

PARLIAMENT OF KENYA

THE SENATE

THE HANSARD

Tuesday, 10th June, 2014

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

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

PRAYERS

STATEMENT

SAFETY ALONG NAIROBI-THIKA SUPER HIGHWAY

Sen. Obure: Mr. Speaker, Sir, I have a Statement in response to a request raised by Sen. Kembi-Gitura of Murang'a in respect to safety along the Nairobi-Thika Superhighway. I notice that Sen. Kembi-Gitura is not around and I wanted your guidance on what I should do.

The Speaker (Hon. Ethuro): The Deputy Speaker is away on official business but I do recall that he had actually added you more time to respond to that Statement. I think we agreed next week, and I think he will be back. So, we do it next Tuesday.

(Statement deferred)

Sen. Obure: Thank you for that guidance, Mr. Speaker, Sir.

The Speaker (Hon. Ethuro): Do we have any other Statement?
Next Order.

BILLS

First Readings

THE INTER-GOVERNMENTAL RELATIONS (AMENDMENT) BILL

THE GOVERNMENT PROCEEDINGS (AMENDMENT) BILL

THE PUBLIC FINANCE MANAGEMENT (AMENDMENT) BILL

THE COUNTY ASSEMBLY POWERS AND PRIVILEGES BILL

*(Orders for First Readings read – Read the First Time
and ordered to be referred to the relevant Senate Committees)*

Second Reading

THE ALCOHOLIC DRINKS CONTROL (AMENDMENT) BILL

The Senate Majority Leader (Sen. (Prof.) Kindiki): Mr. Speaker, Sir, I beg to move that The Alcoholic Drinks Control (Amendment) Bill be read a Second Time.

Mr. Speaker, Sir, this Bill is meant to strengthen the legal arrangements that exist with regard to the control, licensing and operations of people who sell liquor and those who consume it. The major motivation of the introduction of this Bill is twofold: First, the fact that the issue of licensing of liquor now under the new Constitution is a function that falls within the powers of County Governments in accordance to the Fourth Schedule of the Constitution. That notwithstanding, certain issues will still remain at the national Government and it continues to retain its own agency – the National Campaign Against Drugs and Alcohol (NACADA) which deals with drug abuse and so on. The issue of licensing of liquor particularly remains a function of County Governments. The issue of control mainly and broadly speaking from a policy perspective remains a matter that is within the national Government. If you look at the Fourth Schedule, what is going to the county governments is licensing of liquor.

Therefore, this Bill wants to strengthen devolution by recognizing that counties have functions that have to do with control of alcohol and liquor and at the same time giving counties broad legislative framework through which to operate and subject in accordance with the Constitution to county specific liquor laws which have already been passed and others are in the process of being passed.

Secondly, this Bill has brought in a number of proposed amendments to the existing national legislation on the subject matter but based on the experience so far with regard to control of alcoholic drinks, there is need, therefore, to bring that experience to bear into the legislative framework to protect the public and also protect those who sell liquor as a business; to protect them so that they can be legitimately provided for under the law to do their business. On the other hand, to make sure that unscrupulous people do not brew chemicals that cause death to the public because, again, any business that one conducts must be the one that helps that person to recoup their investments while guaranteeing certain general public safety and public order ideals such as public health.

These are the two underlying motivations upon which this Bill has been brought. Since this Bill will go to experts after it has been moved and seconded, perhaps the Committee will to enrich it, make it better and ensure that everyone is carried on board;

those who trade in liquor, those who consume it, the separation and respect for the functions of national governments *vis-à-vis* those of county governments. All these balances must be brought to bear and I hope that as this Bill comes before this House, both in the Plenary and at the Committee Stage, it can only be made richer and better. Time will not allow me to discuss each and every clause because it is quite a substantive amendment Bill and it has come after a lot of negotiations and stakeholder participation.

Mr. Speaker, Sir, just to highlight a few things, the first one is that the definition of liquor or alcoholic drink has been expanded to include varieties of the traditional type so long as - this is important in terms of definition - the content of alcohol by volume is 0.5 per cent. I think in the previous legislation, it was higher. It was about 1 per cent. So, this is one of the things that this Bill does to make sure that people can drink and enjoy themselves if they must but they must do so responsibly so that after you enjoy your drink, you are able to do other things. I see the Senator for Kakamega getting restless and I know he falls under the categories I have named.

(Laughter)

You know there are those who trade in liquor, there are those who consume it and there are those who defend it. So, I know he falls in at least two of the categories I have named. Therefore, under this definition, varieties of a traditional nature are included so long as the content of alcohol is not more than 0.5 per cent by volume. It also includes mixed alcoholic drinks. I am told that there are those drinks that have a mixture of things. Therefore, this includes what is called greens, modified industrial alcohol and all manner of substances that fall within those varieties.

The other thing I want to highlight quickly because I do not want to speak for long, this Bill has been published for quite a bit of time and has even been discussed in the media particularly Clause 5 which seeks to amend Section 4 of the principal Act to provide for additional functions of NACADA including the registration of alcoholic drinks, the licensing of importation of drinks, the approval, vetting of promotions and advertisements in respect of alcoholic drinks. Again, this is to ensure that we promote business, leisure, public safety and public health.

Clauses 6, 7 and 8 seek to amend sections 5 and 6 of the principal Act so as to restructure the Alcoholic Drinks Control Fund as a result of the new Constitution. Why? This is as a result of the new Constitution. As I have said before, there are two levels of government that are involved in alcohol matters; county governments and the national Government. Articles 6, 7 and 8 try to delineate and apportion functions in respect of county governments in alcohol matters especially the licensing aspect. This Fund, under this amendment Bill, will be created at two levels; at the national and county levels. That is done through the articles that I have just mentioned. Under Section 8, the Fund shall be administered by NACADA and not the accounting officer of the Ministry as is the case in the principal Act now.

This will give NACADA a bit of autonomy over this matter whereas at the county level, there are to be established funds for county governments along the lines of the national Fund so as to meet the operational cost of the county committees. The whole

idea here is to make sure that the authorities that control alcohol at the national and county level are given financial autonomy from the Ministry or from the county governments so that they can run their operations, whether promotional or control functions around alcohol so that we can get better results in these things.

Mr. Speaker, Sir, Clause 9 introduces a new Section 6(b) to the principal Act and provides that the licensing of alcoholic drinks shall apply to the licensing of alcoholic drinks in a county unless otherwise provided for in a county's legislation. In other words, nothing prevents this Act from applying to county governments so long as it is consistent with the county legislation.

In Clause 10, Section 7 of the principal Act is amended so as to criminalize the conduct that contravenes the section and also remove the exemption granted to Parliament and the disciplined forces from complying with the provisions of this Act. Let me explain. Those who are involved in alcohol trade and consumption are aware that certain provisions relating to consumption of alcohol and the conduct of those who consume it, those provisions exempt certain places from some of the regulations including Parliament and disciplined forces, what they call the Armed Forces Canteens Organization (AFCO). This is a place where the military have their drinks. The attempt here by this Bill is to make sure that we control alcohol across the board. In other words, the immunity of parliamentary precincts and places used by the armed forces or the disciplined forces when they sell and consume alcohol are subject to the normal regulations that apply to other places.

Mr. Speaker, Sir, Clauses 13, 14 and 15 seeks to amend the Act so as to restructure and to establish the district committees as county committees again in line with devolution, just to ensure that what existed under the old Constitution which had the provincial administration is restructured so as to bring in the element of devolution in the county, sub-county and downwards in accordance with the new Constitution.

There is also Clause 16 which has arisen out of the difficulties that have arisen in the past few years of implementing the rule that says that you cannot have liquor outlets within a radius of 300 metres from an educational facility. It is proposed in this legislation that a county committee may issue a licence to a premise located within 300 metres of any nursery, primary, secondary or other learning institution for persons under the age of 18 years only if the premise is secured by a physical and non-transparent barrier that ensures zero visibility of the premise from the locality of the institution and the premise displays on its outside any of the prescribed health messages.

Mr. Speaker, Sir, I am told that it has been very difficult to say that you cannot have a bar or liquor outlet within 300 metres of a learning institution. Why? Because most of our universities have all come to town and every 100 metres you will find a university campus, you will find a college and all manner of training institutions. So, it is not practical. What this provision is trying to do is to say that under special consideration, the committee at the county level can licence this outlet but on two conditions: First, that place where they are selling liquor must be enclosed in a manner where the students in a nursery, primary, secondary or college cannot see what is happening inside if it is very close to that institution. Secondly, other than the visibility aspect, there must be some announcement displayed to tell people the usual things; no alcohol for those under the

age 18 years old, consumption of alcohol is harmful to your health and so on. That is what Clause 16 is trying to do.

Mr. Speaker, Sir, the other thing which I need to highlight very quickly is to do with the manufacturers. Clause 27 removes the requirement which existed that a manufacturer, distributor, importer or anyone may be in possession of an alcoholic drink that does not meet the requirement of the Act--- Sorry, Mr. Speaker, Sir. Clause 27 seeks to amend Section 27 of the principal Act so as to remove the implication in sub-section (2) that a manufacturer, distributor and importer of alcohol who does not meet the requirement of this Act is guilty of counterfeiting.

Mr. Speaker, Sir, very quickly, let me just say for motorists also very briefly. The alcohol content has been reduced in this Bill from 1 per cent to 0.5 per cent content by volume. I do not know the equivalent of 1 per cent, I think it was about two bottles of beer or three bottles but whatever it is, it is now half of what used to be legitimate alcohol content in the body. I hope that when this Bill is seconded and goes to the Committees, we shall hear what the implications are.

Let me also say that Clause 42 seeks to amend the Second Schedule to the principal Act so as to provide for more health messages, again in the interest of securing public health even as we promote the alcohol business. Clause 43 seeks to insert a new Third Schedule so as to provide for the licence hours in the Act. There is a new Fourth Schedule so as to specify the prohibited substances under the Act and a new Fifth Schedule in the Act so as to provide for the laboratories recognized for the purposes of ascertaining alcohol levels for drunken behaviour and driving.

Mr. Speaker, Sir, in summary, I would like to say that this Bill does three things: First, it recognizes that the issue of alcohol control is shared between the national Government and county governments. In other words, it gives effect to devolution. Secondly, it calls for better and enhanced control by specifying how much one can drink before they drive, which is less than what we have at the moment. Thirdly, it makes those who sell liquor more responsible and even penalizes those people who cause public harm by concocting and brewing dangerous chemicals that kill the public to attract grave penalties than what we have at the moment.

Finally, this Bill seeks to realize that it is impossible, for example, to say you cannot have people selling alcohol within certain distances from learning institutions without qualifications. So, it creates some qualifications. Lastly, the traditional exemptions of parliamentary alcohol selling outlets found within the precincts and those used by the disciplined forces have been removed.

Therefore, without much ado, I am happy to say that this Bill has come from many months of consultations by stakeholders. This Bill has come with a lot of compromises. This Bill has also come as a result of experiences which we have seen in this country where people are dying as a result of taking alcohol that somehow got into the market. We hope that through this legislation, the issue of alcohol business will be better regulated and the public will be better protected if they must continue consuming alcohol.

With those many remarks, I beg to move that the Alcoholic Drinks Control (Amendment) Bill, 2013 be read a Second Time.

With that, I request one of the most prolific senators, especially on the legal aspects of alcohol, Senator for Kakamega County, my brother, Sen. (Dr.) Khalwale, to second.

Sen. (Dr.) Khalwale: Thank you, Mr. Speaker, Sir. I am sure that the Senate Majority Leader was not referring to my character when he referred to “some Senator who is prolific in matters alcohol.”

Mr. Speaker, Sir, I rise to second this Bill because this is a very practical Bill. It is my father, who died many years ago, who told me that there are three things in life which you cannot take away from a man. Unfortunately, I can remember only two; I have forgotten the third one. The first one is that men like alcohol. Secondly, he said that men like meat. I have forgotten the third one. When I asked him why, he told me that it is because alcohol is universal. Alcohol is business, jobs and leisure. This being the case, legislation about alcohol should be as well thought out as possible. That is why I want to congratulate the Senate Majority Leader for bringing this amendment.

This is because when this matter came to the last Parliament, and you were there, we did a very good job. But the rules and regulations that came and accompanied it, made it so archaic that it killed the jobs and made being alive almost criminal. It is usually very easy for us – people who live in the middle class and above – to live with certain regulations, but when you go to the rural areas, then such archaic rules end up being abused by security organs to the extent that villagers are terrorized left, right and centre.

Mr. Speaker, Sir, I, therefore, want to second this Motion in the belief that it offers us an opportunity not only to accept the consultations that the Senate Majority Leader has reported to have taken place, but it also gives us an opportunity to talk to the manufacturers of alcohol, brewers and the people who drink alcohol, so that we enrich this law as much as possible. Whether or not people like it, you cannot wish away alcohol, however ugly the consequences of alcohol are.

Mr. Speaker, Sir, before I go to the specifics of this law, one can only hope that the experiences that people have learnt over time will inform us when we are making this legislation. Experience shows that when the children who come from families where they were given the impression that no alcohol exists in this world reach university and partake their first bottle, they end up becoming terrible alcoholics. So, we have to play it such that even the parent who is listening to this debate today, must realize that responsibility starts with him and not the assistant chief, chief or police officer, who then ends up being forced to regulate the behaviour of some of these people in excess.

Mr. Speaker, Sir, I want to speak to Clause 10 of this Bill. It attempts to criminalize conduct that contravenes the section and also to remove exemption granted to Parliament and the disciplined Forces. This is an area where we really must think. If you have ever visited an AFCO in the disciplined forces, that is a place which is exclusively for adults. The disciplined forces do not allow children at all to come to the mess. So, if you start criminalizing what our disciplined forces do in the mess, we would be missing the point. Those are adults and people who, in fact, the Government has gone out of its way and they sell alcohol at discounted prices. We really have to talk to members of the disciplined forces, so see whether they think that consumption of alcohol in the AFCO messes offends them.

Mr. Speaker, Sir, this is not a theoretical thing. The Armed Forces are men and women who function under a lot of stress. Therefore, after they have been out there, they are flown back under a lot of stress; when they go to the mess and hear that they cannot be allowed to take alcohol, you can only increase madness in the forces. We have to think about it because it is not a laughing matter. Whoever is advising that we have a law where we can stop members of the military from talking alcohol--- Those are not priests, but our security forces.

Mr. Speaker, Sir, hon. ole Kaparo told us, when we joined Parliament for the first time, that we should not bring our children to the National Assembly. In fact, in the tradition of alcohol, the bar in Parliament is marked "Sitting Members Only." Again, with the kind of stresses that politicians go through, if you stop them from taking a beer after a hard day in politics, you will increase the number of mad people practising politics. We have to think about this thing. It is true that these days we have a lot of born again Christians, who are Members of---

Sen. Abdirahman: On a point of order, Mr. Speaker, Sir. The assertion of my brother and very senior Senator, Dr. Khalwale, that politicians who do not drink are, in a sense, mad, is really going to have a bad impact in terms of thoughts about the politicians. Could he substantiate or withdraw, because that statement is very appalling for the legislature? Is he in order really to insinuate that the Senators or Members of the National Assembly who do not drink are in a sense mad or likely to go mad?

The Speaker (Hon. Ethuro): You have redeemed yourself by using the word "insinuate" or less before you were claiming that he had asserted, which he had not.

The Senate Majority Leader (Sen. (Prof.) Kindiki): On a point of order, Mr. Speaker, Sir. While I appreciate the good work that Sen. Khalwale is doing to second my Bill, which is so rare--- It is so rare that Sen. Khalwale would speak well of some of the things that I bring in this House, by virtue of where he sits. But is he in order to also suggest that our forces, which are called "disciplined" forces, should drink alcohol from morning to midnight ceaselessly? In fact, it is a contradiction. So, by saying that they should be allowed to drink anytime and do whatever they want, is a misrepresentation or contradiction of even the term "Disciplined Forces." Is he in order?

Sen. (Dr.) Khalwale: Mr. Speaker, Sir, I would like the House to bear with me.

The Speaker (Hon. Ethuro): Order! Order, Sen. Khalwale! Let us give a chance to Sen. Muthama!

Sen. Muthama: On a point of order, Mr. Speaker, Sir. I think that I will be in order to say that the Mover himself never said anything bad about drinking. He is supporting what he said, but we all know that drinking alcohol is not good. It is only that we cannot stop the manufacture of alcohol. Is he in order for him to shift and say that what he has proposed to be good is not good?

Sen. (Dr.) Khalwale: Mr. Speaker, Sir, so that my time does not go, I think that we can allow Members to comment on some of the points that I am making during their contribution. It is my opinion.

The Speaker (Hon. Ethuro): Let us hear the last one from Sen. Mutahi Kagwe!

Sen. Kagwe: On a point of order, Mr. Speaker, Sir. I was a little bit at a loss and, perhaps, need your guidance on this one. Is it in order for a Mover and Seconder of a Bill

to be operating on completely opposite sides? I would imagine that the person seconding the Bill is actually called a “seconded,” as Sen. Boni Khalwale would say. Under what circumstances then does the Mover and the seconded contract each other? I thought that you second to agree. When you second to disagree, is the Bill still on?

Sen. (Dr.) Khalwale: Mr. Speaker, Sir, I am quite alive to those facts. That is why I am saying that if you were to bear with me regarding some of the comments that I am making, you can react to them during your contribution. I am supporting this Bill, because it is important that we control alcohol in this country. But in the process of controlling alcohol, we should also not be unreasonable.

Mr. Speaker, Sir, I was saying – and if the Senate Majority Leader cares to listen to me, because I am responding to his point of order – that members of the Disciplined Forces do not drink alcohol for 24 hours, seven days a week. My elder brother is a Captain of the Air Force. My other brother was a senior officer in the police and I have lived in these messes and know how they operate. We would be insulting our brothers and sisters who work in the Disciplined Forces to assume that they are drunkards and, therefore, have to regulate them through legislation. They have got their own code of conduct and out of that discipline, live within it and have served us well. Let us not go there.

Mr. Speaker, Sir, similarly, in the National Assembly – and with all due respect to the Deputy Minority Leader – I did not mean that those who do not take alcohol and are in politics are mad. I was saying that you run the risk of not having an outlet for the tension that you go through, if you do not have a way of letting off the steam. I know that you do not take alcohol, but you must be having other ways of letting off, and we know those ways.

(Laughter)

Mr. Speaker, Sir, as I continue to support this Bill, look at Clause 16. You will remember that the last legislation was speaking to the 300 metre rule. This is the time for us to think through this 300 metre rule. There are consequences if we do not fix this law properly. There is a primary school right opposite Intercontinental Hotel. At the Intercontinental Hotel, they sell beer and it is less than 300 metres away from that primary school. At Six Eighty Hotel, they sell beer and it is less than 300 metres away from that school at Holy Family Basilica. At Hilton Hotel, beer is sold and it is less than 300 metres away from the same school. Let us not try and hide in the fact that we will erect walls. What kind of wall are you going to erect around Hilton Hotel, so that it is not visible? Some of these laws that we enact have to be practical.

Mr. Speaker, Sir, I want to speak to Clause 27; the issue of counterfeit. This is where the Government must come in and reflect on the emerging manufacturers of alcohol. It is my humble belief that it is trade wars that have been allowed or mishandled by the Government, that are leading to the death of poor Kenyans. This is because now that people have been licenced to manufacture spirits, and one manufacturing company wants to outsmart the other one, they lace some of those drinks. After lacing them with poison, they export these drinks at night and in the morning when people take them, they

will be taking poison. Just pause and imagine. How did it happen that in one day, people died in Murang'a, Kiambu, Machakos and Embu? It simply means that the person who had laced this alcohol with poison overnight actually transported the alcohol beyond so that, that particular brand could be demonized. It is, therefore, time for the Government to learn from the successes of other African countries in making cheap alcohol available to poorer members of society whom we represent.

Mr. Speaker, Sir, in Uganda, there is Uganda *Waragi*, which is traditional liquor. The Government can learn from this. In South Africa there is *Omquombothi* which is traditional liquor. There is also *Konyagi* in Tanzania. The Government can learn from this. How I wish the Government would go out of its way to make sure that traditional *busaa*, *mnazi* and *muratina* is made available to Kenyans in a more hygienic way, so that the Administration Police (AP) Officers who spend their time raiding villages where people are taking *busaa*, *muratina* and *mnazi* instead of providing us security can be put to rest and give us better service. I believe that *busaa* or *mnazi* cannot kill anybody. We are hiding in *mnazi* and *busaa* to terrorize Kenyans.

Mr. Speaker, Sir, there is the issue of *chang'aa*, which I understand very well. Whether you pretend or not, it is there and your voters are taking it. Therefore, you must help them in legislation so that it does not kill them. The fact that *chang'aa* kills people here in Nairobi is because unscrupulous people add to it chemicals, including formaldehyde that is used in mortuaries and so on. If the Government can make it its business to ensure that *chang'aa* is understood--- I am a scientist and know that *chang'aa* contains two types of alcohol; methanol and ethanol. All that that the Government should do is to make sure that the traces of methanol in *chang'aa* are eliminated through guided distillation, so that it remains pure ethanol in the standards required, as proposed by the Mover of the Motion and it is then given to *wananchi* to take it. This will ensure that when we are happy at The Safari Park Hotel, taking Glenfidich and Jameson, my voter is also relaxing somewhere waiting for me to do his work. These are not theoretical things and we have to face them.

Mr. Speaker, Sir, finally, Clause 30 seeks to amend Section 33 of the principal Act so as to increase the penalty of being drunk and incapable; so that it moves from Kshs500 to Kshs10,000. If you try this one, there will be no single husband in Luhya land, Luo land, Kalenjin land or Kikuyu land. They will all be in jail because they will not be able to raise the fine of Kshs10,000. Where will they get the money from? That fine is too high. This is the kind of fine that you only limit to people who are drunk-driving. Those are the people who can be punished by being fined even Kshs100,000. That makes sense, but it does not make sense to fine an innocent villager Kshs10,000. These people go even five years without seeing Kshs10,000. Even the goats that they have in Embobut are not worth Kshs2,000. This would not be right. Let us think like the ordinary person and remember that we represent them, so that the legislation that we make is friendly to all Kenyans.

Mr. Speaker, Sir, finally, the issue of alcoblow should find entry into this legislation. But as you bring it there, I want us to think about it, because its impact is that now, we are exposing children in houses to alcohol. Parents are now carrying beer into the house and drinking it there. While the wives are happy that their husbands are coming

home early, the children are now being exposed to alcohol. So, we should think about the alcoblow. It is also an avenue that promotes corruption amongst the forces. The people who are now controlling the alcoblow go home with thousands of shillings because they extort fines from people on the spot. During the Committee Stage, and we are lucky that the Professor himself is a professor of law, he can quickly introduce an entry point for alcoblow. But my confusion is: How will you ascertain without a blood test – and I am a doctor of Medicine – the levels of alcohol in a person? The real test of the amount of alcohol in my system is when you do a blood test on me. Just because of using paper. The real test of the amount of alcohol in my system is when you do a blood test.

Sen. Okong'o: Mr. Speaker, Sir, my friend, Sen. (Dr.) Khalwale is misleading this House that Alcoblow does not prove beyond reasonable doubt the alcoholic content in one who has taken alcohol. Is he in order to mislead this House that the gadgets used on the roads are not scientific?

Sen. (Dr.) Khalwale: Mr. Speaker, Sir, I did not in any way speak in the absolute but I am also encouraged by the realization that my colleague Senator is a layman in science. So, he does not know these things.

(Laughter)

Mr. Speaker, Sir, I want to support and thank the Mover of the Motion. We are going to take this particular legislation very seriously and work on this---

Sen. Okong'o: On a point of order, Mr. Speaker, Sir. Is the Senator for Kakamega in order to mislead the House that I am a layman in science? I am a student of law who graduated with an honours degree. I have done medical jurisprudence in my studies, whereby I have a brief in all these information that I am talking about.

Sen. Murkomen: On a point of order, Mr. Speaker, Sir. Would it be in order for me to ask my colleague to elaborate the distinction between legal jurisprudence and medical jurisprudence for purposes of the record of this House?

Sen. Okong'o: Mr. Speaker, Sir---

The Speaker (Hon. Ethuro): Order, Senator! Communication is through the Chair and what you have been asked, you do not have to respond. First, when you were telling Sen (Dr.) Khalwale, what you said, you did not prove otherwise and so Sen. (Dr.) Khalwale went forward to ask you for proof. Secondly, you attempted to prove your knowledge but I am equally convinced that that is not sufficient enough to prove as acquitting your basis. So, let us just leave it there. That is not a statement on any discipline and that is why all disciplines are represented here.

Proceed, Sen. (Dr.) Khalwale.

Sen. (Dr.) Khalwale: Thank you, Mr. Speaker, Sir. I am concluding by sending my deepest sympathies to all those who perished because of the unscrupulous people who put poison in alcohol so as to outsmart others in business in various parts of the country. I would like it to be on record that I will do everything possible to scrutinize every clause to see to it that the clause is friendly to those who do not take alcohol, it is friendly to those who take alcohol and to ensure that the culture of co-existence exists in this

country. What I mean by this is that there tends to be sometimes when you are in one corner and you are being looked at as a sinner if you partake of alcohol.

With those many words, I second.

(Question proposed)

Sen. Abdirahman: Thank you Mr. Speaker, Sir. I actually stand to oppose this Bill. I oppose for a number of reasons. In as much as the originator of this Bill called it the Alcoholic Drinks Control (Amendment) Bill, if I was the originator, I would have called it the Alcohol Ban Bill. I want to also tell my brother, Sen. (Dr.) Khalwale, that there are many things to thank him for including spiritual guidance and we will discuss them. This is a country of faith, a country that does not have to entirely rely on alcohol proceeds to make it grow.

Mr. Speaker, Sir, in recent times, we have witnessed serious loss of lives to the tune of hundreds. The recent ones amongst them were reported in central and parts of eastern Kenya. In fact – in my own thinking – why people turn to the alcoholic drinks that are laced with poisonous substances is mainly because even the alcohol that is brewed or said to be brewed in factories becomes an encouragement to engage in partaking illegal alcoholic drinks. It does not act as a deterrent to stop people from taking alcohol. People only talk about taking alcohol in excess as being a bad thing but in my own thinking, even in a small way, it is an intoxicant. I do not want to be mistaken just because I am talking about alcohol, but this also includes *miraa* which is an intoxicant. Those who advocate for the chewing of *miraa* do not honestly come out and tell us the harmful effects.

Sen Kajwang: On a point of order, Mr. Speaker, Sir. I am sorry to interrupt the hon. Senator who is on the Floor, but I support this Bill because it is amending an Act of Parliament that already exists. We are not here to argue whether to allow people to drink or not to drink. If that is the case, then he should bring another Bill to bar alcoholic drinks. That would be a different debate and I do not think this is the place to moralize.

Sen. Abdirahman: Mr. Speaker, Sir, you do not have to narrow your thinking. We need to build up our base and build up our points and think deeply and expound on it rather than becoming very narrow. I said from the outset that this Bill is talking about control---

The Senate Majority Leader (Sen. (Prof.) Kindiki): On a point of order, Mr. Speaker, Sir. While I share a world view with my brother, Sen. Abdirahman, because both of us do not take alcohol, I want to support what Sen. Kajwang has said that this is a Bill to control the consumption of alcohol. It is not a Bill to decide whether or not people should drink.

I am raising this point of order because of two things; one, I do not think it is in order in my view that Sen. Abdirahman tells us that we should not, for example, as the Bill says in Clause 33 limit the advertisements. In fact, they are helping him. What he is advocating is what we are trying to help. We are saying that do not advertise alcohol on television except after 10.00 p.m.

Secondly is the whole idea of this thing being convoluting. He has brought in the issue of *miraa* which is also a very controversial issue and it is not right for him to mislead this House that *miraa* is alcoholic or even a drug. Recently, there was a report from the Ministry of Agriculture that states that *miraa* is a crop and another report that says that *miraa* is a tree. That does not bring in the bold moral issues that we hold personally. I want to go on record that I do not take alcohol and I do not support it, but the reality is that people drink alcohol. When we are watching television at home, I do not want to see an advertisement about beer.

The Speaker (Hon. Ethuro): Order! I think Sen. Kajwang raised a pertinent question on whether the contributor is relevant to the debate. First, I do not think we should gag him from expressing an opinion unless he persistently goes in a direction that is completely contrary to what is being debated. So far, I am satisfied that the Senator has been very relevant to the Bill. For some reason he wanted to express his opinion on another related matter which I just thought was an assertion and he was not going to debate it just like the Mover has even gone ahead to put this position also very clearly which was not called for.

So, I think you should proceed. In fact, the spirit of the Bill itself is what Sen. Abdirahman is talking to because if you are talking about Clause 7 which I think Sen. (Dr.) Khalwale disagreed with while seconding, he is the final control to the extent of it being absolute banning which is one option of control. It may be excessive, but that is his view and he is entitled to it. Proceed.

Sen. Abdirahman: Thank you Mr. Speaker, Sir, for enlightening all of us on the fact that as we debate, we should not be limited to certain horizons only. We must think very broadly and in a manner that will help all of us understand issues in a better perspective. I want to say that excessive alcohol consumption may have a lot of impact on the lives of our own people. Even the economic well being of the households will be affected. People are growing poorer and families are continuing to divorce or separate, the work force has been affected and productivity has become less. To control is important, but if we could have actually a way to contain this kind of menace, then our country will perform better economically and we would become a healthier nation. We will be a more cohesive society. There are many other benefits which we will have actually got through either control or total ban of some of these intoxicants that have actually affected our people.

It is true that factories that produce alcohol basically employ many people. In parts of the Rift Valley and the central region, people have lost assets. They have been selling land just like that and then drinking with the millions of shillings that they get. You can imagine how bad those families become. It is important that we legislate on issues that will actually benefit our people.

Finally, we must engage religious leaders either inter-faith communities or through the leadership like this to address the serious problem of drunkenness that has bedeviled our society.

Thank

you.

I oppose.

Sen. Kagwe: Thank you Mr. Speaker, Sir. I rise to support the Bill and congratulate the Mover for having brought the Bill.

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

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

Having said that, the reason I am doing this is because I agree with some of the proposals in the Bill, because it is not a total ban on alcohol, rather it is a question of control. I come from a region that has been very badly affected by alcohol. When you go to Nyeri and many parts of central Kenya, you will find people as we speak right now who are lying on the streets who are drunk already. Some of them have not even been home since yesterday. We have gotten to a point where, in our county road works and farm works are no longer done by men but women. There was a television documentary the other day where they showed our women carrying *jembes* and forks and the men walking around drunk and saying that that the job was too hard.

Mr. Temporary Speaker, Sir, it is not every man in Nyeri who is like that but it is sad to say that we have our fair share of drunkards; people who can no-longer work. This has impacted very negatively on the boy child. Since the father is not there, the boy becomes indisciplined; he also becomes a drunkard. So, this is a matter that is of great concern to us and we would like the issues as raised in this Motion to be implemented as quickly as possible. Of particular importance to us is the realization that alcohol is not expensive just because of the fact that it is sold by big companies. Alcohol is expensive because of the taxes that are related to it. A while back, the East African Breweries, through the Kenya Breweries produced a beer called *Senate*. That was a reasonably priced beer and a lot of people could afford it, but what happened is that the Government came in and imposed very high taxes on this beer and forced those who were drinking a decent and healthy beer to reverse to badly produced alcohol.

While saying that, one of the amendments that we hope Sen. (Prof.) Kindiki will bring to this Bill is to say that if you produce an alcoholic drink that then results to the death of people, that alcoholic drink must be assumed to be a murder weapon. If you do not say that you will punish those who kill other people with alcohol or life imprisonment, what is to stop an individual tomorrow under the guise of producing alcohol from poisoning a whole lot of people? This matter is a bit more serious than we are taking it. The fact that people can die in Machakos, Embu, Kiambu and other parts of this country on the same day, what is to stop people from tomorrow taking a particular alcoholic drink to Nyeri County or Kisii County and poisoning the whole county? The only thing that can stop this is to amend this so that those who cause death by selling alcoholic beverages must be presumed to be murderers and causing murder. There is no other way of treating it but to bring such serious amendments – and we hope that Sen. (Prof.) Kindiki is listening to this. Unless we can bring amendments that are that serious, then we are wasting our time here. When an individual produces alcohol that is so bad that when people drink it, they actually go blind; only that they do not know that they are blind. They even proceed to say “even if you switch off the lights, we will continue drinking;” not realizing that they have gone blind---

Mr. Temporary Speaker, Sir, what do you do to an individual who produces an alcoholic beverage like that? You cannot just presume that the problem is the guy who did not close the bar at 11.00 a.m.; you cannot presume that the problem is the guy who put up a bar near a school and, therefore, you should fine him. You should not presume that the only guilty person is a person who drinks a couple of beers – like what a couple of our Senators have done – and then get arrested by police using the alcoblow. Judges have been arrested; Senators have been arrested; even Members of Parliament (MPs) have been arrested---

(Laughter)

In fact, Mr. Temporary Speaker, Sir, I am surprised that more Senators have not been arrested. But the point I am trying to make is that we must address the root cause of the problem wherever it is. When you cause people to go blind with alcohol, we must ensure that the punishment that is meted out on those people is equivalent to the harm that the person has caused. We have heard of people being killed by alcohol; we have heard of people who have been blinded by alcohol. What happened to the people who admit to making that alcohol? We heard vague things about them being arrested and then that was the end of it. So, let us be serious; if we are going to bring amendments to the issue of alcohol control, then let it reflect the same.

Mr. Temporary Speaker, Sir, when people say that alcohol kills, it is true that alcohol kills, but it kills in more ways than one. It just does not kill the person who died in Machakos; what about the family of that individual? What about his wife and kids? What about the impact that Sen. Abdirahman brought out very ably? What about those people who do not go to work because of that alcohol? But let us also be fair; for example, the example given by Sen. (Dr.) Khalwale regarding Hilton, and so on, and so forth. It is not just a bar that can move; and you should not tomorrow, for example, be allowed to build a school near the bar because we are presuming that only a bar is built near the school. We do not understand that also a school can be built near the bar.

Therefore, Mr. Temporary Speaker, Sir, as we debate this matter and as we look at it more critically, let us be serious and vicious with the issues. For example, as far as the deaths on our roads are concerned, 90 per cent of the deaths are not necessarily caused by alcohol. In fact, if you look at the trucks and buses that kill people, it is over speeding on our roads during the day or during the night where you kill 120 people. That is not necessarily caused by alcohol. So, alcohol is not the one that is necessarily killing people. When people go to Runda Estate, where famous and rich people like Sen. (Prof.) Anyang'Nyong'o live, when you stop your alcoblow just at the corner of Professor's house and you proceed to tell the professor to blow on this thing, and he is next to his house, what accidents are you really saving people from? Why can you not go to Thika Road, Kabete Road or Nakuru Road and wait for the people there? But to waste that equipment near Muthaiga so that you can embarrass Sen. Murkomen when he is going home, that is not control of alcohol.

In fact, Mr. Temporary Speaker Sir, I am even opposed to this Section 30(5), where it is presumed that we are again changing the rate at which you get caught with

alcohol from zero to--- That is a total waste of time! It does not change anything; it would not make a person either drink or not drink when they are driving. Therefore, let us not make frivolous amendments that are really not going to change much. Let us say that if you are drinking and driving these big trucks, the fine is Kshs100,000. Let us say that when you try and overtake vehicles in areas where you are not supposed to overtake, the fine is Kshs20,000. When we begin to control some of those things rather than to presume that we can do so just by passing the law---

But, Mr. Temporary Speaker, Sir, I want to reiterate that the taxation system that the Government is using is pushing people to go looking for cheap alcohol when they could very easily get proper alcohol. As for those who think that taking beer home to drink, with their children watching, is a bad thing, I disagree. We must have a change of culture. Elsewhere in the world – in the United States and elsewhere – they have got what they call a six pack. You go and take a six pack, you go home and share it with your friends. Children in your house are not going to start drinking alcohol because you drink alcohol. They are going to start drinking because, A – alcohol is available and; B – they are presumed that they can drink alcohol. But when you tell me that in my own house, I cannot drink because my child is going to see me drinking, who is the owner of the house; is it me or the child? It is my house and it is discipline that should make that child not drink alcohol.

So, Mr. Temporary Speaker, Sir, we do not want to ban alcohol, but we want to control it. I agree with Sen. (Dr.) Khalwale that there is nothing better; I think we all need a drink once in a while – at least I do. Those who drink alcohol will tell you that there is nothing that is more relaxing than a double shot of 18 or 21 year old single malt. There is nothing more relaxing than that.

(Laughter)

Therefore, Mr. Temporary Speaker, Sir, I beg to support with amendments.

The Temporary Speaker (Sen. Murkomen): Sen. Kajwang.

Sen. Kajwang: Thank you very much, Mr. Temporary Speaker, Sir. I want to start with a story. In the former Russia – not the new one – which was controlled by Stalin, I think he said that the population was getting lazy and he needed people to work hard so that there could be self sufficiency in food production. He, therefore, outlawed alcohol. For a while, he thought that he had achieved something. But he looked at the statistics of crime in his office and was astounded that crime was increasing alarmingly – murder, rape and all those other bad things. He called his advisors and asked them why crime was increasing in almost every state. They told him “Your Excellency, you know we banned vodka.” He said “Oh, I see; so it is the ban of vodka that is making everybody angry and killing each other, stealing and doing all sorts of bad things?” So, he said “Brew the vodka.” So, vodka is still brewed and we buy it here.

America at one time became very religious and, in fact, they banned alcohol in their own constitution. When the population became very religious, they went to a referendum and banned alcohol in their own constitution. Soon, there was a debate and

then people were acting here and there; they were singing in praise of pro-vodka or pro alcohol songs, others were singing against it. The women mostly were singing against alcohol because the men were not coming home and they were not paying fees. So, after two years, the Americans went to another referendum and removed that clause; why? Because you cannot stop alcohol; you just cannot!

So, let us, first of all, accept that if you are lucky to not drink, then you are lucky; but you cannot stop alcohol. During that time when America stopped alcohol, those who traded underground made billions of shillings, and that is how the Kennedy family became rich. If you stop it, if you over-control it, if you make it almost impossible to manufacture it and sell it, it will go underground, and that is what is happening. That is why we are dying; we are not dying from alcohol, we are dying from people who have adulterated alcohol. They have adulterated it because it has become too expensive and too risky to make it. When you make it now, you have to adulterate it so that you sell at a higher price and it makes people drunk faster; and it ends up killing people.

Mr. Temporary Speaker, Sir, I grew up when the bar was still in the village; it used to be called--- There was a licenced bar in my village and, in fact, it was owned by the chief. People used to drink *busaa* there. Old people used to go there in the evening to drink *busaa*. I also grew up a bit in Uganda and in the campus of Makerere University, where I did my law degree, there was in fact a brewery inside Makerere University. Sometimes we would go and drink there with my friend, Mukhisa Kituyi. There were many drinks there; you could take Tonto, Waragi and many other drinks. If you go to the other side of Busia – not the Kenyan side – you will find elders sitting there with long *mirijas* enjoying their traditional beer. They just add hot water and they take it. It is not an offense in Uganda, and they are not dying in Uganda; they are dying in Kenya. You should ask yourself why. They are not dying in Tanzania, but they are dying in Kenya. The more you make these big laws with so many sections about control of alcohol, you cause more deaths because the people in Nyeri will continue drinking, whether you like it or not. In fact the more you outlaw it – I know that we have outlawed---

Mr. Temporary Speaker, Sir, I think it was Sen. Wako, when he was the Attorney-General, who brought that law that almost made it a very serious offense to be found in possession of this easy one which we smoke anyhowly – *bangi* – the grass. The magistrates started punishing people with life sentences for being found in possession of a roll of *bangi*. In fact, the magistrates said “our hands are tied; there is nothing we can do” and they sent just two, three or four people to life imprisonment. The whole country went into an uproar; and Sen. Wako had to explain the law further to his magistrates. Because there are certain things if you outlaw them---

Sen. Wako: On a point of information, Mr. Temporary Speaker, Sir.

Sen. Kajwang: I will allow it.

The Temporary Speaker (Sen. Murkomen): Yes, Sen. Wako?

Sen. Wako: Mr. Temporary Speaker, Sir, my learned colleague is right in saying that there was a bit of an uproar. Actually, the magistrates misapplied the law and all it took was a proper explanation to the public on what the law is, so that the magistrates could correctly interpret the law. The law at that time is the same law as it is today. So, sometimes people tend to misinterpret the law and that creates a very bad precedent. So,

our job is all the time to explain correctly and soberly in any given situation what the law is and what the facts are.

Hon. Senators: You are informed now!

Sen. Kajwang: Thank you very much. I am very much informed.

Sen. Wako: Even the reporters were misinformed because there was a very big article in The Sunday Nation saying: “Wako has brought an unconstitutional law which should be repealed immediately.” But nothing has happened because I upheld the constitutionality of that law, which is still there to date. By the way, it is an example to other countries dealing with drug trafficking.

Thank you, Mr. Temporary Speaker, Sir.

Sen. Kajwang: Mr. Temporary Speaker, Sir, I have been informed, although my informer took a lot of my time. I hope I will preserve some of that time.

(Laughter)

Mr. Temporary Speaker, Sir, I wish we could be sincere to ourselves because we really want to help this country. To be sincere to ourselves, we must do two things; we must remove traditional alcoholic drinks from the list of the whole definition of alcoholic drinks; I have seen it there in the definition at Section 3. Every country must have a traditional drink; every community must have a traditional drink and if you outlaw it or if you must take it to this authority to approve it so that I have to carry it in a pot and take it to the authority to approve it before you come and give it to your brothers in-law, then it will no longer be a traditional drink. I think we must separate the two things.

Secondly, we are importing something called the licensing of importation of alcoholic drinks. This is giving too much authority to this authority that we are creating. What are we going to do? We are going to make some of these people billionaires by restricting importation of vodka or other alcoholic drinks, and giving licences when they feel like; and refusing to give licences when they feel like. These drinks are already good for the international market, so why are we giving somebody authority to licence their importation? At what points are they going to be licenced; is it when they are still at the port in Russia? Or are we going to licence them when they have already arrived in Mombasa? What if he refuses to licence it when you have already imported them? I think we are missing the point. We want to give too much power in the hands of one person or a few people who will, I think, abuse it and hurt our economy if we are not very careful.

Now, Mr. Temporary Speaker, Sir, this thing called Senate Beer, which was being done by our friends; Kenya Breweries; in fact, they did it on consultation with the Government. The Government said “people are dying because they cannot afford whisky like we can; and they cannot afford the other beers. So, what do we do?” Kenya Breweries said “we will do a cheaper beer for the common man;” and they did the Senate Keg. What did we do when the Government came into power? They immediately imposed Value Added Tax (VAT) on this drink, and its price shot up to become almost the same as the other ones. The net effect was that all these people who were drinking keg and were very happy went down to drink these other alcoholic drinks, which we say are bad.

That is how these deaths have arisen. So, the first thing we must do is to recommend the removal of VAT on the Senate Keg so that the industry that produces safe beer can continue to produce that safe beer for the people of that class. We should not be so elitist as to forget that we are not the same in our purchasing capacity. Some people can do 18 or 21 year old single malt; other people can only do *busaa*! So, we must allow people in this country to enjoy whatever they want to enjoy at the cost at which they can afford. If you make it criminal for them, then they will go underground; but they will drink all the same as I had said earlier.

Lastly, Mr. Temporary Speaker, Sir, this registration of alcoholic drinks; I had already said that we should remove the traditional drinks from the list of alcoholic drinks. But if you insist that it must be registered, how are you going to register a beer that has been brewed by an old woman in my village for people to enjoy in the evening? In fact, our villagers know that Mrs. So-and-So is brewing beer, and by Friday, it will be ready. So, are you going to register it and then bring it back to the village for people to drink it? Let us think of the majority of Kenyans; a majority of Kenyans are poor – 95 per cent of us cannot afford the ordinary beer from Kenya Breweries here. You cannot legislate for 5 per cent and make it criminal for 95 per cent of the country and hope that you will succeed; you will not succeed! They will resist, they will go under and they will revolt. So, please, make a law that suits everybody. Allow people to drink what they can drink safely.

Let me tell you, before this law which was brought, the “Mututho” law as we used to call it – and now we are strengthening it – very few people died. They only died of *kumi kumi* at one time. But when I was asked on television whether *kumi kumi* should be abolished, I told them that it is not *kumi kumi* that killed them; it is the adulteration of *kumi kumi* that killed them. Because *kumi kumi* had been so popular; it cannot be so popular and yet it kills people! It was already good, and that is why it was popular; but somebody adulterated it. So, when you make things very difficult, people go under. It had already been brewed and that is why it was popular. However, somebody adulterated it. When you make things difficult, people go under.

Let me come to the issue of fining drunken people. In most cases, do not bother fining drunken people. These people have no problems. A drunken person sleeps anywhere he will feel sleepy. Why should you drag him to court? Let him sleep and when he gets up, he will go home. Leave people alone. Do not make laws that entail collecting people who are drunk and sleeping on the roadside; taking them to court and fining them Kshs10,000. First of all, they will not pay that money. However, you will have to look after them. We do not want to waste public money on drunken people. Let the people who want to get drunk get drunk and those who want to wake up to wake up to do their work. If you make this too restrictive, people will start getting drunk. People drink for social reasons. If you restrict them, they will still get drunk, run into the wilderness and die there.

I oppose.

Sen. Okong’o: Thank you, Mr. Temporary Speaker, Sir, for allowing me, on the outset, to oppose this Bill. What we are looking at are the symptoms of the problems we have in this country. The problem of taking drugs in this country emanates from

unemployment. These problems were not brought by the Jubilee Government. These are problems that we have been having since the KANU Government. The Jubilee Government is also adopting this. If the employment situation was to improve and our young men and women were to get jobs, then they would not have the idle time to drink.

For instance, we were told that the Jubilee Government has created 700,000 jobs. I have not seen a list of the jobs they were talking about. We are supposed to be told the sectors where the jobs have been created. They should advertise any vacancies they have so that our youths and even those from my county can also apply. Youth who are idle should be told what to expect as they wait.

Sometime ago, in 2012, an Act was enacted. We need to get findings of the existing Acts. Was the Act implemented to the letter? How far did it go? Is what we are seeking for in that Act so that we bring amendments?

Mr. Temporary Speaker, Sir, we have a Committee in this House which is supposed to engage the Kenya Bureau of Standards (KEBS). The KEBS should go deep into researching about the drinks which are being questioned so that when we come to the House, we debate from a point of research and information. This bureau consumes a lot of money.

When National Campaign Agency against Drug Abuse (NACADA) was formed, fees charged for licences to bar owners were increased from Kshs10,000 to Kshs100,000. If you increase this amount to a single businessman who is running a business and who employs some people, running of business becomes punitive. If this becomes punitive, the bar owner is restricted to how many people he can employ and, therefore, some people end up looking for something different to do.

This Bill will not solve anything. It is, purely, academic and will not address the issues affecting the people of this country. The Committee on Health should engage the KeBS so that we understand where the problem is. Coming here with many files will not take us anywhere.

With those few remarks, I beg to oppose.

Sen. Kittony: Thank you, Mr. Temporary Speaker, Sir. I would like to congratulate the Mover of this Bill and to say that it has come an appropriate time when a lot of bad incidences have taken place in our country. I would like to propose some amendments which will make the Bill meaningful and address the issues in our society.

Alcoholism is a social problem. What am I saying? People can enjoy their drinks in social gatherings; however, they should not become abusive or kill themselves through drinking. If we have to legalise drinking, then we have to put in some measures. Taking of alcohol has its own consequences. It is good and bad at the same time. When you look at the Bill, you will see that it is out to address all these areas. The Bill tries to address the issue of the chemicals that youth on the street are inhaling. You cannot just bring some issues and leave out some.

My amendment is that it should address all the ills related to alcoholism so that it can accommodate and help the society to be disciplined. I remember very well, during the Nyayo era, that many army men, particularly in Rift Valley, helped many homes to reform and to live in harmony. Men had disappeared and were living in *busaa* clubs. Some would not dress properly and were walking almost naked. There is a former

soldier, Kipchumba, who sang a song telling people to move away from *busaa* clubs and to go back to their homes. This is a societal problem. People need civic education; people need to be educated to understand that a drink can be harmful if you do not know how to manage it.

I am calling for an amendment in terms of education so that people are made to understand the problems of drinking. As I support this Bill, I want to see it addressing the problems of the youth in our towns and cities. There is a menace in our towns. As early as 9.00 a.m, you will see young people with water bottles. I do not know what is in these bottles but you can see that these youth are incapable of controlling themselves. These are the issues that should be included in this Bill. Let us be accommodative and address all the ills of alcoholism in our society.

With those few remarks, I support.

Sen. (Prof.) Anyang'-Nyong'o: Thank you, Mr. Temporary Speaker, Sir. I want to contribute to this Bill. For one, we should be honest. Alcohol has been with human beings since time immemorial.

When Jesus was on the cross and suffering; one of the things they did to him was to put alcohol in this mouth. The assumption was that this would reduce the pain and make him a little more comfortable. That was not a very good idea at that point in time but nonetheless, it was done.

There is a Latin saying; *in vino veritas*, which means, in wine lies the truth. So, I assume that when you have taken a little bit of wine, you relax and speak a lot of truth. People say that those who are drunk speak a lot of truth. This is not to justify being drunk but to recognize the fact that drink and alcohol does, indeed, relax people. I have read stories - I am sorry to say this in the House - that some of the best experiences of sex come after taking alcohol. This is not, again, to justify such experiences but to say that human life has always revolved around some amount of alcohol. The only problem is when it is done in excess. Anything done in excess is dangerous.

Therefore, that is why there are laws to make sure that there is moderation in access to alcohol by the people who should have access to it. In the traditional society, the one that I know of, the Luo Society, alcohol was only accessed by adults. At one point, it would be accessed by adult males and not females. Females were expected to make it and not to partake of it. That would eventually cause a relaxation. In the traditional society, older females and not like Sen. Janet Ong'era here, could access alcohol for very good reasons. Therefore, if you look at the whole sociology and history of alcohol, you will realise that there was a mechanism to have it accessed by the right age of people and, secondly, it was taken in moderation.

In my society – I remember growing up as a child - old men always went to drink alcohol after 5.00pm. When they were coming back home, they would be singing and warning those who had attempted to be naughty in their homes to leave as the old men came back. So, there was a structured way of accessing alcohol and introducing discipline in the way that alcohol was used in society which must now be restored. The problem with our present society is the chaotic manner in which alcohol is accessed and the rather liberal access to it by all ages at all times. I guess that this law that Mr. Mututho initiated and which Sen (Prof.) Kindiki is now mending was meant to take us

back to the cultural role of alcohol which is discipline and access to the right people and where the time of accessing alcohol is controlled and limited.

In the traditional society, this was never any time earlier than 5.00 pm or later than 9.00 pm. That was there and there was no misbalance in society as far as I can remember. When I was growing up, we never saw young men falling in markets due to taking alcohol. However, if you went to any market today, in the rural areas, you would see that it is full of misfits who are completely drunk and hopeless. Saying that they are poor and, therefore, must drink is not good enough an excuse. If they are poor and you find them work to do, then they would do something much more useful than getting drunk and becoming hopeless in markets.

One thing that has not been dealt with in this particular law is the access to sachets. Sachets are small packets of alcohol. Those are being manufactured and sold in a very big way. These are the most dangerous. If I were somebody framing this law, then I would suggest that sachets be banned all together. At page 140, there is a table that talks about the size of package, height of character and the font size points. This, I think, is with regard to the way the alcohol is packaged and advertised. I see here 250 millimeters to 475 millimeters. I do not know how big a-250 millimeters is. I do not know whether that is a sachet or not. But I hope that is not a sachet.

I hope it is a tin or something. I do not know what size a sachet would be. Those should be banned, all together, in this country because those are the ones that are accessed by little boys and girls in market places. Those are the ones that are sold to school boys and girls in kiosks. I would like to ask Sen. (Prof.) Kindiki, somewhere in this amendment, to introduce a law banning the manufacture and sale of sachets all together in this country. I know that they make money but they are the centre and source of destruction in children and young people in this country. They are cheap and accessible and, therefore, you can put them in your pockets and drink them at any time of the day and anywhere. Those sachets are extremely dangerous. As far as I am concerned, if Prof. Kindiki framed this law with the knowledge of the old law, we can introduce an amendment to ban the sachets all together. I would be very happy.

I want to go to another issue which is very important. This is the issue of setting up an Alcohol Fund; particularly, the County Alcoholic Drinks Control Fund. I am zeroing in on the county level because the implementation of this law will be at the county level. After all, we all live in counties. Therefore, having a law that applies to the headquarters or the national Government does not make sense. If you establish this law for counties, that makes a lot of sense. After this county fund is established, the Clause 126(4) says it will be used for;

- Meeting the capital and current expenditure relating to;
- (a) the operations of the county committee;
- (b) research, documentation and dissemination of information on alcoholic drinks in the county.
- (c) promoting county rehabilitation programmes that shall recognize alcoholism and as a disease and;
- (d) any other matter incidental to the matters recited in paragraphs a, b and c.

I would eliminate (a), (c) and (d) all together. I think those can be catered for by normal funds in the country. The licensing relating to alcohol should be seen as sin tax. These are taxes for sin just like taxes on tobacco. These are sin taxes. Taxes for people going to night clubs are also sin taxes. Taxes for people visiting brothels are sin taxes. All these taxes should be put to much better use than normal expenditure. I propose that the sin taxes; whether at county or national level, should be used for health purposes. They should particularly be put in a fund that can help us deal with difficult diseases in our national like non-communicable diseases which at the moment receive very little attention in terms of Government funding but could get substantial fund from the sin tax.

We attend too many *Harambees* for people who want to have liver and kidney transplants and cancer treatment. The expense is enormous. At the same time, we are busy drinking alcohol which leads to these diseases. We are busy smoking tobacco which causes lung cancer. So, once you begin drinking or smoking, you should pay a tax that looks after the consequences of your sin. That is very important.

I will culminate all that and say that the County Fund will be used for investing into research and promotion of the use of local raw material for the manufacture of alcohol. Why do I say that?

Section “b” should be used to fund treatment of non-communicable diseases. Forget about the rest of the effects. Why am I talking about research and promotion of use of local raw materials for manufacture of alcohol? This is because we have a lot of raw materials, that can be used to make alcohol but we do not use them. We have bananas, maize, guavas, tree tomato, millet, moringa and sugarcane which can make so many varieties of alcohol. If we invested this money into research for using all these raw materials for making alcohol, we would not need to import alcohol from outside. This is because that alcohol that we import from outside is made from these raw materials that we have here.

If we invested in turning these raw materials into our own alcohol, then we shall be value adding, creating jobs and industrializing towards being a middle-income country by the year 2030. Why do we have to make laws controlling how Johnnie Walker comes into the county, when you have the raw materials to make your Johnnie Walker here locally? This is how Uganda Waragi started in Uganda. It became so popular that when I was a student there, if you did not have a red top in your room, you could not import. So, I think that it is important that we use these things. Let Sen. Kindiki forget about all other things and just concentrate on research and promotion of the use of raw materials for the manufacture of alcohol locally. I am going to move that amendment, so that we clearly focus on one thing.

Mr. Temporary Speaker, Sir, the one problem that we have in our nation is our inability to focus. When you are doing a Bill like this, focus on something that makes a difference. Do not spread your wings too wide and begin bringing too many objectives, which in the end are not all met, and if they are met, ineffectually. I think that if we did this, we could use it as a sin tax for raising funds for non-communicable diseases and for research and promotion of the use of raw materials for the manufacture of alcohol; for purposes of industrialization and driving our nation towards being a middle income country by the year 2030.

After all, we are all committed to Vision 2030 for which I was responsible as Minister for Planning and National Development. I am very proud of that. Anything that we do, let us also focus on Vision 2030 as something that will make a difference to this country. So, any law being made, somehow in whatever department or field of life, should really be moving this country towards one direction, that will make a difference to our nation in the next couple of years.

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

Sen. Mositet: Thank you, Mr. Temporary Speaker, Sir. I rise to support this Bill. I believe that the Senate Majority Leader must have come up with this Bill after seeing the frustrations that many Kenyans are going through, simply because of the many brews that are locally brewed or from other countries, which have made many of our youth desperate.

Mr. Temporary Speaker, Sir, I appreciate the fact that each and every citizen of this country is from a particular society. In fact, I respect the fact that each community must have some ways of socializing, including ceremonies. For example, in my culture, the person whose son is being circumscised would make sure that his agemates join him for the ceremony. Good alcohol is brewed and they celebrate together but that is no longer the norm. Maybe our laws have been tightened or life is so expensive that the local brew is no longer produced the way it used to be. Maybe that is why we now have other brews which are ruining our youth and men.

Mr. Temporary Speaker, Sir, as I support this Bill, I am also touched that many of the laws which we come up with really go to strengthen corruption in some sections of the Government, particularly the police force. In fact, the more we come up with strict laws, the more the police officers celebrate, because they know that such laws will enable them make more money. The introduction of alco-blow is a good example. If you ask the police department, they will tell you that it is one of their best stations, because they are making a lot of money. The same applies to the traffic department. Whenever they carry out a crackdown on unroadworthy vehicles, they take advantage of that to harass the ordinary Kenyans. Therefore, we need to review the issue of the alco-blow and if possible, do away with it. This is because many Kenyans are suffering. I know quite a number of very good bars and restaurants, especially in the suburbs which are no longer doing business, because the alco-blow roadblocks are mounted just on their doorsteps.

Mr. Temporary Speaker, Sir, I do believe that each and every county has some good raw materials to make local brews which can be controlled and certified by even the Kenya Bureau of Standards. We should think of manufacturing a local brew which can be accessed by the ordinary Kenyans without abusing it. Our fathers used to enjoy *muratina*, *mutukuru* and other forms of local brew. The Mover of the Bill also needs to think of the minimum age at which our youth can start taking alcohol. I believe that many amendments will be brought in the Committee Stage, this is a good Bill.

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

Sen. Mutula Kilonzo Jnr.: Thank you, Mr. Temporary Speaker, Sir. I rise to support this Bill and its intended amendments.

Mr. Temporary Speaker, Sir, just like Sen. Kajwang, allow me to begin with a story. When this Senate was busy discussing the Division of Revenue Bill, I was in

Makueni burying 22 people who died out of a brew that is now famously known as the “countryman.” The effect of this brew was that as we sat in the podium and there were 22 caskets in front of us, there was another tent where the family members of these 22 people were seated. This tent, which was a 300 or 400-seater, demonstrated the effect of losing 22 people in one division to a brew called “countryman.” When I requested to see the bottle, I was amazed to see that this bottle was packaged in the same way as other famous drinks like Famous Grouse and others. It had a label together with a Kenya Bureau of Standards sticker. The multiplier effect of this drink and the effect that it caused in that division will be felt for a long time to come. It begs to say that although Mututho is famous for this Bill, it almost looks like we have had a public relations exercise for the last several days about what was the purposes of this Bill.

Mr. Temporary Speaker, Sir, I agree with Sen. (Prof.) Anyang’-Nyong’o that there should be a purpose. I think that we should promote consumer protection in an attempt to amend this Bill. Why do I say so? It is because this bottle of water that we are taking in the Senate is by law required to have the contents of what we are consuming. But when it comes to the alcohol that is sold to our people, such standards are not given. This is what I call double standards. We should insist in this Bill that if somebody is going to manufacture alcohol, then that alcohol must have similar contents.

Mr. Temporary Speaker, Sir, in the case of Makueni, after samples were taken, it was discovered that, in fact, countryman is 100 per cent methanol. We are concentrating so much on the person who is selling this alcohol and forgetting that the alcohol that was sold in Embu, Makueni and other parts of this Republic did not walk to those places. This alcohol was manufactured and distributed by somebody. When we lose two or three Kenyans to the effects of terrorism, we see the whole Government machinery, including the paramilitary coming into place. But when we lose 20 Kenyans who bothered to pay for something that they could consume, you do not see the same sort of force. In fact, in the case of Makueni, the Provincial Administration promised Kshs50,000 to all these victims, but they have never received that money.

What would be wrong in prescribing a standard? The other day, we had a fine of Kshs20 million prescribed under the Media Bill, for persons who violate the law. Why can we not have a similar provision, saying that if you are found to have manufactured a drink which caused the death of a person, you will be fined Kshs20 million or so, as opposed to saying that it is a felony or misdemeanor that is punishable by law? That will make sense. Because then that makes sense. I say so because the persons who are manufacturing this are in the business of making profits. If you make a profit when a person has lost his life and family members have lost their loved one, then you are not entitled to do business and in short, in terms of damages, we should ourselves as a legislature not be shy to put punitive damages in this Bill so that as opposed to what Sen. Kajwang is saying, we do not want every Tom, Dick and Harry to manufacture alcohol. There is no problem in having five people provided they do this properly because if the ultimate goal is to protect the consumers, then we can do so like they have done in Uganda where *waragi* is not in competition with any other.

Mr. Temporary Speaker, Sir, if you look at the Bill, the same thing that we keep doing; the people who are supposed to be the ones testing under the schedule are only

nine of them. There is the Government Chemist, the Kenya Bureau of Standards, Kenyatta National Hospital, University of Nairobi, Kenyatta University and Aga Khan University Teaching Hospital. What about Migori, Makueni and Tana River counties? Are we going to say that when alcohol is manufactured in those counties, it has to be brought to the Government Chemist in Nairobi? Here, again, there is no consumer protection. My cousins, some of whom are in Mbooni, are very famous for making alcohol using sugar cane yet in the Schedule, we have included traditional drink and we have said that it should not have more than 0.5 per cent alcoholic content. Who is going to check? What methods are they going to use in a village in Mbooni?

There must be a standard so that we do not do what we keep doing as legislators; a public relations exercise, so that we look like we are working and yet we are not. If we are going to regulate traditional liquor, we must regulate it with a standard, otherwise we will end up doing what Sen. Kajwang has said and this business will go underground. If you go to what I call the “Valley of Death” somewhere in Mathare, you will find people manufacturing alcohol along the river. They prepare the alcohol from water which comes from sewers and everybody is watching. How are we going to regulate? I do not see some of those things captured in this Bill because we are assuming therefore, that what we need to regulate is the alcohol that is manufactured in nice looking packages. So, as Sen. (Prof.) Anyang’-Nyong’o has said, we need a paradigm shift in the way we are going to do this if we are going to succeed.

Mr. Temporary Speaker, Sir, instead of having drinks like *Countryman*, *Senator* and the rest, I propose that even the drinks that are manufactured are properly registered and a gazette notice is issued. It is so difficult in this country to even register a trademark because it has to go to the Kenya Gazette, it is circulated, the notices are issued *et cetera*. We should have a register. One of the problems we had in Makueni with this is that the chiefs were asking what they were supposed to do with this drink called *Countryman* which had a Kenya Bureau of Standards (KEBS) sticker. Do they need to drink it and die to confirm that it is poisonous? That is the problem that we need to deal with. *Countryman* is not a drink that is properly registered. Otherwise, then, we would know that it is a drink that should be consumed by Kenyans. I am proposing that we create a law that states that if you want to manufacture a drink, it must be tested and registered and then put in a Government publication so that the chiefs and the other people enforcing this law do not have an excuse to doubt the stickers on those drinks.

We have the institutions which are supposed to check the production of these drinks. Everybody was saying that we should jail or charge officers from KeBS, but when people died in Makueni; when 25 people died as after consuming alcohol, they fired everybody under the sun, but they never touched the officers from the KeBS who had put stickers on that drink called *Countryman*. How do we deal with public officers who abdicate responsibility that causes the death of the people who were consuming this drink? How do we deal with the KeBS which is sitting in Nairobi without an office at the county level? We must also, in complying with the law, devolve these offices. Otherwise, some of these things are going to end up being a public relations exercise for our people.

Mr. Temporary Speaker, Sir, the components that are used to make liquor in our villages include honey, sugar cane and another component in Kikuyu Language whose

name I cannot reveal now. Those components from which we make liquor in our villages should be given recognition here so that then if somebody makes liquor from sugar cane, it is known that this liquor has been made from sugar cane or if it is *mnazi*, we know that the alcohol has been made from coconut *et cetera*, so that the people who are doing legitimate business in the coastal region by selling *mnazi* or the people who are doing legitimate business by selling whatever alcohol they are selling which is dully registered and acknowledged, can continue making a profit, because in other parts of the world, alcohol making and selling is supposed to be a profit making enterprise and not a simple exercise as I have heard.

With those few remarks and amendments, I beg to support.

Sen. Melly: Thank you, Mr. Temporary Speaker, Sir, for giving me this opportunity to also make my remarks in support of this Bill.

On the outset, let us try to think why today there are so many people abusing alcohol unlike 20 to 30 years ago. It is unfortunate because as I talk today – that is why we have the control – alcoholic drinks are no longer consumed on particular occasions. Today, young people specifically of my age take drinking alcohol as a profession; they are drinking in the morning, at lunch time, in the evening and very early in the morning, the next day they wake up very early to resume alcohol consumption. There are various reasons why this is happening and I think all of us are aware. In so far as we are going to put the law in place to ensure that we control consumption of alcohol, there are some things that must be made very clear.

One of them is the issue of youth unemployment. Today, a number of young people are not working anywhere. It all again falls on us because at the end of the day, the lives of the youth are a reflection of the leaders that are here today. It is my humble request that we should put these controls in place and ensure that we try as much as possible to create opportunities for the young people. Banning of alcohol may not be a solution at all. In fact, if you banned alcohol consumption today, you will be encouraging its consumption. Those who have been drinking once a week, for example, will start drinking twice because they will be looking for more and more in anticipation of the law banning its consumption.

Consumption of alcohol has adverse effects and I do not want to mention all of them, but one is to do with its effects on the economy of this country. A number of those who are consuming a lot of alcohol are the young people and yet they are the same people who are supposed to work for this country, change this country and to make sure that we develop from one level to the other. We have a number of issues to be addressed in this country including insecurity. But if the job of these young people is just to drink alcohol, they will lose every good opportunity. All efforts are made towards getting money to buy alcohol. This will cause insecurity because they will rob people in order to get little money to buy alcohol.

Mr. Temporary Speaker, Sir, today in some parts of the country, our young ladies are no longer comfortable. They are now trying to move from one place to another to look for men to ensure that their lives move on. This is because men are no longer performing their core functions as provided for in the Bible to ensure that there is procreation and there is life. They cannot do it today because they are always drunk. The

only thing they remember in the evening is to go and look for something small to buy alcohol. When they are drunk, they sleep until the following morning. I strongly believe in social change. Unless there is change at the individual level---

Sen. Karaba: On a point of order, Mr. Temporary Speaker, Sir. Have you heard the English that Sen. Melly is using here; “core function” which is not understood by very many people?

Sen. Melly: Mr. Temporary Speaker, Sir, what I mean is being a man, and I am sure you know your core function when you marry a lady; you should know your job. Unless there is social change in the lives of the people, we may not actually realize all these things even using the law. Even if we put all these control measures in place, we may not know exactly what is happening in other parts of the country which are inaccessible.

The church must also play a key role here in ensuring that they teach the people the right behaviour regarding the use of alcohol. Rehabilitation centres should be established in every county, if possible. There should be regulation on television and radio broadcasts on alcoholic drinks, as stated in this Bill from 6.00 a.m., to 10.00 p.m. We should review all the licences to ensure that those suppliers who receive the licences meet all the requirements. Lastly, we should set laboratories in each county, if possible, so that we do not only rely on those ones which are already here. As Sen. Mutula Kilonzo Jnr. has said, there are people in this country who we will never access unless we devolve some of the functions in each county. We should, for example, have laboratories in every county so that we can reach every corner of the county.

With those few remarks, I support.

Sen. Karaba: Thank you very much, Mr. Temporary Speaker, Sir, for also allowing me to air my views.

(Microphone developed technical hitch)

The Temporary Speaker (Sen. Murkomen): Sen. Karaba, you can use this microphone here or---

Sen. Karaba: Mr. Temporary Speaker, Sir, I have this portable one here. We need to know what is happening to this august House; all machines are breaking down. I do not know what system we are supposed to adopt. This mobile microphone is also cumbersome.

All the same, Mr. Temporary Speaker, Sir, I stand to support the amendments as moved in the documents that we have here more so because I support the idea that people who are below 18 years should not take beer. This is something which, if not checked, will affect the educational standards in the country; it will lead to moral degradation which the Senator for Meru was talking about, and also, decay of our morals.

Mr. Temporary Speaker, Sir, as we cite the history of beer drinking, in the older days when we were young, we could not be allowed to get nearer to the areas where old men were taking beer. We did not even know what kind of drink these men – and even women – were drinking. They were doing so only when it was necessary and at specific

times; either during ceremonies or during rites of passage, and that was specified. There was no need of even having permits because they knew how to control themselves. But, today, what we see in the television are advertisements related to beer drinking, and this is double standards. You will find that the same Government which is telling us not to drink is encouraging us to drink by telling us that when you drink Pilsner, you will get power. So, what happens is that the young men will resort to drinking Pilsner in order to find out what this power is all about. We are also told that if you take Lager or Tusker, you become as strong as an elephant. So, they will take so many bottles of Tusker because they would like to be what is described in the advertisements.

Mr. Temporary Speaker, Sir, these advertisements should be abolished. We should call it off; we should not allow this to continue. But we cannot do it because the cartels which are there in the Republic will not allow that because they are all making money. What makes such people in Kenya to suffer because of taking illicit brews? Is it through the manufacturers' fault? That is not true because they would like it to appear as if their beer is the best and it is taken by most people. But, of course, people will say the best beer is that one which will make them drunk within a very short time so that, maybe, they can go home or they can sleep for the rest of the time, as they say, so that they can forget the problems that they have.

That is why even opium smoking was invented and encouraged in China during the time of communism. The Chinese and the people in those communist countries wanted to forget the many problems that they had. So, they introduced opium smoking in Vietnam and China, but later on after realizing the effects of this habit, they had to curb or prevent young people from taking such drugs. So, even in Kenya, we need to think about beer drinking and that is why the amendments are coming. These amendments are coming in handy because of what happened the other day when Kenya lost more than 100 people through such drinking.

But, Mr. Temporary Speaker, Sir, what amazes me is that these drinks were manufactured by prominent people, either using molasses; and we know what molasses is made of. We know the factories where this molasses come from and some of these people are known by the Government. The Criminal Investigation Department (CID) and the National Intelligence Service (NIS) are able to establish who is transporting what, but to our amazement, these people go scot-free.

(Sen. Kajwang stood up in his place)

The Temporary Speaker (Sen. Murkomen): What is it, Sen. Kajwang?

Sen. Kajwang: Mr. Temporary Speaker, Sir---

(Sen. Kajwang spoke off record)

The Temporary Speaker (Sen. Murkomen): Sen. Kajwang, you will have to wait for the cordless microphone so that you are on record.

Sen. Kajwang: Thank you, Mr. Temporary Speaker, Sir. Is Sen. Karaba in order to suggest that if you produce, sell or even distribute molasses, sugar or any other

ingredient – even millet – that may be used to make alcohol, then you are the culprit for the production of this alcohol that killed people? To suggest that would scare everybody who is in any other industry related to the production of alcohol.

Sen. Karaba: Mr. Temporary Speaker, Sir, that is what it means. We must be selective. If those molasses are part of things which are used in producing these drinks, then we should curb what is not good for drinking. Most of the molasses is meant for livestock. That is what should selectively be done; but not the same product now producing alcohol. So, what is supposed to be alcohol is what I am saying should be prohibited. It should not be manufactured because it could be a killer brew. That is what is happening.

So, Mr. Temporary Speaker, Sir, without even elaborating further because I have done it, we need to scrutinize the origin of these brews because what happens is that the same very rich people are the same ones who would like to continue brewing and sell the same illicit brews to people because they know that is the money through which they are trying to get rich quick through such sales. I know of some people who have industries in the county; these people are known. What happens is that they bribe their way even to the district officers and commissioners and the whole administration is known to allow such brewers to continue operating in the counties.

So, now, you start wondering; if we come here and discuss about amendments and the same is not happening in the counties, are we not wasting time? Are these not double standards? Can we not ask the Government to go and stop such illegal illicit brewers and the killer brews? If that happens, it will be done and then we are going to stop people from dying from such drinks.

Mr. Temporary Speaker, Sir, in Zambia, when the President started crying over brews, he did not just continue crying. Because there was a lot of money from copper sales, he introduced cash crop farming. He introduced a lot of maize corn farming and most people now, instead of being in the copper fields, had to diversify to cash crop farming. Today, you realize that Zambians are not as great beer drinkers as they were before. So, we need to make sure that in Kenya, we have more diversified economic activities so that young men who are idle can be meaningfully occupied. Because if you ask them: “What are you doing here? They reply: “We are just waiting for the day to end.” They have nothing to do and the parcels of land are so small in some communities.

We need to make sure that the cash crops which we have like coffee, tea, sugar cane, cotton and all those others are produced and sold so that these farmers can get money. Through such sales, it is possible to even employ those young men, who can even do other things which will be economical to them and the nation rather than just resorting to beer drinking, which according to them is social. So, this is something that the Government should look into seriously if we are going to think about the amendments that we have here.

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

Thank you, Mr. Temporary Speaker, Sir.

The Temporary Speaker (Sen. Murkomen): Sen. Sang.

Sen. Sang: Thank you, Mr. Temporary Speaker, Sir. From the outset, I want to support this Bill but with a lot of reservations, knowing that a number of the Senators

who have contributed to this Bill have alluded to a number of amendments that we think need to be done on this Bill before we finally pass it.

Mr. Temporary Speaker, Sir, alcoholism is an issue in this country. In the last three or so months, this country has lost more of its citizens through illicit brews than through terrorism. As we devote a lot of energies in this country to deal with insecurity issues and terrorism, commensurate energy should also be directed towards dealing with this challenge. The fact that in one day or night, this country lost over 100 people in three or four different counties in the same day is major; and this is a serious issue.

Mr. Temporary Speaker, Sir, just the other weekend, I saw my friend, Sen. Otieno Kajwang, welcoming the CORD principal and he gave a brief of some of the issues that happened “while *Baba* was away.” I think he forgot to brief the CORD principal on this particular one; that “while *Baba* was away”, this country lost a lot of people through---

Sen. Kajwang: On a point of order, Mr. Temporary Speaker, Sir. I want to suggest that my brother did not listen to me very carefully. In fact, my second point was that while he was away, more than 90 people died of poison; I called it poison, because that is what it was. It was not a drink.

Sen. Sang: I am much obliged, Mr. Temporary Speaker, Sir. I am grateful that, that was said.

The Temporary Speaker (Sen. Murkomen): Sen. Kajwang, I heard you say “while he was away.”

Sen. Kajwang: Yes.

The Temporary Speaker (Sen. Murkomen): Who was this who was away? He was not a member of this House.

Sen. Kajwang: No, he has already mentioned who was away.

(Laughter)

Sen. Sang: Thank you, Mr. Temporary Speaker, Sir. In my county of Nandi, whereas we may not have had some of these notable misfortunes in terms of loss of lives through these illicit brews, but it is an issue. We heard Sen. Mutula Kilonzo Jnr. mentioning a brew called *Countryman*; in my county, we have a drink called *Tostos*, which has adversely affected families. Whatever Sen. Melly was talking about here is a real issue; that women have had to demonstrate demanding for their rights. This is a right that should not be limited by any other issue because you only need to be well, well fed and for you to perform.

(Laughter)

But this is an issue that has been affected by the prevalence of illicit brews.

Mr. Temporary Speaker, Sir, this is one of the devolved functions and I think one of the greatest persuasion for me to support this Bill is the fact that the Bill seeks to recognize the role of county governments in licensing alcohol. I have interacted with a number of Members of the County Assembly (MCAs) in my county and they always raise the issue of illicit brews. They want the national Government to ensure that this

issue is addressed. I always point out to them that this is a devolved function; that it is already their function and that they need to legislate for it in order to give parameters on how this is going to be done in our counties.

Mr. Temporary Speaker, Sir, I think as much as we do these amendments here, it is important for the various county assemblies in our country to take this issue seriously. I want to point out that the Nyeri County Governor assented to a similar Bill from the County Assembly of Nyeri. That is very important and I know that a number of county assemblies are already working on this. So, the recognition of the fact that county assemblies are already doing something or should pass legislation with regard to this issue is an important one.

Mr. Temporary Speaker, Sir, over the weekend, I was in a function in my county where the Executive Secretary of the Kenya Union of Post Primary Teachers (KUPPET) and various leaders of unions representing teachers in my county raised this particular issue. They raised the issue of alcoholism among teachers and they proposed to us that it should not be treated as just alcoholism, but it should be treated as a disease. I think if you look at this Bill, the establishment of a County Fund to deal with this issue and directing the amount of resources that will be collected through this Fund be allocated to functions that deal with issues to do with rehabilitation is a positive one. So, I really think that we can beef up some of these issues within this Bill.

Mr. Temporary Speaker, Sir, I would also want to point out that under Clause 10, which is an amendment to Section 7 of the Bill that seeks to nullify the exemption granted to Parliament and disciplined forces, I want to admit that I was not aware that disciplined forces and Parliament were exempted from the provisions of this Act. I do not think that you can be a member of the disciplined force if at the end of the day; you are exempted from some of these things. All of us need to be subjected to the same law. We understand that they undertake extraneous responsibilities and, therefore, dependency is higher and the latitude to release stress exists. We have seen situations where some members of our disciplined forces engage in activities that they should not especially under excessive influence of alcohol. I do not think there is any justifiable reason why the disciplined forces and Parliament should be exempted from the provisions of this legislation.

On the issue of advertising, I know that this is one clause that will face a lot of challenges especially with regard to various manufacturers. I want to support that we outlaw the advertising of alcoholic drinks between 6.00 a.m., and 10.00 p.m. The same rationale applies to the legislation with regard to media content. A lot of regulations are being proposed with regard to ensuring that we protect our children who can be influenced negatively by these advertisements. Therefore, the provision of outlawing advertisements between 6.00 a.m. and 10.00 p.m is very important.

Sen. (Prof.) Anyang'-Nyong'o raised the issue of alcoholic drinks being packed in small sachets of below 250 millimetres. There is already an amendment to Section 31 which is at Clause 28. I think that is important because the challenge this country faces is that whereas we want our people to engage in fruitful development activities and appreciating the fact that people have a right to enjoy themselves one way or another, all these must be under the parameters of the law.

The spirit behind this amendment is good. However, there are other certain critical amendments that must be made to this law. I support this amendment Bill brought by the Majority Leader subject to various amendments that will be proposed by the Committee and on the Floor of the House.

With those few remarks, I support.

Sen. Elachi: Thank you, Mr. Temporary Speaker, Sir. I also rise to support this Bill. Before I move on, I would like to say that once you listen to the sentiments of many of my colleagues, you will get a feeling that the Committee that was supposed to look at the Bill after the First Reading should redo their work. It would be absolutely very unfair for Members to come and look at all these errors and yet the Bill was subjected to a Committee and was supposed to bring amendments.

It is also important to note that the Mover of the Bill is trying to amend the National Assembly Bill of 2010 and to ensure that---

Sen. Sang: On a point of order, Mr. Temporary Speaker, Sir. I do not want to interrupt my colleague. However, she mentioned something that needs to be corrected. We know that the Committee may have considered what we are dealing with here but may not have presented us with their Report. If the Committee has not done that, then most likely, this Bill has not been brought before them. Therefore, it would be misleading to say that what we are discussing here today in this Bill has come after the contributions of the Committee and that the Committee did not do a good job. I think it is important to be on record that once a Bill has been tabled and committed to a Committee, the Committee's work is to give recommendations on the issues.

Sen. Elachi: Thank you, Mr. Temporary Speaker, Sir. I may be wrong but I thought that after the First Reading, we commit a Bill to a Committee. However, we will be guided by the Clerks-at-the-Table on how it goes.

Sen. Kajwang: On a point of order, Mr. Temporary Speaker, Sir. Regarding the procedural matter that has arisen between my two colleagues, after the First Reading, the Bill is subjected to a Committee. That follows as a matter of course. The Committee should have come here with some amendments and so on. The next Committee we will go into is the Committee of the Whole where we will expect Members to introduce amendments at that time. That is how it goes.

Sen. Elachi: Thank you, Mr. Temporary Speaker, Sir. That is what I was trying to explain. Thank you, Senator for Homa Bay.

The Temporary Speaker (Sen. Murkomen): That is a procedural issue and it is important. After the First Reading, the Bill is committed to the relevant Senate Committee. The relevant Committee with regard to this was the Committee on Health. If the Committee, according to our Standing Orders, does not submit a Report within 30 days, then the Senate proceeds. We are sending a message to the relevant Committee. They had a responsibility to advise and work with the House with regard to this Bill at this stage. However, as Sen. Kajwang has said, that does not stop amendments being introduced via the Committee at the relevant stage once we go to the Committee Stage.

Sen. Elachi: Mr. Temporary Speaker, Sir, we thank the Mover for bringing a Bill that takes into account the County Governments. We are now helping the County Governments to deal with the challenges we are facing and issues of alcohol.

The Mover is trying to amend the names in the Bill such as the Commissioner of Police to be the Inspector-General so that you put people who are responsible in terms of what is supposed to be done or to respond to questions wherever they are asked.

We have to appreciate that the issue of alcohol in the country is a big challenge among our young people who can access cheap alcohol. They find themselves facing different challenges as they move on. I will give an example of an area within Nairobi County. You will find young people drunk very early in the morning in most areas around where touts at the ages of 13 and 14 man *matatus* stages. Why are they drunk in the morning? This is because they move with *matatus* for one or two squads and, therefore, have money to buy alcohol and to feel excited. After a few years later, these young people become old men and walk while shaking because of the influence of alcohol. They cannot even hold on to a cup when they want to drink anything.

We must say, as leaders of this country, that yes, those who can control themselves while taking alcohol are there. However, at the same time, we must accept that we have a big challenge especially on those who live in slums and in rural areas who find themselves stressed. These ones believe that once they take one for the road, they will relief their stress as some of my colleagues were saying. There are different ways of releasing stress but the most common one is when they start taking alcohol. This has gone beyond a point where young people are using water bottles. You will find them in a bash called *Yesu ni Bwana* but whatever they are consuming contradicts what they are saying.

Those are the challenges of young people. Some of them are pushed by their peers. Some may want to know why their fellow colleagues are excited all the time. They are told to try and end up taking *kumi kumi* or something that has been made using harpic. Some of them go for the methanol which is used at the mortuary so that they ferment their product very fast. The challenge we are facing is greed and wanting things to be done using shortcuts.

Indeed, our grandmothers used to take *chang'aa* back home. If you look through the history of western Kenya, you will see that very few have died because of *chang'aa*, and very few have become blind because of *chang'aa*. So, the first thing we should do, as we empower the county governments, is to look at the modalities of how the local brew is done. I remember those days when we used to go to Nyalenda to see how *chang'aa* was being brewed. This was done using vapour. You will find that they used steam and this was pure. There was nothing like using harpic or the different detergents that we use.

The manufacture of *chang'aa* in Nairobi is done in very dirty conditions. You will forgive me for saying this but you will hear some people say that they put in rats, and their underpants. They believe that if they do that, their husbands will never leave their compounds. So, they drink and keep on going back to drink. We need to talk about hygiene and ask ourselves whether our people are maintaining this. That is why these people have swollen bodies.

The Senator for Homa Bay said that we need to exempt the brand *Senator* from this law. However, when some people take the *Senator*, their faces swell and you wonder what chemicals are being used on that drink. We have to be careful with what we think is good. Some of them react. Some move from using *kumi kumi* and when they move to the clean one, the body's metabolism does not respond well.

While looking at the Bill, let us agree that, indeed, we need an amendment that will ensure that County Governments take control to ensure that what is happening within their counties can be prosecuted well or well guided. The chiefs should advise our people well. This is one role that the chiefs have played well. When Mr. Mututho was proposing the first Bill, he thought that he was empowering chiefs to take care of this problem. However, we find ourselves with no eyes and asking that the lights be switched on. This is when one person moves from Kawangware, Embu, Makueni and Kajiado depots supplying the alcohol. As we speak today, we may not have taken all the data to know everybody who passed on because of what happened recently.

So, as a Senate, we must ensure that there are safeguards. The procedures used to manufacture alcohol should be monitored. Alcohol is meant to be enjoyed at a level where the consumer still has sanity. When you go to Nyandarua, Murang'a and Gatanga, you will be surprised to see that there are no children who can join Standard One. This is a result of alcoholism. When you visit those areas you will be surprised to see most people drunk by 9.00 a.m. I remember the Senator for Migori, Dr. Machage, bringing a Motion declaring this as a national disaster, and we passed it in this Senate. Therefore, we need to ask ourselves whether this Bill is carrying the spirit of what we said during Sen. Machage's Motion, and then amend it, so that we can take care of all the challenges that we talked about at that time.

Mr. Temporary Speaker, Sir, when you visit schools, you will find that most of them have shops or *kiosks*. That is how drugs end up in schools. Even today in our estates, for example, in Kileleshwa, you will find a *kiosk* where just young people hang around. If you stop there, you will see wine and spirits being sold there. You wonder whether such *kiosks* are licenced to sell these spirits and whether the said wine and spirits are fit for human consumption. We need to ensure that places which sell alcohol on pavements are not issued with licences. Some chemists are also selling some drugs which have the same effects as alcohol.

At the same time, most of our youth are consuming alcohol and not eating well. That is why most of them look emaciated and sickly. Most of them end up dying. Today, we have many widows because of the same. There is a lady from Gachie who appeared on television. Her husband and son passed away in 2010 because of effects of alcohol. There is also a man who survived the effects of alcohol in 2010 through God's mercy, but could not survive this time. When you attend public fora, you will see many people crying and giving stories about the effects of alcohol.

Mr. Temporary Speaker, Sir, if we want to amend and even impose a ban on some of the things, we have a right to do so. This is the right opportunity to save this country and young people within the productive age of 18 and 35 years, who are lost in alcoholism.

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

Sen. Kanainza: Thank you, Mr. Temporary Speaker, Sir, for giving me this opportunity to support the amendment Bill that is before the House.

Mr. Temporary Speaker, Sir, we have had a law regulating alcohol since 2010, but it is unfortunate that people have continued to take illicit alcohol. As a result, there have been deaths and many people have gone blind. This alcohol has also had devastating

effects on some men. Some of them are no longer productive in their families. Whenever you go to some police stations, you will be served by drunken police officers who are on duty. When you visit some offices, the watchmen are unable to open the gates because they are drunk. This is a big issue that the country is facing. Given the amendments that Members have proposed, we will be able to address some of these problems.

Mr. Temporary Speaker, Sir, *chang'aa* could mean "kill me quickly." This is because whenever we watch news on television, we see people dying. Unfortunately, our young people have not addressed this issue seriously. When you ask a young person or student about the names of bars in town, he or she will tell you, but when you ask about a gallery, that is beneficial to his or her academics, that person does not know---

PROCEDURAL MOTION

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

Sen. Elachi: On a point of order, Mr. Temporary Speaker, Sir. I rise pursuant to Article No.107(1)(c) of the Constitution and Standing Order No.18 to move that the Senate elects Sen. Mutula Kilonzo Jnr. to preside over the Senate for the remainder of the sitting today.

The Temporary Speaker (Sen. Murkomen): Who is your Seconder?

Sen. Karaba seconded.

Sen. Wako: Mr. Temporary Speaker, Sir, before you propose, since this may be amongst the first times that we are doing this, I think that it is important to lay the ground rules. One of them is: Does Sen. Mutula Kilonzo Jnr. fit to come and sit on that immense Chair of great power? I want to inform this House that I can think of no other person, currently present in this House, who has it all. He has the legal brains, experience and already contributed to this Motion. So, his freedom to make a contribution on this particular matter will not be interfered with. Therefore, I think that Sen. Mutula Kilonzo Jnr. actually fits, at this point in time, to sit on that Chair.

Mr. Temporary Speaker, Sir, I do support the Motion by the Majority Chief Whip of the House.

Sen. Kajwang: On a point of order, Mr. Temporary Speaker, Sir. I think that the Attorney-General *Emeritus* went a little ahead of the procedure. This is because, actually, you were going to propose. When you propose the question is when he would have said what he wanted to say. He mistook you to say that you were putting the question.

Sen. Wako: Mr. Temporary Speaker, Sir, I think that he is right. I think you should propose so that I can say what I said.

(Question proposed)

Sen. Kajwang: Mr. Temporary Speaker, Sir, now that the Attorney-General *Emeritus* has not stood up quickly, I support that Sen. Mutula Kilonzo Jnr. gets this chance to sit on the Speaker's Chair and moderates the debate for the remainder of the evening, because he has what it takes to control debate. I do not want to add anything more. I think that he suits the bill.

The Temporary Speaker (Sen. Murkomen): First of all, before I put the question, I want to say that Sen. Wako was right. I think he is the one who seconded if I am not wrong. If he had not seconded, then he was out of order, but if he was the one seconding, he was in order because there was a scramble between Sen. Wako and Sen. Karaba, but I will take it that Sen. Wako seconded because he is the one who spoke. For Sen. Karaba who just stood and noted, I will ignore him for now, though the Standing Orders would have allowed as much.

(Question put and agreed to)

Sen. Kanaiza, you may proceed!

Sen. Kanainza: Mr. Temporary Speaker, Sir, it was very wrong to disrupt me while I was speaking.

The Temporary Speaker (Sen. Murkomen): Order, Sen. Kanainza! What do you mean by saying that that was very wrong? Those are the rules of this House and the Standing Orders.

Proceed!

Sen. Kanainza: Mr. Temporary Speaker, Sir, the reason for engaging in consumption of alcohol by the youth is because of unemployment. We really do not need to continue crying about this issue because the young people have been encouraged to utilize the national funds that have been created for them. We really do not need to complain that unemployment is an issue that makes the youth to engage in alcohol consumption. We need to find a way of trying to solve it.

The other reason is because of poverty. We really need to look into the other ways that can be used to improve the lives of the people. Rather than continuing to produce alcohol, we can think of how we can improve farming so that we can have enough food on the table.

[The Temporary Speaker (Sen. Murkomen) left the Chair]

[The Temporary Speaker (Sen. Mutula Kilonzo Jnr.) took the Chair]

Mr. Temporary Speaker, Sir, leaders of this country should strive to be role models. We have even seen parents taking alcohol at home and so a child grows up with the knowledge that it is right to take alcohol. That is why we end up having very young children of even 15 years indulging in consumption of alcohol. The moral values in this country have also gone down. It is important that we go back to civic education so that we really know where the problem is. Looking at this Bill, there is a problem somewhere.

Where have we left the manufacturers who are selling these brews to the people and making them die?

I support the Motion with amendments.

Sen. Kisasa: Thank you Mr. Temporary Speaker, Sir, for this opportunity. I also stand to support this Bill. I happen to come from Kilifi County and this has really affected our people who consume *Mnazi* day and night. I am happy with the Jubilee Coalition Government which is now trying to provide employment to our people who are consuming a lot of alcohol. You can imagine how many hours we have sat in this Chamber this afternoon and none of us has thought of going to drink, but because there is unemployment in Kilifi County, they have engaged in drinking *Mnazi*.

I am happy and I congratulate the Jubilee Coalition Government because they are really trying to provide jobs to our people. If the so called “Baba” can give us a break so that the Lamu Port and Lamu Southern Sudan-Ethiopia Transport Project (LAPPSET) and the Standard Gauge Railway (SGR) projects can take off, we will control this consumption of alcohol once and for all.

I beg to support.

Sen. Wako: Thank you, Mr. Temporary Speaker, Sir. First of all, I wish to congratulate most sincerely the Senate Majority Leader for having brought this Bill. I am quite sure that the Bill has also been considered by the Committee on Health and we shall be looking forward to the recommendations.

The issue of alcoholism has bedeviled us for quite some time. Alcohol in itself is not bad and we should be frank about that. The first miracle that was performed by our Lord Jesus Christ was to turn water into wine. In fact, it was at a wedding ceremony and they were taking wine which is alcohol.

The Senate Majority Leader (Sen. (Prof.) Kindiki): On a point of order, Mr. Speaker, Sir. I apologize for cutting short Sen. Wako, but I know he is such a refined speaker that he still retraces his steps. The reason I stood on a point of order is because Sen. Wako is misrepresenting to this House and to the public that Jesus made alcohol. Theologians and Bible historians tell us that the kind of wine that Jesus made in the Cana of Galilee was not alcoholic wine; it was actually some form of juice from grapes. Is he in order to misinterpret the holy Bible by saying that Jesus made psychotropic substances?

Sen. Kajwang: On a point of order, Mr. Temporary Speaker, Sir. I really did not understand the point of order raised by Sen. (Prof.) Kindiki. As a matter of fact, wine is wine and juice is juice. Grape juice is grape juice. So, do not confuse us; the guy just made some very good wine!

Sen. Wako: Mr. Temporary Speaker, Sir, he made such great wine that the people who were at the wedding said: “why have you waited until the very last moment to make the best wine?” The same wine continues to be used in one of the important sacraments of the church. During the Last Supper, you go before a priest and pastor and he makes you drink wine. Actually that wine is a stronger wine than the one you would ordinarily get in shops. This same wine, the medics have told us that if you want to put the onset of a heart attack a few months away, you take one or two glasses of red wine and your arteries will be opened and the chances of you getting the heart attack will be

postponed for a very short time. This same wine, the scientists have told us that the best wine for that type of thing is wine grown in Bordeaux area of France and now the Californian wine is competing with it. So, wine itself is good---

Sen. Murkomen: On a point of order, Mr. Temporary Speaker, Sir. Whereas the Attorney-General *Emeritus* is prosecuting his argument eloquently, is he in order to appear to be advertising wine and the source of wine? Could he just go to the point because the objective of this Bill is to avoid the advertisement of wine during the day?

The Temporary Speaker (Sen. Mutula Kilonzo Jnr.): Sen. Wako?

Sen. Wako: Mr. Temporary Speaker, Sir, I was trying to make a point, and this is the right time to make that point. That point is that everything is good in moderation. The problem we are now dealing with is that most of us in this country do not do things in moderation, particularly when it comes to alcohol, we do not do it in moderation; we do it in a manner in which we endanger other people in society.

Mr. Temporary Speaker, Sir, this problem, as you know, people have talked about it for long. I began looking at this problem – I think I can speak openly – when the son of the historian, Prof. Ogot, became an alcoholic. He was very brilliant at the university but he became an alcoholic. He has now just come out of it, but at a very old age. When I read the history of the son of Prof. Ogot – a brilliant son born in a great family and who had a great future – being spoilt by alcohol, it almost brought me to tears.

Mr. Temporary Speaker, Sir, when you read of women – in Murang’a, Kirinyaga and now I understand even in Rift Valley – demonstrating because of the effects of alcohol on their men folk, that is a danger. The issue of alcohol must be dealt with immediately. Of course, we thank hon. Mututho for having piloted this particular Bill through the National Assembly. Obviously, it now requires some amendments and that is why I am thanking the Senate Majority Leader for bringing these amendments. I would like to thank him because although it appears bulky, it is not all that bulky. Most of it is updating that particular Act of Parliament which was passed at a time when the Senate was not there and when the county governments were not there. This Bill, as brought by the Senate Majority Leader, is to update that Act. So, where it is mentioned “district”, they say “county.” so, we are in a sense updating the Act.

But now, Mr. Temporary Speaker, Sir, the most important aspect that has been brought here are the various bodies and agencies that have been created to deal with this particular problem. I would like us to borrow a leaf, for example, from the campaign against smoking. Smoking is also equally dangerous to somebody’s health and the World Health Organization (WHO) has literally banned smoking. Previously when you boarded a motor vehicle or an aeroplane, they used to ask you: “Do you want to go to a smoking area or a non-smoking area?” Now, they tell you that the entire flight is a non-smoking zone. If you look at the way the European countries are now dealing with the use of drugs, they are prohibiting drugs, we are saying that you can only take those drugs in particular specified areas where they can be controlled. Therefore, I believe that when it comes to the Committee Stage, we should have some amendments to this Bill, particularly amendments which create non-alcoholic zones in this country.

If you look at page 135, I think, where it says: “Unless if a licence is issued under this Act, no person shall sell---”. If you look at that section, a number of places should be

places where no alcohol should be sold. This section is permitting, as it were, that alcohol can be sold in some of the places. I think that no alcohol, for example, should be sold in the workplace. Why should we have alcohol being sold in the work place? Why should we have alcohol in the Senate? Why should we have alcohol in the National Assembly? Why should we have alcohol in working places? I know that some of my colleagues said that if you do not give alcohol to Members of Parliament (MPs)---

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

The Temporary Speaker (Sen. Mutula Kilonzo Jnr.): What is it, Sen. Kajwang?

Sen. Kajwang: Mr. Temporary Speaker, Sir, is it in order for Sen. Wako to suggest that the bar in the National Assembly is a working place? We know the working places in the National Assembly, which are the library, the Chamber and all the other offices where people work. The bar is a bar; so, you cannot make the bar a working place.

The Temporary Speaker (Sen. Mutula Kilonzo Jnr.): Sen. Wako?

Sen. Wako: Mr. Temporary Speaker, Sir, those are Sen. Kajwang's words; I did not say the bar, I said in the working place. As far as I know, where I am now standing, it is a working place. I did not say the bar and I will never say the bar. Of course, a place which is a bar is a bar because---

(Technical hitch)

Mr. Temporary Speaker, Sir, is this sabotage? Why are these microphones not working? It is now okay.

Mr. Temporary Speaker, Sir, I was developing this concept that you must, somehow in this Bill, provide for the no-go-zones as far as alcohol is concerned, very much as in the campaign against smoking where there are no-go-zones. I was saying that there are places here – offices, factories, unless, of course, it is a factory making alcohol – but the concept here is selling. I am surprised that we have not provided, for example, for educational institutions. Educational institutions have not been made no-go-zones as far as selling or conveying alcohol is concerned. So, when this Bill goes back to the Committee, I would really urge the Committee to think very carefully and come up with a section in this Bill where there are no-go-zones as far as alcohol is concerned.

The only thing I can think about is educational institutions. We have now found that so much is going on in educational institutions. Our youth are being corrupted at a very early age. In fact, some people say that primary school pupils are already drinking. They do this at the educational institutions. They do it because of the sachets they can carry. As the teacher is teaching, the student takes what appears to be water. However, this is alcohol. We should have those no-go zones as far as alcohol is concerned so that when it goes before the Committee, we bring amendments here. I think I will be among the first to vote for that particular amendment.

Mr. Temporary Speaker, Sir, I also think that - at page 137 on the authority to establish those regulations – we have not taken into account the adverse effects of social media and IT on our youths. I think it was in yesterday's paper where an article was talking about the minds of our youth being corrupted by what is going on in the social media. There was a picture of a youth texting somebody. The representation in this

particular board must include an expert in that area so that we also look at that and see how we can stop promoting alcoholism on the social media and other such areas. We may have somebody from the media council. However, what we need is an IT Media person. I suggest that when this Bill goes to the Committee, before it comes back to us, we look at that.

Let me also mention another area that I thought we should look at. This is the area of county funds. If you look at the area of county funds, you will see that the functions there appear to be okay. However, the most important function that should be given to that county fund is to engage in activities which prevent our people from becoming alcoholics. What we have there is basically the council being concerned with treating people who are already alcoholics and who should be going to the rehabilitation centres for treatment.

The Temporary Speaker (Sen. Mutula Kilonzo Jnr.): Order, Senator, your time is up.

Sen. Wamatangi: Thank you, Mr. Temporary Speaker, Sir, for giving me an opportunity to add my voice and concern to this very important Bill that has come to the Floor of this House. I want to begin by lauding the efforts of the Senate Majority Leader for having brought this Bill to the Floor of this House at this time.

As we deliberate on this Motion, it is a matter of fact that the deaths that occurred in this country recently, attributed to consumption of alcohol rate amongst the biggest tragedies to befall this country in the recent past. I believe that the amendments contained in this Bill and the intention in the overall of this Bill will go a long way in ensuring that abuse of alcohol in its sale, consumption and packaging will become a social advantage or make our society better and deal with alcoholism.

Recently, there was legislation that had required packaging of alcohol to conform to certain standards that reduce the possibility of young people, especially students, to consume alcohol. Alcohol used to be packed in sachets and it was very easy for our young children to go into supermarkets buy and conceal the products in their pockets. However, as recently as two or three weeks ago, I remember going to a supermarket as I drove to central Kenya and noticing some alcohol that was still packaged by the so-called new licenced dealers. This one was packaged in the plastic packages that can be concealed easily. I propose that as we enforce that requirement, packaging in sachets should be discouraged and discontinued, even the small tiny bottles, reminiscent to some which are served by the airlines.

That trend has been copied by local brewers and dealers. Somebody can go and buy the small contents of alcohol and conceal them. Students can put these in their bags, amongst books and you will not see them. The effort and intention of having discouraged packaging in sachets is still defeated if we do not deal with packaging in very small plastic bottles.

My county is one of those that have had to bear the brunt of alcoholism and its effects. Recently, we buried many people because of alcoholism. I take this opportunity to send my condolences to the numerous families in Kiambu County; from Limuru, Banana, Thika and Kikuyu who lost their loved ones. Many of the victims lost their lives after consuming alcohol in the latest catastrophe that befell this country. It was very sad,

to watch in one funeral, coffins paraded for as many as 11 people and most of them from the same family.

I remember an incident where a father, son and a grandson were all paraded at the same time in the same funeral. I asked myself where we are going as a country if we do not deal with the problem of alcoholism. To say the least, this problem has not only afflicted the young people and the male gender but also our young ladies, some of whom are mothers. Many have fallen victim and that is completely reminiscent of a society that is in decay.

Mr. Temporary Speaker, Sir, enforcement of the age limit of the young people who are allowed or can walk into a bar or any place where alcohol is sold has largely been carried out, for example, in some supermarkets. But if you go to the wines and spirits shops in the shopping centres, you will find that any young person in trousers will walk in and buy any alcohol that they want. These are some of the areas that we need to address seriously. As we make this legislation, we should ensure that there are no loopholes that are left that can be exploited.

Mr. Temporary Speaker, Sir, recently in Machakos County there was an incident where a qualified prosecutor, who has been bestowed the responsibility of administering justice and presiding over it in a court of law, confessed that he, indeed, has been unable for years to go to his work station and execute his duties when he is sober. This is just one case that goes along to show the damages or demerits of addition. This is because it will rob even the most respectable, learned and qualified member of society. They will lose their dignity and effectiveness to deliver services on the altar of alcoholism. So, as we deliberate on this, let us not look at this problem and just imagine that this is a problem that only afflicts the poor. The Senators and Members of the National Assembly should be an example, such that even out there in the social places, we should not conduct ourselves in a way that makes alcoholism look like something good. I remember attending an induction on etiquette; how we, as Members of Parliament, should conduct ourselves. One of the lessons was that if you go out there, as a Member of Parliament, do not overindulge or consume alcohol to an extent that it robs you of your dignity or morals. If we do that, we will go a long way in ensuring that what we are advocating for here, indeed, is realized.

Mr. Temporary Speaker, Sir, within the communities out there in the rural areas and even here in the city, there have been very active pressure groups, which have been going around and doing the work of ensuring that this message goes out. I think that those groups need to be congratulated and lauded for the efforts that they have been putting. But it would also be important for us, as a House, to also urge other institutions in society, for example, our churches to team up with those pressure groups and other individuals and institutions that have been carrying out the work of ensuring that alcoholism does not rob us of our society. If such teamwork is created, then the intentions of this Bill will go all the way down to the grassroots or the last person.

Mr. Temporary Speaker, Sir, lastly, in advertising alcohol, it has always been made to look like being drunk is something that is so cozy or trendy to do. I remember the other day, a law was passed to ensure that advertising of cigarettes is not made to look like it is something that is socially trendy and attractive to do. I think that closely to

follow in this pursuit should be alcohol, so that it is not impressed upon our young people, when their minds are highly impressionable, that going into a bar and ordering for a glass of wine and putting your leg on the bar stool and looking cozy, is something that is good to do. I believe that if the other contributions, thoughts and suggestions which have been given by my colleagues are put together in this amendment Bill, as brought by the Senate Majority Leader, it is going to go a long way in ensuring that we have a better country.

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

Sen. Murkomen: Thank you very much, Mr. Temporary Speaker, Sir. From the outset, I want to register my disappointment with the technological apparatus of this House and the manner in which this House is being treated when it comes to this technology. I think that the relevant officers must take it seriously.

Mr. Temporary Speaker, Sir, be it as it may, I want to speak about this Bill.

Sen. Musila: On a point of information, Mr. Temporary Speaker, Sir.

Sen. Murkomen: Mr. Temporary Speaker, Sir, I am willing to be informed.

Sen. Musila: Mr. Temporary Speaker, Sir, I would like to inform Sen. Murkomen, as a Commissioner, that we will soon be moving to the new Chamber which has better equipment. Tomorrow it is going to be inspected, so that we can move. I want to assure you that the kind of equipment that we are going to find there is of the highest quality; not from the East.

Sen. Murkomen: Mr. Temporary Speaker, Sir, I take that information seriously, but also with caution. This is because---

The Senate Majority Leader (Sen. (Prof.) Kindiki): On a point of order, Mr. Temporary Speaker, Sir. Is Sen. Musila, the distinguished Senator for Kitui County which is a neighbouring county to Tharaka-Nithi and who I respect very much, as a senior politician in this country in order to cast aspersions at some of the countries of this world, that have shown incredible friendship to the people of Kenya, by saying that any technology from the eastern part of the world is faulty? Is he in order and is that in accordance with the etiquette and responsibilities bestowed upon us, as legislators, to cast aspersions wholesale at all countries that fall within the eastern side of the globe, many of which are genuinely friendly by action and words?

Sen. Musila: Mr. Temporary Speaker, Sir, with your permission, again, as my good neighbour has alluded; we respect each other very much. In fact, I only said this because Members of the Senate have talked about this particular equipment coming from China. If I am to be specific, I meant China because Members have voiced their concern that this equipment is substandard because it comes from China. I want to assure Sen. Murkomen and the entire Senate that we have taken care of that and that it is not going to happen. We have given them the best technology that is available.

Sen. Billow: Mr. Temporary Speaker, Sir, the Senator for Kitui is a distinguished Member of the Parliamentary Service Commission (PSC) that is involved in the procurement of this equipment. Is he in order to suggest to the whole world that equipment that they procured competitively--- Because China produces both cheap and good products. It depends on your pocket. So, when you are the one who procured faulty sub-standard equipment, you take responsibility as the PSC.

Sen. Musila: Mr. Temporary Speaker, Sir, I wish I knew that I was provoking a situation. I want to exonerate, the present PSC on the equipment in discussion. This equipment was procured long before the current PSC took office and additional information is that this equipment was given as a donation. It was not procured by the then PSC. In my community we say that *mbuzi wa bure haangaliwi meno*. So, it is obvious that we got something free and cheap and this is a lesson for the PSC.

Sen. Murkomen: Mr. Temporary Speaker, Sir, I think I am satisfied with the answer given by the Commissioner, the Chairman of the Wiper party. Earlier, Sen. Sang spoke about what Sen. Kajwang was saying about “Baba” and the reporting. When I saw people of that age and even older, with grey hair saying “Baba”, I thought there was something a little bit amiss and I hoped that they were not under the influence of any of these substances that we are discussing.

Mr. Temporary Speaker, Sir, one of the reasons why I support this Bill is because I opine---. This opinion is actually supported by my personal observation that alcohol abuse is a national disaster. I do not know a family that does not have a relative that they are struggling with to either rehabilitate; somebody they know who was bright, who was supposed to go to university and he has stopped studying because of alcohol; someone they know who was a great, intelligent, skilled person, who was killed in a road accident occasioned by drunken driving. I say this because even in my own family, I have brothers whom I struggle with and we also have close relatives that we are struggling with. They are struggling with the question of alcohol abuse.

When you research, you will realize that when these young people quickly get exposed to university life and they get the idea that it is “cool” to drink, they get that peer pressure. I see young people as a former university lecturer - they feel that if they go and sit down together--- There is even something called “Blankets and wine”. People just go with blankets somewhere in a bush and drink. It is meant to be “cool”. They post it on facebook, to show how they went drinking and you will see the kind of behaviour that accompanies that kind of life. Therefore, as leaders, we must really come out publicly and recognize that alcohol abuse is a national disaster.

It is not true that people drink because there are no jobs. That is not true. I know people who have large tracts of land that they should be tilling, but instead of doing so, growing crops, selling them and making a living to educate their children, they have been waylaid by alcoholism. I know more drunkards who are educated than those who are back home. I know more drunkards that are having white collar jobs than those who do not have any job. So, alcoholism is not only robbing us of the young talent that this country should have invested in, but it is also robbing us of middle aged Kenyans who are supposed to ascend to managerial positions.

I went to my county the other day and I found a man calling himself the deputy headmaster of a school, and I looked at how pathetic the man was; drunk and disorderly, and I was asking myself whose children are supposed to be protected by that person. Whose children are going to learn under the tutelage of this teacher; a man who is urinating on himself in public? What example is he setting for the children when he stands in class and says that: “Study so that you can be a great man like me, as a teacher”, and the children the other day saw him drunk and sleeping in a trench? We must

appreciate that we must do something to alcohol and drug abuse and we must ensure that this disease is properly treated. I agree with those who say that it must be declared that it needs medicine like in Article 43 of the Constitution.

Mr. Temporary Speaker, Sir, therefore, I support this Bill because – it must be recognized by many of our people here – it gives us an opportunity to put in place measures for treating, have a fund and for rehabilitating persons who have suffered because of alcohol abuse. As a person who has been in a family that has struggled with people of that nature, I have realized that it does not help to live in denial. When you have a relative who is drunk and disorderly, it is important to accept that they cannot be like you. It is important to accept that they are going through a disease so that then, as an individual, as a parent, as a brother or a relative, you can be able to look for medicine. Otherwise, you keep blaming them that they are stupid and unreasonable but you will never help them. The attitudes of Kenyans should change to ensuring that we accept that those who are addicted to alcohol are actually seeking medical attention because they are men and women who deserve our attention. I support this Bill as well because it is giving effect to the Constitution that liquor licensing and matters related to the regulation of alcohol and alcoholism is a function of the county.

I like one thing about this Bill that says that: Should it be that there is a conflict between national legislation and county legislation, in so far as matters of licensing of alcohol is concerned, the county legislation prevails. That gives effect to Article 191 of the Constitution on conflict of laws. That means that alcohol licensing standards and regulations do not have to be the same in all the counties. It means that you can actually go to a county that has banned alcohol completely. It is possible to have county x deciding to ban alcohol completely because that responsibility is upon county by county. If we want to achieve the objective of dealing with alcohol abuse, it is important that that entity called a county, starting from counties that are predominantly Muslim, where most likely not so many people are drinking--- If we can wipe out alcohol from those areas as we slowly come in to the other areas where we are supposedly Christians and we have so many people who are abusing alcohol, then we might be able to rescue the future generation from this menace.

Mr. Temporary Speaker, Sir, I am only concerned with one thing when I look at various legislations in this country at this age and time. You realize that every legislation has an authority, a committee or some institution. As we look at all these things, we must be able to have coordination. Why would you want to create another big committee to just ensure that people do not drink and that a licence is issued or denied? Sometimes such responsibility should just be left to respective county assembly departments that deal with it and then that county assembly department coordinates any other person who thinks that he is responsible for that matter so that we do not increase the wage bill in the name of trying to have as many institutions as possible that are doing the same thing. Sometimes the problem of over coordination is that you will see people passing the buck from one institution to the other.

We should also think about looking at this distance of 300 meters from nursery, primary, secondary schools and so on, and so forth. I think it is important that we contextualize this – and Sen. (Dr.) Khalwale was very clear – that Hilton Hotel is not

very far from a primary school, but that does not mean that it is very clear that you can easily see or know where the people are drinking from. There is no way that people drinking inside Inter-Continental Hotel would affect children studying at Holy Family Basilica Primary School. So, I think the reasonability of the regulation must also be checked and so on, and so forth.

Lastly, Mr. Temporary Speaker, Sir, I want to talk about counterfeits. The biggest challenge that we are facing and the reason why so many people died recently was because of counterfeiting. The genuine manufacturer of the so-called *Senator* drink – and I am sure soon there will be a *Governor* drink or a bottle called *MCA* drink – for the person manufacturing that alcohol to be protected, first of all, you have to register. So, it is important that every person who is selling alcohol across the country, using whatever brand, must be made to register that brand so that we know that somewhere, there is a responsibility.

Secondly is that the institution dealing with anti counterfeiting and the other institutions that deal with this issue need to ensure that they protect this country from counterfeiting because the reason why people died is because they drunk – was it called *Countryman* – thinking that it was the normal *Countryman*. But someone else had packaged methanol and called it *Countryman*. So, it is important that we understand that the dangers of counterfeiting are here with us, and we must ensure that there is inter-agency co-ordination and that the public is also involved so that we also understand. In fact, most of us are blaming the Kenya Bureau of Standards (KeBS), but we know that there are counterfeited stamps outside there that are being used. Anybody who wants to manufacture anything substandard will just put the KeBS stamp, which is a counterfeited stamp.

So, Mr. Temporary Speaker, Sir, these challenges are here with us and I, therefore, support this Bill and in the opportune time, I will join those who are introducing amendments to ensure that this is a more effective legislation.

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

The Temporary Speaker (Sen. Mutula Kilonzo Jnr.): Senate Majority Leader?

The Senate Majority Leader (Sen. (Prof.) Kindiki): Thank you, Mr. Temporary Speaker, Sir. Am I to reply?

(Sen. Musila stood up in his place)

The Temporary Speaker (Sen. Mutula Kilonzo Jnr.): Yes, but I believe that there are some other contributions on the Floor.

The Senate Majority Leader (Sen. (Prof.) Kindiki): I am sorry but I am looking at the clock – unless we want to do this maybe tomorrow, you can guide us.

The Temporary Speaker (Sen. Mutula Kilonzo Jnr.): I propose that we exhaust the contributions before you reply, Senate Majority Leader.

Proceed, Sen. Musila.

Sen. Musila: Thank you, Mr. Temporary Speaker, Sir. I was saying that this is a very important piece of legislation and while also congratulating my good neighbour and friend, I thought that one day is not sufficient for a Bill as important as this one and that,

therefore, I will be allowed to give my contribution for five minutes so that I can continue tomorrow and also give other hon. Senators the opportunity to make their contributions.

So, Mr. Temporary Speaker, Sir, let me take this opportunity, once again, to join my colleagues in applauding the efforts of the Senate Majority Leader in crafting this legislation. But let me say, at the outset, that legislation is not the answer to the problems of alcoholism that we have in this country. Those of us who have been in the provincial administration for a long time know that from time immemorial, I remember when I joined the administration in 1968--- Are you surprised?

(Applause)

The first duty I was to do was to tell the chiefs and to warn them that you must eliminate alcohol in your areas or you will be sacked. That chorus is still being sung up to today. District Commissioners (DC) are telling chiefs that if we find local brew in your area of jurisdiction, you will be sacked. This has been going on and on but the problem of alcohol has not decreased. That does not mean that we do not need legislation. We need legislation. However, in addition to that legislation, there are other areas that we need to look at and that is the morals of our nation, the love for money, the fact that we do not punish offenders. Here, I can refer to the recent incidences where people have lost their sight.

You will recall the incidences in Mai Mahiu and Chumvi. Those happened but we have not heard people who are responsible for those actions being punished. This is a whole collection of problems because we do not prosecute our problems properly. I do not understand why somebody would sell alcohol and kill very many people and yet you do not hear of him being punished. In other countries, people would be hanged for being responsible for the loss of many lives.

While we appreciate this legislation, we must also look into other areas. We know that this nation has lost one or two generations through alcohol. It pains me and everybody else to see pictures on television of young men being dragged on the streets in rural areas while drunk. It pains me to see women demonstrating and saying that their husbands are not useful under the blankets or between the sheets. You know what I mean. That is to say that a whole generation has been lost.

As we speak now, many young men are being recruited into alcoholism simply because as leaders we have not, in addition to legislation, put other measures to reduce consumption of alcohol. The rule of “over 18” is very critical. Very many young people are taking alcohol. In many foreign countries – all of us have travelled and know – any person suspected to be below 18 is required to produce an identity card or a driving licence to prove that he is of age to drink or buy alcohol. However, in our situation, if you pop into a shop and give money, you are sold alcohol and nobody cares.

I am outlining that to show that in addition to legislation, we need to do more. We passed a law, I remember, during the Ninth Parliament, on the issue of packaging. We said that any alcohol that was packaged in anything less than the quarter was outlawed. I do not know what has happened to that law. I do not know whether it still exists. Today, if you visit *matatu* termini, you will find touts with the sachets in their pockets. If you

visit some schools, you will find students with the sachets. What has happened? This is because we do not implement the laws even when they exist. The law that prohibits selling alcohol near learning institutions has always been there.

ADJOURNMENT

The Temporary Speaker (Sen. Mutula Kilonzo Jnr.): Order, hon. Senators. It is now time to interrupt the business of the Senate. Senator Musila, you have a balance of ten minutes and you will resume once the debate on the Bill resumes.

That said, the Senate stands adjourned until tomorrow, Wednesday, 11th June, 2014 at 2.30 pm.

The Senate rose at 6.30 p.m.