



REPUBLIC OF KENYA

THIRTEENTH PARLIAMENT

NATIONAL ASSEMBLY

THE HANSARD

VOL. III NO. 22

THE HANSARD

Wednesday, 20th March 2024

The House met at 9.30 a.m.

[The Deputy Speaker (Hon. Gladys Boss) in the Chair]

PRAYERS

QUORUM

Hon. Deputy Speaker: I direct that the Quorum Bell be rung for 10 minutes.

(The Quorum Bell was rung)

I direct that the Bell be rung for a further five minutes.

(The Quorum Bell was rung)

Hon. Members, we may now proceed.

PAPERS

Hon. Deputy Speaker: Hon. Waqo for Leader of the Majority Party.

Hon. Naomi Waqo (Marsabit County, UDA): Hon. Deputy Speaker, I beg to lay the following Papers on the Table.

1. Reports of the Auditor-General and Financial Statements of the Fish Levy Trust Fund for the years ended 30th June 2022 and 30th June 2023, and the certificates therein.
2. Reports of the Auditor-General and Financial Statements for the Year ended 30th June, 2023, and the certificates therein in respect of-
 - (a) Lands Limited;
 - (b) Kenya National Commission for UNESCO Mortgage and Car Loan Scheme;
 - (c) Kenya National Qualifications Authority;
 - (d) Kenya Accreditation Service;
 - (e) Kenya Medical Laboratory Technicians and Technologists Board;
 - (f) Kenya Nuclear Regulatory Authority;
 - (g) St. John's Teachers Training College, Kilimambogo; and,
 - (h) Kenya Institute of Supplies Examination Board.

Hon. Deputy Speaker, I beg to lay. Thank you.

PROCEDURAL MOTION

EXEMPTION OF CERTAIN BUSINESS FROM THE
PROVISIONS OF STANDING ORDER 40 (3)

Hon. Deputy Speaker: Hon. Waqo for Leader of the Majority Party. You are the one who is moving the Motion. Right?

Hon. Naomi Waqo (Marsabit County, UDA): Hon. Deputy Speaker, I beg to move:

THAT, this House resolves to exempt the business appearing as Order Nos. 13, 16 and 17 in today's Order Paper from the provisions of Standing Order 40(3), being a Wednesday Morning, a day allocated for business not sponsored by the Majority or Minority Party, or business sponsored by a Committee.

Hon. Deputy Speaker, this is because we have other urgent matters that we need to deal with this morning. I beg to move and request Hon. Chepkong'a to second.

Hon. Samwel Chepkong'a (Ainabkoi, UDA): Hon. Deputy Speaker, I second.

(Question proposed)

Hon. Deputy Speaker: What is your point of order, Hon. Kangogo? I will come to you.

Hon. Kangogo Bowen (Marakwet East, UDA): Hon. Deputy Speaker, if you check Order 13, it is just about putting of the question on the Division of Revenue Bill. How can you exempt putting of the question?

(Loud consultations)

(Hon. (Dr) James Nyikal spoke off the record)

Hon. Deputy Speaker: Hon. Nyikal, I will give you an opportunity. You tend to ask almost menacingly like I am going to refuse to give you an opportunity. You know I always do give an opportunity. Yes, you can have your voice.

Hon. (Dr) James Nyikal (Seme, ODM): I rise to oppose this exemption in relation to Order No.17. Why are we pushing this exemption? I may understand Orders 13 and 16 because they relate to the Division of Revenue Bill, which we know has a time limit. Therefore, I can understand that in the budget cycle, we may need to push them forward. What is the urgency about Order No.17? Why are we pushing it forward and yet we know very well that it should not be discussed today, being a day for Private Members' matters? My major concern arises from what is in the Order Paper for the Afternoon Sitting. We are exempting the Statutory Instruments (Amendment) Bill so that we can start its Second Reading today. If you go to what is proposed for the Afternoon Sitting, however, the Bill is already listed for Committee of the whole House.

Colleagues, we are in a hurry to get things done without knowing what we are discussing or their intentions. This means only respective Committees understand these things. If we go on like this, we are going to pass things that are so unpopular. People will lose faith in this House. We do not want what happened in Senegal to happen to us. Their President decided, through Parliament, to postpone elections. People went to the streets. If people lose faith in this House, we only have two options left. The people will either take the law into their own hands and we go back to *maandamano*, or they will come and burn this House. Every time, we must be considerate about why something is being done.

The general principle why I am opposing the exemption of Order No.17 is that we are not giving Members time to understand what is going on in Parliament, which is going to affect their lives. I can understand exemption of Orders 13 and 16 because they relate to the budget process. What about Order No.17? I oppose.

Hon. Deputy Speaker: Can I give an opportunity to the Chairmen of the Committee on Delegated Legislation and the Departmental Committee on Justice and Legal Affairs? They can answer your questions.

Hon. Samuel Chepkong'a (Ainabkoi, UDA): Thank you very much, Hon. Deputy Speaker. I have a lot of respect for Hon. Nyikal. I have previously worked with him in the same Government. He knows I am part of the mandarins of the Government. I know he is well versed with procedure and we must thank him very much for being hawk-eyed in terms of looking at things that he thinks are not relevant for the House this morning. However, if Hon. Nyikal was careful when I tabled the Report on the Statutory Instruments (Amendment) Bill, he would have known that part of the problem that we have as the Committee on Delegated Legislation is that many statutory instruments lapsed in January. Almost over 2,000 statutory instruments have lapsed. We need to resolve that question in this House and allow the institutions to operate.

The services you are requesting in your constituency may not be offered in due course because no one will be willing to give you any service as there is no law. Your sitting here to discharge functions under Article 95(2) of the Constitution to resolve issues that are of concern to the people, will not assist your people. This is one of the issues that are of concern to the people and that we seek to resolve this morning. I would like to plead with my very good friend; he is always very understanding. When reason is provided, he is a very reasonable man. I thank him. He is even smiling now. When he contributed, he was very annoyed. Now he is smiling.

I thank you very much, Hon. Deputy Speaker.

Hon. Deputy Speaker: Hon. Makali.

Hon. (Dr) Makali Mulu (Kitui Central, WDM): Thank you, Hon. Deputy Speaker. It is important we note the following before we even pass this Motion. Wednesday mornings are set for Private Members' Bills and Motions. It means any time we want to change that arrangement, there must be a serious reason why we are doing it. I have a Bill which I proposed last year. It has taken more than one year and has never been scheduled to be debated in this House. Even as we agree to pass this Motion, it is important we note that Government business has Tuesday, Wednesday and Thursday afternoons. If they want, they can even include Thursday mornings. Because Wednesday morning is the only day set for Private Members' Bills and Motions, it is important the House Business Committee becomes considerate about Private Members' matters.

The other matter which is important is that we all agree that division of revenue-related Motions are very important and we have no problem if you pushed for their consideration. On what Hon. Chepkong'a is saying, however, I want him to listen to me. Poor planning by the Executive should not become an emergency for Parliament. If they do not plan well from their side, it should not appear like it becomes an emergency for Parliament. Even though I am sure you are going to pass this, it is important for the Executive to note that they are the ones who should initiate these instruments, as you call them. It is not Parliament which initiates. If they delay in initiating the instruments, that should not become an emergency for Parliament. It is important I go on record on this matter because if it becomes a routine, it is going to affect the work of this Parliament.

With that, the Kenya Kwanza team can make their decision. I beg to submit.

Hon. Deputy Speaker: Hon. Makali, you spoke well until you put a condescending note at the bottom. Hon. Members, the case has been made clear. For those who do not know, there is a court order saying that Parliament should, at least, make some temporary reprieve. Hon. Murugara can explain.

Hon. George Murugara (Tharaka, UDA): Thank you very much, Hon. Deputy Speaker. There is a pending litigation as regards to the provisions of the Statutory Instruments Act, which we are trying to amend this morning. Remember, we put this provision in the Finance Bill, but the court declared the process irregular and directed us to regularise the position. As the case pends in the Court of Appeal, we have been directed by the courts to move with speed and do what is right. Indeed, what is right is not to amend the Statutory Instruments

Act through the Finance Act or the Statute Law (Miscellaneous Amendments) Bill. There has to be a substantive Bill to amend the Act. This is why this is urgent because of the pending court case. There are almost 2,000 statutory instruments that have expired. It is not that the instruments were not published in time. They have been in force for the last 10 years. Their lifespan came to an end in January. We were trying to safeguard them in July but, unfortunately, the court case came along.

It is also important to note that if we do not do this, then we continue to be in *limbo* where we have statutory instruments that are not being enforced. Some of them are very important, including the ones for Kenyatta National Hospital, Kenyatta University, and many other institutions. The urgency is manifest. I know there is merit in trying to say that we do not 'eat into the pie' of Private Members' Bills this morning, but exigencies of time, Dr Nyikal, sometimes call upon us to do it this way. I plead with Members to also agree that Order No.17 be included in the Motion and we pass it as it is.

Hon. Deputy Speaker: I may now put the question.

(Question put and agreed to)

PROCEDURAL MOTION

RESOLUTION TO HOLD A THURSDAY MORNING SITTING

Hon. Naomi Waqo (Marsabit County, UDA): Hon. Deputy Speaker, I beg to move the following Motion:

THAT, pursuant to the provisions of Standing Order 30(3)(c), this House resolves to hold a morning sitting on Thursday, 21st March 2024, commencing at 9.30 a.m. for purposes of considering priority business ahead of the short recess.

Hon. Deputy Speaker, in the next two weeks, we will be on recess and this House needs to pass serious business before we go. I request the able Chairman of the Departmental Committee on Agriculture and Livestock, Hon. (Dr) Mutunga, to second.

Hon. (Dr) John K. Mutunga (Tigania West, UDA): Hon. Deputy Speaker, I do not need to belabour the point that we have a lot of business to do before we go for the short recess. Having a session tomorrow morning is critical to us.

I second.

(Question proposed)

(Question put and agreed to)

MOTION

CONSIDERATION OF REPORT ON THE LAND (AMENDMENT) BILL

THAT, this House do agree with the Report of the Committee of the Whole House on its consideration of the Land (Amendment) Bill, (National Assembly Bill No. 40 of 2022).

(Moved by Hon. Simon King'ara on 13.3.2024 – Morning Sitting)

(Resumption of Debate interrupted on 13.3.2024 – Morning Sitting)

Hon. Deputy Speaker: Hon. Members, what remained on this business was putting the question, which I will proceed to do.

(Question put and agreed to)

BILL

Third Reading

THE LAND (AMENDMENT) BILL
(National Assembly Bill No. 40 of 2022)

Hon. Deputy Speaker: Mover of the Bill, Hon. Simon King'ara.

Hon. Simon King'ara (Ruiru, UDA): Thank you, Hon. Deputy Speaker. I beg to move that the Land (Amendment) Bill, (National Assembly Bill No. 40 of 2022), be now read a Third Time.

I want to request Hon. David Bowen from Marakwet East to second.

Hon. Kangogo Bowen (Marakwet East, UDA): Hon. Deputy Speaker, as I second this Bill, I want to state that it is important to have all public utility land given title deeds. In Nairobi, you will not find any land meant for public utilities. They have grabbed all the land and they are now moving out of Nairobi to upcountry. This Bill will ensure that the public utility lands have title deeds for future use.

I second.

(Question proposed)

(Question put and agreed to)

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

MOTION

CONSIDERATION OF REPORT ON THE CANCER PREVENTION
AND CONTROL (AMENDMENT) (NO.2) BILL

THAT, this House do agree with the Report of the Committee of the Whole House on its consideration of the Cancer Prevention and Control (Amendment) (No.2) Bill (National Assembly Bill No. 45 of 2022).

(Moved by Hon. Rahim Dawood on 13.3.2024 – Morning Sitting)

(Resumption of Debate interrupted on 13.3.2024 – Morning Sitting)

(Question put and agreed to)

BILL

Third Reading

THE CANCER PREVENTION AND CONTROL (AMENDMENT) (NO.2) BILL
(National Assembly Bill No. 45 of 2022)

Hon. Deputy Speaker: Mover, Hon. Rahim Dawood.

Hon. Rahim Dawood (North Imenti, Independent): Thank you, Hon. Deputy Speaker. I beg to move that the Cancer Prevention and Control (Amendment) (No.2) Bill, (National Assembly Bill No. 45 of 2022), be now read a Third Time.

I request Hon. Pukose, Chairman of the Departmental Committee on Health, to second.

Hon. (Dr) Robert Pukose (Endebess, UDA): Hon. Deputy Speaker, I second the Cancer Prevention and Control (Amendment) (No.2) Bill by Hon. Dawood. It is an important Bill. Hon. (Dr) Nyikal and Hon. Sabina Chege were also proposing a similar Bill and once we pass this Bill, we will have achieved what the two Members wanted.

I second this important Bill.

(Question proposed)

(Hon. James Nyikal spoke off record)

Hon. Deputy Speaker: I did not hear you. I understand, but you could have just raised a point of order to say that you would like to contribute. Do you want to proceed? Are you requesting to comment?

Hon. (Dr) James Nyikal (Seme, ODM): Yes.

Hon. Deputy Speaker: You may proceed.

Hon. (Dr) James Nyikal (Seme, ODM): Yes. Thank you, Hon. Deputy Speaker. I hope I am not seen in negative light. I am just a stickler for processes.

(Loud consultations)

Please, wait for the next statement to see if I am negative or not. I rise to support this Bill to be read a Third Time. As Hon. Pukose has said, I had a similar Bill and this one is doing the same thing that I was proposing. We agreed to go with this particular Bill. As we pass it, I would like to make one comment for the whole country. We have been diverted because of the emergency on cancer and we are going for very high-end treatment of cancer. We have just visited Kenyatta University Teaching, Referral and Research Hospital, which has top-level machines that cost so much and yet, we would get the same returns if we went for primary care. I am talking of things like the annual cervical examination for ladies and breast examination to detect those things early and treat them at Level 4 hospitals. If we do not go in that direction, we will spend more money and we will be at the end of a river picking people who are dying from cancer while we would have detected those types of cancer earlier and treated them at a lesser cost.

I support it. I do not think that is negative. It is a valuable contribution.

Hon. Deputy Speaker: Thank you. Can I now put the question?

(Question put and agreed to)

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

MOTION

CONSIDERATION OF REPORT ON THE PENAL CODE (AMENDMENT) BILL

THAT, this House do agree with the Report of the Committee of the whole House on its consideration of the Penal Code (Amendment) Bill (National Assembly Bill No.56 of 2022).

(Moved by Hon. David Gikaria on 13.3.2024 – Morning Sitting)

(Resumption of consideration interrupted on 13.3.2024 – Morning Sitting)

(Question put and agreed to)

BILL*Third Reading*

THE PENAL CODE (AMENDMENT) BILL
National Assembly Bill No.56 of 2022

Hon. David Gikaria (Nakuru Town East, UDA): Hon. Deputy Speaker, I beg to move that the Penal Code (Amendment) Bill, (National Assembly Bill No.56 of 2022), be now read a Third Time. I request Hon. Dorothy Muthoni Ikiara, the Nominated Member of Parliament, to second.

Hon. Dorothy Muthoni (Nominated, UDA): Thank you, Hon. Deputy Speaker. I second this very important Bill, the Penal Code (Amendment) Bill, (National Assembly Bill No.56 of 2022).

Thank you.

Hon Deputy Speaker: Thank you.

(Question proposed)

(Question put and agreed to)

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

BILL

THE DIVISION OF REVENUE BILL
(National Assembly Bill No. 14 of 2024)

(Moved by Hon. Ndindi Nyoro on 19.3.2024)

(Debate concluded on 19.3.2024)

(Question put and agreed to)

*(The Bill was read a Second Time and
Committed to Committee of the whole House)*

Hon. Nicholas Mwale (Butere, ODM): On a point of order, Hon. Deputy Speaker.

Hon. Deputy Speaker: What is your point of order, Hon. Mwale?

Hon. Nicholas Mwale (Butere, ODM): Thank you, Hon. Deputy Speaker. You have read Order 13 and yet, we had exempted it from the Procedural Motion. The Procedural Motion on Order 8 had exempted Orders 13,16 and 17. Are we in order to read it again and yet, we had already voted to exempt it from the Order Paper?

Thank you.

Hon. Deputy Speaker: Hon. Ochieng', do you want to say something?

Hon. David Ochieng' (Ugenya, MDG): It is really difficult to deal with that because the exemption was so that the matter can be considered. The exemption was for the matters in Order 9 so as not to appear today because this morning is for Members' Motions and Bills. We exempted all of them up to Order 17, and that is why we are considering them. It is that simple.

Hon. Makali, kindly do something about it. It is only fair that such a thing should not arise while you are seated next to Hon. Mwale.

(Loud consultations)

Hon. Deputy Speaker: Let us proceed. Next Order. What is your point of order, Hon. Makali before we go to the next order?

Hon. (Dr) Makali Mulu (Kitui Central, WDM): It is not a point of order. Hon. Ochieng' is throwing a challenge and yet, Hon. Mwale is a ranking Member - a second-timer. Today morning was meant to be for Private Members Bills and Motions. And the three that have been mentioned are Government business, and should not be appearing. That is why they were being exempted so that we can debate them today.

Hon. Deputy Speaker: Thank you. Next Order.

MOTION

DEVELOPMENT OF A SATELLITE-BASED CLIMATE CHANGE MONITORING POLICY

THAT, aware that the Constitution recognises the people's respect for the environment as the country's heritage and the commitment to sustaining the environment for future generations; further aware that the cyclic drought in the country has caused devastating effects and serious disruption to the economy; recognising that climate change is a global problem with developing countries being the most affected as those regions are dependent on climate-sensitive sectors such as agriculture and forestry; further recognising that the severe effects of climate change are already being experienced in the form of frequent droughts, flooding and other extreme weather occurrences; concerned that the current climate change monitoring mechanisms in the country are based on traditional methods which rely on ground observations and climate models which have limitations in terms of accuracy, timeliness and spatial coverage; noting that the country recently launched its first operational satellite to collect and transmit high-quality data; further noting that this technology can help in accurately monitoring and forecasting climatic and weather patterns; cognisant of the fact that other jurisdictions have made use of this technology to monitor climate change with marked positive impacts; appreciating that the use of technology, especially satellite technology, would allow enhanced monitoring that can have significant impact on sustainable environmental management; further

appreciating that this technology would be useful in monitoring difficult-to-reach, expansive and unsafe areas; now therefore, this House resolves that the Ministry of Environment, Climate Change and Forestry develops a policy on IT that deploys the use of satellites in the monitoring and forecasting of climatic conditions with the objective of ensuring timely and accurate data collection to enhance the country's capacity to respond to weather-related risks and vulnerabilities including climate change.

(Moved by Hon. Abdul Haro on 6.3.2024 - Morning Sitting)

(Debate concluded on 13.3.2024 - Morning Sitting)

(Question put and agreed to)

Hon. Samwel Chepkong'a (Ainabkoi, UDA): On a point of order, Hon. Deputy Speaker.

Hon. Deputy Speaker: What is your point of order, Hon. Chepkong'a?

Hon. Samwel Chepkong'a (Ainabkoi, UDA): Hon. Deputy Speaker, I rise under Standing Order 83. Is it in order for the Member of Parliament for Baringo County, Hon. Jematiah, to be conducting table banking issues in the House when the Speaker is putting a Question?

Hon. Deputy Speaker: Hon. Member for Baringo, do you want to respond to that or you have duly noted? Let us proceed. Next Order.

BILL

Second Reading

THE HOUSES OF PARLIAMENT (BICAMERAL RELATIONS) BILL (National Assembly Bill No. 44 of 2023)

(Moved by Hon. Samuel Chepkong'a on 19.3.2024)

(Resumption of Debate interrupted on 19.3.2024)

Hon. Deputy Speaker: I am informed that Hon. Oundo was on the Floor and he had a balance of time. Is Hon. Oundo here? Member for Funyula. Let me go in order of all those who want to contribute. Hon. Beatrice Kemei of Kericho is the first in line and yet, she is not here.

Hon. Pukose, you can proceed. However, anyone who has to contribute to this matter must press the intervention button.

Hon. (Dr) Robert Pukose (Endebess, UDA): Thank you, Hon. Deputy Speaker.

Hon. Deputy Speaker, The Houses of Parliament (Bicameral Relations) Bill, (National Assembly Bill No. 44 of 2023), is a very important Bill.

In the past, we have seen Bills being passed by the National Assembly but being challenged in the Senate and it has delayed the enactment of laws in this country. In terms of this bicameral relationship, it is not right for a State department to be summoned by a committee in the National Assembly and then be summoned again on a similar matter by a similar committee in the Senate. This has created a lot of bureaucracies and challenges in terms of how departments operate. As per the Constitution, the Senate is supposed to defend counties. Therefore, its committees should be aligned with county functions. I do not know whether the

work concerning counties is little. For example, you see a Senate Committee on Education summoning a university and yet, counties deal with Early Childhood Development Education (ECDE). You wonder whether that is an action in futility.

Another example is a Senate Committee on Health summoning national referral hospitals and yet, we have county referral hospitals which are about 47 and there is a lot of work to be done there. This Bill will help us find a way to relate with departments and our role as Parliament.

As we move into the Committee of the whole House on this Bill, we have to take our time to look at its various sections and see how best we can align them in terms of the relationship between the two Houses.

With those few remarks, I support.

Hon. Deputy Speaker: Hon. David Ochieng', Member for Ugenya.

Hon. David Ochieng' (Ugenya, MDG): Thank you, Hon. Deputy Speaker. I thank Hon. Chepkong'a for coming up with this Bill. In its entire existence of over 200 years, the US Senate and US House of Representatives have never taken each other to court. Whenever any one of them tries to do so, the courts recuse themselves in all situations. It is a wonder that in the last 12 years, we have seen so much litigation, most of the time originating from the Senate, on matters that could be resolved amongst ourselves without bringing in a third party.

There have also been situations where this House guides the Senate and *vice versa*, sometimes in words and manners that do not promote amity and comity of working together as the two Houses. That is why I believe this Bill is very important in deciding how best these two Houses are going to work. There have been situations where the Senate thinks it is a superior House. In fact, there is a situation where we have encouraged forum shopping. People think that when you go to the Senate, you get a better result than when you come to the National Assembly and *vice versa*. The recent example is the issue of Shakahola. In my opinion, there was no iota of jurisdiction, authority or legal power on the Senate to engage on the matter. But before the competent committees of the National Assembly could get into the matter, the Senate had already set up a special committee on matters they have no competence on and on matters that they could not force anybody to act on anything. So, the National Assembly is left back-handed and yet, it has the instruments and should be able to deal with that.

I believe that once this Bill is passed - and I am happy that the two Speakers we have today - one having been a governor and the other a senator - understand what needs to be done. We hope that when this is passed, other things will be done.

I could not agree with Hon. Pukose more. If you look at the Fourth Schedule of the Constitution, there is so much that needs to be done by the Senators to promote and enhance devolution, and you wonder why they want to put their fingers on matters that do not concern them at all. Currently, there is a lot of corruption in the counties.

Last week, I remember saying that county assemblies cannot pass a Bill on housing. It is the same thing because the Senate has refused to go out of its way to legislate on matters that are spelt out in the Fourth Schedule. In fact, they should make model laws for all the county assemblies to follow in areas like health, agriculture, water, sports and housing. But all the time, they are busy on matters that do not concern them at all. I hope that with the passage of this Bill, everyone will know their lane and where there are issues, people will resolve them in a manner that promotes the good sense of these Houses.

As I finalise, I want to make a request to our courts. Our courts are too eager to engage in matters that do not concern them. Our courts are trigger-happy such that every time someone goes to court on a matter touching on Parliament, they are like a fish that has seen a hook and sinker. There is no single day that our courts have recused themselves on matters that are touching on Parliament. Never! I request our courts to understand that there are matters where intervention is not required. No one has ever questioned why someone goes to court over Bills

that we have passed but, when it comes to matters concerning these two Houses - their procedures and how they relate - it should be left to the good sense of the two Speakers and now, the good sense of the law that we are going to pass this morning to ensure that the independence of Parliament is sustained. For last 12 years, we have clawed back on the powers and privileges of Parliament that I hope that this Bill is able to return them.

I support.

Hon. Deputy Speaker: Hon. Kassim Tandaza, Member for Matuga.

Hon. Kassim Tandaza (Matuga, ANC): Ahsante Bi Naibu wa Spika kwa kunipatia fursa hii ili niweze kuchangia katika huu Mswada muhimu. Kwanza nimpatie kongole Mhe Chepkong'a kwa kuuleta Mswada huu.

Ukiangalia majukumu ya Seneti kama Katiba inavyosema, hakuna haja ya wakili kuweza kupambanua. Wao wanatakikana washugulikie masuala ya kaunti na jingine na endapo kutakuwa na mswada wa kuweza kumng'oa rais na naibu wake, hapo ndipo masuala kama hayo yanafika kwa Seneti.

Lakini kwa hivi sasa, ni jambo la kuhuzunisha kwamba Seneti imeweza kuunda kamati sawia na zile za Bunge hili. Sisi tukiwa takriban 300 na zaidi hapa, wao wakiwa watu 60, wameunda kamati kama zetu. Utapata inabidi Seneta akae kwa kamati nne ama tano kwa sababu wenyewe ni wachache na kamati ni nyingi.

Kama mwenzangu alivyotangulia kusema, ninapoangalia Kamati walizojiunda, inaonekana kwamba labda lengo ni kuwapatia fursa ya kusafiri nje au ndani ya nchi na labda kupata marupurupu kwa hizo mikutano. Najua wao wenyewe wanajua kwamba hawana ujuzi wala nguvu yeyote ya kutekeleza majukumu hayo.

(The Deputy Speaker (Hon. Gladys Boss) left the Chair)

(The Temporary Speaker (Hon. David Ochieng') took the Chair)

Mswada huu utaweza kupeana mwelekeo na kuweka kinagaubaga kwamba hawakushurutishwa kwenda Seneti. Ikiwa wanataka majukumu zaidi, basi wanayo nafasi ya kuja Bunge ili waweze kushughulika na yale majukumu ambayo Bunge inahitajika kufanya. Lakini kwa sababu walienda Seneti kwa hiari yao, wajue kwamba wana majukumu yao ambayo pia si machache. Kama mwenzangu alivyotanguliza kusema, wao wenyewe wanayadharau. Labda wanaona hayana marupurupu ya kutosha. Matatizo ambayo yako kwa kaunti saa hii ni mengi sana. Ukiangalia masuala ya ukulima ambayo wanasema yamegatuliwa na ukulima ni uti wa mgongo wa uchumi ya Kenya, Seneti haijachukua hatua yoyote kuyatua aidha kupitia kwa kamati ama kutengeneza sheria ambazo zitaweza kuhakikisha kwamba ukulima unafanyika, pembejeo zinapatikana na *county governments* wanapeana fedha za kutosha ili kusaidia wakulima. Katika zile kaunti waweze kuajiri watu wa kutosha ili kuhakikisha kwamba ukulima unafanyika na wakulima wanapata ushauri wakati unaofaa. Hawafanyi jukumu hili lao.

Ajabu ni kwamba, endapo Serikali kuu ikijaribu kuwasaidia, inakua tena ni kero na kesi kwamba isifanyike. Kwa hivyo, jambo hili linafanya watu wasiweze kupata manufaa ya ugatuzi kama walivyokuwa wanatarajia. Jumba ambalo lingeweza kusawazisha mambo haya ni Jumba la Seneti.

Ahsante sana, Mhe. Spika wa Muda. Naunga mkono Mswada huu.

The Temporary Speaker (Hon. David Ochieng'): Hon. Tindi Mwale.

Hon. Tindi Mwale (Butere, ODM): Ahsante Mhe. Spika wa Muda. Pia mimi nitaendelea kuzungumzia Mswada huu kwa lugha ya taifa, vile mwenzangu kutoka Matuga amefanya. Kwanza, ningetaka kumshukuru Mwenyekiti wa Kamati yangu, Mhe. Chepkong'a, kwa kuleta Mswada huu.

Jambo la kwanza, Bunge la Kenya lina vyumba viwili. Bunge la Taifa ambalo lina Wabunge Wateule na Bunge la Seneti. Mara kwa mara, tumeona shida nyingi sana kama kutoelewa ni nani anafaa kufanya kazi fulani. Kwa hivyo, namshukuru mwenzangu kwa kuleta Mswada huu ambao unaangalia mawasiliano katika vyumba hivi viwili, haswa kuhusu jambo la uangalizi ama kwa Kiingereza, *oversight*.

Utapata Waziri anakuja katika Bunge la Taifa na kuzungumza kuhusu uangalizi wa fedha ambazo zimepotea. Pia unapata katika Bunge la Seneti huyo Waziri mmoja anaitwa na Kamati ya Seneti kujibu yale maswali ambayo aliulizwa katika Bunge la Taifa. Kwa hivyo, tukipata mwelekeo kupitia kwa huu mpangilio, kwamba maswali fulani yataulizwa na Kamati ya Bunge la Taifa na mengine yataulizwa na Kamati ya Bunge la Seneti, itakuwa bora

Katika Bunge la 12, wakati wa kusoma Bajeti, tulikuwa tunakaa hapa sisi wote - Wabunge na Maseneta. Lakini kwa sababu ya kukosa mwelekeo, tulifika mahali Spika wa wakati huo, Mhe. Justin Muturi, akapeana mwelekeo kwamba Bajeti ikisomwa ni sisi pekee yetu tunafaa kukaa hapa.

Kwa hivyo, huu Mswada unapeana mwelekeo, vile vyumba viwili vya Bunge la Kenya vitafanya kazi na kuweza kuwaridhisha Wakenya ndio wajue vile shida zao zinasuluhishwa. Ahsante.

The Temporary Speaker (Hon. David Ochieng’): Hon. (Dr) Makali Mulu.

Hon. (Dr) Makali Mulu (Kitui Central, WDM): Thank you very much, Hon. Temporary Speaker. As you will realise, I have changed seats thrice because the intervention button in this row is not working. I wish our technical people can look into this because we are facing challenges. I want to thank Hon. Chepkong’a because, for the first time, he got it right. Many other times... This Bill is very important. Hon. Temporary Speaker, you and I have been here long enough and saw the First Senate which was...

The Temporary Speaker (Hon. David Ochieng’): Use the microphone next to you.

Hon. (Dr) Makali Mulu (Kitui Central, WDM): Okay. Thank you. As I was saying, in this row, the gadgets have a problem and something should be done.

Hon. Temporary Speaker, you and I have been in this House for the last 12 years. During this time, we have seen a lot of sibling rivalry, where the Senate and National Assembly have been doing things unexpected of them. Parliament has two Chambers; the Senate and National Assembly. The law is very clear that the Senate was created to address the interests of counties, while the National Assembly is supposed to take care of national level interests. As most Members have said, we have seen a situation where the Senate has been dealing with national Government issues which the National Assembly should oversee.

To me, this is not a major problem but a situation where the Senate takes the National Assembly to court and yet, we all know that PSC does Parliament’s budget. So, it pays the lawyers representing the National Assembly in court and, at the same time, pays the lawyers defending the Senate and *vice versa*. Such confusion should not be allowed to continue. That is why I thank Hon. Chepkong’a for bringing this Bill.

Hon. Temporary Speaker, you and I have served in the Budget and Appropriations Committee, and we are aware of the matter regarding the origin of money Bills. The law is very clear that money Bills can only originate in this Chamber and not the other one. We have cases where Senators have originated money Bills and, as a result, we kill them at this level. It might appear like we are killing them for the sake of doing so but, it is a constitutional requirement that they cannot originate them. That is why the idea of having joint sponsorship of Bills has become very innovative. It is something we are pushing so that we can cushion the Senate against originating money Bills.

Another important matter is the issue of superiority. Who is senior? Kenyans are not expecting to know who is senior, but to see both Chambers working and generating Bills and Motions which will help this country move to the next level. There are instances where some

Bills have challenges. For example, we have been discussing about county governments raising their own revenue and accountability issues. County assemblies are trying their best to ensure that there is accountability. I think the Senate can come in and support them so as to ensure that the money that is generated at the county level is used for the benefit of the counties. This area has a huge gap.

Another area they have not been very active as they should, is the fight against corruption. Every time Members go home, they find serious corruption issues relating to the county governments. We have seen a number of governors in the media being taken to court. I wish the Senate could focus more on such issues rather than calling the Cabinet Secretary for Interior and National Administration or Cabinet Secretary for Education and chancellors of universities. Those are national functions and should be addressed at the national level.

As we go to the Third Reading of this Bill, we should get it right so that in future, we have a legal framework which will ensure we have a very well-structured way of doing things. That way, never again will we have a situation where the Senate takes the National Assembly to court or *vice versa*. In so doing, we will be making proper use of the resources that are given by Kenyans to PSC.

Hon. Temporary Speaker, with those many remarks, I support this, Bill. Once more, I want to thank Hon. Chepkong'a for bringing this important initiative.

The Temporary Speaker (Hon. David Ochieng'): Before I give a chance to the Member for Uasin Gishu to speak, Hon. Members, join me in welcoming students who are seated in the Public Gallery from Church Army Academy, Makadara Constituency, Nairobi County and children from Kibauni Secondary School, Mwala Constituency, Machakos County. They are welcome to follow the proceedings of the House, this morning. Member for Uasin Gishu.

Hon. Gladys Boss (Uasin Gishu, UDA): Thank you, Hon. Temporary Speaker, for giving me the opportunity to lend my voice to this very important Bill. I congratulate Hon. Chepkong'a for having the wisdom and vision to bring this Bill. If the relations between the Senate and the National Assembly could be streamlined, and if there could be guidelines on the roles and the areas each House should cover, we will become more effective. Sometimes, we see the Senate overseeing the Executive very vigilantly and yet, they do not oversee governors or devolution at the same level. When we go around our counties, we see, for example, a case of a hospital that has been under construction for ten years but not completed at a great expense to the public. What should the Senate do in such an instance? The Senate should visit such a place and ask why money has been spent but the hospital is incomplete. I know of a case of a design of a hospital with 13 theatres. Even Moi Teaching and Referral Hospital does not have 13 theatres. Such a design is an example of a corruption ring.

There are cases where delegated legislations at the national level are done and the Senate summons the Executive to explain those particular pieces of legislations. They do this and yet, they do not do anything to ensure that they streamline delegated legislations that are passed by County Executive Committee (CEC) Members in the counties and county assemblies. They should do that because that is where there is a challenge. There are different delegated legislations that are passed at county assembly level. For example, Nandi County and Uasin Gishu County, which are 40 kilometres apart, have different delegated legislations. As a result, business people have great difficulty operating because the legislations are not streamlined. We should pass this Bill so that the Senate can be directed to focus more on their mandate of devolved functions.

For example, on agriculture, there should be uniform delegated legislations at the county assembly level. The Government policy at the moment is that certain counties should be zoned to grow certain cash crops. We know that Kenya's second largest import after petroleum is edible oil. We should have a massive drive that is pushed by the Senate, through

various policy and legislations, to ensure that edible oil crops are grown in the counties. That way, the Senate will be doing much more justice in improving devolution.

Thank you, Hon. Temporary Speaker. Again, I appreciate Hon. Chepkong'a for bringing this Bill. I support.

The Temporary Speaker (Hon. David Ochieng'): Member for North Imenti.

Hon. Rahim Dawood (North Imenti, Independent); Thank you, Hon. Temporary Speaker. Let me, first, congratulate Hon. Chepkong'a for bringing this Bill.

This Bill is very timely in the sense that it will fix the relation problems between the two Houses of Parliament. I have gone further to make a legislative proposal to do away with the Senate completely, but I do not know if it will see the light of day. Our lawyers are working on it.

We need to call a spade a spade. The Senate has its work to do. During the 11th Parliament, there was a time when the Departmental Committee on Finance and National Planning of the National Assembly called Kenya Airways. As soon as they were done with them, the Senate called them again and did what we had done as a committee of the National Assembly. There was a lot of repetition in what was being done. We need to have guidelines on what the National Assembly can handle and what the Senate can handle. I remember that during the last Parliament, I brought a Bill and it took about a year or two for the two Houses to decide on who between them would look at it. We need certainty on how to handle Bills. If there are Bills that do not need to be taken to the Senate, there should be a clear criterion that indicates that it is only the National Assembly which can deal with such a Bill.

In my legislative proposal, which I have asked our legal personnel to draft, I have proposed to do away with governors and have mayors in the counties so that the bad blood amongst governors, Members of Parliament, senators and the Executive, together with the President, can be done away with. I hope my legislative proposal will be prepared and if we have to go for a referendum, I am willing to collect signatures for the referendum so that, at the end of the day, we will have a committee on devolution in the National Assembly. Therefore, we will not have to go to the Senate to fight over a few Bills.

With those few remarks, I support.

The Temporary Speaker (Hon. David Ochieng'): Hon. Moses Kirima.

Hon. Moses Kirima (Central Imenti, UDA): Thank you, Hon. Temporary Speaker, for giving me this opportunity to advance on the Bill by my colleague, Hon. Chepkong'a.

As per the provisions of the Constitution, the purpose of the Senate was, *per se*, to take care of county governments but, as we stand today, other interested bodies have come up to try to give teeth to the Senate to deal with national matters other than concentrating on county governments' issues. The Senate these days has assumed the responsibility of the National Assembly. It has gone ahead to form all the committees that have been formed in the National Assembly. The Senate has assumed the role of what is supposed to be done in the National Assembly. It has created work for itself. Interested powers have created collision between the two Houses so that they can have a chance to get in and divide them so that they do not have powers to supervise and oversee the requisite provisions or the requisite duties of the national Government. The major duty of the Senate is to check the welfare of the counties, especially the work of governors, or the relationship between governors and county assemblies. There is no way the National Assembly would impeach a governor or deputy governor and, at the same time, get the results or be informed of the method or mode of impeachment that is taking place in the Senate.

In our Constitution, as it stands today, the Senate's major duty as pertains county governments is to specifically deal with issues that arise in the National Assembly only when it comes to monies that go to counties and not any other. The money that goes to the county governments and the county assemblies is the major duty that relates between the two

governments. The county governments these days have boundary disputes among themselves. They have issues that relate to the county governments and the county assemblies. But the Senate does not deal with those issues. This Constitution, as it is, has it that the Senate should not meet always as it does these days, but only when there are issues relating to county governments. I can confirm that they will be meeting even when there are no issues relating to county governments.

Why does the Senate have the mandate to summon even the Cabinet Secretary for Defence whereas defence is a national matter? How come the Senate has the mandate to form a committee that deals with interior matters that are for the national Government alone? The Senate has created work for itself. It is duplicating the work in the two Houses. That costs so much of taxpayer's money. That money is meant to be used for development other than paying allowances for the Senate's traveling, sitting allowances and creating unnecessary committees.

The Bill by my colleague, Hon. Samwel Chepkong'a, is timely and right. It has come at the right time. I support the Bill.

The Temporary Speaker (Hon. David Ochieng'): Next is the Member for Seme Constituency.

Hon. (Dr) James Nyikal (Seme, ODM): I rise to support this Bill in principle. This Bill is key to devolution. This Bill will support the whole area of devolution. Schedule 4 decides what counties do. If you look at it, the concept behind it is co-operation and not an adversarial arrangement. That is the only way it can work. The role of the national Government is to make policies and standards; and that of county governments is implementation. In reality, you cannot split the two. Even if you take what is almost completely devolved, like health; the policies and standards are still at the national level. Whatever counties are doing must relate to what is happening at the national level in terms of public policy and keeping standards. There is no way we can say that Schedule 4 clearly delimitates what each level of government will do. It is not practical.

Therefore, this always calls upon the two Houses to co-operate because the standards and policies will eventually pass through this House. That is why when you look at Committees, they often find themselves almost clashing. There is a Health Committee in the Senate. There is a Departmental Committee on Health in the National Assembly. You wonder why because, when it comes to standards and policies, the Departmental Committee on Health in the National Assembly Committee must look at what is happening. When it comes to implementation, which is on the ground, to a large extent Level 5 hospitals downwards, the Senate is responsible. Sometimes, it is not that there is competition, but that what we do not have is a clear delimitation. It is not possible unless we agree and put it down. We will look at those details in this Bill.

In my thinking, the issue of an Upper House and Lower House has been an adversarial point for no reason. The bicameral arrangement in Kenya is different from bicameral arrangements in other jurisdictions. The concept of an Upper House and a Lower House does not exist in our jurisdiction. What purely exists are roles. It was stated that the Senate takes care of the interests of the counties. The one area that has come out very well is the impeachment of governors. They have done a good job in this regard because they have stuck with that role and protected the counties to that extent. That is their role. Maybe, the only area where issues of an Upper House and Lower House may come in is the impeachment of a President. In that one, the National Assembly can initiate the impeachment of a President but it must pass through the Senate. That may bring about the relational aspect of Upper House and Lower House between the two Houses of Parliament. Otherwise, it does not exist.

The courts have taken advantage of our adversarial relationship. They find it easy when we do not agree in advance on Bills that land in their chambers. As a Member has said, the Parliamentary Service Commission that belongs to both Houses pays. It is a bit ridiculous.

(Loud consultations)

Hon. Temporary Speaker, there are many *kamukunjis* nowadays. They are interfering. Protect us from that.

The courts have taken advantage of the adversarial relationship between the National Assembly and the Senate.

The Temporary Speaker (Hon. David Ochieng’): Hon. Deputy Leader of the Majority Party and Hon. Samwel Chepkong’a, could you, please, consult in low tones so that we can hear the Hon. Member for Seme Constituency?

Hon. (Dr) James Nyikal (Seme, ODM): As I have said, the courts have taken advantage of our adversarial relationship. It is what we have created. We have lent ourselves to the courts. Even now, the laws very clearly allow that there should be an agreement on whether a matter touches on counties before a Bill comes to this House or to the other House. On money Bills, it is also clear. When we do not do that, we lend it to the other House.

Therefore, we will have to look at this Bill. I pray that we do not hurry up the transaction of this Bill. Let us work through it in good time. Let the people see it. Let the amendments come so that when we eventually sort out the matter between the National Assembly and the Senate, it will have a very serious repercussion on what is happening even in the counties.

With those remarks, I support.

The Temporary Speaker (Hon. David Ochieng’): Next is the Member for Baringo County.

Hon. Jematiah Sergon (Baringo County, UDA): Thank you. I also want, from the onset, to congratulate our colleague, Hon. Chepkong’a, for bringing this timely Bill.

As much as we agree that devolution has its ups and downs, it is unfortunate that the two Houses in Kenya have squabbled for the last fifteen years. In this Bill, Hon. Samwel Chepkong’a has elaborated the importance of unity between the two Houses. We know the importance of working together, having seamless harmony while delivering services and representing the people of Kenya. The drafters of the Constitution of Kenya 2010 had a very visionary idea in this bicameral Parliament. As time goes by, we realise that human beings are naturally brutish. That is why we are always competing even when resources are there. We know that resources have never been enough. However, one thing is coming out very clearly. That is, to some extent, the Senate is abdicating its duties. They are supposed to take time and make sure that our counties are functional.

We do more policy work in the National Assembly. Even though we share revenue with the counties every year, the level of development in the counties is still wanting. The health sector at the county level is uncontrollably being misused and, therefore, the people are not getting proper services. Even as we enact these Bills, as the National Assembly, and try to harmonise things, we ask counties to deliver on their mandate through the Senate. This Bill aims at reducing talking and increasing action. In today's global village, we have witnessed countries like Nigeria struggling with poverty due to mismanagement of their counties. If we do not prioritise the counties, we will have a big problem in Kenya.

I thank Hon. Chepkong’a for bringing this Bill. It will set the standards and help Kenya to move forward.

Hon. Kangogo Bowen (Marakwet East, UDA): On a point of order, Hon. Deputy Speaker.

Hon. Deputy Speaker: What is your point of order, Hon. Kangogo?

Hon. Kangogo Bowen (Marakwet East, UDA): Hon. Deputy Speaker, we should not belabour the point so much on this Bill. All of us know the issues we have had with the Senate. As we speak, there are still court cases between us and the Senate. I rise under Standing Order

95 to request you to call upon the Mover to reply, because this issue needs to be sorted out before we go for recess.

Hon. Deputy Speaker: Are Members in agreement that the Mover should be called upon to reply?

Hon. Members: Put the Question! Put the Question!

(Hon. (Dr) Otiende Amollo spoke off record)

Hon. Deputy Speaker: Hon. (Dr) Otiende, you have just walked in.

(Question, that the Mover be now called upon to reply, put and agreed to)

(Hon. (Dr) Otiende Amollo spoke off record)

Hon. Deputy Speaker: Hon. (Dr) Amollo missed the debate due to arriving in the House three hours late. So, he was not aware that the time for this debate was over.

Proceed, Hon. Chepkong'a.

Hon. Samuel Chepkong'a (Ainabkoi, UDA): Thank you very much, Hon. Deputy Speaker. Hon. (Dr) Otiende Amollo claims that he was attending the National Dialogue Committee (NADCO) meeting. He defended this matter in court before and, therefore, I donate three minutes of my time to him. He is an excellent defender of issues concerning this House.

Hon. (Dr) Otiende Amollo (Rarieda, ODM): Thank you.

Hon. Deputy Speaker: Hon. (Dr) Otiende, we have already resolved to close the debate on this matter. Therefore, you cannot have any donated time.

Proceed, Hon. Chepkong'a.

Hon. Samuel Chepkong'a (Ainabkoi, UDA): Thank you, Hon. Deputy Speaker. I did that out of goodwill.

I wish to thank every Member who has contributed to this Bill. We must pass this legislation due to the many pending court matters. We have a mention next week, and one of the things we told the court is that we have a Bill in the National Assembly that seeks to deal with the bicameral relations between the National Assembly and the Senate. If we do not pass it, we will not prove to the court that we have taken significant action. Our assertion to the court will amount to hot air.

With those remarks, I beg to reply.

Hon. Deputy Speaker: Hon. Members, before I put the Question, I would like to recognise the presence of students from various schools who are seated in the galleries as follows:

1. St. John Tala Secondary School from Matungulu Constituency, Machakos County.
2. Kanyiriri Secondary School from Ol Kalou Constituency, Nyandarua County.
3. Njenga Karume Secondary School from Molo Constituency, Nakuru County.

(Question put and agreed to)

(The Bill was read the Second Time and committed to a Committee of the whole House)

COMMITTEE OF THE WHOLE HOUSE

(Order for Committee read)

[The Deputy Speaker (Hon. Gladys Boss) left the Chair]

IN THE COMMITTEE

[The Temporary Chairman (Hon. David Ochieng') in the Chair]

THE DIVISION OF REVENUE BILL
(National Assembly Bill No.14 of 2024)

(Several members stood along the aisle)

The Temporary Chairman (Hon. David Ochieng'): Order, Hon. Members. Please take your seats. This business will take 10 minutes or less.

We are in the Committee of the whole House to consider the Division of Revenue Bill (National Assembly Bill No.14 of 2024). The Bill has five clauses and there are no amendments proposed as at now. Please, Members, resume your seats so that we can proceed with this matter.

(Clauses 3, 4 and 5 agreed to)

(Schedule agreed to)

(Clause 2 agreed to)

(Title agreed to)

(Clause 1 agreed to)

Mover, move reporting. Is it Hon. Mary Emaase or Hon. Owen Baya?

Hon. Mary Emaase (Teso South, UDA): Hon. Temporary Chairman, I do not have my glasses. So, I cannot read. I ask Hon. Baya to continue.

The Temporary Chairman (Hon. David Ochieng'): Can I help you with mine?

Hon. Mary Emaase (Teso South, UDA): Let Hon. Baya continue until I trace mine.

The Temporary Chairman (Hon. David Ochieng'): I order the Serjeant-at-Arms to look for Hon. Mary's glasses.

In the meantime, Hon. Baya, you may proceed.

Hon. Owen Baya (Kilifi North, UDA): Hon. Speaker, I beg to move that the Committee do report to the House its consideration of the Division of Revenue Bill, (National Assembly Bill No.14 of 2024), and its approval thereof without amendments.

(Question proposed)

(Question put and agreed to)

(The House resumed)

IN THE HOUSE

[The Temporary Speaker (Hon. Farah Maalim) in the Chair]

MOTION

CONSIDERATION OF REPORT ON THE DIVISION OF REVENUE BILL

The Temporary Speaker (Hon. Farah Maalim): I call upon the Temporary Chairman to report to the House the Committee's resolution on the Division of Revenue Bill (National Assembly Bill No.14 of 2024).

Hon. David Ochieng' (Ugenya, MDG): Hon. Temporary Speaker, I beg to report that the Committee of the whole House has considered the Division of Revenue Bill, (National Assembly Bill No.14 of 2024), and approved the same without amendments.

The Temporary Speaker (Hon. Farah Maalim): Mover, what is your take on the Committee's Report?

Hon. Owen Baya (Kilifi North, UDA): Hon. Temporary Speaker, I beg to move that the House do agree with the Committee on the said Report.

I request Hon. Chepkong'a to second.

Hon. Samwel Chepkong'a (Ainabkoi, UDA): Hon. Temporary Speaker, I second.

(Question proposed)

(Question put and agreed to)

(Applause)

BILL

Third Reading

THE DIVISION OF REVENUE BILL (National Assembly Bill No.14 of 2024)

The Temporary Speaker (Hon. Farah Maalim): I now call upon the Mover.

Hon. Owen Baya (Kilifi North, UDA): Hon. Temporary Speaker, I beg to move that the Division of Revenue Bill, (National Assembly Bill No.14 of 2024), be now read a Third Time.

I request Hon. Mary Emaase to second. Is she in the Chamber or she has taken a French leave?

Hon. Members: She is not in.

Hon. Owen Baya (Kilifi North, UDA): I ask Hon. 95 to second.

(Laughter)

Hon. (Dr) Robert Pukose (Endebess, UDA): Hon. Deputy Leader of the Majority Party, I am Hon. Pukose.

Hon. Temporary Speaker, I second.

(Question proposed)

Hon. Members: Put the Question! Put the Question!

(Question put and agreed to)

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

(Applause)

BILL

Second Reading

THE STATUTORY INSTRUMENTS (AMENDMENT) BILL (National Assembly Bill No.3 of 2024)

The Temporary Speaker (Hon. Farah Maalim): Leader of the Majority Party.

Hon. Samwel Chepkong'a (Ainabkoi, UDA): Hon. Temporary Speaker, I beg to move that the Statutory Instruments (Amendment) Bill, (National Assembly Bill No.3 of 2024), be now read a Second Time.

This Bill had previously been passed by this House but, when it was taken to the Senate for their concurrence with the National Assembly, it stuck there. Its importance is to address a legal lacuna occasioned by the expiry of more than 1,900 statutory regulations. The regulations expired by operation of the law, which provides that a statutory instrument or regulations must be reviewed every 10 years. If statutory instrument is not reviewed within that period, it automatically expires. These regulations expired in January 2024. There is a court case....

(Technical hitch)

The Temporary Speaker (Hon. Farah Maalim): What happened to Hon. Chepkong'a's microphone?

Hon. Samwel Chepkong'a (Ainabkoi, UDA): Thank you very much, Hon. Temporary Speaker.

The import of this Bill is to resuscitate all the regulations that expired through the effluxion of time. It is bad practice for regulations to expire through effluxion of time, but not pursuant to events. The parent Acts or legislations that created them are still in existence. They have not been reviewed. Why should they lapse on account of passage of time? That is not a good law. Laws must follow events. Something must happen for them to expire. If the parent Act is reviewed, they can also be reviewed. If the parent Act has not been amended, why should the regulations lapse because of the passage of time?

Hon. Temporary Speaker, the Committee examined these proposed amendments as contained in the Bill. We conducted public participation. The Attorney-General and the Kenya Law Reform Commission (KLRC) appeared before the Committee. We received very important and significant contributions from them. As a consequence, we have proposed to move certain amendments to clean the Bill.

The main objective of the Bill is to regularise the regulations that have lapsed. Secondly, it will ensure that when a regulatory-making authority fails to submit regulations to the National Assembly within seven days, they will be deemed to be a nullity. Therefore, it is expected to gazette that they have become a nullity. The National Assembly will also gazette or publish in its website that they are a nullity because they have not been brought to the House.

The Statutory Instruments Act prescribes that all regulations should provide a penalty for their breach of not more than Ksh20,000 or imprisonment of not more than six months. The law is expected to be a deterrent. It is not supposed to be friendly. This ensures that when you breach it, you face consequences for your bad behaviour. We are proposing amendments to enhance the current penalty of Ksh20,000, which everybody can afford. Most of the people who breach the law pertaining to regulations are statutory bodies. We are seeking to increase the penalties from Ksh20,000 to a maximum of Ksh1 million, and imprisonment of not more than five years. This will ensure that if one breaches the legal requirements pertaining to regulations, one faces serious consequences.

Hon. Temporary Speaker, these are the major amendments that we have proposed in this Bill. We will introduce the other amendments later. As I said earlier, this matter had been deliberated and passed in this House. We are going through it for the second time.

With those remarks, I beg to move and request Hon. Baya to second.

The Temporary Speaker (Hon. Farah Maalim): Hon. Baya Owen.

Hon. Owen Baya (Kilifi North, UDA): Hon Temporary Speaker, I beg to second the Statutory Instruments (Amendment) Bill (National Assembly Bill No.3 of 2024).

I would also like to thank the Committee led by Hon. Chepkong'a, and any other person who was involved in ensuring that this Bill is before the House today. That was a remarkable job.

The Bill seeks to amend the provisions of the Statutory Instruments Act, 2013 to streamline them with the Constitution and ensure better application of the said provisions. The Bill seeks to do two related things to Section 11 of the Statutory Instruments Act, 2013, by inserting new sub-sections immediately after Section 11(4). This amendment seeks to provide that where a regulation-making authority fails to submit a statutory instrument in accordance with sub-section (1), the Committee shall require the regulation-making authority to submit the statutory instruments to Parliament within seven days from the date of the resolution by the Committee. That is one key fundamental amendment.

Clause 2(6) provides that, notwithstanding sub-sections (4) and (5), Parliament may, where a statutory instrument ceases to have effect in accordance with sub-section (4), notify the public in the parliamentary website. Hon. Chepkong'a has ably elucidated on that.

Clause 3 of the Bill seeks to amend Section 12 of the principal Act by proposing the deletion of sub-section (3). This is to align the Act with the constitutional provision on Parliament's power to delegate its legislative-making authority as per Article 94(5) of the Constitution. The Committee Report proposes that Clause 3 be amended by deleting and substituting it with a new clause.

Clause 4 seeks to amend Section 14 of the Statutory Instruments Act, 2013 by inserting the words "recommend to the House to" immediately after the words "the Committee may". This is to ensure that whenever the Committee recommends for an exemption of a statutory instrument from scrutiny, the exemption may only be done subject to the approval by the House.

Lastly, if you continue to indulge me, this Bill seeks to amend Section 19 of the Statutory Instruments Act, 2013 by deleting and substituting the same with a new section. The amendment provides that where Parliament has adopted a report or a resolution that a statutory instrument be annulled—

1. the instrument shall stand annulled; and,
2. the Clerk of the relevant House shall publish the annulment in the parliamentary website and shall convey the resolution of the House to the regulation-making authority.

Further, the amendment provides that upon the receipt of the communication from the Clerk in accordance with this section, the regulation-making authority shall publish the amendment in the Gazette within 14 days.

This Bill seeks to amend the title of Part V of the Act by deleting it and substituting it with a new heading titled Part V - Purpose for Review of Statutory Instruments.

As I have enumerated, this Bill is very important to align the Statutory Instruments Act, 2013 with the Constitution. As ably mentioned by Hon. Chepkong'a, it also seeks to ensure that regulations do not lapse by dint of time, but by dint of events. That is why this Bill is before the House today.

I request Members to support this Bill. As Hon. Chepkong'a has said, there are over 1,000 instruments or regulations that have lapsed because of time. We need to give them life and ensure that we have a proper regime, in future, in terms of regulations. This House always has the opportunity to study and approve or reject the regulations.

Often times, this House has rejected statutory regulations. I had a talk with Hon. Chepkong'a on why he tables a report that proposes the rejection of regulations every time. Little did I know that it is only rejected instruments that are brought to the House. However, we also want those that they have approved to come to the House so that Kenyans can know what regulations have been passed.

I request the Members to support this amendment Bill so that going forward, the regime on regulations can be sanitised. Thank you, Hon. Temporary Speaker.

The Temporary Speaker (Hon. Farah Maalim): Hon. Major Dekow.

(Hon. Owen Baya spoke off record)

I have to propose the Question. Sorry. You were seconding. I have to propose the Question.

(Question proposed)

Hon. Dekow Major.

Hon. Dekow Mohamed (Garissa Township, UDA): Thank you, Hon Temporary Speaker. I take this opportunity to thank our Chairperson, Hon. Chepkong'a, for bringing this Bill.

As it has been said by both the Mover and the Seconder, fundamental issues have been raised. We have seen in the past some of the regulation-making authorities, mainly cabinet secretaries, publish certain regulations that have not gone through the legal processes. Those are some of the things that we are trying to address in this Bill. Some of the proposed amendments include fines levied against those making regulations.

Going through the Act, I realised that the fine of Ksh20,000 and a maximum jail term of six months was not adequate enough to address those issues. Therefore, we have proposed a maximum fine of Ksh1,000,000 so that it becomes a deterrent for those making regulations to ensure that they bring them to the Committee on Delegated Legislation, and eventually, the House.

The Bill also addresses a scenario where in the event that some of those regulations lapse and continue being in force, the House has the authority to declare them null and void and to address it to the public, and not necessarily to the regulation-making authority. The seven days given to the regulation-making authorities is adequate enough for them to bring the regulations to the House for deliberation. Anything that does not go through this House will be declared null and void.

With those few remarks, I support the Bill.

The Temporary Speaker (Hon. Farah Maalim): Hon. Murugara Gitonga.

Hon. George Murugara (Tharaka, UDA): Thank you, Hon. Temporary Speaker. I rise to support these very important proposed amendments. Allow me to commend the Committee on Delegated Legislation for its comprehensive Report which examines exactly what we are to do as regards the two types of statutory instruments.

The first proposal is an amendment to Section 11 of the Statutory Instruments Act which provides that where it comes to the attention of the committee that a cabinet secretary responsible for a regulation-making authority has failed to submit a statutory instrument in accordance with sub-section (1), the Committee may, by a resolution, require the cabinet secretary to publish a notice in the Gazette within seven days from the date of the resolution to the effect that the statutory instrument is a nullity, and to submit the notice to Parliament upon publication.

Regulation-making authorities should know that once they publish regulations, they are supposed to be submitted to the House and committed to the Committee on Delegated Legislation for purposes of approval. Failure to do so within seven days will mean that those regulations lapse and become a nullity.

Hon. Temporary Speaker, I do agree that the Committee on Delegated Legislation should have the power to make a resolution that requires either the cabinet secretary or any other regulation-making authority to publish the notice in the Gazette. As soon as this is done, that gazette notice ought to be submitted to the House. The House will take note of it and those regulations will actually come to an end.

The next very important proposal is in Clause 9, whereby there is a proposal to amend Section 27 of the principal Act to provide as follows:

“Any statutory instrument that was in operation and that would otherwise stand automatically revoked on any day before the commencement of this provision, shall continue to operate and to have effect as if the instruments had not been automatically revoked on that date.”

This is extremely important for the reasons that would be explained to the House. Statutory instruments have a lifespan of 10 years. Sometimes, either out of inadvertence or for reasons beyond any control, including the House being on recess or any other reason that statutory instrument can actually lapse, this is called a saving provision in law. We now wish to put in a provision towards the end of the Statutory Instruments Act to make a saving that, when this lapsing operates by automatic effluxion of time, then it is saved by this provision that it would continue to operate automatically until such a date when it is either renewed or revoked. This is a very important saving provision. I do support it and support the proposed amendments. I urge the House to pass the law as proposed.

I do support the Bill.

The Temporary Speaker (Hon. Farah Maalim): Hon. Members, I want to recognise the presence, in the Public Gallery, of students from Kiurani Secondary School from Maara Sub-County, Tharaka Constituency, Tharaka Nithi County. I will give an opportunity to the Member of Parliament for Tharaka to say a word before we proceed.

(Hon. (Dr) Robert Pukose spoke off record)

Member for? Why did they put Maara in Tharaka? Okay. Member for Endebess. There was a problem here in the manner in which it was presented. Yes, it is Tharaka, in Tharaka Nithi.

Hon. (Dr) Robert Pukose (Endebess, UDA): Thank you, Hon. Temporary Speaker. I stand to support this Statutory Instruments (Amendment) Bill.

This is a very important Bill. It is regularising those instruments or regulations that would have expired as per the initial law. I think it was an exercise in nullity, because regulations once created, they are supposed to operationalise the Act. When you have those Acts in place with dead regulations, what happens to the Acts, since they are the ones to operationalise?

When you look at this Bill, it has made it tough for anybody to break the law. The fines have been enhanced from Ksh20,000 to Ksh1 million, or from six months to five years. It has also given time lines for which, once the regulatory body comes up with regulations, it has seven days after gazettelement to make sure that those regulations are forwarded to Parliament. Parliament is the only body that is mandated by the Constitution to enact laws. Thus, it makes it very clear that within seven days, the body must submit regulations. It has also made it clear that if a law is annulled, then Parliament must put it in its website. That will inform more Kenyans to be informed about those regulations, whether in existence or not.

With those few remarks, Hon. Temporary Speaker, I support.

The Temporary Speaker (Hon. Farah Maalim): The Hon. (Dr) Nyikal, followed by the Member of Parliament for Marakwet West.

Hon. (Dr) James Nyikal (Seme, ODM): Thank you, Hon. Temporary Speaker. I also stand to support this Bill. Let me reiterate what I said. This is an extremely important Bill. We had to move it ahead today, so that it is discussed this morning because we want it to be fast tracked in the afternoon. It will be in the Committee of the whole House.

Hon. Temporary Speaker, you can see the little time people have had to look at it. I said this and I will repeat it again that, if we continue with this kind of speed, the populace will lose faith in the House. That is a dangerous thing.

Having said that, this Bill traces back the history of regulations to long time ago, when ministers were given authority to publish regulations and that was it. They then went into effect. Therefore, many regulations were made, with neither the people nor the House being aware of. Thus, giving them the power to make regulations that were part of law which our Constitution has abolished. It is important that we do that. It, therefore, calls that, if a cabinet secretary or whoever publishes the regulations fails to submit it within seven days, it will not work. It becomes a nullity. That is something that I will support so that just publishing it is not enough. It must come to Parliament. It also provides that when there is a feeling that some regulation should be exempted from the normal scrutiny, that should only be done by the House. I commend the Committee for realising that when you add the 'they are exempting', it means they are exempting themselves. Therefore, the House must take over and see why exemption is taking place.

Once there has been an annulment of a regulation, people should know. The requirement that it must be in the parliamentary website and then be published by the cabinet secretary, that is at it should be.

Hon. Temporary Speaker, maybe, you were not here in the morning. My argument was that Hon. Murugara was not quite keen on the main reason why we probably hurried clause 7 that is dealing with automatic revocation, so that there are a number of regulations that are nullified as they have not been reviewed. Therefore, they are automatically revoked. This one limit that that revocation should not be automatic and that it should be looked into. It is a reasonable thing to do.

As I conclude and support, we must always give time for Members to understand Bills, participate and make amendments. Even if I wanted to make amendments, our Standing Orders prevents me from making amendments between now and 2.30 p.m. when it comes to the House. We should respect our own Standing Orders and not create situations which makes them inoperable.

Thank you, Hon. Temporary Speaker.

The Temporary Speaker (Hon. Farah Maalim): Member of Parliament for Marakwet West. Hon. Timothy Toroitich. Where are you?

Hon. Timothy Toroitich (Marakwet West, Independent): I am here Hon. Temporary Speaker. Thank you for giving me an opportunity to contribute to this very important Bill. I wish to thank Hon. Chepkong'a for bringing this Bill.

The Statutory Instruments Act was passed in 2013. However, there was a mischievous provision under that particular legislation providing for a lapse of the statutory instruments that are passed pursuant to that particular legislation after 10 years. When you read the parent Act, Section 27 provides that despite any provisions, regulations, order or notice, shall lapse after 10 years. What we are doing here is saving the lapse of certain provisions and elements of statutory instruments that were passed 10 years ago. This is a very important piece of amendment, so that we can save statutory instruments that were passed 10 years back. Under the parent Act, if a regulation-making authority is unable to submit a published statutory instrument within seven days to this House, then automatically that particular instrument will lapse. But what we are doing in this House under this particular amendment is saving that particular lapse by requiring the Committee to call for that particular instrument before it lapses.

My major contribution to this issue is this: Parliament is a law-making body. I have always argued that we are giving another authority the power to make laws on behalf of Parliament. The Statutory Instruments Act of 2013 provides that whenever an instrument comes to this House, two things must happen: It either lapses or is passed in its entirety. Parliament, being a law-making body, has not been given the power under that particular Act to alter or amend a statutory instrument. Going forward, we must be able to review the entire Statutory Instrument Act to give Parliament the power to amend a statutory instrument. It is unfortunate that a particular statutory instrument comes from the Executive, this House looks at it in its entirety, but has no say on that particular document. It just looks at it and it has only two options: Either to pass it in its entirety or to revoke the same. I urge the Committee that is in charge of statutory instruments to retreat and think of a way that Parliament can be allowed to relook at a statutory instrument with a view of either amending it or introducing new provisions. Otherwise, it is taking away the law-making power and authority of this House.

I submit, Hon. Temporary Speaker.

The Temporary Speaker (Hon. Farah Maalim): Hon. Mutuse, followed by Hon. Beatrice Elachi.

Hon. Mwengi Mutuse (Kibwezi West, MCCP): Thank you very much, Hon. Temporary Speaker. I will be very brief. First is to thank the Committee on Delegated Legislation, led by the very able Hon. Samwel Chepkong'a, for a job well done. They have done a good job in terms of listening to the public as required by Article 118 of the Constitution and incorporating the views of the public. Public participation is mandatory in law-making.

Secondly, the principal object of the amendments to the Statutory Instruments Act, as stated in the objective clause of the Bill, is to align the Statutory Instruments Act to the Constitution and particularly to Article 94(5) of the Constitution, which requires that no person or body, other than Parliament, has the power to make provision having the force of law in Kenya. Therefore, the exclusive mandate of law-making is conferred by the Constitution on Parliament.

Parliament would recall, and Kenyans also know, that there have been many bodies in this country that have been publishing regulations and other statutory instruments without the approval of Parliament. Making it mandatory to align with the Constitution that you cannot have a statutory instrument, be it regulations or circulars, that have the force of law without the approval of Parliament is in itself very progressive.

It is absurd to have a time requirement for the expiration of regulations. Under Section 27 of the current Statutory Instruments Act, regulations are given a lifespan of 10 years. One would wonder why the regulations would expire when the parent Act is still in operation. Therefore, it is progressive to remove that requirement so that once the regulation is passed, it does not expire after 10 years, but have the lifetime of the parent Act. Just like any other ordinary legislative process, if there is a need to review, then Parliament or the statutory instrument-making authority, be it the Cabinet Secretary or any other, can propose amendments for purposes of revising the regulations.

As it stands and as has been explained by the Committee, about 1,500 regulations that were made 10 years ago were to expire on 24th January this year. That would cause a legal lacuna that would occasion a lot of problems in the country. A lot of illegalities and irregularities would be committed by the bodies that enforce those regulations if the regulations are not saved in the manner that has been proposed by the Committee to be given the force of law. I, therefore, fully support the Committee's proposal to give life to the 1,500 regulations that were to expire earlier this year. Although it may appear to be retrospective, I think it is justified.

With that, I beg to support.

The Temporary Speaker (Hon. Farah Maalim): Hon. Elachi.

Hon. Beatrice Elachi (Dagoretti North, ODM): Thank you, Hon. Temporary Speaker. I rise to also support. The Statutory Instruments (Amendment) Bill provides rules for the making and revocation of statutory instruments that are made directly or indirectly under any Act of Parliament or other written legislation. The Bill simply provides how to align regulations. Regulations guide any cost to citizens or any other institution. Therefore, you have to have regulations for guidance. Just the other day, the President assented to the Affordable Housing Bill. We need regulations not only to guide the process on how those houses are built, but also to ensure quality and fair ownership. Without regulations, it will be very difficult.

The other thing is that the Bill helps in terms of content. When passing an Act, you have to always ask yourself how to ensure the Act does the things that you need it to do. The regulations come in to implement the Act. Clause 4 of the Bill seeks to amend Section 14 of the Act to provide that, where the Committee recommends an exemption of any statutory instruments for scrutiny, then the exemption may only be done subject to the approval by the House. This is where most of the time we have had challenges as Parliament. There is an Act that is explicit and explains everything that needs to be done, but then any parastatal or institution makes its own decisions. That is what happened in the last regime. That is why many regulations came back to this House to be quashed. When we quashed the ones for tea, we did not remember that we took the industry back to the old regulations. As we pass this Bill, I hope that we are going back to look at each and every regulation. We need to guide each sector to have clear regulations according to their needs. If there are regulations that have been drafted by any institution and have not been passed by this House, they need to be brought before the Committee so that they can be looked into properly. We need to pass them in the House.

Hon. Temporary Speaker, it is also important for us to look at the regulations that our ministries are using. Kenyans do not really understand those statutory instruments. They need to know that whenever an Act of Parliament is passed, there are regulations that guide it. Those regulations provide the explanation. For instance, as Small and Medium-sized Enterprises (SMEs), how well do you understand the laws?

I beg to support.

The Temporary Speaker (Hon. Farah Maalim): Is Hon. Makilap in the House? I see his name here. What about Hon. Abraham Kirwa? He is also not in? Hon. Fabian Muli.

Hon. Fabian Muli (Kangundo, GDDP): Thank you very much, Hon. Temporary Speaker, for giving me the opportunity. From the onset, I support the Bill. This Bill seeks to

align the provisions of 2013 to today's societal norms. It is true that Kenya is among the top countries with many laws, legislation and policies, but implementation of the same remains ambiguous. It is the duty of Government departmental agencies to audit the regulations and policies they are using so as to align them to their activities.

There are many laws in this country that have not been effected because of the words that are used. Up to date, there are regulations that still talk about ministers. Others talk about “departments” which were changed to “authorities”. It is the mandate of Government departmental agencies to make sure that the laws that are being used are up-to-date. They should submit those regulations to parliamentary committees to ensure they are relevant. We are proposing to go through the statutory instruments every year to make sure they are timely and effective.

This House does not just make laws that punish people, but it also comes up with laws that improve the economy. It the duty of this House to make sure that the laws that have come to a nullity align to the instruments of today. I support this Statutory Instruments (Amendment) Bill (National Assembly Bill No. 3 of 2024). The Committee on Implementation has to ensure that all the laws that are passed in this House are up to date so that the society moves to a modern economy.

Thank you very much, Hon. Temporary Speaker.

The Temporary Speaker (Hon. Farah Maalim): Hon. (Dr) Wilberforce Oundo.

Hon. (Dr) Ojiambo Oundo (Funyula, ODM): Thank you, Hon. Temporary Speaker. I rise to support the proposed amendments to the Statutory Instruments (Amendment) Bill, (National Assembly Bill No.3 of 2024). This Bill has been long overdue. I sat in the Committee on Delegated Legislation in the last Parliament, and we grappled with this issue for many years. Firstly, preparing statutory instruments is a lengthy and costly process. The requirement that statutory instruments should lapse after 10 years was becoming extremely expensive and onerous on statutory instruments-making authorities. This is what probably informed the decision to amend Section 27 of the Act as contained in Clause 7 of this particular Bill.

As my colleagues have clearly put it, if an Act is still in existence, why would the regulations be amended? This should not be the case unless there are material facts that have emerged in the implementation of the Act that require to be amended. Therefore, we should give room to the existing statutory instruments. They should remain in operation until the regulatory making authority finds it necessary to make the amendments.

I am a bit uncomfortable with the provisions of Clause 3. I would probably require further understanding on that. It provides that Section 12 of the Principal Act is amended by deleting Sub-section (3). Sub-section (3) deals with the provisions of Sub-section (1) which says: “Shall not apply to any rules, regulations and orders emanating from a court of competent jurisdiction in Kenya”. The import of deleting that particular clause is that any rules and regulations affecting the conduct of court process will be subject to the Statutory Instrument Act. That was never the spirit because the courts of law are independent as provided for in the Constitution. Therefore, unless there is any other explanation, we should tread carefully not to impugn on the independence of the Judiciary. That is what I want to challenge. I want to take it back to the Departmental Committee on Justice and Legal Affairs and the Committee on Delegated Legislation to have a sober reflection on the same. We could be treading on dangerous grounds.

Hon. Temporary Speaker, I think this is the opportune time to relook at the regulatory-making process. When the regulations come to the National Assembly, they are only annulled on two or three accounts. Firstly, was there adequate public participation? If there was none, they stand annulled automatically. Secondly, was there a regulatory memorandum? If it was not there, they stand annulled. However, as the law stands, the Committee has no powers to amend, review or make suggestions to the published statutory instrument unless it is done at

pre-publication scrutiny when the Committee interacts with the regulations. The regulatory-making authority has the choice of taking the counsel of the Committee or not.

I would urge that the Committee or the Mover, together with the Departmental Committee on Justice and Legal Affairs, relook at those provisions to open them up. They should ensure that even after publication, the Committee mandated to handle the matter can review the regulations and, if anything is found to be onerous or too punitive to the common *mwananchi*, then it should be amended. Therefore, we should allow that any regulations can be passed in this House by amendments. In such a case, if the Committee makes any amendment to the published regulations, then those amendments must be subjected to debate in the plenary and passed as they are.

Hon. Temporary Speaker, I also agree that we must enhance the fine for failure to comply. The penalty was too lenient such that any regulatory-making authority could make any regulations without complying with the orders of the Committee because they know the fine is minimal and they could easily pay it. We should continuously reinforce and ring-fence the role of Parliament in making laws. In fact, regulations have a higher impact than the principal Act. We must continuously find ways and means of ensuring that any law that has an impact on the people passes through this House.

Hon. Temporary Speaker, the Ministry of Education, for example, has a notoriety of issuing orders, guidelines and practice notes that have far-reaching consequences on the teaching fraternity and the education sector and yet, they are not subjected to any form of scrutiny. We must expand the application of this Statutory Instruments Act to deal with any matter that impacts the people of Kenya.

With those few remarks, I support.

The Temporary Speaker (Hon. Farah Maalim): Hon. Members, given that no other Member is interested in contributing to this Bill, I call upon the Mover to reply.

Yes, Hon. Owen Baya.

Hon. Owen Baya (Kilifi North, UDA): Hon. Temporary Speaker, I move to reply to this debate and the Bill.

The Statutory Instruments (Amendment) Bill of 2014 is an important piece of legislation because it has one principal object: To amend the provisions of the Statutory Instruments Act, 2023, to streamline its provisions with the Constitution and ensure better application of its provisions.

Statutory instruments are very important, just as Prof. Oundo said. Sometimes, they are more important than the mother-law because they operationalise the laws. Therefore, breaking down the laws and devolving them to where they must be applied becomes easier. The passage of this Bill is an important watershed moment in developing laws in this country. That is because mother laws without regulations may not easily be implemented. But with regulations, they can.

The amendments here are important because we have had many issues with regulations. This Parliament has been known over the years for nullifying regulations because of the problems that come with the many that the Cabinet Secretaries are making. I want to ask the Cabinet Secretaries and any person with a mandate to draft statutory instruments to ensure that they abide by this new law so that they present statutory instruments on time. That is, they do not lapse while the mother law still exists.

Hon. Temporary Speaker, it is an honour for the 13th Parliament to midwife this important Bill and also an honour for you, Hon. Temporary Speaker, to be the Chair at this particular time and moment in Kenya when we are passing this law. Thank you for your diligence and how you have conducted the business concerning this law. It will go down the annals of history that you sat in the Chair when this important legislation was passed.

Thank you, Hon. Temporary Speaker.

The Temporary Speaker (Hon. Farah Maalim): Fair enough, and thank you for the compliments. The Question on this matter will be put on another date.

(Putting of the Question deferred)

Next Order.

Hon. Owen Baya (Kilifi North, UDA): Hon. Temporary Speaker, we indulge you through Standing Order 53(3) to allow that you defer this Question until a certain time when Parliament meets again.

I thank you, Hon. Temporary Speaker.

The Temporary Speaker (Hon. Farah Maalim): I have directed so. Order No. 18. Hon. Rashid Bedzimba.

(The Temporary Speaker consulted with the Clerks-at-the-Table)

Yes! Call up the next Order.

MOTION

PROVIDING A SAFETY NET FOR CAREGIVERS OF PERSONS WITH SEVERE DISABILITIES

THAT, aware that, Article 21(3) of the Constitution provides that all State organs have the duty to address the needs of vulnerable groups within the society; further aware that the Persons With Severe Disabilities Cash Transfer (PWSD-CT) programme is one of the four cash transfer programmes that are implemented by the Government as part of the overall social protection interventions; noting that caregivers undertaking the immense responsibility of providing daily care and assistance to persons with severe disabilities (PWSD) are often-times the immediate family members of the PWSD; concerned that, this causes a disproportionate burden on those families as persons who would otherwise be engaged in gainful employment or other activities to provide for the families are limited by those immense responsibilities; further concerned that, this loss of income opportunities and resources exacerbates the challenges that are faced by those families; cognisant that, the Government ought to take action to recognise the invaluable contributions of caregivers and support them in caring for individuals with severe disabilities; now, therefore, this House resolves that the Government, through the Ministry of Labour and Social Protection, recognises primary caregivers of persons with severe disabilities (PWSD) as a distinct category requiring social protection and support and, further, develops and implements a cash transfer programme for those primary caregivers.

(Moved by Hon. Dorothy Muthoni on 13.3.2024 – Morning Sitting)

(Resumption of debate interrupted on 13.3.2024 – Morning Sitting)

The Temporary Speaker (Hon. Farah Maalim): This is a resumption of debate, and I think the last person was Hon. Bedzimba, who had a few more minutes. Is he around?

An Hon. Member: No.

The Temporary Speaker (Hon. Farah Maalim): Okay. Hon. Francis Sigei, would you want to contribute to this matter.

Hon. Francis Sigei (Sotik, UDA): No.

The Temporary Speaker (Hon. Farah Maalim): How about Hon. Adams Kipsanai? Proceed.

Hon. Adams Korir (Keiyo North, UDA): Thank you very much, Hon. Temporary Speaker. I first want to congratulate Hon. Dorothy for bringing this great Motion. All of us are candidates for disability in one way or the other. We have a relative, a child, or a friend living with a disability.

Mostly, we tend to think that disability is far away from us but, anyone, through an accident or any other occurrence, can be disabled. Caregivers go through several challenges. It is, therefore, important that, as a country, we can think of how we can relieve some of those burdens by providing some tax reliefs to caregivers just like we do to PWDs. With that, we can, at least, ease the burden of taking care of those PWDs.

It should be in the mind of every Member and all Kenyans that the cost incurred when one is caring for PWDs is not small, especially when you factor in food supplies and essential commodities. Hence, the importance of giving caregivers some support that will ensure that when they are taking care of PWDs, they can be relieved of associated burdens.

Secondly, we must provide some psychological support. It is very stressful to take care of someone who is living with permanent disability. At times, the caregivers go through a lot psychologically, and it is important they get counselling and financial support. The *Inua Jamii* Programme, which focuses on the older people in our society, can, to a large extent, support those individuals in easing the economic challenges that they are facing.

Finally, I thank *Mhe*. Dorothy because if you listen to any parent in this House or a relative, they will tell you about the situations they are going through, even when they are travelling with their kin. The public means of transport in the country are not accommodative to PWDs. The stress is not only limited to the individual, but also to the caregivers. Thank you very much, Hon. Dorothy. As a country, we must focus on the caregivers so that they can help our people.

Thank you very much, Hon. Temporary Speaker.

The Temporary Speaker (Hon. Farah Maalim): Hon. Beatrice Kemei, followed by Hon. Gertrude Mbeyu. Proceed, Hon. Beatrice.

Hon. Beatrice Kemei (Kericho County, UDA): Thank you very much, Hon. Temporary Speaker, for allowing me to support this Motion by Hon. Dorothy for providing a safety net for caregivers of persons living with severe disabilities.

It is long overdue, given the fact that we have PWDs across the board, and I specifically refer to children who are under 18 years of age. We have caregivers, mainly their mothers, who go through a lot of stress and stigma amongst the stressors and people who look down upon them. Not only that, but we also have unconducive environments. Whatever food they have may not be adequate because those caregivers, who are mainly parents, spend most of their time taking care of their disabled children.

Apart from their time, the resources they spend on those children are a lot. Those parents get tired and do not know what to do. I appreciate Hon. Dorothy for bringing this Motion. Along the streets and highways in Nairobi, we have seen PWDs - like the blind - with aides who move around with them, while asking for support. Sometimes, I ask myself what happens to the young men who are holding their relatives — be it their mothers or grandmothers. How will they earn a living? It is important that caregivers are considered in the cash transfer program. I also want to ask those with children or relatives who are living with disabilities in their homes to bring them out so that they are supported. Some of them are not

registered, while others are not getting any support. Some of the PWDs need diapers but lack the money. Some of the PWDs do not have access to wheelchairs.

The women representatives support through donation of wheelchairs, but they are not enough. We have so many requests from them, but the resources are limited. We should support them to reduce the burden on caregivers. I still insist on not hiding those children in homes. We need to support them. An income will be a form of support for the caregivers.

I visited a family in Kericho with two children living with a disability. The mother did not know what to do. She needs a source of income. I supported them with some poultry, but they needed foodstuffs and cash to buy other items. I support with all my heart, and I want to believe this will sail through and become a law. We should not forget that some people were not disabled from birth. It could be due to an accident or sickness. No one should look down upon PWDs. They need our prayers and support in many aspects, including disability-friendly access to buildings, matatus, toilets and many other areas. Let us remember them and encourage them.

Thank you, Hon. Temporary Speaker.

The Temporary Speaker (Hon. Farah Maalim): Next is Hon. Gertrude Mbeyu. Is she here? Please proceed. Thereafter, we will have the Member for Sotik, Hon. Sigei.

Hon. Gertrude Mwanyanje (Kilifi County, ODM): Thank you, Hon. Temporary Speaker. I stand to support the Motion that has been brought by my elder sister, Hon. Dorothy Muthoni. I concur with her that caregivers of children and adults living with disability should have a salary, not even wages. We have so many caregivers, some of whom are volunteers. The work of the caregivers of PWDs is difficult. Some of the children living with disabilities cannot even stand. They need to be carried around. For instance, the situation at the Gede Special School in Kilifi North, Kilifi County, as well as in Kizurini and Marafa Special Schools, is pathetic. The caregivers in those institutions, whom they call mothers, do not have any days off. They work 24/7. They cannot leave the children unattended and yet, they do not have a salary. Their wages are too little to sustain their lives. Most children with disabilities are being hidden in homes because there are no records in the Government to show they are being catered for. If this Government can take up the responsibility of giving food and money to parents of PWDs, they will come out of their houses. Some are locked in their houses and cannot go to school because their parents are ashamed of them.

As Hon. Beatrice has said, some need wheelchairs. Only a few women representatives have been able to acquire wheelchairs for the PWDs. All parents of children living with disabilities should be given some money and food. They should visit their assessment areas so that all the children living with disabilities can be accounted for and enrolled in schools. A salary will motivate some of the parents who are hiding their children in their houses due to shame and inability to cater for their needs.

I support this Motion and ask the Government to look into this sector. The Ministry of Labour and Social Protection should take it up so that all children living with disabilities in the institutions in the counties are taken care of. Those who need extra care should be assigned a caregiver, and salaries should be allocated to them. This will encourage parents who hide PWDs because of shame to bring out their children who need wheelchairs and hearing aids. This will ensure all PWDs get their right to education, medical help and shelter.

I support. Thank you.

The Temporary Speaker (Hon. Farah Maalim): Next is Hon. Sigei, followed by Hon. Ibrahim Saney.

Hon. Francis Sigei (Sotik, UDA): Thank you, Hon. Temporary Speaker, for giving me a very rare opportunity to speak on this very important Motion. At the outset...

(Hon. Babu Owino crossed the aisle)

The Temporary Speaker (Hon. Farah Maalim): Hon. Babu Owino, if you want to go to the other side, you go to the Bar and then walk to the other side of the aisle. Proceed.

Hon. Francis Sigei (Sotik, UDA): At the outset, I applaud the Mover of this Motion, Hon. Dorothy Ikiara. I am calling it special because it is addressing a segment of our population which is never addressed - the caregivers of PWSD.

Last year, I carried out an assessment of all the Persons with Disabilities (PWDs) in Sotik Constituency. I thank the people of Sotik for coming out in large numbers and bringing those people who have been ignored for a long time. The results of that assessment... I also thank the County Government for collaborating with my Office and funding the doctors who did that assessment. We got 1,000 plus PWDs. That assessment came up with a very serious report about children with disabilities living in very deplorable situations. The worst thing is that 90 per cent of them are living in abject poverty and are really suffering.

Therefore, caregivers must be given attention. They spend 90 per cent of their days in the house, taking care of children with disabilities who cannot be left alone even for one hour without being looked after. They must change their diapers, take them outside and attend to all their needs.

This Motion has come at the right time because caregivers have an income problem. In fact, I dare say that Hon. Dorothy should go further and suggest that caregivers need special training. This is because children living with severe disabilities require specialised handling. It is very important for caregivers to have special training so that they can handle them in a humane manner. That cash transfer must be given as a matter of urgency. If somebody takes care of a child with a severe disability, they cannot go to the farm or do anything. They spend almost 90 per cent of their time in the house.

I support this Motion so that caregivers can be compensated for taking care of children with severe disabilities. I believe that if this Motion becomes law, Hon. Dorothy will have done much justice to children with severe disabilities. I stand with PWSD because they are now being recognised by law. I request that Hon. Dorothy move with speed and have this Motion become law so that caregivers can be recognised and paid as soon as possible.

Thank you, Hon. Temporary Speaker.

The Temporary Speaker (Hon. Farah Maalim): Hon. Saney Ibrahim, followed by Hon. Christine Ombaka, and then Hon. Babu Owino. Proceed in that order.

Hon. Ibrahim Saney (Wajir North, UDA): Thank you, Hon. Temporary Speaker. This country, or the Kenyan society at large, has come a long way in appreciating and recognising disability as a way of life, from a time when it was once seen as a curse and unacceptable in society to a time when we are legislating on it. We have a parent Act and Article 54 of our Constitution recognises disability and seek the empowerment of PWDs. It is good that, that community has come of age and became accepted. This is to the extent that we are legislating so well because we have PWDs who are part and parcel of this country. So, they can commensurately contribute to the welfare and economy of this country.

First, it is good to recognise that this Motion speaks well about PWSD. I want to advise Hon. Dorothy to consider amending the parent Act on PWDs so that we can avoid coming up with piecemeal legislation on the same subject. At times, it is prudent for us to amend the existing parent Acts to consolidate our legislation into one master Act rather than having an avalanche of legislation that is confusing and very hard for lawyers and other users to cross-reference.

I appreciate that caregivers of PWSD are doing full-time jobs and are not in gainful employment. That begs the question of how are they supposed to survive? If the vulnerable and PWDs are given some stipend or safety net, what of the caregivers who cannot do any gainful employment since their 24/7 employment is taking care of PWSD? We should compare

them to community health workers who are paid a salary. It will be in order for caregivers to be brought on board and given some allowance.

It is also good to appreciate that those caregivers are fathers, mothers, sisters and brothers who also have a duty to care for their families. Yet, they are dedicating their entire day to taking care of PWS. What becomes of their families? Who takes responsibility for their immediate roles as citizens, fathers and mothers? That rings a bell that they should also be seen as part and parcel of those within the realm of disabilities, even if they are not disabled *per se*.

Another issue is the token that the Government normally gives to PWS. We are desegregating PWS and having a cluster for PWS, which means people who cannot help themselves completely. Therefore, the ordinary token that is normally given by the Government of Ksh2,000 per person does not help. This Motion calls on this House to review that amount. It asks the concerned ministry that PWS deserve better remuneration and stipend because they are unique and extreme cases.

[The Temporary Speaker (Hon. Farah Maalim) left the Chair]

[The Temporary Speaker (Hon. David Ochieng') took the Chair]

PWS are not really known in Kenya because they are hidden. The cultural stereotypes and traditional concepts of viewing disabilities are still alive in this country. Therefore, we need civic education to create deep awareness to have complete and accurate national data on PWS; for them to be accordingly remunerated and be seen as extreme cases of disability and not just ordinary people with disabilities (PWS).

With that short contribution, I fully support the Motion.

Thank you.

The Temporary Speaker (Hon David Ochieng'): Hon. Ombaka, you have the opportunity to contribute.

Hon. (Dr) Christine Ombaka (Siaya County, ODM): Thank you, Hon. Temporary Speaker, for giving me this opportunity. I support this Motion on providing a safety net for caregivers of persons with severe disabilities because it is a very urgent matter.

In some cases, a caregiver is the parent and they do a good job. It is known that in some severe cases, PWS are taken care of day and night. Caregivers spend all their time taking care of PWS. Some of them have quit their jobs. They have had to resign to take care of their loved ones who are living with disability. That means they do not have an income and they will never have a pension at their retirement age. So, we really need to take care of caregivers and ensure that they do not just get cash transfers. The cash given to the elderly is far too little. I hear it is Ksh2,000 or Ksh3,000 at most. That is far too little for a caregiver of a person living with disability, especially when he or she is taking care of that person throughout the day and night. We need much more than Ksh3,000, which is transferred to the people taking care of the elderly.

Sometimes, the caregivers are children. We see them guiding the elderly in streets and at home. The blind are also guided by their children who miss going to school. They do not go to school because they are taking care of their parents. It is important to note that we need to identify who really should be a caregiver. They should not be children. They miss school and cannot take care of the elderly because we see them every day in the streets.

Some people living with disabilities need wheelchairs, walking sticks and all sorts of resources to enable them move around and that is expensive. Caregivers and persons with disabilities require an enabling environment and resources to empower them to move around. That is also lacking. So, we really need to look at who the caregiver is.

Some caregivers also need training because some disability cases are too severe that they need to know how to talk to a person with disability. They have to be nice, kind, show love and embrace them so that they feel empowered and accepted. A caregiver should be trained on how to care for a PWD; the kind of services to offer; the kind of food to give them; how to talk to them and how to take care of them in an environment where they live. Apart from ensuring that they have financial support, they also need some training to handle a person living with disability carefully.

In conclusion, this is a very good Bill. We need to pass it so that it is implemented as soon as possible because the caregivers are suffering and need to be protected. In some cases, they are not protected together with the people they take care of. They are abused, looked down upon and stigmatised. As caregivers, they need to be given moral, financial and social support.

Thank you for giving me this opportunity. I support this Bill. Thank you.

The Temporary Speaker (Hon David Ochieng’): Hon. Babu Owino.

Hon. Babu Owino (Embakasi East, ODM): Thank you very much Hon. Temporary Speaker.

Firstly, I rise to support this Motion on providing a safety net for caregivers of persons with severe disabilities by Hon. Dorothy. I also support her consideration for the caregivers who are taking care of PWDs.

Hon. Temporary Speaker, disability is not inability. Most of those people are just physically disabled but not spiritually. Gone are the days when PWDs were discriminated against. There was stigma aimed at them. The Kenyan Constitution as promulgated in 2010 in Article 27 protects PWDs by providing for equality and freedom from discrimination. Further, Article 54(1)(e) advocates for access of materials and devices that will help PWDs to be independent. Therefore, caregivers of persons with disabilities do not do any other job for gain but to take care of PWDs.

Therefore, it is in the interest of this nation and Kenyans to set aside a good amount of money to pay caregivers of PWDs. Literally, they do not report to their jobs as usual, but they are grounded while taking care of their loved ones. To motivate them and ensure they provide proper services to PWDs, it is very much in order for the Government to set aside a budget so that they are well remunerated.

Thank you and God bless you.

The Temporary Speaker (Hon David Ochieng’): Hon. Jackson Kosgei.

Hon. (Dr) Jackson Kosgei (Nominated, UDA): Thank you, Hon. Temporary Speaker.

At the outset, I support this Motion on providing a safety net for caregivers of persons with severe disabilities. I wish to congratulate the Hon. Member for bringing it to the House. I am one of those who consume the benefits of such a debate even though I am now older than the children. On their behalf, I wish to thank Hon. Members for the kind contributions they have made towards this particular Motion.

A caregiver, as known by everyone of us, is a person or sometimes an institution that tends to the very concerns of children, persons with injuries or those who have short-term or long-term disabilities. It could be due to illness, accidents or some other interferences while they were growing up. As one of the Members has said, we appreciate how far Kenya has gone in terms of appreciating disability as a concern in the country and as part of our society over time.

Hon. Temporary Speaker, in contributing to this particular Motion, I wish to pay attention to two things. The first one, which has been exhausted by Hon. Members, is the short-term intervention as suggested by the majority in our contributions since this morning. We need the issue of PWDs to be a budgetary item in our national Budget with great attention paid to caregivers in families. They range from families and individuals who have volunteered

themselves to take care of persons with disabilities in various communities. They should be compensated and supported.

There is no way we can take care of our people except within the law. Currently, there are various legislative proposals in both the Senate and the National Assembly. Others are by individual Members and others are through Bills sponsored by the Government. Of major attention is the Bill to amend the Persons with Disabilities Act of 2003, which is the main one. I appeal because it has been taken over by the Government. The Ministry of Labour and Social Protection is sponsoring that Bill. I request the Leader of the Majority Party to bring that Bill to the House. I appeal that Parliament harmonises all the proposals into an omnibus Bill so that we can address it, instead of having a scattered approach. I may not have to belabour much about the details that Members have exhausted as we considered it this morning.

Finally, the Executive should revisit the census for persons with disability. We have voiced on different platforms that the census of 2019 never took into proper consideration the proper way and approach of carrying out a census in this country. A misleading percentage that will mislead the budgeting process in our country was brought about.

I contribute and support the Motion. Thank you for giving me the opportunity.

The Temporary Speaker (Hon. David Ochieng'): Thank you. Member for Garissa Township.

Hon. Dekow Mohamed (Garissa Township, UDA): Thank you, Hon. Temporary Speaker, for giving me the opportunity to contribute to this Motion.

Thank you, Hon. Dorothy, for bringing up this issue. This is a very important Motion. I hope that it will translate into a Bill in the future, the soonest possible. As a society in this country, we have not appreciated the importance of the severely disabled members of our society. We are not just talking about disability but severe disability. We are also talking about the caregivers of those people, whether children or adults. We also have adults with severe disability.

As an African society in this country, we understand that it is a taboo to take our parents and the elderly into nursing homes to be taken care of by other people. Therefore, it is important for us as Members of Parliament and leaders in this country to appreciate that fact. That fact will make us understand that those people, especially the elderly who have the same problem as children with severe disabilities, need care at their homes and not in nursing centres.

I support this Motion and appreciate the role that has been played by Members of this Parliament. We need to understand and ensure that family members care for our young children and elders with severe disabilities. Those caregivers should be given some salaries or tokens at their homes and not at orphanages and nursing centres. Let us appreciate the fact that those caring for people with severe disabilities are family members. Some are young children.

Hon. Temporary Speaker, I have cases where families have broken down because a wife leaves her home to go and take care of her parents. This is because of old age or they have severe disabilities. They cannot take care of themselves. We have young children who are forced to drop out of school to take care of their parents, grandparents, brothers and sisters who live with severe disabilities. Therefore, it is important for us, as a country, to consider those caregivers. They should be paid within their homesteads. The children should not be taken to orphanages and other centres.

In developed countries like in Europe and United States of America (USA), government employs caregivers and gives them adequate salaries because they are full time jobs. As it has been said by other Members of the House, some of them need training. They need to be trained to understand which care the person with severe disabilities needs. It is important to note that those caregivers also need healthcare insurance covers as well. They should be covered so that they also take care of themselves. They should be given insurance covers for those they are taking care of and themselves.

With those few remarks, I support this Motion. I encourage its Mover, Hon. Dorothy, to make it into a Bill. She will have the support of this House. Thank you, Hon. Temporary Speaker.

The Temporary Speaker (Hon. David Ochieng’): Member for Dagoretti North.

Hon. Beatrice Elachi (Dagoretti North, ODM): Thank you, Hon. Temporary Speaker. I rise to support this Motion and appreciate our sister, Hon. Dorothy, for bringing it. I also thank all the schools that have children with special needs and the work they do every day.

We know the definition of caregivers and what they go through. The most important things we have to understand is what drains them: Time management and financial strains. When you listen to their demands, they take immense time to take care of persons with severe disabilities. They end up resigning from their jobs and sacrificing a lot of what they wish to do. Therefore, as we are talking about this Motion, we have to ask ourselves how we should support parents. Imagine a caregiver who is a mother who questions God, but there are no answers. He knows the purpose. As a human being, you cannot understand. First of all, you are deprived of sleep because you have to take care of the person with severe disabilities 24/7. You have to ensure you have medication. If you do not have it, it means you have no finances.

It is very sad to see that capitation in the education sector was reduced. We also reduced the money allocated to the education sector in the budget. We did not think of reducing it and then we take it to the schools with children with special needs. Therefore, it is something we have to re-look into. When we shall appropriate funds in the budget, we will look at those finances properly. We shall start appropriating a vote for schools with children who have special needs. Even if you tell parents to take children in a school where things do not function, what about the ones who are grown-ups? What happens to those parents? I know they go through a lot psychologically and emotionally. In this new shift that we are bringing in healthcare, I wish the Government could have a special medical card to assist the caregiver and person who is being taken care of. The needs of persons with disabilities (PWDs) are beyond the needs of able-bodied persons who can walk into a hospital to be treated once in a while. Persons with disabilities have to be in hospital 24/7.

I saw on television yesterday a man who has lived in India with his daughter for three years while undergoing kidney treatment. In the end, the National Health Insurance Fund (NHIF) stopped sponsoring them. I wondered where the Kenyan Government was. We are just coming up with structures like buildings. What did God mean for humans? Where are we? Can we come up with a fund that will take care of PWDs? We come up with funds for everything as a country. Why not come up with a fund for caregivers of special needs children? That is where the rubber meets the road.

It is very sad because I see we are about to get Ksh72 billion for affordable housing. It is good and important, but who will live in those houses if the human beings have already died? Is it fair? We have to build both. We must construct good schools for our children, including special needs schools, which must be the best.

Finally, I want to thank Jacaranda Special School, which is among the best special needs schools in the country. The work the principal has done there is the kind of work that I beg the Government, through the Ministry of Education, to do. They removed capitation but we should bring it back for children with special needs.

With those few remarks, I beg to support the Motion.

The Temporary Speaker (Hon. David Ochieng’): Members, I wish to welcome student leaders from Kenyatta University who are seated in the Speakers’ Gallery this afternoon. I also wish to extend my condolences to them and to their school for the loss of their colleagues in a tragic accident that happened on Monday, 17th March 2024 at the Coast. They are welcome to follow our proceedings this afternoon.

Hon. Baya.

Hon. Owen Baya (Kilifi North, UDA): Thank you very much, Hon. Temporary Speaker, for giving me this opportunity. I want to join you in officially welcoming the student leaders from the mighty Kenyatta University to this august House. The Kenyatta University is my *alma mater*. I went to Kenyatta University in the 1991/1992 Academic Year.

(Laughter)

The Temporary Speaker (Hon. David Ochieng’): Say that again for the sake of Hon. Mayaka.

Hon. Owen Baya (Kilifi North, UDA): Yes. She thinks I am her age mate. I joined Kenyatta University in the 1991/1992 Academic Year. I joined in September and I graduated in 1996 with a Second-Class Honours Degree Upper Division in Education (English/Literature) then.

I went back to Kenyatta University in 2004 to do a Master’s Degree in Education (Economics and Planning). I graduated in 2007 with a master’s degree in that area. I also did part-time jobs in teaching, research and marking under Prof Gravenia. I do not know whether Prof. Gravenia is still there.

I was at Kenyatta University under three Vice-Chancellors, namely, Prof. Gachagua, Prof. Eshiwani and then the lady professor, Prof. Olive Mugenda. I am an *alumnus of Kenyatta University*, where I honed my skills in many areas. I am a proud *alumnus of the university*.

More importantly, I want to join the Kenyatta University fraternity in mourning the departed in that tragic accident. I also pray that God gives healing to those who are in hospital. I also pray for the whole Kenyatta University community during this time of loss. I pray that God gives you strength and consoles you during this time of grief for the university. I want to thank the administration, led by the Vice-Chancellor of Kenyatta University. He is a good man and I admire the growth in leaps and bounds of Kenyatta University. It is now among the big prestigious institutions. So, welcome and feel at home.

Hon. Temporary Speaker, if those students do not have lunch, I request they take lunch at the restaurant on your account. If you do not have an account, I do. So, they can have lunch on my account. Welcome to Parliament and thank you very much.

The Temporary Speaker (Hon. David Ochieng’): Thank you. Arrangements will be made and you will welcome and share a table with them at the restaurant. It is so ordered. Hon. Abraham Kirwa.

Hon. Abraham Kirwa (Mosop, UDA): Thank you, Hon. Temporary Speaker, for giving me an opportunity to support this Motion on providing a safety net for caregivers of people with special needs. In this country, for some reason or another, people with special needs are not in the mainstream. The benefits that are given to them are not considered much and of importance to the caregivers of individuals with special needs.

Hon. Temporary Speaker, until you have a child or a relative with special needs, that is when you will realise they require a lot of attention. As such, this Motion brings our attention to individuals with special needs and what they need so that we can ensure their lives are comfortable.

Many times, many parents with children or adults with special needs, are left at home with them. They cannot go to work because those individuals cannot support themselves. Some end up employing an assistant and this depletes their resources and they end up not paying them. As a nation, it is very crucial for us to see how we can help caregivers. I support the Hon. Member for bringing this Motion because I know it will make a big difference.

I have a brother with special needs and he needs a lot of help in his daily life. I support this Motion so that caregivers of persons with disabilities or special needs can be remunerated by the Government. They should be compensated so that members of their family can focus on

other things. Also, so that people with special needs can live normal and comfortable lives, like many of us.

Hon. Temporary Speaker, I stand to truly support this Motion. Thank you for giving me the opportunity.

The Temporary Speaker (Hon. David Ochieng’): Thank you. Member for Busia.

Hon. Catherine Omanyo (Busia County, ODM): Thank you, Hon. Temporary Speaker. I fully support this Motion because caregivers face a lot of physical challenges. So, they should pay attention to their personal wellbeing. They lift and assist PWDs and end up with no free time to relax.

They also face a lot of emotional challenges and frustrations while assisting PWDs and feel lonely and isolated. What is annoyingly bad is that they are not remunerated like social health workers. We do not look into their problems or imagine if we were in their situation. Imagine if today you woke up and found yourself disabled. This is because disability is not marked for a particular person, but it can happen to anyone. You can wake up today, with all your organs in place and accidentally, you become disabled.

We should give first priority to caregivers because they face a lot of financial challenges. For example, if you are taking care of a blind person who cannot go to the toilet or eat by themselves, it means you will work for 24/7. But when it comes to earning, you get Ksh2,000 a month or nothing. Even getting acknowledged for doing that job is a tall order. At the county level, we should ensure that social health workers and caregivers are in the database just like teachers and doctors, so that they can be given a stipend every month. Thank you.

ADJOURNMENT

The Temporary Speaker (Hon. David Ochieng’): Hon. Members, the time being 1.00 p.m., this House stands adjourned until today Wednesday, 20th March 2024 at 2.30 p.m.

The House rose at 1.00 p.m.

Published by
Clerk of the National Assembly
Parliament Buildings
Nairobi