

PARLIAMENT OF KENYA

THE SENATE

THE HANSARD

Tuesday, 26th November, 2013

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

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

PRAYERS

QUORUM CALL AT COMMENCEMENT OF SITTING

(The Speaker consulted with the Clerk-at-the-Table)

The Speaker (Hon. Ethuro): Hon. Senators, I am informed that we do not have quorum. So, I order the Division Bell to be rung.

(The Division Bell was rung)

Hon. Senators, we now have quorum; we may, therefore, commence our business.

COMMUNICATION FROM THE CHAIR

GROUND BREAKING CEREMONY FOR THE LAUNCH OF SGR IN MOMBASA

The Speaker (Hon. Ethuro): Order, Senators. I have a communication to make.

As you may already be aware, there shall be a ground-breaking ceremony for the launch of the Standard Gauge Railway (SGR) from Mombasa to Kampala to Kigali to Juba, to be presided over by His Excellency the President on Thursday, 28th November, 2013, that is, two days from today. The ceremony will take place at the Changamwe Marshalling Yard in Mombasa at exactly 9.00 a.m. The Ministry of Transport and Infrastructure has invited the Speaker, the Deputy Speaker and all the Senators to the event. However, given that Thursday, 28th November, 2013, is a sitting day, I have directed that the Standing Committee on Energy, Roads and Transportation represents the Senate at this important function as it is a matter falling under its purview.

PAPERS LAID**REPORTS OF THE ENERGY COMMITTEE
ON FAMILIARIZATION TOURS**

Sen. Moi: Mr. Speaker, Sir, I beg to lay the following Papers on the Table of the House.

- The Report of the Standing Committee of Energy, Roads and Transportation on:
- (i) The familiarization tour of the geothermal power plants in Baringo and Nakuru counties between 11th and 13th July, 2013.
 - (ii) The familiarization tour of Kenya Ports Authority (KPA), Kenya Petroleum Refineries Limited (KPRL) and Kenya Pipeline Company (KPL) in Mombasa County between 5th and 8th August, 2013.
 - (iii) The familiarization tour of geothermal power plants in Ol Karia - Naivasha, Nakuru County on 12th August, 2013.

(Sen. Moi laid the documents on the Table)

**SUPREME COURT ADVISORY OPINION
REFERENCE NO. 2 OF 2013**

The Senate Majority Leader (Sen. (Prof.) Kindiki: Mr. Speaker, Sir, I beg to lay the following Papers on the Table of the House.

The Advisory by the Supreme Court of Kenya in Advisory Opinion Reference No.2 of 2013 delivered on 1st November, 2013.

The National Honours Regulations, 2013

*(These regulations supersede those tabled
on Wednesday, 20th November, 2013)*

(Sen. (Prof.) Kindiki laid the documents on the Table)

NOTICES OF MOTIONS

Sen. Moi: Mr. Speaker, Sir, I beg to give notice of the following Motions.

**ADOPTION OF REPORT ON FAMILIARIZATION
TOUR OF GEOTHERMAL POWER PLANTS IN
OLKARIA AND NAIVASHA**

THAT, this House adopts the report of the Standing Committee on Energy, Roads and Transportation on the familiarisation tour of geothermal power plants in Olkaria - Naivasha, Nakuru County on 12th August, 2013 laid on the Table of the House on Tuesday, 26th November, 2013.

ADOPTION OF REPORT ON FAMILIARIZATION
TOUR OF GEOTHERMAL POWER PLANTS IN
BARINGO AND NAKURU COUNTIES

THAT, this House adopts the report of the Standing Committee on Energy, Roads and Transportation on the familiarisation tour of geothermal power plants in Baringo and Nakuru Counties between on 11th to 13th July, 2013 laid on the Table of the House on Tuesday, 26th November, 2013.

ADOPTION OF REPORT ON FAMILIARIZATION
TOUR OF KPA, KPRL AND KPC IN MOMBASA

THAT, this House adopts the report of the Standing Committee on Energy, Roads and Transportation on the familiarisation tour of Kenya Ports Authority, Kenya Petroleum Refineries Limited and Kenya Pipeline Company in Mombasa County between 5th and 8th August, 2013 laid on the Table of the House on Tuesday, 26th November, 2013.

NOTING OF ADVISORY OPINION OF
THE SUPREME COURT BY THE SENATE

The Senate Majority Leader (Sen. (Prof.) Kindiki: Mr. Speaker, Sir, I beg to give notice of the following Motion.

THAT, the Senate notes the Advisory Opinion by the Supreme Court of Kenya in the Advisory Opinion Reference No.2 of 2013 delivered on 1st November, 2013.

BILL

Second Reading

THE COUNTY GOVERNMENTS (AMENDMENT) BILL

(Sen. Sang on 20.11.2013)

(Resumption of Debate interrupted on 21.11.2013)

The Speaker (Sen. Ethuro): Who was on the Floor?

Sen. Kennedy Mong'are had the Floor.

(The Speaker consulted with the Clerk-at-the-Table)

Did he finish? Then Sen. Billow, would you wish to contribute?

Sen. Billow: Mr. Speaker, Sir, I rise to support this Bill.

The subject of devolution is a very important one to many of us in this country. What we have seen in the last couple of days on the report that has been published about the level of inequalities in this country is astounding. I think we have all seen the report that was launched this morning but which had been published in some of the papers in the last couple of days. The report reveals a very grim picture of the society that we live in. In this country, there are people who can spend Kshs1,000 or Kshs1,200 per month and there are others who can spend Kshs200,000 per month and yet this is the same nation and country. I will come to the reasons why I think there are serious problems.

Mr. Speaker, Sir, I do not think that this is the intention of this Bill. I was one of the people who were very skeptical about this Bill because I had the feeling that this is an attempt to try and push some executive work to us and some of us were not ready to manage cattle dips and other things in the counties. After listening to my colleagues the other day, I was convinced that this Bill does not infringe on the constitutional mandate of the counties and I do not think it is the intention of the Bill to usurp the powers of the governors. In my understanding, this Bill is simply a leadership forum. In fact, it is not governmental. It is not a national or county government meeting. It is a leadership forum for the leadership of the county to meet, design, exchange views and plan for their county. Therefore, it is a process of consultation. Why do we need this consultation? One of the main reasons why we need consultation is to enrich the process of prioritisation of development in the county. That is the single biggest problem we have seen when the budgets were done early this year. Indeed, there was no significant attention paid to selection of priorities by the county governments.

This forum will provide an opportunity for devolved funds to be spent in a way in which they are prioritised and, therefore, will foster a unity of purpose and provide a strategic direction for the county. We have seen counties that have launched their strategic directions. They have a strategic direction showing where they want to go. There are counties where things are still confused. We have visited counties and we have seen budgets where budgets look like the old Constituencies Development Fund (CDF) thing. It is divided by the number of county wards and every ward gets Kshs50 million, then they create 50 projects of Kshs100,000, Kshs500,000 or Kshs800,000. We have seen this in a number of counties and this is unfortunate because that is not the intention of the development. That is not the way people in those counties will develop. Therefore, it is important for us to have this forum so that we can have a strategic direction for the counties.

Mr. Speaker, Sir, it also informs the planning process. In my view, this is very critical. Counties are required by law to prepare a five year integrated development plan. How many of us in this Senate today have been involved in that process of developing

the five year development plans for their counties? I will be surprised. How many Members of Parliament have been involved and yet those development plans have already been bound, prepared and sent to the national government offices to enable them access money from the Controller of Budget? It is very important that the leaders of a county are actually involved in such development plans.

This consultation also helps to coordinate the utilization of devolved funds. Today, there are devolved funds for roads which are managed by Members of the National Assembly; there are devolved funds for CDF and there is also the *Uwezo* Fund. All these things need to be coordinated. It is very essential that we have a forum where these views can be brought together. Therefore, this is a very vital aspect of the whole Bill. In my view, it is also necessary because devolution is a new thing that has started. It is a transitional programme and in transition, we have hiccups, challenges and problems but that forum provides an opportunity for the leadership of the county to address those challenges. We have seen challenges in recruitment and selection process. Due to this, it is very important to address those transitional challenges.

If you go through the report, there are various views from the county assemblies, the Law Society of Kenya (LSK) and other institutions. One of those views is from the county assemblies. They are concerned that if this Bill is passed, part of their mandate would have been ceded to this forum. Their concern is that the forum has some executive mandates. If you look at the Bill where it talks about consideration, I agree, in my view, that it amounts to some executive role which can be done by the county executive and which is within their mandate. When it talks about “to consider or approve plans”, I think these responsibilities can be within the mandate of the county assemblies.

Therefore, in my view, to address their concerns, we have to amend the Bill at the Third Reading, so that we are only talking about recommending rather than adopting a particular plan or budget. This is an advisory forum and not an executive forum. The risk of being executive is that we will have moral challenges later on; that we order a particular project to be done and when it comes to oversight, this same Senate or the National Assembly will have a challenge in addressing the project if things go wrong. I think that advisory role is important where we recommend.

In that regard, we are simply complementing the work of the county assemblies. These assemblies have serious challenges. In the Constitution, they are mandated to review the budgets of the counties, consider and approve them. They are mandated to review the development plans and policies of county governments. They are supposed to receive reports of any type in the county government. So, their work is so much that they may not have the capacity and our work is to complement that. We will help them to synthesize the plans the county governments have. In other words, we shall give them the direction needed so that when the reports go to budgets, they would have been synthesized and discussed. Therefore, it would be easier for them to accept or reject at that point.

Mr. Speaker, Sir, the other concern has been made by the county executive, the governors in particular. They are concerned that we are usurping their power to set the development agenda. The Constitution is very clear that the development agenda is for the governor and his executive. They come up with their development agenda, put it

before the county assembly and implement it for five years. If they do not succeed, you have a chance democratically to vote them out. That is the way it is in the Constitution. However, in my view, the separation of powers has not been undermined in this Bill because we are not actually engaging in executive decisions but we are merely providing a forum for policy input. That is the way I am looking at it. In that regard, therefore, we are not really going to undermine the work of the governor. We are simply giving an input in terms of policy, development and views to enrich their process of coming up with their development agenda. That is what is important.

Now, does that erode our oversight authority? If we have this board, is it going to erode our oversight authority as the Senate? I think oversight means a process in which we address accountability. We look at expenditure, programmes and activities and address ourselves to the reasonableness of that activity, the costing, the financing, expenditures and so on. What this process simply does is to make that process of oversight real time instead of waiting and making it historical, that is, looking at it after five or six years. This is the situation today. The National Assembly is looking at public accounts for 2010/2011. What we are doing is providing oversight in real time. We will tell the county government what we think about various issues. The ultimate decision is theirs and we are not going to interfere in that regard. We are not going to interfere with their work. Their work is decision making. They are the ones to decide on the specifics. They are the ones to implement, spend and account for it. Our work is to provide consultations, recommend and advise them on what direction the county should take.

Mr. Speaker, Sir, at this critical junction in transition, consultation is very essential. We are in a critical phase of devolution. County governments are finding many challenges because the national Government has made it difficult to actually build capacity. When they were supposed to build capacity, they did not do so, so there are challenges. There are also challenges about transfer of functions. We have been out recently to receive views of counties with regard to that. Due to these challenges, we think this is the most appropriate time for us to come aboard and try to guide these counties so that they can carry out those functions.

Mr. Speaker, Sir, as I speak today, money has been disbursed to counties. The third tranche of allocations were sent. The fourth tranche which is for November is supposed to go by next week. As per last week, the total amount of money that was being held by county governments was in excess of Kshs40 billion. This is the amount that has so far been released to the county governments. They are not spending the money yet because they are still recruiting, they are still drawing up their programmes and even for some of them, their budgets have not yet been approved. There are about a dozen counties whose budgets have yet to be revised and approved because of problems with MCAs not working. These hiccups are there and unless we come in and try to assist them, we will have challenges.

Mr. Speaker, Sir, apart from the prioritisation that I mentioned earlier, there is a question of public participation. When we talk of public participation, the way it has been done, the modes that have been used are not suitable. When you simply call a few people in a market place, that is not public participation. In a matter like planning for a county or budget, you actually need leaders to guide the process. So, I think this process will also

enrich public participation and also avoid duplication. We have very clear risks of duplication. For example, the entire health sector has been devolved to the county governments and they have planned to finance their health activities but at the national level, there are so many projects and programmes which are being funded by donors. The money is being sent, and it has already happened, the first tranche of this money by the Ministry of Health called KHSSF has been sent down, the hospitals had already provided for that money for purchase of goods and services. This is a case of duplication.

So, between the national Government and the Members of the National Assembly which have devolved funds and the county governments, it is important to have this forum so that we avoid situations of duplication. We have seen situations where you want to put up a borehole, the Non-Governmental Organisations (NGOs) are also putting up the same, the National Water Conservation and Pipeline Corporation (NWCPC) is doing the same, the Ministry of Water is doing the same and the county governments are doing the same. This leads to a lot of confusion. So, this forum will also help in these matters. It also gives the national Government input. Currently, the national Government input is unknown. This means that the people at the county, as they plan and budget, do not know what the national Government is providing for but Members of Parliament know what the various Ministries are provided for in the national Government estimates. So, we can feed that information into the county governments planning process.

I think this is very important and it is happening now. Many of us do know this; if you go to the Ministry, you will be surprised that there are allocations for your counties in respect of the Ministry of Health, Ministry of Water and so on. This is important to the counties' planning system so that the county Government does not duplicate roles in that particular area. This is very important. I think in that regard, it also helps us when planning at the county level to plan in a national sense, because there are national blueprints for development, like the Vision 2030. If you leave things merely to the county Government, we may not fit into the national development plans of the country. I think this forum will help us to develop county plans and budgets that can be off-tailed into the Vision 2030 and other national blueprints.

Mr. Speaker, Sir, even with all those benefits that we can get from this Bill, it is important to appreciate that there are people out there who do not appreciate even the functions of the Senate. It is surprising that in this day and age, there are leaders in this country who are even Members of the National Assembly, who do not even appreciate the role of the Senate in this process of devolution. Therefore, we are surprised that there are people who can call for the scrapping of the Senate and at the same time tell us that they stand for devolution yet if you look at the Constitution, it rests on certain pillars. Devolution is built on certain foundations and one of them is this institution called the Senate. The other is the county assembly. So, with regard to the Senate, if you do not have this institution, basically what you are saying is that you are removing some columns on which this building is standing and it will collapse in due course.

In particular, there is no positive history of the National Assembly of this country supporting devolution. In the 1960s, they were singularly responsible for the scrapping, not only of the Senate, but of the system of devolution that was inherited at Independence. The National Assembly worked in cohorts with the Executive to scrap it.

In the very recent history when we were doing the Division of Revenue Bill, the National Assembly merely sang to the tune of the Executive. So, it is really wrong for anyone to suggest that if this institution is scrapped, the National Assembly will take care of devolution. With the challenges we have in devolution that I have mentioned, the Senate is the single most important institution that can support that.

Mr. Speaker, Sir, you will see distinguished Members of Parliament arguing on national television that one of the main reasons that they want the Senate scrapped is because of the public wage bill. There is no ridiculous argument than that one. It is not only unfortunate but the most ridiculous. The total amount of money used as salaries is about Kshs460 billion or close to Kshs500 billion. The total wage bill for this House, that is the salaries for the Senators, their allowances and everything else, you add will come to about Kshs1 billion. Now if everybody who is even in a kindergarten school takes a calculator and calculates Kshs1 billion as a fraction of Kshs500 billion, it comes to 0.002 per cent of the total wage bill. If anybody tells you that they want to save this country money by saving 0.002 per cent of the wage bill, then it means that, unfortunately, some of the leaders in this country do not qualify for some of the leadership positions that they hold.

Some of the leaders in this country are not fit to lead because they are misleading the people of this country. If you want to save this country money, you only need to take a pen and pencil and go through the Printed Estimates for the national Government and see how much wastage and inefficiencies there are. In fact, none other than the national Treasury three years ago declared that this country losses Kshs300 billion annually due to wastage, inefficiencies and pilferage in the public service. We are losing Kshs300 billion which is pilfered through procurement, wastage, duplication and other inefficiencies and yet there is somebody who has the responsibility to ensure that this wastage does not happen as they have that mandate in the Constitution. That same leader is the one mandated in the Constitution to ensure that there is no inefficiency and pilferage through procurement. They are the ones responsible for preparing legislations to ensure that the national Government works efficiently and in the most cost efficient way to ensure that there is no wastage, yet they do not see the log in their eye and they want to suggest and tell the Kenyans that they can save a lot of money if this or the other House is scrapped.

The institution called the Parliament has been set up for the single purpose of ensuring accountability; it is oversight in addition to legislation. Today, how much money is being saved simply by these institutions carrying out their mandates either in the committees or on the Floor of this House to monitor? The amount of money that this country is saving through public accountability demands by these institutions is astounding.

Mr. Speaker, Sir, there are some of us who, when they hear the wage bill, they do not know how much it is and I have just mentioned it. What is the wage? We are being told in a study that was released today that in a country of 40 million people, I will tell you the fallacy around all these arguments on the public wage bill. We are being told today in this report which has been published, that out of the 40 million Kenyans, about 20.2 million people are the working age. In other words, they are the people who qualify to work. They are the people who deserve to do a job. They are of working age. Out of

the 20.2 million, this country has only 4.8 million people working. There are 15.5 million people who should be working who are not working and we are told that if they are working, they are doing it for free. In other words; *wanakaa tu nyumbani*.

How do you expect this country to have development when 15 million people who are supposed to be of working age are unemployed in this country? This is an official report that has been published today and I hope you have all read it in the media. When the figure is at 15.5 million, it means that it has come to 75 per cent. In other words, 75 per cent of our youth who are of working age are unemployed. Now, do we struggle to look for jobs to give these people a salary or do we sit here in the National Assembly and other boardrooms and plan to send people at home? Are you creating wealth for the country or you are destroying it?

First of all, our public wage bill comes to 12 per cent of our GDP. Now, the average all over the world is between 5 per cent and 25 per cent of the GDP. In literally all the developing countries, the range is between 10, 12 to 14 per cent. This is the only country when you take the wage bill and take it as a percentage of the GDP, it comes to that figure. If you want that wage bill to come down, it is not about sacking people or reducing salaries, what you need to do is build the GDP. So, why do we not focus our time and energies as institutions that are mandated to ensure that the GDP grows? The institution that is mandated to ensure that the GDP grows is this House and that that House across the road called the National Assembly. Instead of the National Assembly and the executive focusing on building the GDP, they tell Kenyans that our salaries are high and that 47 or so people should be sent home.

I think we are really missing the point. I think there is need for more strategic direction. There is no focus in this Government and I think we need to be told why. I am glad the Senate Majority Leader is here. Though he does not sit in the Cabinet, the message needs to get to the Government that we are misleading Kenyans by trying to focus attention on the wage bill. Let us bake a bigger cake. There is no better opportunity today in this country for baking a bigger cake or building the GDP than the process of devolution.

Mr. Speaker, Sir, if you look at what has happened in the last few months, in the few counties where we have already carried out investment forums, they have attracted investments worth billions of Kenya shillings. People have signed off many billions. There are people going directly into those counties to invest. Where was that money and where were those people before? Why did we not hear all those things? Why is the national Government unable to attract even a billion shillings while the county governments from Nyandarua and everywhere else are attracting tens of billions of shillings? If you give Kenyans the opportunity to develop their potential, the resources that are being discovered and people going back to their homes and investing and exploiting their potentials, this is where we can “bake” a bigger cake. So, let us focus on building the GDP but not harassing Kenyans.

Finally, poverty is a major problem. In this study that has been published, it says that the number of Kenyans who are living below the poverty line is 50 per cent of the population. That is a shame. It says that in the rural areas, it is, in fact, 51 per cent. Nearly half of the people in rural Kenya, that is 45 per cent, spend less than Kshs1,400 or less

than 20 US dollars a month. Poverty in rural Kenya is far worse than in the urban centres. My county, Mandera, is ranked No.46 out of the 48. It is the 46th poorest county. That means, 88 per cent of the people who live there or 800,000 people are living below the poverty line. They cannot raise Kshs1,400 and yet somebody can stand here and say that devolution should be scrapped. *Hatuwezi kukubali!* One thing which we shall never do – I will use some language of somebody from some county - and we would rather die, is to allow this devolution to be undermined. *Hiyo hatuwezi kukubali! Hatuwezi kukubali!*

(Applause)

Mr. Speaker, Sir, the same Mandera County---

The Senate Leader of Majority (Sen. (Prof.) Kindiki): On a point of order, Mr. Speaker, Sir. While I agree with part of what the Senator for Mandera is saying in his contribution, is he in order to use both Kiswahili and English in his contribution?

The Speaker (Hon. Ethuro): I think he was putting some emphasis. There is a place for Latin words in the English Language and so I suppose there is a place for some Swahili words in the English Language.

Sen. Billow: Mr. Speaker, Sir, the inequality in Mandera County is so bad that apart from the fact that 88 per cent of the people of Mandera are living below the poverty level, 94 per cent of the people in Mandera have no access to electricity. So, if you look at the inequalities in this country, there is no other way of addressing it except through devolution. This forum that is being addressed in this Bill gives us an opportunity to focus our energies on building our counties.

Therefore, I fully support it and urge those who do not understand what is in the Constitution and are trying to suggest that this House has no business; this House has better business than any other House in this country. Thank you.

COMMUNICATION FROM THE CHAIR

VISITING DELEGATION FROM NATIONAL ASSEMBLY OF SOUTH SUDAN

The Speaker (Hon. Ethuro): Distinguished Senators, I wish to take this opportunity to introduce and acknowledge the presence of our colleagues who are visiting us today. Allow me, therefore, to introduce to you a delegation of Members of Parliament from the *ad hoc* Committee on the Parliamentary Service Commission of the National Legislative Assembly of the Republic of South Sudan, who are seated at the Gallery. This distinguished delegation from the National Legislative Assembly of the Republic of South Sudan is led by Hon. Jamine Samuel A.S., MP, who is the Deputy Speaker.

Distinguished Senators, I wish to introduce the rest of the honourable Members and will request each of them to stand once they are called, so that we acknowledge them in the normal warm tradition of our Parliament. They are as follows:-

Hon. Justin Lugworo A.K.;

Hon. Beatrice Aber Samson;

Hon. Akot Makuach Majok;
Hon. John Chuol Char Deng;
Hon. Tago'do Joseph Ngere Paciko;
Mr. Othom Rago Ajak Aweibuny - Clerk to the National Assembly;
Mr. Edward Apinyi M.O. - Legal Advisor;
Ms. John Stephen Jackline Yangi - Secretary to delegation; and,
Mr. Peter Wani Emmanuel.

We want to thank the distinguished delegation from the Parliament of South Sudan for visiting us today at the Senate and want them to feel most welcome as they follow our proceedings. I hope that your visit will enable you to borrow one or two things from the great House of Senate, which you may implement when you go back home.

I also want to acknowledge that your visit will go a long way in cementing the cordial relations between our two sister countries, Governments and the people.

I thank you.

(Applause)

*(Debate on The County Governments
(Amendment) Bill resumed)*

The Senate Majority Leader (Sen. (Prof.) Kindiki): Mr. Speaker, Sir, I rise to contribute to the debate on this Bill. I want to start by extending my congratulations and appreciation to the Senator for Nandi County, Sen. Stephen arap Sang.

The Speaker (Hon. Ethuro): Order, Sen. Kindiki! I just want to respond to your earlier point of order and refer you to Standing Order No.78 – proceedings to be in Kiswahili, English or Kenyan sign Language. It reads:-

“(1) All proceedings of the Senate shall be conducted in Kiswahili, English or in Kenyan Sign Language.

(2) A Senator who begins a speech in any of the languages provided for under paragraph (1) shall continue in the same language until the conclusion of the Senator's speech.”

My own understanding of Sen. Billow's contribution is that he was just using a few words to put emphasis. But he continued with the original language in which he started the debate. So, he was completely in order.

The Senate Majority Leader (Sen. (Prof.) Kindiki): Thank you, Mr. Speaker, Sir.

Mr. Speaker, Sir, I rise to support this Bill and thank Sen. Sang for introducing it. Listening to the debate and public discourse that is going on out there about this Motion, I think that a lot of time has been wasted in discussing the side issues, as opposed to the core object and purpose of this Bill. If I were a Governor, if there is one Bill that I would put a lot of support to, it is this Bill. This is because this Bill aims at trying to share leadership responsibilities. Any leader who has an illusion that they can deliver leadership and bear the responsibilities and burden of leadership alone, are in for a very rude shock come the next general elections. In fact, this Bill is actually in the interest of

county governments and everybody, because it means the development arrangements, plans and processes will be owned collectively. Therefore, if they succeed, all of you will have succeeded and if they fail, you cannot blame one person. This Bill, therefore, is one of the best Bills in terms of supporting devolution and I do not think there could be any better Bill.

Mr. Speaker, Sir, I just want to disabuse the notion that we are breaking the law, because as a House, we are guided by the Constitution, our own Standing Orders and the law of our land. If there is a Bill which is constitutional on all fronts, it is this Bill. This is because it is trying to give effect to the interface that the Constitution has created between the two levels of Government – the national Government and the county governments. That is why some of the membership of this county development boards are people whose mandate could be stretching in either of those distinct levels of Government. Article 6 (2) of the Constitution says that the two levels of Government – national and county governments – are distinct, but the next word is that they are also interdependent. They are distinct but interdependent. So, this Bill is providing the interdependence aspect of the two levels of government.

Mr. Speaker, Sir, secondly, I want to also draw the attention of the nation to the purposes and objects of devolution, in particular, Article 174. I want to read it for clarity.

Article 174 (a) reads:-

“The objects of the devolution of government are—

(a) to promote democratic and accountable exercise of power;”

Mr. Speaker, Sir, the object of devolution is not to glorify an individual. In this country the moment you start talking about devolution, then they will say that you are attacking governors, as if the word “Governor” is synonymous with devolution. Devolution does not exist to strengthen a Senator, Governor or Member of the National Assembly, but to make sure that the county governments are run democratically and are accountable in the way that they exercise power. There is no better way of making sure that the power exercised at that level is accountable, than to have the entire spectrum of leadership in that county sitting together, looking at the development plans, priorities, agreeing on a roadmap and also tracking the implementation of that roadmap. So, the objects of devolution are very clear.

Mr. Speaker, Sir, Article 174(c) reads:-

“(c) to give powers of self-governance to the people and enhance the participation of the people in the exercise of the powers of the State and in making decisions affecting them;”

Mr. Speaker, Sir, this tendency of one person running the show and dishing out money to whoever he thinks of is unconstitutional. So, if there is something that this Bill has done, it is to bring down constitutionalism and sanity in the new dispensation of leadership. So, devolution will ensure that the people participate through their elected leadership. That is why the Members of County Assemblies (MCAs) and Senators, both elected and nominated, are represented in this board. For the avoidance of doubt – and I want this to go on record – there is no superior spokesman of the people in the county above the Senator. That is what the Constitution provides and we exist to do. We speak,

represent and defend the people. So, if I am not involved in what is happening in my county, then I am abdicating my constitutional responsibility.

In fact, initially, when this Bill had been published and there was a lot of discourse out there, I was on record outside this House saying that it does not matter who chairs this board. I am now persuaded, beyond peradventure, that the Senator must chair this board, being the legitimate representative and official spokesman of the country. So, let us not make mistakes and not even debate this issue. The position of the vice-chair can be debatable, but the chair must remain the Senator of that county.

Mr. Speaker, Sir, this Bill provides an opportunity for us to discharge our constitutional responsibilities in Article 96. This is because Article 96 (c) talks about oversight. Now, if I do not know what is happening in my county, what development projects, resources and gaps are there, how do I exercise oversight or even defend the interests of that county? How do I try to figure out how to fill in the resource or capacity gaps that exist in that county? So, this Bill helps us to implement Article 96 and unite the county.

Mr. Speaker, Sir, many counties now are speaking in ten, 20 or 30 languages. I want to assure the nation that any county that does not speak in one voice, in terms of development, is headed nowhere. So, we are forcing leaders to work together. I have to work together with my Governor, not because I like him or anything, but because the Constitution demands that for the county system of government to work, you must put together the different leadership, so that we can harmonize our development initiative. So, we are trying to bring unity in the county.

Mr. Speaker, Sir, however, I think that the membership is a bit too bloated. I think that there are too many MCAs there. There is the majority leader, minority leader, the MCA in charge of the budget, the executive committee and so on. When the Governor is there, for example, you do not need his deputy there. Secondly, you cannot bring a member of the county executive committee and the Governor is already a member. That is undermining the authority of the Governor, if he is there as a member, with one vote and then, you bring an executive committee member and deputy governor. So, once you have the Governor, period. Secondly, we should not have the majority leader and minority leader. Let us have a maximum of two MCAs identified in whatever formula, rather than have all these people. Therefore, I think that the membership needs to be rethought.

Mr. Speaker, Sir, I have heard people saying that the reason the Senate is sponsoring this Bill is because we have no work to do. I do not think that there is anything that can be far from the truth. We have a lot of work. In fact, some of us were a bit cautious. I want to support what Sen. Billow Kerrow said. Initially, Sen. Billow Kerrow, Sen. Mutahi Kagwe and I were a bit uncomfortable with this Bill, because we thought that we did not want to take part in the executive functions in the county. We thought that, that is the work of the Governor and our work is to oversight and do the politics that will profile our counties to attract investments and resources which many counties are forgetting and have a national profile. When we devolve 15 per cent of revenues to the counties, 85 per cent of the national revenue remains with the national Government. So, it is the work of Senators to make sure that their county gets an

equitable share of the 85 per cent that remains in Nairobi. So, we have a lot of work to do. I do not know why the focus has been on how the 15 per cent in counties is handled; that is a very small fraction of the budget.

So, the point I am making here, Mr. Speaker, Sir, is that truth be told; you will not move forward as a county unless – and the Governors that are here should hear this: the way the Constitution is structured, it provides for dispersal of powers horizontally and vertically; and the role of the Governor as the chief executive in the county and the Senator, as the chief diplomat and defender of the county, are intertwined. We are joined together and, mark you, if for whatever reason there is no synchrony between the two, the most likely casualty is going to be the Governor because you are the one there running the programmes. You know, during the first year, you do a few things; in the second year, people start saying “O, we are not seeing this---” My work as a Senator is to speak loudest and to make sure that I am telling whoever needs to hear about whatever is missing in the counties or saying “this is not being done.” So, really, we are actually helping governors to do their job in a way indirectly.

I am now satisfied; I have looked at this Bill in terms of the functions which are proposed and I do not think any functions that are proposed here are executive in nature. I am willing to entertain any amendment that can remove any inclination to this board having executive powers at the county; it is an advisory organ and the more reason why the Senator should chair it is because you cannot advise yourself. So, the Governor cannot chair a board that is advisory on county government. So, it requires an independent person, and none of them is greater than the Senator, who is the official spokesperson of the county.

Mr. Speaker, Sir, I really want to support this Bill; it falls within the Constitution. I can go on and on; I can go on and cite Article 10 of the Constitution, which says that among the national values that we have as a nation is public participation and democracy. I can cite – as I have already cited Article 6(3) – Article 91 of the County Government Act, which says that at the county level, avenues for elected leaders will be provided for so that they can participate in the governance and management of county issues. So, this is a fairly straight forward thing; I do not know what the debate is; and sensing the mood in this House, this Bill should be passed hastily. I have also informally assessed the mood in the Lower House, which is pro this Bill, and I can assure you that given this kind of situation, we are going to give Kenyans the best Christmas gift ever. If we can pass it before Christmas, we could have done this country a great service.

Finally, Mr. Speaker, Sir, even as we struggle to fix devolution, the Senate is experiencing unnecessary provocations; and we want to encourage that you may have to consult a bit more with your counterpart in the National Assembly so that we can really concentrate on our core Business. We are restrained from responding to some of the things which have been raised, but we hope that the channels of communication will continue working so that our people and the people of this country who have put us in office can continue enjoying the fruits of their work, and that is by getting legislation passed, This is one of those legislations that will give this Senate very high marks. Once again, I laud Sen. Sang for sponsoring this Bill.

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

The Speaker (Hon. Ethuro): Sen. Agnes Zani.

Sen. (Dr.) Zani: Thank you, Mr. Speaker, Sir, for giving me this opportunity to support this Bill. May I start by congratulating Sen. Sang, not only for bringing this Bill, but for his bravery. If I am to refer to the newspaper, today's *Times*, which talked about attempts that have been made to pull out this Bill; I think it was not just about bringing this Bill to the House, but by the way, he stood so steadfast. If he had not done that and taken people through the various moments that it went through; the various arguments, trying to really hold true to the spirit of this Bill, we would have lost this Bill. I attended one of the Committee meetings where the Commission for the Implementation of the Constitution (CIC) was in attendance, where Sen. Sang really defended his Bill very well. So, congratulations for that, Sen. Sang. I think it is a result of that, that we have this Bill in this House in this particular form; and I think this is a Bill that will really take county governments to the next level.

But, Mr. Speaker, Sir, even as I talk about the difficulty of bringing Bills to the House and the influence that comes with it – because we have different players and different interests – I think it is important to emphasize the independence of the Legislature, the Judiciary and the Executive. Let the Legislature do its work; let us do the work of coming up with the Bills and let us discuss them as they should be discussed.

Mr. Speaker, Sir, this is the first time this country is going through devolution; so, we really are going through various experiences. Some counties have started off with a perfect head start and they know where to go; but others have not and it is a challenge for many of the counties. In some counties, they have hired consultants to give direction in terms of where the county should go to; and some of those have made headway. However in other counties, they have not hired consultants, but they have had – like in Kilifi County – a “County Day” where they have tried to bring the various players together, and this is the nexus of this Bill. I think all these efforts are done differently because there has not been a stage and a forum that has been set to do exactly that – to bring the vision and mission of the county; where does it want to go to; how does it want to go there and discuss the nitty gritty of the details that each county has to attain to achieve specific goals.

The integrated county development plans for most counties have been set out and that is one other forums that can be used to project and ensure that those particular objectives have been attained. But there is a need to have a board – and I think the County Development Boards at the county level enable the various players to project even in advance, if there are any loopholes, indicators or anything that they have missed out; that they can actually sit together. This Bill gives county leaders a forum for them to sit together in a structured manner so that they can actually look at where the county wants to go and how the county should get there so that at the end of it all, it is a role that has been played by everybody.

Mr. Speaker, Sir, we have had various players, even as we moved into devolution, but all these players have looked at things from various angles and, sometimes partly, that has formed part of the teething problems, especially in the counties. Some of these players include the Commission for Revenue Allocation (CRA) and the CIC especially with regard to the interpretation of law, interpretation of devolution; and everybody was

pulling from different directions. Counties came up with budgets that had not really been sprung from the ground; so, there are various teething problems that we have experienced in trying to understand where we are going to. But this particular forum gives us a chance to correct all this, once and for all. Therefore, as we move away from pushing issues of accountability and blame games to other people; we are able to sit together at one forum and make decisions.

Other Senators have already said this here; that it is important for leaders to work together. It is not a question of personalities – and I know there have been clashes between certain governors and certain Senators who cannot sit together – but this will make them have to sit together because they do not have an option. It is not about personalities – about who I like and who I do not like – but it is about the county; and that the county can move to the next level. I have always thought that the best Governor is the one who, from the word go, is able to delegate and delegate to the right people. I think there is a sense of fear in terms of trying to amass power at the level of the Governor. So, in most of the counties, we find governors who want to be lone rangers, but that is exactly where the fate of devolution is going to be.

It is very difficult for each of those governors, as a lone ranger, to bring development to each of those counties; and the sooner they are told that, the better. They have to learn to become team players; there is a reason why we have various roles in the devolved system. We have Senators, we have Members of County Assembly (MCAs); we have Women Representatives at the county level as well and each of them with a specific role. In fact, I will go further and say that in the team of the 14 who are meant to be in the Board, clear allocation of roles and responsibilities should also be given in terms of the direction and what exactly they are bringing in as members of that particular board. That should take us to the next level. So, I think it is a practical aspect that really helps us to come together to make decisions all together.

There is value in having more players come into the team than having a few players, because it minimizes the risk of errors. Somebody somewhere will be able to point out that “this is right” and “this is wrong.” The setting of the goals together, going back to the plans and analyzing them; plans on how to achieve these particular goals that have been set in a concise and clear manner, looking through the finances, objectives and the team players in terms of who will do what, when will it be done and looking through the policies that are going to come at the county level in terms of actualizing them, so that allocation of the various roles is very important. It also gives us a forum to begin answering questions, to project and look at pitfalls that might lie on our way in terms of development agenda.

Mr. Speaker, Sir, various people come from various professions, and I think the richness of these boards is that the various professionals will be in a position to look ahead and see what specific pitfalls are there and how to counteract them well in advance. It will also give counties an opportunity to have an evaluatory framework so that for each of the agendas that they have set, they can actually discuss in advance how they are going to gauge themselves, to find out whether or not they will achieve a particular level of success that they have put ahead of themselves even before that happens. So, if taken this

way, they are able to really all play a participatory role, knowing that at the end of the day, what matters is achievement for the county.

Mr. Speaker, Sir, the logic of who should be the Chair of the Board has been argued by the various Senators. Initially, there was a lot of skepticism and this is what was jittery, with the governors feeling that Senators wanted to take power. But Senators have been placed rightfully in the position to be representatives of the counties and the direct link of the county government with the national Government. So, at that pivotal role, we are best placed to actually be the ones who chair the specific boards.

Over time, one of the things that has come out very clearly is that whenever the different players have been put together – and I will give the example of the Senate and the Transition Authority (TA); the Senate and the CIC – every time there have been differences and lack of understanding, when people have been put together, they have been able to understand and pull from one position. So, I think we will see that from the Board level, it will be possible for these players to come, put their issues on the table and move forward.

I do not see a conflict between the oversight role and the actual execution at the Board level; and I would like to use the example of a teacher who supervises students. At one point, they are only a supervisor, but at that point in which that work is being examined, they reject or pull themselves away and begin to also assume an oversight role. So, by being part and parcel of the Board, it will actually give Senators a sharper vision and clarity of the issues at the county level, which will actually enhance their oversight role within those specific counties.

It is therefore not surprising that because the Senate is really the Upper House and the most powerful as far as devolution is concerned that our counterparts in the National Assembly would like to talk about the disbandment of the Senate. I think by beginning this discussion, they are actually looking for a way out for themselves. If we are talking about the wage bill, then we can come up with arguments of restructuring the Senate in such a way that we actually have the 47 women representatives at the county level and keep the elected Senators within the Senate and that will still give a good representation. As things stand now, there is a duplication of roles. At the county level, we have even covered the constituencies. So, we can actually say that their role is being duplicated and by the same argument, their role can actually be usurped by the Senators.

I think the first time we were a bit tolerant to them when this debate started, but I think we should no longer be tolerant to them. I think we should come up with blazing guns to defend our position and at the end of the day, if the argument is about the wage bill, then we are going to present a scenario where the wage bill is going to go down. I think this debate is taking a lot of our time and moving us away from the tasks that we should perform. It is very clear in Kenyans' minds about what the obligations for the Senate and the National Assembly are. Those obligations are also very clear to the Senators and Members of the National Assembly. We should save this country a lot of time to debate issues about development.

I, once again, congratulate Sen. Sang and strongly support this Bill.

Sen. Hargura: Thank you for giving me this opportunity to contribute to this important Bill. I would like to join my colleagues in thanking Sen. Sang for having

thought about this very important Bill which will go a very long way in streamlining the way the counties will take off. Currently or as it has been Kenya, we have had politics of the winner taking it all. After one has been elected, they only concentrate on the area they come from and that is what has been in the governors' minds all this time. This also comes with rewarding supporters. We have seen what happens in the disbursement of CDF whereby the Members of Parliament choose the Committee and at the end of the day, within the constituency, there may be imbalance of development.

At the moment, that is the direction the governors are taking. That is the situation obtaining in my county. I have also been listening to other Senators who are also experiencing the same. There is very little consultation between the Members of Parliament and the governors. Sometimes polarized elections even destabilize the county. In Marsabit County, that is what we are addressing. There is a situation where part of the county feels that they are not being consulted. Even if it is a perception, it is causing problems. If we have this kind of structure where from the beginning, all the leaders in that county can work together and issues will be addressed in advance, this will give us the assurance that there will be equitable development in the counties. When budgeting is done, the Board will have to look at that budget before it goes for approval by the county assembly. Right now, this is not the case because most of the Senators do not even know how the budgets in their counties were developed. They may not even be having a copy of the budget estimates.

Mr. Speaker, Sir, the County Integrated Development Plan will establish whether the budgeted funds are used for the intended purpose. If we, the elected leaders; the Senators and the Members of the National Assembly, have no input into this development plans, then we will not implement priority projects for our counties. If this piece of legislation goes through, it will go a long way in curing a lot of the problems that we are facing now. This will also increase the momentum of devolution. If all the leaders of that county sit at a round table and discuss issues that are of concern to their counties, then development will be faster and everybody will be in the picture. The public will get information from all the leaders, unlike a situation where some leaders are not aware of what is going on. At the moment, it is very easy to mislead the people to think that resources are not being distributed equitably and it might result into situations where they resort to means which will jeopardize the development of that county.

The purpose of this Board as provided for in this Bill is what we need to get our counties moving because it provides a consultative forum between the national Government and the county governments. Right now, there is a lot of push and pull at the county level. The roles of various officers are not clear. For example, they do not know the purpose of the county commissioner, how the national Government funds are going to reach the ground and how the county government will know what the national Government intends to do. The consultative forum as provided for by this Board will ensure that there is information flow and there will be no duplication of roles.

As it has been rightly said, most of the funding is still with the national Government. Right now the public's attention has been diverted to the Governor. The people are looking to the Governor to champion development at the county level, but nobody is giving information as to what is happening to the 85 per cent which is with the

national Government. The officer in charge of planning will sit on this Board and therefore, this will provide a very good forum to know what the county intends to do with the funds that will be given to them by the national Government. This will also be a forum where all the other funds which are targeted for expenditure in that county will be tabled. We have funds like the CDF whereby each Member of Parliament is handling his or her own kitty. This will avoid duplication of projects in some cases. This provides a very good avenue for harmonizing the expenditure of Government funds and ensuring that funds are used for their intended purposes.

The county government deals with particular functions like water, health and education at some level. We also have Members of Parliament targeting the same projects. This will leave out some functions which were intended for the national Government, for example, the infrastructure for schools. If this kind of forum is there, then one can sit and say: Let the county government concentrate on its functions while the CDF is utilized on functions which cannot be targeted by the county government. So, basically, that consultation will iron out a lot of issues and we will have a smooth running of the county governments. If there is any suspicion at the county level, they will iron it out there. This forum provides a very clear avenue for declaring who gets what and how it is spent.

Mr. Speaker, Sir, then there is the coordination and consultation for the CIDP which is the programme which will be used for the five years during the Governor's term. This is basically what he intends to achieve so that we can gauge him or her from the beginning. He or she would have set out what they intend to do and we interrogate it from the beginning so that as his or her term progresses we can gauge their performance and for the public to know. This provides a very good forum for us to participate so that we do not wait for five years when things will have gone wrong. If there is put in place a system where nobody interferes with the other, then we will leave somebody to mess for five years and then talk of removing them at elections. This is a case where for the benefit of the county you can direct the development agenda because the Board is supposed to have quarterly meetings. You can direct the development agenda for the benefit of the residents of that county. You do not just leave the Governor to do things on his own and then talk about them after five years. That is a long time and he could have wasted a lot of resources.

Then there is the consideration and adoption of the budget before approval. The previous speaker said that that adoption seems to be bordering on some other body's function like the county assembly. However, it is very clear. It says that the Board will adopt and then it will be approved by the county assembly. I believe this is still in order and it is all about resources. Devolution is about resources and if the resources are devolved from the national Government, then they reach the county level and are expended by one person, then that devolution will not be used for the purpose that it was intended. It is better for every leader to be part of the budgeting process so that they can give their input, we have the public participation and at the end of the day, what the county assembly approves is what we, as the elected leaders of that county, have all agreed on.

I fully support this Bill as it is and would like to thank Sen. Sang who thought of this idea because it is something we felt was lacking in these devolution set up. There should have been a way that we, as Senators and even the Members of Parliament, have a way of participating in the planning and the development of this county. As it is right now, it is how you relate to the Governor that determines whether you will know what is going on in the county or not.

Thank you.

Sen. Adan: Thank you, Mr. Speaker, Sir, for giving me this opportunity to contribute to this important Bill.

Mr. Speaker, Sir, first and foremost, I want to declare my interest. As a Member of the Committee on Legal Affairs and Human Rights, I participated in various fora that were handling this Bill but nevertheless, I would like to add the following remarks. It is really important for us to have this particular forum because from the County Governments Act, the county government is supposed to establish a consultative forum, where the politicians and also members of the public can participate in the development of the county government. So, clearly, the way it is, we are almost nine months down the line and yet, the county government has never thought about that. If we leave this responsibility to the county government, it means that this forum will never be established. So, clearly, this particular Bill is very important.

Mr. Speaker, Sir, secondly, from the petition forum that we had at the county level, there are so many things that came out of the governors and representatives of the Governors. I joined the team that went to Mt. Kenya and it clearly came out that in some instances, the Governor and Deputy Governor are not even on talking terms. When you go to the Governor, he will tell you that he does not know where the Deputy Governor is. I do not want to mention names, but there is a Deputy Governor who appeared before us and when we asked him whether the Governor was coming, he said that he did not know. Then, in the same forum, we found out that the executive committee members do not even know whether or not money has been sent to the county governments. Actually, it was very embarrassing when one of the executive committee members said that he did not have money in his docket, yet the person who has the information was seated in front of him. So, it is very embarrassing and shows that there is a lot of disconnect. If we have this forum, it will help us to deal with all those issues that are coming up at the county level.

Mr. Speaker, Sir, capacity building is a big problem. I think that what we are looking for, as a Senate, is to complement and help each other. Initially, there was hostility from the county governments and governors. They did not want this forum, but I am very happy to report here that save for the position of the chair, they really support this Bill.

Mr. Speaker, Sir, we have the mandate to protect and oversee the county governments. If we are really supposed to carry out our mandate, then this is the best forum. We cannot sit here and purport to be protecting county governments, yet we do not know what is happening on the ground. So, clearly, this forum will give us the basis or ground upon which we will be able to deliver on our mandate.

Mr. Speaker, Sir, from the same petition forum that we had, we found out that there are so many funds that go to the county governments. For instance, you will find that one particular project is actually financed by different bodies. The Constituencies Development Fund (CDF) is funding a particular project and the Governor is also contributing to the same project. If we really want to use the funds allocated to the counties properly and come up with the proper funding of those particular projects, we should use this forum to consolidate the energies that we are wasting running around and everybody doing their own things.

Mr. Speaker, Sir, in the forum of the Committee on Legal Affairs and Human Rights that I sit in, we found out that some of the civil societies were actually against this particular Bill. It is really embarrassing and disappointing to hear from the civil society that the Senate is interested in only money. What we are looking at is a platform where we can deliver on our mandate and help our communities and also serve the purpose that we are meant to serve.

Mr. Speaker, Sir, some of the county assemblies are saying that we are taking up the role of the Executive. We are not interested at all in taking up the responsibility or functions of the Executive. What we really want is a consultative forum where we can sit and deliberate on the issues that affect the counties and give our own input and also strengthen what is happening within the counties.

Mr. Speaker, Sir, I fully support this Bill because it will help us to develop our counties. As it is now, nothing is happening in those counties apart from politics. So, we need this particular forum.

Mr. Speaker, Sir, I beg to support.

Sen. Mungai: Thank you, Mr. Speaker, Sir, for giving me this opportunity to contribute to this very important Bill that is going to change a lot in terms of operations of our counties.

Mr. Speaker, Sir, this is the Bill that Kenyans were waiting for. This is because from the time that we were elected, we have faced a lot of questions from the electorate, concerning the development that is supposed to be happening in our counties. Many of them are indicating that whatever money that they are receiving is only enough to pay salaries. Some of the counties have even gone down in terms of revenue collections in comparison to the other bodies that existed before. Some of them have gone down to even less than half the revenue that was collected previously.

Mr. Speaker, Sir, we have four years before we go back to the electorate. If we shall have nothing to show, there is no way that the electorate will re-elect us back to this House. So, it is important that this Bill is supported by all. The fear by some governors that, maybe, the Senators are going to take over their roles is misplaced. This is because *mwananchi* wants delivery of services and development. It does not matter who is doing that. When we go down there to chair whatever they are doing, we are not belittling them, but trying to help them deliver what the electorate elected us for. It is, therefore, important that any suspicion that exists concerning this very important Bill be completely forgotten.

Mr. Speaker, Sir, the governors or any other party that could be having fears that the Senators are going to interfere with what is happening in the counties should realize

that we hear the cries of the people. It is only last week that my county, for example, completed the nomination of the county executive committee members. There is little that has been happening in that county. It was even in the list of the counties that had not used their budget allocation. It is very ironical for the Government to allocate money to a county and then *wananchi* still continue to suffer, because that money has not been utilized. We have had to content with that in Nakuru. I believe that the people of Nakuru would feel quite relieved if they started seeing development taking place in the county. That can only happen if this Bill is passed by this House.

Mr. Speaker, Sir, for some of the counties which depend so much on agriculture, roads are very important. In my county, the farmers are now harvesting maize and it is raining. If the farmer is not able to transport maize from his farm to a shed where it can be stored, and it is rained on, we will soon be talking about aflatoxin. So, it is important that we now get this forum on board, to ensure that we oversee the development of our counties.

Mr. Speaker, Sir, I believe that this Bill has come at the right time. Without it, we would be staring at another four years of very little happening in the counties. Unless we pass this Bill, devolution in our country will be at stake and lack meaning. Unless *wananchi* see things happening on the ground, we are going to face very tough questions as to why even the Senate was established. So, it is important that all of us support this Bill. We also have the support of the majority of Kenyans, especially those who want development. This Bill is, therefore, very dear to many Kenyans. They are even wondering why the Senate is dilly-dallying and not passing it.

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

The Speaker (Hon. Ethuro): Sen. Daisy Kanainza.

Sen. Kanainza: Thank you, Mr. Speaker, Sir, for giving me this opportunity to support this Bill. First, I want to congratulate my fellow youth, who is also a Senator of this House, for bringing this Bill that is very important, especially to the development of our counties.

Mr. Speaker, Sir, as we appreciate devolution, the people at the grassroots level are the ones who are supposed to enjoy the fruits of this Constitution that we voted for in 2010. As Senators, we are the custodians of the counties, their governments and the people and, thus, it is very important that we play a very crucial role in the development of our county governments. So far, we have seen the budgets that were done by our county governments and which were passed by the county assemblies. There have been a lot of omissions and alterations which are not so good. That is why I stand to support this Bill by saying that we, the Senators, must be part of it. At the same time, we should include the participation of the local people so that they can really know what is supposed to be done.

Mr. Speaker, Sir, I have also seen that the membership of the boards as proposed in the Bill is too big. It is very important that we should have a member from the public in the same board that not only represent the interests of the youth, but also the interests of women and people living with disabilities. Through these Boards, the 30 per cent given for procurement and delivery of goods and services meant for the youth should also be looked upon in a wider way. Why do I say this? Actually, we cannot leave this process

of devolution and performance of functions to the governors and executive alone. The Senators and even other members should be consulted, and they should be part of it to ensure that our people really enjoy the fruits of this Constitution.

Mr. Speaker, Sir, looking at the issue of development in our counties, we have the Constituencies Development Fund (CDF), *Uwezo* Fund and we also have this money that the Senate passed – the Kshs210 billion that is being disbursed to the counties – and it is important that we synchronize how these monies are going to be used. We appreciate that at the moment, we are having the integrated plans; most of the counties have done that. It is important that when these boards sit down, they are able to see what the Member of Parliament (MP) has planned to do in the constituency; what the county government is planning to do and even what the national Government is planning to do in the same county and in the same constituency, so that, actually, we do not have a duplication of the same functions as we have just said about health. You will find that an MP is trying to put up a health facility and, at the same time, the county government has also planned to put up the same facility in the same area. Through these boards, I know that the county governments are going to grow and we are going to appreciate that no Kenyan will wish to have national Government.

Mr. Speaker, Sir, I beg to support.

The Speaker (Hon. Ethuro): Sen. Omar Hassan.

Sen. Hassan: Thank you, Mr. Speaker, Sir, for this opportunity. I come to join the countless number of Senators who have spoken in support of this Bill. I have also come to join hands with my brother, Sen. Sang, from Nandi County, who I think has generated extra-ordinary public debate with respect to institutionalization and giving the framework for devolution at its very outset; and bringing in a very broad platform for leaders. This is something that I think the Constitution, in its own spirit, has envisaged and, therefore, this type of a Bill, by and large, goes a long way to restore order in our otherwise chaotic political scene that has been created with the advent of the new Constitution.

Mr. Speaker, Sir, my brother, Sen. Sang, knows that at the very outset, I had a general discussion with him and I did indicate to him that I will not support this Bill on account, particularly, of the sentiments that, I felt it might be a duplicity, and that it might strain our relationship with governors and other stakeholders within the broad play of the Constitution. But after careful internalization, and being a Senator who sits in the Committee on Legal Affairs and Human rights, where I have also internalized many of the discussions that have gone on from the public participation and the various stakeholders who we invited to give us input, I am now persuaded that this Bill is now the right direction to go.

I know I was moved partly by my own personal experiences in Mombasa County, where I fairly get along with my Governor; and I do believe that based on that, I felt that we do not need an institution, but we just need to strengthen personal relationships. But I do know now, through the discussions we have had, that these problems cannot be solved by personal relationships but, rather through institutionalization of a process of dialogue and consultation that will ensure that the broad spectrum of the leaders that have been elected within the framework of the new Constitution are given an effective opportunity to participate in their development agenda.

Mr. Speaker, Sir, if you look carefully, we also have to give our level of criticism to how devolution has started off. There have been the usual chaotic scenes that envisage any good building; whereas the plumber moves in one direction, the mason moves in the other direction, the electrician moves in the other direction but they are all building one particular house; and, finally, it must be that house that we all envisage. The Sang Bill does exactly the same; it puts texture, it puts a framework so that our house then stands on a foundation that will be unshakeable.

Mr. Speaker, Sir, if you look at the criticism that I want to enunciate, if the devolution process is not managed at its outset, the very spirit, particularly under that servant leadership, might be defeated in terms of its implementation. Unfortunately, most of the governors that we have interacted with have not fully internalized the idea of servant leadership. Servant leadership means that you also develop a strategy of simplicity and accessibility; you try to temper the otherwise arrogance that is developed by power. If we do not put up a framework, our governors might think that devolution is simply about creating little fiefdoms across this country and it will be unmanageable, almost impossible and impractical for Kenya to manage 47 fiefdoms across the country.

If we do not tame the chaos, we might have another constitutional crisis similar to the one of the previous Constitution; that we have created 47 very powerful centres that almost always can disregard the opinion of any other person or parties. I think the governors must be open to consultation. My dear brothers who have been elected governors or those who have been bestowed an extra-ordinary, critical responsibility on their shoulders, if I was a Governor, I would invite this idea because it helps me to build a broad platform for consultation; that then legitimizes my leadership and my programmes. Long before these programmes are enacted within the spheres of the county assemblies and the Senate, there would be broad input from a larger array of leaders.

Just look at what happened to me; I told Sen. Sang a couple of weeks ago that I would not support his Bill; a couple of weeks later, I am supporting the Bill purely because there are frameworks for consultation in this Senate; and people are then able to pick out the rich ideas that have been presented. So, governors must look at this as an extra-ordinary platform for them to enjoy the diversity of input from their Senators and MPs so that they tame down the adversarial political contestations that we see. After all, we cannot leave it to the whim of every Governor to do as they please in terms of who they invite to the table of development.

We cannot, again, have a situation where development in this country is sectionalized or patronized to the extent that we witnessed when the young Sen. Sang was a young man – that was during the Moi Era – you must have heard a lot of stories about it. There was actually patronized development and, therefore, we do not want a situation where the Governor of any county relegates development to mere patronage of MPs, who they view as friends; to Senators who they view as political compatriots; or to any other person or the MCAs, who are partly part of this development board. Therefore, we want there to be broad consultations; and I think that was the whole idea about devolution.

Devolution actually meant to devolve power and the process of decision making and to ensure that there are consultations. My brother, Prof. Kithure Kindiki, who over

the years has internalized law, was citing the various constitutional articles that were justifying this Bill; and if Kindiki and other constitutional lawyers of note like Amos Wako, Kiraitu Murungi and any other person who has spoken---

The Speaker (Hon. Ethuro): Order! There is no 'Kindiki' here! Apply your Standing Orders; he is Sen. (Prof.) Kindiki!

(Laughter)

Sen. Hassan: Senator in brackets (Prof.) Kindiki---

(Laughter)

Sen. (Prof.) Kindiki and others have spoken to this; top notch constitutional lawyers and practitioners in this country. Who else can stand in the opinion of this force of intellectualism? Therefore, I do not believe that this Senate has violated any provisions of the Constitution; if anything, this Senate has strengthened the provisions of the Constitution by giving life through a legislative process to those areas that might have been silent, and which need promulgation of these kinds of laws.

Therefore, Mr. Speaker, Sir, I think this Senate has discharged some of its most critical obligations towards helping devolution in a House that all of us believe as friends, family, brothers, sisters, as Kenyans and as Members of the various constituencies or counties. Therefore, I also at this point and juncture ask our friends in the Council of Governors to see the merit in this Bill. We have absolutely, as a Senate, no other better ally in the enforcement and entrenchment of devolution than the Governors. Therefore, what we do here is in that very spirit so that we can work as partners. If Sen. Sang has given us a legal framework that ensures that we can then take our consultations and companionship to a new level; that it is given a framework of law; that it is not just meetings under some amorphous frameworks; that every commitment is then captured in minutes and programmes, and that is the kind of initiative that every Governor needs to embrace.

Therefore, I am clear that this Senate views the Governors as its most fundamental ally in the deliverance of devolution and the development of the people. Therefore, it was never and it can never be the intention of this Senate at any point in time to either abrogate the Constitution or to abrogate itself the role of the Executive. We are totally conscious of the roles that we have been delegated in the Constitution, and we explored these roles critically before we chose the positions we wanted to occupy.

Therefore, Mr. Speaker, Sir, I want to thank Sen. Sang for this extra-ordinary debate that he has created; which he has crystallized into a substantive element of law that has a broad public appreciation; that has broad public support and I want to believe that this Senate, in passing this Bill, will have discharged its mandate in terms of institutionalization of devolution in the manner that history will judge us for all the right things that we have done; and that this House of chaos that has been created with the advent of various multiple tiers of elections will be now transformed into a House of order; due to the order that has been created by this Bill.

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

(Applause)

The Speaker (Hon. Ethuro): Order Senators! Since, apparently, there is no other Senator who wishes to contribute, I will, therefore, call upon the Mover to reply.

Sen. Sang: Mr. Temporary Speaker, Sir, I beg to reply. In replying I want to take this opportunity to appreciate the Members of the Senate for their valuable contributions and suggestions while contributing to this Bill. As the Mover of the Bill, I am humbled by the valuable contribution, the debate and the discussions that this Bill has generated within and without this House.

I want to appreciate Sen. Wako who seconded this Motion and who gave the legal implications of this Amendment Bill and who made it clear to this House and the general public that this Bill is constitutional. We know at the beginning we had challenges. There were a lot of discussions where the Council of Governors and a few other people thought that this Bill was not constitutional. Those fears were laid to rest with a lot of discussions and explanations from Sen. Wako and other senior lawyers in this House like Sen. Murungi, Sen. (Prof.) Kindiki and many others.

Mr. Speaker, Sir, I also want to appreciate the Acting Senate Minority Leader, Sen. Abdirahman, Sen. (Dr.) Khalwale, Sen. Ong'era, Sen. Okong'o, Sen. Murkomen, Sen. Mositet, Sen. Kanainza, Sen. G.G. Kariuki, Sen. Obure, Sen. Wangari, Sen. Ongoro, Sen. Chelule, Sen. Njoroge, Sen. Karaba, Sen. (Prof.) Lonyangapuo, Sen. Billow, Sen. (Dr.) Zani, Sen. Hargura, Sen. Dulo, Sen. Mungai and Sen. Hassan.

These were serious contributions. A lot of suggestions that came out are issues that we have agreed on. We know that we will have an opportunity during the Third Reading where we shall have further amendments that we shall consider. From all the contributions, we all agree that we are not reinventing the wheel. If you look at the history of this country, we had the district focus for rural development. This was ably captured by the Acting Senate Minority Leader. We also had the District Development Committee, the task force report on devolved governments which had anticipated this kind of a framework.

Therefore, this Bill does not reinvent the wheel. It takes up lessons from some of the previous institutions and we have been able to move this forward. We have all agreed that there is need for coordination, synergy and harmonization of development at the county level in order to avoid duplication and create efficiency and prudent use of public resources. The proposed County Development Board will go a long way in addressing some of these issues.

Mr. Speaker, Sir, the County Development Board provides a platform for inclusive and participatory leadership. This has been canvassed in all the discussions that were alluded to in this House. We also all agree that the County Development Board framework enhances accountability, fairness and transparency with regard to the management of public affairs at the county level. This is a platform that will be able to address disparities at the various county levels, amongst the wards within a county and disparities amongst the constituencies that we have. It also provides concrete structures

under which the Senate, whose responsibility under Article 96 of the Constitution is to provide oversight over county governments and the utilization of resources can operate. More importantly, this forum will provide an opportunity for peer review. As elected leaders within the counties, whether our mandates fall within the national Government, there is need for a framework that provides an opportunity for us to carry out peer review amongst ourselves. This County Development Board provides that framework.

Some of the concerns that were raised with regard to the composition of the Board have been noted. Some of the Senators noted that we need to look at the numbers of this Board so that we do not have a bloated Board that will not be able to execute its mandate efficiently and effectively. This will be considered. Some of the Senators have raised the need to look at the specific membership with regard to, specifically, the Deputy Governor; whether there is need to have him on Board when the Governor is seated in the same Board. Those are some of the things we will consider during the Third Reading. We have also gotten some suggestions with regard to adding a component that one of the functions of this Board will also be to look at issues to do with conflict management and resolution at the county level. I think these are some of the things that we will add to this Bill when looking at possible further amendments.

Mr. Speaker, Sir, in conclusion, I think it is important to note that this Bill and this House intends that devolution succeeds. The sole responsibility for the existence of this House is to ensure that devolution succeeds. Therefore, it is very absurd for anybody to imagine that a Bill would emanate from this House that is intended to kill devolution. This was brought out by Sen. (Prof.) Kindiki in explaining that when we talk about devolution, there are threats to devolution that we must look at from a holistic way. Some of the threats to devolution are external. For example, in the last seven months, we have seen some actions by the national Government that would easily translate to a threat to devolution. This House has been able to deal with them. We have been able to discuss with the national Government and ensured that some of the issues are addressed.

Threats to devolution cannot only be external. We also have internal challenges and threats to devolution. It is very sad that one of the other challenges to devolution as it emerges right now is the attitude with which the county Governments are handling their issues. If we have county Governments that are so keen on entrenching corruption at the county level and corruption is taking root, where we thought we had devolved power and resources to the grassroots but apparently may have devolved corruption; that becomes a threat to devolution. Therefore, we should never have this notion that devolution means Governors; that if you want to ascertain whether a Bill or a Motion in this House supports devolution or not, you look at the reaction of the Governors. I think that cannot be.

This House has the sole responsibility of protecting and serving the interests of counties. No legislative proposal will emanate from this House that will do contrary to that. County governments are meant to be centres for development, but we are seeing an emerging situation where most of the counties are busy entrenching bureaucracies at the counties. I think these boards will help us in addressing some of these challenges at the county level and ensure that every development project at the county level has the goodwill and the support of all the elected leaders at the county level. I think that is very clear.

Mr. Speaker, Sir, finally with regard to the issue of seeking positions, I think this House will have an opportunity to express itself even more clearly when we go to the amendments. I think we want to be very clear that no Senator in this House is interested in executive authority that is vested in the Governor. We are not interested in that but we want to make a meaningful contribution in our own rightful position as leaders and as Senators in our various counties in ensuring that devolution is entrenched, especially at this foundational level.

I want to make it clear that I have received a lot of pressure from a lot of quarters, especially from the county governments who initially thought that this Bill was intended to take over the executive responsibilities of the Governors and the county executive. I want to report here and now that in the last almost one week, people have appreciated the need for these County Development Boards. A few of the Governors have confided in me that they support this Bill and I think we should not just look at the position taken by the Chair of the Council of Governors because sometimes, some of these positions are taken at individual level. Some of the Governors have realized the need for these boards and they support them.

Therefore, the position that may have been taken by the Chair of the Council of Governors and the others may be individual position rather than the position of all the Governors in this country. We have many Members of the County Assemblies who have expressed support for these County Development Boards whereas we have a few others who have expressed their doubts as to the intention of this Bill. I think with time, some of these things will be clear. We hope that we can finalize the process, enact this Bill into law, it goes to the Lower House it is discussed and approved so that by the time we are going for our December recess, we will have time to do some civic education on the same and be able to set up the boards to ensure that our counties are able to move.

With those remarks, I beg to reply.

The Speaker (Hon. Ethuro): Senators, we have concluded the debate and this is a matter affecting counties, so---

Sen. (Prof.) Kindiki: On a point of order, Mr. Speaker, Sir. I have just noted that we are less than 15 Senators in the Chamber at the moment, so we do not have a quorum in accordance with the Standing Orders.

Sen. Sang: On a point of order, Mr. Speaker, Sir.

The Speaker (Hon. Ethuro): What is it, Sen. Sang, before I respond to Sen. (Prof.) Kindiki?

I rise under Standing Order No.51 (3). Noting that, as you rightly pointed out, this is a matter concerning counties and understanding the voting threshold, I rise under this Standing Order to request that the putting of the question with regard to this Motion be deferred to tomorrow, Wednesday afternoon, when we shall have the requisite numbers to transact that business.

The Speaker (Hon. Ethuro): It is so ordered.

(Putting of the Question on the Bill was deferred)

Order! Sen. (Prof.) Kindiki raised the issue of Quorum. It is true we do not have a quorum in accordance with our Standing Orders. Please ring the division Bell.

(The Division bell was rung)

(Several Senators entered the Chamber)

Order, hon. Senators! We have quorum.
Next Order!

MOTION

REVIEW OF EDUCATION POLICIES TO MAINSTREAM ST&I

THAT, aware that Science, Technology and Innovation (ST&I) are critical to the attainment of Kenya's Vision 2030; cognizant of the fact that harnessing of ST&I would stimulate industrialization and immensely contribute towards sustained growth of the country's economy; the Senate calls upon the National Government to review education policies to mainstream ST&I by ensuring that the curriculum at all levels of education, right from preprimary school level, meets the skills demands necessary for fostering ST&I.

(Sen. (Prof.) Lonyangapuo on 19.11.2013)

(Resumption of Debate interrupted on 19.11.2013)

The Speaker (Hon. Ethuro): The last speaker was Sen. Wangari and she had concluded. So, any person who is interested can contribute.

Sen. Ongoro: Thank you, Mr. Speaker, Sir. I rise to support this Motion by Prof. Lonyangapuo. As I have said here before, he always brings very interesting Motions which impact positively on citizens.

Mr. Speaker, Sir, the one reason I support this Bill is because under the new governance structures, where we have 47 counties, if as the national Government, we do not come up with policies that compel the 47 county governments to have a uniform curriculum, to ensure that the workforce, human resource and those who will graduate from our universities and educational system is sustained and the levels also ensured, then we will have a lopsided development situation where some counties will have very highly qualified personnel and graduates, while some will be lagging behind.

I am proposing, in supporting this Motion, that we have a national policy to ensure that ST & I is included in the curriculum, at an early stage of learning. This is because this is the only way we will ensure that the small babies who are introduced to the educational system start appreciating technical subjects from an early age. We should

not wait until they have formed opinions towards certain subjects like Mathematics and Sciences and then start forcing it down their throats.

Mr. Speaker, Sir, apart from that, to sustain the policy that I am suggesting, we need qualified teachers for science and other technical subjects at all levels. This is because I am talking about baby class, pre-primary education, nursery schools and play groups. If you leave these children to be taught by anybody or people who do not themselves appreciate technical subjects, then they will not inculcate in them the appreciation of science and technical subjects. So, at all levels, let us go for the best of the best to teach our children and help them appreciate what is referred to in this Motion as ST & I.

Mr. Speaker, Sir, we also need to go for qualified educationists who have studied, preferably child psychology; to help identify special and unique skills, interests and abilities in children and allow them to pursue their areas of interest. You have seen people who seem so misplaced in their careers. For example, you go to a nursing home and get nurses or midwives who really, in your opinion, should have been, maybe, police women. The manner in which they treat patients – people who are in need of nursing care – tells you that this person is only there to earn a living. But they would have really excelled if they were security officers in some other structure. So, if we have people who have done and studied child psychology, they will be able to study the character, behaviour patterns, special skills and interests of a young girl or boy of three or four years, and guide them towards appreciating the kinds of subjects that will help them to excel in a particular career.

This is because it is not just about education and passing exams but doing something that comes from within, that somebody is passionate about. This is what makes other countries end up with people and personnel who really excel in their areas of specialty. This is because apart from the training and education, there is something that is God-given from within. So, we need qualified educationists who have studied child psychology to help us identify the special interests and skills of these children.

Mr. Speaker, Sir, we also have to infuse something which could be looked at as not very important, but in my opinion, very important. When you go to a baby class or play group, you will find that boys have been put on one side of the classroom and girls on the other side of the classroom, and even the playing items that they have been given are different. You will find that the girls have been given spoons, dolls, *sufurias* and things like that. What are you telling these girls? You are telling them that, really, they have no business in science and technical subjects and their role as grown-ups is to bear children, take care of them and then cook *ugali*. This is because the play items that you are giving them are so definitive. Then, you give the boys cars, machines, spades and things like that. Honestly, we must put it as a policy.

A few months ago, I went to buy toys for my baby boy, who is now going to two years. Immediately I arrived in that store, the attendant came and asked: “Oh, *mheshimiwa*, is your baby a boy or girl?” They directed me to one corner of the store and said: “These are the play items for the boys.” Another parent who came after me was directed to another part of the store and told: “These are the play items for girls.” There were dolls, *sufurias*, spoons, napkins and all that. I was surprised that even when you go

to buy playing items for your child, you are encouraged to buy for the boys technical play items, thereby, introducing them to technical ideas and for the girls, just dolls and napkins. Then, when they reach Form Four, we start complaining that most girls are not going for science and technical subjects. We have to encourage uniform play items for both girls and boys, especially in pre-primary stage.

Mr. Speaker, Sir, we also need special secondary schools alongside the regular ones that will then help those who are transiting, with special skills and interests, to be enrolled in special schools, where their various unique skills will be concentrated on and sharpened. We also need middle level colleges, especially technical ones. This is because, of late, middle level colleges have been taken over by universities as constituent colleges. That is a bad trend. We need to reintroduce our technical colleges and make sure that they remain operational as such.

Mr. Speaker, Sir, we also need attachment programmes in companies. All companies must be compelled to create opportunities for those who are doing technical subjects and take them on attachment. It should not be that only those who have parents with connections get attachment in certain companies. It must be a policy.

Mr. Speaker, Sir, the other thing that we need to do to ensure that this policy is sustained is to encourage in-service programmes after graduation and even employment. We have people who really excelled as mechanical and electrical engineers, but whose ideas in whatever field they graduated in are now stale. They do not have time to go back to school to learn new technology. So, it must be a policy that even the doctors, teachers and those who are in technical institutions must go for in-service training. In fact, all people should from time to time go back for in-service programmes. That is where peers come together and interrogate new technology and systems that were not there by the time they were graduating. They exchange ideas and upgrade their information and skills.

Mr. Speaker, Sir, we also need to remunerate well these people who have gone through this kind of training. It does not add value for us to spend so much time and money training these people in technical areas and then, allow them to be taken by other countries because of low salaries. We have to remunerate them well, but not just in terms of money, but also good welfare platforms. I am also of the opinion that we need to follow up, promote and sponsor innovations and innovators. For example, when I was in school, we used to have something called science congress. At one point, I won something. Maybe one of the reasons I am not a scientist, is because nobody sponsored my innovation. We have very many innovations. When I was on the Chair last week, the sponsor of this Motion tabled the book “the National Council for Science and Technology.”

If you read this book, you may be surprised at the kind of innovations that are contained here. You will be wondering why we still run to the west or the east for some of these things, yet we find here that Mr. Mwangi, who has innovated something where you can actually open and close your door while you are here in your office using your phone. Somebody else has innovated a computer plough and planter; that while I am in Nairobi, I can actually be ploughing and planting my field at home. Honestly, we still cry about food insecurity; why can we not look for this young man who has innovated this wonderful system, sponsor him and then make sure that we produce enough of this

system so that all of us, Senators, here can actually be ploughing and planting even as we debate, so that we do not have to transport ourselves physically a thousand miles away to go and oversee something;? It will be so easy!

The innovations in this book alone are so impressive that when I read it – I took it from Sen. (Prof.) Lonyangapuo – I wondered why we are even lagging behind as a country. We need to follow up on all innovations and innovators who have ever discovered anything, however small. The difference between us and some eastern countries is because when a child discovers something small or is found playing with an idea, he is followed up and the idea is captured, encouraged and he is supported such that he can even be taken to a special school. Then they end up producing thousands and thousands of those innovated things which they then export to our country. We need to follow up on these innovations.

Mr. Speaker, Sir, we also need to patent all our innovations. Kenyans are very good at discovering things, and then they allow other people to run away with them. So, all you have to do, as a nation, is just to come to Kenya as a tourist, pick one of the innovations, take it back to your country and become a multi billionaire. This is because we, Kenyans, do not follow up on our innovations; nobody will patent anything. I am now told that even our *kikoi* is being patented by somebody else; the *ciondo* is being patented by another one whereas even the name is Kenyan, but we allow other people to run away with it. Now, in future, before I carry a *ciondo* somewhere, I have to pay some property rights to somebody. What are we doing about our intellectual property rights? We need to patent some of these innovations that are so Kenyan so that we can make enough money.

Lastly, Mr. Speaker, Sir, having said all this, it will not help if we are not going to pay our teachers and educationists well, because for teachers to nurture these kind of brains, to bring them to fruition, to make sure that they become gainful in our country, we must pay teachers well; we must take care of their welfare issues so that we have the best brains, best skills and best performers. This will also ensure that only those who are the best of the best will be attracted to the teaching profession so that they can give us the best.

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

Sen. Ongoro: Thank you, Mr. Speaker, Sir. I beg to support.

The Speaker (Hon. Ethuro): Sen. Kiraitu.

Sen. Murungi: Thank you, Mr. Speaker, Sir. I rise to support this Motion.

The time has come for this country to take science and technology much more seriously than we have done before. One wonders why nations like the United States of America (USA) are super powers or why they are the greatest nations on earth. When you do a deeper analysis, you will discover that the secret to that greatness or the reason why the USA is a super power today is because of its command or its superiority in science and technology.

Mr. Speaker, Sir, people thought that with industries moving to Brazil, China and other countries, the US economy was going to suffer; and that it was going to lose its superiority in the world. But even without the Government doing much, some individual like Bill Gates discovered the Internet. The entire world is now hooked on to the Internet,

and billions and billions of dollars are flowing back to the USA, reviving an economy which would have otherwise seriously declined, and all this just because of innovation; because of science and technology.

Mr. Speaker, Sir, I happened to travel to Korea, I think, two years ago; it was a meeting of African Ministers and the Korean Government. We discovered that the biggest export of Korea is in the area of science and technology. They were selling some microchips to the USA; so, the USA was their biggest market. But the USA was just an importer of technology from Korea, which as you know in the 1960s was a little behind Kenya in terms of development.

Mr. Speaker, Sir, this country appears to be searching for education for education's sake. A lot of Kenyans are going to school, but if you asked them what they are reading, you will find out that many of them are reading irrelevant subjects or subjects which have no relation at all to the skills required for the job market. It is no wonder that many Kenyans are saying that we are training people for joblessness; we are training people who graduate into streets for tarmacking instead of graduating into jobs.

Mr. Speaker, Sir, you can imagine the origins of the universities. In the old days, because universities started in monasteries and there used to be major debates about philosophy and religion, because that is where modern university education started. The big debates in monasteries then were about how many angels can dance on top of a pin.

(Laughter)

There would be endless heated debates from very learned people about how many angels could dance on top of a pin. But if you look at it today, it is really a very useless debate; it is a debate which has no meaning, because let us assume that 100 or 1,000 angels could dance on top of a pin; how does that affect the lives of the people? As former President Moi would ask, *ni ugali gani imeweka kwa meza* whether 1,000 or 1 million angels danced on top of a pin? So, that irrelevant education has no place in Kenyan society today.

Mr. Speaker, Sir, my first visit to China was in 2004, and we were all very impressed by the very rapid economic progress and development that we witnessed in their economy. Their economy was then described as an 'overheating economy;' growing by over 10 per cent. In one of the meetings, we were given some literature about the Chinese Communist Party and their National Congress. I looked at the list of participants, because their qualifications were also listed, and I found out that 81 per cent of the members of the Chinese National Congress Party were graduates. So, China was a country which was being led by intellectuals. When I looked at the Chinese Government then; the President, Vice-President, Speaker of the National Assembly of China were all engineers; the six levels of their Government were all composed of engineers, and you know engineers are precisely action oriented. I thought this was the secret of the Chinese success. Look at other countries; Singapore and even Iran; the intellectuals are given a high place in that society.

So, Mr. Speaker, Sir, if this country is to develop fast, we have to educate our people. We are spending a lot of money on education which has very little impact on

economic development. I do not see why we are offering scholarships through the Higher Education Loans Board (HELB) for our people to study some subjects which are studied in school – history, religious studies and such things – those are subjects which can be left for people to learn on their own. I think we need to invest our money in areas that are going to rapidly transform our society, and I would think we should differentiate the roles that we are giving to our students. The Government should invest more in students who are learning engineering, medicine and science.

Our universities are now learning to teach everything. For example, Kenyatta University started as a much respected university for training teachers; but now they are teaching environmental engineering, although we do not have any qualified professors for teaching environmental engineering. If you look at the courses being taught at the various universities, you will wonder whether these are not names which have just been invented. I think time has come for universities in Kenya to specialize so that we have something like the Massachusetts Institute of Technology (MIT), where we know when we have a Kenyan coming from the equivalent of MIT, that person has been properly schooled in science and technology. Let us have others which specialize in medicine; others specialized in civil engineering, the way the Royal Technical College in Nairobi was intended to do.

So, Mr. Speaker, Sir, if we need to be competitive as a country, this Motion has got to be supported, and every county should set some funds aside to provide scholarships because many of our students are poor. Most of our students come from very low income bracket groups and we should provide scholarships targeting our bright students, giving them 100 per cent cover for them to study science and technology. When Mahatma Gandhi went back to India after training as a barrister in the United Kingdom (UK), he went to his village. When he saw boys and girls playing there, he was very saddened and he started crying because he was seeing all these children playing naked there in the mud in India, and he was thinking these are engineers or doctors who have gone to waste.

There are so many engineers who will not become engineers in Kenya because of lack of opportunities; there are many doctors who will not become doctors in Kenya because of lack of opportunities. But now that we have county governments, let us set aside money and convert those people who would otherwise be seen as a burden to society, give them science and technology skills because they are going to be the Bill Gates of this country; they are going to be the people who will move Kenya from a backward, rural economy into a fast growing industrialized economy where people enjoy a high quality of life.

With those few remarks, Mr. Speaker, Sir, allow me to support this Motion and thank Sen. (Prof.) John Lonyangapuo for bringing it before the Senate. I am not surprised because the professor knows what he is doing; having worked in the Ministry of Industrialization, he knows what skills this country lacks and what it needs. So, Sen. (Prof.) Lonyangapuo, congratulations; we really appreciate the efforts you are making to put this country on the right track.

I thank you, Mr. Speaker, Sir.

The Speaker (Hon. Ethuro): Sen. Wamatangi.

Sen. Wamatangi: Thank you, Mr. Speaker, Sir. From the outset, let me congratulate Sen. (Prof.) Lonyangapuo for this Motion that he has brought to this House. Let me also take the bold step of declaring that, indeed, civilization is synonymous with innovation. The whole world is the way it is today; we live the lives we live and do the things that we do because of innovators. This is from the old days when we used to transmit important messages through runners and then came an innovator called Graham Bell who innovated the telephone. The greatest innovator in the history of this world is probably Thomas Edison. Besides him and many others, today we are able to do all the things that we do and remain hopeful because of their thoughts and works.

In our country, we have not been short of equally brilliant innovators. About two decades ago, we made a very bold step. We innovated and made our first vehicle. We all remember when we had the Nyayo Pioneer I. That was a bold statement of a country that was saying that we can also innovate irrespective of our shortcomings. From there onwards, our people have gone ahead to do great things. I remember the other day seeing a young man from Kisumu who had made a radio station in his small cubicle and the broadcasting mast was on top of a tree and he was speaking to the communities around the lakeside region.

In the ICT sector, this country through our young generation has made tremendous strides in showing that we have all the capability to be exceptionally innovative. We had young men recently in the press who had innovated a security system that monitors what happens in your house when you are at work. Using your mobile phone, if somebody tries to break into your house, you can trigger the alarm. There are very many other innovative ideas including the legendary M-pesa which has been embraced in the whole world.

Mr. Speaker, Sir, looking at the trend that we have adopted after all those innovations, that is where the worry starts. In the early 1970s, this country had made very good steps to ensure that technical schools were very sound and respected. I remember the days when we had the Kabete Technical School and many others. All those schools have now died a slow death because focus has been taken away from the importance of supporting science and technology, including innovation. Most of the technical training institutes in our country are now being turned into universities that have now shifted their focus from promoting and supporting the core idea that made them be put in place. That is why it is important at this point in time and through this Motion that we should say firmly that the Government needs to commit itself to the provision of quality, relevant education and training to its citizens at all levels.

Vision 2030 singles out education and training as the vehicle that will drive Kenya to become a middle economy. In addition, the Constitution of Kenya 2010 has provided for free and compulsory basic education as a human right to every child. The IT sector accounts for about 5 per cent of the GDP exports in this country touching on about US dollars 30 million now as opposed to about US dollars 16 million ten years ago. The prospects of this industry are bound to be very bright in the future if it is mainstreamed in the whole breadth and width of the education spectrum. We intend as a country to become a knowledge-led economy where the creation, adoption and use of knowledge

will be among the most critical factors of economic growth. The curriculum should, therefore, be aligned to address the aspirations of our Constitution and Vision 2030.

Mr. Speaker, Sir, in 2010, a task force was formed on the education sector to realign our Vision 2030 with our Constitution. That task force reported that only 2 per cent of our schools have the necessary ICT infrastructure. The task force went ahead to make several recommendations, some of which I would want to cite in support of this Motion. One of the recommendations was that the content of basic primary and secondary education should be designed with a view of equipping the learners with the relevant knowledge that emphasizes on technology, innovation, entrepreneurship as per Vision 2030 and the development of learners to full potential. The other recommendation was that ICT institutional frameworks should be strengthened to allow efficient integration of ICT in the entire education centre with enhanced ICT capacity at all levels. There was to be established a national centre for ICT integration in education, otherwise called NACITE that should be devolved to the counties.

The other recommendation was that there has to be provision of technical back-up in ICT initiatives in Government learning educational institutions. Lastly, that there should be adequate and well trained staff in all STIs that should be put in place and the curriculum to be regularly reviewed to meet the demand for skills that are constantly changing. Those were the recommendations that were made by that task force which had the very important role of aligning our Vision 2030 and our education system. If they are implemented, those recommendations will lead to an emergence of youthful tech-savvy innovators from all over the country and in all the counties unlike in the current situation where the majority of the innovators are only concentrated in Nairobi City. Reviewing this curriculum will give every Kenyan child an opportunity to be an innovator.

With those few remarks, I wish to support this Motion and commend Sen. (Prof.) Lonyangapuo for thinking outside the norm.

The Speaker (Hon. Ethuro): Senators, since there are no more contributors, I will call upon the Mover to reply. Sen. (Prof.) Lonyangapuo!

COMMUNICATION FROM THE CHAIR

ELECTION OF SENATOR TO PRESIDE OVER SITTING PURSUANT TO STANDING ORDER NO. 18 AND ARTICLE 107 (1) OF THE CONSTITUTION

Maybe, before Sen. (Prof.) Lonyangapuo responds, I beg to leave the Chair because I have an appointment which is for the good of the Senate. The Deputy Speaker is away on official business and the two Members of the Chairperson's panel are also away on official business, including Sen. Ongoro who has just left. So, I will propose that according to Standing Order No.18, the Senate elects a Member to preside. Standing Order No. 18 states as follows:

Presiding in the Senate -

18. The Speaker shall preside at any sitting of the Senate but in the absence of the Speaker, the Deputy Speaker shall preside and in the absence of

the Deputy Speaker, pursuant to Article 107 (1) (c) another Senator elected by the Senate for that purpose shall preside”.

I am therefore looking for nominations. Sen. (Prof.) Lonyangapuo!

Sen. (Prof.) Lonyangapuo: Mr. Speaker, Sir, I propose Sen. Mositet.

Sen. Murungi: Mr. Speaker, Sir, I second.

*(Question, that Sen. Mositet be elected to
preside over the Sitting, put and agreed to)*

The Speaker (Hon. Ethuro): Now, Sen. Mositet, you may come and Chair the rest of the sitting.

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

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

The Temporary Speaker (Sen. Mositet): I call upon Sen. (Prof.) Lonyangapuo to reply to his Motion.

Sen. (Prof.) Lonyangapuo: Thank you, Mr. Temporary Speaker, Sir. I stand to reply.

On the outset, I want to thank all my colleagues, Senators, for contributing overwhelmingly to this important Motion which talks about the importance of science, technology and innovation particularly in the world today and more so that as Kenyans, we need to embrace the same ideal and ideas at such a time when we are driving Vision 2030.

Mr. Temporary Speaker, Sir, Kenyans are very brilliant people, as was shown by the research findings by the National Council for Science and Technology. Indeed, we need to commercialize some of their findings and utilize the technology so discovered for the betterment of humankind. For example, Kenyans discovered M-Pesa, as was mentioned here. Look at the revolution that M-Pesa has done in Kenya, East Africa and the whole world. Therefore, the Government needs to mainstream and come up with policies that will drive science, technology and innovation at all levels of our education, starting from the lowest to the highest. We should identify some of the people who have excelled and moved on.

We have had a number of innovations which have come out of Kenya. For example, we have the Numerical Machining Complex (NMC) which came up with the Pioneer Nyayo Car and we have not moved out of that. There are four cars which are just exhibits. The car starts and moves, but we need a lot of money to commercialize the project. I am told that Prof. Wanjohi is the new Chairman of NMC and they are doing a lot of good work, to the extent that we have come up with an irrigation pump of its kind. Kenyans have not bought them, yet Somalia is using them, since they have been bought by Food and Agriculture Organization (FAO) and other Non-Governmental Organizations (NGOs). So, the other challenge is that whenever we come up with an

innovation and it works, we need to use it also. So, the idea of buy Kenya, build Kenya must start with us.

Mr. Temporary Speaker, Sir, the Kenya Industrial Research and Development Institute (KIRDI), during the Economic Stimulus Programme (ESP) --- Sen. Kiraitu was in the Government when our current President came up with the ESP. The KIRDI was told to produce a welding machine and it has done so. But the problem that we have is to patent and commercialize it. The money to move to that stage is not there. That is why we should start putting a lot of emphasis on innovation technology at the initial stage of education, so that a broader spectrum of Kenyans can begin to appreciate science and its value. Now that we have gone into counties, funds can actually also be set aside by the county governments. This money can be accessed in form of scholarships, the way Sen. Kiraitu proposed. It is not unique. India and Singapore did it. Money is set aside specifically for a targeted group of people.

Mr. Temporary Speaker, Sir, if you go to Industrial Area, you will find a lot of people working in the Jua Kali sector. Naturally, there are some Kenyans who have the tendency to like doing technical subjects. Many such people come from Nyanza and Western, but I do not know how many technical colleges still exist in those places. Some of them closed and some were taken over by universities.

Mr. Temporary Speaker, Sir, the Kenyan that I mentioned last week is called Zachary from Nyahururu. He is a trainer in a polytechnic in Rwanda, which is now producing farm products and machinery. He told me that he is paid a salary of Kshs250,000 per month and he is a higher national diploma holder. I do not know how much we pay such people here. As I mentioned, we have very brilliant people, but we lose them along the way. We had to negotiate for somebody called Dr. Chelule to come to KIRDI from England. Now that he has come to KIRDI, I do not know whether they have the support to do research. He was doing research on the metal that can be used in hospitals to repair broken limbs and so on. They told me that they are working on it, but there is no funding here in Kenya. He wishes to go back to England. That means that we do not value even the people that we have already produced. We need to motivate even the people who are already on the ground. The Vision 2030 that we talk about should not be just a document in the shelves, but something that we practise. However, we cannot do it if we do not come up with procedures and policies to anchor this.

Mr. Temporary Speaker, Sir, I would like to thank all my colleagues. If we go this direction Kenya will not be the same again. In the next five years, we will have made a tremendous step. The University of Nairobi must do more research. Likewise, the Jomo Kenyatta University of Agriculture and Technology should be given more funding. Egerton University used to be a very peculiar university in terms of agriculture and livestock production south of the Sahara and north of the River Limpopo. I do not know whether it is still the same now. I think that they lost hope along the way because of the Government not putting a lot of emphasis and efforts to enable them move on.

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

The Temporary Speaker (Sen. Mositot): Hon. Senators, before I put the Question, I wish to inform the House that this Motion does not affect counties, as per Standing Order No.69. Hence, each Senator has one vote.

(Question put and agreed to)

DEVELOPMENT OF WASTE MANAGEMENT
REGULATIONS AND FACILITIES

THAT, aware that cities, towns and urban areas in Kenya are increasingly getting overpopulated leading to overstretching of services and amenities; concerned that improper management of waste has become a major cause of pollution of neighborhoods, water sources and other natural resources leading to rise of environment-related diseases which cause many deaths; further concerned that in most urban areas, waste is dumped in an uncontrolled manner posing a great challenge to the wellbeing of urban dwellers, particularly those living near dumpsites; acknowledging that the problem continues to rise despite the efforts made to mitigate the problem through various statutory bodies, private entities and communities; the Senate calls upon the National Government to take immediate steps to develop effective waste management regulations and put in place proper disposal facilities, including for harmful waste and that this be done in consultation with all key stakeholders.

The Temporary Speaker (Sen. Mositet): Hon. Senators, as the House is aware, I am the Mover of this Motion and I cannot do it because you have installed me as the Chair. This Motion is, therefore, deferred to tomorrow morning.

(Motion deferred)

Next Order!

APPROVAL OF THE NATIONAL
HONOURS REGULATIONS, 2013

THAT, the Senate approves the National Honours Regulations, 2013, laid on the Table of the Senate on Wednesday, 20th November, 2013, pursuant to Section 14 (3) of the National Honours Act, 2013.

The Temporary Speaker (Sen. Mositet): Is the Mover of this Motion, the Senate Majority Leader, not here?

Sen. Murungi: Mr. Temporary Speaker, Sir, the Mover of this Motion is not present. He has some very pressing commitments outside the Chamber. I pray that the Motion be deferred to tomorrow.

The Temporary Speaker (Sen. Mositet): Since the Mover is not here, we will defer the Motion to tomorrow.

(Motion deferred)

ADJOURNMENT

The Temporary Speaker (Sen. Mositet): Hon. Senators, there being no other business, the Senate stands adjourned until tomorrow, Wednesday, 27th November, 2013, at 9.00 a.m.

The Senate rose at 5.40 p.m.