, the allocations for my county will also be released.

Mr. Speaker, Sir, it is also important for us, as a House, to clear and inform the governors that, indeed, when they are invited to appear before this House or the Committees of this House, they are invited in their capacities as public servants and not in their private capacities. So, the issue of maybe asserting authority or ego does not arise. They need to appear here, as they said to the people when they got elected and promised to serve them. It is also imperative on this House to make sure that we send a clear message that politics must be divorced absolutely from the management of the resources and leadership of the county.

Mr. Speaker, Sir, it is more important that politics are divorced from the management of the resources and leadership of the county. I pose a tricky question to this House which we must deal with urgently. When we went for the last elections, most of the citizens of this country were asking whether it would serve us right to elect governors from the political class. This is still the question that is arising. The role that is given to our governors is purely managerial.

Mr. Speaker, Sir, It is a CEO's role to manage the resources of the county. That is why they have been given a county assembly to deal with legislative issues. Unless, in their attitude and approach, they clear this in their minds, this may continue to be an uphill task even for the people who pay taxes. I want to decry the suffering of the people of Kiambu and the entire country as of now who will not receive their allocations as required in good time. I, as the Senator, will endeavour to ensure that is done in a hurry. When the Auditor-General---

Sen. Muthama: On a point of order, Mr. Speaker, Sir. I stand on a point of order to request if it is possible that we reduce the time from ten minutes to five minutes, so that everybody can have a chance. If possible, let us have less than five minutes.

The Speaker (Hon. Ethuro): That is a very good idea. The next speaker will take five minutes or less.

Sen. Wamatangi: Thank you, Mr. Speaker, Sir. I was on my last issue. The last report that was tabled by the Auditor-General to that Committee said that the only county that has complied with the requirements in the whole country, out of the 47, is Kwale County.

I want to urge that in the interest of fairness and justice, every other county that will not satisfy the threshold that has been set by this committee should also suffer the same fate. I hope that eventually, after compliance, this House will make sure that it protects the counties. I also urge that we do everything that we can, under your leadership, to ensure that this impasse is resolved urgently and that there will be no suffering at the county level.

Sen. Melly: Thank you, Mr. Speaker, Sir, for giving me an opportunity to make my contribution to this Bill and also to thank the Senator for Kakamega, Sen. (Dr.) Khalwale, for bringing this Bill. First, the principle of accountability does not apply to only one section of people. It cuts across every leader, whether you are a Governor, Senator, MCA, Member of Parliament or CEC. All of them remain accountable with regard to public money.

Secondly, this should be very clear to governors that we are not in the process of witch hunting. A number of times, we have heard governors saying that the Senate is killing devolution. A number of times, this has been said in meetings and through newspapers. They say that Senators are killing devolution. When the County Public Accounts and Investment Committee (CPAIC) summons a governor to answer a question or queries regarding expenditure of money, do we say that the Senate Committee is trying to kill devolution? In any case, when a governor is called before the Committee to answer queries that means that the Senate is protecting the money that goes to the counties. Devolution means that we devolve money to the grassroots level. That is to that person who cannot access a good road, clean water and education. We want that money to go down there. When a committee of this House tries to investigate and to raise questions concerning the expenditure, governors use the media to say that the Senate is killing devolution.

Where is the fear in governors coming from? Why is it that when governors are summoned, they fear turning up at the Committee proceedings? If they have spent the money in accordance with the law or if all the money has been spent very well and no single coin was lost, why should they fear facing the Committee to say how they spent it? I think there is something they are hiding. It is high time that we passed this Motion and ensured that the governors remain accountable. They should account to the last shilling.

Article 96(3) gives powers to this Senate to oversight over revenue allocated to counties. Any county that does not comply or honour the summons from the Senate CPAIC should not get a second allocation unless they account to the last shilling. This House should not allow money to go to such a county.

Governors must account for all the money to the last shilling if they still want to remain in office. People fail to understand that governors and even Senators will not be in office forever. One day, some of us will be governors. Probably, in future, some governors will be Senators. We are trying to address an issue that should be dealt with once and for all. Whether you are a governor or a Senator, you remain accountable and you do your job according to the Constitution. Lastly, Mr. Speaker, Sir, under what law does the Council of Governors have the right to write letters to governors not to attend the summons of the Senate? This is the question I am asking. I want to be answered. Governors have severally made statements that some of us fail to understand. Theirs is an executive position and they have their brothers, Senators, who are supposed to defend them in case something goes wrong. They are now the same people who are running away from the Senate. So, which way do we go?

With those few remarks, this is the way to go. People must remain accountable not only today, but in future.

I support.

Sen. (Dr.) Machage: Bw. Spika, wahenga walisema: “Hayawi hayawi huwa.” Methali hii si hadithi za *Alfu Lela Ulela, Hekaya za Abunuasi* au ngano za paukwa pakawa. Hoja hii imetokana na utundu na utenda kazi duni wa magavana wetu ambao hawafuati sheria kama ilivyoandikwa katika Katibu yetu.

Ni aibu kubwa kwamba leo, katika Seneti hii, tunazungumza juu ya Gavana Isaac Ruto, Jack Ranguma, William Kabogo na Mwangi wa Iria kwa kutokuwa na nidhamu ya kuheshimu sheria na mujibu uliowekwa katika Katiba yetu. Tabia yao mbaya yakutothamini sheria imeweka hatarini maeneo yao ya utawala na hawatapewa hela kipande cha pili.

Juzi, walienda kortini na kupewa asilimia 50 za kugawa pesa mwaka huu. Wanaweza kuringa kwamba wana hela. Lakini, kuna mgao wa pili; asilimia 50 ambao umesimamiwa na Seneti hii. Hawatakuwa na nguvu za kuchukuwa pesa hizo kwa minajili ya maendeleo hata kulipa mishahara katika sehemu zao za kazi. Hii ni aibu kubwa ambayo wanaleta kwa uandaliaji wa mipango mizuri ya maendeleo ya maeneo ya kaunti.

Labda baada ya kuongea tutapitisha kauli ili wasipewe ruhusa ya kuzichukua hela hizo kwa minajili ya kazi yoyote. Lakini naomba wakimbie hima iwezekanavyo ili wafike kwa kamati hii ya kusikiliza mashtaka ambayo tumeyapata. Si sisi tuliyowasilisha mashtaka hayo. Haya ni mashtaka ambayo yametoka kwa yule katibu karani mkuu wa hela za serikali. Kuna mambo hapa. Hela za Serikali hazikutumika vizuri. Hela za uma hazikutumika vizuri katika maeneo ya magavana hawa. Wanafaa kuleta stakabadhi ambazo walizonazo na kueleza kikao hiki ambacho kiliwaomba kufika kwa heshima taadhima, mara mbili, tatu hadi tisa. Wengine wamepata nguvu za kuandikia kamati hii ambayo imeundwa na sheria ya Kenya. Hili ni jambo la ufidhuli na unafiki kwamba hawa wameanza kujifanya wafalme. Wamesahau kuwa wao ni watumishi wa wananchi.

Bw. Spika, natoa mwito kwa magavana wa sehemu nyingine ili wajue kwamba sheria ipo. Vipengele vipo na vyote vilisomwa hapa na mhe. (Dr.) Khalwale. Alivisoma vipengele 99, 93,229,125 vya Katiba na hasa kile cha nguvu zaidi, kile cha 225 ambacho kinaipa Seneti hii nguvu za kusimamisha utoaji wa hela kwa sehemu hizi. Litakuwa ni jambo la kusaga meno na kulia ikiwa wale wachache na wengi waliowachwa mashinani hawatajua kwa nini mipango yao ya kimaendeleo imekatizwa. Ni kwa nini mishahara yao imesimamishwa na kadhalika? Hii ni kwa sababu ya uzembe, ujeuri na kutokutii kwa viongozi wanaojiita magavana. Wamemea pembe hadi wanataka mabibi zao wapewe maofisi na hela za kukimbia huku na kule na magari. Haya si mambo yanaoweza kueleweka. Wao wanataka hela nyingi kutembea kila siku na gavana kusafiri kwa magari mengi nyuma yao kwa sababu ya usalama wao. Huu ni usalama wa aina gani. Nashangaa!

Naomba kuunga mkono.

Sen. Muthama: Bw. Spika ninakushukuru kwa nafasi hii ili niweze kuunga mkono Hoja hii ambayo ni ya maana sana. Vile vile nimefurahishwa kwa sababu matamshi yako ya hapo awali yameweza kutuelekeza pahali tunataka kuelekea. Kwa ufupi, ningetaka kusema ya kwamba, sisi wote tulioko hapa tulichaguliwa na kura ya mwananchi. Kura tuliopigiwa ilikuwa ni ili tuitumikie Taifa letu. Jambo la kushangaza ni sarakasi na kassheshe ambayo inaendeshwa na magavana. Hivi leo, Seneta hawezi kusimama katika kaunti yake na kusema, kwa mfano, pesa yetu ilikuja kiasi fulani na imetumika kiasi fulani. Hawa magavana wamejitunukia madaraka ambayo hawajapewa na mwanchi wala Katiba.

Sen. (Dkt.) Machage amesema kwamba wameajiri mabibi wao na mtu mwingine hawezi kupata kazi. Gavana anataka aitwe Mtukufu na mke wake ni Mtukufu Mke wa kwanza wa Kaunti. Kuna moja wa CEC alifutwa kazi kwa sababu alisimama na kuwatambua kama Mhe. Gavana na mke wake. Alikosa kusema Mhe. Mtukufu Gavana na Mhe. Mtukufu Mama wa Kwanza wa Kaunti. Hivi leo, Wawakilishi wa Wadi (MCAs) hawakai katika vikao vya mpangilio wa bajeti ambayo inapangwa katika kaunti. Inapangwa na Gavana na chokora wake ambao amechagua na kuwaweka kuwa CECs. Hiyo bajeti ikitoka pale, hakuna Mbunge anayehusika. MCA hajui ni jambo gani linatendeka.

Bw. Spika, uongozi umetoka kwa Serikali kuu hadi kwa Gavana. Kwa hivyo, ili tuweze kupiga hatua na kuenda mbele, inafaa tuunge mkono Hoja hii kwa sababu inafutana kwa karibu na zile kamati ambazo tutatengeneza za maendeleo. Katiba imesema kwamba kazi ya Seneti hii ni kuangalia, kufuatilia na kusimamia vile hela za umma zinatumiwa, halafu Kamati ambayo imetengenezwa kulingana na sheria ya Taifa hili inaandika barua kwa Gavana kumuuliza kufika kwa Bunge kwa sababu mgaguzi wa hesabu ya kitaifa ameweza kuonyesha kwamba kuna uporaji ama uharibifu wa fedha, na Gavana anadinda kufika. Badala yake anamtuma karani ama katibu wake kuhudhuria kikao hicho. Rais wa nchi hii mwenyewe nililimnukuu akisema kwamba akiitwa na kamati yoyote atahudhuria. Kama Rais wa nchi anasema wazi wazi na katika uwanja wa kitaifa akihutubia wananchi ya kwamba akiitwa atahudhuria, unawaweza kufikiria magavana wana hadhi ya juu kuliko Rais wa Taifa.

Mmoja ameunda akaunti yake ya benki ya kutumia pesa za kibinafsi ambayo ni ya kisiri, na alipoulizwa ni kwa nini ana hiyo akaunti, alisema kwamba, hakuna mtu ambaye anauliza Rais Kenyatta kuhusu akaunti yake ya kibinafsi.

Ninaunga mkono.

Sen. Wako: Thank you, Mr. Speaker, Sir. It is, indeed, with a very heavy heart. In fact, I am saddened and disillusioned that we have come to the stage where we are now. I am disillusioned because it may be recalled that when the Finance, Commerce and Budget Committee summoned the governors, they went before the court. In Petition No.74/2014, the court decided in our favour that they could be summoned by committees of the Senate on many issues, including in the exercise of their oversight role. I thought that issue had been settled and that we were making progress in the implementation of the

Constitution. Indeed, the governors began obeying that order of the court. We have successfully dealt with the Governor of Kwale, the Governor of Taita Taveta and the Chairman of the Council of Governors has even appeared before us and to a very amicable appearance, except that he was not able to answer one or two queries. He said that the answers lay at the county headquarters. He himself gave us a date when he was coming before us with documentation to answer that particular audit query. So, we were making progress. On the day that he was supposed to come, he then writes and says that governors will not appear before our Committee.

Mr. Speaker, Sir, one has to ask the question: Why is it that when they were beginning to appear and co-operate pursuant to a court order should they, in defiance of that court order, now say that they are not going to appear? That is why I become saddened that people at the level of Governor can now behave in the manner in which they are behaving. So, the issue could be, first, they have something to hide, or two, the issue of the County Executive Board which we are supposed to chair.

Mr. Speaker, Sir, I am double saddened at the behaviour of the governors because my Committee went into this. The comments that they are making today on this Sang Bill are the comments they made when Sen. Sang originally published his Bill. It appears that they have not read the Bill as it is now. But be it as it may, they also appeared before the Committee and, in fact, we took on board all their comments and amended it the way they wanted, except just one issue on who is to be the chair. Now to come up and say that this is contrary to the Constitution and many other issues, I am very saddened.

Mr. Speaker Sir, we really ought to be moving ahead. This Senate is the voice of the people according to Article 1(2) of the Constitution. The Senate and the National Assembly are really the voice of the people. In fact, we are the only people who can exercise the sovereign power of the people directly or indirectly. So, to put a stoppage to our fundamental constitutional power of oversight is really to silence the voice of the people and we cannot allow that.

I support the Motion. However, I also want to put a warning that if the county governments cannot discipline themselves and operate within the existing Constitution, laws and financial regulations and if, in spite of what you have done today, they cannot wake up and now begin to cooperate so that we can finalize these audit queries as quickly as possible for the benefit of the people of this country, Parliament has the power to impose even other strict conditions to ensure that the public funds are properly spent. I am referring to Article 206---

The Speaker (Hon. Ethuro): Your time is up!

Sen. Karaba: Mr. Speaker, Sir, thank you very much. I can see that my card is now working.

One thing we need to note here is that we are dealing with defiant people in the name of governors and they are using the counties to exploit the spoils of what they are getting indirectly from Treasury through us. The counties will lag behind because of the incompetence and inefficiency of some of these governors. It is very important that from

this time henceforth, the governors should be made to account for what is supposed to be accounted for. There are rules of the game.

I realize that in every other game, even when you are playing football, if you mess, you are first given a yellow card, a red card and then you are discontinued from the match. We need to think about these governors very seriously. They are making the counties suffer just because of their ignorance and because of what they think they can do against the wishes of the people they are leading. As we support this Motion, it is important that we caution the other governors who might be tempted to behave the same way like these ones. We are the people on the ground who really see these things. You will get a governor going for lunch in his town centre and vehicles are blocked from all sides so that he can go for lunch. Even Senators are pushed off the road. It is as serious as that. If they are doing that with the money we are giving them, there is a way that we can reduce that money so that they can come to the same level with the rest of the people and the time is now.

Mr. Speaker, Sir, we have heard a number of stories where they travel for benchmarking for comparison reasons. I am sure they do not even practice what they see there. They only make noise like empty *debes* because they do not practise what they see. They should suffer and this is the time.

I support.

Sen. Okong'o: Thank you, Mr. Speaker, Sir, for this opportunity to also support this Motion. I concur with my colleague Senators who have raised this issue and send a very clear message, especially to my governor to read the signs of the times very clearly. I hope he will appear before our Committee where we will guide him and clear him the way we have done with the Governor of Kwale. We must commend the Governors of Kwale and Taita Taveta counties. They are men of repute and substance. They honoured the invitation and came with their teams and we cleared them. I do not understand when I see a young governor like one Governor Mandago going back to Uasin Gishu in a public gathering and saying that even school children know that he is more senior and more powerful than the Senator.

A governor paid Kshs60 million in advance to a contractor and when we challenged him and asked him to come with proper documentation, he went to the public and said that he is very senior to face the Senate and that the Senate should be disbanded. Those kind of governors must understand that we defend devolution through constitutional provisions. Now and again, I have told the people of Nyamira that I am the *nyapara* or supervisor of the County of Nyamira and everything must be put on the table. I have told my governor that those MOUs, he does in bedrooms as long as they are not done in daylight they are futile. We are lucky to have Sen. (Eng.) Karue who is the father of the Constituencies Development Fund (CDF). If the CDF is likened to John the Baptist, then devolution should be likened to Jesus Christ the saviour for the Christians or Prophet Mohamed for the Muslims.

Mr. Speaker, Sir, let us pass this Motion and send warnings to those who think that public service is a private preserve. Those governors who think that they are very rich should start their private companies and nobody will step on their doorsteps. We are like donkeys to the people. We must be burdened. Those governors must come out and be challenged to account for every penny which we send to them.

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

The Senate Majority Leader (Sen. (Prof.) Kindiki): Thank you, Mr. Speaker, Sir. Finally, the time for action has arrived. What the Council of Governors is trying to do is to test the resolve of this House to represent the will, aspirations and interests of the people of Kenya.

Mr. Speaker, Sir, let there be no doubt that it will be unconstitutional to release funds to a public entity that has told you openly: “You have given me money. I have used it the way I want. I do not want to be asked any questions, but please, add me more money.” It will be unconstitutional for us to release funds to such an entity. One year down the line, and Kshs200 billions later, in many counties poor peasants; old men, women and young people are still yearning to see the fruits of devolution. Let it be known that on the issue of accountability, there are no parties or lines. There is a job to be done and the Constitution has empowered the Senate to do that job.

Mr. Speaker, Sir, I have heard some people saying that the Jubilee Government is doing some of these things to frustrate devolution. However, when I sit here and listen to my brother and senior, Sen. Moses Wetangula, lamenting about how desperate the situation is in Bungoma or Prof. Anyang’-Nyong’o lamenting I ask myself: “When did Sen. Moses Wetangula, Sen. (Prof.) Anyang’-Nyong’o, Sen. Hassan Omar and Sen. (Dr.) Khalwale join Jubilee?” We must send a clear warning that on issues of accountability, there is no Jubilee or CORD. This is a duty that we must do for the sake of the people of Kenya.

Mr. Speaker, Sir, for a long time, some of the governors who are speaking the loudest now were giving us all manner of excuses. They would say: “We are laying structures. We are putting the foundation. We need time to settle.” I want to announce that the time for excuses is over. Like a deer caught in the headlights, those who are responsible must decide either to run across the road, backwards, left or right. However, I see the sword of accountability striking dead all those who think that they can get away, by spending public money as they wish.

I have heard others telling us: “We have not heard the Senate talking as much when it is the national Government involved.” We try to do that as much as possible, but also want to tell them that our oversight, as the Senate, is on counties and county governments. That is why we focus there. Where we have reached is an important milestone and there is no turning back. This train left the station and it is not stopping. Anybody who stands in front of this train will be crashed to the death.

Mr. Speaker, Sir, it is good that we have not, for example, thought about frustrating the entire County Allocation of Revenue Act. We would have punished

innocent counties, because there are county governments and Governors who have co-operated with this Senate gracefully and with a lot of dignity. We want to send a message across this country that it is not all governors who are hotheaded or bigheaded. Some of them are third-rate politicians. They are trying to intimidate some of us. In Tharaka-Nithi, I am the boss. I got almost every other vote in every other polling station. So, some fellow cannot emerge from the bushes and start thinking that he can intimidate Kithure Kindiki, the Senator for Tharaka-Nithi.

The Speaker (Hon. Ethuro): Your time is up, Senator!

Sen. Abdirahman.

What is your point of order, Sen. Omondi?

Sen. Omondi: On a point of order, Mr. Speaker, Sir. I have a concern. Why is it that women Senators are not being given a chance to contribute to this important Motion?

The Speaker (Hon. Ethuro): It is because the women Senators do not seem to have registered early enough.

Sen. Omondi: Mr. Speaker, Sir, there are Senators who have just entered and asked----

The Speaker (Hon. Ethuro): Order, Sen. Omondi! I am sure that you have been around long enough to know who is who, to borrow from the Senate Majority Leader.

Proceed, Sen. Abdirahman.

Sen. Abdirahman: Thank you, Mr. Speaker, Sir, for allowing me to contribute to this very important Motion this afternoon.

I want to start by saying that this is not the first time that the governors have defied summons from the Senate. There was a time when they were invited by a similar Committee or the same one just to inquire about the performances with regard to the recommendations that were sent from the Controller of Budget. You will remember what they did in this country. I think that the time has come for us to take a decisive step, like what we are doing this afternoon.

Mr. Speaker, Sir, in fact, the biggest impediment to the success of devolution in this country now is the governors. As I said on Saturday when we met in Mombasa, they keep on creating hue and cry unnecessarily just to divert the attention of Kenyans from their bad practices. What they are doing is a serious contempt of this House and it is not fair on us. We are the protectors of devolution, stakeholders number one and representatives of the people that they serve as CEOs. It is important that they listen to this House.

Mr. Speaker, Sir, I am glad that my brother, Sen. (Dr.) Khalwale, has suggested that we do sanctions this time round. I hope that the Controller of Budget, wherever she is this afternoon, is listening to these feelings from the Senate. Those governors who do not want to be accountable should not be given the very first tranche of funds in this financial year. There is always an excuse that governors create whenever the Senate wants to hold them accountable. They say that they are accountable to the Members of the County Assemblies (MCAs). They fail to understand the role of Senate. Let them hear this

afternoon, that the MCAs will perform those functions at the local level. The Senate will perform this at the national level. How will the MCAs know what may have gone wrong towards the end of the year, when they do not even access those audit reports at times? Governors must be held accountable. We cannot allow this very bad trend to continue in our counties, especially when they do not want to be held accountable?

Mr. Speaker, Sir, His Excellency the President has agreed to be accountable to Kenyans. At what point in their lives were they actually told that they are small presidents in these counties? These are governments at the local level that are answerable to the national Government when it comes to accountability. This is because funding comes from the national level. Why do they think that they can run these counties the way they want? We should not allow the total disregard with which the governors have actually shown to the regulations that exist in this country and overall to the institutions that would have held them accountable. I am personally happy that we are at last finding a solution to actually bring these fellows to account.

Thank you very much, Mr. Speaker, Sir.

Sen. Wangari: Thank you, Mr. Speaker, Sir. It is very unfortunate that we really have to get where we are right now. Chapter One of the Constitution says:-

“(1) All sovereign power belongs to the people of Kenya and shall be exercised only in accordance with this Constitution.

(2) The people may exercise their sovereign power either directly or through their democratically elected representatives.”

Mr. Speaker, Sir, it goes ahead to actually enumerate them. It includes the leadership at the county level and national level. There is no one who has the monopoly of devolution. It is very unfortunate that we have gotten to a point where we think that we are bigger than everyone else. If you are doing it, then it is not being done right.

Just the other day, we left the Chambers as late as 8.00 p.m., because we were debating the allocation of money to the counties. It is not that we did not have anything else to do, but because we know that we have a constitutional responsibility of making sure that devolution works. I, as a Member of this Committee, have seen this circus and we have been very patient. However, we cannot continue issuing summons and not showing what the consequences are. I want to thank my Chairperson because this was long overdue. We have really agonized over it. We have sat in meetings and waited for these governors. They have wasted our time and the money that we are paid to sit. They have even wasted money transporting people from their counties to come and represent them, yet they know that they are supposed to answer as the CEOs.

Mr. Speaker, Sir, it is very sad that we have to come to this. But as it is said, every action must have a consequence. We should actually send a clear message that even as they ask for more funds, they must be accountable to Kenyans. I have heard governors saying that they want a referendum so that they can get more funds. But even in business, you must close the books of the previous year. This Auditor-General's reports that we are talking about were just for the accounts of six months, and they are really

damning. We have seen glaring accounting mistakes that are deliberate and actually naked to the eye of a person who is not even an accountant.

It becomes very hard because you are very big. You are the boss and cannot answer to small people. We must remind them that we are all here, not on our own behalf, but to represent Kenyans. All of us must deliver on our mandate. No one is above the law. Issues must be delivered to the people who brought us to the positions of leadership that we occupy. We must do this ruthlessly.

I will refer to Article 228 of the Constitution that gives the Controller of Budget authority to deny funds. She is the one who will be authorizing every withdrawal. This is not personal money. If it were personal money, we would have no business with it. However, it is public money and the Controller of Budget must apply Article 228 that gives her the mandate to withhold these funds. These four counties, I am hoping – although this falls on deaf ears – that they will start listening. We cannot keep on doing this year in, year out. Even when we are breastfeeding a child, we do not do it forever. There comes a time when a child has grown teeth and starts eating food. That must be done for our counties.

PROCEDURAL MOTION

EXTENSION OF SITTING TIME

The Senate Majority Leader (Sen. (Prof.) Kindiki): On a point of order, Mr. Speaker, Sir.

I rise on Standing Order No.30(3) and (4) to move a Motion that the Senate resolves to extend its sitting time until the conclusion of business appearing in orders Nos.8,9 10, 12 and 13.

Considering that we are going on recess and that there are two Bills which if we complete will give this Senate a good record, considering that there is also a Motion regarding what has just transpired with regard to the performance of the Kenya Athletics Team in Glasgow, it is in order for the Senate to exercise a little bit of patience, so that we conclude this agenda, adjourn later on, and go home happy having passed a number of Bills, including the one which is the subject of debate now. We will also go home having congratulated some of the exceptional performances that took place in Glasgow. If we do not do that now, the issue will be moot by the time we return.

Mr. Speaker, Sir, with those few remarks, I beg to move and request the Senate Minority Leader to second.

The Senate Minority Leader (Sen. Wetangula): Thank you, Mr. Speaker, Sir. I beg to second.

(Question proposed)

(Question put and agreed to)

The Speaker (Hon. Ethuro): Hon. Senators, we have to sacrifice a bit. It is ten minutes to six. I know that we have extended time, but we still have a lot of business ahead. There are still 12 requests before me. In fact, they have added to 13. Twelve requests each getting 5 minutes gives us one hour. We also must vote on the other Motion.

We will take two more from either side and conclude this.

Sen. Kembi-Gitura: On a point of order, Mr. Speaker, Sir. I know that there are 13 Senators interested in this issue. Some of us have been showing interest since this debate started. I am the Senator for Murang'a County; the fourth county mentioned there. I thought it would be good for me to be given a chance to say a word or two about that position. I have been indicating my interest to contribute the whole afternoon.

The Speaker (Hon. Ethuro): I do not know why the Deputy Speaker does not think that the consideration of the two may have factored in the Murang'a Senator.

Sen. (Prof.) Lesan: On a point of order, Mr. Speaker, Sir. I would also like to concur with my colleague, the Senator from Murang'a because we are in a similar situation. It would only be fair if we were given an opportunity to make some comments.

The Speaker (Hon. Ethuro): The choice is yours and the consequences will also be upon you. So, let us proceed.

Sen. Mutula Kilonzo Jnr.: Mr. Speaker, Sir, I want to support this Motion by bringing to the attention of the Senate something that we may have overlooked which is critical. My reading of the Inter-Governmental Relations Act Section 20 on the functions of the Council of County Governors does not give them a mandate to be a trade union for purposes of financial mismanagement. I would dare say that as far as financial mismanagement is concerned, every governor has a personal responsibility.

I, therefore, urge this Senate and the Committee chaired by Sen. (Dr.) Khalwale to ignore all the statements made by the Council of Governors for and on behalf of the 47 Governors who have been elected by their respective counties.

I further support and I am sure that Sen. (Dr.) Machage would approve my statement to the rest of the Governors where in Kiswahili they say; *ukiona kichwa cha mwenzako chanyolewa, tia chako maji*. This serves as a lesson to the other counties which pretend or think that they can disobey the summons issued by the Committee chaired by Sen. (Dr.) Khalwale. They should appear so that similar sanctions do not follow them. I want to confirm that, in fact, under Article 225(2), we are in order to pass this Motion because we have a mandate, not only to pass legislation, but to ensure that there is transparency and an established mechanism to ensure that financial prudence is implemented.

I support this Motion in full.

Sen. Kembi-Gitura: Thank you, Mr. Speaker, Sir. I do not want to be misunderstood if I contribute from the other side. Article 125 of the Constitution is very

clear. Article 125 of the Constitution gives the Committees of the Senate or the Senate itself the same powers as the High Court. The High Court under the Judicature Act has powers to compel attendance and even to make a decision as a court of first instance for contempt of court if the matters amount to contempt.

Mr. Speaker, Sir, today is a very sad day. In the morning, I attended the Committee sitting on invitation because I was made to understand that the Governor for Murang'a would come to answer questions on the queries of the audit. It is the second time that I attended that meeting to listen to what the Governor of Murang'a County would respond to the several queries that were going to be raised. Last time, he did not come and today he did not come. The last time the Committee sat he had sent so many officers and an order was made to the effect that that was wasteful usage of public funds. I want to believe that the Chairperson of that Committee will pursue that wastage and that somebody will be surcharged for it because I do not expect the people of Murang'a to pay for that wastage.

Mr. Speaker, Sir, it is very unfortunate that the governors do not seem to understand where we are coming from. They do not seem to understand that we want to work together so that we can develop the counties in the spirit of devolution. Instead they think that they have a war with us, as Senators, and that we are in competition with them. I would like to make it very clear to them that we, as a Senate, are going to do what we have to do. We are going to enforce the rights that we have because they are given by the Constitution. That is to protect the counties.

Mr. Speaker, Sir, the Motion before the House is very good because it has picked the four counties that have not adhered to the rules. In Murang'a County, there are 1.2 million people. This financial year we have been granted Kshs4.6 billion. This is a lot of money on the face of it, but not so much as to be misused. The fear I have is that if you allow governors to go the way they are going; flaunting money that is not theirs and using it for uses that are not under Schedule 4, campaigning for the money and yet the 2017 general elections are still very far, we will have the counties impoverished and that is not acceptable.

Mr. Speaker, Sir, Article 225 of the Constitution talks about withholding funds to counties, but not in excess of 50 per cent. It must be remembered that it is not the governor in his personal capacity and the other three governors mentioned who will suffer. They are making Kenyans suffer because of their intransigency and their failure to understand the law and their refusal to come before the Committee. We must decide whether we will sacrifice Murang'a County and its people because of the sins of one person or whether we will take action against the specific governors. That is why I pointed out Article 125 of the Constitution, together with the Judicature Act, which gives powers of the High Court.

I appreciate the work the Chairperson of that Committee, Sen. (Dr.) Khalwale is doing. I want to challenge that Committee to take Article 125 of the Constitution a notch higher. Do not just write to these people. Once you have summoned them and they do not

come before the Committee, use the powers granted in that Article. This is because you have the same powers as the High Court; charge them with contempt and they will be jailed. If they are jailed for six months, they will lose their seats as governors of their counties. I think that is the language they will understand. What I do not want to see this afternoon is Kshs4.6 billion or 50 per cent of it being withheld from the people of Murang'a because of one person. I think this is an issue we must take very seriously.

Mr. Speaker, Sir, we have seen the way the money is being spent in the counties. I have stood here before and said that my biggest fear is that today we are talking about the transitional accounts that Sen. (Dr.) Khalwale is dealing with in his Committee. You will still find that there has been a lot of misappropriation of funds. My fear is when you deal with the first year of actual audited accounts then we shall see how much money has been lost in the counties. I challenge the Committee to use its powers under Article 125 and send this people to jail so that they can understand what it means to disobey the High Court and the Senate.

Thank you.

Sen. (Prof.) Lesan: Thank you, Mr. Speaker, Sir. I am really saddened this afternoon because for the first time, the Senate has invoked Article 228(4) and (5) to deny funds to counties that have misappropriated them. It is so sad that one of the counties is my own county. I am not the only one saddened, but along with another 700,000 residents of Bomet who are as sad as I am today because of what has transpired. We have continually encouraged the residents of Bomet County by telling them that now we have *pesa mashinani* and now it has turned out to be *pesa mashimoni* because no money has reached them.

I am encouraged when I see devolution in its reality; when I see civilians sitting under a tree and discussing what they want to be done for them. This has resulted into a document called the County Integrated Development Plan (CIDP). This document speaks the truth about devolution because these are the people in the villages saying what they want to be done. We, as Senators we have gotten funds for the various development activities in the counties, but unfortunately, the money has not reached them. This is shown in the Auditor-General's report which is derived from the figures which have been given by the governors. So, these are their figures. It is very sad to note that the governors are refusing to accept their own figures when it appears in the books of the Auditor-General. It is not because they do not know, but because all these people who are misusing these funds know exactly what is happening with these funds and they are refusing to accept the reality.

The Senate which is the custodian of devolution must seize the opportunity and take action. I think this is the time we can take that action because we have that information on our hands because the figures that have been audited by the Auditor-General.

Mr. Speaker, Sir, as I contribute, I know that the people of Bomet County are aware of the fact that the funds are not being used properly. They can tell you like they

tell me every day that their money is getting lost. In fact, they keep asking me why we sent to them a bag which has a hole at the bottom because the money that I take to them is not doing for them the work that they thought it would do. This House must puncture the ego of the governors. It is their ego that has cost them to be intransigent. Some of them are lawyers and former legislators and they know that the law says. However, because of this ego they are doing what they are doing causing immense suffering to the people who elected us and gave us the opportunity to be custodians of their opportunity. The money we give them gives them opportunities. If we do not guard that money, we are denying them that opportunity. Action should be taken. This is the right time to do so because we have the facts and soon we are releasing another tranche of money to be wasted and to be used for endless campaigns for 2017 general elections which are yet to come. It is important that we serve the people.

I support.

Sen. Khaniri: On a point of order, Mr. Speaker, Sir. I stand pursuant to Standing Order No.98 (1) to request that the Mover be now called upon to reply.

The Speaker (Hon. Ethuro): Order, Senators! I have only six requests remaining. I will give each one of them two minutes. So, that will just be 12 minutes.

Sen. (Dr.) Zani.

Sen. (Dr.) Zani: Thank you, Mr. Speaker, Sir. There is a very dangerous perception that is mainly perpetrated by the governors; that the summonses that we give to them are frivolous. This is in one of the dailies today. It is giving the wrong perception to Kenyans. They say that they are being called just at anytime and expected to come here. I think that, we, as the Senate, really have to be very clear. We should have a communication strategy. Let Kenyans know exactly what we are calling these governors for. Let their Members of the County Assemblies (MCAs) know that we are working on their behalf, so that they are not deceived by the governors that we call them just for the sake of it.

Mr. Speaker, Sir, there are various organs that were created by the Constitution, including the Senate, Commissions, Auditor-General and Controller of Budget. They all had specific roles that need to be enhanced. I think that they were very foresighted. All these were really meant to control and ensure that funds are not misused. We are, therefore, given the responsibility to allocate resources. However, more importantly, we also have a duty to follow up on those resources. I think that it is the second part that seems to be underplayed. So, the summonses are given because we have the mandate and responsibility to do so, according to Article 96 (3).

Therefore, we, as a House, just have to be firm about this and ensure that the governors are able to come and answer to these charges. Precedent has been set, as it has been mentioned. The Governor for Kwale came very early that morning with a team to find out what was happening. He was actually happy to explain where the gap was. The Governor for Mombasa in previous cases where Committees have called him has been happy to come with his team. So, for some members to be willing to come and others

not willing to come, gives us a little bit of worry. I think we need to invoke that provision that we are referring to in Article---

The Speaker (Hon. Ethuro): Your time is up!

Sen. Murkomen.

Sen. Murkomen: Mr. Speaker, Sir, Mathew Chapter 23 verses 14 to 30 talks about the parable of the talents. The master went on a long journey and left three servants; one with five talents, one with two talents and one with one talent. He expected all of them to multiply those talents. When he came back the one who was given five had ten. The one who was given two had four. The one who was given one told the master:-

“I know that you are a bad man and so, I hid your talent under the earth.

Therefore, I am returning the one talent as it is.”

The Speaker (Hon. Ethuro): Order! Did he say that he was a bad man?

Sen. Murkomen: Yes, Mr. Speaker, Sir. He told the master that he was a bad man. The master in this situation, if I can parallel it, is the Senate. The Senate allocated resources to the various counties; some five, some two and some one. The time for accountability was one year down the line. When that time came there are those governors who came and said:-

“Master, the Senate, you allocated us this money and we multiplied. We even collected others and did the roads and hospitals.”

They accounted to the Senate through Sen. Khalwale’s Committee. But there are others who have gone public to say: - “Master, you are a bad man, because the time of accountability has come.” Why did they not say that the first day when the master was giving the talents? I want to tell all the governors that the moment that they chose the job of receiving resources at the local level, they chose the road for accountability. While on that road there is nowhere to hide on earth or heaven. It is better to account to Sen. (Dr.) Khalwale today than to be punished for not accounting to God. So, I want to request the Governors that they must come, because we are doing this for posterity and the sake of this country.

Mr. Speaker, Sir, I beg to support.

Sen. Omondi: Thank you, Mr. Speaker, Sir, for giving me this opportunity to contribute to this Motion. First, I want to thank the 43 Governors for realizing that, indeed, they are equal to the task and owe Kenyans who elected them service.

Mr. Speaker, Sir, indeed, this Motion is timely. It will help us, as the Senate, to be accountable to Kenyans. This is because a time will come when they will ask us where we were when the money that was allocated to the counties was misappropriated. This is the time to show the Kenyans who elected us that we are equal to the task of performing the oversight role over their resources.

Mr. Speaker, Sir, I support this Motion because I believe in servant leadership. Our governors behave like bosses, yet we were all elected to serve Kenyans. We must be servants to Kenyans and not their bosses. The only way that we can show them that we

are servants is to be accountable over the resources and ensure that they get quality services from the governors. It is very saddening that the quality of service---

The Speaker (Hon. Ethuro): Your time is up!

Sen. Billow.

Sen. Billow: Mr. Speaker, Sir, I also support this Motion, which I believe is long overdue. We should have dealt with the governors from day one when they said that they did not want to honour the summons.

Mr. Speaker, Sir, I just want to point out two things. Under Article 225 and Section 96 of the Public Finance Management Act, it is very clear that if there is material or persistent breach of financial regulations, the Cabinet Secretary has powers. This is what we want to invoke. We urge the Treasury to take interest in what is going on in the counties, because the law still gives a lot of powers to Treasury in terms of taking this kind of action, even without prompting from the Senate. They have a mandate, after seeing the reports from the Auditor-General, to take action and stop funds transfer. It is only the Senate that will come in, under Article 96, to appeal for the particular counties.

Mr. Speaker, Sir, I want to also point out that the action that we are going to take should be up to and until we are satisfied that those counties have given the relevant explanations regarding the audit queries that are raised. To the extent that they do not do so, it will be a mistake to allow those counties to continue, because we did not create devolution so that we can export the same inefficiency and mismanagement that we see in the national Government to the counties. We want a difference and action. One of the reasons the national Government has suffered for the last 50 years is because there is no action, in spite of all the reports by the Auditor-General. We want a change, so that if the Auditor General says this, we take action.

Mr. Speaker, Sir, I beg to support.

Sen. (Eng.) Muriuki: Thank you, Mr. Deputy Speaker, Sir. I stand to support this very important Motion as a member of the Sen. (Dr.) Khalwale's Committee and as a person who has been around for some time. There used to be institutions in this country called cooperative societies. Many parts of this country prospered because of them. However, somewhere along the way, members of the management committees discovered that if the cooperatives were paid Kshs30 million, they could write themselves a Kshs5 million cheque, cash it and go home and nothing happened to them. They did so for a long time without being noticed until those societies collapsed.

Mr. Deputy Speaker, Sir, I am seeing as if county governments came in with governors thinking that they can write themselves cheques and nothing will happen to them. We are focusing on only three months of them being in the office; that is, April, May and June. It is a pity that a cheque of Kshs28 million was issued, but nobody knows who cashed it. In another case, we are told a sum of Kshs75 million was spent, but nobody is ready to account for it. If we continue with this trend, devolution in this country will die the way the cooperative societies died. It is only the cooperative officers who enriched themselves.

Mr. Speaker, Sir, the Senate must now be felt at the grassroots level. We must insist on accountability. Governors cannot run away for it.

The Speaker (Hon. Ethuro): Eng. Karue, your time is up!

Sen. Mositet: Thank you, Mr. Speaker, Sir. I stand to support this Motion because it has come at the right time. The whole of last year, we made sure counties got money according to Constitution. We have institutions that we must thank for doing their job and make sure that their role is well felt. We thank the Auditor-General for his good work.

Mr. Speaker, Sir, it is sad that a respected Committee of this House can summon some governors and they refused to appear before it. This afternoon we have denied some counties monies because the governors do not want to account what they were given previously. We want to make sure monies allocated to these counties do not go into the same holes because governors do not want to account for it. Why should somebody feel that he can continue to be a governor if he does not want to be accountable? If they do not want to be accountable, they can resign because they are not ready to render services to our people. I wish these governors could stop the “big boy” syndrome and serve their people. Time has come for all of them to be accountable.

I beg to support.

Sen. Sang: Thank you, Mr. Deputy Speaker, Sir. I rise to support this very important Motion. If county governors will not be accountable and resist the oversight role of the Senate, then devolution will fail.

Mr. Speaker, Sir, all of us appreciate the fact that counties have very little resources. These House continues to seek avenues of increasing the resources that go to counties. It is tragic that even the little resources we are sending to counties are being squandered. Therefore, governors should wake up because accountability is a must. We must get services in our counties and value for money.

Governors have been running up and down branding every stakeholder in the devolved system of Government as anti-devolution. There cannot be a greater agent who is anti-devolution than a governor himself who refuses to account for resources given to him. Therefore, it would be a huge tragedy to have one individual governor denying their counties resources.

Mr. Speaker, Sir, I want to express my displeasure. This association of governors calling themselves Council of Governors makes them continue giving conflicting information and to mislead their members. The truth has now come out that the Chairman of the Council of Governors has been trying to protect himself. He should be the first one to come and account for resources given to him. He should then ask his other members to join the queue, account for the resources and ask the Senate to increase more resources. We, as the Senate, will be firm to ensure that every shilling sent to the counties will count for development in our counties.

I support.

The Speaker (Hon. Ethuro): Hon. Senators, I wanted to put the Question, but I also realize that there are no more contributors. So, I call upon the Mover to reply.

Sen. (Dr.) Khalwale: Thank you, Mr. Speaker, Sir. I want to thank all the Members who have contributed to this very important Motion. If we are lucky and the Motion goes through, the office of the Clerk should not waste time in forwarding this resolution to the national Treasury and the office of the Controller of Budget.

I beg to move.

The Speaker (Hon. Ethuro): Order, Sen. (Dr.) Khalwale. You do not impute improper motive or inefficiency on the part of the office of the Speaker.

Sen. (Dr.) Khalwale: Mr. Speaker, Sir, if that is the perception taken, I want to recall my words and apologize and hope that in the usual manner this matter will be forwarded.

The Speaker (Hon. Ethuro): That is better. I will now put the Question and then we take the vote. The voting will be for both Order Nos.8 and 9. The Division Bell will be rung for five minutes for both.

(The Division Bell was rung)

Order, Senators! The five minutes have elapsed. Draw the bar and close the door.

(The bars were drawn)

We will proceed with electronic voting.

(Loud consultations)

Order, Senators! During voting, all Senators must be seated. I give you 30 seconds to make sure you have all logged-in. Those who are representing delegations or technologically challenged need to register.

(The Senators logged in)

MOTION

ADOPTION OF REPORT ON THE CASH DISBURSEMENT SCHEDULE TO COUNTY GOVERNMENTS FOR THE FISCAL YEAR 2014/2015

The Speaker (Hon. Ethuro): Hon. Senators, there are two Motions. We will start with the Motion on Order No.8. I will now put the question:-

THAT, this House adopts the report of the Standing Committee on Finance, Commerce and Budget and pursuant to the provisions of Section 17(7) of the Public Finance Management Act, the Senate approves the

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County Government Cash Disbursement Schedule for the Fiscal Year 2014/2015 laid on the Table of the House on Wednesday, 6th August, 2014.

We will have the electronic vote for one minute starting now. Those who wish to be assisted can approach the Clerks-at-the-Table.

(The Senators proceeded to vote)

DIVISION

ELECTRONIC VOTING

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

AYES: Sen. Abdirahman, Wajir County; Sen. Billow, Mandera County; Sen. Chelule, Nakuru County; Sen. Chiaba, Lamu County; Sen. Hargura, Marsabit County; Sen. Hassan, Mombasa County; Sen. Kagwe, Nyeri County; Sen. Kembi-Gitura, Murang'a County; Sen. Keter, Kericho County; Sen. (Dr.) Khalwale, Kakamega County; Sen. Khaniri, Vihiga County; Sen. Mutula Kilonzo Jnr., Makueni County; Sen. (Prof.) Kindiki, Tharaka Nithi County; Sen. Kisasa, Kilifi County; Sen. (Dr.) Kuti, Isiolo County; Sen. (Prof.) Lesan, Bomet County; Sen. (Dr.) Machage, Migori County; Sen. Melly, Uasin Gishu County; Sen. Mositet, Kajiado County; Sen. (Eng.) Muriuki, Nyandarua County; Sen. Murkomen, Elgeyo-Marakwet County; Sen. Muthama, Machakos County; Sen. Murungi, Meru County; Sen. Nabwala, Trans Nzoia County; Sen. Okong'o, Nyamira County; Sen. Sang, Nandi County; Sen. Wako, Busia County; Sen. Wangari, Nairobi County; Sen. Wetangula, Bungoma County and Sen. (Dr.) Zani, Kwale County.

The Speaker (Hon. Ethuro): Order, Senators! The results of the Division are as follows:-

The "Ayes" who voted electronically are 28, plus the two who were assisted to vote. It is good to remind them so that they learn to be compliant electronically. So, the "Ayes" have it.

AYES: 30

NOES: Nil

ABSENTIONS: Nil.

(Question carried by 30 votes to 0)

The Speaker (Hon. Ethuro): Order, Members! Please get ready for the second round of voting. The next voting is on the Motion under Order No.9 as per the Order

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Paper. Since I had already read it, I will not repeat it. It is just to order that the electronic voting commences. Appreciating your speed so far, we can reduce the voting to half a minute. Are we ready to vote?

Hon. Senators: Yes.

The Speaker (Hon. Ethuro): Start the voting now for 30 seconds.

(The Senators proceeded to vote)

MOTION

STOPPAGE OF TRANSFER OF FUNDS TO COUNTIES DUE TO GOVERNORS' FAILURE TO HONOUR SENATE SUMMONSES

WHEREAS, pursuant to Article 96(1) of the Constitution, the Senate "*represents the Counties and serves to protect the interests of their counties and their governments*";

AND WHEREAS, pursuant to Article 96(3) of the Constitution, the Senate "*exercises oversight over national revenue allocated to the county governments*";

AND FURTHER WHEREAS, the County Public Accounts Committee is mandated under standing order 212(3) of the Senate Standing Orders to among other things-

(1) exercise oversight over national revenue allocated to County Governments pursuant to Article 96(3);

(2) examine reports of the Controller of Budget on the implementation of the budgets of County Governments pursuant to Article 228(6) of the Constitution; and

(3) examine reports of the Auditor-General of the annual accounts of County Governments Article 229(7) and (8);

AND PURSUANT TO Article 125 of the Constitution, the Senate Public Accounts Committee invited the following Governors, in their capacities, in accordance with Article 179(4) of the Constitution, as the chief executive officers of their respective Counties, to appear before it to respond to audit queries raised by the Auditor-General pursuant to Article 229 of the Constitution-

(1) Governor Isaac Ruto of Bomet County;

(2) Governor Jack Ranguma of Kisumu County;

(3) Governor William Kabogo of Kiambu County; and

(4) Governor Mwangi wa Iria of Murang'a County;

AND WHEREAS, despite invitation by the Committee, the said Governors, who were duly invited, have, failed and or refused to appear

before the Committee to answer the audit queries raised by the Auditor-General with respect to whether or not public monies have been applied lawfully and in an effective manner by the respective County Governments;

NOW THEREFORE, the Senate resolves that pursuant to Article 228(4) and (5) of the Constitution, the Controller of Budget should not authorize any withdrawal of public funds by the following County Governments until the County Governments have responded to the audit queries to the satisfaction of the Senate-

- (1) The County Government of Bomet;
- (2) The County Government of Kisumu;
- (3) The County Government of Kiambu; and

(4) The County Government of Murang'a and the national Treasury, pursuant to Article 225 of the Constitution and Section 96 of the Public Finance Management Act, 2012 shall stop forthwith the transfer of funds to the said county governments.

The Speaker (Hon. Ethuro): Order, hon. Members! While the tallying is going on, on the Motion you have passed on the extension of time, look at the Supplementary Paper No.2, we will need the same numbers for the next order, which is Committee of the Whole. So, I really encourage that we exhaust that Order.

Order No.11 was deferred; it is not part of the extension. After Order No.10, we will move on to Orders No.12 and 13.

DIVISION

ELECTRONIC VOTING

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

AYES: Sen. Abdirahman, Wajir County; Sen. Billow, Mandera County; Sen. Chelule, Nakuru County; Sen. Chiaba, Lamu County; Sen. Hargura, Marsabit County; Sen. Hassan, Mombasa County; Sen. Kagwe, Nyeri County; Sen. Karaba, Kirinyaga County; Sen. Kembi-Gitura, Murang'a County; Sen. Keter, Kericho County; Sen. (Dr.) Khalwale, Kakamega County; Sen. Khaniri, Vihiga County; Sen. Mutula Kilonzo Jr., Makueni County; Sen. (Prof.) Kindiki, Tharaka Nithi County; Sen. Kisasa, Kilifi County; Sen. (Dr.) Kuti, Isiolo County; Sen. (Prof.) Lesan, Bomet County; Sen. (Dr.) Machage, Migori County; Sen. Melly, Uasin Gishu County; Sen. Mositet, Kajiado County; Sen. (Eng.) Muriuki, Nyandarua County; Sen. Murkomen, Elgeyo-Marakwet County; Sen. Muthama, Machakos County; Sen. Murungi, Meru County; Sen. Nabwala, Trans Nzoia County; Sen. Okong'o, Nyamira County; Sen. Sang, Nandi County; Sen. Wako, Busia

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County; Sen. Wangari, Nairobi County; Sen. Wetangula, Bungoma County and Sen. (Dr.) Zani, Kwale County.

The Speaker (Hon. Ethuro): Order, Senators! The results of the Division on the Motion listed as Order No.9 is as follows:-

AYES: 31

NOES: 0

ABSENTION: 0

Out of the 31 Ayes, again, two were assisted voters.

(Question carried by 31 votes to nil)

Open the door and draw the bar.

(The doors were opened and the bars were drawn)

Next Order!

COMMITTEE OF THE WHOLE

(Order for Committee read)

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

IN THE COMMITTEE

[The Chairperson (Sen. Kembi-Gitura) took the Chair]

THE STATUTE LAW (MISCELLANEOUS AMENDMENTS) BILL,
(SENATE BILL NO.6 OF 2014)

The Chairperson (Sen. Kembi-Gitura): Order, Members! We are now in the Committee of the Whole.

*(Sen. Wetangula stood up in his place and
consulted other Senators)*

Excuse me, Sen. Wetangula! It is difficult to proceed unless the Senate Minority Leader is sitting on his seat. We need to finish this business as quickly as possible. You will also be able to help the Chair to deal with these issues.

The Senate Minority Leader (Sen. Wetangula): Mr. Chairperson, Sir, I was consulting the “King of Meru”.

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(Sen. Muthama crossed the floor without bowing)

The Chairperson (Sen. Kembi-Gitura): Order! Are you telling me that when we are in Committee of the Whole, you can cross the Floor in any manner?

The Senate Minority Leader (Sen. Wetangula): Mr. Chairperson, Sir, when the Mace is down you can walk---

The Chairperson (Sen. Kembi-Gitura): Order! I was asking that because of Sen. Muthama---

The Senate Minority Leader (Sen. Wetangula): Okay, Mr. Chairperson, Sir.

The Chairperson (Sen. Kembi-Gitura): Let us proceed. We are in the Committee of the Whole. First, we will consider the Statute Law (Miscellaneous Amendments) Bill, (Senate Bill No.6 of 2014).

Clause 2

The Chairperson (Sen. Kembi-Gitura): I propose that Clause 2 be part of the Bill. Sen. Wako, this is your Bill, is it not?

Sen. Wako: Yes, Mr. Chairperson, Sir.

The Chairperson (Sen. Kembi-Gitura): Hon. Senators, please, note we will have one Division Bell for everything. However, we shall vote for each amendment as necessary. That is now common practice.

The Senate Minority Leader (Sen. Wetangula): On a point of clarification, Mr. Chairperson, Sir. I see a raft of issues here. The schedule set out here, this miscellaneous amendment looks identical to the Bill which we debated here on issues of the National Campaign Against Drugs and Alcohol Abuse (NACADA). Is this a duplex job? Most of these things I see here are in that Bill that many Members expressed desire to move a series of amendments.

(Sen. Wako stood up in his place)

The Chairperson (Sen. Kembi-Gitura): Sen. Wako, why are you still standing when Sen. Wetangula is on his feet?

The Senate Minority Leader (Sen. Wetangula): Mr. Chairperson, Sir, I just need a clarification on whether we are passing a law upon a law or parallel laws that we end up doing the same things?

Sen. Wako: Mr. Chairperson, Sir, what the Senate Minority Leader is referring to is a Bill that was brought by Sen. (Prof.) Kindiki. Thereafter, we dealt with the NACADA Bill, which is different from the other Bill.

My confusion here is that this amendment is the one that we had put there, but they are not giving us any reason for amending it because most of the names that are

here, are already in the original Bill. All we were doing on the NACADA Bill were basically putting two additional people; one person nominated by the Council of County Governors and the other one the Minister responsible for the time being of Devolution.

As you remember, we were trying to make these Bills compliant with the Constitution. The NACADA Bill, as it was then constituted, did not take into account the county governments. So, all we did here was to make the principal secretary in the Ministry responsible for Devolution to be a Member of this Committee and three persons nominated by the Council of Governors. The committee that is proposing this Bill is not here. I do not understand why we have this particular amendment unless it is just a drafting style. It does not add any value to what was in the original Bill.

The Chairperson (Sen. Kembi-Gitura): I think you are jumping the gun. The question Sen. Wetangula is asking is different from what you are attempting to answer. I am now moving clause by clause. When we come to the amendment we shall raise the issue. If the amendment is moved, it will be debated and the Question put.

My understanding is that right now we are dealing with The Statute Law (Miscellaneous Amendments) Bill. The proposals coming from the Committee on National Security and Foreign Relations were those recommended in the Committee on the Bill. So, I do not think there is any conflict or duplication on that.

The Senate Minority Leader (Sen. Wetangula): Mr. Chairperson, Sir, I do not know if I was clear; the Bill brought by Sen. (Prof.) Kindiki had identical provisions. This Miscellaneous amendment is on a similar Bill, now are we going to have a duplex law on the same issue?

The Chairperson (Sen. Kembi-Gitura): Do you have that law? I can only talk about what is before me.

The Senate Minority Leader (Sen. Wetangula): Mr. Chairperson, the only thing we can, probably, do is proceed with this and advice Sen. (Prof.) Kindiki to sit with the Committee and see whether what he is proposing has been dealt with here, then he can pull it out.

The Chairperson (Sen. Kembi-Gitura): I think that would be the right thing to do because I can only deal with what is in front of me right now.

I had proposed that Clause 2 be part of the Bill.

Provisions relating to:

The Cancer Prevention and Control Act

The National Transport and Safety Authority Act

The Pyrethrum Act

The Prevention, Protection and Assistance to Internally Displaced

Persons and Affected Communities Act

The National Honours Act

(Question of the amendment proposed)

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Provisions relating the National Authority for the Campaign Against Alcohol and Drug Abuse Act)

(Question of the amendment proposed)

The Chairperson (Sen. Kembi-Gitura): My record shows that there is a proposed amendment by the Chairperson of the Standing Committee on National Security and Foreign Relations. Is anybody going to move that amendment on the Order Paper?

Sen. Wetangula, are you a Member of that Committee? If there is nobody then that proposed amendment dies.

(Amendment dropped)

Provisions relating to the Sports Act

Sen. (Eng.) Muriuki: Mr. Chairperson, Sir, I beg to move:-

THAT, the Schedule to the Statute Law (Miscellaneous Amendment) Bill, 2014 be amended by deleting the proposed amendment to the Sports Act No.25 of 2013.

Mr. Chairperson, Sir, allow me to clarify a point here, this is not my personal amendment as Sen. (Eng.) Muriuki. There is a misprint. It was out of the resolution of the Committee on Labour and Social Welfare and my submission to the Speaker said as much. I said that I am moving on behalf of the Chairperson because he would not be there.

That notwithstanding, we do not have any problem with this proposed amendment. The Committee on Labour and Social Welfare is shortly embarking on comprehensive review of the Sports Act as a whole. For that reason, the Committee felt that it would be a good idea to come up with the proposed amendment to that Act.

With that, let me add that among the quick observations which we made as a Committee is that Item 17 of the Fourth Schedule puts sports under the national Government whereas most of the activities in sports happen in and around the counties. We felt that it would be a good idea instead of inserting these amendments now, we be given a chance to look at it thoroughly and do a comprehensive report.

The Chairperson (Sen. Kembi-Gitura): Thank you, Sen. (Eng.) Muriuki. It does not have to be seconded. So, I will just propose the Question.

(Question of the amendment proposed)

The Senate Minority Leader (Sen. Wetangula): Mr. Chairperson, Sir, it is just good that the distinguished Senator for Nyandarua has issued a disclaimer before he even

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moved the amendment. The reasons given are not good enough because the amendment is going to bring management of stadia under county government or to involve county governments in the management of stadia. As I speak, county governments are already rolling out huge budgets to renovate stadia and manage them. If there will be a comprehensive review of the Act, let it find things going on. As it is now, if we have no control of the stadia, how do they appropriate money on them? It is good that Sen. (Eng.) Muriuki said that he has no emotion about the amendment and he is just a proxy. I want to encourage him to---

The Chairperson (Sen. Kembi-Gitura): Order! I do not think he said he is a proxy. He said it is for the Committee and not his personal amendment.

The Senate Minority Leader (Sen. Wetangula): Mr. Chairperson, Sir, I want to encourage him that it does no harm to take this amendment because the review will find it in operation. It will just be the process of the dynamism of the law. The law is always on the move.

The Chairperson (Sen. Kembi-Gitura): So, are you supporting or opposing the amendment?

The Senate Minority Leader (Sen. Wetangula): I am opposing.

Sen. Wako: Mr. Chairperson, Sir, I strongly oppose this particular amendment because the purpose of these amendments is to bring Acts of Parliament to be in conformity. What we are being requested is that pending the review of the entire Act, we should have an Act in our statute books which is not in conformity with our Constitution. We are prolonging the unconstitutionality of the said Act. We cannot do that. As the Senate Minority Leader has stated, the best way to go is to immediately bring it in conformity and when you finish your exercise, you will, again, be able to repeal it. I am quite sure that the exercise will not take less than six months. Therefore, I am opposed to this. I would kindly request the hon. Mover to explain to the Committee that the passage of this amendment does not mean that we cannot comprehensively review the Act.

Sen. Mutula Kilonzo Jnr.: Mr. Chairperson, Sir, in fact, let me bring out something else that informed our debate. Under part 2 of the Fourth Schedule, paragraph 4, the functions of county governments include cultural activities, public entertainment and public amenities such like sports and cultural activities and facilities. If the Senators will notice the county governments are already putting their budgets on upgrading of stadia and other facilities. They are getting into a conflict with the national Government, where it appears that the national Government wants to have a hold into these facilities, yet it is a county function. That is the reason that we cannot afford to wait for the Committee on Labour and Sports to come up with a Bill. The time is now because budgets are going on. If it comes along then maybe that Bill would address the issues that we considered in our Committee on Legal Affairs and Human Rights, to conform to this part of the Constitution.

Mr. Chairman, Sir, I oppose the amendment.

Sen. (Eng.) Muriuki: Mr. Chairperson, Sir, the wisdom in the Committee, as I said, was simply that the issue of sports seemed very indeterminate on what is happening where. When we looked at these amendments, they looked like some sort of cure to a very big problem. We thought that it would take only maybe a month or a month-and-a-half and then we will come up with a comprehensive Bill, so that we can take care of all these things. But having listened to the reasoning by the Senate Majority Leader, Attorney General *Emeritus* and others and also looking at the Fourth Schedule, which talks about facilities, I am persuaded on behalf of the Committee. I do not have the actual amendment here, but if what they have said is true, that we are only bringing the stadia on board and leaving everything else, then on that basis, I will withdraw on behalf of the Committee. Since I can only see Sen. Wangari here and she is not opposing, we can move on.

Mr. Chairperson, Sir, I beg to withdraw.

The Chairperson (Sen. Kembi-Gitura): Thank you, Sen. Karue. For the record, you are withdrawing the amendment. So, I do not have to put the Question on that.

Sen. (Eng.) Muriuki: Mr. Chairperson, Sir, that is what I am doing on behalf of the Committee.

(Proposed Amendment withdrawn)

The Chairman (Sen. Kembi-Gitura): I am proposing that the provision relating to the Sports Act No.25 of 2013 be part of the Bill.

I will put the Question later.

Let us go on.

New provisions relating to the Customs and Excise Act, Cap.472

The Chairman (Sen. Kembi-Gitura): Again, this is an amendment by the Committee on National Security and Foreign Relations. Is anybody ready to move the amendment?

Again, that one dies.

(Proposed Amendment by the Committee dropped)

I now propose that the Title and Clause 1 be part of the Bill.

I will not put the Question now, but we are done with the Statute Law (Miscellaneous Amendments) Bill, (Senate Bill No.6 of 2014). So, I propose that we go to the next Bill and then we will have one Division.

THE POLITICAL PARTIES (AMENDMENT)
BILL (SENATE BILL NO.3 OF 2014)

Clause 2

Sen. (Dr.) Khalwale: Mr. Chairman, Sir, I beg to move:-

THAT clause 2 of the Bill be amended by deleting paragraph (a) and substituting therefor the following new paragraph-

(a) by deleting subsections (1) and (2) and substituting therefor the following new subsections-

(1) The Fund shall be distributed as follows –

(a) seventy per cent of the Fund proportionately by reference to the total number of votes secured by each political party in the preceding general elections;

(b) twenty five percent of the Fund equally among political parties which are entitled to receive funding under subsection (2); and

(c) five percent for the administration expenses of the Fund.

(2) Notwithstanding subsection (1), a political party shall not be entitled to receive funding from the Fund if –

(a) the party does not secure at least one of the following categories of seats in the preceding general elections –

(i) one seat in the office of a county governor;

(ii) one seat in the office of a senator;

(iii) at least two seats in the office of a member of the National Assembly; or

(iv) at least twenty seats in the office of a member of a County Assembly.

(b) more than two-thirds of its registered office bearers are of the same gender.

Mr. Chairperson, Sir, if I may explain very briefly, in the Bill the requirement was that we have only one Member of the County Assembly. However, after the Committee went into consultation, they suggested and I concurred with them, and they concurred with the public that we should raise the threshold. So, the reason we have one Senator or Governor is because our understanding was that some of the counties have got up to 17 Members of Parliament like in Nairobi. Therefore, if somebody secured like in Nairobi

one million votes, a party getting those kind of votes has got substantial support. Therefore, they should get funding, similar to the Senator.

As to why we settled on two seats in the National Assembly, it is because some of our counties like Lamu and Isiolo have got a maximum of two seats. Therefore, we thought that we had sufficiently raised the threshold.

Mr. Chairperson, Sir, as to the amount of money, we are amending so that instead of having a cut off and then the money will be shared pro rata based on the number of votes garnered. That is the justification for this amendment.

I beg to move.

(Question of the amendment proposed)

Sen. Murungi: Mr. Chairperson, Sir, I support the amendment on constitutional grounds. I think it is Article 2 of the Constitution which says that Kenya shall always be a multiparty democracy and it imposes on the State the duty to promote multiparty democracy in this country. So, this Bill is in support of that spirit in the Constitution for supporting multiparty democracy.

Secondly, Article 38 of the Constitution makes it a fundamental human right to be a Member of a political party. So, it is for the State to make political parties available for Kenyans to be able to enjoy that right under Article 38. It is in that spirit that I support this amendment.

Sen. Wako could correct me, sometimes the word “or” in law also means “and”. I would like to confirm that that is the meaning on Page 217, the last sentence on subparagraph 2(iv). The “or” there means “and,” because part (b) does not make sense unless that “or” is understood.

Sen. (Dr.) Khalwale: On a point of information, Mr. Chairperson, Sir.

The Chairperson (Sen. Kembi-Gitura): Would you like to be informed by Sen. (Dr.) Khalwale?

Mr. Murungi: Yes, Mr. Chairperson, Sir.

Sen. (Dr.) Khalwale: Mr. Chairperson, Sir, I would like to advise the plenary that as the originator of this amendment and for which we have worked together with the Committee on Legal Affairs and Human Rights, the “or” that is coming after part (iv) is a typographical error.

The Chairperson (Sen. Kembi-Gitura): That is important because I do not want to see you amending. So, do we strike it out?

Sen. (Dr.) Khalwale: Yes, indeed, Mr. Chairperson, Sir.

The Chairperson (Sen. Kembi-Gitura): Otherwise, we have to have a Motion of amendment. Sen. Murungi, are you satisfied?

Sen. Murungi: Yes, Mr. Chairperson, Sir.

The Chairperson (Sen. Kembi-Gitura): We, in the Committee, agreed that this was not meant to be there; it is a typographical error and we are not going to do an amendment on it. So, just strike it out.

Sen. (Eng.) Muriuki: Mr. Chairperson, Sir, I hope it is admissible to ask for clarification from the Mover. When we talk of the total number of votes, are we referring to the votes garnered by the President, each Member of Parliament or all the votes put together?

The Chairperson (Sen. Kembi-Gitura): Sen. (Dr.) Khalwale, can you make a clarification? Which clause are you referring to, Sen. (Eng.) Muriuki?

Sen. (Eng.) Muriuki: Mr. Chairperson, Sir, I am referring to Clause 2 (a) on page 216 of the Order Paper where there is an amendment which states:-

(1) The Fund shall be distributed as follows-

(a) Seventy per cent of the Fund proportionately by reference to the total number of votes secured by each political party in the preceding general elections;

Since we vote for six individuals in the general elections, when you say “votes”, how shall we calculate them?

Sen. (Dr.) Khalwale: Mr. Chairperson, Sir, at the end of the election, the IEBC then computes for purposes of taking it to the Registrar of Political Parties. That is the total number of votes garnered by each party. For example, UDF might not necessarily have won the presidential election, but their presidential candidate got votes. So, all those are added. Originally in my proposal, I had suggested that we eliminate the presidential vote. However, when the Committee went around, people felt that the President is a father figure; a uniting figure. Therefore, his vote must be safeguarded.

Sen. (Eng.) Muriuki: Mr. Chairperson, Sir, so what we are saying is that we get the vote for each one of the elected leaders up to the ward representative and then you get the total.

Sen. (Dr.) Khalwale: Yes, Mr. Chairperson, Sir.

The Chairman (Sen. Kembi-Gitura): Sen. Muthama, you have a proposed amendment on the Order Paper and it states that you will withdraw the amendment if Sen. (Dr.) Khalwale’s amendments are carried. Is that correct?

Sen. Muthama: Mr. Chairperson, Sir, I intended to move that amendment on the basis that we will strengthen the unity of Kenyans and also try to eliminate those basket political parties; those which are just formed to give out certificates. Since the unity has been shown through the amendments by the Committee, I am satisfied. After serious consultations with Sen. (Dr.) Khalwale, I withdraw the amendment.

(Proposed Amendment to Clause 2 by Sen. Muthama withdrawn)

New Clause 1A

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Sen. (Dr.) Khalwale: Mr. Chairman, Sir, again, in consultation with the Committee on Legal Affairs and Human Rights, I beg to move:-

THAT, the Bill be amended by inserting the following new clause immediately after clause 1-

Amendment of section 7
of No. 11 of 2011.

1A. Section 7 of the Political Parties Act is amended in sub-section (2) by deleting sub-paragraph (iii) of paragraph (f).

In Section 7 of the Political Parties Act No.11 of 2011, this paragraph says that for a political party to receive assent for registration, it must have and maintain physical offices in 24 counties. In practice, parties have found that this is a very expensive exercise. Even if you are going to get some funding, you will waste money on paying rent for 24 offices and staff who work there. It is not practical. So, the request of both the smaller political parties, the caucus that puts together political parties and the NDC to the Committee was that this be dropped. Once a party has got 2,000 members in at least 24 counties, it has complied. You cannot afford to have 24 physical offices in 24 counties. Therefore, I am proposing that we drop the requirement that a party should maintain 24 physical offices in 24 counties. That is the intention of the amendment.

(Question of the New Clause 1A proposed)

(New Clause 1A read the First Time)

The Chairperson (Sen. Kembi-Gitura): This is the Second Reading and, therefore, you need a seconder.

Sen. (Dr.) Khalwale: Since this is the Second Reading, I want to ask the distinguished Senator for Meru, who I support a lot on matters of *miraa*, to second me.

Sen. Murungi: Thank you, Mr. Chairman, Sir. I rise to support the amendment, again, on constitutional grounds.

Mr. Chairman, Sir, basic requirements for political parties are set out in Article 91 of the Constitution. There is no requirement under Article 91 of the Constitution that a party maintains physical offices. The requirement is that a party should have a national character and democratically elected governing body. It should also promote and uphold national unity and abide by democratic principles of good governance. So, a party can fulfill all these with only one headquarters in Nairobi. Even the presidency is only in Nairobi and is not supposed to reside in various places. Even some of the Commissions which are of national character have only one headquarters in Nairobi. So, as the bus driver and leader of APK, I can inform this House that we are carrying every personal financial burden to try to maintain 24 offices in 24 different counties in this country. It is an unnecessary burden. It is like granting bail, but give such excessive conditions which amount to denial of bail. So, that is obstructive and undermining our fundamental rights to form and run a political party. Indeed, the requirement itself is unconstitutional.

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Mr. Chairman, Sir, I fully support the amendment by the Senator for Kakamega, Sen. Boni Khalwale.

*(Question, that the New Clause 1A
be read a Second Time, proposed)*

The Chairperson (Sen. Kembi-Gitura): Nobody has shown interest to debate, but I will not put the question now. I will do so together with rest of the questions.

I propose that the title and Clause 1 be part of the Bill. I will put all the questions at the same time.

In the interest of time, we are going to ring the Division Bell once for five minutes. When we come back, we shall deal with the Statutes Law (Miscellaneous Amendment) Bill and vote for it once, because there are no amendments. After we finish with that, we shall now vote on the Political Parties (Amendment) Bill (Senate Bill NO.3 of 2014). So, there shall be four votes under the same Division Bell.

Ring the Division Bell.

(The Division Bell was rung)

Can you ring the bell for another one minute?

(The Division Bell was rung)

Hon. Senators, please, sit down. Sen. (Prof.) Lesan, is there a good reason why you are still standing?

We will now go into Division.. I hope that the Clerks-at-the-Table are ready. Draw the bars.

(The bars were drawn)

We are ready to vote. We are voting on the Statute Law (Miscellaneous Amendments) Bill, Senate Bill No.6 of 2014.

Sen. (Dr.) Khalwale, can you take your seat so that we can vote?

Sen. (Dr.) Khalwale: But I am seated.

The Chairperson (Sen. Kembi-Gitura): But you are consulting so loudly, I can hear you.

I will put the question on the State Law (Miscellaneous Amendments) Bill, Senate Bill No.6 of 2014 which is that Clause 2, Title and Clause 1 be part of the Bill. Please, log in so that we can vote. You cannot be assisted before the vote is taken. You have one minute to vote. The Members who require assistance can come forward and vote now.

(Senators proceeded to vote)

Hon. Senators, the ones who want to be assisted to vote, can you come and be assisted?

I will give the results for the Statute Law (Miscellaneous Amendment)
Bill.

THE STATUTE LAW (MISCELLANEOUS AMENDMENTS)
BILL (SENATE BILL NO. 6 OF 2014)

Clause 2, Title and Clause 1

DIVISION

ELECTRONIC VOTING

(Question, that Clause 2, Title and Clause 1 be part of the Bill put and the Senate proceeded to vote by County Delegations)

AYES: Sen. Abdirahman, Wajir County; Sen. Chelule, Nakuru County; Sen. Chiaba, Lamu County; Sen. Hargura, Marsabit County; Sen. Hassan, Mombasa County; Sen. Kagwe, Nyeri County; Sen. Karaba, Kirinyaga County; Sen. Kembu-Gitura, Murang'a County; Sen. Kisasa, Kilifi County; Sen. (Dr.) Kuti, Isiolo County; Sen. (Dr.) Khalwale, Kakamega County; Sen. (Prof.) Lesan, Bomet County; Sen. (Dr.) Machage, Migori County; Sen. Melly, Uasin Gishu County; Sen. Mositet, Kajiado County; Sen. (Eng.) Muriuki, Nyandarua County; Sen. Murkomen, Elgeyo-Marakwet County; Sen. Mutula Kilonzo Jnr., Makueni County; Sen. Muthama, Machakos County; Sen. Murungi, Meru County; Sen. Okong'o, Nyamira County; Sen. Sang, Nandi County; Sen. Wako, Busia County and Sen. Wetangula, Bungoma County.

The Chairperson (Sen. Kembu-Gitura): Hon. Senators, the results are as follows:-

AYES: 24

NOES: Nil

ABSTENTIONS: Nil

The "Ayes" have it.

(Question carried by 24 votes to 0)

(Clause 2 agreed to)

(Title agreed to)

(Clause 1 agreed to)

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THE POLITICAL PARTIES (AMENDMENT) BILL
(SENATE BILL NO.3 OF 2014)

The Chairperson (Sen. Kembi-Gitura): Hon. Senators, the next one is Sen. (Dr.) Khalwale's Bill; the Political Parties (Amendment) Bill, Senate Bill, No.3 of 2014 and there are four amendments and we shall vote on each of them and then I will announce the votes.

Clause 2

DIVISION

ELECTRONIC VOTING

(Question, that Clause 2 be amended as proposed by Sen. (Dr.) Khalwale, put and the Senate proceeded to vote by County Delegations)

AYES: Sen. Abdirahman, Wajir County; Sen. Chelule, Nakuru County; Sen. Chiaba, Lamu County; Sen. Hargura, Marsabit County; Sen. Hassan, Mombasa County; Sen. Kagwe, Nyeri County; Sen. Karaba, Kirinyaga County; Sen. Kembi-Gitura, Murang'a County; Sen. (Dr.) Kutu, Isiolo County; Sen. (Dr.) Khalwale, Kakamega County; Sen. (Prof.) Lesan, Bomet County; Sen. (Dr.) Machage, Migori County; Sen. Melly, Uasin Gishu County; Sen. Mositet, Kajiado County; Sen. (Eng.) Muriuki, Nyandarua County; Sen. Murkomen, Elgeyo-Marakwet County; Sen. Mutula Kilonzo Jnr., Makueni County; Sen. Muthama, Machakos County; Sen. Murungi, Meru County; Sen. Okong'o, Nyamira County; Sen. Sang, Nandi County; Sen. Wako, Busia County and Sen. Wetangula, Bungoma County.

On Clause 2, the results are as follows:-

AYES: 24

NOES: Nil

ABSTENTIONS: Nil

The "Ayes" have it.

(Question carried by 24 votes to 0)

*(Question, that the words to be left out be left out,
put and agreed to)*

(Question, that the words to be inserted in place thereof)

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be inserted, put and agreed to)

(Clause 2 as amended agreed to)

Title and Clause 1

DIVISION

ELECTRONIC VOTING

*(Question, that the Title and Clause 1 be part of the Bill put,
And the Senate proceeded to vote by County Delegations)*

AYES: Sen. Abdirahman, Wajir County; Sen. Chelule, Nakuru County; Sen. Chiaba, Lamu County; Sen. Hargura, Marsabit County; Sen. Hassan, Mombasa County; Sen. Kagwe, Nyeri County; Sen. Karaba, Kirinyaga County; Sen. Kembi-Gitura, Murang'a County; Sen. (Dr.) Kuti; Isiolo County Sen. (Dr.) Khalwale, Kakamega County; Sen. (Prof.) Lesan, Bomet County; Sen. (Dr.) Machage, Migori County; Sen. Melly, Uasin Gishu County; Sen. Mositet, Kajiado County; Sen. (Eng.) Muriuki, Nyandarua County; Sen. Murkomen, Elgeyo-Marakwet County; Sen. Mutula Kilonzo Jnr., Makueni County; Sen. Muthama, Machakos County; Sen. Murungi, Meru County; Sen. Okong'o, Nyamira County; Sen. Sang, Nandi County; Sen. Wako, Busia County and Sen. Wetangula, Bungoma County.

The results for New Clause 1A are as follows:-

AYES: 24

NOES: Nil

ABSTENTIONS: Nil

The "Ayes" have it.

(Question carried by 24 vote Nil)

(Title agreed to)

(Clause 1 agreed to)

New Clause 1A

DIVISION

ELECTRONIC VOTING

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(Question, that the New Clause 1A be read a Second Time put and the Senate proceeded to vote by County Delegations)

AYES: Sen. Abdirahman, Wajir County; Sen. Chelule, Nakuru County; Sen. Chiaba, Lamu County; Sen. Hargura, Marsabit County; Sen. Hassan, Mombasa County; Sen. Kagwe, Nyeri County; Sen. Karaba, Kirinyaga County; Sen. Kembi-Gitura, Murang'a County; Sen. (Dr.) Kuti, Isiolo County; Sen. (Dr.) Khalwale, Kakamega County; Sen. (Prof.) Lesan, Bomet County; Sen. (Dr.) Machage, Migori County; Sen. Melly, Uasin Gishu County; Sen. Mositet, Kajiado County; Sen. (Eng.) Muriuki, Nyandarua County; Sen. Murkomen, Elgeyo-Marakwet County; Sen. Mutula Kilonzo Jnr., Makueni County; Sen. Muthama, Machakos County; Sen. Murungi, Meru County; Sen. Okong'o, Nyamira County; Sen. Sang, Nandi County; Sen. Wako, Busia County and Sen. Wetangula, Bungoma County.

The Chairperson (Sen. Kembi-Gitura): The results for New Clause 1A are as follows:-

AYES: 24

NOES: Nil

ABSTENTIONS: Nil

The "Ayes" have it.

(Question carried by 24 vote Nil)

(Question of the New Clause 1A proposed)

(New Clause was read the First Time)

(Question, that the New Clause 1A be read a Second Time, put and agreed to)

(The New Clause was read a Second Time)

DIVISION

ELECTRONIC VOTING

(Question, that the New Clause 1A be part of the Bill put and the Senate proceeded to vote by County Delegations)

AYES: Sen. Chelule, Nakuru County; Sen. Chiaba, Lamu County; Sen. Elachi, Nairobi County; Sen. Hargura, Marsabit County; Sen. Hassan, Mombasa County; Sen.

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Kagwe, Nyeri County; Sen. Karaba, Kirinyaga County; Sen. (Dr.) Khalwale, Kakamega County; Sen. Kisasa, Kilifi County; Sen. (Dr.) Kuti, Isiolo County; Sen. (Prof.) Lesan, Bomet County; Sen. (Dr.) Machage, Migori County; Sen. Melly, Uasin Gishu County; Sen. Mositet, Kajiado County; Sen. (Eng.) Muriuki, Nyandarua County; Sen. Murkomen, Elgeyo Marakwet County; Sen. Murungi, Meru County; Sen. Muthama, Machakos County; Sen. Mutula Kilonzo Jnr., Makueni County; Sen. Ndiema, Trans-Nzoia County; Sen. Okong'o, Nyamira County; Sen. Sang, Nandi County; Sen. Wako, Busia County and Sen. Wetangula, Bungoma County.

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

AYES: 24

NOES: Nil.

ABSTENTIONS: Nil.

The "Ayes" have it.

(Question carried by 24 votes to nil)

*(Question that the New Clause 1 A be part of the
Bill put and agreed to)*

Sen. Wako: Mr. Chairman, Sir, I beg to move that the Committee doth report to the House its consideration of the Statute Law (Miscellaneous Amendments) and its approval thereof without amendments; and the Political Parties (Amendment) Bill and its approval thereof with amendments.

Sen. Murungi: seconded

(Question proposed)

(Question put and agreed to)

(The House resumed)

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

REPORTS, CONSIDERATION OF REPORTS AND THIRD READINGS

THE STATUTE LAW MISCELLANEOUS AMENDMENTS BILL
(SENATE BILL NO.6 OF 2014)

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THE POLITICAL PARTIES (AMENDMENT) BILL

Sen. Kembi-Gitura: Mr. Temporary Speaker, Sir, I beg to report that a Committee of the Whole has considered the Statute Law (Miscellaneous Amendments) Bill and approved the same without amendments and the Political Parties (Amendment) Bill and approved the same with amendments.

Sen. Wako: Mr. Temporary Speaker, Sir, I beg to move that the House doth agree with the Committee in the said report.

Sen. Murungi seconded

(Question proposed)

(Question put and agreed to)

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

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

Sen. Wako: Mr. Deputy Speaker, Sir, I beg to move that the Statute Law (Miscellaneous Amendments) Bill, Senate Bill No.6 of 2014 be now read a Third Time.

Sen. Murungi seconded.

(Question proposed)

DIVISION

ELECTRONIC VOTING

(Question, that the Statute Law (Miscellaneous Amendments) Bill be now read a Third Time, put and the Senate proceeded to vote by County Delegations)

AYES: Sen. Chelule, Nakuru County; Sen. Chiaba, Lamu County; Sen. Elachi, Nairobi County; Sen. Hargura, Marsabit County; Sen. Hassan, Mombasa County; Sen. Kagwe, Nyeri County; Sen. Karaba, Kirinyaga County; Sen. (Dr.) Khalwale, Kakamega County; Sen. Kisasa, Kilifi County; Sen. (Dr.) Kutu, Isiolo County; Sen. (Prof.) Lesan, Bomet County; Sen. (Dr.) Machage, Migori County; Sen. Melly, Uasin Gishu County; Sen. Mositet, Kajiado County; Sen. (Eng.) Muriuki, Nyandarua County; Sen. Murkomen, Elgeyo Marakwet County; Sen. Murungi, Meru County; Sen. Muthama, Machakos

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County; Sen. Mutula Kilonzo Jnr., Makueni County; Sen. Ndiema, Trans-Nzoia County; Sen. Okong'o, Nyamira County; Sen. Sang, Nandi County; Sen. Wako, Busia County and Sen. Wetangula, Bungoma County.

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

AYES: 24

NOES: Nil.

ABSTENTIONS: Nil.

The "Ayes" have it.

(Question carried by 24 votes to nil)

*(The Bill was accordingly read
a Third Time and passed)*

Sen. Wako: Mr. Deputy Speaker, Sir, I beg to move that the Political Parties (Amendment) Bill, (Senate Bill No.10 of 2014) be now read a Third Time.

Sen. Murungi seconded.

(Question proposed)

DIVISION

ELECTRONIC VOTING

*(Question, that the Political Parties (Amendment) Bill be
Read a Third Time, put and the Senate proceeded
to vote by County Delegations)*

AYES: Sen. Chelule, Nakuru County; Sen. Chiaba, Lamu County; Sen. Elachi, Nairobi County; Sen. Hargura, Marsabit County; Sen. Hassan, Mombasa County; Sen. Kagwe, Nyeri County; Sen. Karaba, Kirinyaga County; Sen. (Dr.) Khalwale, Kakamega County; Sen. Kisasa, Kilifi County; Sen. (Dr.) Kuti, Isiolo County; Sen. (Prof.) Lesan, Bomet County; Sen. (Dr.) Machage, Migori County; Sen. Melly, Uasin Gishu County; Sen. Mositet, Kajiado County; Sen. (Eng.) Muriuki, Nyandarua County; Sen. Murkomen, Elgeyo-Marakwet County; Sen. Murungi, Meru County; Sen. Muthama, Machakos County; Sen. Mutula Kilonzo Jnr., Makueni County; Sen. Ndiema, Trans-Nzoia County; Sen. Okong'o, Nyamira County; Sen. Sang, Nandi County; Sen. Wako, Busia County and Sen. Wetangula, Bungoma County.

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

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AYES: 24

NOES: Nil.

ABSTENTIONS: Nil.

The “Ayes” have it.

(Question carried by 24 votes to nil)

*(The Bill was accordingly read
a Third Time and passed)*

Next Order!

Sen. Wangari: Mr. Deputy Speaker, Sir, first, I appreciate that it is already past 8.00 p.m. but it is important that I move this Motion. I will take a very short time. I was privileged to represent the Committee on Labour and Social Welfare at the Glasgow games. I can tell you the experience of watching those games on television and being at the stadium cannot be comparable. We did so well.

The Deputy Speaker (Sen. Kembi-Gitura): Order! Sen. Wangari, have you moved the Motion? You have not even read the terms of the Motion.

MOTION

COMMENDATION TO THE KENYAN TEAM FOR THEIR STERLING PERFORMANCE IN THE COMMONWEALTH GAMES IN GLASGOW, SCOTLAND

Sen. Wangari: My apologies, Mr. Deputy Speaker, Sir.

I beg to move the following Motion:-

THAT, aware that Kenya is known for its splendid performance in athletics; noting that athletics is part of Brand Kenya; appreciating that the Kenyan athletes are good ambassadors and have done the country proud; noting further that the Kenyan team took part in the recently concluded Commonwealth Games in Glasgow, Scotland, and were ranked number nine overall; appreciating that the team put up a good performance and won a total of twenty five medals, of which, ten were gold, ten silver and five bronze; appreciating that it was the first time for Kenya to win a gold medal in the field events; cognizant of the fact that such performance will inspire upcoming athletes; the Senate records its commendation to the Kenyan team for the sterling performance in the Commonwealth Games held in Glasgow, Scotland.

Like I said earlier, this team put up a very good show in Glasgow, Scotland. Not only did we win so many medals, we were recorded in new fields that we have not ventured as a country.

To summarise, I wish to pick on three issues and note that not only were we number nine overall in the competition, it is only two other countries in Africa that were ahead of us; that is South Africa and Nigeria.

The first issue is that we were able to venture in very new grounds. We are earlier known for long distance running. We have improved. We are now comfortably doing 800 metres. In fact, in most of those events that we participated in, we actually took the three medals in steeple chase for women and 3,000 metres for men. Julius Yego---

Sen. Muthama: On a point of information, Mr. Deputy Speaker, Sir.

The Deputy Speaker (Sen. Kembi-Gitura): Sen. Wangari, do you wish to be informed by Sen. Muthama? He insists he wants to inform you.

Sen. Wangari: Sure, Mr. Deputy Speaker, Sir.

Sen. Muthama: Mr. Deputy Speaker, Sir, for the purpose of the HANSARD, I believe that Kenya was second to South Africa. If I got it correctly, we were ahead of Nigeria.

The Deputy Speaker (Sen. Kembi-Gitura): Sen. Muthama, that is not just for purposes of the HANSARD. That is very important information.

Sen. Wangari: Thank you, Sen. Muthama for correcting me. I noted a few fields that we have ventured in. I noted one performer who is Julius Yego who has learnt the art of javelin through YouTube. He earned this country a gold medal.

Even if in other fields we were not able to get medals, I want to note that the organization of para sports in this competition was very good for Kenya. In fact, we had a double amputee called Wacuka, who does not have legs, who was competing in swimming. Even if we did not win the medal, we have done well as a country. They have done us proud.

My experience, the few days I was in Glasgow with Sen. Joy Gwendu is that we were able to watch these games in the media. However, the local channels were picking on their participants who were maybe No.8 and they were just hammering that those were the only people who were representing us. They ignored us who were leading and having all the three medals. That is what we should do as a country. Even if we do not get all the gold and finish last, we should be patriotic enough and support our athletes.

I want to register my commendation for this team personally and on behalf of the Committee on Labour and Social Welfare and ask that Sen. Okong'o seconds the Motion.

Thank you.

Sen. Okong'o: Thank you, Mr. Deputy Speaker, Sir, for this opportunity to second this Motion. I wish to applaud our team which has always made us proud especially in the athletics. It is important now that we have devolved some of these functions that our governors and ourselves put a lot of effort in improving the stadia around the counties. It is also important as somebody who has dealt with athletes that we

nurture talents of our youth in terms of training for investments and education. Also, I do not agree with those people who are arguing that our athletes who defect to countries in the Arab world should be condemned. For somebody like myself who has been a consultant in athletics, Kenya is a granary. Those are just fine products who have gone out and they will eventually come back. There is a lot of potential in our youth which is untapped. I call upon all of us to work in this regard to assist these young talent so that we can move forward instead of just engaging those who have gotten opportunities to go out and earn a living and who will eventually come back to build this country.

Another issue I will briefly talk about is that of coaching in this country. Training of our athletes is exposed to all the media in the world. That is why sometimes we lose in these efforts especially when competing in the fields. In fact, you can never see Ethiopians train and that is why we urge this Committee to come up with a policy which states that we should be training our athletes in a secretive manner so that we do not expose them to our opponents.

Last but not least, we have a problem in football where the performance is very dismal, maybe that is the reason why our President sent our team to the World Cup so that they can improve. I would like the relevant Ministry to come up with stringent measures even if it means banning the team like Nigeria did many years ago so that we can improve. Performance in football has been dismal and that needs to be relooked into.

With those few remarks, I beg to second.

(Question proposed)

The Deputy Speaker (Sen. Kembi-Gitura): Hon. Members, I cannot just put the Question because most of you are showing interest to contribute. I have six enthusiastic Senators who want to contribute. For the sake of good order, we have another one Motion to deal with because this is not the last one. It is your decision because it is now 8.34 p.m., so you must decide what time you want to leave.

Sen. Murkomen, are you suggesting that I put the question?

Sen. Murkomen: I am saying for those who want to take note, let us agree to take two minutes each.

The Deputy Speaker (Sen. Kembi-Gitura): That is a reasonable request. Of course, all of us are very proud of our athletes and we have continued to say so. It is good that this Motion is here so that we can ventilate on the issue but since it has been moved and seconded so well, I want to concede that we give a maximum of two minutes to everybody. This time, I am going to follow the list as it has come to me.

I will start with Sen. Murkomen.

Sen. Murkomen: Mr. Deputy Speaker, Sir, I represent athletics powerhouse in this Chamber and that is Elgeyo-Marakwet County. I want to take note that as a result of the last competition, new athletes have come and I think Sen. (Prof.) Lesan must be very proud because some of them come from his county. I want to say that, as a country,

athletics and sports has really managed to unite us. It is important that we just do not take advantage of the fact that we got the publicity as a result of the good job the athletes are doing but as a House, we declare that every time our athletes do well, they must be rewarded however small it is with a national recognition. Those athletes have managed to market this country in a manner than none of us can do without paying anything. We note that any athlete who is going to engage in field events, his or her dreams are valid because of the good job that Julius Yego did, in fact, by training himself on You Tube. Those are good stories about this country that we must recognize and appreciate. I believe that as a country, we must invest in athletics because that is the future of this country.

With those few remarks, I beg to support.

Sen. Melly: Mr. Deputy Speaker, Sir, I want to support this Motion. I also want to urge the national Government together with the county governments to assist in the construction of stadia. You realize that in the Jubilee Manifesto, they are supposed to construct one stadium in each county. It is unfortunate that in Uasin Gishu County, a city of champions, we do not have a single stadium. I want to urge the two levels of government to partner and at least ensure that we have one stadium in each county. I want to congratulate Lorna Kiplagat from Elgeyo-Marakwet County for coming up with the first standard stadium where most athletes from Uasin Gishu and Nandi go to train.

Lastly, universities should come up with a curriculum, just like Moi University has done, so that we begin training on how to improve games in this country and how to nurture young talents so that we have people who can participate in events in future especially in track events. For the first time, I want to congratulate my brother, Julius Yego, who comes from my county for having won the first gold medal in the track events. Therefore, we need to invest in sports to ensure that our country remains relevant in sports.

Last but not least is the issue of tax. Our athletes are taxed so much. The manager takes a certain percentage and the host country taxes the remaining. The same money is also taxed when they come home. That is why you find that our athletes are poor because most of the money is taken by the managers and the government through taxes.

I support.

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

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

Sen. Karaba: Mr. Temporary Speaker, Sir, I also want to congratulate the team which came from Glasgow recently. I hope that in future, they will do a better job than what they did. What I observed is that most of the games done in Glasgow are all European oriented. There are things which have never been heard in Africa. Therefore,

we should increase the number of games done in Africa like bull-fighting so that we can get more medals.

There are also other track events which were not included like 3000 metres, 800 metres and 100 metres. I do not know why those events were not included in the programme. If they had included them, we could have 11 gold medals. Most of the games in Olympics or Commonwealth Games are tilted towards some European countries. This is something we need to note.

Otherwise, I congratulate the athletes and hope that Kenya will give them a hero's welcome and taxes should be waived.

I support.

Sen. Chelule: Mr. Temporary Speaker, Sir, I also want to congratulate the athletes who represented our country at the Glasgow Commonwealth Games. As I stand here, I am very proud because one of those who bagged a gold medal for this country is my neighbour by the name Faith Chemng'etich. I am proud of them and I cannot forget to congratulate those who have been training them. Mere congratulatory messages are not enough. I think the Government should do something more than this. The Government should come up with a training camp in every sub-county.

There are very many athletes at the grassroots who are really talented in various types of games and the Government should ensure that training camps are put in place. We also should exempt the athletes from paying taxes because when they are out there, they are representing this country. I am really proud as a Kenyan to say bravo to those who are training these athletes. Once more, I would like to congratulate these athletes and ask God to bless them.

Thank you.

Sen. Muthama: Thank you, Mr. Temporary Speaker, Sir. I also stand to support this Motion by sending special congratulations to our dear daughters and sons who flew to Glasgow and made us proud as a country. I was watching television when they won all the gold medals. I was a little bit disappointed when we lost the 10, 000 metres race to Kipsiro of Uganda. Other runners revenged for their brothers who lost in the 10,000 metres race which was our race. I was confident that we were going to win in that race.

Sen. Melly has talked about a great training area in his county. I also want to say that the two Dikus also come from my county; Those who won gold and beat other athletes. The courage of Kenyans is spreading all over the country when it comes to games. In Machakos County, there is a good training area for athletes. The shame on our faces is our national football team, Harambee Stars. Something must be done about this. I went to Nyayo Stadium to watch the game between Kenya and Lesotho. A total of 40 million Kenyans were beaten by a country with a population of one million people. If you divide 40 million by one million, it means 40 Kenyans were defeated by one resident of Lesotho. We can play better than this. What Nyamweya did---

The Temporary Speaker (Sen. (Dr.) Machage): Your time is up.

Sen. Omondi: Thank you, Mr. Temporary Speaker, Sir, for giving me this opportunity to make my contribution and support this Motion. Indeed, I want to thank the team that represented us. I congratulate them for lifting this nation high. I want to challenge the Government, especially the parent Ministry, that the issue of sports in this country needs a lot of support. I want to speak on the area of paralympics as Sen. Martha Wangari has mentioned. I have been an official in the area of paralympics and especially in cerebral palsy as an official. I am speaking from experience. There are challenges faced by these citizens. There is need for us to improve in the area of facilities that are used while doing practice.

Paralympians with disabilities need a lot of support because they are equal to the task and they have been doing well in this country for several years. That is a gesture that if supported well, they can carry this country high.

I support the Motion.

Sen. (Prof.) Lesan: Mr. Temporary Speaker, Sir, I also wish to take this opportunity to thank the team which represented us in Glasgow. More particularly Ms. Cherono, the young girl who comes from Bomet County and also more specifically, Mr. Yego who took the initiative to train himself, met his dream and got a gold. We still have a large group of our population that does not express adequate passion and interest in sports and, therefore, cannot encourage those athletes. I was in Germany during the World Cup and every car moving in the streets was flying the German flag. I wish that the passion in this country in matters sports and, athletics, for example, would be at that level.

The career life of an athlete is very short. It is only a period of about six or eight years or a maximum of ten. It is important that we attempt to assist these young athletes who have been successful and made money at a young age to invest for their future life since the career life of an athlete is short.

With those remarks, I want to congratulate the entire team that represented and made us proud.

Sen. Elachi: Mr. Temporary Speaker, Sir, I also rise to support the Motion and thank the athletes. They made us proud. The journalists in Europe really commended the team and said that was one of the best teams. I urge the Government that it is important to respect those who make our country proud and make it possible for people out there to want to know Kenya. I want to thank Julius Yego who has succeeded in javelin. I hope that young people will embrace from him that you can learn from YouTube, move on and become one of the best in an area.

I support.

The Temporary Speaker (Sen. (Dr.) Machage): May I call upon the Mover to reply.

Sen. Wangari: Mr. Temporary Speaker, Sir, I want to thank every Member who has taken their time to stay back and contribute to this Motion. We hope that we will be able to do better in the coming games. The Committee on Labour and Social Welfare will

still be interacting with the Ministry to ensure that we are able to deal with the hiccups that have been raised.

With those few remarks, I beg to move.

(Question put and agreed to)

The Temporary Speaker (Sen. (Dr.) Machage): Next Order!

MOTION FOR ADJOURNEMENT

ADJOURNMENT TO A DAY OTHER THAN
THE NEXT NORMAL SITTING DAY

Sen. Elachi: Mr. Temporary Speaker, Sir, I beg to move;-

THAT, pursuant to Standing Order No.28 (3), the Senate do now adjourn until Tuesday, 23rd September, 2014.

I want to thank the Senate that, indeed, this second session that we have had has been a session where we have worked within the Committees and at least, we have passed several Bills within this House. I also want to add that as we go for recess, I know the Senators will form the County Boards and we hope that they will also invite the Nominated Senators to join them as they constitute the Boards. More importantly, we have to go to the public and create more awareness so that they can understand our role as a Senate; that we are here to ensure that the county governments receive money and that the public appreciate that devolution is working.

I beg to move and ask Sen. Muthama to second.

Sen. Muthama: Mr. Temporary Speaker, Sir, I stand to second this Motion of Adjournment. Since my colleagues have been given credit by Sen. Elachi for their fantastic and sterling performance, I also wish to congratulate them and caution them that as we take this recess, we are supposed to make sure that we put in place the county development boards. I want to caution them that it will not be easy because of our relationship with the Governors. As you embark on this journey, it is up to you to stand firm as elected leaders according to the Constitution and perform your duties. You should have courage and stand to be counted. We are here to guide the counties. We are the people who are being looked upon by Kenyans to provide leadership.

Some of the elected Governors are people who have been in different professions but they have never been in leadership positions; they have never courted with *wananchi* at any level. Some of them were just civil servants who went and took public offices where they are now supposed to interact with *wananchi* and yet they do not have the experience. We are going to face some resistance but it is my sincere hope that you do not look backwards but give Kenyans what they expect from us.

I beg to second.

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(Question proposed)

(Question put and agreed to)

ADJOURNMENT

The Temporary Speaker (Sen. (Dr.) Machage): Hon. Senators, the House now stands adjourned until Tuesday, 23rd September, 2014 at 2.30 p.m.

The Senate rose at 9.00 p.m.