

**PARLIAMENT OF KENYA****THE SENATE****THE HANSARD****Wednesday, 4<sup>th</sup> June, 2014**

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

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

**PRAYERS****NOTICES OF MOTIONS**

**The Speaker** (Hon. Ethuro): Sen. Ongoro, I thought you were listed to give two notices of Motion? This also applies to Sen. Ndiema. You must show interest from where you are seated.

**MEASURES TO AVERT BREAKDOWN OF HEALTH SERVICES  
IN COUNTIES OVER MEDICAL PRACTITIONERS' CONCERNS**

**Sen. Ndiema:** Mr. Speaker, Sir, the Motion that aware that health services have been devolved----

**The Speaker** (Hon. Ethuro): Order, Sen. Ndiema. It is notice of Motion. Start with "I beg to give notice of the following Motion---"

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

THAT, aware that health services have been devolved in accordance with the Fourth Schedule of the Constitution and that medical doctors and other health practitioners in the public sector have been transferred or are being transferred to the counties; concerned that there is an acute shortage of medical professionals especially consultants in the counties and particularly in the rural counties; further concerned that public health personnel particularly doctors, are apprehensive that their terms of service including training, pension, remuneration, professional advancement and welfare are not assured and as a result are seeking for employment in private medical institutions in urban centres, cognizant of the grave danger their departure poses to the health sector, the Senate calls upon the national and county governments to urgently address the concerns of medical practitioners to avert the looming breakdown of health services in counties.

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

#### URGENT MEASURES TO MOTIVATE COCONUT FARMERS

THAT, aware of the critical role played by the agricultural sector in Kenya's economy; cognizant of the fact that coconut farming is largely practiced in the coastal region; aware that coconut farming has been largely neglected and its potential not fully exploited for maximum benefits; appreciating that the crop has multiple benefits including the natural *mnazi* drink which has medicinal value, coconut cooking oil, coconut cream, cooking flavours, *makuti* roofing materials, construction poles and brooms; cognizant of the fact that it takes a very long period for the coconut tree to mature for all these benefits to be realized occasioning delayed revenue generation to the farmer; further aware that modern farming and exploitation techniques of this crop can lead to higher yields resulting in job creation and improved economy; appreciating that the national government is taking various measures to develop the agricultural sector in the country; the Senate urges the national Government to take measures aimed at giving incentives to coconut farmers during the long maturity period of the crop so as to motivate and encourage farmers to plant more coconut trees.

#### ESTABLISHMENT OF COMPREHENSIVE CAPACITY BUILDING PROGRAMME FOR TEENAGE PARENTS

THAT, aware that the number of teenage and pre-teen parents is increasing by the day; noting with concern that majority in this category are girls from poor households and that this problem compounds the vicious cycle of poverty in Kenya; recognizing the socio-economic challenges facing this special category of parents including lack of income and entrepreneurial capacity, inadequate parenting skills; low educational levels and lack of healthcare; appreciating that Article 45(1) of the Constitution of Kenya recognizes the family as a fundamental unit of society that enjoys protection of the State; cognizant of the fact that the Government has a duty to cater for the youth and children of Kenya; the Senate urges the national Government and the county governments to:-

- (a) put in place mechanisms that will help establish a comprehensive capacity building programme for teenage parents to ensure they practice responsible family life;
- (b) come up with non-discriminatory back to school or training programme and initiate necessary legal and policy framework that will identify persons within this group to benefit from the programmes;
- (c) guarantee farming and sustainability of the initiative and other child welfare programmes aimed at benefitting teenage parents.

**The Speaker** (Hon. Ethuro): Next Order.

## STATEMENTS

DETAILS OF THE AGREEMENTS BETWEEN THE GOVERNMENT  
OF KENYA AND THE GOVERNMENT OF CHINA

**Sen. (Dr.) Khalwale:** Mr. Speaker, Sir, I rise to seek for a Statement from the Chairman of Committee on Finance, Commerce and Budget in respect of agreements that have been signed and entered into by the Government of Kenya and the Government of China. I would like the following clarifications:-

(i) What are the exact details of the multi-billion shilling agreements between Kenya and China?

(ii) Exactly how much of this money is actually involved;

(iii) How much money will go into infrastructure projects and what are those projects?

(iv) How much of this money constitutes interest free loans and grants?

**The Speaker** (Hon. Ethuro): Chairman?

**Sen. Billow:** Mr. Speaker, Sir, that is a question that requires a lot of information. I would suggest that we give an answer in three weeks' time from today.

ALLOCATION OF LAND TO SQUATTERS IN  
CHEPCHOINA PHASE II SETTLEMENT SCHEME

**Sen. Nabwala:** Mr. Speaker, Sir, on 15<sup>th</sup> April, 2014, I sought a Statement from the Chairperson of the Departmental Committee on Land and Natural Resources on four issues:-

(i) I wanted to know the list of beneficiaries of the allocation of land in Chepchoina Settlement Scheme---

**The Speaker** (Hon. Ethuro): Order! Do you have the Order Paper with you? Look at the last page item (b), and I can see the Chairman is here.

**Sen. Kivuti:** Mr. Speaker, Sir, I rise to give a Statement on the criteria used in allocation of land to squatters in Chepchoina Phase II Settlement Scheme in Trans Nzoia.

Mr. Speaker, Sir, on the list of beneficiaries, I hereby table the entire list of the beneficiaries as allocated in that scheme.

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

The allocation of land for the poor and landless squatters in Chepchoina Settlement Scheme was done through an allocation committee which comprised of 21 officials publicly elected by the residents. The allocation committee ensured that the list of beneficiaries comprised of the landless poor squatters in the area as had been vetted and verified by them. Not all eligible squatters could have been settled due to the inadequacy and unavailability of land as required. Confirmation that foreigners from neighbouring counties had impacted on insecurity in Trans Nzoia County, the settlement schemes---

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

**The Speaker** (Hon. Ethuro): What is it, Sen. Murkomen?

**Sen. Murkomen:** Did you hear the Chairman say “foreigners from other counties”? Is it counties or countries?

**The Speaker** (Hon. Ethuro): Yes, indeed I heard him.

**Sen. Kivuti:** I agree with the comment. That is the question that was put by the honourable Senator. She wanted to have a confirmation of whether there are foreigners from neighbouring counties who benefited from the allocation and the impact of the same on insecurity in Trans Nzoia County. That is why I was responding to that.

The Settlement Fund Trustees (SFT) is meant to cater for poor landless Kenyans regardless of their community of origin. Chepchoina Phase II---

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

**The Speaker** (Hon. Ethuro): What is it, Sen. (Prof.) Kindiki?

**The Senate Majority Leader** (Sen. (Prof) Kindiki): Is it in order for the Chairman of the Committee on Lands and Natural Resources, in reading an answer, however, badly the Statement was asked, to refer to fellow Kenyans as foreigners. I find that to be most unconstitutional.

**Sen. Nabwala:** On a point of order, Mr. Speaker, Sir. My question was very clear. I stated “foreigners from neighbouring countries”. I think he has inserted the word “counties” to mislead the House.

**Sen. Kivuti:** Mr. Speaker, Sir, the HANSARD will bear me witness and the document or the request which was signed by the Senator and was laid on the Table of the House. This is what is guiding me and that is what I am answering. My answer is that there are no foreigners from---

**The Speaker** (Hon. Ethuro): Order! There is a contention as to what we are referring to, so you cannot proceed to answer.

**Sen. Nabwala:** Mr. Speaker, Sir, I have a copy of my Statement which you signed and I quote:-

“(d) confirm if there were any foreigners from neighbouring countries who were allocated land and the impact of this on insecurity in Trans Nzoia.”

**The Speaker** (Hon. Ethuro): Order! Let the Committee Chair and the Senator approach the Speaker with their documents so that we can dispose of this matter with finality.

*(The Speaker (Hon. Ethuro) consulted  
Sen. Kivuti and Sen. Nabwala)*

I have just confirmed that Sen. Mukiite is right. She has the original Statement that she sought and some sections actually written by hand and with my approval. It reads “foreigners from the neighbouring countries” and not “foreigners from the neighbouring counties.”

Unfortunately instead of the Chairman relying on the HANSARD, he relied on the responses from people who have obviously misled him by confusing “countries” with “counties”.

**Sen. Kivuti:** Mr. Speaker, Sir, I beg for your permission to expunge the word “counties” and replace it with “countries”---

**Sen. Kembi-Gitura:** On a point of order, Mr. Speaker, Sir. The point I want to make is that whether he expunges counties for countries, the whole answer has no substratum. So, it must be deferred until he gets it correct.

**Sen. (Dr.) Machage:** On a point of order, Mr. Speaker, Sir. Indeed, I wanted to bring to your attention the same issue that the able Deputy Speaker has pointed out. The Chairman is proceeding to answer a wrong question. Therefore, his answer is invalid and the Statement should be deferred.

**The Speaker (Hon. Ethuro):** Order. I think the Chairman is absolutely right to request, although he has no capacity, the Chair to rule that foreigners and the word counties be expunged. That is just one part out of a four part response. So, we cannot also claim, Sen. Kembi-Gitura, that the answer is not valid. In any case, he is yet even to response. It could be a typo.

**Sen. Kembi-Gitura:** I stand guided, Mr. Speaker, Sir.

**The Speaker (Hon. Ethuro):** So, let us hear the response, then you can now categorically state that it is irrelevant. In any case, there are other components that he can proceed to respond to. This is a small matter. We have clarified that the request in the Statement was: “confirm if there are any foreigners from neighbouring countries and not counties” That is the one he should respond to.

**Sen. Kivuti:** Mr. Speaker, Sir, actually, the difference between counties and countries is only the “r”. It could be a typo but nonetheless, I would like to answer this question in such a way that it satisfies my colleague, Sen. Mukiite and the House.

I would like to mention that the allocation of land to squatters in this scheme was done by a committee of 21 people. This committee was elected publicly by the communities of that area. Then the administration on the implementation of the scheme was handed over to the Settlement Fund Trustees.

The fourth part was on the state of landlessness in the country per county. I hope there is no problem here. Currently, there is no data on the number of landless people in Kenya. Therefore, there is need for the national and county governments as well as the National Land Commission to establish this kind of database but at the moment, it is not there.

Mr. Speaker, Sir, I may need to go a little bit further and expand that on the list which I am tabling here, there is nobody from any neighbouring country. Therefore, the only issue, since I had opportunity to discuss with Sen. Mukiite before coming here, was the composition of the names which are on this list. The formula used by the Agricultural Development Corporation (ADC) in the administration of their lands when it comes to adjudication is that at least 60 per cent must be held by the local community and 40 per cent may be held by other Kenyans who are also landless and who are registered with the Settlement Fund Trustees.

I beg to lay the report on the Table and with your permission, I have cancelled the word “counties” and replaced with it “countries”. I have also counter-signed it.

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

**The Speaker (Hon. Ethuro):** What is it, Sen. (Dr.) Khalwale?

**Sen. (Dr.) Khalwale:** Mr. Speaker, Sir, my point of order has got two arms. The first one is a request that probably the originator of the Statement should allow us to go through that list so that we see who these beneficiaries are because this is an area that we know has challenges. You remember in the last Parliament, there was a petition from

squatters of Trans Nzioa and they were far much more than the one he has talked about in respect of Chepchoina. Maybe, you could give us more time to peruse the list and confirm.

Finally, is the Chairman in order to attempt to mislead the House that there is no record of landless people when we know that his own Government has been giving out Kshs400,000 to people for settlement? If that is the case, how did the Government know that these are deserving people if they have no such record?

**Sen. Nabwala:** On a point of order, Mr. Speaker, Sir. I just wanted to correct the Chairman. He says that there was a team of 21---

**The Speaker** (Hon. Ethuro): Order, Sen. Mukiite. You definitely have the right of being the first one to interrogate the Chair but for now, we are taking points of order.

**Sen. Elachi:** On a point of order, Mr. Speaker, Sir. Is the Senator in order to say that we do not have the number yet we know that the landless are not just---

**The Speaker** (Hon. Ethuro): Order, Sen. Elachi. This is not a debate. For now, you cannot purport to represent Sen. Lenny Kivuti who is the Chairman of the Committee. The issues raised by Sen. (Dr.) Khalwale were directed to the Chairman. I have always said that we should allow the Chair to respond first, then if he needs your assistance, he is at liberty to do so but I have every reason to believe that Chairman, Sen. Lenny Kivuti is very capable of responding to the issues raised by Sen. (Dr.) Khalwale.

**Sen. (Dr.) Machage:** On a point of order, Mr. Speaker, Sir. Although you had earlier ruled on this issue, but Sen. Kivuti's Statement was based on foreigners from neighbouring counties and not foreigners from neighbouring countries. Indeed, he has so stated that his list does not include foreigners from other countries. Therefore, I beg that you order that the Chair goes back and relooks at a proper answer to this statement.

**The Speaker** (Hon. Ethuro): Let us first confirm what the Chairman has confirmed and which was also my suspicion. The difference in letters between counties and countries is "r". Somehow the letter "r" disappeared. If you look at the response to the issue, it is very clear that no foreigners were involved either from these counties or other countries. So, the response is very clear. I think he has clarified that and made amendments which the Chair was satisfied with. So, let us proceed along those lines. The first issue is by Sen. (Dr.) Khalwale on more time, I will decline although this is a very important issue. I am sure even the more points of order that arose are sufficient time for Sen. (Dr.) Khalwale. I know your capacity to dissect that document and I am sure you have already done so. The Chair can now respond to the second point of order.

**Sen. Kivuti:** Thank you, Mr. Speaker, Sir. Actually, I was almost expecting somebody to comment on the list of landlessness. But you will agree with me that if at all we went out there and said "anybody who is landless, come;" out of 40 million Kenyans, we may as well end up with 20 million people who are landless. So, for anyone to expect that list to be brought here, county by county, I think it is a tall order. Notwithstanding that---

**The Speaker** (Hon. Ethuro): Order! Order, Chairperson! First, you are not responding to the issue. The issue was the extent of landlessness in the country; and the country is entitled to know. I know for a fact that as early as 1974, there was a report by law on the state of landlessness in the Republic. So, do you want to tell me, many years down the road, that we failed to sustain capacity?

The Chair was also with the initial response that maybe you do not have updated records and that you, as the Chairperson, will ensure that, that is done by the relevant agencies. But you cannot tell us that you cannot ask!

**Sen. Kivuti:** Thank you, Mr. Speaker, Sir. Actually, that was contained in my earlier answer that there is no data on landlessness at the moment. But on the same issue, it is also true that there was a question in which Sen. (Dr.) Khalwale was talking about people who were given Kshs400,000 for resettlement, which actually I think he is referring to the Internally Displaced Persons (IDPs) who are being resettled as a result of the scuffles that were there in 2007/2008; and not really the general issue of landlessness in Kenya. Now, the issue of neighbouring countries – which is the *bona fide* question from Sen. Mukiite – I think I dealt with that substantively because there is nobody on this list from the neighbouring countries---

**The Speaker** (Hon. Ethuro): Order! Order, Chairperson! The Speaker had already assisted you there. Do not respond to that one; it has been finalized.

**Sen. Nabwala:** Thank you, Mr. Speaker, Sir. I would like to respond to the issues that my colleague Senator has brought on the Floor of this House. One, he says that there was a team of 21 people who were selected to allocate the land to squatters in Chepchoina Scheme Phase II---

**The Speaker** (Hon. Ethuro): Sen. Mukiite, do not repeat what the Chairperson said; we are all here and we heard. Make your intervention to what is needed there.

**Sen. Nabwala:** Yes, Mr. Speaker, Sir. My bone of contention is; as a leader of Trans Nzoia, I was not aware. There are many other leaders in Trans Nzoia who are not aware of this list. In fact, the list that he has brought to the Floor of this House varies from the list that I got from the ground. The list I got from the ground includes foreigners, and that is why I touched on the foreigners from the neighbouring country having been allocated land. It was not just by mistake.

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

**The Speaker** (Hon. Ethuro): What is your point of order, Sen. Murkomen?

**Sen. Murkomen:** Mr. Speaker, Sir, you have heard the answer from the Chairperson about the existence of foreigners, and Sen. Mukiite is alleging that from the information from the ground, there are foreigners who have been settled in Kenya. That is a very serious issue. Considering it is very serious, is it in order for me to ask you to direct the Senator to furnish us with the list she is saying she has? As a Senate, we have to follow up that issue to its conclusion because of the seriousness of that matter.

**The Senate Minority Leader** (Sen. Wetangula): Mr. Speaker, Sir, I am sorry I have come a bit late; I was in a meeting elsewhere, but I was listening to the answers being given on this issue. I recall when the Statement was sought, I also asked for further information---

**The Speaker** (Hon. Ethuro): Except that, Sen. Wetangula, it helps to settle a bit.

**The Senate Minority Leader** (Sen. Wetangula): Mr. Speaker, Sir, I have been following the debate.

**The Speaker** (Hon. Ethuro): From the way you are moving, it is as if you have not followed.

**The Senate Minority Leader** (Sen. Wetangula): Mr. Speaker, Sir, can you allow me to raise my issue relating to what Sen. Murkomen has said?

**The Speaker** (Hon. Ethuro): Then why take the torturous long route?

**The Senate Minority Leader** (Sen. Wetangula): To warm it up, Mr. Speaker, Sir.  
**The Speaker** (Hon. Ethuro): Okay, warm it up quickly!

*(Laughter)*

**The Senate Minority Leader** (Sen. Wetangula): Mr. Speaker, Sir, we have a list that has been furnished that shows very clearly that in this settlement scheme, there are people settled from Uganda. I do not know why we are saying “a neighbouring country;” the only neighbour to Chepchoina is Uganda. We have people who have been settled in this scheme from Uganda. The sources of information are Members of Parliament (MPs) from the area. If the Chairperson of the Committee has not been given adequate information, we do not want to ambush him. We can do justice to this issue by you referring the matter back to the Committee, and there are MPs who are willing to come and give the Committee information so that they can bring full information to this House.

*(Applause)*

Because a scheme that was meant to settle landless people, you will find in the list apart from Ugandans, District Officers, District Commissioners and people who do not qualify to get free public land!

*(Applause)*

So, Mr. Speaker, Sir, I urge that you order – because the Speaker does not request – and direct that the Committee goes to re-look at this issue and we are available to furnish them with more information, including from MPs who have more information on the matter.

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

**The Speaker** (Hon. Ethuro): By the way, this matter did not have to go the way it has gone. It is just that Sen. Mukiite made statements and put assertions but never really asked that there are certain names – which I think she has; I have seen a copy of the original list she had submitted to support the Statement – that are different from what the Chairperson has provided. So, let us hear the response of the Chairperson.

**Sen. Kivuti:** Thank you, Mr. Speaker, Sir. Whereas there could be new persons settling on the land now, which is a different fact from the records which are with the Government, I cannot dispute that there could be different people who are settling on the land now because the people who were genuinely allocated the land and they got their titles are the ones who are on the list which has been tabled. Now, unless maybe the Senator could go and get some searches contrary to the list which is with the Government, then I would have no objection to have a different kind of Statement; that somebody else maybe has sold some land to a foreigner or something to that effect. But at the moment, the persons who were allocated the land are as per the list I tabled before this House.



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

**The Speaker** (Hon. Ethuro): We will get the last two very brief interventions because I am strongly persuaded by what Sen. Wetangula suggested and also in supporting what Sen. Murkomen had already indicated that this matter goes to the Committee so that representations can be made. Because, obviously, the Chairperson is relying on one source of information; so, he needs to be given alternative sources. Then, I am sure he might have to agree with Sen. Mukiite. I will not accept his proposition that Sen. Mukiite goes for another statement; you have already told us that the SFT settlement policy for allocation is 60 per cent for locals and 40 per cent for Kenyans from other counties who may be landless and poor. So, as the Committee, it is you to interrogate the Agricultural Development Corporation (ADC) and the Cabinet Secretary (CS); and then on the basis of the information you will get from other stakeholders, then you can give an informed statement. So, let me direct that way.

Sen. ole Ndiema and Sen. (Prof.) Lonyangapuo; I know you have interest and I think your interest will be taken care of at the Committee level.

*(Applause)*

**An hon. Senator:** Sen. Tiolo Ndiema is a Member.

**The Speaker** (Hon. Ethuro): Sen. Tiolo Ndiema is a Member?

**An hon. Senator:** Yes.

**The Speaker** (Hon. Ethuro): The better!

**Sen. Ndiema:** Mr. Speaker, Sir, although you seem to have ruled, but I thought I would ask if it is in order for the Chairperson to reconfirm that the names that are given the ones which were vetted by a committee appointed by the Government and elected by the people themselves; and that the list contains names of Kenyans with valid identity cards as the---

**The Speaker** (Hon. Ethuro): Order, Sen. Tiolo Ndiema! It is for all those issues you have raised that we have already referred the matter to the Committee. Fortunately for you, you are a Member of the Committee. So, you have a real opportunity to interrogate the matter further, and I think it is a matter of immense public interest and it should go that way. I direct that the matter be referred to the Committee.

*(Applause)*

When do we get the response, Chairperson?

**Sen. Kivuti:** Mr. Speaker, Sir, I think from what you have directed, it may require to have some inquiry of some sort. To have an inquiry which is in depth, I do not think we should rush it to less than four weeks. So, I request for four weeks.

**The Speaker** (Hon. Ethuro): I think that is a reasonable request; you will table a comprehensive report to the House in one month's time.

**Sen. Muthama:** Mr. Speaker, Sir, I just want to be in order---

**The Speaker** (Hon. Ethuro): I hope you are not rising about this statement; we have disposed this one.

**Sen. Muthama:** Mr. Speaker, Sir, it is just a small bit of it.

Mr. Speaker, Sir, from the outset, the Chairperson should know how serious we are on this issue because it affects landless people. That is the only point I wanted to raise.

**The Speaker** (Hon. Ethuro): I am highly constrained, Sen. Muthama.

Next Statement!

**Sen. Kembi-Gitura:** Mr. Speaker, Sir, nobody is rising, but I had sought a Statement myself; I do not know whether we have reached that stage. Because we are still on the Order Paper, and it appears like that is for answers but there are those of us who had sought Statements which are not on the Order Paper---

**The Speaker** (Hon. Ethuro): If there is no other interest, maybe we will take yours.

**Sen. Kembi-Gitura:** Thank you, Mr. Speaker, Sir. I had sought two statements.

*(Loud consultations)*

**The Speaker** (Hon. Ethuro): Okay, maybe to guide Sen. Kembi-Gitura particularly and generally, we take those ones that are listed and then now we can entertain the rest. There is the Chairperson of the Committee on Agriculture, Livestock and Fisheries, Sen. Kivuti? Is that the one on Masongaleni?

**Sen. Kivuti:** Yes, Mr. Speaker, Sir.

**The Speaker** (Hon. Ethuro): Proceed.

#### ALLOTMENT OF MASONGALENI SETTLEMENT SCHEME

**Sen. Kivuti:** Thank you, Mr. Speaker, Sir. With regard to the issue of Masongaleni Settlement Scheme, we had a preliminary discussion and this document was actually tabled. But there were several questions as to Government policy on allotment of land, particularly to landless people. The Chair, on that day, directed that we get further information on this matter.

Mr. Speaker, Sir, we have interrogated this matter at the Committee level and the final list – and even when we check in the Ministry, it seems it is true that some officials of Government were actually allotted land in Masongaleni---

**Hon. Senators:** Many!

**Sen. Kivuti:** Well, many.

*(Laughter)*

And as such, we put out heads together to see what would be a recourse---

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

**The Speaker** (Hon. Ethuro): What is your point of order, Sen. Murkomen?

**Sen. Murkomen:** Is it some or many because the Chairperson said “some” and then when someone shouted from the Floor “Many,” he said many? Can he give one answer?

*(Laughter)*

**Sen. Kivuti:** Mr. Speaker, Sir, I would rather stick to “some.”

*(Laughter)*

This is because they are quite few comparatively, because the total list is over 1,760 and the Government officers are not even 100.

**The Speaker** (Hon. Ethuro): Order, Chairperson! You lose me, because the way we respond--- You see, in your earlier Statement, you definitely had part (a), (b), (c) and (d), and you responded accordingly. As for this one, I thought you were just making some statement before. So---

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

**The Speaker** (Hon. Ethuro): Why do you not allow the Chairperson to speak for himself?

**Sen. Kivuti:** Mr. Speaker, Sir, that is my Vice Chairperson; may I allow him to comment because what happens is that---

**The Speaker** (Hon. Ethuro): For now you have the Floor.

**Sen. Kivuti:** Okay; I am equal to the task.

**The Speaker** (Hon. Ethuro): If, for some reason, you decide it is your Vice Chairperson to give the Statement, then you should have given him the opportunity to respond from the very beginning.

**Sen. Kivuti:** Mr. Speaker, Sir, I am equal to the task.

Now, I do not know if you would like me to read the answer to this request again? We had actually read the whole lot of it, but we had some questions from Sen. Muthama, a few other Senators and also from---

**The Speaker** (Hon. Ethuro): You will respond to those ones.

**Sen. Kivuti:** Yes; that is what I was responding to. We were referred to go and check further how the Government officers got to own the land and what can be done about that problem. Sen. Muthama asked why the poor people are being asked to pay some fees for titles when they are very poor. So, I was going to respond to those two questions.

On the first one which was asked by Sen. Mutula Kilonzo Jnr. on what to do with the officers who were allocated land, since the list is there in black and white, page 1 has the names of some prominent Government officers who were allocated land in the scheme. My answer to that is that when land is allotted, the title has been issued, if it is first registration – that is Section 128 of RRA – it is possible to follow it up and reverse the situation but that can only be done through a court process. Now, the question is: Who will go to court and look for Gen. Mulinge, who is now dead, to recover his---

**An hon. Senator:** He is not dead!

**Sen. Kivuti:** He is not dead? I withdraw that.

*(Laughter)*

I apologize.

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

**The Speaker** (Hon. Ethuro): What is it, Sen. Muthama?

**Sen. Muthama:** Mr. Speaker, Sir, I just wanted to make that correction; that Gen. Mulinge is still alive and he is doing very well.

**Sen. Kivuti:** My apologies, Mr. Speaker, Sir. I withdraw and apologize. But with the number of people who are there, if we were going to ask someone to go and follow up and prove that so-and-so did not get land when he was landless, this can only be done through a court process.

Mr. Speaker, Sir, on the second question, regarding the fees to be paid by poor people, my answer is that I consulted with the Ministry. Fees and charges by the Government cannot be waived arbitrarily. So, the Cabinet Secretary has no power to say that so-and-so looks poor and, therefore, should not pay title deed charges, which is not much.

**Sen. Mutula Kilonzo Jnr.:** On a point of order, Mr. Speaker, Sir. Is the Chairman in order to mislead the House when the actual report from hon. Charity Ngilu reads that the Ministry intends to request the Cabinet to waive land charges, so that the remaining 1,716 beneficiaries can be issued with title deeds during the ongoing programme?

**Sen. Kivuti:** Mr. Speaker, Sir, like I said, I was asked to go back and consult and I am reporting---

**Sen. Orenge:** On a point of order, Mr. Speaker, Sir. I just want to assist on this issue of waivers---

**The Speaker** (Hon. Ethuro): Let him respond first. He needs to respond as to whether or not what he has been challenged about is the position, and then you may come to his rescue.

**Sen. Kivuti:** Mr. Speaker, Sir, whereas I would have minded the comment from the former Minister for Lands, but I consulted because the matter was raised on the Floor of the House. I was obliged to come and report whether or not these people are going to be given titles without paying the charges. The answer was that although the Cabinet Secretary still has the intention to look for a way to waive those charges, she cannot guarantee that position. She only said that she will apply to the Cabinet to see if it is possible to waive fees and charges for these particular people.

**The Speaker** (Hon. Ethuro): Order, Chairman! You would save a lot of the House's time, because the way that you had finished the matter earlier, is not the same way that you are doing it now. Maybe she has no powers to issue waivers, but she has promised to go to the Cabinet, so that something could be done. I think that, that is what the Senator was asking you to confirm, and you seem to be reluctant to give.

**Sen. Kivuti:** Mr. Speaker, Sir, let me put it as candidly as that. The official position is that the Cabinet Secretary has no powers to waive fees, but she promised to appeal to the Cabinet, so that, that waiver can be given, if possible.

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

**The Speaker** (Hon. Ethuro): Sen. Orenge, I just want to remind you that you are a former Minister, but for the purposes of this House, you are not.

Proceed!

**Sen. Orengo:** On a point of order, Mr. Speaker, Sir. I just wanted to point out that the expectation which the House may be having may not be possible, because it was discovered during the process of Constitution making that waivers on taxation which were being granted by those in authority were being used for purposes other than those required by the law. But now Article 210 (1) of the Constitution reads: –

“No tax or licensing fee may be imposed, waived or varied except as provided by legislation.”

Mr. Speaker, Sir, therefore, for the Cabinet Secretary or Government to be able to waive, there must be legislation. As I speak now, I am not aware of any legislation that would allow either the Government or the Cabinet to waive those fees and charges. It is this Senate or Parliament which can make legislation that may allow the Cabinet Secretary or anybody in authority to waive. There are impositions or conditions under which it may be given. A public record of each waiver shall be maintained together with the reason for the waiver and each waiver and the reason for it shall be reported to the Auditor-General, that is, if there is legislation.

**The Speaker** (Hon. Ethuro): Order, Sen. Orengo! Apart from demonstrating your knowledge of the Constitution, particularly that article, I do not think that there is anything wrong with what the Chairman has said. This is because if the Cabinet Secretary is going to the Cabinet to seek for some assistance or direction, it may as well be that, that assistance will follow the procedure of legislation. They can originate it as the Executive and bring it to Parliament. So, I do not think that we should really make it appear like it is mission impossible. If they have to do it, that is the procedure that they will employ. I think that, that is the important issue. It can be done if they follow the procedure.

Sen. Mutula Kilonzo Jnr., have you finished your interrogation?

**Sen. Mutula Kilonzo Jnr.:** Mr. Speaker, Sir, I have not finished.

Mr. Speaker, Sir, I want to thank the Chairman for this Report. The people of Masongaleni will be happy to know that the Cabinet is considering them for such waiver. But the Chairman has come up with another list which has about 400 people. Some people have been given 50 acres, some 100 acres and others 200 acres. I have even spoken to my colleague and uncle, Sen. Muthama, who appears on the list, and he says that he has not been given land in Masongaleni. I would like to request that this list, which contains more than 300 people who are not squatters and some of whom are not from Makueni, ought to be interrogated in an inquiry. Some are from Kajjado and others from Nandi Hills. My brother, Sen. Muthama, says that he has not been given 50 acres in Masongaleni, yet he appears on the list. He has never been given a title deed and does not know where that land is. It should not appear that there is a list that has been given of names of people who do not exist, yet that land is being used by other people.

Mr. Speaker, Sir, thirdly, the Government bought 30,000 acres to settle poor people from Makueni, who had been evicted from a forest, out of whom 1,716 beneficiaries have no titles. I am aware that there are many others who have never been given this land and yet, the land has not been utilized. Would I be in order to request that the total acreage of land that has been given to the squatters is clearly defined? The total acreage that appears to have been given to these beneficiaries – 100 acres and 200 acres - who are both politicians and very senior people in the Government should be interrogated in detail, so that this issue can be resolved once and for all.

**Sen. Murkomen:** On a point of order, Mr. Speaker, Sir. I have seen names of senior people, including the Chief Justices, Sergeants, politicians and other “big” people. Immoral as it may sound, is the Senator insinuating that it was illegal to allocate land to such people?

*(Loud consultations)*

**The Speaker** (Hon. Ethuro): Order, Sen. Khalwale!

**Sen. Murkomen:** Mr. Speaker, Sir, I know that it is immoral, but do not think that it was illegal at that time.

**The Speaker** (Hon. Ethuro): Sen. Mutula Kilonzo Jnr.!

**Sen. Mutula Kilonzo Jnr.:** Mr. Speaker, Sir, in fact, my good brother, Sen. Murkomen, should read the Statement from the Cabinet Secretary in charge. It reads:-

“The Government purchased 30,000 acres to settle landless people from Makueni who had been removed from the forest at Kyulu Hills, because it has now become a water tower.”

Mr. Speaker, Sir, the Chief Justice then, of course, could have afforded to buy a piece of land. In any event, why would you give him 200 acres? That is the point that I am making, because the Government would not have bought 30,000 acres to settle people who are capable of buying land. There is nothing more illegal than using public money and robbing Peter to pay Paul.

**Sen. Murkomen:** On a point of Order, Mr. Speaker, Sir.

**The Speaker** (Hon. Ethuro): Order! Order! I think that, that point has been made. You should have brought all your points at ago. We need to proceed. It is obvious that settlement schemes, just by the mere reading of English, are for the landless. You do not settle people who are already settled.

**Sen. Murkomen:** Mr. Speaker, Sir, if you allow me just one minute.

**The Speaker** (Hon. Ethuro): Proceed!

**Sen. Murkomen:** Mr. Speaker, Sir, I am saying this because I am a neighbour to Trans Nzoia County. In Trans Nzoia County, Uasin Gishu County and other counties that I know, the lands that are called settlement schemes were allocated to more senior people or of equivalent nature to the politicians listed here, including the Chief Justices and so forth. At that time, people were hiding under the Presidential directives, the Commissioner of Lands and so forth. Do you not think, considering the magnitude of this matter and borrowing from what we are discussing here and saying that it is illegal, can we not then open up the process and say that the National Land Commission, for example, be given directions to give us the time within which we will reopen this discussion if need be, so that we can deal with the people, including those---

*(Several Senators stood up in their places)*

**The Speaker** (Hon. Ethuro): Now the entire House wants to contribute. We know that when we want the entire House to contribute, we bring a Motion. Let me dispose this issue.

**Sen. Orengo:** On a point of order, Mr. Speaker, Sir. Just for the purposes of Sen. Murkomen, there were two categories of settlement schemes that were established

immediately after Independence. The settlement schemes that exist in Trans Nzoia and some other places are where the black Africans were allowed to acquire land that belonged to the Whites, and they had to pay some value for it. Those settlement schemes are in Muhoroni and Koru. But if it is land for settlement, under the land adjudication and settlement, you have not only to be landless, but poor and landless. In this list, certainly, the people who are being mentioned were neither poor nor landless.

**The Senate Minority Leader** (Sen. Wetangula): On a point of order, Mr. Speaker, Sir. I am amazed at the argument of a very distinguished lawyer, Sen. Murkomen. If land is for the poor and landless, for settlement, it does not become legitimate if a person who is undeserving misrepresents himself as poor and fraudulently gets an acquisition in a scheme meant for the poor and landless. When those facts come to the fore, those who are in this list; that is, the Chief Justice, District Commissioner, District Officer or whoever--- First, the Government has a duty to revoke the allocation for misrepresentation and prosecute them for fraudulently acquiring land meant for the poor. We do not come here and call it legitimate, simply because it was an allocation and you were allocated. The process is as important as the end product.

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

**The Speaker** (Hon. Ethuro): I thought that after that eloquent submission by the Senate Minority Leader, the rest of you, especially who belong to his side and some who were quite happy that they were considered as brothers---

*(Laughter)*

**Sen. Obure:** In addition, Mr. Speaker, Sir. We were told earlier one that the people who were settled in Kyulu Hills water tower were the ones who were going to be settled here, because they had now become landless. So, it will be a question of determining whether some of the prominent people on the list were actually in that forest.

*(Several Senators stood up in their places)*

**The Speaker** (Hon. Ethuro): Order! Order, Senators! Let us conclude this matter. Let us take the last two.

Sen. Muthama and then Sen. (Dr.) Khalwale!

**Sen. Muthama:** Mr. Speaker, Sir, I will be very brief. From the outset, this land was for the poor and landless people. The Chairman says that the only way to revoke these title deeds is to go through a court of law. The Government has got the machinery to do that. What is the Government doing about the issue now and who is supposed to take this case to court, so that those were given land and did not deserve, including Sen. Muthama, who is mentioned here, can be prosecuted?

Mr. Speaker, Sir, I am talking about those who were given land in that scheme and did not deserve.

**The Speaker** (Hon. Ethuro): Order! You have made your case. You are not going to prosecute people, including yourself, on the Floor.

**Sen. Muthama:** Mr. Speaker, Sir, I am just touching on what the Chairman said; that it is only through the court process that the matter can be resolved. But who should

take the matter to court? If it is not the Government, then some of us are ready to take the matter to court on behalf of the poor *wananchi*, who deserve to be given this land.

Mr. Speaker, Sir, secondly,---

**The Speaker** (Hon. Ethuro): Order! Order! Sen. Muthama, this is an intervention and not a contribution to a Motion. I am satisfied and will rule you out of order if you proceed. You have made your intervention. Let us give it to Sen. Khalwale!

**Sen. (Dr.) Machage:** On a point of order, Mr. Speaker, Sir. Just a procedural issue. Sen. Muthama should declare his interest in this issue.

**The Speaker** (Hon. Ethuro): Order! Order, Sen. Machage! You were not listening. Sen. Mutula Kilonzo Jnr. was very clear and deliberately profiled and highlighted the name of Sen. Muthama. Sen. Muthama was very busy giving him additional information, that he has no title deed and does not know where the land is. I was listening from here, because he is close to the Chair.

Secondly, in his own intervention, he has gestured in the most dramatic manner, using both hands. That is a declaration of interest. I am completely satisfied that he has already declared his interest.

Proceed, Sen. Khalwale!

*(Laughter)*

**Sen. (Dr.) Khalwale:** Mr. Speaker, Sir, I am so unhappy that Sen. Murkomen wants to use the bad history that this Constitution was trying to correct, to the effect that some of the people who are on this list, armed with a letter from State House, then acquired public property unfairly.

Mr. Speaker, Sir, as he misleads us, he knows very well the Constitution of Kenya, Article 67(2)(e), says that the National Land Commission shall; “initiate investigations on its own initiative or on a complaint into present or historical land injustices and recommend appropriate redress.”

Mr. Speaker, Sir, this very clear and strong statement in the Constitution is the reason why Sen. Mutula Kilonzo Jnr. is insisting that as the Chairman comes with the answers, he should tell us what the Government intends to do to reverse this injustice. It would, therefore, be wrong for Sen. Murkomen, given that he is a teacher of law to carry the country with us. We are saying that as long as he has the justification of a chief, which he got from State House, it does not matter who was in State House that day, the land belongs to him. It cannot be yours. You are a rich man. You are not supposed to be there. You are supposed to be prosecuted and jailed for having stolen.

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

**The Speaker** (Hon. Ethuro): Order, Sen. Murkomen. You are a Member of the Speakers’ Panel. You know that when the Speaker’s feet are up, yours must be down. That is true to any other Senator. The issue of land is very emotive as you have just demonstrated and that is why there are specific provisions. My own understanding and the reading of the statement I wanted read – there was a request from Sen. Mutula Kilonzo Jnr. that the Chair, in responding to the request has brought more information which has made the case even stronger. Just like the Chair was directed, to interrogate further the issue of Chepchoina Settlement Scheme, it is important for the Committee to



interrogate, further the issues around Masongaleni Settlement Scheme so that all these issues you are raising can be sorted according to the law.

For the name of Sen. Murkomen to be mentioned just like Sen. Khalwale, Sen. Wetangula and Sen. Mutula Kilonzo Jnr. have been mentioned; my own reading is that he was just making reference to what we have done to Masongaleni and Chepchoina Settlement Scheme including many other schemes that Members were raising about. Part of the job of the Committee is to confirm whether the settlement scheme was the one of the Africanisation or if it was the one for the landless. In any case, we have the famous Ndung'u Report. So, there will be work to be done. We have provisions that have been cited by Sen. Khalwale in terms of what the National Land Commission ought to do.

So, let us allow the Committee to do its work and give us a comprehensive Report.

**Sen. Kivuti:** On a point of order, Mr. Speaker, Sir. You will agree with me that these matters are becoming weightier and weightier as we continue to discuss them. From what I am seeing, it will not be possible to go to the Ministry, get an answer and bring it here. In case, we need to carry out a thorough investigation on this matter, I request that we get ample time to do an inquiry as a Committee instead of bringing in extra information on the Report.

**Sen. Kembi-Gitura:** On a point of order, Mr. Speaker, Sir. Many years ago, when we were reading law, we were told that if land is set aside and the purpose for which it was set aside is lost, then the land reverts back to the Government. Reading this Report, I see that the land was bought in 1984 for Kshs6.2 million, which is a lot of money, by the Republic of Kenya, to settle people a very large list of people is done for people to settle on this land. Most of these are very wealthy people that we know. These are people who could have afforded a project company, made Kshs6.2 million and bought this land from Brook Bond. So, the answer that the Committee should answer is why the Government spent so much money to buy land only to give it out to people who did not need land. If we get that answer, then we will be satisfied. This borders on being immoral.

The Government used its money; Kshs6.2 million, to settle rich people. There must be something very wrong. The answer we must get from the Committee is the need that was found when there must have been landless people in Ukambani to buy land and allocate it to people who could have afforded land. I think that is important.

**The Speaker** (Hon. Ethuro): Order, Sen. Kembi-Gitura. You run the risk of being repetitive.

**Sen. Kembi-Gitura:** Mr. Speaker, Sir, at times, it is important to be repetitive. It makes the points sink because at times the points do not seem to sink.

**Sen. Murkomen:** On a point of order, Mr. Speaker, Sir. The HANSARD will bear me witness. The reason I am standing is that Sen. Wetangula and Sen. Khalwale were insinuating that I said something different from what they were saying.

I was saying that if that is what is happening in Makueni, then we should also know that there are worse public officers, who have held higher officers that the ones listed here, in Trans Nzoia and other areas. However, the submissions by Sen. Khalwale and Sen. Wetangula show that I, being a son of a squatter, would have said something different.

**Sen. Kajwang:** Mr. Speaker, Sir, I have one little item. With regard to the issue that the Chairman suggested that you can only correct these titles or reverse them by going to court. He should also talk to the National Land Commission. As hon. Khalwale has read correctly, it is the responsibility of the National Land Commission to correct some of these injustices and wrongs. So, when he reports next, he should tell us what the National Land Commission has said and not the Cabinet Secretary. I can see there is a lot of warfare as to who controls what in that docket.

**The Speaker** (Hon. Ethuro): Sen. Kajwang, you are now trying to direct the Committee on how it will do its work. The Committee is fully aware that there is a Commission and of the Cabinet Secretary. You will talk to all of them and others that you have not mentioned if you think it will help in the investigation of the matter.

Chairman, how long will you need.

**Sen. Kivuti:** Mr. Speaker, Sir, I beg your indulgence. We will require a maximum of 90 days from today.

**Sen. Kivuti:** Mr. Speaker, Sir, we are going to June. We want a thorough investigation both for Trans Nzoia and Makueni and not just one case. We have to fully interrogate. However, in case we get the answers soon, we will have no reasons to uphold.

**The Speaker** (Hon. Ethuro): Mr. Chairman, since you requested four weeks for Trans Nzoia, you should use another four weeks for Masongaleni. It is important that this matter is arrested early enough.

**Sen. Kivuti:** Most obliged, Mr. Speaker, Sir.

**The Speaker** (Hon. Ethuro): You have a maximum of two months.

Is there any other statement?

Where is the Chairman for the Committee on Agriculture? I can see you are listed here.

Where is the Vice Chairperson, hon. Ndiema? Do you have the Order Paper? We upload the Order Paper 24 hours before time to accord everybody an opportunity to see the business of the House.

**Sen. Ndiema:** Mr. Speaker, Sir, I think the answer is not ready. I ask for the indulgence of the Chair so that I respond in two weeks.

**The Speaker** (Hon. Ethuro): Order, Sen. Ndiema. It is important that you take the work of the House seriously. We have just resumed from a long recess. This matter was not raised yesterday. It was raised before we went on recess, in fact, 14<sup>th</sup> April, 2014. If you do not have an answer, do not say that the answer is not ready because I have a copy.

So, respond to it tomorrow.

**Sen. Ndiema:** Mr. Speaker, Sir, I seek your indulgence because as you are aware, tomorrow, we are having a high level conference in Naivasha. I and the Chairperson will be there. This meeting is organized by the Committee and we invited all Members to attend.

**The Speaker** (Hon. Ethuro): Sen. Ndiema, the business of the House takes precedence over any other. The conference is not starting tomorrow. The conference will be starting on Friday morning. Naivasha is very close and you can even go on Friday morning. Therefore, I still insist and direct that you respond tomorrow afternoon.

**Sen. Ndiema:** Obligated.

## ESCALATING BANK INTEREST RATES

**Sen. Kembi-Gitura:** Mr. Speaker, Sir, there are statements that I have sought which are appearing on the Statements List. One is on the Escalating Bank Interest Rates which was to be given on 22<sup>nd</sup> April, 2014 and the other one is on the Safety of the Thika Superhighway which was to be delivered yesterday; numbers 34 and 39 on your list. I can see one of the Committee Members walking out. I do not know how he will deal with it.

**The Speaker** (Hon. Ethuro): Order. These statements were due as early as April and another one 3<sup>rd</sup> June. They have more than matured now.

**Sen. Mositet:** Mr. Chairman, Sir, the Committee is still deliberating on the same. In fact, in our last sitting, we sought to have the Cabinet Secretary for Treasury who did not appear. We are supposed to have a sitting with him tomorrow, as a Committee. In fact, this is one of the agenda in our Committee meetings.

**The Speaker** (Hon. Ethuro): Will you see him tomorrow?

**Sen. Mositet:** Yes, this is a matter that is before our Committee and we are taking it seriously.

**The Speaker** (Hon. Ethuro): That is not news. We are all aware that it is before your Committee. The question is: When will the Committee conclude the work and bring a Report back to the House? Specify the timelines.

**Sen. Mositet:** Give us one more week because we are interrogating various institutions.

**The Speaker** (Hon. Ethuro): On both statements?

**Sen. Mositet:** Yes.

**Sen. Kembi-Gitura:** If the Committee has said they need a week, then that is okay. However, the Committee has taken too long.

**The Speaker** (Hon. Ethuro): Where is the Chairman of the Committee on Roads and Transportation? Is the Vice Chairperson here or any Member?

**Sen. Wamatangi:** Mr. Speaker, Sir, I kindly request that you allow us to bring that Statement to the House in a week's time.

**The Speaker** (Hon. Ethuro): That does not explain why the Statement was not brought when it was required in the House.

**Sen. Wamatangi:** Mr. Speaker, Sir, this matter is one of the agenda that we discussed. We had summoned the Cabinet Secretary, Roads, but did not appear. However, we got communication that he would be present in our next meeting. We can undertake to have this Statement issued here in a week's time. That is next week.

**The Speaker** (Hon. Ethuro): Sen. Kembi-Gitura, your destiny is in one week's time.

**Sen. Kembi-Gitura:** I oblige.

**The Speaker** (Hon. Ethuro): That is the end of statements. Let us move to the next order. I want to remind the Committee Chairpersons that answers should be forthcoming. Let me not remind you what was due. We do not want to waste a lot of time. You should not wait to be told that this Report was due. I am sure the House will appreciate that. You should not wait hon. Senators to ask you about the issues. That makes you appear as if you are hiding something even if you are not.

Next Order!

**BILLS***First Reading*

## THE PUBLIC PROCUREMENT AND DISPOSAL (AMENDMENT) BILL

*(Order for First Reading read - Read the First Time and ordered to be referred to the relevant Departmental Committee)*

*Second Reading*THE COUNTY GOVERNMENTS (AMENDMENT)  
(NO. 1) BILL (SENATE BILL NO.1 OF 2014)

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

THAT, the County Governments (Amendment) (No.1) Bill (Senate Bill No.1 of 2014 be read a second time.

Mr. Speaker, Sir, this Bill is a fairly short amendment Bill and I hope to take a very short time to attempt to convince the House. The reason why I would like the County Governments Act to be amended is because in the principle Bill, I would like to amend the County Governments Act No.17 of 2012 so as to insert in the Act a schedule which I have set out; the seat or physical location of each county government.

The proposed new Third Schedule will therefore give the following advantages if this House passes this Bill. The first advantage is that the Third Schedule will then give certainty to the residents of our counties and other stakeholders on the physical location of the county governments and on where they can seek services offered by county governments. This might look a very simple matter but it is not so simple. For most of the Members of the National Assembly and Members of the County Assemblies, already there is a storm that has started in some of our counties. I wish to give just two examples.

Mr. Speaker, Sir, in Kiambu County, this storm has started whereby as you will remember in the last Parliament, we were able to go around through the Ligale Commission and found out the thinking of the people on where they would have preferred the headquarters of the various county governments to be. This was then recommended by the Transition Authority (TA) and when they were settling the newly elected governments, the TA was taken to those areas that had been identified by people in those counties by the Ligale Commission. You will remember that the Ligale Commission was the Interim Independent Boundaries and Electoral Commission (IIBEC). However, in Kiambu County, the Governor woke up one day and said that he does not like Kiambu Town. He said that he would rather that the seat of government goes to a place which he had better reasons for and it was actually moved from Kiambu to Thika.

Mr. Speaker, Sir, my fear is that if we do not put this in law, what will happen is that now another Governor elected in Kiambu, when he does not come from Thika, probably he comes from Kiambu will now move it back from Thika to Kiambu or when another Governor is elected and he comes from Gatundu, he might choose to move it

from Kiambu to Gatundu and so on and so forth. Since this exercise has got a cost, you will find that the funds for devolution that we take to Kiambu County will in perpetuity be used for development of infrastructure for the seat of government.

A similar situation is obtaining in the County of Kirinyaga where there is a fight between Kutus Town and Kirinyaga. When I was doing a research on this, I went and made inquiries and in Kirinyaga, it is so dramatic that on one occasion, one section of leaders on a national day held a function in Kutus while another set of government officials held another function in Kirinyaga. It makes it important therefore that we clothe this provision in a firm law.

Mr. Speaker, Sir, the fourth reason why I think that it is important to do this is because we have seen counties like Tharaka-Nithi and Nyandarua which are operating from makeshift structures. They do not have proper infrastructure and Senators who sit in the Finance Committee have agonized over requests from Sen. (Eng.) Muriuki, Sen. (Prof.) Kindiki, Sen. Bule and others who are requesting that we make a provision within the Division of Revenue Bill so that conditional grants are set aside for them to have this particular infrastructural development. We attempted but that was shot down on the Floor of this House. So, if this Bill was passed, then we would approach the national Government and say that they should develop the necessary infrastructure in all the seats of county governments up to a level where it will look standard. If you allow this development of county headquarters to be done from devolved funds, they will never come to the same level. Tana River gets very little money and so does Nyandarua. So, if you expect them to put up this infrastructure, they will not manage. So, once we have put it into law, then we will approach the national Government and then it will put the proper infrastructure so as to sustain a proper functioning devolved government.

Some Members of this House have had the opportunity to travel. Since we have made up our minds that we are going the devolution way, then we should make devolved governments to be actually governments. I will give you two examples. I have visited the Orange Free State in South Africa and the devolved Government of Ontario in Canada and the infrastructure which is in Ontario is far better than even the infrastructure of the national capital of Kenya. We have to give this consideration for long-term basis even if it means that the national Government in her Budget chooses to develop this headquarters for a period of even 10 or 15 years but deliberately so as to make it standardized.

Mr. Speaker, Sir, the fifth reason why I think it is important is because the national Government must assist the county governments in developing the necessary infrastructure again for efficient transport network. The transport network in county headquarters has to be deliberate so that it can connect those county headquarters deliberately to all strategic corners of the rural areas within the county. Some of the counties, for example, the Kakamega County, have besides Kakamega Town Mumias Town, Malaba, Malinya, Butere and Shinyalu Town. The development of infrastructure in terms of transport should be such that the connectivity from Malinya Town, Shinyalu Town, Butere Town, Mumias Town, Malaba Town and Lugari Town should be deliberate so that there is ease of transport to those areas.

The sixth advantage, if we pass this law, is that again, we shall force the national Government to develop the necessary infrastructure for deliberate development of commerce and industry. Sen. (Eng.) Muriuki has been so touched by this and has already proposed a draft Bill for purposes of developing industry. Now, if we leave that noble

intention of developing commerce and industry in every county government to the little money that we gave devolved governments, industrial development and commerce will not grow at a desirable pace. So, we need to have this law so as to ensure that the national Government sets aside money for exactly that.

Finally, what lessons do we learn from this? We learn from this that even the national Government has deliberately through the Urban and Cities Act in Section 6 identified Nairobi. It states in Section 6 (i) that the Capital City of Kenya is Nairobi. So, if it is important for us to say that about the national Government, we should equally say the same about each and every devolved government. For that reason, I want to request hon. Senators to realize that at the Committee Stage, they will be free to amend this schedule according to the best desires of the people that you serve on the ground because you are our contact person and it will be up to you before we go to the Third Reading to fall back to your county assembly and do consultations with your Governor so that all are in agreement that, that is the desirable seat of Government – that Mombasa to be seated in Mombasa City, Kwale County Government to be in Kwale urban area, Kilifi County to be in Kilifi Town, Tana River to be in Hola, Lamu County Government to be in Lamu, Taita Taveta County Government to be in Wundanyi, Garissa County Government to be seated in Garissa, Wajir County Government to be seated in Wajir, Mandera County Government to be seated in Mandera, Marsabit County Government to be seated in Marsabit--

**Sen. Kembi-Gitura:** On a point of order, Mr. Speaker, Sir. For the HANSARD purposes and to make it clear, the Mover should not talk about Mandera County Government sitting in Mandera. For clarity of the HANSARD, it has to be clear that it is Mandera Town for Mandera and Wajir Town for Wajir because the county bears the same name as the town.

**Sen. (Dr.) Khalwale:** Mr. Speaker, Sir, I concur with him fully but as I said at the beginning, I am not an expert on the special needs in all the counties. If there is a different need, it is up to you as the father – to use Sen. Kivuti's language – to come and advise this House. So, for the first nine, what you have said applies.

Marsabit County Government to be seated in Marsabit Town, Isiolo County Government to be seated in Isiolo Town, Meru County Government to be seated in Meru Town, Tharaka-Nithi County Government to be seated in Kathuana, Kitui County Government to be seated in Kitui, Machakos County Government to be seated in the proposed City of Machakos, Makueni County Government to be seated in Wote Town, Nyandarua County Government to be seated in Ol Kalou Town, Nyeri County Government to be seated in the City of Nyeri, Kirinyaga County Government to be seated in Kerugoya and not Kutus, Murang'a County Government to be seated in Murang'a Town, Kiambu County Government to be seated in Kiambu Town, Turkana County Government to be seated in Lodwar Town, West Pokot County Government to be seated in Kapenguria Town, Samburu County Government to be seated in Maralal Town, Trans Nzoia County Government to be seated in Kitale Town, Uasin Gishu County Government to be seated in the City of Eldoret (Town), the County Government of Elgeyo-Marakwet to be seated in Iten Town, the County Government of Nandi to be seated in Kapsabet Town.

Mr. Speaker, Sir, Nandi County Government is unique to the extent that the office of the Senator is in Nandi Hills which is also a town and the office of the Governor is in

Kapsabet. So, once this is sorted out, then it will be clear to all and sundry that the headquarters is at Kapsabet. The County Government of Baringo should be seated at Kabarnet Town, the County Government of Laikipia to be seated at Nanyuki Town, the County Government of Nakuru to be seated at Nakuru Town/City, the County Government of Narok to be seated at Narok Town, the County Government of Kajiado to be seated at Kajiado Town, the County Government of Kericho to be seated in Kericho Town, the County Government of Bomet to be seated in Bomet Town, the County Government of Kakamega to be seated in Kakamega Town (City), the County Government of Vihiga what in the Schedule reads as Vihiga Urban area is actually Mbale Town. Again like the trouble you are having in Nandi County, we also have a similar problem in Vihiga in the sense that the County Assembly of Vihiga County is in Vihiga Town whereas the Governor's headquarters is in Mbale Town. So, we have to make it clear so that infrastructure development is done to the extent that the County Assembly of Vihiga be moved from Vihiga to Mbale Town the seat of the Government. But if they choose to go the South African way where Parliament seats in Cape Town and the Executive seats in Pretoria, that would be their own choice and then the law would prohibit it unless an amendment is made in this House.

Mr. Speaker, Sir, Bungoma County Executive should be seated in Bungoma Town. Bungoma is one such an area because it has got two big towns; Bungoma Town and Webuye Town and already there is a storm brewing on the ground that somebody wants to think that they can move it to Webuye just because Webuye is nearer their home. Busia County Government to be seated in Busia Town, Siaya County Government to be in Siaya Town, Kisumu County Government to be in Kisumu City, Homa Bay County Government to be in Homa Bay Town, Migori County Government to be in Migori Town. Migori is also important. Because of ethnic inclination, there is a strong feeling on the ground when I was doing research that some people would prefer the headquarters to be in Kehancha and others would prefer that the headquarters be where it is now. So once we put it down and everybody is in agreement, it will be settled and the national Government can start investing. Kisii County seat should be in Kisii Town, Nyamira to be in Nyamira Town and finally Nairobi to be in Nairobi City.

Mr. Speaker, Sir, procedurally, I would like to report to this House that I have done research and I have been advised that this Bill if we pass it, it does not in any way delegate any legislative powers nor does it limit fundamental rights or freedoms of Kenyans or those people who stay in those counties. I have also been advised, and I wish to report that this Bill concerns county Governments in terms of Article 110 (a) of the Constitution, in that the seat or physical location of a county government affects the execution of functions and powers of the county government.

Finally, Mr. Speaker, Sir, this Bill is not a money Bill within the meaning of Article 114 of the Constitution of Kenya.

Mr. Speaker, Sir, I beg to move and request the Senator for Migori, my senior, Sen. (Dr.) Machage, to come and second my Bill.

Thank you, Mr. Speaker, Sir.

**Sen. (Dr.) Machage:** Thank you, Mr. Speaker, Sir. As I second this Bill that is well thought out by the Mover, indeed on an issue that may have been taken for granted by many minds of this country, it is important to note the mischief as well articulated and pointed to on issues of the headquarters of counties.

Indeed, Mr. Speaker, Sir, just to continue the list of mischief, Governors intend to hire big offices in Nairobi and work from Nairobi as the headquarters of their counties. They have raised it up, they are even in the process of even hiring a big house and then they have all the work and pronouncements from Nairobi for the purposes of managing their counties. This is not acceptable. Indeed, Chapter 265 of our Kenyan laws, the 2012 Edition describes the County Government Act, but it only talks about county governments function, powers, county assemblies, electoral wards, county executive, decentralized units, county public service, county planning, *et cetera*. But it does not describe or identify the seat of the county power. The Constitution of Kenya, 2010, describes the centre of power of Kenya Government as Nairobi. It also describes the number and names of county governments, but falls short of actually describing the seats of power of the 47 county governments.

Mr. Speaker, Sir, this is the anomaly that the Mover of this Motion, Sen. (Dr.) Khalwale, has thought of wisely to have an annex to the County Governments Act that describes the actual places where the headquarters of county governments will be. In his elucidation of the names of the different headquarters, calling it a Third Schedule, you may have noted in number 17 that he has included Wote, which is not written on this paper. He has also included Mbale, number 38, which was not written on this paper and, maybe, described the controversy of the headquarters position in Migori, which is not there anymore. The Migori people have accepted; they have even identified an area in Lichota area as the area for building Migori County Headquarters within Migori Municipality. I will, therefore, request the Mover, because he is allowed by the Standing Orders of this House, to come up with an amended list that will show properly the names of the Third Schedule to include Wote and Mbale.

Mr. Speaker, Sir, it is important that these names are read and understood as will be written in this law. Because if you look at a county like Samburu, you cannot just imagine that a town in Samburu will be the headquarters without mentioning Maralal, because we also have Samburu in the Coast. So, just mentioning Samburu may make somebody to move to the Coast to look for the headquarters of Samburu; or some mad person may decide to build the headquarters of Samburu in Samburu, which is at the Coast! So, the law must be explicit and self-explanatory so that no mischievous person would try to move the headquarters once set. We also have the scenario of Thika, Kiambu, as has been seen so far; and many others are being planned.

Indeed, Mr. Speaker, Sir, I would encourage the county governments to also come up with their own by-laws to fix the headquarters of the sub-counties so that, again, nobody comes up with that mischief of trying to play around with the headquarters of the sub-counties, as is happening in very many areas, including Migori County where we have a problem with Ntitaru and Kegonga. A law has to be fixed at that level to very much describe the actual geographical location of headquarters of every described centre of power at the devolved units.

Mr. Speaker, Sir, without much ado, this is a simple Bill to understand and I need not take a lot of time on it.

Mr. Speaker, Sir, I beg to second.

*(Question proposed)*



**Sen. Kembi-Gitura:** Thank you, Mr. Speaker, Sir, for the opportunity. From the very outset, I wish to thank Sen. (Dr.) Khalwale for bringing out or thinking out this very important Bill because it is going to save us a lot of problems, heartaches and headaches going forward in the county matters.

Mr. Speaker, Sir, Section 6 of the Act that we are amending defines Nairobi as the Capital City of Kenya, and it clearly states that Nairobi shall be the place where the seat of the national Government and offices of diplomatic missions will be; and then it says that it is the centre of industry for this country. So, that one is clear and is very important so that, one day and until the law is changed, somebody does not then decide to move the seat of Government from Nairobi to another city.

Mr. Speaker, Sir, the importance of this Bill cannot be gainsaid because even as we are sitting here now, you will find that in some counties, some Governors have been mooted with the question of moving national days like Jamhuri Day through the county from town to town so that they can hold the national day at a town of their choice in the counties. I think this will be dangerous, and that is why even in Kenya, we have not had Jamhuri Day being moved from one big town to the next one just to satisfy Kenyans. That is why Section 6 of the Act that we are amending is so important because it defines the capital city of Kenya as Nairobi.

Mr. Speaker, Sir, I am also very happy that Sen. (Dr.) Khalwale has, in the Schedule, stated the seat of each county government. Before he moved the Motion, I was worried because when he talks about an urban area, it does not define anything at all. When he says that Murang'a County shall be based in Murang'a urban area, it says nothing because the urban area is defined at Section 4 of the Act, and it means "municipality or town." Then, if you go to Section 9, a municipality which the Governor has the power to confer in consultation with the National Assembly, is a place or a town with at least 200,000 people. Hardly any county in Kenya today apart from Nairobi, Mombasa and Kisumu – and maybe Eldoret and Nakuru – has a population near 200,000. So, none will qualify.

Mr. Speaker, Sir, Section 10 refers to townships and defines them as "a place with a minimum of 10,000 people." Again, just like Sen. (Dr.) Khalwale has said so clearly, a lot of counties do not have centres that have more than 10,000 people. Therefore, in his definition of urban areas, it would have ruled out a lot of counties from having properly defined urban centres, where the seat of power is going to be. So, I want to thank him for bringing out and proposing that it needs to be amended in that respect.

But, Mr. Speaker, Sir, there are some counties where we have more than one town which qualifies on all fours; like we have Kiambu, you go to Juja, Thika or to Kiambu Town or to Limuru. You will find that those are towns which could all qualify to be urban areas. Therefore, when you talk about Kiambu urban area, you do not give a definition that is definite and which can be followed. I noticed, of course, that he left out Number 14, Embu, when he was reading, and I hope that that is going to come out in the amendment so that Embu is not left out and so that Embu has its capital town in Embu Town.

Mr. Speaker, Sir, like Sen. (Dr.) Machage has said, this is a clear and straightforward Bill that must be applauded and, in my view, supported because of the clarity. But there is a point that Sen. (Dr.) Machage made that again needs to be underlined. He talked about sub-counties or what we used to call districts. Again, in each

of the sub-counties, we have the seat of the Assistant County Commissioner. The person with the power to designate any town is the Governor, but he or she has to consult with the county assembly. I think, again, it is important that we impress upon the county assemblies because now that cannot be our function. I do not believe that can be our function; it has to be the function of the county assembly to make a law that then defines what the headquarters of each sub-county or what we used to call districts are so that, again, there is absolutely no confusion.

Mr. Speaker, Sir, I want to thank Sen. (Dr.) Khalwale and support very strongly this Bill because it is going to reduce and remove confusion once and for all. But I only want to indicate that we must name the centre within which the Governor will be seated, unless and until the law is changed.

Mr. Speaker, Sir, I beg to support.

*(Applause)*

**Sen. Wamatangi:** Thank you, Mr. Speaker, Sir. I rise to support this Motion. This House has heard the name of my county; Kiambu County has come up several times in the course of these contributions of the Mover, Seconder and Sen. Kembi-Gitura. In Kiambu County, we have experienced first-hand what it means to have this confusion; the cost of it and the implications by and large.

Mr. Speaker, Sir, this may look like it is a small issue, but it is not a small issue. Since Independence, most of these towns which were then designated to be the headquarters of the counties have grown over a long time. Some of them date as far back as the Independence days of this county; and the import of that is that all along this time, the corresponding services and facilities that support county headquarters and the services it is supposed to offer to the citizens and to members of that county also grew along that county – from hospitals and other offices that support the services in a county – thus moving the county headquarters without proper planning or without that designation has a lot of implications.

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

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

Mr. Deputy Speaker Sir, the cost in terms of how much is spent to move a county headquarters from one town to another is almost prohibitive. For example, if I would give the example of my county of Kiambu. We were forced almost to start at square A to go and fabricate, renovate and sometimes even build some facilities which would support the new headquarters. All along, the County of Kiambu---

The headquarters of Kiambu County were strategically placed at Kiambu Town which is the centre of the county so that every Member of the county can access services at the headquarters irrespective of where they are coming from, creating a very important balance. Immediately that headquarters is moved from one point of the county to another, it causes undue advantage to other residents of the county.

I can imagine if we have an old woman in the county who wants a matter regarding a title deed to be settled, she has to make five trips to the county headquarters,

connecting twice or thrice, at times, to go to the county headquarters. That becomes not only inconveniencing but also prohibitive.

The second reason that I support this Bill is that it may not be obvious but it may also have political implications. In this country, we have counties that have different ethnic groups. We also have counties where we have different political persuasions. That means that they are from different regions. When a county headquarters is moved at the convenience of a sitting Governor, probably to an area that he deems to be his stronghold, that can boil down to a serious political confrontation. To nip these problems in the bud, it is important that this issue be legislated upon so that we know where the county headquarters should be placed.

Finally, because of certainty in planning, in future, as we send monies to the counties, we should be sure that all the spending will be done with surety and that it will not go to waste. When another Governor comes in place, he may decide to move that headquarters where a lot of investment has been done.

With those many reasons, I support.

**Sen. (Prof.) Lonyangapuo:** Thank you, Mr. Deputy Speaker, Sir, for giving me this opportunity to support this Bill. I also join my colleagues in thanking Sen. Khalwale for coming up with this Bill so that proper address and location of county headquarters are known by law. I recall that at the beginning of the year, 2011, the then Ministry of Public Works, where I and Sen. Obure worked together, came up with a similar version, with the blessing of the national Government. The identity of the county headquarters was supposed to be done for which two things would be done. The county assembly premises of every county were supposed to be built by the national Government in preparation for a time when there would be county assemblies in place. There were also supposed to be a county headquarters where the Governors would sit and his Executive. This was supposed to be done by the national Government. The national officials in the Ministry of Housing and Public Works were supposed to drive this. The idea behind that was that we needed to have a county assembly that was a mini version of the Parliament that is here in Nairobi. Today, if you go to all our counties, you will see different versions and shapes of the county assemblies because we did not do what we were supposed to have done.

Two, you will also note with a lot of concern what the Governors are now doing. They are spending the money that is supposed to be used for development to come up with infrastructure or buildings for themselves and for their officers. Some have gone further to buy luxurious homes, like the one we saw the other day in Kilifi. Instead of spending money to touch the lives of people, he is thinking about himself.

I find it strange the way Kenyans work. When the Government gave money to the Ministry of Public Works, we went round and came up with the prototypes of what was supposed to be done. We assembled the old county councils and the municipal county councils so that they could be reshaped. Funds were set aside and benchmarking was done in some of the countries in the world which have county governments in place. However, at the time of giving out this money, the civil society erupted and some of the Commissions told us that we should not go ahead to identify places since no governors were in place. They have now stopped talking because of the scenarios that have emerged. The money that was supposed to bring water, electricity and improve the education systems in our counties is now being used for other things.

We learned with concern that Taita Taveta wanted to identify the middle of Taita Taveta to have its headquarters there. Tharaka-Nithi went a notch higher and said that it had to measure the middle ground between the Tharaka people and the Nithi people so that none of their land goes elsewhere. We heard things we had not heard about before. Sen. G.G. Kariuki is here. He knows that we had an Assistant Minister, hon. Kiunjuri, who did not want Nanyuki to be the headquarters of his county. Some wanted the headquarters in Muthara while some wanted Rumuruti. There was trouble there. Baringo County did not want Kabarnet. They wanted Marigat and politics were in play. People were saying that whoever won to bring the headquarters nearest to their homes would get more votes.

We are now discussing this at the right time. We should identify, appropriately where these headquarters should be. I know that Sen. G.G. Kariuki has not also made up his mind about Nanyuki. We need to think about provision of services. The services are already close to some urban areas. It is very expensive to attempt to think that we can build other headquarters. For example, in Kapenguria, we have some places where there is tarmac, water and other amenities. If we attempt to go further in the bush, a lot of money will be spent.

As we put this in place, we should also start thinking about the original plan of devolution. When we are devolving, we are supposed to be devolving a version of Nairobi Headquarters to the counties. How does the Governor, for instance, of Kisumu, West Pokot or Turkana have buildings which are totality different from others? The situation seems as if we did not plan. It now depends on who can support the other one.

I fully support this idea. As we go into this idea, we should ask Governors to see that land that is set aside in urban areas is properly planned. I have seen some of the county governments planting buildings at every space that is supposed to be utilized in future for other projects. It would be easier to come up with a storied building than planting several buildings where the headquarters for the Ministry of Agriculture is different from the one of Ministry of Lands.

I support Sen. Khalwale and support this Motion fully.

**Sen. Orenge:** Thank you Mr. Deputy Speaker. I also rise to congratulate Sen. Khalwale for coming up with these ideas fast and quick. The imperial China has changed its capital many times in its many years of existence. The capital kept on changing depending on the ruler, the dynasty and those who have read China's history know that in certain instances, complaints have arisen as to why the seat of Government is at one particular place.

As I support this Bill, I do not think that it is the intention of Dr. Khalwale not to amend what is contained in the Schedule. What is contained there can be amended if we have a better idea. The main objective is to ensure that in every county government, the headquarters is well known. If you transact business with any county government, you should know where they are operating from. That is why when you register a company; you are required to demonstrate where the offices of the company are. If there are any changes, a notice has to come.

For Siaya, I am happy that the seat of government will be in Siaya. Before the establishment of the larger Siaya District, the seat of the county council was in a town known as Ukwala but had to be moved to Siaya for very good reasons. If this is left open, we will not have any stability.

In Rarieda, for a long time, there has been a problem of where the headquarters should be. You have said that county assemblies should decide where the seat of the county government will be. What Sen. Khalwale is trying to do is more. Once you know where the seat of Government is, then you will begin to plan and to build the infrastructure. The heart of every country is the Capital. Having been told where the capital of every county is and if you go there and find that it is not properly done and you do not also see the offices of the Government because they are mixed up, what Sen. Khalwale is trying to do may be compromised. If this Bill becomes law, I will hope that in Siaya we will have an avenue where major Government buildings will be constructed since there is space. This is not an urban area with many constructions going on. So, without saying much, this is a Bill which has come at the right time and early enough. This is because if we left it up to probably the end of the tenure of this Senate, other counties may have made decisions which may compromise what we are trying to do.

Mr. Deputy Speaker, Sir, I congratulate Sen. Khalwale also for having done some homework, because in some of these areas you are never too sure where the capitals of the county governments should be. But I think that he has listened to the people in various areas, for example, in Kiambu where there was controversy. He has decided in this Bill to put the seat of Government where the people of Kiambu want it to be and where it is most convenient. So, we would have had a problem with this Bill if the designated location of county governments would be a matter that he just did without some homework and research. I have tried to go through the list and think of any other area where there maybe problems about where the seat of Government should be, except the two that he mentioned. One is Vihiga and other one is Makueni.

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

**Sen. Elachi:** Mr. Deputy Speaker, Sir, I rise to support and thank my Senator. Indeed, it is one year down the line for the county governments. You will realize that if it was not even for the Ligale Report, we would have more than 30 counties fighting about whether the headquarters of their county governments should be, because of how the Governors look at it.

Mr. Deputy Speaker, Sir, I know that we will have different arguments. Some people might ask whether it is a must for the county governments to sit with the county assemblies in one town. But the most important thing is that the citizens of those counties should appreciate that if they want sanity and cohesion, then they should stay and work together. I will give an example of Taita Taveta. At the moment I know that they still have a challenge in terms of agreeing with the Governor. The Governor has decided to have the headquarters of the county government somewhere even more remote than what was decided earlier on. Therefore, they have more conflict than even what was there before.

Mr. Deputy Speaker, Sir, by the time the Ligale Commission was agreeing on this, there was wider participation. Indeed, there are people who said that they had never worked with a particular clan and wondered how they could come together. This Bill will bring them a sense of unity. They will know that they can sit together and agree. But we also need to look at counties with no infrastructure, for example, Nyandarua. But the Governors should not take advantage of this and misappropriate money. The Treasury will allow counties that do not have offices or are renting, to budget and start building their own offices.

Mr. Deputy Speaker, Sir, as the Mover said, it is important to talk to the county assemblies. I know that they have passed their laws, but it is also important for them to support and agree to this initiative. This will ensure that when we finish, some people will not use the county assemblies to challenge the same. So, it is important to have that agreement as we move on. I know that the Senator for Laikipia is not very happy about this, but it is important that we go back to the county assemblies and say: "This is what we are proposing. What do you feel?" This will ensure that by the time we finalize with the Bill, we will have also done our own wider participation in agreeing on the same.

Mr. Deputy Speaker, Sir, some Governors are handling matters in a very casual manner. They forget that we are building a foundation for the future and many years to come. Therefore, when a Governor transfers his government to another town, because they feel that, that is where they are comfortable, they should ask themselves: "What will happen to somebody, for example in Kiambu County, who lives in Ndeiya, which is next to Kajiado or Kijabe?" He or she has to walk all the way to Thika for services. As we look at this, as the Senate, we should consider places where there is infrastructure. Somebody should be able to take a *matatu* or ride a bicycle to the county headquarters to get services. The headquarters should be in a central place. For example, I should not travel to Malava if I have a petition to present in the county assembly and then go to Kakamega for services. These are some of the things that we are trying to avoid. If I have any problem with my Governor, I should just walk across, meet the Members of the County Assembly and tell them: "Look here. I have this challenge and need you to help me."

Mr. Deputy Speaker, Sir, the laws that we pass will help the people that we serve. Therefore, as we bring Bills, let us know that it is for the wider good of the majority of Kenyans. We should continue ensuring wider participation. Many of the counties may have questions, but we should give advice on why we thought and felt that those were the best locations for the headquarters of those counties.

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

**Sen. Ndiema:** Thank you, Mr. Deputy Speaker, Sir. First, I want to thank Sen. Khalwale for this idea, which really seeks to fix the legal headquarters of every county. This is timely and it will serve to do away with so many controversies.

Mr. Deputy Speaker, Sir, for Trans Nzoia County, Kitale is acceptable to the residents and I have no problem with that. But I think that there is need to do further consultation, because the Constitution says that there should be consultation with the affected people. The residents of the counties should be consulted widely, so that they concur on any headquarters that are agreed upon. We should not look like we are forcing them to accept the current headquarters as they are, because this is the opportunity for them, under the new Constitution, to decide how and where they will fit. There could be challenges with the current headquarters. Some of them may not have land, some were just market centres which have grown and there is no space to even put up structures. If a county can find land that is big enough to start their own Abuja, why not let them do it?

Mr. Deputy Speaker, Sir, I agree that in some counties the headquarters are centrally placed, but that may not be the case in other counties. If the people feel that for better services there is a more central place to relocate to and they all agree, why should we not allow them to do that? We should not be afraid to start new townships. For better planning, in the Act that establishes the urban centres and municipalities, a criteria has

been placed that there should be 250,000 people to qualify for municipality status. I do not support the idea. We should be forward looking and plan a centre to be a municipality right from the beginning. This is because if we wait for a centre to attain the requisite population and it was not planned to be a municipality--- Some of them are overcrowded. You cannot construct new roads because the reserves were too small.

Mr. Deputy Speaker, Sir, I note that this Bill also does not provide for any change or future. If there is any possibility of a county wanting to change its headquarters, it should be provided for, so that we do not seem to be fixing it forever. We should approach this issue very carefully, so that we do not pass this Bill and the county assemblies, in their own way, pass a contrary decision. We shall be putting ourselves in a situation where we do not know who is now the decision maker. Will it be the county assembly or us? This is a matter that we need to consult even at the county level, so that a decision that is acceptable is arrived at, so that when we pass this legislation, it will be final and acceptable.

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

**Sen. G.G. Kariuki:** Mr. Deputy Speaker, Sir, first of all, I would like to thank Sen. (Dr.) Khalwale for coming up with this Bill. He thought that it should become law which we all agree and support the idea. There are other things which I do not think my friend took into account. During the elections – I am sure Members of the Opposition and the Government side had made some pledges to their people. There are areas you cannot change the headquarters because of the facilities and many other economic reasons. There are some areas which I thought the county governments and their county assemblies need to be given time to decide. My opinion is that this Bill should not be passed today because it has not come with a resolution of the county governments. That resolution should say that the county governments have decided that the following places will be their headquarters because they will have a lot of reasons. We cannot just sit here and determine these issues because we are Senators or we have been given the opportunity by the law to do this. I think we need to be very reasonable when we are dealing with matters of this nature because there are areas where the Senators will have a lot of problems. What will happen if the Senate passes this Bill into law and then they also pass a resolution in county assemblies to disagree?

**The Senate Minority Leader** (Sen. Wetangula): Theirs is invalid.

**Sen. G.G. Kariuki:** It cannot be invalid. I am not talking as a lawyer here. My friend can continue arguing because we know about lawyers.

**The Senate Minority Leader** (Sen. Wetangula): But you have not been---

**The Deputy Speaker** (Sen. Kembi-Gitura): Order! For the benefit of the House, let me say again that I will not entertain altercations across the Floor of the House. You should address the Chair or rise on a point of order, but please do not altercation across the Floor.

**Sen. G.G. Kairuki:** Thank you very much, Mr. Deputy Speaker, Sir. I am saying that I am very much aware of the authority of the Senators and I am also very much aware about our responsibilities to the people of this country. Let us not forget that we have 47 county governments and they are provided and protected by the same Constitution which is protecting this Senate. Therefore, my appeal---

**Sen. (Dr.) Khalwale:** On a point of order, Mr. Speaker, Sir. Because the Sen. G.G. is supporting me, I am so reluctant to rise on a point of order.

**The Deputy Speaker** (Sen. Kembi-Gitura): He is not supporting you. He is supporting the Bill.

**Sen. (Dr.) Khalwale:** Yes, Mr. Deputy Speaker, Sir. I would like to confirm to the Member that what he is saying is not true. The hierarchy of laws is such that the Constitution is at the top and that the National Assembly then follow and these other ones are below those levels. Therefore whatever will be decided will not in any way overwrite what we decide here.

**The Deputy Speaker** (Sen. Kembi-Gitura): What are you quoting?

**Sen. (Dr.) Khalwale:** Mr. Deputy Speaker, Sir, with many years of experience in law making---

**The Deputy Speaker** (Sen. Kembi-Gitura): Order! Do not throw experience at us because we have very experienced people. What law are you quoting, for the record of the HANSARD?

**Sen. (Dr.) Khalwale:** Mr. Deputy Speaker, Sir, that is my understanding of the hierarchy of laws and if I am wrong, I will be corrected up to and including yourself.

**Sen. Haji:** On a point of order, Mr. Deputy Speaker, Sir.

**The Deputy Speaker** (Sen. Kembi-Gitura): Could the time for Sen. G.G. Kariuki be held?

**Sen. Haji:** Mr. Deputy Speaker, Sir, I will not take a lot of time, but I think Khalwale cannot get away for referring to the Constitution. The Constitution also can be changed. It is not a Bible.

**The Senate Minority Leader** (Sen. Wetangula): On a point of order, Mr. Deputy Speaker, Sir. Is it in order for the distinguished Senator for Garissa County to just make a casual reference at the distinguished Senator for Kakamega as Khalwale?

**The Deputy Speaker** (Sen. Kembi-Gitura): Did you that Sen. Haji?

**The Senate Minority Leader** (Sen. Wetangula): That is what he did!

**The Deputy Speaker** (Sen. Kembi-Gitura): You must refer to him as Sen. (Dr.) Khalwale.

**Sen. Haji:** Mr. Deputy Speaker, Sir, I will refer to him as His Excellency, Sen. (Dr.) Khalwale!

**Sen. (Dr.) Khalwale:** Mr. Deputy Speaker, Sir, may I respond to the point of order raised by Sen. Haji? But before I do that, I am not His Excellency; I am Sen. (Dr.) Bonny Khalwale of Kakamega County. I would like to draw the attention of the House to Article No.191 of the Constitution of Kenya which speaks to the conflict of laws. Article 191 (1) states as follows:-

“That this Article applies to conflicts between national and county legislations in respect of matters falling within concurrent jurisdiction of both levels of Government”.

If you go to (2), it then clearly says:-

“National legislation prevails over county legislation”.

**The Deputy Speaker** (Sen. Kembi-Gitura): Can you, please, finish reading that?

**Sen. (Dr.) Khalwale:** Mr. Deputy Speaker, Sir, it reads:-

(2) National legislation prevails over county legislation if –

(a) the national legislation applies uniformly throughout Kenya and any of the conditions specified in Clause (3) is satisfied; or



(b) the national legislation is aimed at preventing unreasonable action by a county that –

(i) is prejudicial to the economic, health or security interest of Kenya or another county; or

(ii) impedes the implementation of the national economic policy.

(3) The following are the conditions referred to in clause (2) (a) –

(a) the national legislation provides for a matter that cannot be regulated effectively by legislation enacted by individual counties;

(b) the national legislation provides for a matter that, to be dealt with effectively requires uniformity across the nation and the national legislation provides that uniformity by establishing –

(i) norms and standards; or

(ii) national policies; or

**The Deputy Speaker** (Sen. Kembi-Gitura): I wanted you to read it so that it is very clear, so that anybody thinking what you are saying, it is not enough for you, Sen. (Dr.) Khalwale, to quote your experience because there are Senators here who are more experienced than you are. I am sure you know that. Again, in matters of law, even very experienced people can make a mistake but now you have read the Constitution and that is important. Anybody reading the HANSARD will understand where you are coming from when you say that national legislation cannot conflict with county legislation if it is a uniform law across the nation. It is so important.

**Sen. (Dr.) Khalwale:** I am so guided, Mr. Deputy Speaker, Sir. Most obliged.

**The Deputy Speaker** (Sen. Kembi-Gitura): Thank you. Sen. G.G. Kariuki may go on.

**Sen. G.G. Kariuki:** Mr. Deputy Speaker, Sir, I hope I will be added some time because I was not given enough opportunity by the Mover of the Bill to explain or to express my concern about this matter. To some of us, this matter is so grave that it needs to be left to the people who are supposed to deal with it. There is no harm in waiting to get the county governments to address this House through the Clerk of the Senate to say what resolutions they have passed. In fact, Laikipia County has already done that. This needed to be done, because it will be very difficult for Sen. (Dr.) Khalwale or this Senate to understand the mind of Samburu County without understanding the politics in the county. This is a very highly political matter in some areas.

There are some areas like Bungoma, for example, where there should be no interference because they have already agreed but there are some areas that they have not agreed and in fact, it was a contentious issue during the elections. There were questions raised like, where are you going after we have elected you? Where is our headquarters going to be? This is a very serious matter but it can be taken lightly because some of us feel that we are more superior than the county assemblies or the county governments. I agree and you do not even need to read the Constitution to say this. It is very clear that no law shall conflict with the Constitution; always the Constitution will be supreme and we all understand this. The purpose of being a Senator is to make sure that we send harmony from this House and not confusion to the people of Kenya. We should tell the people of Kenya that they have the authority and the freedom to decide and to determine where they want their areas to be. That way, we will appear very responsible. Nothing has stopped the county assemblies from doing their normal business because of this law. If

the Mover would have agreed, I would have suggested that we suspend this Bill until we get the support of some kind or the wishes of the people who we are here for. We cannot therefore use our power and authority without consultation and do whatever we think is right for others.

Mr. Speaker, Sir, I have put forward my case, and I hope the Senate will think twice and consider whether this matter is as simple as we think. In some areas like Machakos and Nyandarua, there are no issues but in Laikipia, there are issues just like many other places because they want to know where they will be headquartered. This matter will see some of the Governors out of their offices in the next elections. It would also be very good if a Senator loses his seat in an election because of this issue. I want to appeal to this House to let the people decide where they want their headquarters to be.

Thank you.

**The Senate Minority Leader** (Sen. Wetangula): Mr. Speaker, Sir, I will start where the distinguished Senator for Laikipia left. I support the Bill. In doing so, I want to encourage that elected Senators that represent their delegations to this Senate have a duty when a Bill like this comes to go back to their counties and speak with the stakeholders if they so wish and then by the time we go to Committee Stage, we have the liberty to bring amendments. I am sure we are not concluding debate on this Bill today or next week. It will be on this Table for the next couple of weeks and it is always open to amendment at the Committee Stage.

This is a very important Bill. Those of us who look at the history, starting with African continent, apart from Nigeria, Tanzania and Malawi where the governments of the day under Mwalimu Nyerere, Gen. Gowon and under Banda decided with the consensus of the nation to have new headquarters in Abuja, Lilongwe and Dodoma. We also have had extreme absurdities. You remember Gen. Mobutu Seseseko of Congo removed the headquarters from Kinshasa and took it to the forest where he was born; a place called Legabolite. Since he was chased away from power, it is now a ghost town. In Cote de Voire, President Houphouet Boigny in what the French call total *megalomania* took the headquarters from Abidjan to Yamoussoukro where he was born and built an opulence which Prof. Ali Mazrui said: "This is a ghost town". In ordinary usage of language, a ghost town is a place where people have left. But this particular ghost town is a place where people have not yet arrived!

*(Laughter)*

We are trying to prevent those kinds of things. You have seen the excesses with our own Governors; the Governor of Kiambu is a glaring example. He just wakes up and says "the headquarters of Kiambu County will be in Thika". Why? Because he was a Member of Parliament (MP) representing Thika; when everybody knows that Kiambu is the natural headquarters of Kiambu County! There are many other examples that we can cite.

Mr. Deputy Speaker, Sir, we are discharging a very important function in passing this Bill; one, by preventing future conflicts; and, two, by settling matters once and for all. I have seen in some counties where Governors are dismantling the headquarters of their counties. You will find his office is in one town and he is busy building a mansion 50 kilometres away in another town. This is wastage that we can ill afford. So, what I want to encourage – I heard the sentiments of my good friend, Sen. Henry ole Ndiema

and Sen. G.G. Kariuki; they are legitimate and valid – that we can bring changes to this Bill because a good idea will always give way to a better idea, especially in terms of counties that have challenges like Taita Taveta, Laikipia and one or two others.

But, Mr. Deputy Speaker, Sir, what we are trying to do is, in fact, to settle once and for all possibilities of future conflicts so that, tomorrow, you do not have, for example, a county that has a lot of strong municipal centres or headquarters moving depending on who is the Governor and where he comes from; and this can happen. So, this Bill is so critical in protecting the resources of the counties and in curbing the behavior of Governors who will engage in unhelpful wastage. What will prevent the Governor of Kajiado, for example, in feeling tempted that because Kitengela is a much more vibrant city than Kajiado, to move the headquarters to Kitengela because that is where the goodies are? What will prevent the Governor of Kilifi to be tempted to think that because Mtwapa is now more vibrant and closer to the airport in Mombasa, to move his headquarters from Kilifi to Mtwapa? These are the things we are trying to prevent so that people do not just wake up one morning and make irrational, individual and selfish decisions that affect counties. This is what we want. I can say the same of Nakuru, where the good lady comes from. The Governor can wake up one morning and say that Naivasha has got a vibrant floriculture, a fresh water lake as opposed to Lake Nakuru, which is salty; so, let us move to Naivasha. This discretion should never be left to one individual, and that is why we are insulating and ring fencing the interests of the counties and the people of this country.

Mr. Deputy Speaker, Sir, there is also the usual temptation in this country – and we have seen it being obscenely done at national Government and now we are seeing it at county governments – where when people want to steal money, they embark on buildings; let us build this, and 50 per cent is buildings; let us build this, 30 per cent is building. This is money that we want to go to change the lives of Kenyans, not to put in brick and mortar for the opulence and megalomaniac behavior of individuals. This is what---

**An hon. Senator:** *Kusema na kutenda!*

**The Senate Minority Leader** (Sen. Wetangula): Yes, *Kusema na kutenda!*

*(Laughter)*

Mr. Deputy Speaker, Sir, this is what this Bill seek out to do. I really want to encourage--- For my brother, Sen. G.G. Kariuki, should you need us to work together to carry out an amendment to meet the aspirations of the people of Laikipia, we are available to work together because we cannot, out of 47 counties that we are trying to help, pull down the entire Bill because of one county. It will not be a good thing. Law, like all laws, are not cast in stone. In future, anybody who feels that this change is desirable, come back and we will allow you to change it and do what you want.

In fact, Mr. Deputy Speaker, Sir, I want to encourage that in future, those of us who have been good at drawing Bills and bringing them here – like Sen (Dr.) Khalwale and others – we also need to now bring a Bill that conditions county governments to embrace planning. Most of our towns in the rural areas are just growing as slums; there is no planning, there is no sewerage, there is no industrial park, there is no recreation park; there is nothing! Everybody just wakes up and builds whatever he wants anywhere. We

must condition these county governments that planning becomes the central and cardinal responsibility that they must embrace in the growth of any urban centres. You may recall that currently, they are busy setting up boards for running towns that were former municipalities, townships and so on. Those boards should not just go there and sit there like former councillors and struggle over who steals which plot which day; but they must go there, embrace planning and make sure---

Mr. Deputy Speaker, Sir, I know you and everybody else travels a lot; if you go to Europe or to America, even a small town with 2,000 people is so well planned and you are told that in another 50 years, if this town grows, this is how it will look like. We cannot just let anybody with land around a municipality to just wake up, subdivide it and create a slum. The next day, another one subdivides his land and creates another slum. With slums comes all manner of vices, for example, this alcohol that is killing people – is it called “Countryman” – *kumikumi* and the others; soaring crime, no services and so on, and so forth. So, we must condition planning.

Mr. Deputy Speaker, Sir, I support this Bill and I urge that we all support it and congratulate Sen. (Dr.) Khalwale for a job well done.

Thank you, Mr. Deputy Speaker, Sir.

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

**Sen. Haji:** Thank you very much, Mr. Deputy Speaker, Sir. It will be recalled that yesterday, I really came all out to defend Governors because I believe that sending Governors out of office left and right may not help devolution that we have been craving for. I agree with the “Senator for Kilgoris” about his concern on the behavior of Governors. Truly, some of the Governors are doing things that cannot be allowed---

**The Deputy Speaker** (Sen. Kembi-Gitura): Sen. Yusuf Haji, who is the Senator for Kilgoris?

**Sen. Haji:** It is the Senator for Migori; I am sorry.

*(Laughter)*

Mr. Deputy Speaker, Sir, you will agree with me that when we were in Germany, we were told that some Governors had sent ambassadors to represent them there. The Federal Republic of Germany was asking: “Was this a new Government? They were also asking: “Where is this Government from?”

*(Laughter)*

When they were told that they were from Kenya, they were told “Go back to Kenya.” So, these are some of the behaviours that we cannot allow.

But at the same time, Mr. Deputy Speaker, Sir, if we have all voted for the new Constitution to give us the devolution that we have been asking for, and this devolution has been given now, we should allow devolution to work and do its work instead of the Senate or any other House for that matter deciding matters that they can decide for themselves. I know that some of the Speakers have been supporting this Bill. I personally will not support it as a matter of principle, because what we are trying to do here is to put the horse in front of the cart. We cannot decide for the people in the county as to what they want---

**The Senate Minority Leader** (Sen. Wetangula): On a point of order, Mr. Deputy Speaker, Sir.

**The Deputy Speaker** (Sen. Kembi-Gitura): What is it, Sen. Wetangula?

**The Senate Minority Leader** (Sen. Wetangula): Mr. Deputy Speaker, Sir, did you hear what the distinguished Senator said that we put the horse in front of the cart? Is the horse not always in front of the cart?

*(Laughter)*

**Sen. Haji:** Mr. Deputy Speaker, Sir, that is very trivial, because if I had a slip of the tongue--- I meant what you have said, okay?

*(Laughter)*

So, that is what I am opposing; I am opposing the Senate deciding for the people of the counties as to where they want their headquarters to be. As my brother, Sen. Wetangula, was narrating, we know that it is very expensive to relocate county headquarters and it might not be possible. Even the cases of Dodoma and Dar-es-Salam, up to today, it is headquarters by name; it is only the House of the National Assembly which is there, but all the Government departments are operating from Dar-es-Salam. The same thing is happening in Nigeria.

Mr. Deputy Speaker, Sir, on that note, I support and I disagree that Governors cannot just wake up in the morning and say they are going to relocate their headquarters.

**An hon. Senator:** Kiambu!

**Sen. Haji:** I do not want to mention any county; I am talking generally. Any Governor should not be allowed to do this and they cannot get away with it. They must refer everything to the people of the county, and it is the people of the county who can decide whether it is appropriate for them to change their headquarters and whether it is economically viable to do that. Some of the things these Governors are doing are totally wrong. I do not think there has been a referendum or even public participation in Kiambu or any other place to decide where they will want their county headquarters to be.

Mr. Deputy Speaker, Sir, I, therefore, stand to oppose and say that we cannot, on one hand say we want devolution and, on another hand, we start demolishing devolution.

Thank you, Mr. Deputy Speaker, Sir.

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

**Sen. Muthama:** Bw. Naibu Spika, leo tumezungumza sana. Leo nasimama kuunga mkono Mswada wa Boni Khalwale. Viongozi ambao wanaongoza watu huwa wanawapeleka watu wao mahali wanapofaa kupelekwa. Watu hawafai kuwaambia viongozi vile wanavyotaka kufanya. Mambo yakiwa hivyo, watu wataanza kuuza chang'aa.

**Sen. Haji:** On a point of order, Mr. Deputy Speaker, Sir. Is Sen. Muthama in order to say that leaders should not be consulting members of the public to know what they want? We have to find out from people what exactly they need.

**Sen. Muthama:** Bw. Naibu Spika, nimesema viongozi wanafaa kuongoza watu wakiwaelekeza mahali wanapofaa kuenda. Sijasema eti hawafai kuwauliza. Hata wakiwa kwa njia, wananchi wanaweza kuuliza ni wapi wanapopelekwa na kiongozi ana haki ya

kuwaambia; ninawapeleka mahali mnastahili kuwa. Hakuna mtu anazuiliwa kuuliza swali.

Tumekuwa na viongozi ambao hawafanyi bajeti. Pia, hawafanyi hesabu vizuri. Wanatumbukizia wananchi mambo ambayo wanataka yawafurahishe watu wao. Tumeshuhudia mambo mengi. Tusiposimama kama Seneti ambalo lina jukumu la kuingoza nchi, hatutaweza kuyalainisha mambo na kuyaweka vile yanatakiwa kuwa. Ni lazima tuongoze kwa kusema mambo ambayo yanastahili.

Bw. Naibu Spika, hivi karibuni, tulikuwa pamoja kule Berlin. Nchi ya Ujerumani iko mbele katika maendeleo na asilimia nyingi mno mbele ya nchi yetu. Tunavyozungumza sasa, mambo yanayoendelea Munich na yale yanayoendelea Frankfurt hayafanani. Uchumi wa Berlin pia hauwezi kufananishwa na jiji zingine. Jiji la Berlin ndio makao makuu ya nchi ya Ujerumani.

Dodoma ilistahili kuwa jiji kuu la Tanzania kwa maneno lakini marehemu Nyerere angekuwa hai, kwa vile alikuwa msema kweli, angesema, hata kama hakukosea, alikuwa karibu kukosea. Dodoma, hata leo, bali na kuwa na Bunge la Kitaifa, hakuna kitu kingine ambacho huendelea huko. Wananchi wa Tanzania hutembea sana kutoka sehemu kama vile Dar es Salaam, Moshi na Arusha kuenda Dodoma lakini jiji hilo bado liko chini.

Nilikuwa Abuja hivi karibuni. Ukimuuliza Mnaijeria sababu ambayo inayoweza kufanya aende Abuja, atakwambia yeye huenda Abuja kumuona Waziri wake lakini hana sababu nyingine ya kuenda huko.

Tuseme ukweli hapa. Magavana wengine wetu wamekosea katika mambo mengi. Mimi ni mwekezaji katika eneo la Taita Taveta. Ukiangalia mahali ambapo gari hukuweka, utashangaa sana kwa sababu mji ambao ulio karibu na hapo, ambao uko 260 kilomita ni Mwatate. Mji mwingine ulio karibu ni Wundanyi ambao uko 85 kilomita.

Kuna marumbano ambayo hatujaona huko Taita Taveta. Wajumbe na MCAs wamegawanyika. Gavana anataka kuhamisha makao makuu ya kaunti mahali panapoitwa Mugeni. Mugeni ni 115 kilomita. Kwa sababu yeye ameamua, kuna shida. Hata tukipitisha Mswada huu, hiyo haizuii watu kubadilisha nia wakiona shida. Hayo ni mambo ambayo yanaweza kuzungumzwa na wananchi. Tunafaa kufanya mambo kwa heshima na adabu na tupunguze ndoto za wale watakuwa magavana na kutumia pesa vibaya wakijenga makao ya kaunti mahali wanapotaka. Tunafaa kukataa mambo ambayo yatachangia magavana kutumia vibaya pesa za kaunti.

Katika kaunti yangu, Mavoko hutoa mchango mkubwa wa kodi ambayo hukusanywa kila mwezi. Kuna kiongozi mmoja aliyekuwa akitaka makao makuu ya Kaunti ya Machakos yapelekwe Mavoko. Ukiwa Mavoko, unakuwa karibu sana na Nairobi. Mtu ambaye anatoka Masinga na sehemu nyingine za ukambani atakuwa akija hadi Mavoko kutafuta huduma? Haya ni mambo ambayo sisi kama viongozi tunafaa tuyaangalie. Kama shida hii iko katika kaunti moja ama mbili, tunaweza kutatua shida hiyo ili tulinde rasimili ya Serikali na wananchi wa Kenya. Tunafaa kupitisha Mswada ambao unasema Gavana hawezi kuhamisha makao makuu ya kaunti hadi sehemu yoyote. Hiyo italeti heshima na adabu.

**Sen. Chelule:** Thank you, Mr. Deputy Speaker, Sir. I also thank Sen. Khalwale for bringing this Bill. Before I do this, I need to seek a clarification with regard to what we said that laws made by Parliament supersede county government laws. This is a matter that concerns counties and in my view, there is nothing wrong in getting views

from the citizens of a particular county on where they want their headquarters to be. I am saying this because recently, Sen. Zani brought a Bill regarding mining. We decided, as a Committee, to go round the country to seek views from the people on how they thought it was best to share the resources found in mining. It is a very important issue and there are some things that need to be considered before we decide where exactly the headquarters should be. For example, in Nakuru, we used to have a municipal council and county council. So, before it is decided that the headquarters will be in a particular place, we need to get views from the citizens of that particular county. Is it wrong to get views of a particular county? It is a very good idea for Sen. Khalwale to come up with this Bill, because we need to know our headquarters, but what is wrong in seeking the views of particular counties?

**The Senate Minority Leader** (Sen. Wetangula): On a point of information, Mr. Deputy Speaker, Sir.

**Sen. Chelule:** Mr. Deputy Speaker, Sir, I can be informed.

**The Senate Minority Leader** (Sen. Wetangula): Mr. Deputy Speaker, Sir, if I may be allowed to inform the distinguished Senator, one, the Constitution says that the hierarchy of laws is the Constitution; laws passed by Parliament, which is the Senate and the National Assembly and then laws passed by the county assembly. So, the superiority runs in that order.

Mr. Deputy Speaker, Sir, secondly, it is not the building where the headquarters will be located, but the geographical position in the county that is being talked about. Lastly, the 47 counties were arrived at in looking at the districts that existed as at 1992, regardless. That is why we have Tharaka-Nithi with two constituencies, Nairobi with 17, Kiambu with 12, Bungoma with 9, Kakamega with 13 and so on. It was a capping point and each of those had a headquarters. So, we should not allow a Governor, because he was elected, to arbitrarily move that headquarters to wherever he wants. This is what this law is trying to help the country.

*(Applause)*

**Sen. Chelule:** Mr. Deputy Speaker, Sir, I am not yet convinced. We are not leaving this issue to the Governor alone. When we talk of a Governor, we are talking about the Governor and the people of that particular county. So, the people of that county should be consulted, so that we get their views regarding the location of their county headquarters.

Mr. Deputy Speaker, Sir, with those few remarks, I oppose.

**The Deputy Speaker** (Sen. Kembi-Gitura): Sen. Chelule, I do not understand you. Just before you sit down, are you seeking a clarification?

**Sen. Chelule:** Mr. Deputy Speaker, Sir, I was not convinced by what Sen. Wetangula said. It is a good idea, but what is wrong with getting views from that particular county?

**The Deputy Speaker** (Sen. Kembi-Gitura): Sen. Chelule, we are not seeking an opinion or clarification from you or anybody else. You are contributing to a Bill and it is your right to support or oppose it. You do not have to agree with anybody. You are following your conscience and belief. So, if you say that you are seeking my clarification, I cannot give any clarification, because I have none. The Bill is in front of you and you

allowed Sen. Wetangula to inform you. I do not know if that was even of help to you. But it is up to you really to give your contribution to the debate and then, make your conclusion whether or not you support it.

**Sen. Chelule:** Mr. Deputy Speaker, Sir, I have made my contribution and oppose the Bill.

**Sen. Sijeny:** Thank you very much, Mr. Deputy Speaker, Sir, for giving me the opportunity. I wish to support this Bill and thank Sen. Khalwale for having thought through it. I thank him also for having given Kenyans from all the 47 counties the opportunity to think about it. I am aware that they still have an opportunity to raise issues should they find it that they do not support any of these proposals, even though I know that there are already existing structures.

Mr. Deputy Speaker, Sir, the reason I support this Bill is because it brings clarity and with clarity comes proper planning. Proper planning is really beneficial in terms of not only looking beautiful, but it also helps people reduce wastage. You cannot waste a lot of resources building. For example, if in the next general elections in 2017, I contest to be the Governor of Siaya and decide to relocate the headquarters of the county government from Siaya Town to Got Asimbo, which is near my home, that would be a waste of resources. This is because come the next elections, there will be another Governor and Got Asimbo is not geographically suitable to set up as the headquarters of the County Government of Siaya.

Mr. Deputy Speaker, Sir, this Bill will ensure that such mischief is avoided, so that should any particular residents of whichever county feel that they need to change anything because the county has overgrown--- For example, if the people of Kiambu feel that Kiambu Town has overgrown and they need more space and Thika Town is growing fast, then they should be involved. They should debate it. We are so proud of this Constitution because we own it. We read it from all angles and accepted it. So, we are living with it. The good thing about it is that if you feel that you want to develop anything, as a community and friends of the society, we will have a structure where they can come in. For example, we will look and see how we can help the residents of Machakos County to build some institutions like universities, schools, polytechnics and hospitals. They will know because there is a plan. We have seen even within Nairobi City situations where in case there is fire or some other disaster, there is no way to follow to rescue Kenyans who have been affected by that tragedy. When a building collapses, there is no way that you can rescue Kenyans or even develop further, because when you start demolishing one building, you will end up demolishing even others which are still useful and that will be a waste of resources.

Mr. Deputy Speaker, Sir, we have travelled to countries like Rwanda. Kigali is so beautiful because it is organized. When you arrive, you will definitely know that this is the Government headquarters or State House and you will find all the people that you want to engage. There is no confusion. Since this is the beginning of devolution, it is the best time to come up with these structures and organization. It is a major plus and boom to devolution. If it succeeds, we should start with urbanization and many people will find their counties very good and conducive. They will stop flocking into the cities. I know of people who are already closing shop. They are leaving their rental houses in the cities and going back to their respective counties. This is because they feel that they are moving a step forward. There is no confusion that reigns in some of these counties. Since this is the



beginning of devolution, it is the best time to come up with these structures and come up with this organization. It is a major plus and a boon to devolution. For this to succeed, we must start with placing the headquarters of a county government in an urbanized area. Many people will find their counties very good and stop flocking into the city. I know of people who are already closing shop. They leave their rental houses in the city and go back to their respective counties because they can see that they are moving a step forward where the Governors together with other elected leaders in the society are working. Leadership flows all the way to church elders and teachers. Every leader is a leader in his or her own right.

Mr. Deputy Speaker, Sir, in my humble opinion, this Bill has been brought to the House in good faith. As the people in charge of the counties who oversee the development and the success of the counties, it is best to be brought before this House and anyone who has any dissenting view can bring it here.

I beg to support the Bill.

**Sen. Kittony:** Mr. Deputy Speaker, Sir, I would like to thank the Mover of this Bill. I am happy that it will still go through the Committee Stage because there is a lot that we need to harmonize. For the short time that we have been here, it has been a learning process. Some of us who had a chance of visiting our counties, we realized that devolution is at work and the Senate has a role to play. For example, when we went to Elgeyo-Marakwet, we could see the inconvenience as a result of the distance between the headquarters of the original district and where the county headquarters is. Similarly, when we went to Kilifi, we found out that the County Assembly is in Malindi whereas the Governor with a half of his officers are in Kilifi. It makes it logistically very difficult. The Senate is witnessing that devolution is at play and maybe we have not put our House in order. It is time that this Bill has been brought at an appropriate moment and therefore, we should look at it and put things right.

Mr. Deputy Speaker, Sir, when we say that devolution is working, it should come with all the good things including planning. I was coming from Kitui County the other day and we stopped to see any basic facilities and absolutely, there were no facilities. You can imagine what we experienced, driving all the way to Thika Town at night. I think it is time we jogged our minds and the minds of the Governors so that our cities and towns are properly planned in order to be equipped with the facilities that they require. There is no other person who will do these things other than us in the Senate. When this Bill comes to the Committee Stage, we should all critique it and make things right so that we are able to give our counties a facelift or a better image.

When it comes to the Committee Stage, we should consider the basic facilities and also seek views from our counties so that we are in a better position to arrive at the people's choice.

With those few remarks, I support.

**Sen. Nabwala:** Thank you Mr. Deputy Speaker, Sir, I rise to support the Bill which has come to this House at the right moment. The amendment of the Bill is in order because the Act is seeking to amend what was enacted in 2012 before devolution came into place. This Bill is also constitutional as per Article 110 (a) which requires that we define the location of a county government. In the past, there were provincial and district governments, but now they have been phased out and replaced with county governments. The Bill also seeks to curb those powers by a single person like a Governor who may

wake up one morning and proposes to move the headquarters of his county to another area. These towns which have been described in the 47 counties, I think because of their geographical location, a lot of things were taken into account. For instance, the allocation for population services like electricity and water; whether they are in close proximity with the people because we may have the headquarters of a county government located in the interior of the county and it may not be easy to be accessed by the people of the county.

In my personal view, we had the local authorities and the municipal councils whose buildings or structures are now not in use. This is what most county governments are using. I think the Governors have in one way or the other found their offices. For those who do not have offices, when this Bill is at the Committee Stage, we could maybe have a list of those county governments so that we can look at them and then come up with a clause which can cater for them. The way the Bill is, it seeks that we describe the location which has already been determined. For those county governments to change this location, it means it will have to come back to the Floor of this House and yet we can handle this at the Committee Stage once we know how many county governments do not have structures in place.

Mr. Deputy Speaker, Sir, for purposes of business, it is good that we clearly define the location or the headquarters of a county government because to attract external investors, you have to upload your plans on the world web so that you are easily accessible. If this is not clear, then you may even lose business. I really support this Bill which will lead to county government headquarters being easily accessible and in close proximity of the people. For instance, in Trans Nzoia County, Kitale Town is a very old town which was started by the *kaburus*. People in Kitale are happy and businesses are established. We also have the county government also collecting revenue within Kitale Town. So, if you have to move Kitale Town to, say, *Maili Nane*, then you are misplacing yourself because it will cost you every morning to send your officers to Kitale Town to check what is happening. I think this Bill has been well thought out by the Mover, Sen. (Dr.) Khalwale, whom I know never brings anything in this House which has not been well thought out. I just want to congratulate him. The Bill is in order but when it comes to the Committee Stage, there may be some amendments which will be done in consultation with people. I do not see why you should not come to us and tell us that your county does not have a headquarters and that you need to move to such and such a region or place. I think it would be in order because most counties are facing space constraints. They cannot be able to expand because of the way the town was planned. So, that case will be looked at and, maybe, a decision will be taken by the whole House so that we do not leave these matters in the hands of the Governor, like we have seen the case of Kiambu and Kirinyaga, which were quoted here. So, let us put our house in order and ensure that we give counties the way forward.

Thank you, Mr. Deputy Speaker, Sir. I beg to support.

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

**Sen. Omondi:** Thank you, Mr. Deputy Speaker, Sir, for giving me this opportunity to contribute towards this amendment. First and foremost, I want to thank Sen. (Dr.) Khalwale. Indeed, he thought it wise to come up with this amendment.

Mr. Deputy Speaker, Sir, I want to bring to the attention of this House the scenario whereby in the first three or four years, each Ministry was allocated money to

construct their own offices. If I use the example of Mumias District, if you visit that town, you will find that it is like a market place. Each Ministry has its own building which they call an office, and we were telling ourselves that this is not proper use of the space and resources.

Mr. Deputy Speaker, Sir, I want to support this amendment because I think it is important for effective service delivery for the citizens of the counties. Simply, where officers or offices that offer services to the common citizens of that particular---

**Sen. Kittony:** On a point of order, Mr. Deputy Speaker, Sir. Am I in order to ask Senator---?

**The Deputy Speaker** (Sen. Kembi-Gitura): How did you rise, Sen. Kittony?

**Sen. Kittony:** I asked you for---

**The Deputy Speaker** (Sen. Kembi-Gitura): I did not allow it. You cannot just stand and start raising a point of order!

Go on, Sen. Omondi.

**Sen. Kittony:** I am sorry.

**Sen. Omondi:** Thank you, Mr. Deputy Speaker, Sir, for your protection.

**The Deputy Speaker** (Sen. Kembi-Gitura): No, it is not protection; I am just following procedures. If Sen. Kittony wants to make a point or order, she should do so but she has to ask for it.

**Sen. Omondi:** Thank you, Mr. Deputy Speaker, Sir. I was saying that I think it is going to enable efficient and effective service delivery to the citizens. This is because when we were coming up with the Constitution, we thought of bringing services closer to the people and we were thinking of having the scenario whereby Kenyans could have all their cities close to them. With that proper arrangement, proper delivery and proper development of the county governments, it is going to reflect that picture of a city within the counties. With that, it is easier for the people who are looking for service delivery to get them on time and with a lot of ease. It is also very easy to direct somebody who is looking for services; you are able to see where you are directing the client or the citizen who wants services from a different office away from where he or she is.

Mr. Deputy Speaker, Sir, I also want to support this Bill because, for example, when one just wants a signature from one office or the other, it is easier to connect from one office to the other because the offices are close to one another.

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

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

**Sen. Abdirahman:** Thank you, Mr. Deputy Speaker, Sir, for allowing me to add my voice to this very important Bill. Just like my colleagues, I want to point out that this is very important and crucial Bill determining or doing a definite determination on where the headquarters will be. It is very important also for us to understand what the factors that determine the location of the headquarters of a county government are like the centrality bit of it in terms of location. What is the population like? Many a times in the past, people have created districts where services could not even be accessible in very small areas and, probably, a few people would want to have those kinds of cases. We have heard quite often from the voice of the Senator for Nyandarua about the location of his headquarters. He now has problems because there were no facilities that were put up in these places, and it was done elsewhere. So, it will be important to do a definite determination of where the locations of these headquarters will be for the provision of

services. It will also be important for good planning and it will be important for the cohesiveness in the communities that live in these areas.

However, Mr. Deputy Speaker, Sir, I want us to note the current challenges we face. The challenges include the fact that there has been confusion all through on the manner in which subsequent boundary commissions have actually aligned our constituencies in one way or the other. Beyond the boundary commissions, the Office of the President similarly had put Kenyans in a state of confusion in the manner in which they had marked district or divisional boundaries. You will find that the political boundaries are not aligned to the administrative boundaries. These are precautions we need to then as we determine the location of these headquarters because that is going to be what will bring in resistance from communities as we go out to consult.

Mr. Deputy Speaker, Sir, I want to finally conclude by saying that such a thing is important, yes, but we need to consult widely with all the stakeholders so that we have an all-inclusive position on this kind of a thing.

So, I beg to support. Thank you very much, Mr. Deputy Speaker, Sir.

*(Applause)*

**The Deputy Speaker** (Sen. Kembi-Gitura): Sen. (Dr.) Khalwale, it is your time to reply.

**Sen. (Dr.) Khalwale:** Thank you, Mr. Deputy Speaker, Sir. Listening to what my colleagues have made by way of contribution, I realize indeed that two heads are better than one. There are many things which were never in my mind when I was making this draft, but after listening to colleagues, they have deepened it and, therefore, made it even more mandatory for me to be prepared when we go into the Third Reading of this Bill, to try and accommodate the positive contributions that they have made.

Mr. Deputy Speaker, Sir, the first thing I would like to deal with, having thanked the Members for their support on the Bill, is the issue of stakeholders' participation or consultations. I want to beg my senior, Sen. G.G. Kariuki, Sen. ole Ndiema and my sister, Sen. Liz Chelule, that, indeed, this matter is not coming before the Republic for the first time this afternoon. It came before the country after we went through the First Reading. The Bill was then committed to the Departmental Committee, in this case the Departmental Committee on Legal Affairs and Human Rights. This is in accordance with the provisions of Standing Order No.130, which deals with committal of Bills to committees and to allow for public participation.

**Sen. G.G. Kariuki:** On a point of information, Mr. Deputy Speaker, Sir.

**Sen. (Dr.) Khalwale:** Yes, you may inform me.

**Sen. G.G. Kariuki:** Mr. Deputy Speaker, Sir, I am informed that the Committee on Legal Affairs and Human Rights, which was supposed to have considered this matter, did not bring any report to the House.

**Sen. (Dr.) Khalwale:** Thank you, Mr. Deputy Speaker, Sir. My response to that is that by moving this Bill, I was responding to the decision of the Rules and Business Committee. The Rules and Business Committee, having listed this Bill, is satisfied that due process was applied. That is a comment that can be directed elsewhere and not at me.

I was just drawing your attention, Sen. G.G. Kariuki, to Standing Order No.130 which says:

A Bill, having been read a first time shall stand committed to the relevant Committee without a question being put.”

That was done in this House. I have reasons to believe that the Committee worked on it because they invited me to go and make a presentation to them. I told them that I had nothing to add beyond what I had written in the Bill. They then proceeded accordingly. As we contest the possibility that the Report may or may not have been tabled here, all is not lost out.

As Sen. Wetangula has said, this Bill will not end this afternoon. It will have to go to its Third Reading. If there are issues in any county that should be included in this Bill, then during the Committee of the Whole, we will have an opportunity to make amendments. You can do it yourself or you request me as the Mover of the Bill so that I give the amendment without giving notice to the Speaker of the House. In so doing, everything will be brought to focus.

I would like to comment on a very serious matter that was raised both by myself, at the beginning and spoken to by many Members; the cost of infrastructure. This must be attractive in this Bill. There are counties that are operating from makeshift structures. Owing to the sharable revenue, it has been difficult to set aside funds specifically for that need. If this Bill goes through, then we will have the *locus standi* to approach the national Government and say that these two, three or one counties requires conditional allocation to cater for construction of the infrastructure instead of using the devolved funds. The important issue of spending is such that it hurts me. If I can give an example of Kakamega County, last year, millions of shillings were put aside for purposes of the improvement of the Office of the Governor and possibly that of the county assembly.

Again, in the new financial year, they have also set aside Kshs150 million for the Office of the Governor and the residence of the Governor. A county like Kakamega does not require that kind of expenditure. That county does not need to spend that kind of money, Kshs150 million, into the construction of the Governor’s House or further improvement of the Office of the Governor for the reason that this was the provincial headquarters in the previous regime. We have the best infrastructure by way of the former provincial headquarters. The current County Commissioner can only use one block. In Kakamega, we have four separate blocks. Our Governor should move into one and start operating. All he would need is a coat of paint and nothing else. Therefore, we do not need to use Kshs150 million.

Secondly, the former residence of the Provincial Commissioner of Kakamega is one of the most secure scenic places in Kakamega, right next to the residence of the President, the Kakamega State Lodge. The Governor needs to move to that building and does not have to spend Kshs150 million. This is something that Members of the County Assembly of Kakamega should put into consideration when they will be debating this budget.

The issue raised by Sen. Wetangula and Sen. Machage about the issue of sub-county headquarters, through your consultation, I am provoked to make an amendment to my Bill at the Third Reading so that we provide a reminder to county assemblies the way they are expected to legislate with respect to their county sub-headquarters within their counties. This will remove controversy.

Since Sen. Haji said this, it is important to use this particular clause to remind him and some of the MCAs and people who think that we are usurping the role of the county

assemblies to see that we have left that part so that they deal with it because it is within their jurisdiction.

There is also, in your contribution, something that has provoked me. Members may say that what we decide here is final. It may be useful if this House agreed that I make a further amendment during the Committee of the Whole so that we provide for amendments on the Third Schedule showing each county. Any amendment to that Schedule shall in future start from the county assemblies. While in the county assemblies such an amendment should receive a two-thirds support and should be forwarded to this Senate where it should receive a simple majority support.

That way, somebody who wants to change county headquarters from Nanyuki to another town would have to make that decision from the county assembly. He would also need to convince two-thirds of the Members present in the county assembly. He would then send a message to the Speaker of the Senate and the matter would come here, becomes a Motion and would require receiving a simple majority vote.

The last thing which has been spoken about and which is very important is that we need to be very specific in our Bill. As you said, in your own conclusion, the names must be stated. If this is a city, that must be stated clearly. If it is also a town, that must also be stated. Senators from areas like Makueni where this is an urban area should support this Bill because during the Committee of the Whole, we will indicate that the county headquarters of Makueni are in Wote. This should apply to Vihiga, Ol Kalou in respect of Nyandarua and many other counties that are affected.

Having said that, I want to move that the County Governments (Amendment) Bill, Senate Bill No.1 of 2014 be read a second time.

Before I sit down, allow me to draw your attention to Standing Order No.54(3) because at the end of what I have just said, we will put this to question. Since this is a matter concerning counties, I request that you move the voting to the next day.

**The Deputy Speaker** (Sen. Kembi-Gitura): Thank you, Sen. Khalwale. I am directing that that the voting on this Motion shall be on Wednesday, 11<sup>th</sup> June, 2014, not earlier than 3.00 p.m.

**Sen. (Dr.) Khalwale:** Thank you, Mr. Deputy Speaker, Sir.

*(Putting of the Question on the Bill deferred)*

**The Deputy Speaker** (Sen. Kembi-Gitura): Next Order!

## MOTION

### RELEASE OF KCSE CERTIFICATES WITHHELD BY SCHOOLS ON ACCOUNT OF FEES BALANCES

THAT, aware that on November 3, 2004, Parliament passed a Motion requiring the government to release all KCSE certificates held by schools on account of fees balances and requiring schools to cease withholding certificates on account of fees balances; appreciating that in December 2006, the Government ordered the release of all KCSE certificates held by schools but that the certificates were released only that

one time; concerned that since 2007, schools have continued to withhold certificates especially those of orphans and children from poor families on account of fees balances; aware that Section 10(1)(b) of the Kenya National Examinations Council Act (No. 29 of 2012) outlaws the withholding of certificates by any person or institution; the Senate urges the national Government to take immediate measures to release all certificates held by heads of secondary schools since 2007 and to ensure that no head of a school, person or institution continues to withhold KCSE certificates.

*(Sen. Musila on 26.3.2014)*

*(Resumption of Debate interrupted on 26.3.2014)*

**The Deputy Speaker** (Sen. Kembi-Gitura): Sen. Elachi, you had a balance of eight minutes on this Motion.

**Sen. Elachi:** Mr. Deputy Speaker, Sir, I believe that this is something that we have continued advocating for. Indeed, it will be unfair and unjust for students in this country to spend all those years in school and not get their certificates that will enable them advance their education and lives.

Mr. Deputy Speaker, Sir, within the Jubilee Government, we have put in new measures to ensure that we support the budget for secondary schools. But as we do that, we need to go a further step and urge the principals of high schools to release any certificates that they are holding. I hope that even the President will give a directive on that. During the Kibaki Government, that was done. Now that we have more colleges coming up, we would wish to see more students enrolling. If we have money set aside to assist orphans wherever they are to undergo education, then we must consider also those orphans who have certificates and want to join polytechnics and universities.

Mr. Deputy Speaker, Sir, I would also like to seek the help of the Members of the National Assembly, because I know that every constituency has a bursary fund. I will give an example of a girl who is at State House Girls High School. I know that she is an orphan and has been going through a very rough time. Indeed, at the moment, she is in arrears in terms of school fees. But the principal has engaged well wishers who can support her, so that she can sit for her examinations and clear the fees arrears.

Mr. Deputy Speaker, Sir, there are many challenges out there. There are grandparents who take care of orphans. I know we have a grandparent who is taking care of three orphans who are in Nairobi and just recently, also the granddaughter also passed but is also in arrears. I believe wherever she used to go to school that the principal will be able to just accept that she can get her certificate and move on. It is time as Senators to re-think. Sometimes we blame the Government but sometimes they are taking too long because I believe all of us given an opportunity and where you are serving, you are within that Government. At the end of the day, the resources we consume are resources that taxpayers are paying but are paying through a Government. Therefore, we have that opportunity. I wish the Chairperson of the Committee on Education was here but I believe he will get the message. It is important for him to call the Cabinet Secretary and ask him how we can manage this matter through the principals. I know they have said

that they have challenges, but when we are talking about orphans, we have families who are orphaned but they are able to take care of themselves. We have families who are all there but are also very poor and cannot afford even to get a meal and, therefore, they are also unable to clear fee balances.

So, if indeed we are saying that we have a structure and we have decided to support families that are poor and the aged, then it is important for us through the Committee on Education to ensure that we close this because I know that this is something the Mover of the Motion, the Senator for Kitui, has talked about for months. I think it is now a year since he started talking about it in this House. I think as a House, we must make a decision and come to a closure of this issue.

Mr. Deputy Speaker, Sir, I looked at the challenges at Kisii University, and one of the students who was suspended for three years is an orphan. I asked myself, if you are an orphan and you have been thrown out of university for three years and somebody has been paying school fees for you, I thought the Vice Chancellor went overboard. As much as they did whatever they did, I wish he looked at the students knowing very well that they are student leaders and therefore, whatever he was doing was not because of his wish but he had to do it because of those who had chosen him to lead them and move on. I am just pleading and I will also make my plea to the Cabinet Secretary that it is time he looked at it from a different angle; knowing that they did something wrong but they could, for example, reduce the years the students are on suspension. It is like restarting your degree programme afresh. Therefore, as we talk about orphans, I think it is important for us to look at the environment they are living in and some of the consequences that will follow as much as we say that choices have consequences. Therefore, I want to support the Bill but we should ensure that indeed as we support this we must come to a closure and ensure that we tackle the issue once and for all.

I beg to support.

### ADJOURNMENT

**The Speaker** (Sen. Kembi-Gitura): Hon. Senators, I know we have two minutes to go but I will not ask anybody to start contributing at this time. So, I will proceed under Standing Order No.30 and adjourn the House at this time, slightly earlier than 6.30 p.m.

Hon. Senators, it is now time for interruption of business. The Senate stands adjourned until tomorrow, Thursday, 5<sup>th</sup> June, 2014 at 2.30 p.m.

The Senate rose at 6.28 p.m.