

NATIONAL ASSEMBLY

OFFICIAL REPORT

Wednesday, 30th September 2015

The House met at 2.30 p.m.

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

PRAYERS

COMMUNICATION FROM THE CHAIR

WINNERS OF A RADIO COMPETITION DURING PARLIAMENT WEEK
AT THE SPEAKER'S ROW

Hon. Speaker: Hon. Members, this Communication relates to a visit by members of the public who won a radio competition during Parliament Week. I wish to introduce to you those members who are seated in the Speaker's Row. The delegation comprises of the following:-

1. Mr. Christopher Gisiri;
2. Ms. Faith Kariuki;
3. Bishop Evans Mkala;
4. Pastor Serah Wairimu Mkala;
5. Ms. Michelle Rita;
6. Mr. Sydney Bukuru;
7. Mr. Steven Wanjala.

Hon. Members, these are guests invited to Parliament after winning a competition dubbed "Know your Parliament" that ran from 21st to 25th September, 2015, during the Parliament week on the Classic 105 FM Radio Station. On my own behalf and that of the House, I welcome them to the National Assembly.

Thank you.

PETITIONS

AMENDMENTS TO THE ACCOUNTANTS ACT NO.15 OF 2008

Hon. Speaker: Hon. Members, this is Petition No.23 of 2015 concerning amendments to the Accountants Act No.15 of 2008. Standing Order No.225(2)(b) requires that the Speaker reports to the House any petition other than those presented through a Member. I, therefore, wish to convey to the House that my office is in receipt of a petition signed by a Mr. Wachira Kariuki Musa praying for the amendment of the Accountants Act No.15 of 2008.

The Petitioner prays that the said Act be amended in Section 7, which provides for the election of the chairperson of the Institute of Certified Public Accountants of Kenya to further provide that either the chairperson or vice-chairperson of the Institute shall be a holder of

Foreign Accountancy Qualification on a rotation basis. The Petitioner contends that the amendments will forestall any practices that may bring disrepute to the profession, or unduly disadvantage Foreign Accountancy Qualification holders such as the ACCA graduates.

The Petition also prays that the National Assembly amends Section 11 of the Act, which provides for the membership of the Institute of the Certified Public Accountants Council to provide for a representative from the Foreign Accountancy Qualification (FAQ) holders.

Hon. Members, this Petition now stands committed to the Departmental Committee on Finance, Planning and Trade for consideration. The Committee is requested to consider the Petition and report its findings to the Petitioner and the House in accordance with Standing Order No.227(2). The Committee is at liberty to introduce a Bill to the House, proposing to amend the said Act in the manner prayed for by the Petitioner, if it is persuaded that there is need to do so.

Thank you.

Hon. Christopher Omulele.

BOUNDARY DISPUTE BETWEEN VIHIGA AND KISUMU COUNTIES

Hon. Omulele: Thank you, Hon. Speaker. I have a Public Petition on behalf of the residents of Luanda Constituency. I wish to draw the attention of the House to the following:-

- (i) THAT, Emmabungo Ward, Karateng Sub-location, Marera Sub-location, Kolunje Sub-location and Rata Sub-location are located in Maseno area of Vihiga and Kisumu counties.
- (ii) THAT, there is a long standing boundary dispute between Vihiga and Kisumu counties over the location of Emmabungo Ward, Karateng Sub-location, Marera Sub-location, Kolunje Sub-location and Rata Sub-location located in the Maseno area.
- (iii) THAT, the residents of the said areas are denied or have limited access to Government services, particularly bursaries at the county and constituency levels due to the alleged boundary dispute.
- (iv) THAT, due to the said boundary dispute, there is no fair distribution of development projects and services in the Maseno area of Kisumu and Vihiga counties, and the county government officials have allegedly arbitrarily and maliciously made policies and decisions against the interests of the residents of the said area.
- (v) THAT, the Kisumu County Government closed the only public access road from Kisumu to Maseno Hospital due to the said dispute, hence causing untold suffering to the area residents, and further that there is alleged irregular transfer of Government and community property and land to individuals, which deprives the community the legitimate right and claim over land.
- (vi) THAT, the residents are denied access to essential facilities such as registration of persons, births, deaths and land title deeds.
- (vii) THAT, efforts to resolve this matter with the relevant authorities have been futile; and,
- (viii) THAT, the matter presented in this petition is not pending before any tribunal or court of law.

Therefore, your humble Petitioners pray that the National Assembly, through the Departmental Committee on Justice and Legal Affairs:-

(i) intervenes to cause expeditious resolution of the boundary dispute by the Independent Electoral and Boundaries Commission.

(ii) ensures that the Petitioners' plight is addressed; and,

(iii) makes any other order or directions that it deems fit in the circumstances of this case.

Your Petitioners will forever pray.

The Petition is presented on their behalf by myself, the Member for Luanda Constituency.

Hon. Speaker: I can see that there is some interest from Hon. John Olago Aluoch.

Hon. Aluoch: Hon. Speaker, I do not wish to impute improper motive on my learned brother, but there are issues that have been canvassed in that Petition, which the Member, Hon. Nyikal and I have together very extensively discussed. It was agreed that when that petition is ready, we would share it the three of us before it is presented to you. I am surprised it is being presented to you without first sharing it with us as we had agreed. To that extent, therefore, I wish to impute improper motive on the Member. The issues that are canvassed are issues which if not handled very delicately can cause acrimony between communities. So, I wish to ask that before any further action is taken you will withhold referring it to any Committee so that Hon. Nyikal, the Member and I may discuss and then we come back to you after a few days.

Hon. Speaker: Hon. John Olago Aluoch is usually happy to say that he is a learned senior, but I would just want you to look at Article 119 of the Constitution and you will notice that whenever a petition is presented, there is no requirement that the Speaker refers it to some other *ad hoc* bodies.

(Laughter)

I am only required to refer it to the relevant Departmental Committee of the House, so that Hon. Nyikal, you and any other Member desirous of making representations can have an opportunity to go and discuss amongst your colleagues. Whether Hon. John Olago Aluoch is persuaded that there is improper motive, the best place to go and canvass that would be before that Committee. Remember, I am not required to adjudicate on a matter of that nature. So, I am unlikely to make any finding on your statement about improper motive or otherwise. I did not read any improper motive. I am sure you will be better off before the Committee, indeed, alongside the other colleague, Hon. (Prof.) Nyikal, if you appear before the Committee and canvass the matter. I am sure your colleagues, Members of the Committee to which this petition is referred, will give everybody a fair chance to make representations instead of us. Now, there is nothing much we can do. The longer we allow that kind of conversation to happen, the more the possibility that hon. Christopher Omulele will also make some other statement and you will make another one. It will not be helpful to the House.

In fairness, let the Petition go before the Committee because there is no room. Remember, in our own rules, the Committee has 60 days within which to consider the petition. That is sufficient time, indeed, to allow even for the cooling down of temperatures, assuming they had risen or you may particularly have risen on hearing the petition being read out. Instead of discussing, let us go that route.

Hon. Rasso.

Hon. Speaker: Hon. Dido, insert your card.

REMOVAL OF CHIEF MULATO FROM DAKABARICHA

Hon. Dido: Thank you very much, Hon. Speaker.

I, the undersigned, on behalf of the residents of Dakabaricha Location of Saku Constituency draw the attention of the House to the following:-

THAT, administration units, in particular chief's offices, are very important in the grassroots as they facilitate various services required by residents, amongst them issuance of national identification cards (IDs);

THAT, chiefs and assistant chiefs appointed to represent a location or sub-location ought to be residents of that particular area;

THAT, in July 2015, Mr. David Mulato was recruited as the new chief for Dakabaricha Location;

THAT, the appointment appeared to be mismanaged and the person appointed was not the best candidate given the lack of experience and having the best qualification;

THAT, the appointment was highly irregular as the right criterion for appointment was not followed;

THAT, the majority of the populace of Dakabaricha has serious reservations regarding his appointment which might result in ethnic conflicts in that area;

THAT, there have been ongoing silent demonstrations by the locals showing their displeasure with this particular appointment;

THAT, the issues in respect of which this Petition is made are not pending before any court of law, constitutional or legal body.

Therefore, your humble Petitioners pray that the National Assembly, through the Departmental Committee on Administration and National Security, intervenes to cause expeditious resolution of this matter and ensures that the appointment of Mr. David Mulato, as the new chief for Dakabaricha Location, is revoked and a qualified chief recruited, and your Petitioners will ever pray.

Thank you Hon. Speaker.

Hon. Speaker: Hon. Rasso, is it administration? This should go to the Departmental Committee on Administration and National Security. The Petition by Hon. Omulele, to the extent that it seems to touch on boundaries, if it is electoral it is a matter which would go to the Departmental Committee on Justice and Legal Affairs. You are praying that it goes there.

Hon. Omulele: Yes.

Hon. Speaker: Okay. It is accordingly referred to the Departmental Committee on Justice and Legal Affairs. I hope that Hon. Omulele and Hon. John Olago Aluoch are Members of the Committee because then it becomes much easier. The one of Hon. Rasso goes to the Departmental Committee on Administration and National Security.

It is also fair that committees know that our own Standing Order No. 227(2) provides:

“Whenever a petition is committed to a Departmental Committee, the Committee shall, in not more than sixty calendar days from the time of reading the prayer, respond to the petitioner by way of report addressed to the petitioner or petitioners and laid on the Table of the House and no debate on or in relation to the report shall be allowed, but the Speaker may, in exceptional circumstances, allow comments or observations in relation to the petitions for not more than

twenty minutes.” I will only extend time on very exceptional grounds. So, the committees should begin engaging.

Next Order.

PAPERS LAID

Hon. A.B. Duale: Hon. Speaker, I beg to lay the following Papers from the East African Legislative Assembly on the Table of the House today Wednesday, September 30, 2015:-

The East African Community Electronic Transactions Bill, 2014.

The East African Community Creative and Cultural Industries Bill, 2015.

The East African Community Gender and Development Bill, 2015.

The Report of the Committee on General Purpose on the Oversight Activity on the Legal Framework and Implementation of Policies on the Rights of the Child in the East African partner states.

The Report of the Committee on Agriculture, Tourism and Natural Resources on Regional Parliamentary Policy Workshop on climate change and gender.

The Report of the Committee on Communication, Trade and Investments on the Workshop on Investment Policies and Strategies in East African Region.

The Resolution of the Assembly to congratulate the Republic of Uganda upon acquiring third generation national identity cards and encourage partner states which are still in the process to finalise on time.

The Resolution to support East African Athletes from the Republic of Kenya and congratulate them for their exemplary performance in the ongoing World Athletics Championships in Beijing, China.

The Resolution of the Assembly to call for urgent action to prevent trafficking in persons, protect victims of the crime of trafficking in persons and prosecution of perpetrators of trafficking in persons within the East African Community (EAC).

Hon. Speaker: Very well. The Committee on Regional Integration in complaining that there is not enough work, you see that there are several reports and Papers; some are congratulatory. Go and look at those congratulatory messages and report back. I am sure that the Beijing athletics is over but you may note it. It was good that the East African Legislative Assembly felt that it was necessary and saw the need to congratulate Kenyan athletes when they were performing exemplarily in Beijing.

Hon. Robert Pukose.

Hon. (Dr.) Pukose: Hon. Speaker, I beg to lay the following Paper on the Table of the House today Wednesday September 30th 2015:-

The Report of the Departmental Committee on Health on its consideration of the Health Records and Information Managers Bill, 2013.

Thank you, Hon. Speaker.

Hon. Speaker: It is good for Members to look at that report by the Committee because the House Business Committee (HBC) has already prioritised debate on Health Records and Information Managers Bill. It is coming soon, possibly tomorrow or early next week. So, Members, please, take the Report and read it, so as to participate in the debate.

Next Order.

STATEMENTS

Hon. Speaker: I have not seen any Motion. So, even as I hear Members claiming to be debating Motions elsewhere, we have not been given notice of any.

I think people are still enjoying themselves as though they are still on recess. We should remind everybody we have reconvened now. We do not have to debate out there. Bring the Motions here.

Next Order, Leader of the Majority Party.

VOTING ON KEY CONSTITUTIONAL AMENDMENT BILLS

Hon. A.B. Duale: Hon. Speaker, before I make this Statement, I wanted to raise a point of order, but you have made the clarification. There is another Order Paper circulating in the media and it is in the public domain, on various agenda items like impeachment, but we are yet to see those agenda items. I hope you will guide the House well, that people should transact business when Motions and Bills are approved and printed, and that the business of the House from the House Business Committee (HBC) that you chair must be what is transacted. We have seen and heard in the talk shows on FM stations---

This morning I was listening to an FM station and there was a serious impeachment debate which was going on. I was in the House yesterday until 7.00 p.m. when the House rose. I asked myself: Was there another House or it was a county assembly? We need to tell the country that Members of Parliament need to be very serious. If you want to impeach the President, you need to read Article 145; you need 117 signatures including mine, because I am a Member of this House. If you want to impeach a Cabinet Secretary you need a quarter, which is 87 signatures.

So, let us make use of the serious provisions given to us by the Constitution. Let us do so in a serious way. We should not run away from the Chamber and discuss these issues in funerals and parliamentary group meetings, with people who are not even Members of this House, and who have no voting rights and give directions. We wish them well; they can join us in prayer rallies, so that we pray for them; that may solve their problems.

On the Statement, yesterday you made a communication and people did not hear you well. I want, on behalf of the HBC, to remind my colleagues that tomorrow afternoon is a very important day for voting for two key constitutional amendment Bills. These are the Bill sponsored by Hon. Lati Lelit MP, regarding the Equalisation Fund and the Bill by Hon. Ochieng, MP, regarding change of the election date. Tomorrow the voting attempt should be the last and the final following the Speaker's ruling. Should Hon. George Peter Kaluma MP, also be ready we may consider the Constitution of Kenya (Amendment) Bill No. 2, 2015 in the Committee of the whole House, if the numbers required are attained.

The passage of these Bills require two-thirds majority of all Members. I, therefore, remind Hon. Members to avail themselves. At the same time the sponsors of the Bill and the whips should use their available means to lobby all our colleagues to attend the sitting tomorrow, so that the required two-thirds majority is attained for those Bills to sail through to the next stage.

Thank you, Hon. Speaker.

Hon. Speaker: Well, I believe everybody has heard. So, there is no need of an informal meeting. That is loud and clear.

Hon. Nassir: On a point of information, Hon. Speaker.

Hon. Speaker: Hon. Nassir, Member for Mvita.

Hon. Nassir: Thank you very much, Hon. Speaker. I concur with my colleague Hon. Duale that when Members want to do something, it is important that it is not just in public domain in the newspapers, but it is brought to this very House. I know that there are three Motions being discussed right now by the media. One is about impeaching the President and the other one is about impeaching the Cabinet Secretary for Devolution and Planning. I have seen papers going around regarding the same. The Third is about what was very hyped up, and that is the issue of whether Members of Parliament should reduce their salaries. It is unfortunate that was just publicly hyped out there and nothing was brought to this very House.

Hon. Speaker, it is just mere public knowledge that we either---

Hon. Speaker: Are you rising on a point of order or?

Hon. Nassir: It is a point of information, Hon. Speaker.

Hon. Speaker: Informing who?

Hon. Nassir: Informing the House.

Hon. Speaker: No.

(Laughter)

Hon. Speaker: From your own confession, you are doing the wrong thing. You cannot just rise in your place and generally claim to inform the House. You have no such rights to inform the House just like that Hon. Abdulswamad.

Hon. Members, let us not just debate things. This is the National Assembly of the Republic. It cannot be a place where we just rise without any rules and claim to be informing. Hon. Nassir, you know if you are going to inform somebody, the person to be informed has to accept to be informed. The requirement of the rules is that I inquire from the Member, who is to be informed whether he needs the information. You on the other hand are saying that you want to inform the House generally. I cannot ask the entire House whether it wants to be informed because then we will never do anything else. Everybody will be informing us. You know it is from your own confession that you wanted to inform the entire plenary. So, please, tomorrow, or at any other time, you do it properly.

Hon. Nassir: I stand guided, Hon. Speaker.

Hon. Speaker: You know what you are doing is so wrong that I ought to throw you out. You cannot claim to address the Chair when you are seated and relaxing.

(Hon. Nassir stood up in his place)

Now you have not been given an opportunity to be upstanding. So just resume your seat.

(Laughter)

Hon. Nassir, I know you mean well but for the time being, that is enough.

Hon. Members, let me recognize pupils from Rockfield Junior School in Embakasi West Constituency, Nairobi County and those from Kipyebbo Primary School, Marakwet East Constituency, Elgeyo Marakwet County seated in the Public Gallery. Welcome to Parliament.

Next Order.

BILL*Third Reading*

THE FISHERIES MANAGEMENT AND DEVELOPMENT BILL

Hon. Speaker: Hon. Members, business relating to this Order was concluded. What remains is for the Question to be put. I proceed to do so.

(Question put and agreed to)

(The Bill was accordingly read the Third Time and passed)

COMMITTEE OF THE WHOLE HOUSE

(Order for Committee read)

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

IN THE COMMITTEE

*[The Temporary Deputy Chairlady
(Hon. (Ms.) Shebesh) took the Chair]*

CONSIDERATION OF THE SENATE AMENDMENTS TO THE
STATUTE LAW (MISCELLANEOUS AMENDMENTS) BILL

*(Resumption of consideration interrupted
in Committee on 29.09.2015)*

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Hon. Members we are now in the Committee of the whole House to consider the Statute Law (Miscellaneous Amendments) Bill, National Assembly Bill No. 33 of 2013.

Leader of the Majority Party.

Senate Amendment to the Kenya Agricultural and Livestock Research Act, 2013

THAT the Bill be amended in the Schedule in the proposed amendments to the Kenya Agricultural and Livestock Research Act, 2013 –

(a) in the proposed amendment to section 6(1) by deleting subparagraph (i) and
(ii) in the proposed new paragraph (i) and substituting therefor the following new subparagraphs –

(i) one farmer representing the interests of livestock farmers;

(ii) one farmer representing the interests of crop farmers;

(b) by deleting the proposed amendment to section 6(3);

Hon. Temporary Deputy Chairlady, I tend to support the Senate. The only point of conflict for those who were here yesterday was why the Senate was deleting the proposed amendment to Section 6(3). I totally agree because that section tries to create the composition of the secretariat of that organization. That is very unique. You cannot set up the composition of a secretariat in law. So, I totally agree with the Senate in these amendments, including the deletion they are proposing.

(Question of the amendment proposed)

*(Senate Amendment to the Kenya Agricultural and
Livestock Research Act, 2013 agreed to)*

Hon. A.B. Duale: Hon. Temporary Deputy Chairlady, I beg to move that the Committee doth report to the House its consideration of the Senate Amendments to the Statute Law (Miscellaneous Amendments) (No.2) Bill (National Assembly Bill No.33 of 2013) and its approval thereof with amendments

(Question proposed)

(Question put and agreed to)

(The House resumed)

*[The Temporary Deputy Speaker
(Hon. (Ms.) Mbalu) in the Chair]*

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Chair to do the reporting.

Hon. (Ms.) Shebesh: Hon. Temporary Deputy Speaker, I beg to report that a Committee of the whole House has considered the Senate Amendments to the Statute Law (Miscellaneous Amendments) (No.2) Bill (National Assembly Bill No. 33 of 2013) and approved the same with amendments.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Mover, move the agreement with the Report.

Hon. A.B. Duale: Hon. Temporary Deputy Speaker, I beg to move that the House doth agree with the Committee in the said Report.

Hon. (Dr.) Shaban seconded.

(Question proposed)

(Question put and agreed to)

BILLS

Second Reading

THE POLITICAL PARTIES (AMENDMENT) BILL

(SENATE BILL NO. 3 OF 2014)

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): The Chairperson of the Departmental Committee on Justice and Legal Affairs.

Hon. Chepkong'a: Thank you, Hon. Temporary Deputy Speaker. The Leader of the Majority Party is asking what is wrong with me. There is actually something wrong with me because I am being lobbied by the Treasurer of Kenya Union of Post Primary Education Teachers (KUPPET). That is how I missed out on matters that touch on the National Assembly.

Hon. Temporary Deputy Speaker, I beg to move that the Political Parties (Amendment) Bill, Senate Bill No. 3 of 2014 be now read a Second Time.

Hon. Temporary Deputy Speaker, this is a Bill that is meant to amend the Political Parties Act in Section 25 of the Act of 2011 by deleting sub-sections (1) and (2) and substituting therefor the following new subsections-

“(1) The Fund shall be distributed as follows-

- (a) seventy per cent of the Fund proportionately by reference to the total number of votes secured by each political party in the preceding general elections;
- (b) twenty five per cent of the Fund equally among political parties which are entitled to receive funding under sub-section (2); and
- (c) five per cent for the administration expenses of the Fund.

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

- (a) the party does not secure at least one of the following categories of seats in the preceding general elections-
 - (i) one seat in the office of a county governor;
 - (ii) one seat in the office of a Senator;
 - (iii) at least two seats in the office of a Member of the National Assembly;
 - (iv) at least twenty seats in the office of a Member of a County Assembly (MCA)

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

If the party is only composed of males, then it will not be entitled to receive any funding. For example, the party known as Maendeleo ya Wanaume and given that it has men only as members will not receive any funding.

This Bill was considered by the Departmental Committee on Justice and Legal Affairs and it recommended as follows:-

In its Minute No. JLA234/2015, Consideration and Adoption of Report on Political Parties Amendment Bill Senate, Bill No. 3 of 2014, I would like to read the Committee's recommendations.

“The Committee considered and adopted its Report on Political Parties (Amendment) Bill, Senate Bill No. 3 of 2014. The Report rejected the Bill because it was a money Bill, which should have originated from the National Assembly. The Adoption of the Report was proposed by Hon. John Njoroge and seconded by Hon. Sammy Koech. There was no dissenting voice to the adoption of the Report.”

The Constitution in Article 114, states that a money Bill may not deal with any matter other than those listed in the definition of a money Bill in Clause 3. The Bill goes further to state

that a money Bill can only be originated from the National Assembly. The distribution of funds to various political parties, and conferring a benefit to a political party that was not intended in the original Bill is in itself a money Bill, as you are seeking to confer a benefit on parties that were not intended. Therefore, this Bill is a money Bill and it offends Article 114(3) of the Constitution which requires that a money Bill must originate from the National Assembly. When the Committee was considering this Bill, it felt that it is in contravention of the Constitution, and that it was unnecessary for the National Assembly to consider this matter. It rejected this Bill as being unconstitutional. Although I am moving as a proposer, I have no seconder. There is no one to second because it is unconstitutional. We have nobody to second the Bill.

Thank you, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Hon. Members, I know this is one of the few cases where we do not have a seconder of the Bill that has been proposed by the Chairperson - The Political Parties (Amendment) Bill, (Senate Bill No. 3 of 2014), which has been very well done by the Departmental Committee on Justice and Legal Affairs. For guidance of the House, I want to refer you to our own Standing Order No. 57 on the Question proposed after the Motion has been made, which states “the question on any Motion shall not be proposed unless it shall have been seconded and any Motion that is not seconded shall be deemed to have been withdrawn, and shall not be moved again in the same session”. Since we have no seconder we want to return it to mediation.

Hon. Members, for technical purposes, it will go back to mediation. We cannot withdraw the Bill since we do not have a seconder. That is the direction. We may not be able to debate it now.

Next Order!

Second Reading

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

Hon. (Ms.) Kanyua: Hon. Temporary Deputy Speaker. I beg to move that the Statute Law (Miscellaneous Amendments) Bill (Senate Bill No.6 of 2014) be now read the Second Time.

Hon. Temporary Deputy Speaker, this Bill was considered by the Departmental Committee on Justice and Legal Affairs, pursuant to the provisions of Standing Order No. 199(6). The Bill originated from the Senate and it was sponsored by Senator Amos Wako. Upon being passed on 7th August 2014, it was referred to the National Assembly for further scrutiny in line with Article 110 of the Constitution. After the First Reading of the Bill, it was committed to the Departmental Committee on Justice and Legal Affairs. The Committee received the Bill on 20th August 2014, and considered whether to hold public participation on the Bill.

Since the Senate had already done public participation, the Committee did not find it necessary to repeat the exercise. The Committee considered the Bill on 20th March 2015 in Committee Room 9. The report was considered by the Committee on the 24th March. The Adoption of the report was proposed by Hon. T. J. Kajwang’ and seconded by Hon. Priscilla Nyokabi. There were no dissenting voices to the adoption of the report. The minutes of the Committee sitting are attached to this report.

A Statute Law (Miscellaneous Amendments) Bill is in keeping with the practice of tabling one Bill consisting of various amendments to various Acts, which do not warrant individual Bills. The principal purpose of the Bill is to correct the apparent unconstitutionality arising from the enactment of various Acts without taking into account the role and functions of county governments, as set out on the Fourth Schedule of the Constitution of the Kenya. The Bill seeks to amend the following statutes:-

- (i) the Cancer Prevention and Control Act No. 15 of 2012;
- (ii) the National Transport and Safety Act No. 33 of 2012;
- (iii) the National Authority for the Campaign against Alcohol and Drug Abuse Act, No. 14 of 2012;
- (iv) the Sports Act, No. 25 of 2013;
- (v) the Pyrethrum Act, No. 22 of 2013
- (vi) the Prevention, Protection, and Assistance to Internally Displaced Persons (IDPs) and Affected Communities Act, No. 16 of 2012 and,
- (vii) the National Honours Act, No. 11 of 2013.

The Bill concerns county governments in terms of Article 110(a) of the Constitution as it contains provisions affecting the functions and powers of county governments as set out in the Fourth Schedule of the Constitution of Kenya. The Bill is not a money Bill within the meaning of Article 114 of the Constitution. The Bill does not delegate legislative powers, nor does it limit fundamental rights and freedoms.

In consideration of the Bill by the Committee, I want to state that the Committee largely agreed with the Senate in many of the provisions. We have very few areas of discordance or lack of agreement with what the Senate had already passed. The Committee considered the Bill and proposes the following amendments:

In the Cancer Prevention and Control Act, No. 15 of 2012, the Committee proposes that the Bill be amended in the Schedule in the proposed amendments to the Cancer Prevention and Control Act by deleting the words “national end” appearing immediately after the words “with the” in the proposed new section, and substituting therefor the words “Cabinet Secretary” and “relevant authorities”. The Cabinet Secretary (CS), in the thinking of the Committee is the representative of the national Government. The institute may also not require to consult with all county governments. The feeling of the Committee is that since the CS is the representative of the national Government, the matter of participation is catered for. He does not need to consult with all the 47 county governments. That is the proposal for the amendment which we will be moving at the Committee of the whole House Stage.

The second law that the Committee considered is the National Transport and Safety Authority Act, No. 33 of 2012. The Committee proposes that the Bill be amended in the Schedule in the proposed amendment to the National Transport and Safety Authority Act, by deleting the proposed “new Section 53(a). The new Section 53(a) was found to be unnecessary because it restates the functions of county governments, which are well spelt out in the Constitution. They do not require to be restated in a statute like the one we have here.

The section merely restates what the Constitution already provides by stating as follows: “No provision in this Act shall prevent a county government from undertaking its functions as provided for in the Fourth Schedule of the Constitution”. The law does not need to restate the obvious. It is obvious that every county government can perform the functions in the Fourth Schedule. There would be no reason for the National Transport and Safety Authority Act to

restate that position, when it is already in the Constitution. So, the Committee proposes that, that particular new Section 53(a) be deleted.

The other law that the Committee considered is the National Authority for the Campaign Against Alcohol and Drug Abuse (NACADA) Act No. 14 of 2012. The Committee proposes that the Bill be amended in the Schedule in the proposed amendments to the NACADA Act by deleting paragraphs (b) and (c) of the proposed new Section 5. The new Section 5 intended to insert the words: “and the Council of County Governors” immediately after “the Houses of Parliament” appearing in paragraph (j). In sub-paragraph (c) the intention was to insert the words: “Council of County Governors” at the end of paragraph (l).

The Committee also proposes to delete paragraph (a) of the proposed amendment to Section 5 and paragraph (a) inserts the words “and Senate” immediately appearing after the words “National Assembly” in paragraph (a). The rationale of the Committee in proposing these deletions in Section 5 is that it unnecessarily requires the Cabinet Secretary (CS) to submit reports to the Council of Governors, (CoG) and also unnecessarily empowers the CoG to assign roles to the Authority without providing funding for its work. The Committee takes the view that the CoG cannot be allowed in this law to start assigning duties to NACADA.

The proposed amendments to Section 6 of the Act unnecessarily subject the approval of the Chairperson of NACADA to both Houses of Parliament. The Committee sees no reasons why appointment of the Chair of NACADA should go to both Houses of Parliament. The appointment of the Chairperson of NACADA, so far, is a function of the National Assembly. There is no reason to subject that appointment to both Houses of Parliament. The discussion in this country when the Senate and the National Assembly were being set up was not about having two Houses that duplicate each other’s work. The Senate is making a very grave mistake by continuing to insist on being a duplicative House to the work that the National Assembly does. There would be no reason absolutely in our Constitution to do that. Our Constitution intended that we have the National Assembly undertaking national duties and we have the Senate looking at the interests of counties. Where matters of counties are concerned, that is jurisdiction of the Senate. Where matters of national nature are concerned, the jurisdiction is that of the National Assembly. The idea of the Houses duplicating each other’s work is really one that must be resisted. So, in proposing the deletions, that is the rationale the Committee had in mind - every House should stick to its mandate as provided within the Constitution.

The other Act that we have looked at is the Sports Act No. 25 of 2013. The Committee proposes that the Bill be amended in the Schedule in the proposed amendments to the Sports Act No. 25 of 2013 by deleting the words “liaison with the national and” appearing immediately after the words in Section 4. The Committee also removes the requirement for consultation with relevant departments. The Committee also proposes deletion of many of the new proposals that introduce more confusion on matters of sports in this country. The provisions that the Committee considers better are contained in a new amendment which is to be inserted; we will delete and replace with a new Section 5 as follows:

On powers of Sports Kenya, Section 5 gives the powers of Sports Kenya as follows:-

“Sports Kenya shall have the power in consultation with the county governments to:

- a) erect buildings and structures and carry out works necessary or desirable for the purposes of sports in Kenya;
- b) appoint agents and attorneys;

- c) engage persons to perform services for Sports Kenya;
- d) obtain commercial sponsorship for Sports Kenya and participate in marketing arrangements involving endorsements by Sports Kenya of products and services associated with sports;
- e) provide whether by sale or otherwise any article or thing bearing a mark, symbol or writing that is associated with Sports Kenya;
- f) regulate the provision of services and use of facilities of Sports Kenya;
- g) act as an agent for any person engaged whether in Kenya or elsewhere in the performance of services or the provision of facilities of a kind similar or complementary to those performed by Sports Kenya;
- h) undertake construction or execution of any works on land vested in Sports Kenya;
- (i) make regulations with the approval of the CS relating to the use, safety or maintenance of the stadia falling within its responsibility:-
 - 1) relating to the erection of structures on, near, over or under the stadia falling within its responsibility;
 - 2) for drainage of streets, lands, compounds and buildings adjacent to the stadia;
 - 3) for inspection of the level with and construction of stadia and playgrounds;
 - 4) for removal, demolition or alteration of any projection, structure or thing obstructing stadia or likely to cause damage or inconvenience to sports facilities where users are concerned.”

The reason we are going into length on the functions of Sports Kenya is to show that all they need is to consult the relevant county government. But as far as we are concerned, Sports Kenya, which is set up by an Act passed by this House in 2013, already sufficiently covers matters of sports and what should be done in furthering our sports in this country. Allowing the county governments to take over this role at this point in time may not be very helpful for the country at a time when we have Sports Kenya. The rationale is to ensure that counties allocate and appropriate monies for the benefit of Sports Kenya where Sports Kenya carries out the works, or rather, roles for counties and to ensure that sports continue to be furthered in our country.

As you know right now with the young people, we hardly have any sports to speak about in our counties, and we hardly have a comprehensive or coherent policy on sports in our country. What we need is for the county governments to work with Sports Kenya for the purpose of furthering sports in our country.

So, the amendments and the rationale are to delete some of the issues that will muddy this process, and require that the annual report is submitted to the relevant county governor. Every county should have autonomy to deal with Sports Kenya as opposed to the CoG. A particular county that needs to work with Sports Kenya should enter into an arrangement under a consultative session with Sports Kenya in terms of furthering sports. That is the proposal of the Departmental Committee on Justice and Legal Affairs.

The other Act that is in the Statute Law (Miscellaneous Amendments) Bill is the Pyrethrum Act, No. 22 of 2013. The Committee proposes that the Bill be amended in the Schedule in the proposed amendments to the Pyrethrum Act by making some deletions,

especially the one requiring consultations with the CoG and the ones that require a CS to have some roles. The rationale of the Committee is that to require consultation between the CS and the CoG in the nomination and the appointment of the Chairperson of the Board is acceptable by the Committee. It is only in consultation with the CS and the CoG in the nomination and appointment of the Chair of the Board.

That is a matter that those interested in pyrethrum in this country should have regard to. These are some of the products whose growth we need to look into as a country. All the Members from the pyrethrum-growing areas should look at the Pyrethrum Act and see whether the proposals suggested by the Committee fit in well and protect the pyrethrum industry.

The final Act that the Committee looked at is the Prevention, Protection and Assistance to Internally Displaced Persons and Affected Communities Act (No. 56 of 2012). The Committee proposes some amendments to that Act pursuant to the amendments that were proposed by the Senate. The Committee's rationale in proposing its amendments is to limit the need for consultations to only the relevant county governments. There would be no reason for the matter of IDPs, who are situated in one county, to be taken to the council of Governors (CoG) or to the whole nation. The negotiations and consultations on particular IDPs and affected communities should be with the relevant county governments where those persons are based.

Those are the proposals that the Departmental Committee on Justice and Legal Affairs made in terms of the Statute Law (Miscellaneous Amendments) Bill from the Senate. We urge the House to debate and consider the various proposals that have been put on the table. A Statute Law (Miscellaneous Amendments) Bill, unfortunately historically, carries in it many laws. It is an omnibus Bill, but it is possible for a Member to isolate and identify a law that relates to their area. If the proposed amendments are on the NACADA Act, the Sports Act or the Pyrethrum Act, Members can make their views regarding the proposals. We would urge the House to agree with the Committee based on the Report filed and tabled before this House on 25th August 2015, which Report is available to Members, as they consider the Statute Law (Miscellaneous Amendments) Bill (Senate Bill No. 6 of 2014).

The only other interesting thing to note with the Senate is that this is their Bill No. 6. In the National Assembly, we are doing much better in terms of our law-making processes. So, we would urge the Senate, as they originate their Bills, to continuously originate Bills that relate to county governments and to forward them to the National Assembly. Indeed, we still have many legal lacunas as far as county governments are concerned.

I beg to move and I request Hon. Waiganjo to second the Bill.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Hon. J.M. Waiganjo.

Hon. Waiganjo: Hon. Temporary Deputy Speaker, I rise to second the Bill. The Committee considered this Bill and found that it does not limit fundamental rights. This Bill is not like the previous Political Parties (Amendment) Bill, where the Senate took upon itself a Bill that was not supposed to emanate from that House. They debated that Bill and forwarded it to the National Assembly only for us to realise it was a money Bill and, therefore, this House could not consider it.

However, this Bill contains several pieces of legislation. The amendments that the Committee considered were found to be sound. For instance, the proposed amendments to the Cancer Prevention and Control Act are in order. Cancer is a big problem in this country. Health services being a devolved function, we found that the Senate was properly within its mandate to consider this Bill. We also considered the proposed amendments to the Sports Act and found that

the Senate had given a lot of consideration. We proposed certain amendments like on the issue of consultations just to make sure that sports activities are not impeded by legislation. The proposed amendments to the Pyrethrum Act will go a long way in actualising---

These amendments are long overdue. Most of the pyrethrum-growing people have already uprooted this crop because of poor management of sale and marketing. We looked at the Pyrethrum Act and proposed appropriate amendments to make sure that pyrethrum-growing areas benefit from the growing, sale and marketing of pyrethrum.

The NACADA Act is another serious Act that came to the attention of the Committee. We looked at it very closely. Drug abuse is a national issue. So, we need this piece of legislation. No one dissented on these amendments. Even as we looked at the Prevention and Protection of Internally Displaced Persons Act, we were careful and alive to the fact that we have a lot of IDPs. The Government has attempted to resettle the integrated IDPs, unfortunately we still have thousands of displaced Kenyans living in tents, particularly those displaced during the post-election violence. Most of them have never got back their land. Some were compensated but not adequately. However, we have other thousands of Kenyans who are living in poverty, and who were displaced from their own land and dwelling places. So, we looked at this Act with a toothcomb to ensure that this country will do away with the issue of IDPs once and for all, and that all of them will be resettled.

In conclusion, this is the time this House, while debating Bills emanating from the Senate, should urge the Senate to stick to their role and mandate. It is a waste of taxpayers' money for the Senate to purport to consider Bills that they know they do not have the mandate to consider. Let the Senate stick to its role and mandate and not appear to want to do the work of the National Assembly.

With those few remarks, I want to urge the Members of this House to debate this Bill and be fully aware that this is an omnibus Bill that contains a lot of pieces of legislation. Apparently, the right way to go is to develop substantive amendment Bills. For example, the Sports Act needs comprehensive amendments because it is a very important Act. I urge Members to debate this Bill objectively.

I beg to second.

(Question proposed)

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Members, I will follow the requests list. I have the pleasure to invite the Member for Nambale, Hon. Sakwa Bunyasi, as the first one to contribute to this Bill.

Hon. Bunyasi: Hon. Temporary Deputy Speaker, I had logged in to speak on the Political Parties (Amendment) Bill and not this one.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): I am advised. The next person is the Member for Kipipiri, Hon. Samuel Gichigi.

Hon. Gichigi: Thank you, Hon. Temporary Deputy Speaker. Having had a look at this omnibus piece of proposed legislation, I have a few comments that I would like to make. The first one is to reiterate the lamentation by my colleagues that at this rate, this country might find it difficult to justify the continued existence of two Houses that are just falling over each other repeating debate on same legislation. The makers of the current Constitution had in mind a situation where each House deals with its own business. Mostly, the National Assembly was to

come up with most of the laws while the Senate was to just focus on what concerns the counties other than the few times like in the impeachment of the President when the two Houses are required to deal with the same item.

I have seen very many instances where the Senate does not look at its mandate under the Constitution, the Standing Orders and other laws, so that they just deal with what is theirs. Even in some committees that I sit on, several Bills have come from the Senate and we have been forced to make reports saying that that is not within their mandate and, therefore, the Bills should not be entertained in this particular House.

It is true that the Constitution gave the Senate a very limited scope and mandate, but that is the way it is. Perhaps, the best route for the Senate to take is the one that they are currently proposing of amendment of the Constitution, so that their mandate is expanded. If they do not follow that route, they should rather remain the way they are and keep on coming for sessions yet they do not have business.

Going to the substance of this Bill, I want to make my contribution on the Pyrethrum Act. I come from a pyrethrum growing area. Some of us were partially brought up through proceeds of pyrethrum, yet it is very difficult to even get one stem of pyrethrum, where I come from because it was uprooted and farmers moved on, yet it is a crop that can benefit this country. Instead of synthetic material, the world is going to crop-based chemicals and we stand to benefit, yet we are not dealing with this issue.

I think even our Departmental Committee on Justice and Legal Affairs did not look at this issue well. The provisions of the Constitution, or even other laws, did not intend to have a government that is parallel to the national Government. The idea of governors coming together and coming up with the Council of Governors (CoG) has nothing to do with a parallel government where, a Cabinet Secretary (CS) must consult it. The reason we came up with the counties is the various trends. My take is that a CS should consult a particular governor on issues relating to that governor's county. For example, when it is an issue of pyrethrum, let him consult those governors whose counties grow this crop. When you say you go to the CoG, what does it have to do with the pyrethrum?

Hon. Temporary Deputy Speaker, even as we move forward to the last stage, I suggest that the issue of consulting the CoG should be removed. Except in matters that cut across the board in the country, let us request the national Government and its officials like the CSs to deal with the specific governors on specific issues. The CoG is just for harmonisation and not a parallel government to the national Government. I will be bringing an amendment to the particular proposal on the Pyrethrum Act.

On the Sports Act, the Fourth Schedule of the Constitution is very clear. It gives the counties a major role when it comes to sports. It is important that the national body consults governors, but I still do not think it is the best idea to consult the CoG.

On the issue of prevention, protections and assistance to internally displaced persons (IDPs) and affected communities, this is an area that we now have an opportunity to make contribution to, as a House. Members, I beg you to look at that particular Act more seriously, and find out what this House can do to assist these people. As another Member has indicated, most of these people are still languishing in camps, and the ones who are not in camps have moved to other areas where they have rented houses. They are suffering. I met a group of them recently. In the county where I come from, we have over 12,000 IDPs, and the Government appears to have shut the door on them, and is not dealing with them. When it comes to the issue of IDPs, it buries

its head in the sand. It is important that we amend these provisions and make it mandatory that the Government, as a matter of necessity, resettles the IDPs. It is a national problem which should be dealt with.

We also need to look at the provisions that have been proposed by the Senate, which might encroach on security; we can tidy them up. We do not want a situation where the money we are giving to the counties will generate conflict and displace people internally. Rather than deal with the issue of resettling or assisting them, they generate IDPs in this country.

So, I support some of the proposals by the Senate but oppose others. I will suggest amendments at the Committee Stage.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Thank you. Your amendments are very much welcome. You know at what point you should do them.

The next one on my list is the Member for Nakuru Town East, Hon. David Gikaria.

Hon. Gikaria: Thank you, Hon. Temporary Deputy Speaker, for giving me this opportunity to contribute to some of the issues which have been raised by the Committee. First of all, I concur with the Committee that the Senate needs to look at Article 96 of the Constitution to understand the roles that it is supposed to undertake. If it is going to duplicate what the National Assembly does, then the best thing that Kenyans should do is ask for a referendum and merge the two Houses, so that they can sit together and handle all the functions. Once we start duplicating some of these roles and functions that are in the Constitution, we will not be doing any justice; we will just be spending public money without necessarily---

I believe that what we need to do is to request the Senate to stick to its business as the National Assembly also does its business.

As I look at some of these miscellaneous amendments I want to believe that there may be advice that respective committees may want to benefit in future. Miscellaneous amendments, as I understand them, are many amendments in a particular Act of Parliament. Those amendments are brought together. So, it is a little bit confusing for us and we cannot be able to give meaningful contributions if the Departmental Committee on Justice and Legal Affairs does not tell us what the original Acts say, what the Senate is proposing and what the Committee is proposing. We need to be in a position to give meaningful contributions. I see the Committee has targeted six or seven laws for amendment, yet we are unable to access the original Acts for us to make some meaningful references. We wish that the Committee, in future, summarises the particular amendments, so that as we look at them we are able to understand what the principal Act says, and what the amendments are all about. As we talk now, we are a little bit confused by the Report of the Committee and the proposal that has come from the Senate.

Regarding the issue of prevention and protection, I totally concur with the Committee that bringing in the issue of consultation with the Council of Governors (CoG) is not important. Some of the counties do not have Internally Displaced Persons (IDPs). So, if you say that the CoG, that has on board all the 47 counties--- I totally agree with the Committee that we need to be very specific. Consultation should only be done in the respective counties where we have IDPs. That will go a long way in improving the situation.

I am saying this particularly because in Nakuru we were much affected by the 2007/2008 post-election violence. We have brought this matter to the attention of the House. I brought a request here earlier on, but it has never been addressed. The Government went ahead and bought land to resettle IDPs. However, a good number of them have never been settled to date. It is because the Government never made proper inquiry regarding land matters. We have a case in

Subukia where a father sold land and the daughters then went to court. IDPs have never been settled, yet we spent millions of shillings purportedly for that exercise.

The involvement of, say Nakuru County Government in buying land would have gone a long way in addressing this matter. In Njoro we settled over 567 IDPs. Again, some of the IDPs cannot occupy land because some of the so-called squatters went to court. Consultation with the county governments regarding particular parcels of land would have helped a great deal. The IDPs moved from Nakuru and went to set up camps in Subukia and Njoro. That does not auger well for the Government. Government money was spent yet we are still in courts. Consultations with the respective county governments would have gone a long way in addressing this issue.

I would also like to talk about the Pyrethrum Act and the pyrethrum growing areas. Nakuru County happens to be the headquarters and it also harbours the factories. It is sad that the Cabinet Secretary one day took a chopper, landed on the premises of the Pyrethrum Board, installed the Chairman of the Board and then took off. He did not even care to know what the county thinks, especially after we had brought some amendments to the Pyrethrum Act. The CoG had a small caucus comprising of 19 counties which grow pyrethrum. These counties have an issue to do with the growing of pyrethrum; so, consultations with them were necessary in as far as appointment of the Chairman of the Board was concerned.

As we talk now, Kshs600 million has been given by the national Government to the Chairman to do some activities in order to encourage pyrethrum growing. Nothing has happened to date. The money was intended to offset some of the outstanding debts owing to the farmers. Part of the money was also to be used to buy pyrethrum seeds so that we encourage pyrethrum growing. By doing that we would be able to revive the factory. There is no need of growing pyrethrum and then we sell it without doing value addition. That factory is meant to grind pyrethrum and come up with an end product which should be sold competitively in the international market.

In the days gone by, Kenya was leading in terms of production of pyrethrum. Now we are lagging behind our neighbours like Rwanda, which has now taken the lead in the pyrethrum market. Counties ought to have been involved with regard to the appointment of the Chairman of the Board.

Regarding sports, it is sad that the Ministry of Sports, basically, has no budget whatsoever for any sport. We keep on bragging that we want to lead in sporting activities. Under the Fourth Schedule of the Constitution, 2010 it is clear what the national Government is supposed to do with sports. I totally concur with the Senate when it comes to this issue of sports. The national Government should give money so that we enhance and promote sports rather than just--- Most of the governors are saying that they cannot pump money into sports because the national Government has taken over that mandate. It is true. Why should we remain with a function, yet we do not have a budget for it? As we talk now, football issues in the country are in a mess. When players cannot honour an international match because the Football Kenya Federation (FKF) cannot afford the costs, it is not good.

Why has the Government not set aside even a shilling for fare for players? Again, I want to concur with the Senate that counties need to be involved in these issues. The only thing to do now, as Hon. Gichigi said, is to bring some amendments, so that we do not involve some people unnecessarily.

Athletes from the Rift Valley Province are very good. We need to enhance and promote athletics in the counties within that region. A similar approach will not be required in, say

Mombasa or eastern region. I totally agree with the Senate that it is important for us to get into consultation with the county governments. We will be bringing some amendments at the Committee Stage, so that we can enhance sports.

About alcohol and NACADA, we have a problem. Everybody is now drinking alcohol at the counties.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Very well spoken and your time is over. Your amendments are very welcome.

The next one is the Member for Igembe Central, Hon. Cyprian Kiringo.

Hon. Kubai Iringo: Thank you, Hon. Temporary Deputy Speaker for giving me this opportunity to contribute to this Statute Law (Miscellaneous Amendments) (No. 2) Bill. I concur with the amendments as they were presented by the Chairperson of the Committee. These amendments will go a long way in trying to actualise the Constitution, which we are still in the process of making workable and perfect. We are moving a step ahead to see that the Constitution is implemented as is expected by Kenyans.

These amendments touch on a wide range of issues, including our economy, social life and also the way we should work. I strongly believe that if we go as per these amendments, some of the industries and sectors which have been neglected could receive some facelift and will appear to be operational.

Looking at the pyrethrum issue, pyrethrum is a cash crop which was bringing a lot of income to some Kenyans.

Hon. Temporary Deputy Speaker, Kenya being an agricultural country which does not have minerals, I strongly believe that agriculture should be given priority - especially the cash crops despite the fact that synthetics and other products have come in to challenge the same. When there was pyrethrum, many farmers used to get a lot of money especially in Meru - my home area - and in Igembe.

When we had pyrethrum, we used to supplement our income. Apart from coffee, tea and *miraa*, we also used to get money from pyrethrum. Today, the area that used to grow pyrethrum now lies fallow. I do not know why the Government should keep on appointing board members and directors and yet, they are not going out to the field or farms to confirm what is being produced, and which they are going to manage. This amendment should ensure that pyrethrum is grown and protected so that it can earn income to our people.

I am not talking about pyrethrum alone. There are many other crops which can bring money to this country. But, somehow, the Government has neglected them. It has not taken them seriously. There is the issue of *miraa* which has been banned all over the world and now, the people in my place are suffering. The Government should protect any crop that is bringing some income to the people.

I am looking at this aspect not only for the people who were displaced during the skirmishes we had after the 2007 elections, but there are people who are living with hostile neighbours who are displacing them.

All the time, families are being displaced from one place to another and others are rendered homeless. Their farms are taken by force. This amendment will bring in sanity. The National Lands Commission (NLC) should identify boundaries. The residents will know their land when proper adjudication is done. The adjudication areas should be well spelt out so that once an area has been declared for adjudication, it should be demarcated for the residents and people who live there. That way, we will not get people who are perennial squatters. Every time,

they are chased away. But during the rainy season, they are back. When there is a dry spell, they are chased away by animals. It becomes a big problem and people cannot develop their farms properly.

In sports, there is a lot of talent. We have many talented young Kenyans who can perform in each and every field. We have seen the young Kenyan – Julius Yego - who is nicknamed “The YouTube Athlete”. He became who he is by using social media and watching others practicing. We should establish academies and centres of excellence where, if one is not able to excel and become a professor and is good at running, he or she can be encouraged. Even the athletes who brought fame to this country in Beijing, if you go deeply and follow how they have become who they are, most of them are self-made. They have not been assisted in any way. They are talented naturally and they have made themselves. But if they had some input from the Government through a budget, they can perform even further.

Football in Kenya is almost dead because of squabbles and corruption. The people who are there are just interested in eating whatever is there. We need a kitty to promote sports among our youth. It should go to the grassroots. In the villages, there are good footballers, runners, boxers and netballers. If that talent is not discovered early, nurtured and coached, it is lost. There are many people who are taking drugs and alcohol because they have not had anybody to mentor them and push them to the next level to achieve their talents.

Therefore, I support that sports be given a big priority just like the campaign against alcoholism and drug abuse, which had almost crippled our youth, the older generation and some villages until the other day when the President intervened and there was a big campaign to fight drugs.

Unfortunately, we have not eradicated them. I strongly believe that if we eradicate drugs and other substances that affect our lives and normal living, we can nurture a young generation of workers and talented Kenyans who will be able to run this country. They will be of benefit to this country in the years to come. I seriously support these amendments. They will go a long way in putting our Constitution in order and benefitting from our human resource and other resources that are God-given.

The Government should come up strongly and stop offering lip service. Let us be practical. If it is the Ministry of Sports, it should do its work. If it is the Ministry of Agriculture, it should take its work seriously. That will make us grow this great nation of ours.

I support. Thank you.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Hon. Dido.

Hon. Dido: Thank you very much, Hon. Temporary Deputy Speaker, for giving me this opportunity. At the outset, I want to thank the Committee for telling us that this Bill is good. Having gone through it, I must be convinced what is good about this Bill. I also want to thank the Senate for appearing to do something for the counties. Article 96 of the Constitution clearly sets out the roles of the Senate.

Kenya is a unitary state. Some functions are best served in a centralized, organized, structural manner with a clear organizational structure. The responsibility and the buck must stop somewhere.

If I start with the first Statute Law that the Senate intends to amend – the Cancer Prevention and Control Act - this is very important because currently, cancer is a major killer even in my constituency. Looking at what the Senate has recommended in terms of changes to this particular Act, it is as if it has just been picked. Literature is just “cut and paste” from

periodicals from World Health Organization (WHO) saying encourage, coordinate and collaborate.

What the senate should be doing in this Bill - and what our Departmental Committee on Justice and Legal Affairs should go further and do - is to attempt to make the recommendations in this Bill actionable so that we are seen to support the functions of the counties.

Hon. Temporary Deputy Speaker, on the National Transport and Safety Authority (NTSA), I believe there is a clear reason why this is a national authority for safety, standards, construction of roads and inspection of vehicles. But any attempt to try and divide this particular function to please individuals - wherever they are - will be undermining the safety of Kenyans on the Kenyan roads.

That is why I am saying that the Departmental Committee on Justice and Legal Affairs must go further and interrogate the rationale behind giving these functions to other individuals and organizations. There is also the recommendation of three persons to be appointed by the Council of Governors. We have 47 counties. Where will those three come from? Kenya is a unitary State and any attempt to define it otherwise could be a big mistake to even undermine the unity of this country.

Liquor licensing is a devolved function. In Section 5 of the Bill, the Senate says that this is subject to distribution of functions between the national Government and the county governments. Clearly, there is a failure to understand the role of the national Government and the role of the county governments in that. If we clearly understand this, we cannot come up with a Bill to say that we again distribute functions. In this Bill, the Council of Governors is seen in several instances. I would like the Committee on Justice and Legal Affairs to tell us if this is just a club of like-minded individuals coming together or it is in our statutes for us to give them a responsibility within the laws of the land.

In the area of sports, I agree with the Member who spoke before me that the counties must be given more responsibilities in terms of developing sports and the youth. However, there should not be any attempts to usurp the duties of the Cabinet Secretary, which are clearly enshrined in our Constitution.

Finally, the area of Internally Displaced Persons (IDPs) forms a very important part of this Bill. Reading through it, it is just literature without any substance to hang our hats on. For example, with regards to measures for assistance and protection, what does this Bill attempt to define or come up with? What are those durable solutions? In the Third Reading, we must make sure that the Bill clearly lays out the functions at the two levels of Government and also to assist the counties in terms of their functions.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Very well spoken. The Member for Kisumu East.

Hon. S.S. Ahmed: Hon. Temporary Deputy Speaker, firstly, I had the honour and privilege of being involved in the process of devolution when I was a young person in 1992 onwards. I have had my share of teargas and stones. So, when we are talking about devolution, it is very close to my heart. I was a member of the Constitutional Review Committee (CRC) both before and after the Moi regime, and we faced the frustrations that were there.

Why am I giving this back ground? The background, together with a certain very infamous meeting in Naivasha, came up very clearly with the issue of the two Houses. The people who are complaining bitterly about the power of the Senate are the very people who passed these provisions in Naivasha to stop the Senate from being involved in other national

functions. They were clearly told that we needed a very strong Senate for the first 10 to 20 years, so that devolution is not sidelined by the National Assembly. They actually said that. My dear brother, Hon. Orengo, Hon. Wetangula and all of them were very clear. So, when they went to the Senate, they went with a clear indication that the Senate was going to look after, promote and protect the devolution process. When we see that they are now looking at the Kenya Airways and other things, we wonder whether they have lost focus.

Let me come back to this Bill. With regard to the Cancer Prevention and Control Act, there is absolutely no harm, and it is good to specify and specialise at county, sub-county and constituency levels - as to what can be done concerning the prevention of cancer. However, the Cancer Protection and Control Act is going to be linked to international conventions and regulations on cancer. This means that there must be a national body to hold certain functions, standards and promotion of certain ways forward. They should sign and be in touch with international bodies which deal with cancer issues. That has to be. The moment you devolve it to counties, at every cancer conference, the 47 counties will be represented from Kenya and there will be no national message. Ebola and the Middle East Fever were national issues. Had West African and North African countries like Liberia not taken a national stance, Ebola was not going to be eradicated. As much as that is the case, I do not see why the county governments cannot liaise and work within the provisions of the National Cancer Prevention and Control Act. They should not try to operate as if they are standardizing the Act for the counties. It will not work and it is meant to be a national function. Devolution means that you devolve these functions in your State. For instance, although albinism is not a disease, it is a national function. The roles of the national Government and the county governments are the thread of my argument throughout. This is the same with the National Transport and Safety Authority (NTSA) Act. It is national and we must have national standards.

However, as long as those national standards are adopted, they can then be modified in consultations and approval of the national bodies by the county. If the national body says that the speed limit is 70km/h, the county cannot say that the speed limit in Kisumu County is 30km/h. It does not make sense. But there may be particular reasons why the county governments want to change. In the United States of America (USA), in terms of traffic laws, what is legal in one county is illegal in another. People have diverse rules. As a result, people get confused. The very fact, as my colleague has said, is that Kenya is a unitary state. We agree. The Constitution is for Kenya as a unitary State. But the devolution function is to see how we can devolve those responsibilities that were hitherto carried out by the national Government to the local government so that there is local content on the issue.

Hon. Temporary Deputy Speaker, there is also the issue of the National Traffic and Safety Authority Act. There may be a place in Kisumu where the Act says 80 miles an hour. In Kisumu, we might come to a particular corner which we know that it is very dangerous and has killed many people and then we say 20 miles an hour. It must be in conjunction with the national Act. We are specialising it because we have certain desires to improve the safety of the people.

Likewise, there is the issue of NACADA. The same trend of argument applies. It is a national function. However, on this one, there needs to be much more coordination with the counties and the sub-counties. Alcoholism is a different problem and, perhaps, a different root cause in Nyeri as it is in Kisumu. We have alcoholics in Kisumu, Mombasa and other places. However, if you treat Nyeri in the same way with Kisumu, it is going to be a mess. You cannot treat alcoholism the way you want in Kisumu and then take it to Nyeri. It cannot be transferrable.

However, that is where you see the county can strengthen that process. Like in Mombasa, when you talk about alcoholism and campaign against drug abuse, it is different. So, we can deal with it and the county can put that thing together but, it must be under the approval of the national body so that is a national function which is then further strengthened by the county function.

We also have the country's Sports Act. I agree that the county governments should be involved. I disagree when they say that the county governments do not have funds. It is not true. We all know that in our Constituencies Development Fund (CDF), there is an element of sports. All of us know that Kshs1.5 or Kshs2 million is for sports. Likewise, when it comes to counties, there is an element, whether it is identified particularly by the national Government or not, the county cannot state an amount. So, I feel that there should be no problem in managing sports, but sports are a national event. It is a national image of Kenya. When we are talking about national image, we want a national image. But there is nothing that stops you from working in partnership with others. For example, the Kipchoge Keino Stadium can be nationalised. Each county should develop its own resources. I see no reason why each county cannot have its own football team.

Thank you, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): We appreciate the passion that you have for devolution. I want to imagine and appreciate that the requests that I have want to speak to Order No.11. For this matter, we will have Hon. Timothy Wanyonyi, Member for Westlands. You want to speak to this.

Hon. Wetangula: Hon. Temporary Deputy Speaker, I wish to speak on this. I will be very brief. I only want to touch on two issues - sports and internally displaced persons (IDPs).

I would like to agree with the previous speaker on this issue. Some of these functions are national and cannot be devolved. Counties cannot be stopped from participating in sports. They cannot take the role of the national Government, especially when it comes to national functions of sports. For example if we are sending the Kenya national team, counties can participate at the local level. That has been going on. That does not require any legislation at all because we have sports at the local level and in schools and counties can participate in that. We need to look at the issue of even managing our own affairs in sports because Kenya is a sporting nation. We find that our sportsmen and women are suffering because we do not have any order in that sector. In recent times, you have seen the upsurge of foreign agents who come here. They mistreat our sportsmen and women and even feed them drugs that are prohibited by international bodies.

The issue of IDPs will happen in our country and counties will definitely get involved in it. But this is a security issue. It should still remain the function of the national Government. It can involve the county government when something has happened in a particular region, but we cannot say that they share this function almost at an equal level. We were saying that the security issue should remain a national function. When something happens in a certain area, the county government has a responsibility to report and take part in managing it.

There is also the issue of disaster management and preparedness. This is very important because we find that whenever something happens and whenever there is a disaster, we are always unprepared. Right now, we have been warned that the El Nino rains are coming. The kind of preparedness that we are putting in place is not going to help us very much. We need to look at the whole issue of disaster management. This is affecting most of our people, especially in urban areas, where Members who have urban constituencies are - almost on a daily basis - handling emergency issues. Most of the time, as an individual Member of Parliament or a leader, you find yourself in a very awkward position because you do not have the capacity to handle the

emergencies. There are Government functionaries who are supposed to handle them. For example in Nairobi, most of the areas which were set aside for building fire stations were sold by some corrupt people. Now, a place like Westlands - a city within a city - does not have a single fire unit. So, when something happens, we have to call the fire station that is stationed at Central Business District (CBD) in the City centre. It is something that we must look into. This is an area where the county governments ought to be involved. They must also be prepared to handle disasters when they occur within their regions.

We know very well that some of the issues of IDPs are human-made. We have been grappling with security issues. We are wondering whether governors can handle them or not. It has been a very thorny issue and, as we speak, the governors are excluded. They are not exactly in it. They are saying that governors must chair those meetings for them to participate when insecurity happens within their region.

I support some of these amendments, but some of them should remain the functions of the national Government. They should not be devolved to the counties.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Very well, Member for Westlands. You are welcomed to bring your amendments in the Third Reading. I am sure the Chairperson of the Departmental Committee on Justice and Legal Affairs is taking notes.

Member for Likuyani, do I get an indication that you want to speak on this Motion?

Hon. (Dr.) Kibunguchy: Yes.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Let us have Hon. Enock Kibunguchy.

Hon. (Dr.) Kibunguchy: Thank you, Hon. Temporary Deputy Speaker. Before I speak to this Bill, I would like to touch on two areas that most of my colleagues have done. We have reached a stage where, as a country, we need to have a national conference to distinguish the roles of each level of government. Now, we have two levels of government; the national and the county government. The functions spelt out in the Fourth Schedule are very clear to each level of government. The Senate is trying to encroach into the territory of the National Assembly. On the grassroots level, you will find that the county government is trying to go into other areas that are not in their domain, rather than concentrate on their functions. For that, I would recommend that we get together and remind ourselves what each level of government is supposed to do. You realise that the Constituencies Development Fund (CDF) was declared unconstitutional for the simple reason that its functions were touching on the two levels of government. The court gave us a year to align it to either level of government. As we go forward, it is important each level of government is familiar with its mandate and knows its limits and territories.

With that out of the way, I would like to touch on two areas. We know that this country has been put on the wall map because of athletics. Athletics and sports in general, is a function that is best captured at the county level. Each county has its own talents that it can tap from. I would like to say that for those of us from North Rift, I would like to urge the County Government of Uasin Gishu to put up an Olympic Area where people visiting from outside can access those facilities and pay the county government. Between Eldoret and Iten, there is a farm of around 5,000 acres that belongs to a *mzungu* farmer called Kruger. If I was the Governor of Uasin Gishu, I would have bought that farm and transformed it into an area where we can have all sports disciplines. We have people training with our athletes there, and some of them, at times, beat us. We want to make that commercial so that when they come to train and live with us, they pay us. The county government should exploit that.

The way I understand devolution is this: It was not meant to rely on the money appropriated from the national Government. The county government should generate its own revenue. It should look at its natural resources and see how best to exploit them, so as to generate jobs and fight poverty at that level. All of us have certain things that are special in our areas. I would say that in the North Rift area, athletics would do extremely well. We need to go in that direction.

Secondly, when we talk about athletics, the county governments should lay the infrastructure for sports academics. We need to start tapping those talents at a very early age. For those who love football, they know that Lionel Messi, the great footballer of the world at the moment, was tapped when he was 7 years old. He was put in the Barcelona Sports Academy. Now there he is, and you can see the wonders he does with the ball.

Every county should set up a sports academy to tap some of the youths at the very early age and nurture them in whatever sports field it is, be it football, athletics or volleyball. There was a time that this country was renowned for boxing. But it has now gone down the doldrums.

I would also like to talk about Internally Displaced Persons (IDPs). I want to talk about them because they are very close to my heart. Unfortunately in this country, when we talk about IDPs, everybody seems to concentrate on the post-election violence that happened in the late 2007 and early 2008. We tend to forget that we have had post-election and political violence in this country that date back to independence. Those of us who come from western Kenya understand that, at the time of independence, there was political violence which became worse at the advent of multi-party elections. Many people from Mt. Elgon and Bungoma fled their homes and they were scattered to the four corners of this country. Every Government has virtually forgotten about them. When we sit here and talk about IDPs, people talk about whatever happened recently in the disputed elections of 2007/2008, but tend to forget that there are very many people who are affected because of political violence for many areas, and people never mention about it. We need to look at the historical injustices. I say this because my own family was affected in the 1991-1993 clashes at the advent of multi-party elections. We need to go back and see how well those people can be assisted. Many have died but they still have their children and grandchildren whom we need to take care of.

In concluding, there was a great philosopher who once said that it is only a fool who does things the same way and expects different results. Since independence, we have done things the same way until the new Constitution came into place. One fundamental departure in the new Constitution was devolution. Devolution was meant to change the way we do things in this country, so that we are not fools. Devolution has picked up, but we need to give it a lot of support. Otherwise, people will start clamoring saying that we go back to the centralized government. Devolution is the one change that will be beneficial to this country, but we must nurture, protect and make it grow.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Hon. Nakara.

Hon. Nakara: *(Inaudible)*

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): You support. Thank you, Members. Hon. Members, use your 10 minutes well. Avoid irrelevance and repetition as per our own Standing Orders. Do the necessary. The Member for Muhoroni, Hon. Onyango Oyoo.

Hon. Oyoo: Thank you, Hon. Temporary Deputy Speaker for according me the opportunity to speak to the Bill. At the outset, this Bill is in order save for some duplications. On the issue of Internally Displaced Persons (IDPs), we all know that they are either victims of

forceful evictions or people who, for economic reasons, are encroaching on land that does not belong to them. So, that calamity can be best sorted out by the national Government. That is why security is still a docket of the national Government. The county governments can do very little to solve that problem.

Since the national Government and the county governments all work for the interest of the common man who elects the governor and the President, it is also important that they work in concert most of the time because most counties border one another. They could help the national Government by identifying the hitches that cause those unnecessary commotions or, in particular, the people who are behind those commotions. I am saying that because I am a victim. My constituency is perched across the borders. I have had skirmishes along the border which, sometimes, occur as cattle rustling. But on the higher side, they give an impression of people who seriously intend to evict others. The county government has tried to help me mitigate that calamity with some enthusiasm. The national Government is usually very slow but I believe it should still retain the docket. It should not try to pass the buck. It should be very serious about IDPs because they are its burden.

When it comes to sports, we have had fame. There is a time Kenya was an agricultural country. We have run down the agricultural sector and even tourism. Sports now remain a big foreign exchange earner and also our main tourist attraction. Kenyans are best seen outside during sports when the Kembois, Chirchirs and Wanjirus win gold or silver medals in international competitions. I sit in a committee that oversees sports. Sports are still a national responsibility and will remain so. The county governments can also come in. We have several stadia that should be developed. The ones that are dilapidated should be repaired. The county governments, if I am not malicious, are wallowing in money - most of which they use to antagonize their enemies, hire goons to threaten their perceived and real enemies. Some hire employees who do not have what it takes to keep the jobs they have. If they could also come in and help the national Government to repair dilapidated stadia or build new ones, it would be very good. I believe that the Government should do more than what it is doing or what it has done given that sports is the major activity that is generating income and also giving Kenya a good image outside this country.

With those few remarks, I support.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Members, as a reminder and information to the House, we are debating Order No.11, the Statute Law (Miscellaneous Amendments) Bill, Senate Bill No.6 of 2014 that was moved very well by the Vice-Chair of the Departmental Committee on Justice and Legal Affairs, Hon. Nyokabi. So that we remain relevant, let us debate on the miscellaneous amendments that were proposed. Let us not be general and adhere to our Standing Orders. I thought you were just requesting. The Member for Elgeyo Marakwet, Hon. Susan Chebet.

Hon. (Ms.) Chebet: Thank you, Hon. Temporary Deputy Speaker for giving me this opportunity. I want to say one or two things about sports. I recognize that sports are a very important activity for Kenya and also for the counties. Respective counties nurture sportsmen and women differently. There are those who perform athletics while others play football and other games. So, we have different counties nurturing different types of sportsmen and women. We should accord them the opportunity to do them properly. We are proud as Kenyans when we see our people excelling in the field when they are doing their sporting activities. Therefore, I still feel the recognition of sports activities should be taken up by both the national Government

and the county governments; the county governments being the preparation areas while the national Government takes the responsibility of recognizing and even celebrating the heroes and heroines that we have in Kenya. If we can do that, it means that we can have some money coming into the country through those activities. We can also earn some money at the county level. So we want each of the levels to occupy the specific areas and play their roles well.

When we talk about Internally Displaced Persons (IDPs) in Kenya these days, we are talking about people who have been displaced because of political upheavals. However, we also know - and I agree with the Member who has just spoken - that we have people who have been displaced by disasters, encroachment by other people and forcible eviction by the Government. For example, the Ogiek were removed from the forest many years ago and now they are displaced.

We are also looking at activities of the national Government like what we have in the Fluorspar Company of Kenya in Elgeyo-Marakwet County, where the Government took over the mining area and later on transferred it to a private company. The people who are occupying that land are now IDPs. They may not be using the word IDP, but they are people who have been taken hostage. They cannot move around freely on their land or cultivate it. So, those are some of the things we need to consider before apportioning responsibilities to either the county governments or the national Government. In that respect, the national Government should take the responsibility of resettling the people because the county government does not have the means.

Thank you, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): The Member for Mvita, Hon. Abdullswamad Mohamed.

Hon. Nassir: Thank you very much, Hon. Temporary Deputy Speaker. I would like to just add onto the amendments touching on NACADA as proposed by this Bill. First of all, it basically talks about including county governments in running NACADA. It has come at the right time when drug abuse has become a national disaster where I come from. I agree with the proposal that the Council of Governors should be represented when NACADA is coming up with a report or publishing a statement on alcohol and drug abuse as well as in the implementation of this Act.

There is only one particular provision I have an issue with. Currently, the chairperson of NACADA is appointed by the President, with the approval of the National Assembly. What this Bill proposes is that once the National Assembly approves the appointment of a chairperson, then it has to go to the Senate. This is something that the House might want to consider and see whether we are opening a Pandora's box. This Bill also talks about representation by the Principal Secretary (PS) in the Ministry responsible for children and youth affairs. The Senators have also come up with the suggestion that we should include the Ministry of Devolution and Planning, which I agree with.

It is important for this House to support these amendments. Needless to say, the issue of fighting drug abuse and rehabilitating people--- Fighting drug abuse has two elements - supply reduction and demand reduction. Demand reduction is what can be done by the county governments in terms of sensitisation and rehabilitation of affected people and trying to reduce the demand. Supply reduction is something that is being run by the national Government. It cannot be done in any other way except through the use of the security machinery and by the Judiciary. So, it is the Executive and the Judiciary that can do something in terms of supply

reduction. Because this is something that involves both the county and national governments, I agree---

I was saddened the other day when a NACADA Board director said the National Assembly leaders and Senators from the coastal region have not done anything regarding the fight against drugs and drug abuse. This is when people are just after making news and nothing else. I have to ask myself: When NACADA is the body that has been given that job to do, how do they point fingers at someone else? We have done our part in terms of demand reduction by coming up with sensitisation campaigns and ways of rehabilitating drug users. It is upon the security forces to say enough is enough. They have to ensure that they arrest the right people who are the suppliers of drugs.

The Judiciary should also help. I have been on record that, unfortunately, the Judiciary lets a number of drug dealers to go scot-free. I do not wish to have any fear that I am on HANSARD record. A number of drug dealers in Mombasa are going scot-free because the Judiciary has decided that someone who is a known criminal can just be given a bail of Kshs20,000 or Kshs30,000. My hope is that Members will accept this amendment so that we can have both the county and national governments fighting the menace of drugs and drug abuse.

Thank you.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Thank you, hon. Member. However, we do not speak about others unless we are able to substantiate, but you were very keen on your language.

The Member for Njoro, Hon. Joseph Kiuna, do you want to speak to this Bill?

Hon. J.K. Ng'ang'a: Thank you, Hon. Temporary Deputy Speaker. I rise to support the amendments.

On the issue of IDPs, my constituency was one of those heavily affected, not only as a result of the post-election violence. Right now, I am having a major problem with the issue of forest evictees and landslide victims. I would suggest that we come up with a time-frame of dealing with those cases once and for all because time is running out. We are now being told about El Nino and people have already been warned to leave areas which are likely to be heavily affected. The forest evictees are still languishing in camps. The Government should move with speed and resettle those people.

On the drugs and drug abuse issue, I support my brother from the Coast. We are trying our level best to eradicate the menace. However, I am disappointed because in my county of Nakuru, there are known brewers and distributors of illicit alcohol, but the Government is unable to help us. They are doing their business normally. When you report them, no serious action is taken. So, we need to sit down and see how we can deal with illicit brew and drugs. The ordinary *mwanauchi* is fully supporting the idea because illicit brews have destroyed many of our children and families. We should not just watch. The big brewers and drug lords are just walking scot-free.

I remember last week some people were arrested in Nakuru selling illicit brew. When they were taken to court, they were fined Kshs5,000 and released. We need to see whether we can change the law and provide stiffer penalties for those who are involved in the illicit brew business. This is not a business we can allow to go on. Even if they are in need of money, there are other businesses they can engage in to earn their daily bread. Engaging in a killer business is going to destroy this nation.

Thank you, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Hon. Members, I will give the Floor to one or two Members before I call upon the Mover to reply, given the mood of the House and as per your request.

Chairperson of the Departmental Committee on Education, Science and Technology, Hon. Sabina Chege, you have the Floor.

Hon. (Ms.) S.W. Chege: Thank you, Hon. Temporary Deputy Speaker, for giving me this opportunity to speak. At the outset, I support this Bill, especially on matters pertaining to health. I am just from my county where I had gone to bury one of my supporters who had died of cancer. The issue of cancer is serious in the Republic of Kenya. Cancer is killing more people in Kenya than even HIV/AIDS. I am glad that the national Government can discuss this. My proposal is that we should have cancer centres in every constituency and not every county. This is one of the diseases that have made our people poor. It has made many families suffer as their relatives die silently. So, I really support and I hope that county governments will come in handy and start cancer centres. I also hope that the national Government will come in and equip them. When hon. Members go to their constituencies, they should create awareness especially on screening of cancer for women. They can be screened for breast and cervical cancer to prevent many women from dying.

I am also passionate about the issue of sports. I am concerned that our sports sector has not been managed very well in this country. We have the World Cup for women and I have not heard or seen big support for women football clubs in Kenya. I hope that county governments can start having football teams for women, where we can support women in that level. If our men have failed to go to the World Cup, I am very sure the women can qualify and go to the World Cup and represent not only Kenya, but also Africa.

On the issue of NACADA, it is very sad that we are fighting drug abuse. I like the Member from the Coast region who has said that NACADA has not been seen to work. We have actually fought very much. It has really affected the Central region. It is very sad to report to this House that when we are fighting the second generation alcoholic beverages, we have one of our main brewers in this country boasting of making a lot of profit in terms of billions. There is one beverage called *keg* that our young men have gone back to. It is frozen. They are consuming it in cups and small glasses and it is cheap. It is now killing our people more than the second generation alcohol. I hope that we will amend the Alcoholic Drinks Control Act so that we can protect our youth. We should also not allow hawking of alcoholic beverages. Two days ago in Kiambu County, we had some young men who lost their lives. They were taking that beverage and also adding different ones because they were just buying it with a cup. We really need to take care of our young people.

I hope that licencing, which is being done by the county governments, will help us in becoming very strict on how many bars we licence and even when we licence them, we should monitor what is being sold in those bars.

I support the issues of transport. Sometimes, I am really disappointed when I go to the villages and find that the road that the Member of Parliament is using the Constituencies Development Fund (CDF) to build is the same road that has been allocated money by the governor. We are really misusing our resources. I hope this amendment will help the national and county governments to plan so that they can complement each other and not compete or outdo each other.

Finally, I want to comment about the issue of internally displaced persons (IDPs). Even if we are doing the amendment, my sincere hope is that we will not have persons in this country who are internally displaced. I pray that we have peace and the county governments will come in and bring harmony and preach peace among communities so that we can have one Kenya and one community.

Thank you, Hon. Temporary Deputy Speaker. I support.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Thank you. You are sitting next to the Committee Vice-Chair. I am sure notes have been taken and your amendments are still welcome at the right stage of the Bill.

Let us have Member for Kericho, Hon. Hellen Chepkwony.

Hon. (Ms.) Chepkwony: Thank you, Hon. Temporary Deputy Speaker. I want to comment about the IDPs. We know the word IDP started with the post-election violence. Because of the peace which has come to the country, most of IDPs are now settled. But we find that some other IDPs have been created. Some of those are the ones who were removed from the Mau Forest. As we are speaking, we know the El-Nino rains are coming. We do not know what is going to happen to the IDPs who are languishing in their areas. For the prosperity of the country, we would like the government to take stern action so that those IDPs are settled. We have different IDPs. For example, there are people who were evicted because of settling in other peoples' land as squatters. We need them to be settled immediately. To create harmony in the country, those people should be settled. We should not say that those people must be the same as the others. At least, let them have a comfortable life that is provided by the Government of this country.

Sometimes, there are some who pretend to be IDPs. We need the Government to take stern action against them. That is because others are trying to make themselves IDPs and yet, they are not. So, the Government should account for the real IDPs and punish those who are just pretending to be IDPs. As leaders, we should identify the IDPs with the county governments. That is because the government has now been devolved. It is now easier for the county governments to identify who the real IDPs are within their areas. It will make the work easier for the national Government because it takes time to identify them. We have the administration right to the ground, but there must be a strong force to make sure that those people are really identified and are proven to be real IDPs.

On the roads sector in our country, especially in Kericho County, there has been a lot of duplication in constructing them. For example, in Kericho County, we have areas where we grow tea. We have money which is given by the Kenya Tea Development Authority (KTDA) for rehabilitating the roads. We have the CDF money and county funds but, sometimes, there is a lot of duplication. For example, a road which can be maintained using Kshs1 million or Kshs1.5 million has been duplicated by the county government and the cost inflated to Kshs10 million. That is where we are saying that the county governments should be very accountable in what they are doing.

You can still find that the same road is being maintained by KTDA. So, you wonder what all that duplication is for. The CDF committees and the county governments should sit together to identify which roads should be made by each of them. We are wasting a lot of money on that issue, Hon. Temporary Deputy Speaker. I have been very particular in my area and so, I have been complaining. Look at the roads which are being duplicated and yet, nobody is talking about it! It is only a way of draining our cash. There should be a law mandating the national

Government and the county government to sit together and identify the activities that are to be done by each side.

I still want to talk about the roads. With that duplication, they should determine one thing. Either the county governments should construct all the roads except tarmacking--- The county government could be given that mandate so that the Constituencies Development Fund (CDF) money is used for construction of building and other things.

With that, I support the amendments. The Senate should be very careful and stern. It should supervise the counties rather than coming to supervise Members of the National Assembly. You will find that Senators are not even in their areas, but are just here talking without even supervising the governors. Senators are the supervisors of governors. They should make sure that they supervise what is going on, on the ground. They should not come here to complain. They need to identify the problems facing the counties rather than complain that “this law should be done by both the national Government and the county governments.”

So, Hon. Temporary Deputy Speaker, there should be a lot of clarity in this matter concerning the devolved government and the national Government.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Okay. Well spoken. Hon. Peter Mwangi!

Hon. Mwangi: Thank you, Hon. Temporary Deputy Speaker for giving me this chance to contribute to this very important Bill.

I would like to speak about these laws which are affecting NACADA. I come from an area or county where alcohol has affected most of our youth. When we were given permission to go and pour out that broth, we did it. But we still found out that we need to give our counties more powers so that they can licence bars and know the number of bars in each particular plot and town. That way, they will control the brewing and the drinking of illicit brews.

The other issue is the problem of cancer that is facing this country. Today, as Hon. Wanjiru has said, we are from our constituency to bury one of our supporters and a great woman leader. Every day and week, we have been attending funerals of people affected by cancer. It is high time every county had its own cancer centre so that we can rescue the lives of our people who are dying in large numbers. Sometimes, we get irritated when we hear that the only dialysis machine which is at Kenyatta National Hospital (KNH) has broken down. There are those who are on the queue and are waiting for 2017. Nobody with that deadly disease can wait that long. The Government needs to do something. We need to revolutionize and devolve this to make sure that we save our people. When you go to developed countries, they do not die because of cancer. However, here in Africa, our people are dying day in, day out. Something has to be done so that we can save lives. We should declare cancer a national disaster because it is now the highest killer in this country.

The other issue is on duplication of projects. In our counties, you will see a situation where one road is being done by one body, but another body will come and pretend to be doing the same road. We should come up with a way of harmonizing all the Government agencies so that they can work together towards the betterment of the Kenyan *mwana* *nchi*.

Thank you, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): The last one before I call the Mover to reply is the representative of the people of Kimilili, Hon. Suleiman Murunga. Is he in the House?

Hon. Kasuti: Thank you, Hon. Temporary Deputy Speaker for giving me this opportunity to add my voice to this very important Bill that is affecting our nation.

I would like to speak on the amendments on NACADA. You will find that NACADA, the Provincial Administration and National Environment Management Authority (NEMA) are responsible for making sure that the consumption of alcohol or drugs is controlled. However, many times, you find that the people who are supposed to be working to ensure that those things do not take place are well aware of where the consumption takes place and nothing is done about the people who are engaged either its selling or consumption. Basically, we must blame the NACADA organization which is, indeed, charged with this responsibility. We have not seen, for example in Nairobi, any action being taken. If action is being taken, then you will never see those people appearing in court or anywhere else. So, we need to look at this Act properly and not just in a manner that is not going to help this country at all.

There are a lot of laws that are being amended in a very haphazard manner, and we will not be able to achieve what we want to achieve as a country that way. The Provincial Administration, which is supposed to help in making sure that the drugs are not taken, is, indeed, engaged in collecting “kick-backs” and do not really engage itself in wiping out drug taking.

In places like Coast Province, people are really affected. We saw people who had been caught taking drugs being lined up in alleys. At the end of the day, we have not seen them being taken to court. If they have been, the fines that are imposed are so meagre. People who do not appear in court are let to go free. As legislators who are concerned, we need to pass the amendments which are punitive so as to make sure that we control drugs. If we are to wipe out drug taking, then we must be serious about what we are doing. My emphasis was on drug taking, which I see as a real menace to this country.

Thank you, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Thank you. Well spoken. Hon. Members, there being no other requests I, therefore, call upon the Mover, who is the Vice-Chairlady of the Departmental Committee on Justice and Legal Affairs, to reply. According to the House Resolution on Wednesday, 11th February, 2015, you have 15 minutes to reply.

Hon. (Ms.) Kanyua: Thank you, Hon. Temporary Deputy Speaker. Let me start by thanking all the Members who have contributed to the debate on the Second Reading of the Statute Law (Miscellaneous Amendments) Bill, Senate Bill No.6 of 2014. I want to thank all the Members who have contributed extensively to the various sections of this Bill.

We will be able to capture some of the issues that Members have pointed out when we bring the amendments in the Committee of the whole House. However, we would urge Members who are individually affected by some of the legislations captured here, and have had some very good views to also bring independent amendments on the different sections. The Committee will support the amendments brought by Members who have contributed in the Second Reading of the Bill.

The Cancer Prevention and Control Act has attracted quite a number of concerns and has attracted fairly good debate in terms of counties having powers and setting aside resources to deal with cancer matters and counties prioritizing matters around health.

The House will have a good chance to debate matters of health when the Health Bill comes before this House. The Health Bill has been in circulation for quite a number of weeks. We will have a chance to ventilate on matters health that relate to counties when the Bill is

brought before the House. We will also look at the necessary legal provisions in matters health in counties.

On the Cancer Prevention and Control Act, the views that have been raised by Members will be captured in as far as matters referring to cancer are concerned and the amendments proposed by the Senate and further amendments proposed by the Departmental Committee on Justice and Legal Affairs.

There was a lot of debate on NACADA Act. Those concerns will also guide the Committee because we are going to ask for a report of the HANSARD and look at the contributions that the Members have made, but the part on NACADA is also very critical. The fight against alcohol and drug abuse in our counties is something that cannot be understated. Those of us from Central Kenya had a very intense campaign against alcohol and drug abuse especially fighting second generation alcoholic drinks and illicit brews.

The term “second generation” means water and poison. There was no generation of alcohol because we know how alcohol is prepared. This fight needs to continue. When the Central Kenya Caucus has a meeting with the President of the Republic of Kenya, we will ask that this campaign is sustained and taken to every part of our country. It is good that coast region has started the fight against drug abuse. We have learnt lessons from Central Kenya that the people who prepare these alcoholic drinks are also very clever at reading the system. They kept away alcohol during the weekend of the campaign. Two or three weeks after, many of them are bringing back this alcohol. Some of them are now even bringing back expired alcohol.

So, NACADA is an institution that we need to focus a lot on. A country that is drunk or consuming drugs is a country that cannot develop. All of us need to be very concerned about the matters of alcohol and drug abuse in the counties.

There was also debate on the Sports Act and the amendments that need to go into this Act. The Committee will look at that matter again. Sports are central to our country. Even though aspects of sports are devolved, there is still a big role and relevance for Sports Kenya in terms of harnessing talent and making Kenya a sports country. This will be achieved by pursuing sports for employment, development and other purposes. On the provisions relating to sports, we are going to look at the role that the relevant county governments play in matters sport. This has been read in the Constitution as a residual function; that the function is both at the national and the county levels. So, we will get a good balance of what role the relevant counties can play as we look at matters of sports in Kenya.

The other law that attracted a fair amount of comment is the Pyrethrum Act. We are going to relook at this Act. I am also not sure, as Members have raised here, whether there is any role by the Council of Governors (COG) in the nomination and appointment of the Chairperson of the Board. The Board is national and pyrethrum is an international product. I am not sure whether the COG is relevant. I think that the Cabinet Secretary (CS) should be able to appoint the Chairperson of the Pyrethrum Board. That Board should then guide activities of the pyrethrum industry in our country. So, we will look at our amendments again and see whether the CS has sufficient powers to appoint the Board Chairperson to guide matters pyrethrum.

It is very regrettable that counties that were growing pyrethrum before are no longer growing it. We urge those counties - Nyandarua was mentioned a lot here - that they go back to growing pyrethrum. Some of these crops that we all grew knowing are economic crops that need to be part of the economic activities that we have in our counties.

The prevention, protection and assistance to Internally Displaced Persons (IDPs) and Affected Communities Act No.56 of 2012 also received a lot of attention from the areas with high numbers of IDPs. When we look at the provisions in the Committee, we will be guided by the views that have come from the Members.

Most importantly, we want to look at the question of IDPs vis-à-vis the Restorative Justice Fund that the President announced on the Floor of this House. This is a Kshs10 billion Fund. In the first year, we followed this with the National Treasury and Kshs1 billion was put in the budget for the Financial Year 2015/2016. The money is not sufficient but we have to start somewhere. If the kitty for the Restorative Justice Fund can start functioning, the IDPs and other affected communities can start to benefit from it. There would be guidelines that we are expecting from the Attorney-General's Chambers. It is not true to say that Government has abandoned the IDPs; the Government has done everything it can over the years to redress the IDPs but more still need to be done. Sufficient legal provisions are still necessary as what is proposed here in the Report that we are discussing---

On the question of IDPs, the Restorative Justice Fund that is going to be set up already has Kshs1 billion but in total a commitment of Kshs10 billion, should see us move some distance in matters of IDPs.

In some counties, my county included, we had what we call "invisible IDPs" where people went back home and started to live with their relatives. There will be other measures that will be proposed in terms of redressing IDPs including giving scholarships and facilitating them to earn a living where they are. We will be looking at all those measures in the Restorative Justice Fund.

Again, I want to thank the Members of this House and the Members who contributed and participated. I also want to thank the Departmental Committee on Justice and Legal Affairs, the Senate and the Senate Committee that looked at this Bill before. We hope that our country will get proper legal framework that we need to make sure that devolution is moving in the right direction. As we look at the laws around devolution, we should ensure that all the actors are playing their roles and none of the actors is moving to a mandate that is not theirs.

Bodies that are new like the CoG will have to settle in our legal system. We have the Senate and the National Assembly. Have those ones settled on their mandate? Increasingly, the other new bodies that have come onto the scene also get their mandate but none of the bodies affects or interferes with the mandate and powers of the national Government in terms of running the affairs of this country.

We thank you and urge Members to support the Bill in the Committee of the whole House and in the Third Reading and make sure that these Bills see the light of day and become law.

Thank you.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Do you beg to reply?

Hon. (Ms.) Kanyua: I will urge the Members to support the Bill in the Committee of the whole House, during the Third Reading and to make sure that these Bills see the light of day and become law.

I beg to reply.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Hon. Members, I will defer putting of the Question to the Statute Law (Miscellaneous Amendments) Bill, Senate Bill No.6, 2014 to the next sitting at the most appropriate time. It is so ordered.

Next Order!

MOTION

ADOPTION OF REPORT ON RESETTLEMENT OF SQUATTERS

Hon. Mwiru: Hon. Temporary Deputy Speaker, I beg to move the following Motion:-

THAT, this House adopts the Report of the Departmental Committee on Lands on the resettlement of squatters in Muri Farm; Mathengeta Tumutumu/Riakanau Farm; Drake Farm and Kaseku Farm, laid on the Table of the House on Thursday, 12th June 2014.

This Report consists of three farms in Machakos County. Before I go on, I want to make a reservation that this has taken a little bit of time and some things have been changing as time was moving. Things in the lands sector change even overnight. I would like to move the Report as it were, but I will note any change that has taken place as I move on.

I will begin with Muri Farm. The farm came into existence from a British settler, Mr. Busell, in 1945 during the World War II. The problem arose after Plum Company bought the land in 1968, which consists of three blocks and is equivalent to 2,660 acres. That was just a few years after Independence.

When the Plum Company took over, they took a loan of Kshs5,000 to develop the land. Although they were unable to service the loan, they still borrowed money to put up more developments on the same farm. The loan accumulated to Kshs13,000,200. The company defaulted in repaying the loan and did not pay the workers when it was moving out. At that time, a number of villagers and squatters had already occupied the farm because most of it was not being developed. At one point, they collected Kshs3 million to see whether they could repay the loan which was owed by that company in order for them to acquire the land. Since the company had moved out of that land, it was only the squatters and the former workers who were on the ground. Whereas this money was supposed to go to the Agricultural Finance Corporation (AFC) which had advanced that loan, it went to people's pockets. Therefore, they could not offset the loan. In order to recover the money, the AFC decided to go to court and get an order to evict those squatters but they stayed put and could not be evicted. Up to today, there are about 3,000 people on this land.

As time went by, the squatters made developments on the farm without any hindrance. A number of public institutions are already on the farm including four primary schools, a secondary school, a District Officer's office and a chief's office. The squatters think that the farm belongs to them despite that loan. Several attempts have been made by the AFC to evict them, but they have been fruitless. Therefore, it was the feeling of this Committee that this matter is not supposed to be taken lightly because it borders on security. If those squatters are evicted by force, this can cause some security problems. These are three farms, but I was dealing with Muri.

It is the view of the Committee that the AFC negotiates with the squatters with a view of sharing the land on a 50-50 basis so that it does not lose the whole piece of land. At the same time, the squatters should be compensated. The Committee was of the view that the AFC should recover the capital amount without loading the interest that has accrued on the loan that was borrowed by Plum Company. This will secure the right of the AFC and that of the squatters who

have been developing the land. There are also two prime markets on the land. Therefore, it will be very hard to demolish these developments and allocate the land to somebody else.

The Committee is of the view that the AFC negotiates with the squatters and if possible, charge them an amount that is equivalent to the principal amount that was borrowed by Plum Company, so that the squatters and the AFC do not lose and there is no security problem in the process. The insistence of getting the principal amount together with interest is futile. They cannot get that because the amount has risen to over Kshs400 million. It is the feeling of the Committee that the AFC negotiates with these people so that they pay the principal amount.

Hon. Temporary Deputy Speaker, although I have explained about Muri Farm, it is important to note that your office was very instrumental in facilitating this Committee to do this work. Your office even provided officers from the Sergeant-At-Arms Department to provide security for us while we were in that area. As you realise, land is a very emotive issue and we could not go there without security. So, I want to thank your office and the office of the Clerk of the National Assembly for helping us to come up with this Report.

I want to move to Mathengeta Tumutumu/Riakanau Farm. Again, this land was bought by a company way back in 1960s. This company organised for planning, survey and subdivision of this land. Thereafter, some squatters settled on the land. The first census of squatters on this farm showed that they were only about 250. Thereafter, there has been forceful entry into the farm by more squatters. Their number has been rising by the day. Unfortunately, there is no invasion of Government land or company land. The company that had bought the land had subdivided it into individual parcels. Therefore, this has been an invasion of individual parcels of land.

The Committee observes that the sanctity of a title deed must be respected. It is not fair for people to invade somebody's farm. A person develops his farm on one edge, but on the other edge, squatters occupy by force. The sanctity of a title deed is being eroded.

As a Committee, we are saying that the Ministry should see how it can settle the 250 squatters who were identified by the first census elsewhere. They should leave the owners of this land to develop it because they had already done their part by paying Government levies. Survey has been done and they are settling on the ground.

Hon. Temporary Deputy Speaker, we are saying that the squatters at Riakanau are illegally there because some of them have forced their way into the land. So, the reprieve for the squatters is to find a different place where they can be settled by the Ministry of Lands, Housing and Urban Development. Indeed, we are recommending that the earlier census or number of squatters be the one to be considered and not others who are trying to invade those individual parcels of land.

There was an attempt by the Government to settle those people who were in Drake and Kaseku farms. It is this idea of the Government saying every time that money is not enough that makes people leave some work unfinished. The recommendation of the Committee is that since the Government was trying to do something about Drake Farm, let it proceed with the process, regularise it and settle those people because they are already on the ground. They have schools and we recommend that it should be re-planned and surveyed. Those squatters who occupy that land should be settled and issued with titles issued by the Ministry. Because it was a public farm before, we expect the National Land Commission (NLC) to alienate it for the purposes of the so called squatters. They are "so called squatters" because they were found there. They should get

their rightful document for purposes of development of this land. Therefore, I do not want to belabour the point because this is a straightforward Report.

I request Hon. Mbai Itwiku to second the Motion.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Thank you for moving the Motion. The Member for Masinga, Hon. Benson Itwiku, second the Motion.

Hon. Mbai: Thank you, Hon. Temporary Deputy Speaker for giving me this opportunity. I rise to second this Report of the Departmental Committee on Lands on the resettlement of the squatters in Muri Farm, Mathengeta, Riakanau, Drake and Kaseku farms. From the outset, I want to support this Report. I am a Member of this Committee. These four farms which are under debate are in Masinga Constituency. So, I declare my interest because I come from that place.

Muri Farm was initially owned by white settlers. It was a coal farm which was bought in 1945. After some time or for more than 10 years, it changed hands and the owners sold the farm to a company called “Plum”. This company operated this coal farm for 15 years. They took a loan from the AFC but they could not service it for some time. Due to the drought of 1982 and the squabbles among the directors, the company stopped farming and left the farm. The workers who were not being paid stayed on that farm. After some time, they allocated themselves some portions of the land and invited other people from outside to also settle on the farm.

Other people who had been displaced when Masinga Dam was being constructed moved into this farm. Those people have stayed on that farm since 1968. Their population has increased to 3,000 people. Those people have constructed four primary schools. We also have a secondary school that we started constructing with the CDF and it is now six years old. We have markets which are vibrant and other public institutions which are operating within the farm.

This farm measures 2,660 acres. After the Committee visited this area, the AFC leadership went there and spoke to the squatters in a kind of give and take agreement. They agreed that they could relinquish 2,000 acres at a price of Ksh10,000 per acre to be bought by the squatters and use the balance of 600 acres. They could sell the 600 acres to get their money. That is the situation on the ground. I wish the Committee could summon the AFC to appear before it so that they can hear the arrangement they have on the ground.

Mathengeta/Tumutumu Farm was initially owned by white settlers. My constituency consists of two divisions. One of them is Ndithini Division which was mostly occupied by white settlers. They later sold it to Riakanau Cooperative Society. Those people subdivided that land and were issued with title deeds. Later, some people went and occupied the land because there were no people on it. Riakanau Cooperative Society was absentee landlord. Initially, those people occupied the land in small numbers but the number has grown. There is a big problem. They are IDPs in silence. It is the work of the NLC to settle these people. This land should be bought to settle these people.

Drake and Kaseku farms were owned by white settlers a long time ago but, their history is different because they surrendered the land to the Government later on. Although it became Government land, people went and occupied it. What we need is the Government to move in, survey it, demarcate it and give it to the people.

So, I support this Report. Thank you.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): You second and not support!

Hon. Mbai: I am sorry, Hon. Temporary Deputy Speaker. I second the Motion.

(Question proposed)

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): I can see some requests. We are debating the adoption of the Report, Hon. Members. The previous speakers have done very well.

Yes, the Member for Lugari Constituency, Hon. Ayub Savula.

Hon. Angatia: Thank you, Hon. Temporary Deputy Speaker, for giving me this opportunity to contribute to this crucial Motion on land. First and foremost, land issues in this country border on life and death. They are very emotive. I just wish to voice my support on the issue of resettlement of squatters in the aforesaid farms - Mathengeta/Tumutumu, Drake and Kaseku.

The NLC should move in as quickly as possible. The county government should send surveyors like yesterday because surveying is devolved to the county government. They should move in as fast as possible, resettle these squatters and ensure that there is equality between the poor and the rich. There is a similar case in my constituency in Lugari. I urge the Departmental Committee on Lands to push the Cabinet Secretary in charge of Environment, Water and Natural Resources to degazette Mautuma/Turbo forest land to ensure that the squatters in that area benefit as we move to resettle these other squatters as indicated in this Report.

The squatters were settled on that land in 1997 by retired President Moi and up to now they do not have title deeds. A title deed is a legal document that can sustain the livelihood of a Kenyan. You cannot access a loan from a banking institution without collateral. This is the only document that can help these squatters access good life like any other Kenyan. The Cabinet Secretary already approved the list and the degazettement of the forest area but the Forest Department is yet to write to the National Assembly, so that this matter can come here and be resolved amicably.

On this issue of Kaseku, Drake and Mwiri farms, I would like to urge my fellow Hon. Members to adopt this Report as quickly as possible. This is the only way we are going to resolve land issues. As a matter of caution, the Constitution allows a Kenyan to purchase land anywhere as long as it is within the borders of this country.

What we have seen the Governor of Kajiado County doing amounts to total incitement of other Kenyans against one community. Let us not interfere with the process of a willing buyer and a willing seller disposing of his or her property. The issue of a governor saying that a particular community should not buy land in Kajiado amounts to incitement. He has even gone as far as directing the Land Registrar in Kajiado not to allow transfer of land to non-residents of that county. That is a dangerous move and I wish that when we will be debating the Community Land Bill, we should resolve this matter within that context.

I wish to support the Motion.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Well spoken. Let us have the Hon. Member for Kisauni Constituency, Hon. Rashid Juma.

Hon. Bedzimba: Ahsante sana, Mhe. Naibu Spika wa Muda kwa kunipa fursa ya kuzungumzia suala hili la ardhi ambalo ndilo lenye utata kwa taifa nzima. Nimeona ni vyema sana nipenyeze sauti yangu katika suala hilo. Kwanza, ninakubaliana na Mwenyekiti wa Kamati ya Ardhi kwamba ni lazima tuheshimu hati miliki. Ni vyema sana kuziheshimu. Lakini vilevile tuangalie uzito ulioko kuhusu watu wetu kwa sababu hao maskwota walioingia katika shamba hilo, ni watu ambao hawana makao na ndiyo sababu wakaingia katika lile shamba kujiwekea makao. Ikiwa waliingia kuuza, hapo ni makosa. Lakini kama walienda kwa makao yao, ni kwamba walikuwa na utata. Vile vile unakuta kuwa kinachochangia watu kuingia katika ardhi

hizo huwa lile shamba limekaa wazi, halilimwi na hakuna shughuli inafanyika. Inavutia mtu mwingine ambaye anapata shida na pale pako wazi, panakaa nyoka na wanyama. Hii ndiyo sababu wanaenda pale.

Kwa upande wangu, ningeomba Kamati ya Ardhi ishughulikie suala hili. Inafaa Serikali inunue lile shamba ili wale walio pale wasiondolewe. Tatizo hili lipo katika upande wa Kisauni. Wengi wameingia katika mashamba ambayo yako wazi. Kama wale watu wangekuwa wameyatumia mashamba yale hata kwa kulima na kuleta mapato, hakuna mtu angeingia. Lakini kwa sababu shamba halina mtu, lipo wazi na panaishi nyoka ambao wanakaribia zile nyumba, wananchi wanaingia pale kujisaidia wenyewe. Kwa hivyo, ningeomba Kamati ya Ardhi ishughulike na ihakikishe kwamba Serikali imenunua mashamba hayo na wale maskwota wapewa vipande hivyo vya ardhi ili wakae huko.

Naiunga mkono lakini hilo ndio suala ambalo ninalitilia uzito. Asante.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Ninafikiri Mwenyekiti wa Kamati ya Ardhi yuko Bungeni. The next on my order list is the Member for Kericho, Hon. Hellen Chepkwony.

Hon. (Ms.) Chepkwony: Thank you, Hon. Temporary Deputy Speaker. I would like to support the Report. We went to that area especially Muri Farm. On that farm, we found many squatters who have settled on it. I cannot call them squatters because they have really settled in a nice way. They have constructed schools, administrative buildings like the DO's office and chief's offices and even dispensaries. So, I cannot call those people squatters. They are only squatters because they have not been issued with title deeds.

It is not that all these people are troublesome or rude to the AFC but they had given suggestions that they pay the principal amount of money to AFC. As a Committee, we really supported them. If the coffee farmers' debts are waived, why can the Government not also waive the money they owe the AFC? These people never refused to pay. They accepted to negotiate with AFC that they can pay them and allow them to take a certain portion of their land. So, here, I wanted to remind Members that when they will be talking about this issue they bear in mind that these people have not refused to pay. They only want to pay the principal amount. They cannot pay the interest which amounts to Kshs400 million. Surely, for those people who were one time squatters why can we not waive for them that amount and they pay the principal? We found that these people are not wild to anybody. They are good and understanding. So, we recommended that they only pay the principal amount. So, we want the House to make sure that it approves that recommendation.

For the other three farms namely Mathengeta, Tumutumu, Riakanau and Drake, we found squatters are on other people's land. But the issue we have here in Kenya, as the Member for Kisauni has said is that people buy properties or land and leave them vacant. This is the case and yet we have people who have no land. Obviously, they will settle on that land especially if they are people from that area. You cannot expect them to stay on the streets when there is vacant land there.

Those people who are there saw that this land is vacant. The people who bought the land never developed those farms. We are saying that since they have the title deeds, let the NLC go there, investigate and give them an alternative settlement area. You cannot take anybody's land. We need the NLC to make sure that they compensate these squatters because they are very many to an extent that they cannot again be sent to the streets as IDPs. We are trying to make sure that the issue of IDPs is limited. We do not want to create more IDPs in this country and as a result

we really need to settle those squatters. If possible, the NLC can compensate the owners of the land because the squatters are many. The squatters could be over 40 times the number of owners of the titles. We need to move with speed so that they are settled. We do not want issues to come up. We found that those people could not go to their farms because of squatters, which is really serious. They could be having eviction orders, but there is no way they can go and settle on those farms. So, we need the Government to make sure that these people are settled or the owners of the land are compensated because they are fewer than the number of squatters. The Government should move either way to bring peace in that area.

Everybody in Kenya is eligible to buy land in any part of the country. We want to urge the buyers to also make sure that wherever they buy a property in the Republic of Kenya let them utilise it. They should not leave their land empty. The moment they leave their land empty, obviously squatters will go and settle on it. If it is a plot, the buyer should develop it. If it is land, the buyer should construct their home on it and stay there. Buyers should utilise their farms so that no one invades the farms. I support the Report.

Thank you, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Hon. Members, you are reminded that we are debating the Motion on adoption of the Report of the Departmental Committee on Lands, given the powers by our own Standing Orders.

The Member for Mbooni, Hon. Michael Kisoi, you have the Floor.

Hon. Kisoi: Thank you, Hon. Temporary Deputy Speaker. From the outset, I want to thank the Chairperson of the Departmental Committee on Lands. Having listened to the facts he has laid in this House today about Muri, Mathengeta and Drake farms, I support this Motion.

Land is one of the things that have brought a lot of controversy, misunderstanding and insecurity and has been a source of fatal attacks. At a time when we have the NLC mandated to keenly look at historical injustices that occurred on land matters, we should not be talking about IDPs or squatters. The NLC has a constitutional mandate to execute its responsibilities in the best interest of this country. The reason why the NLC was established by Kenyans is to take care of some of these issues that we thought could not be addressed using the normal administrative procedures which are proving to be very bureaucratic, inefficient and which lack proper structures. That is the essence of this Commission.

The Chairperson has given us a good Report and very good recommendations, especially on Muri Farm, in terms of taking care of the interests of the AFC as well as the people who are already settled there because they have invested a lot in that farm. He has already told us how they have made significant developments on the farm. The Committee did a very commendable job in trying to create a balance to ensure that no controversy is elicited again. Therefore, my humble request is that this House adopts the recommendation of the Departmental Committee on Lands.

Hon. Temporary Deputy Speaker, I would also like to point out that as much as we are dealing with this, we must also know that certain individuals are trying to create fear among certain tribes or people simply because they are living in areas where they were not born. This cannot escape the attention of this House. A case has been mentioned here of the Governor of Kajiado County. It should really be condemned in the strongest terms possible. It was really disturbing for him to tell a certain community to invade a piece of land belonging to certain individuals who acquired it properly and legally and have titles. He also tried to create some kind of division between the people in Kajiado and those living along Sultan Hamud and Emali,

which are parts of Makueni County. The Governor should be stopped and given a stern warning that issues of land are very emotive and he can bring a lot of animosity between the different communities and the people who are living there. He must be warned that such an act is completely unlawful and it cannot be given any chance in this era where the Constitution reigns supreme and the rights of individuals are properly recognised in law.

The Committee has really given us a very good recommendation on what ought to be done in terms of the relocation in Mathengeta area. We do not just need to mention what ought to be done here. I call for efficient mechanisms on how this Report is supposed to be implemented so that these people can now be resettled and given their rights. This will ensure that there is a lot of security. There will be a sense of ownership and therefore, people will undertake economic activities without having many problems within the areas that they are already settled in. Therefore, I commend the Chairman and the Mover of the Motion who has declared his interest, the Member of Parliament for Masinga Constituency, Hon. Mbai, for the good work that the Departmental Committee on Lands has done in this issue.

I wish to say that the Government must also take responsibility on issues to do with idle land because some of these vast pieces of land lie idle for a very long time. Therefore, it is the imagination of the landless that these pieces of land are idle and someone can settle there. One of the most interesting things to note is that these people have been living in these pieces of land for quite a number of years. Some people have lived for over 12, 20, 40 or 50 years and they are now being declared as IDPs and squatters and so they have to be relocated. They have notices from the court that they have to vacate those pieces of land. It is high time that as a nation, the Government took seriously the issue of idle land. In any case, if a piece of land lies idle for quite some time, then it should be repossessed so that it does not create a lot of tension between communities. We know land is very scarce in this country. Anyone who sees idle land lying somewhere would really be tempted to take it and live on it.

Therefore, I support the Departmental Committee on Lands and say that it is time to act to avert any kind of confrontation and misunderstanding so that the peace and the economic activities of these people are done in an orderly manner.

Thank you, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Thank you, Hon. Kisoi, the Member for Mbooni Constituency, Makueni County. I give the Floor to the Member for Nyeri County, Hon. Priscilla Nyokabi.

Hon. (Ms.) Kanyua: Thank you, Hon. Temporary Deputy Speaker. I also wish to join the previous speakers in support for the Report of the Departmental Committee on Lands and to congratulate the Committee for the work that it has done not only with this Report, but in the last couple of days we have seen many Reports brought forward by this Committee. They have even come up, in the House Business Committee, as a Committee that had a lot of pending Reports which we needed to give priority for debate here on the Floor. So, mine is to appreciate the work of the Chairperson and that particular Committee on the difficult task that they have had with the many Reports that they have to bring to the Floor of the House.

On this one, I think it is very good that the Committee has looked at the question of resettlement of squatters in three areas: Muri, Mathengata, Tumutumu/Riakanau, Drake and Kaseku farms in Masinga. That is extremely commendable because there are people in our country who we tend to forget all the time. Those people are squatters. If you look at the work we have done in this Assembly, hardly has the word squatter featured. It is really commendable

that the Departmental Committee on Lands has brought a Report on the resettlement of squatters in the three farms to this House. Of course, we hope that they bring more because we are aware that we have very serious questions on the squatters and other landless persons. They are questions that we need to continuously ask and look for answers to them.

On the recommendations that the Committee has done, I will really commend the approach that they have taken. It is an approach of dispute resolution, engagement and consultation. It is an approach that puts the NLC in the centre of the solutions. I am particularly looking at the Mathengeta, Tumutumu and Riakanau farms and the proposals that they have given. The recommendation that the NLC solves this matter once and for all after investigations is one that I support. Asking the NLC to look at the plight of squatters living on the farms is a recommendation I also support. One of the things that we will be following very closely is the implementation of the recommendations of the House.

As a country, we rarely implement what we say. Both the current Speaker and those we have had before have ruled that the House does not act in vain. The House does not debate or pass recommendations in vain. If the House passes the recommendations today, they will have to be implemented and NLC will have to look at this Report and follow what the Committee is asking it to do not only in the case of Mathengeta but also in Tumutumu and all of the other three cases. We will be urging the NLC to also continuously engage on matters of resettlement of squatters in this country after looking at the Report.

It is very regrettable to see the NLC, a Commission that we all had a lot of hope in terms of settling land disputes in this country--- Instead of getting into the task of handling land disputes in our country, we have seen the NLC spend a considerable amount of time battling with the line Ministry which is the Ministry of Lands. Those squabbles are not helpful. The work we want to see is the work that relates to squatters, historical injustices and work that should be done on lands.

Even as we talk about the issue of resettlement of squatters, we also want to urge the country to look at new models. Looking for land in Kenya is going to be an old fashioned thing. It might be better now to look for housing. Our country needs to invest in urban and modern housing and slum upgrading. On the many of the squatters who are sitting on very prime land, the option for the Government would be to buy that land, put up houses for the squatters and extra houses for the middle class and people who can afford.

As we discuss the question of squatters we need to become creative on solutions. Solutions around land seem to be running out of fashion. Land is what we call “a finite resource”. The land that Kenya has is finite. It comes to an end at a certain point. What we need to do is to look at how to maximise on land. If you look at where Kibera sits, you will see how good slum upgrading would help us in an area like that. We would put up houses for those who live in Kibera and for many other people in Nairobi who would need housing. The land that Kibera sits on is fairly prime land and is fairly big. It is land that can be used more creatively to make housing for those who live there and leave land for social amenities like primary schools, colleges and hospitals. Those are the solutions that we should be asking as we look at this question of squatters.

Hon. Temporary Deputy Speaker, I am also happy that very soon, the House will be debating the Community Land Bill together with other land laws. The Community Land Bill provides an opportunity for some of the land that is held by squatters to get a community land title. The pieces of land where squatters settle are sometimes very small that they are not viable

for an individual title. But when the Community Land Bill comes, there will be an opportunity to look at the possibility of giving those areas a community land title. With that community land title, development can proceed and many other options on land can be taken by those groups. The House will have an opportunity very soon to debate the Community Land Bill.

The other law, which I have not seen on the list, and we will be asking the Chairperson of the Departmental Committee on Lands when they propose to bring it, is the law on evictions. If you look at this Report, you will see painful stories by the squatters on the evictions that they have suffered including death and loss of property. Our country continues to suffer inhumane evictions which are not allowed in the 21st Century. The country needs an eviction law. Even where squatters are on the wrong piece of land, the eviction should be humane, guided by notice, come after the court order and should not be violent.

The police for heaven's sake, should stop beating our squatters and shooting them. The Chairperson of the Departmental Committee on Lands owes this House a law on evictions to guide humane evictions because increasingly, we are going to have squatters who are settled on the wrong piece of land, sometimes private land or public land. The evictions that should follow from that wrongful occupation should be humane.

Let me end with the point that the Member for Kericho County raised with regard to compensation of the title owners of land where squatters have settled. I would support that move. If we have 5,000 squatters on a piece of land and one title holder, the sensible thing is for the Government to acquire that piece of land and give it to the squatters. Pay the title holder the compulsory acquisition amount that would accrue from that process and let the title holder go and buy another piece of land.

Some of the squatters have their relatives buried on the pieces of land where they occupy. Removing them from those pieces of land causes a lot of inhumanity, injustice and pain. The reasonable thing to do would be to buy the piece of land where the squatters are settled, give the title holder the amount of money and allow the squatters to live where they are.

For many people who are holding land for speculation, a time has come to tax any land that is not used. All land held for speculative purposes should be taxed so that we do not have people who keep vacant land while many Kenyans are seeking where to settle.

I support the Report and again congratulate the Committee. Thank you.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Very well spoken. The Member for Bahati, Hon. Onesmus Ngunjiri, I am sure the Chairman will announce himself at one point. Just a direction; hold on.

Hon. Ngunjiri: Ninashukuru, Naibu Spika wa Muda---

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Order, Hon. Member. When the Speaker is speaking we cannot have two people speaking.

Hon. Ngunjiri: I am sorry. I thought you had finished.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): I am making some recommendations and of course an observation which we have discussed with the Chairperson. Hon. Members, as a reminder, this Report was tabled on 12th June, 2014. In some of the recommendations, the dates were changed by the Chairperson who discussed with the Committee. I am sure that when he will be replying, either today or in the next sitting, he will pronounce himself on it.

On the Muri Farm, the recommendations effect date will be 30th June, 2016. The expectation is that by then they will have reported. On Drake and Kaseku farms in Masinga, the

effect date will be 31st March, 2016 as proposed by the Chairperson. For the sake of the HANSARD, he will commit himself in the HANSARD as per the discussions. So, when you are reading the recommendations, that is good information that we should have.

Hon. Onesmus Ngunjiri, the Member for Bahati Constituency, you can take the Floor.

Hon. Ngunjiri: Mhe. Naibu Spika wa Muda, ninashukuru. Yangu yatakuwa machache kwa sababu mimi ni mwanachama wa Kamati ya Ardhi. Ningependa kumshukuru Mwenyekiti wangu kwa kazi nzuri ambayo amefanya kwa Kamati yetu.

Kamati ya Ardhi inafanya mambo yote ambayo inaweza kufanya kuhakikisha kwamba mjadala kama huu kuhusu shamba la Muri umetimia na mambo haya yamemalizikika. Lakini, ningetaka kuweka wazi ili kila mtu aelewe na Serikali ielewe kuwa baada ya Kamati ya Ardhi kumaliza mambo haya yote, shida nyingi zinatokea baada ya sisi kutoa maoni yetu. Shida hutokea baada ya kuanza kuwapatia cheti cha mashamba yao. Hapo ndio watu huingilia na kuuharibu mpangilio ambao umepangwa na Serikali. Ningewaomba wale ambao watahusika baada ya Bunge kutoa muongozo wake, waangalie kwa makini sana ili tusirudi kwa shida baada ya ku sema kuwa tunataka kuyamaliza mambo haya. Wale ambao hawana mashamba wanafaa kupata mahali pa kukaa.

Ukiangalia shamba hili ambalo tunazungumzia, utakuta kuwa vitukuu vinaendelea kuwa na vizazi na maskwota wanaendelea kuongezeka usiku na mchana. Tukitatu jambo hili haraka iwezekanavyo, tutapunguza umaskini. Hawa watu wakipata vyeti vya kumilika mashamba, watasaidika kwa njia zingine kama vile kujaribu kupata mashamba mengine madogo kwa familia. Ni lazima tujue kuwa kuna shida. Tukimaliza mambo ya mipangilio, ni lazima tuhakikishe kuwa wale ambao wanahusika kama vile Tume ya Ardhi au Wizara ya Ardhi inafanya mambo haya kwa uwazi.

Wakati tulikuwa na shida ya IDPs, watu wengi ambao walipewa makao sio wale ambao walikuwa IDPs. Baada ya Serikali kutoa shamba ya kuwapa IDPs, mambo mengi yalitokea badaye. Ningetaka kuambia maofisa wa Serikali, wanapowapatia watu mashamba, wanafaa kuangalia kwa makini sana ili wasilete orodha zingine ambazo si za watu ambao wanafaa kupewa hayo mashamba. Hiyo italeti shida juu ya shida.

Kwa hivyo, Kamati yetu inafanya iwezavyo chini ya uongozi wa Mwenyekiti wetu, Mhe. Mwiru, ambaye anafanya kazi nzuri. Ninashukuru kusikia Wabunge wanaunga mkono jambo hili. Wanaiunga mkono Kamati ya Ardhi kwa kazi ambayo tunayoifanya.

Tuko na mengi ambayo tumetayarisha kuleta Bungeni. Tukiwachia Wizara ya Ardhi na Tume ya Ardhi jambo la kufuatilia utaratibu wa mipangilio ya mashamba, tungetaka waifuatilie ili isilete aibu tena au isisemekane kuwa wale ambao tulipendekeza wapewe mashamba sio wao walipewa na watu wengine walipewa. Jambo hili linaleta shida sana.

Ninamshukuru Mwenyekiti wetu kwa kazi nzuri. Ninamshukuru Mbunge wa eneo hilo kwa sababu alitupeleka kwa shamba hili na tukaona vile liko. Ningetaka mambo haya yafuatiliwe bila kupita njia nyingine kwa sababu Kamati ya Ardhi katika Bunge iko na haki ya kuyamaliza mambo haya ambayo yaliletwa Bungeni.

Kwa hivyo, ninashukuru Bunge kwa kutuunga mkono. Tuendeleo hivyo hivyo na tutapata nguvu.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): The Member for Awendo, you will have to speak for only two minutes and then you carry forward your time. The other Hon. Members will also speak as we still have time before the Mover replies.

Hon. Opiyo: Thank you, Hon. Temporary Deputy Speaker. I would like to take this opportunity to support this Report by the Departmental Committee on Lands, and acknowledge the good work they have been doing for this country. They had an opportunity to visit my constituency where the entire township does not belong to the county. That matter is in court and they will handle it the best way they can. However, we are still waiting for the report. We have a squatter crisis in this country which must be handled more comprehensively than we are trying to do.

Hon. Temporary Deputy Speaker, you know that the squatter problem is not limited to Ukambani region alone but it is all over Coast, Rift Valley and Nyanza provinces and even this City. I think time has come for this country to review its national land policy so that we do not have a nation where some people have thousands of acres of land lying idle, while a few other people in the same country have no place to lay their heads. I think it is unfair.

This august House must think about the Truth Justice and Reconciliation Commission (TJRC) Report because in it, we have land issues we needed to handle before we approach the next general elections. If we have to resolve land matters more comprehensively, we have to start from the point of historical injustices with regard to land. That is where the squatter issues are emanating from. I would like to ask the Chairperson of the Departmental Committee on Lands, that for him to leave a legacy in the 11th Parliament---As the National Assembly, we should assist him with regard to this process.

Hon. Temporary Deputy Speaker, you are aware that we have sub-divided our land into many small pieces that are not agriculturally viable and it absolutely makes---

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Hon. Opiyo, your time is up! Hon. Members there being no other request to this, I do order that the Mover will reply tomorrow at the most appropriate time.

Hon. Members, from the Speaker's desk and on behalf of the National Assembly of Kenya, I would like to take this opportunity to send our condolences to the family of the Member of the County Assembly from Masongoleni, John Kilonzo, who passed on this Sunday.

ADJOURNMENT

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Hon. Members, the time being 6.32 p.m., this House stands adjourned until Thursday, 1st October, 2015 at 2.30 p.m.

I thank you all.

The House rose at 6.32 p.m.