

PARLIAMENT OF KENYA

THE SENATE

THE HANSARD

Thursday, 13th March, 2014

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

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

PRAYERS

The Speaker (Hon. Ethuro): Hon. Senators, let us proceed with today's business. I think there is a document to be laid. Chairperson, Committee on Health, Labour and Social Welfare, proceed.

NOTICES OF MOTIONS

APPROVAL OF MEMBERS FOR APPOINTMENT TO THE PARLIAMENTARY SERVICE COMMISSION

Sen. (Dr.) Kuti: Thank you, Mr. Speaker, Sir. I beg to give notice of the following Motion:-

THAT, this House adopts the report of the Standing Committee on Health, Labour and Social Welfare on the approval of nomination of Hon. (Dr.) Abdullahi Ibrahim Ali and Mrs. Lonah Mumelo to be members of the---

The Speaker (Hon. Ethuro): Order, Chairman! What are you giving?

Sen. (Dr.) Kuti: Mr. Speaker, Sir, a notice of Motion.

The Speaker (Hon. Ethuro): Have you laid the Paper on the Table? We will allow you to get organised because of the special circumstances of the Motion.

(Sen. (Dr.) Kuti consulted the Clerks-at-the-Table)

Sen. (Dr.) Kuti, we will come back to that particular event. Are you now ready?

Sen. (Dr.) Kuti: Mr. Speaker, Sir, let us get back.

The Speaker (Hon. Ethuro): Are there any other notices of Motions?
Yes, Majority Leader.

APPROVAL OF SENATORS TO MEMBERSHIP OF
SENATE COMMITTEES

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

THAT, pursuant to Standing Order No.177, the Senate approves the following Senators nominated by the Rules and Business Committee to be members of the respective committees as indicated below:-

1. STANDING COMMITTEES

A. COMMITTEE ON AGRICULTURE, LIVESTOCK AND FISHERIES

1. Sen. Murungi Kiraitu
2. Sen. Mungai James
3. Sen. Mositet Peter
4. Sen. Mbura Emma Gertrude

Sen. Okong'o: On a point of order, Mr. Speaker, Sir.

The Speaker (Hon. Ethuro): What is it, Sen. Okong'o?

Sen. Okong'o: Mr. Speaker, Sir, I am not reading from the same page as that of the Senate Majority Leader. Are we supposed to be furnished with those copies before they are read or they are read in abeyance?

The Speaker (Hon. Ethuro): I do not understand you.

Sen. Okong'o: Mr. Speaker, Sir, I do not have a copy of what the Senate Majority Leader is reading. I want to be guided whether we need to have those copies.

An hon. Member: It is a notice of Motion.

Sen. Okong'o: Yes, it is a notice of Motion, but it is supposed to be listed, as far as I am concerned.

The Speaker (Hon. Ethuro): The Senate Majority Leader, let me see what you are reading.

*(The Senate Majority Leader (Sen. (Prof.) Kindiki)
approached the Chair and presented to him
a copy of the document)*

Sen. (Dr.) Kuti, are you ready now?

Sen. (Dr.) Kuti: Yes, Mr. Speaker, Sir.

The Speaker (Hon. Ethuro): Then we can put the Senate Majority Leader in abeyance as you proceed. First lay the paper and then give the notice of Motion.

(Interruption of Notices of Motions)

PAPER LAID

REPORT OF THE COMMITTEE ON HEALTH, LABOUR AND SOCIAL
WELFARE ON APPROVAL OF MEMBERS FOR APPOINTMENT
TO THE PARLIAMENTARY SERVICE COMMISSION

Sen. (Dr.) Kuti: Mr. Speaker, Sir, I beg to lay the following paper on the Table of the House, today, Thursday, 13th March, 2014.

The Report of the Standing Committee on Health, Labour and Social Welfare on the approval of nomination of Hon. (Dr.) Abdullahi Ibrahim Ali and Mrs. Lonah Mumelo to be members of the Parliamentary Service Commission (PSC) pursuant to the provisions of Article 127(1)(d) of the Constitution.

The Speaker (Hon. Ethuro): Proceed, Sen. (Dr.) Kuti.

*(Sen. (Dr.) Kuti laid the document
on the Table)*

Sen. (Dr.) Kuti: Mr. Speaker, Sir, I beg to give notice of the following Motion:-
THAT, this House adopts the Report of the Standing Committee
on Health, Labour and Social Welfare on the approval of nomination----

(Interruption of Notices of Motions)

POINT OF ORDER

UNDIGNIFIED BEHAVIOUR IN THE CHAMBER

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

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

The Senate Minority Leader (Sen. Wetangula): Mr. Speaker, Sir, did you see what happened? Is it in order for the Senator for Nairobi County to invite the distinguished nominated Senators to pose next to him and Sen. Murkomen to stand next to the dispatch box and take photos? This is despicable!

Hon. Senators: Oh, no!

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

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

Sen. Murkomen: Mr. Speaker, Sir, it is one thing to be invited; it is another to do it. So, there was no invitation. I was only shown a phone and a message in a phone and then I just moved on. He was gesturing as though he was asking whether I could take him a photo in this beautiful Chamber, but I refused.

(Laughter)

Sen. Mbuvi: On a point of order, Mr. Speaker, Sir. I think the Senator for Bungoma County is day dreaming. I was showing Sen. Murkomen the messages I have been receiving. But we were not taking any photos. Can he prove that we were taking photos?

The Senate Minority Leader (Sen. Wetangula): Mr. Speaker, Sir, there is time for serious business. The Senator for Nairobi County should stop playing games in the Chamber. This juvenile behaviour is unacceptable in the Senate.

(Applause)

He cannot say I am day dreaming. I do not play in the same league with him. This is wrong, watch out!

The Speaker (Hon. Ethuro): Order, Senators!

(Loud consultations)

Sen. Obure: On a point of order, Mr. Speaker, Sir. We should take the business of this House seriously. We are slowly undermining the dignity of this House by the manner we conduct ourselves. We all have a duty to ensure that we recover our dignity and conduct business in this House in a manner which is befitting the Upper House.

Sen. (Dr.) Machage: On a point of order, Mr. Speaker, Sir. Is it in order for a Member of this Senate to refer to a dignified Senator as a day dreamer? Could the Member withdraw and apologise?

The Speaker (Hon. Ethuro): Sen. (Dr.) Khalwale.

Sen. (Dr.) Khalwale: Mr. Speaker, Sir, indeed, the point of order raised by Sen. Wetangula is very important. If it helps Members, in the Constitution of the United States of America (USA), one of the qualifications of becoming a Senator is for you to produce a birth certificate and confirm that you are 35 years and above. Since the drafters of our Constitution were so generous as to allow our youth to come to this serious House, we expect them to live by the African saying that: *“When a child washes his hands, he can eat from the same table with adults”*. We claim that the dignity of this House must be maintained.

Sen. Elachi: On a point of order, Mr. Speaker, Sir. It would be wrong to digress from the whole issue and start talking about the youth. I do not know what the Member really wanted because I did not concentrate on the conversation. But since I was close, to be very honest, he showed us 8,000 short messages (sms). For the rest, I do not want to be involved.

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

An hon. Senator: *Ngoja!*

The Speaker (Hon. Ethuro): Now, why are we turning this into a debate?

Sen. Sang.

Sen. Sang: Mr. Speaker, Sir, is the Senator for Kakamega County in order to refer to the issue of age when we know very well the two Senators in question; that is, the Senator for Nairobi County is way above 35 years, while Sen. Kipchumba Murkomen turned 35 years yesterday? Really, those of us who are below 35 years are not participant

to this saga and, therefore, the hon. Senator should be able to concentrate on the two Senators and not drag in some of us who are below 35 into this debate.

(Applause and laughter)

The Speaker (Hon. Ethuro): Order, Senators. On that light note, let us conclude the matter.

(Sen. Wetangula spoke off the record)

Order, Sen. Wetangula!

First, I did not hear Sen. Mike Sonko referring to you as a day dreamer. He said you must have been day dreaming. There is a difference between being a day dreamer and taking out a moment to dream. But I do not even want us to gloss over that argument. I think Sen. Wetangula raised a more fundamental point to Sen. Mike Sonko Mbuvi and Sen. Kipchumba Murkomen who confirmed there were attempts from Sen. Sonko to ask him to take a photo as he was posing with another Senator.

Definitely, that is not acceptable behaviour in the Chamber. That must be condemned in the strongest terms. We do not take those kinds of photos here, whether assisted by other Senators or ourselves. So, Sen. Sonko, we expect more dignified behavior next time.

An hon. Senator: On a point of order, Mr. Speaker, Sir.

The Speaker (Hon. Ethuro): Let me hear from Sen. Sonko first.

Sen. Mbuvi: Most obliged, Mr. Speaker, Sir.

The Speaker (Hon. Ethuro): Very well.

Sen. (Dr.) Kuti, did you finish giving the notice?

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

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

Sen. Sang: Mr. Speaker, Sir, now that the facts have been laid bare on the floor of this House that there were attempts by Sen. Sonko to solicit for a photo from Sen. Murkomen and that he actually declined, would I be in order to request that Sen. Wetangula withdraws and apologizes for his allegation that Sen. Kipchumba took a photo; and for Sen. (Dr.) Khalwale to withdraw his remarks with regard to the young people in this House?

The Speaker (Hon. Ethuro): Order, Sen. Sang! Sen. Wetangula has absolutely nothing to either withdraw or apologize for; neither does Sen. (Dr.) Khalwale. Sen. (Dr.) Khalwale gave the advice that can only come by virtue of his age and practice which any person, even the older ones, can do well to abide by.

Sen. (Dr.) Kuti, let us proceed.

(Resumption of Notices of Motions)

APPROVAL OF MEMBERS FOR APPOINTMENT TO
THE PARLIAMENTARY SERVICE COMMISSION

Sen. (Dr.) Kuti: Thank you, Mr. Speaker, Sir, before I was interrupted, I was giving a notice of a Motion as follows:-

THAT, this House adopts the Report of the Standing Committee on Health, Labour and Social Welfare on the approval of nominations of Hon. (Dr.) Abdullahi Ibrahim Ali and Mrs. Lonah Mumelo to be members of the Parliamentary Service Commission (PSC) pursuant to the provisions of Article 127(1) (d) of the Constitution, laid on the Table of the House today, 13th March, 2014.

PROVISION OF FIBRE OPTIC CONNECTIVITY
TO ALL REFERRAL AND LEVEL 4 AND 5
PUBLIC HOSPITALS

Sen. (Prof.) Lesan: Mr. Speaker, Sir, I beg to give notice of the following Motion:-

THAT, aware that Information, Communication and Technology (ICT) is a critical component in effective service delivery in all sectors of our economy; further aware that the Fibre Optic Backbone (FOB) is already laid in most counties; appreciating that advanced medical equipment is now available in county medical institutions; acknowledging that medical diagnosis and care is critical and costly; concerned about the shortage of medical personnel trained in various specialties in the health sector; cognizant of the beneficial role of telemedicine in consultations irrespective of the physical location of consultants; the Senate urges the National Government to provide fibre optic connectivity to referral and level 4 and 5 public hospitals in all counties.

The Speaker (Hon. Ethuro): The Senate Majority Leader.

APPROVAL OF SENATORS TO MEMBERSHIP OF
SENATE COMMITTEES

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

THAT, pursuant to Standing Order Nos. 16 and 177, the Senate approves the following Senators nominated by the Rules and Business Committee to be Members of the Chairpersons Panel and the respective Committees as indicated below:-

1. CHAIRPERSONS PANEL

Sen. (Dr.) Wilfred Machage

2. STANDING COMMITTEES**A. COMMITTEE ON AGRICULTURE, LIVESTOCK AND FISHERIES**

1. Sen. Murungi Kiraitu
2. Sen. Mungai James
3. Sen. Mositet Peter
4. Sen. Mbura Emma Getrude
5. Sen. Kerrow Billow
6. Sen. Munyes Kiyonga John
7. Sen. Tiolo Ndiema Henry
8. Sen. Otieno Gerald Kajwang'
9. Sen. Mwachiru Madzayo Stewart

B. COMMITTEE ON EDUCATION

1. Sen. Karaba Daniel
2. Sen. (Prof.) Lesan Wilfred
3. Sen. Chiaba Abu
4. Sen. Mvita Mshenga Kisasa
5. Sen. Mutahi Kagwe
6. Sen. Okong'o Mong'are Kennedy
7. Sen. Mohamed Abdille Halima
8. Sen. (Dr.) Zani Agnes
9. Sen. Nyongesa Kanainza Daisy

C. COMMITTEE ON ENERGY

1. Sen. Moi Gideon
2. Sen. Keter Charles
3. Sen. Murungi Kiraitu
4. Sen. Chiaba Abu
5. Sen. Wamatangi Kimani Paul
6. Sen. Mwazo Mwakulegwa Danson
7. Sen. Musila David
8. Sen. Munyes Kiyonga John
9. Sen. Ongoro Masha Elizabeth

D. COMMITTEE ON FINANCE, COMMERCE AND BUDGET

1. Sen. Kerrow Billow
2. Sen. Elachi Beatrice
3. Sen. Mositet Peter

4. Sen. Kagwe Mutahi
5. Sen. Mungai James
6. Sen. (Prof.) Lonyangapuo John
7. Sen. Kittony Zipporah
8. Sen. Njoroge Paul
9. Sen. Kilonzo Mutula Jnr
10. Sen. Wetangula Masika Moses
11. Sen. (Dr.) Machage Wilfred
12. Sen. Mukiite Nobwola Catherine
13. Sen. (Dr.) Boni Khalwale

E. COMMITTEE ON HEALTH

1. Sen. (Dr.) Kuti Mohamed
2. Sen. Mugo Beth
3. Sen. Kittony Zipporah
4. Sen. Mvita Kisasa Mshenga
5. Sen. (Prof.) Lesan Wilfred
6. Sen. Ali Hassan Abdirahman
7. Sen. (Dr.) Machage Wilfred
8. Sen. Omondi Godliver Nanjira
9. Sen. Mukiite Nobwola Catherine

F. COMMITTEE ON ROADS AND TRANSPORT

1. Sen. Wamatangi Kimani
2. Sen. Keter Charles
3. Sen. Sonko Mike Mbuvi
4. Sen. Chelule Liza
5. Sen. Chiaba Abu
6. Sen. Hargura Godana
7. Sen. Otieno Gerald Kajwang'
8. Sen. Obure Christopher
9. Sen. Sijeny Judith

G. COMMITTEE ON LABOUR AND SOCIAL WELFARE

1. Sen. Kariuki Godfrey Gitahi
2. Sen. Martha Wangari
3. Sen. (Eng.) Muriuki Karue
4. Sen. Gwendu Joy
5. Sen. Mvita Kisasa Mshenga
6. Sen. Mwachiru Stewart Madzayo
7. Sen. Ali Hassan Abdirahman

8. Sen. Munyes Kiyonga John
9. Sen. Mohamed Abdille Halima

H. COMMITTEE ON INFORMATION AND TECHNOLOGY

1. Sen. Kagwe Mutahi
2. Sen. Gwendu joy
3. Sen. Njoroge Paul
4. Sen. (Prof.) Lesan Wilfred
5. Sen. Melly Isaac
6. Sen. Boy Juma Boy
7. Sen. Mwazo Mwakulegwa Danson
8. Sen. Kilonzo Mutula Junior
9. Sen. Nyongesa Kanainza Daisy

I. COMMITTEE ON LAND AND NATURAL RESOURCES

1. Sen. Kivuti Lenny
2. Sen. Khaniri George
3. Sen. Melly Isaac
4. Sen. Chelule Liza
5. Sen. Martha Wangari
6. Sen. Boy Juma Boy
7. Sen. Mwakulegwa Mwazo Danson
8. Sen. Tiolo Ndiema Henry
9. Sen. Obure Christopher

3. SESSIONAL COMMITTEES

A. COUNTY PUBLIC ACCOUNTS AND INVESTMENTS COMMITTEE

1. Sen. Murkomen Kipchumba
2. Sen. Wamatangi Kimani
3. Sen. (Eng.) Karue Muriuki
4. Sen. (Prof.) John Lonyangapuo
5. Sen. Wangari Martha
6. Sen. Khaniri George
7. Sen. Hassan Omar Hassan
8. Sen. Sitswila Wako Amos
9. Sen. (Prof.) Nyong'o Anyang'
10. Sen. (Dr.) Khalwale Boni
11. Sen. Mong'are Okong'o Kennedy

B. COMMITTEE ON DEVOLVED GOVERNMENT

1. Sen. Murkomen Kipchumba
2. Sen. Lesuuda Naisula
3. Sen. Kerrow Billow
4. Sen. Mositet Peter
5. Sen. Wamatangi Kimani
6. Sen. Hassan Omar Hassan
7. Sen. Tiolo Ndiema Henry
8. Sen. Sitswila Wako Amos
9. Sen. (Prof.) Nyong'o Anyang'

C. COMMITTEE ON IMPLEMENTATION

1. Sen. Njoroge Paul
2. Sen. Bule A. Ali
3. Sen. Onchwang'i Hosea
4. Sen. Mbura Emma Getrude
5. Sen. Kariuki Godfrey Gitahi
6. Sen. Ali Hassan Abdirahman
7. Sen. Orengo James
8. Sen. Nyongesa Kanainza Daisy
9. Sen. Muthama Johnson

D. COMMITTEE ON DELEGATED LEGISLATION

1. Sen. Sang Stephen
2. Sen. Gwendu Joy
3. Sen. Chelule Liza
4. Sen. Mbura Emma Gertrude
5. Sen. Karaba Daniel
6. Sen. (Prof.) Nyong'o Anyang'
7. Sen. Omondi Godliver Nanjira
8. Sen. Sijeny Judith
9. Sen. (Dr.) Khalwale Boni

The Speaker (Hon. Ethuro): Next order.

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

The Speaker (Hon. Ethuro): Just as a matter of procedure, I know Statements appear on the Order Paper every day, but you could designate a day in a week, one hour or two, where statements can be issued so that we deal with more serious business of this House.

Sen. (Dr.) Kuti: On a point of order, Mr. Speaker, Sir. I would not like to take you back, but on this Supplementary Order Paper, on the Order that has just been read

out, there is the Standing Committee on Legal Affairs and Human Rights which is missing. Some Senators like Sen. Dullo and Sen. Haji are nowhere in this list. There is a whole list of Senators who do not appear in this list. The Committee on National Security and Foreign Relations---

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

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

The Senate Majority Leader (Sen. (Prof.) Kindiki): Mr. Speaker, Sir, just to clarify that there are two Committees which do not appear in this list, because they are Standing Committees and, therefore, remain in place for five years until the term of this Senate expires. The other Standing Committees which were affected by splitting Committees are the ones which had to be reconstituted. Otherwise, strictly speaking, were it not for the split of some Standing Committees, we should be reconstituting only the Sessional Committees.

Mr. Speaker, Sir, Sen. Dullo is a Member of both the Committee on Legal Affairs and Human Rights and the Committee on National Security and Foreign Affairs. Sen. Haji also is a Member of the Committee on National Security and Foreign Affairs. So, everybody has been considered.

The Speaker (Hon. Ethuro): I hope that, that satisfies Sen. (Dr.) Kuti.

Sen. (Prof.) Anyang'-Nyong'o!

Sen. (Prof.) Anyang'-Nyong'o: On a point of order, Mr. Speaker, Sir. Would it be in order for the Senate Majority Leader to go further and explain the difference between Standing Committees and Sessional Committees? Given the fact that people belong to more than one Committee, what rationale did the Senate Majority Leader and the group that constituted these Committees have in deciding how belonging to these Committees was rationalized between Standing Committees and Sessional Committees? For example, would it be in order for a Member to be in three Standing Committees and not in a Sessional Committee or would it make much more sense if there is fair distribution between Standing Committees and Sessional Committees?

The Speaker (Hon. Ethuro): Order, Senators! Maybe before the Senate Majority Leader responds, Sen. (Prof.) Anyang'-Nyong'o also needs to be very clear in his head; that what the Senate Majority Leader has done is to give notice of a Motion. You will be highly encouraged to hold the famous horses until we reach the substantive Motion, which is in Order No.8 and then, you can seek those kinds of clarifications.

Sen. (Prof.) Anyang'-Nyong'o: Mr. Speaker, Sir, my horse is held.

(Laughter)

The Speaker (Hon. Ethuro): Yes, Mr. Vice Chairperson, Committee on Energy, Roads and Transportation.

STATEMENTS

CONTRACT FOR CONSTRUCTION OF
MAKUTANO-KIKIMA TOWER ROAD

Sen. Mwakulegwa: Mr. Speaker, Sir, I have the honour to read a Statement, as the Vice Chairperson, Committee on Energy, Roads and Transportation for the last time today. This Statement was sought by the Senator for Makueni on Thursday, last week.

The Senator for Makueni wanted to know how long it would take Victory Construction Company to complete 4.6 kilometres of Makutano- Kikima Tower Road, that they have been given, bearing in mind that they had taken 24.6 months to complete 25 kilometres.

Mr. Speaker, Sir, the Ministry wishes to state that the construction and tarmacking of 4.6 kilometres from Kikima Town to Tower Town as per photos 1, 2 and 3, has just been awarded to the contractor this current financial year. It will take four months to complete the final layer, if working continuously. However, due to budgetary constraints at the time of inception of the project, there was no budgetary allocation under the Kenya Rural Roads Authority. This has made the work not to start as of now. The 4.6 kilometres which comprises of one kilometre to the hospital in Kikima and further 3.5 kilometres long, were not incorporated in the scope of work of the 25.5 kilometres road which is complete. The budget estimates the cost of these works to be Kshs300 million.

Mr. Speaker, Sir, in order to address the question, the Ministry intends to budget for the construction and tarmacking of the 4.6 kilometres road from Kikima to Tower Town in the coming financial year. This is because it is the only viable option, considering that the Kenya Rural Roads Authority (KeRRA) was not allocated any money this year. Even in the Supplementary Budget, they have not been allocated any money. Therefore, this will be budgeted for in this financial year and the next financial year.

Thank you, Mr. Speaker, Sir.

Sen. Mutula Kilonzo Junior: Mr. Speaker, Sir, first and foremost, I would like to thank the Vice-Chairman of the Committee on Energy, Roads and Transportation, Sen. Mwazo, for giving a detailed Statement, which he gave to me in advance, concerning the question that I raised, including photographs, one of which is a building that is named after my grandmother. Further, I would like to thank him for also arranging for me to see the Cabinet Secretary in charge of roads, for the remainder of the 19 kilometres. That is my statement.

Thank you, Mr. Speaker, Sir.

The Speaker (Hon. Ethuro): Order, Senators! I said last week, and wish to reiterate, that it is time for Statements. Unless you had recorded with the Chair that you wanted to raise a Statement or bring a response, I am not going to entertain any attempt to ambush the Chair. You will have no capacity to do so.

The Senate Majority Leader!

INCREMENT OF PARKING FEES IN NAIROBI COUNTY

The Senate Majority Leader (Sen. (Prof.) Kindiki): Mr. Speaker, Sir, I rise to issue a Statement which was requested last week on Thursday by the Senator for Nairobi, Sen. Mike Mbuvi Sonko, concerning the position on the increment of parking charges in the Nairobi City County. You directed that this Statement be given on Tuesday. I want to assure the House that the Statement was ready by Sunday night, just to demonstrate that we complied with the directions of the Chair and this House.

Mr. Speaker, Sir, since Sen. Mike Mbuvi Sonko was not available on Tuesday and Wednesday, we did not issue the Statement until today. We have received responses to all the questions that were raised. The first one was why the Nairobi County increased the parking charges by over 200 per cent, contrary to the resolution of the Nairobi County Assembly.

Mr. Speaker, Sir, the response by the concerned authorities is that it is not true that there are any increments of parking fees beyond what was approved by the Nairobi City County Assembly. Schedule Four of the Constitution of Kenya (2010) provides for the devolution of transport and public works, as functions of the county governments. Pursuant to that mandate, the Nairobi City County Assembly enacted the Nairobi City County Finance Act, 2013, published in the Kenya Gazette on 6th September, 2013, which provides for the charges payable. In other words, those charges are per the Finance Act of Nairobi County, which was published in the Kenya Gazette on 6th September, 2013.

Mr. Speaker, Sir, the second question was why the Nairobi County officials were removing registration number plates from matatus, taxis and motorcycles within the Central Business District (CBD). The response is that on 5th March, 2014, the Nairobi City roads became chaotic following protests by a section of the matatu operators over parking charges. As a measure to ensure security and safeguard the rule of law, the Inspector General of the National Police Service, Mr. David Kimaiyo, ordered for the removal and surrender of the number plates of the motorists obstructing roads to the Registrar of Motor Vehicles. Obstruction of public roads is an offence under the Traffic Act, punishable with up to one year jail term or a fine of up to Kshs50,000 or both. Besides, it is a very dangerous crime that is not only capable of causing very serious losses to business but also puts the security of the City residents in danger. The responsibility of enforcing the criminal law belongs to the Kenya Police Service and the Nairobi City County Government wishes to indicate that it is very grateful for the quick action taken by the police to safeguard innocent citizens from the illegal activities of a few matatu operators.

Mr. Speaker, Sir, the third question was when the Nairobi City County government is going to revert to the approved parking charges as per the resolution of the Nairobi City County Assembly and not the exaggerated charges of Kshs300. In response, as explained above, the Nairobi City County Assembly passed the relevant legislation; that is, the Finance Bill, 2013, containing the charges in question. The county government is not averse to discussing these charges with the operators in line with the principle of public participation. Indeed, the discussions with the concerned parties have been ongoing. However, the due process will be followed. It is important that the aggrieved parties do not resort to perpetrating criminal acts against innocent citizens.

Mr. Speaker, Sir, also, the matter of the parking fees was referred to the High Court by a section of matatu operators. The High Court dismissed the application and gave green light to the county government to levy the charges contained in the Nairobi City County Finance Act, 2013. The operators appealed the High Court judgement and the matter is now in the Court of Appeal. They asked for an injunction against the charges, pending the outcome of the appeal, but the court declined to grant the injunction and ordered that the new charges be paid as stipulated in the law. That section of matatu operators resorted to disruption of traffic in the City despite the fact that their own case is pending in the Court of Appeal.

Mr. Speaker, Sir, the fourth and final question was when the Nairobi City County government will withdraw the traffic marshals and reinstate the traffic police officers to control the flow of traffic in Nairobi County. Again, in response, Schedule Four of the Constitution of Kenya (2010) provides for the devolution of transport and public works to the county governments and requires the county governments to put in place measures to carry out this function. For the Nairobi City County this necessitated the deployment of the traffic marshals. The marshals are working very closely with the National Police Service and there has been no complaint from that service or, indeed, from the public as to the performance of the traffic marshals. There are no plans to withdraw the marshals since they are doing a good job.

Mr. Speaker, Sir, in conclusion, the Nairobi City County government requests support in its constitutionally mandated efforts to provide services to the residents of Nairobi and welcomes constructive engagements with all concerned.

Mr. Speaker, Sir, this Statement was provided by Dr. Evans Kidero, the Governor of Nairobi City County.

I wish to lay the Statement on the Table of the House.

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

The Speaker (Hon. Ethuro): Sen. Mike Sonko Mbuvi.

Sen. Mbuvi: Mr. Speaker, Sir, first of all, I agree with the Leader of Majority, my friend, Sen. (Prof.) Kindiki. Indeed, it is true I was not available since Monday to yesterday. I was giving evidence in Petition No.2 to 3 of 2011, a petition which I filed when I was the Member of Parliament for Makadara Constituency to seek compensation for Sinai victims.

I thank the Senate Majority Leader for this misleading and non-factual Statement he has just delivered on behalf of Nairobi Governor, Dr. Evans Kidero. Before I request for this Statement or for this matter to be referred to the departmental committee, it is disrespectful to this House for Governor Kidero to mislead it. The reason I am saying so is that looking at this Statement, the Governor is misleading this House. In his answer, in the Statement just delivered, he is telling this House that it is not true that there are any increments of parking fees beyond what was approved by the Nairobi City County Assembly. I have a copy of what was resolved in the County Assembly. I wish to table it.

Mr. Speaker, Sir, in one of the agenda, it was resolved that the county also intends to increase the parking fees by at least 30 per cent, but I have with me the receipts of the parking fees which the Passenger Service Vehicle (PSV) operators were issued with after

making the payments. In the previous month, the operators were paying Kshs3,000. I wish to mention that this is a receipt of *matatu* registration number KBR 692P. In the previous months, this operator used to pay Kshs3,000 and I table the receipts.

Currently, the operator is paying Kshs8,000. Is that 30 per cent? I table the receipts and I also table the resolution passed by the County Assembly.

(Sen. Mbuvi laid documents on the Table)

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

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

Sen. Abdirahman: Mr. Speaker, Sir, statements are given and one can always seek for clarifications or otherwise, but I find the hon. Senator, Mike Sonko, trying to debate rather than asking for clarification because it is just too long.

The Speaker (Hon. Ethuro): Indeed, Sen. Mbuvi, you are supposed to seek for clarification.

Sen. Mbuvi: Mr. Speaker, Sir, I have perused the Statement and I said that it is very misleading. It is a non-factual Statement. The Governor is misleading this House. I am trying to give evidence to show that. So, with all due respect, I want to give facts to prove to this honourable House that Governor Evans Kidero is taking this House for a ride. He has delivered a misleading Statement and I am proving my case. This is a non-factual Statement, full of untrue facts.

The Speaker (Hon. Ethuro): Order, Senator! There is no quarrel with what you are trying to do.

The Senate Minority Leader (Sen. Wetangula): On a point of order, Mr. Speaker, Sir. Is it in order for the distinguished Senator for Nairobi to say that the Statement contains “untrue facts?”

(Laughter)

Sen. (Dr.) Machage: On a point of order, Mr. Speaker, Sir. Sen. Sonko has tabled copies of receipts of the parking fee in Nairobi. Are the documents which he has just laid on the Table authentic? We know we have people collecting taxes in this town with fake receipts. Are they authentic?

Sen. Mbuvi: Mr. Speaker, Sir, these documents are authentic because I have original receipts which I can produce before this House. These are just copies. I can produce the original receipts or even give certified copies.

I was saying that before I request for this matter to be referred to the departmental committee, I want to give facts why the Statement is misleading.

Looking at this Statement, the Governor is basing his facts from the Nairobi City County Finance Act, 2013, which I may say is unconstitutional. Reasons are that there was no public participation contrary to the Constitution and the County Governments Act, Section 6(6). The Governor says the matter is pending before court. Yes, it is, indeed, true that the matter is pending before the court. He should not mislead this House. Reasons are that the Governor never involved me, as the Senator of Nairobi. When they were enacting the Finance Act, the Governor never involved the public.

The Governor just talked to me a day after the PSV operators went on strike. I wish to table a letter from the Governor dated 5th March, 2014, the day the PSV operators went on strike and paralyzed business in the City. I received that letter on 6th March, 2014, and the letter was signed by a junior officer and not even the Governor himself. The Governor is now involving me to participate after everything has transpired, and that is very wrong.

Based on these facts, I went to court. It is Justice Lenaola who set aside *matatu* and taxi orders. I enjoined myself in the suit and my application was granted. Therefore, the new parking rates were set aside by the same judge. This was not fair to the taxi drivers. It is true that the PSV operators lost in their suit, but based on the grounds that the Senator for Nairobi was not involved, the people of Nairobi County were not involved in the participation of the enactment of the Finance Act. So, I went to court and the order was set aside. So, the Governor should not---

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

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

The Senate Minority Leader (Sen. Wetangula): Mr. Speaker, Sir, I do not want to interrupt my friend, the distinguished Senator for Nairobi, but if, indeed, the matter that the Senator is raising is in court and he has said that he went to court to enjoin himself in it, it might be desirable for the Senate to know the status of the matter and to know whether we are not offending the provisions of Standing Order No.92 (1).

Sen. Boy Juma Boy: Hoja ya nidhamu, Bw. Spika. Nidhamu yangu ni juu ya taarifa ambayo imetolewa hapa na Kiongozi wa Wengi katika Seneti. Ameeleza kinaga ubaga hali halisi ilivyokuwa wakati wa mgomo wa magari ya abiria yanayojulikana kwa umaarufu kama matatu. Naye Seneta wa Nairobi Kaunti, mhe. Mike Mbuvi amepinga vikali huku akidai imejaa undanganyifu. Sasa ningependa kupata mwongozo kutoka kwa Bw. Spika; ni nani kati ya hawa wawili waheshimiwa anayesema ukweli?

Sen. (Dr.) Machage: On a point of order, Mr. Speaker, Sir. The matter before the House seems to be lengthy and it might take all the time of this House if we have to listen to the arbitration. Would I, therefore, be in order to request that this matter be referred to the relevant committee for investigation and arbitration?

Sen. (Dr.) Khalwale: On a point of order, Mr. Speaker, Sir. I rise on a further point of order in respect of what has been raised by Sen. Wetangula. If the Chair allowed the Senate Leader of Majority to read the answer to the full, it is only fair that we should commend you for having allowed the Senator for Nairobi to also articulate his side of the story. Even if you were to find that it is *sub judice*, it would be very difficult for the whole plenary to know which one is an active matter in court. I want to thank you for allowing him to articulate those things and only rule that it would be up to the Committee to decide which of those matters would constitute *sub judice*.

Sen. Elachi: On a point of order, Mr. Speaker, Sir. Would I also be in order to ask for your guidance on whether the matter could be referred to the Committee for Finance to determine whether the issues being raised are substantive and how they can deal with them?

Sen. Mbuvi: Mr. Speaker, Sir, I think my colleagues have misquoted me. I am challenging the statement given by Nairobi Governor, Dr. Evans Kidero. I have

clarifications to seek. However, this statement is full of “non-factual facts.” This matter is not a *sub judice* matter. We are one of the arms of this Government.

(Laughter)

I am trying to explain my case. I have evidence. I went to court based on the new facts that the Governor did not involve public participation. The Governor did not involve me, as the Senator for Nairobi, when he was enacting the Nairobi County Finance Act, 2013. I will repeat myself. The Governor wrote to me on 5th.

The Speaker (Hon. Ethuro): Order, you are not allowed to repeat yourself.

Sen. Mbuvi: All right, Mr. Speaker, Sir, I will not repeat myself. I wish to lay on the Table a court order.

(Sen. Mbuvi laid the document on the Table)

The Speaker (Hon. Ethuro): Order, Sen. Mbuvi! Let me respond to some of the points of order that were addressed to me and not to you.

Sen. Wetangula and Sen. (Dr.) Machage raised a possibility of the matter being *sub judice* according to Standing Order No.92. However, if you look at 92(4), you will see that a Senator alleging that a matter is *sub judice* shall provide evidence to show that paragraphs two and three are applicable. It says:

“A matter shall be considered to be *sub judice* when it refers to active criminal or civil proceedings and the discussion of such matter is likely to prejudice its fair determination.”

No such evidence was provided. Therefore, I will ask the Nairobi Senator to conclude. Let this matter go to the relevant Committee which will look into all the issues that have been raised.

Sen. Mbuvi: Thank you, Mr. Speaker, Sir. I will look at the facts that my brother, Dr. Evans Kidero is relying on. In his statement, he has talked about the Nairobi County Finance Act which I have said is constitutional. It violates Articles 2(1), 3(1), 10(2)(c), 35(1)(b), 46(1)(a)(b)(c) and (d), 46(3), 47(1), 184(c), 190(5), 196(1)(d) and 201(a). It also violates the County Governments Act, No.17 of 2012 Section 6(6) which you will allow me to quote.

Sen. (Dr.) Khalwale: On a point of order, Mr. Speaker, Sir. All along, I was supporting Sen. Sonko on this one. However, the issues he is quoting are the same ones that he presented before the High Court for determination. Those are the triable issues.

In that case, this House is breaking the *sub judice* rule.

Sen. Mutula Kilonzo Junior: Triable?

Sen. (Dr.) Khalwale: Mr. Speaker, Sir, protect me from Sen. Mutula Kilonzo Junior. I am making a very important point. I was supporting Sen. Sonko all along. However, the things he is quoting are the same ones he has approached the High Court with and they are triable issues. If we allow him to proceed, given that, on the strength of those issues, he has been given interim orders, we will be breaking the *sub judice* rule.

I beg that you make a determination on that one.

The Senate Minority Leader (Sen. Wetangula): On a further point of order, Mr. Speaker, Sir. Is the Chair satisfied that, indeed, the distinguished Senator for Nairobi is seeking clarification on the statement delivered by the Senate Majority Leader in the manner that we know clarifications are sought?

(Sen. Mbuvi stood in his place)

The Speaker (Hon. Ethuro): Order, Sen. Sonko! First, when the Chair grants other Senators points of orders, you need to resume any seat.

(Laughter)

Order! Hon. Senators, let me give direction. First, I am satisfied that Sen. Sonko is not seeking clarifications. He is making such attempts. However, the manner he is doing it, makes him give his own statements. Secondly, the statement given to this House by the Senate Majority Leader is not a statement by the Governor of Nairobi County. So, any reference to the statement can only be made to the one who gave the statement to this House and that is one, Sen. (Prof.) Kindiki.

His sources of information could range from Nairobi County, the Cabinet Secretary, his understanding of the law or his observations of what obtained or pertained on that particular day. Those are sources available to the Senate Majority Leader.

So, under the circumstances and since you seem to have more information, since there are issues under the *sub judice* rule – you have just confirmed that you went to court - I will terminate this particular matter and proceed in other areas, including the relevant committee to look at it. You should be at liberty, Sen. Sonko, to go and give all those Articles that you have pronounced quickly.

Sen. Mbuvi: On a point of order, Mr. Speaker, Sir. I, indeed, agree with you that any clarifications pertaining to this statement should be referred to the Senate Majority Leader. The misleading statement that has been delivered by the Senate Majority Leader has been signed by the Governor, Nairobi County and has been laid on the Table by the Senate Majority Leader. This is a misleading statement. I am not seeking clarifications, but challenging the statement. The issue of---

The Speaker (Hon. Ethuro): Order, Sen. Mike Sonko! You are now treading on very dangerous grounds. The Chair does not have to repeat itself to make its position clearer than I have provided for. Let that matter end there.

Sen. Mbuvi: Mr. Speaker, Sir, let me make a last request. When this matter is referred to the relevant departmental committee, could we invite the Public Accounts Committee, Senate? The reason for this is that I have a copy of the Report from the Controller and Auditor-General pertaining to this matter. This pertains to revenue collections and parking fees collections. I will refer you to page 16 of the Report of the Controller and Auditor-General. There was misappropriation of revenue funds amounting to a quarter billion which is not accounted for.

The Speaker (Hon. Ethuro): Order! That is a different matter altogether.

Sen. Sonko, the Chair has been very generous with you. I allowed you an opportunity to clarify, only for you to use the same opportunity to proceed on what you call challenging the Report.

During statement time, you are not supposed to challenge anything. You can only seek clarifications. I hope I am very clear and that matter must end there.

Order, Mr. Sonko! Your papers will be given to you by the orderlies. Let us move on to the next statement.

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

The Speaker (Hon. Ethuro): That matter is concluded. If I asked Sen. Sonko to conclude, I do not see what would burn the Senator for Kakamega.

Sen. (Dr.) Khalwale: Mr. Speaker, Sir---

The Speaker (Hon. Ethuro): I have not allowed you to speak. If anything, to the contrary, that matter must stop there. Let us move on to the next statement, if there is any.

BUSINESS FOR THE WEEK COMMENCING
TUESDAY, 18TH MARCH, 2014

The Senate Majority Leader (Sen. (Prof.) Kindiki): Mr. Speaker, Sir, I am rising to give the Senate business for the coming week.

Hon. Senators, pursuant to the provisions of Standing Order No.45, I present the Senate business for the coming week; Tuesday, 18th March, 2014. The Rules and Business Committee (RBC) will meet on 18th March, 2014.

Sen. (Eng.) Muriuki: On a point of order, Mr. Speaker, Sir. Sorry to take you back. However, we moved from statements before I raised mine. I requested for a statement way back on---

The Speaker (Hon. Ethuro): Order, hon. Senator. You are the one who is taking us back. We are where we were. We are still on statements.

Sen. (Eng.) Muriuki: Mr. Speaker, Sir, statements which were ready were given. I was waiting for statements to be given so that we move on to requests.

The Speaker (Hon. Ethuro): Order, Sen. Muriuki. We have not yet moved from that Order. You can only say that if we call for the next order.

The Senate Majority Leader is giving the weekly statements. So, we will dispose of this, but you can also request for yours.

The Senate Majority Leader (Sen. (Prof.) Kindiki): Mr. Speaker, Sir, I will continue. On Tuesday, 18th March, 2014, the Rules and Business Committee will meet at 12.00 noon to schedule business for the week commencing 18th March. The Senate will continue, on that day, with business that will not have been concluded in today's Order Paper.

On Wednesday, 19th March, 2014, the Senate will continue with business not concluded on Tuesday and consider any other business scheduled by the RBC including the introduction of the following Bills. (i) The Alcoholic Drinks Control (Amendment) Bill, 2014;

(ii) The Statutes Law Miscellaneous (Amendment) Bill, 2014;

(iii) The County Industrial Development Bill, 2014;

On Thursday, 20th March, 2014, the Senate will continue with the business not concluded on Wednesday and consider any other business scheduled by the RBC, including the Approval of the Senate Calendar for the Second Session.

I thank you and lay this statement on the Table of the House.

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

STATUS OF IDPS IN NYANDARUA COUNTY

Sen. (Eng.) Muriuki: Thank you, Mr. Speaker, Sir. I requested for a Statement from the Chairman of the Committee on National Security and Foreign Relations regarding the status of the Internally Displaced Persons (IDPs) in Nyandarua County. That was on 27th February. It was postponed to either Tuesday or Wednesday which is this week. We are now at the end of the week, and the Statement has not been given. Could the Chairman tell the House why the Statement has not been issued?

The Speaker (Hon. Ethuro): Which Committee was dealing with it?

Sen. (Eng.) Muriuki: Mr. Speaker, Sir, the Committee on National Security and Foreign Relations.

The Senate Minority Leader (Sen. Wetangula): Mr. Speaker, Sir, I am in that Committee. The Chairman is away and so is the Vice Chairman. We can revisit the matter in the next two weeks.

The Speaker (Hon. Ethuro): Order, Sen. Wetangula! This matter was due on 6th March, it was pushed to 12th March and the absence of two Members should not stop the business of the Committee. The issue at this stage is who responds. The assumption is that, maybe, even the Committee had deliberated on the matter. Unless we are saying that the Committee did not deliberate on the matter; that is the only reason we might need more time.

The Senate Minority Leader (Sen. Wetangula): Mr. Speaker, Sir, I appear to be the only Member of the Committee in this House today. I have been away on forced leave as you know and I do not know at what stage the Chairman or the Vice Chairman had reached. We can visit the matter at the earliest convenience when the two of them are back. I cannot purport to speak for them. I am only being a Good Samaritan; being a Member of the Committee.

Sen. (Eng.) Muriuki: Mr. Speaker, Sir, listening to what the Member of the Committee has just said, I think it is quite unsatisfactory because for one, the nature of the question and the issues at hand were quite urgent. This is a matter which is affecting the county fundamentally. Secondly, again, given the nature of the issues raised - and it was discussed if you recall. For quite some time, that Question and the related issues engaged the House for some time. The way it came out, that Committee needed to engage certain officials in the Executive. Has that happened or not? What is the basis of extending it to another one week? Have they done those fundamental engagements with the Executive so that we can know whether we are progressing?

The Senate Minority Leader (Sen. Wetangula): Mr. Speaker, Sir, for obvious reasons, I have no knowledge of how far they have gone, who they have met or what they have done. I do believe that it is unlikely that the Chairman and his deputy will be away

for more than two weeks. They have been away the whole of this week. So, if we can mention the matter maybe on Tuesday or Wednesday, I believe they will be here and they can respond to the distinguished Senator for Nyandarua.

The Speaker (Hon. Ethuro): We are making some progress. However, I thought you would also help us being a Member of the Committee, by promising that you will reach out to your leadership of the Committee rather than just waiting for them to make an appearance here. So let the matter come up again on Tuesday, next week.

Sen. (Eng.) Muriuki: Thank you, Mr. Speaker, Sir.

The Speaker: Next Order! Hon. Senators, from now on we shall use the Supplementary Order Paper.

MOTION

APPROVAL OF SENATORS TO MEMBERSHIP OF SENATE COMMITTEES

The Senate Majority Leader (Sen. (Prof. Kindiki): Mr. Speaker, Sir, I rise to move the following Motion:-

THAT, pursuant to Standing Order Nos.16 and 177, the Senate approves the following Senators nominated by the Rules and Business Committee to be Members of the Chairpersons Panel and the respective Committees as indicated below:-

1. CHAIRPERSONS PANEL

Sen. (Dr.) Wilfred Machage

2. STANDING COMMITTEES

A. COMMITTEE ON AGRICULTURE, LIVESTOCK AND FISHERIES

1. Sen. Murungi Kiraitu
2. Sen. Mungai James
3. Sen. Mositet Peter
4. Sen. Mbura Emma Getrude
5. Sen. Kerrow Billow
6. Sen. Munyes Kiyonga John
7. Sen. Tiolo Ndiema Henry
8. Sen. Otieno Gerald Kajwang'
9. Sen. Mwachiru Madzayo Stewart

B. COMMITTEE ON EDUCATION

1. Sen. Karaba Daniel
2. Sen. (Prof.) Lesan Wilfred
3. Sen. Chiaba Abu

4. Sen. Mvita Mshenga Kisasa
5. Sen. Mutahi Kagwe
6. Sen. Okong'o Mong'are Kennedy
7. Sen. Mohamed Abdille Halima
8. Sen. (Dr.) Zani Agnes
9. Sen. Nyongesa Kanainza Daisy

C. COMMITTEE ON ENERGY

1. Sen. Moi Gideon
2. Sen. Keter Charles
3. Sen. Murungi Kiraitu
4. Sen. Chiaba Abu
5. Sen. Wamatangi Kimani Paul
6. Sen. Mwazo Mwakulegwa Danson
7. Sen. Musila David
8. Sen. Munyes Kiyonga John
9. Sen. Ongoro Masha Elizabeth

D. COMMITTEE ON FINANCE, COMMERCE AND BUDGET

1. Sen. Kerrow Billow
2. Sen. Elachi Beatrice
3. Sen. Mositet Peter
4. Sen. Kagwe Mutahi
5. Sen. Mungai James
6. Sen. (Prof.) Lonyangapuo John
7. Sen. Kittony Zipporah
8. Sen. Njoroge Paul
9. Sen. Kilonzo Mutula Junior
10. Sen. Wetang'ula Masika Moses
11. Sen. (Dr.) Machage Wilfred
12. Sen. Mukiite Nobwola Catherine
13. Sen. (Dr.) Boni Khalwale

E. COMMITTEE ON HEALTH

1. Sen. (Dr.) Kuti Mohamed
2. Sen. Mugo Beth
3. Sen. Kittony Zipporah
4. Sen. Mvita Kisasa Mshenga
5. Sen. (Prof.) Lesan Wilfred
6. Sen. Ali Hassan Abdirahman
7. Sen. (Dr.) Machage Wilfred
8. Sen. Omondi Godliver Nanjira

9. Sen. Mukiite Nobwola Catherine

F. COMMITTEE ON ROADS AND TRANSPORT

1. Sen. Wamatangi Kimani
2. Sen. Keter Charles
3. Sen. Sonko Mike Mbuvi
4. Sen. Chelule Liza
5. Sen. Chiaba Abu
6. Sen. Hargura Godana
7. Sen. Otieno Gerald Kajwang'
8. Sen. Obure Christopher
9. Sen. Sijeny Judith

G. COMMITTEE ON LABOUR AND SOCIAL WELFARE

1. Sen. Kariuki Godfrey Gitahi
2. Sen. Martha Wangari
3. Sen. (Eng.) Muriuki Karue
4. Sen. Gwendu Joy
5. Sen. Mvita Kisasa Mshenga
6. Sen. Mwachiru Stewart Madzayo
7. Sen. Ali Hassan Abdirahman
8. Sen. Munyes Kiyonga John
9. Sen. Mohamed Abdille Halima

H. COMMITTEE ON INFORMATION AND TECHNOLOGY

1. Sen. Kagwe Mutahi
2. Sen. Gwendu joy
3. Sen. Njoroge Paul
4. Sen. (Prof.) Lesan Wilfred
5. Sen. Melly Isaac
6. Sen. Boy Juma Boy
7. Sen. Mwazo Mwakulegwa Danson
8. Sen. Kilonzo Mutula Junior
9. Sen. Nyongesa Kanainza Daisy

I. COMMITTEE ON LAND AND NATURAL RESOURCES

1. Sen. Kivuti Lenny
2. Sen. Khaniri George
3. Sen. Melly Isaac
4. Sen. Chelule Liza
5. Sen. Martha Wangari

6. Sen. Boy Juma Boy
7. Sen. Mwakulegwa Mwazo Danson
8. Sen. Tiolo Ndiema Henry
9. Sen. Obure Christopher

3. SESSIONAL COMMITTEES

A. COUNTY PUBLIC ACCOUNTS AND INVESTMENTS COMMITTEE

1. Sen. Murkomen Kipchumba
2. Sen. Wamatangi Kimani
3. Sen. (Eng.) Karue Muriuki
4. Sen. (Prof.) John Lonyangapuo
5. Sen. Wangari Martha
6. Sen. Khaniri George
7. Sen. Hassan Omar Hassan
8. Sen. Sitswila Wako Amos
9. Sen. (Prof.) Anyang'-Nyong'o
10. Sen. (Dr.) Khalwale Boni
11. Sen. Mong'are Okong'o Kennedy

B. COMMITTEE ON DEVOLVED GOVERNMENT

1. Sen. Murkomen Kipchumba
2. Sen. Lesuuda Naisula
3. Sen. Kerrow Billow
4. Sen. Mositet Peter
5. Sen. Wamatangi Kimani
6. Sen. Hassan Omar Hassan
7. Sen. Tiolo Ndiema Henry
8. Sen. Sitswila Wako Amos
9. Sen. (Prof.) Anyang'-Nyong'o

C. COMMITTEE ON IMPLEMENTATION

1. Sen. Njoroge Paul
2. Sen. Bule A. Ali
3. Sen. Onchwang'i Hosea
4. Sen. Mburu Emma Getrude
5. Sen. Kariuki Godfrey Gitahi
6. Sen. Ali Hassan Abdirahman
7. Sen. Orengo James
8. Sen. Nyongesa Kanainza Daisy
9. Sen. Muthama Johnson

D. COMMITTEE ON DELEGATED LEGISLATION

1. Sen. Sang Stephen
2. Sen. Gwendu Joy
3. Sen. Chelule Liza
4. Sen. Mbura Emma Gertrude
5. Sen. Karaba Daniel
6. Sen. (Prof.) Anyang'-Nyong'o
7. Sen. Omondi Godliver Nanjira
8. Sen. Sijeny Judith
9. Sen. (Dr.) Khalwale Boni

Mr. Speaker, Sir, as hon. Members would know, there are a number of Sessional Committees which came to an end after the last Session.

Sen. ole Ntutu: On a point of order, Mr. Speaker, Sir. My name does not appear anywhere. I do not know whether I am not a Member of this House. Is it deliberate or an omission?

Sen. Bule: Mr. Speaker, Sir, I think these lists portray total biasnesses. I have been named only once in the Committee on Implementation whereas some Senators' names appear in four Committees. Could the Senate Majority Leader justify this occurrence?

The Senate Majority Leader (Sen. (Prof.) Kindiki): Mr. Speaker, Sir, I do appreciate the reaction and the uproar concerning the list we have just presented. Just allow me to say how difficult this exercise has been. It has been a very difficult exercise, but let me also say that this list has only been presented to this House for approval and nothing prevents any oversight from being rectified. In fact, it is for that purpose that this Motion is being moved.

Mr. Speaker, Sir, in respect to what the Senator for Narok County has raised about his name missing, first of all, as I said earlier on, there are two committees that are not in this list simply because they are Standing Committees which were not affected by the split that happened to some of the Standing Committees. So, that is the first thing. Even then, it is assumed and, in fact, it is the policy and the position of this House that every Member must at least appear in one Committee.

So, if there is an omission, it must have been an inadvertent omission because of the complexity of the enlarged Committees. Secondly, this House now has an opportunity to rectify any inadvertent omission during this Sitting. So, I do not think there should be any problem. It is for that reason that this list is presented before this Senate.

Mr. Speaker, Sir, if you allow me, I want to continue to say that we have tried to accommodate as many people as possible and, in fact, everybody---

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

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

Sen. (Dr.) Khalwale: Mr. Speaker, Sir, I listened to the response by the Senate Majority Leader and the difficulty, as contained in the complaint by Sen. ole Ntutu and Sen. Bule cannot be cured by what we are persuading the House to do. This is because according to the rules of procedure, you cannot amend that list in reference to any

committee. We either approve or reject it as it is. So, if you think that you have been unfair to any quarters, then the best thing that you can do is to withdraw the debate to another day, go and sort it and come afresh.

Sen. Musila: On a point of order, Mr. Speaker, Sir. I was going to humbly suggest to the aggrieved colleagues to cross the Floor and we will be very glad to accommodate them on our side.

(Laughter)

Sen. Keter: On a point of order, Mr. Speaker, Sir. I really want to beg my leader, the Senate Majority Leader, that he withdraws this list, so that we can balance the membership to the committees, so that all of us can be in one or two committees. I do not want to oppose the list because---

The Speaker (Hon. Ethuro): Order, Sen. Keter! You can still discuss with the Senate Majority Leader.

Sen. Keter: Mr. Speaker, Sir, why can we not postpone it until Tuesday?

The Speaker (Hon. Ethuro): Order, Sen. Keter! I do not think that we are going to give the political party leadership a public forum to discuss their issues. In fact, that is why we designated the seat of the Senate Majority Leader, and you are in the very good neighbourhood of your own leader. So, during the course of the debate, you can hold consultations and see what you can do, unless you really find that it is difficult. I know that there are still opportunities even to deal with that matter.

Proceed, Senate Majority Leader!

Sen. Murkomen: On a point of order, Mr. Speaker, Sir. Now that you have directed the Deputy Senate Majority Leader to consult the Senate Majority Leader, and I am not part of what could be considered the leadership of the House, could I suggest that considering that most of our lady Senators are in a conference in New York and this exercise is very important--- Their contribution and participation in this debate is so important that if possible, the Senate Majority Leader can think through withdrawing that Motion.

The Senate Minority Leader (Sen. Wetangula): On a point of order, Mr. Speaker, Sir. This list that is being tabled by the distinguished Senator for Tharaka-Nithi, the Senate Majority Leader, has been a product of wide consultations. Indeed, on this side of the House, we even circulated a blank list with committees and Members chose their priorities. We may have one or two that we need to adjust, but the cure is - because committees must start working - that we should pass the list and then the leaderships on either side can sit, amend as they wish and bring the Motions here. We have done that before, when they were meting injustice on Dr. Khalwale. They brought here a Motion to delete Sen. Khalwale and we adopted him. I want to assure Sen. ole Ntutu and Sen. Bule that we will accommodate you in committees and you will be quite comfortable.

(Laughter)

Sen. Mositet: On a point of order, Mr. Speaker, Sir. From the experience of the number of months that we have served in these committees, for sure, every Senator will

believe and understand that to serve in more than three Committees is really impossible. The nation is really looking upon us to offer leadership. There are people who are even talking about how we can save this nation in terms of the wage bill. Particularly, most people out there always believe that Senators earn a lot of money, and some of the earnings are out of sittings in the committees. I would just request the Senate Majority Leader and Senate Minority Leader to ensure that Members do not appear in more than three committees. Personally, I want to opt out of the Committee on Devolved Government, because I know that I have been serving in the Committee on Finance, Commerce and Economic Affairs. I was not serving in any other committee and yet, finding myself fully engaged in it. Maybe other Senators could do the same.

Mr. Speaker, Sir, for my brother, Sen. ole Ntutu, I will really hate to think that Narok County can feel, maybe, sidelined. I am very sure that the Senate Majority Leader may have just overlooked his name without knowing. In fact, personally, I wish to surrender my chance to serve in the Committee on Devolved Government to Sen. ole Ntutu.

POINT OF ORDER

SITTING ARRANGEMENT OF MEMBERS IN THE CHAMBER

Sen. Murungi: On a point of order, Mr. Speaker, Sir. I am rising on a very serious matter regarding the sitting arrangement of Members in this House. Sen. Kipchumba Murkomen has been permanently sitting on that side. This afternoon, after invitation by Sen. Musila, two of our Senators have purportedly crossed the Floor to that side. In the Commonwealth tradition, if you cross the Floor, it means that you have changed your parties, and our law states that if you change your party, then you lose your seat. Could the Speaker explain to the Members of Parliament, who have just crossed the Floor, what the implications of their actions are regarding their political careers?

Sen. Bule: On a point of order, Mr. Speaker, Sir. I am partially on the Jubilee side. We are just engaged as parties in the Coalition, but I do not belong to the party that he is referring to. So, I can quit anytime when I feel like quitting.

(Laughter)

The Senate Minority Leader (Sen. Wetangula): On a point of order, Mr. Speaker, Sir. First of all, in defence of Sen. Bule, his party, the Federal Party of Kenya is a member of the CORD Alliance. There is no doubt about that; Sen. Bule simply defected to Jubilee at the time when we were electing the Speaker. He is welcome back home, and we will be quite happy with him.

Mr. Speaker, Sir, to go to the point raised by the distinguished Senator for Meru County, that is now “Governorless,” I want to point out to my learned Senior the provisions of Standing Order No.244 (1) and (2) – Sitting in the Chamber. It states:-

- (1) “There shall be reserved seats in the Senate Chamber for the exclusive use of each of the following-
 - (a) the Deputy Speaker;

- (b) the Senator Majority Leader;
 - (c) the Senate Minority Leader; and,
 - (d) Senators with disabilities
- (2) All other seats in the Chamber shall be available for use of any Senator.

Mr. Speaker, Sir, there is absolutely nothing wrong that Sen. Kipchumba Murkomen, Sen. ole Ntutu or Sen. Bule have done. But we welcome the symbolic gesture that the distinguished Senator for Narok and Senator for Tana River have demonstrated this afternoon.

Sen. Abdirahman: On a point of order, Mr. Speaker, Sir. I want to join my colleagues who have proposed that we need to move into serious business. This is our third week since we resumed and I do not think whether---

The Speaker (Hon. Ethuro): Order, Sen. Abdirahman! Any business before this House is serious business.

Sen. Abdirahman: Mr. Speaker, Sir, I want to agree that it is serious. I think that in as far as possible, the leadership on both sides has been contacting the membership. This may be an oversight, but now that Sen. Bule has very strongly come out to indicate that he will be on this side, I want to give him a complete assurance that he can take my slot on the Committee on Labour and Social Welfare.

Sen. Murkomen: On a point of order, Mr. Speaker, Sir. I appreciate the response of Sen. Wetangula to Sen. Kiraitu, that there is a symbolic political reason as to why I am seated on this side. I read in the Bible that Jesus told Peter: "You are a fisher of men." There is no business that I will be doing on the other side. I should come to the side where I am fishing people to cross to the side.

Sen. (Dr.) Khalwale: On a point of order, Mr. Temporary Speaker, Sir. Utterances from Sen. Kiraitu are taken so seriously, not just because he is a Senator, but he is a very senior lawyer in this country and party leader of the Bus Party. The practice that Sen. Kiraitu is referring to is the Westminster practice, and that is parliamentary. For purposes of record, let the country know that we are no longer in a parliamentary system, but a presidential system. So, what is done in the House of Commons and House of Lords is irrelevant to us. So, with all due respect to Sen. Kiraitu, you better withdraw your remarks, so that you do not mislead the Republic.

Sen. Murungi: On a point of order, Mr. Speaker, Sir. All these utterances are to confirm one fact; that the purported crossing of the Floor is meaningless and those two Members are still Members of this Senate.

(Laughter)

The Speaker (Hon. Ethuro): Order, Members! While we would like to put this matter to rest, the way in which we have concluded it, I felt that Sen. Kiraitu was also raising some fundamental issues. Sen. Wetangula also responded in terms of the Standing Orders. There is also some law with some words called "the meaning." Ordinarily, you enter the Chamber and sit wherever you wish. That does not assume the same meaning. But if you opt to sit somewhere at invitation, then you run some serious risks, and I thought that Sen. Kiraitu was only mentioning that. I think that for my purpose, it is a

non-issue, given that in any case, Sen. Murkomen was already leading the park, and we can assume by choice of the sitting arrangement of the other two Senators, they were just joining on the fishing mission. So, we will let it rest there.

But I think that it is important for the two Senators to appreciate that it may not be as ordinary as they might assume or the false comfort given by the Senate Minority Leader. You might wish to enjoy for the benefit of political leadership, but put others in the line of danger. So, let us terminate the issue there and proceed.

Senate Majority Leader!

The Senate Majority Leader (Sen. (Prof.) Kindiki): Mr. Speaker, Sir, that was a good commercial break. Let me say that for any Senator, and in this particular situation, I am referring to Sen. Stephen Ole Ntutu, Senator for Narok County, his omission on this list is purely unintended and I want to apologize to him in person and to the people of Narok County for the oversight. This list was not drawn by the Senate Majority Leader. There have been as much consultation as possible and I believe that even from the Minority side, there have been adequate consultations. This list also has been processed through the Rules and Business Committee of this House. All we can say is that if there are still any deficiencies in this list, and it appears there could be, then the best way forward is to take it in good spirit, rectify and provide---

(There was a power failure)

(The Sitting of the Senate was suspended temporarily at 4.20 p.m.)

(The Senate resumed at 4.45 p.m.)

The Speaker (Hon. Ethuro): Order Senators. We are now going to resume. Proceed.

The Senate Majority Leader (Sen. (Prof.) Kindiki): Mr. Speaker, Sir, I rise to move the following Motion in an amended form.

I beg to move:-

THAT pursuant to Standing Order Nos.16 and 177, the Senate approves the following Senators nominated by the Rules and Business Committee to be Members of the Chairpersons panel and respective Committees as indicated below but with the following amendments.

STANDING COMMITTEES

A. COMMITTEE ON AGRICULTURE, LIVESTOCK AND FISHERIES

Sen. Stephen ole Ntutu in place of Sen. Billow Kerrow.

B. COMMITTEE ON EDUCATION

Sen. Ali Bule instead of Sen. Abu Chiaba.

The membership of the other committees remains the same as shown below.

C. COMMITTEE ON ENERGY

1. Sen. Moi Gideon
2. Sen. Keter Charles
3. Sen. Murungi Kiraitu
4. Sen. Chiaba Abu
5. Sen. Wamatangi Kimani Paul
6. Sen. Mwazo Mwakulegwa Danson
7. Sen. Musila David
8. Sen. Munyes Kiyonga John
9. Sen. Ongoro Masha Elizabeth

D. COMMITTEE ON FINANCE, COMMERCE AND BUDGET

1. Sen. Kerrow Billow
2. Sen. Elachi Beatrice
3. Sen. Mositet Peter
4. Sen. Kagwe Mutahi
5. Sen. Mungai James
6. Sen. (Prof.) Lonyangapuo John
7. Sen. Kittony Zipporah
8. Sen. Njoroge Paul
9. Sen. Kilonzo Mutula Jnr
10. Sen. Wetang'ula Masika Moses
11. Sen. (Dr.) Machage Wilfred
12. Sen. Mukiite Nabwala Catherine
13. Sen. (Dr.) Boni Khalwale

E. COMMITTEE ON HEALTH

1. Sen. Kuti Mohamed
2. Sen. Mugo Beth
3. Sen. Kittony Zipporah
4. Sen. Mvita Kisasa Mshenga
5. Sen. (Prof.) Lesan Wilfred
6. Sen. Ali Hassan Abdirahman
7. Sen. (Dr.) Machage Wilfred
8. Sen. Omondi Godliver Nanjira
9. Sen. Mukiite Nobwola Catherine

F. COMMITTEE ON ROADS AND TRANSPORT

1. Sen. Wamatangi Kimani

2. Sen. Keter Charles
3. Sen. Sonko Mike Mbuvi
4. Sen. Chelule Liza
5. Sen. Chiaba Abu
6. Sen. Hargura Godana
7. Sen. Otieno Gerald Kajwang‘
8. Sen. Obure Christopher
9. Sen. Sijeny Judith

G. COMMITTEE ON LABOUR AND SOCIAL WELFARE

1. Sen. Kariuki Godfrey Gitahi
2. Sen. Martha Wangari
3. Sen. Muriuki Karue
4. Sen. Gwendu Joy
5. Sen. Mvita Kisasa Mshenga
6. Sen. Mwachiru Stewart Madzayo
7. Sen. Ali Hassan Abdirahman
8. Sen. Munyes Kiyonga John
9. Sen. Mohamed Abdille Halima

H. COMMITTEE ON INFORMATION AND TECHNOLOGY

1. Sen. Kagwe Mutahi
2. Sen. Gwendu joy
3. Sen. Njoroge Paul
4. Sen. (Prof.) Lesan Wilfred
5. Sen. Melly Isaac
6. Sen. Boy Juma Boy
7. Sen. Mwazo Mwakulegwa Danson
8. Sen. Kilonzo Mutula Jnr
9. Sen. Nyongesa Kanainza Daisy

I. COMMITTEE ON LAND AND NATURAL RESOURCES

1. Sen. Kivuti Lenny
2. Sen. Khaniri George
3. Sen. Melly Isaac
4. Sen. Chelule Liza
5. Sen. Martha Wangari
6. Sen. Boy Juma Boy
7. Sen. Mwakulegwa Mwazo Danson
8. Sen. Tirole Ndiema Henry
9. Sen. Obure Christopher

SESSIONAL COMMITTEES**E. COUNTY PUBLIC ACCOUNTS AND INVESTMENTS COMMITTEE**

1. Sen. Murkomen Kipchumba
2. Sen. Wamatangi Kimani
3. Sen. Karue Muriuki
4. Sen. (Prof.) John Lonyangapuo
5. Sen. Wangari Martha
6. Sen. Khaniri George
7. Sen. Omar Hassan Hassan
8. Sen. Sitswila Wako Amos
9. Sen. (Prof.) Nyong'o-Anyang'
10. Sen. (Dr.) Khalwale Boni
11. Sen. Mong'are Okong'o Kennedy

F. COMMITTEE ON DEVOLVED GOVERNMENT

1. Sen. Murkomen Kipchumba
2. Sen. Lesuuda Naisula
3. Sen. Kerrow Billow
4. Sen. Mositet Peter
5. Sen. Wamatangi Kimani
6. Sen. Hassan Omar Hassan
7. Sen. Tirole Ndiema Henry
8. Sen. Sitswila Wako Amos
9. Sen. (Prof.) Nyong'o-Anyang'

G. COMMITTEE ON IMPLEMENTATION

10. Sen. Njoroge Paul
11. Sen. Bule A. Ali
12. Sen. Onchwang'i Hosea
13. Sen. Mbura Emma Getrude
14. Sen. Kariuki Godfrey Gitahi
15. Sen. Ali Hassan Abdirahman
16. Sen. Orengo James
17. Sen. Nyongesa Kanainza Daisy
18. Sen. Muthama Jonson

H. COMMITTEE ON DELEGATED LEGISLATION

10. Sen. Sang Stephen
11. Sen. Gwendu Joy
12. Sen. Chelule Liza
13. Sen. Mbura Emma Gertrude
14. Sen. Karaba Daniel
15. Sen.(Prof.) Nyong'o-Anyang'
16. Sen. Omondi Godliver Nanjira
17. Sen. Sijeny Judith
18. Sen. (Dr.) Khalwale Boni

Mr. Speaker, Sir, before we were interrupted by darkness which was preceded by a bit of turbulence in the Chamber as a result of short moments which have boosted the morale of my brother, the Senator for Bungoma and Leader of Minority, Sen. Wetangula, I had started by saying that we have tried to balance as much as possible the various interests of gender, regional diversity but in the context of an expanded menu of committees. The reason I emphasize the expansion of committees is because it is not easy now and in fact, it is more difficult than before to satisfy some of the issues around diversity and gender because there are so many committees. Nevertheless, we have tried our best. There have been wide consultations within the Majority and Minority side. Without repeating myself, if there is anything that is not addressed, it will not be due to lack of consultations but it would just be an oversight.

Mr. Speaker, Sir, before darkness came, I had apologized to my brother Sen. ole Ntutu and the people of Narok County for the oversight that caused them the small mishap that we saw. As you can see, Sen. ole Ntutu is no longer on the wrong side. He is very happy.

The second apology goes to the Senator for Tana River County, Sen. Bule. Through the amended Motion, we have taken care of the oversight. By and large, all interests have been taken care of. I want to urge this House today to not only support this Motion but also if possible approve it. The reason is because we are now in the third week after resuming the second session and up to now, the work of committees except the two that are not affected; that is, the Committee on National Security and Foreign Relations and the Committee on Legal Affairs and Human Rights, the rest of the committees have not had the opportunity to start business. So, we hope that when this Motion passes, we should be able to start the work of committees for the second session in earnest. The second session is busier and we expect more workload and more activity by our committees.

Therefore, I want to thank Members and ask them to debate and support this Motion. With those many remarks, I beg to more and request, in the tradition of this House, Sen. Wetangula, the Leader of Minority to second.

The Senate Minority Leader (Sen. Wetangula): Mr. Speaker, Sir, I want to second this Motion which has been ably moved by my learned junior. These lists that have been tabled by the Leader of Majority are a product of wide and deep consultations. We want committees to get to work. We even have in our new arrangement, suspended sittings of plenary on Wednesday morning to give time to committees. I want to assure

Members that where you probably have been allocated a committee you do not quite like or you are uncomfortable with or where you have a situation where some Members have more committees than others, this list is not cast in stone.

The Standing Orders allows us, from time to time, to procedurally change the membership of committees and bring in new Members or subtract some Members. So, I want to urge, unless we have very serious misgivings and issues on the lists, that we approve them. Let the committees go to work and those who are able to elect new chairs to do so by tomorrow, Monday or Tuesday so that they can discharge their functions. In so doing, we can move to the next business of the House which is still ahead of us.

With those few remarks, I beg to second.

(Question proposed)

Sen. Keter: Thank you, Mr. Speaker, Sir. I would like to support this Motion. I would also like to thank my Senate Majority Leader, Sen. (Prof.) Kindiki, for the good job. He tried although it was a collective responsibility.

I want to join him in apologising to our two colleagues, the Senator for Tana River, Sen. Bule, and the Senator from Narok, Sen. ole Ntutu. I know that it is not easy to balance. However, if you look at all the committees, you will see that the list is well balanced. I believe that as a way forward, it will be easy for hon. Senators to be in two or three committees. My take is that we should all be very active even if one is in one committee.

Punctuality is very vital. Once a meeting starts at 10.00 a.m, you will find some Members coming in at 2.00 pm. We need to be serious so that the business of this House is taken seriously. My take to all of us is that we should take the business of committees very seriously because the work of the committees is done on behalf of the House. We are not doing the work of the committees on behalf of our political parties. We will be executing business as the Senate. Therefore, wherever you sit, as a Member of a Committee, you should not think about your political affiliations.

I call upon all of us to execute this very well. The special committee chaired by the Senator for Kakamega adopted a Report on the impeachment of the Governor of Embu without any difficulties. Therefore, we want all the Committee Reports to move in that format so that we own them and defend them either inside the House or outside. That calls upon all of us to be serious. We know that we are capable. Those who have not been in committees before will learn. It does not take long for one to learn.

As I was going through the list, I saw something that I do not know whether it is deliberate. The Senate Majority Leader is not in any committee. I asked him why he is not in any committee and he said that he is very busy. I call upon him to be in one of the committees so that he can participate very well.

The Senate Majority Leader (Sen (Prof.) Kindiki): On a point of order, Mr. Speaker, Sir. I am a Member of the Rules and Business Committee where we have discussed, internally, this matter. I think my deputy was not in that meeting. The list we have presented is the position of the Jubilee Coalition on membership to committees.

The Senate Minority Leader (Sen. Wetangula): Mr. Speaker, Sir, is it in order for the good professor and his deputy to demonstrate to the House that one does not know what the other is doing?

Sen. Keter: Mr. Speaker, Sir, of course, I know that my Leader does because we do everything collectively.

I am just calling upon him to be a member of a committee next time. I know that he is capable and he is a member of the Rules and Business Committee. We consult and that is why we said that as the Jubilee Coalition, we are one under the leadership of Senator---

Sen. Murkomen: On a point of information.

(Sen. Keter nodded his head)

He is willing to be informed. I think the fact that the Senate Majority Leader has decided that his position of the Senate Majority Leader and a Member of the Rules and Business Committee is very strong, maybe this is a pointer to his selfless leadership and sacrifice.

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

The Speaker (Hon. Ethuro): Order, Senators. Do we really want to discuss this? We have taken a lot of time on this issue.

I will now put the question. This is a matter that does not affect counties. So, each and every Senator has a vote.

(Question put and agreed to)

The Speaker (Hon. Ethuro): Where is the Chairperson of the Standing Committee on Health, Labour and Social Welfare, Sen. (Dr.) Kuti?
I have a statement to make as Sen. Kuti prepares himself.

COMMUNICATIONS FROM THE CHAIR

CONDUCT OF ELECTIONS OF CHAIRPERSONS OF COMMITTEES

Hon. Senators, Standing Order No.183 (1) requires that Select Committees to hold their first meeting within seven days of the constitution by the Senate or such further period as the Speaker may approve.

During the first meeting, the clerk is supposed to conduct the election of the Chairpersons and the Vice Chairpersons by secret ballot.

The following are the new Standing Committees which will be subjected to elections:

- (i) Committee on Agriculture, Livestock and Fisheries;
- (ii) Committee on Education;
- (iii) Committee on Roads and Transport; and
- (iv) Committee on Labour and Social Welfare.

Under the Sessional Committees, we have the following:-

- (i) County Public Accounts and Investments Committee;
- (ii) Committee on Devolved Government;
- (iii) Committee on Implementation and
- (iv) Committee on Delegated Legislation.

Basically, all sessional committees are due for elections. The rest, since they had a mandate we had given them last year, will continue accordingly. Owing to the fact that a lot of time has already been lost since the Second Session commenced, I now direct that all constituted committees meet and conduct the elections of Chairpersons from Tuesday, March, 18th for a period of two weeks. The clerk will do a schedule to show when elections will be held.

Sen. Kagwe: On a point of order, Mr. Speaker, Sir. I want to get some direction from you regarding the matter of the ongoing work in the committees. There are some programmes that are ongoing. For instance, today, we have a meeting to discuss the last Report of the former Committee on Education and Information Technology. There are a number of issues and that is why I stood up before you put the question. Operationally, there are a few things that need to be discussed because of the ongoing programmes. For example, there are trips that were supposed to be handled by committees that have now been joined. We need to know how we will do it.

There is also the issue of the secretariat and the problem that arises when a committee is split and which clerks handle what. So, there are several operational issues that can stall the work between now and the time that the chairpersons will be in place and the time that the Budget will come to an end. We have about a month to go and then we go on recess. We will then come back to do the budget.

Fundamentally, one of the biggest challenges that the committees will need to put together is the budget. We are now in March. Budgets close next month and that is a matter that needs to be hurriedly put together and adjustments made to the budgets we had given to the clerk.

There are operational issues that need clarification so that we know whether we can continue with the work that we have been doing until the new chairpersons are in place. Do we stop everything or how do we proceed?

The Speaker (Hon. Ethuro): Your issues are noted. That is why the clerk will be scheduling this event and assigning the tasks. Those are in-house things that we can arrange. Basically, nothing will stop just because of that change. The tradition is that we will continue prosecuting our business. If that requires the two committees to come together, then there is a provision for joint sittings of committees. That is my direction.

APPOINTMENT OF SENATORS TO THE MEDIATION
COMMITTEE ON THE COUNTY GOVERNMENTS
(AMENDMENT) (NO. 2) BILL

Hon. Members, I have another communication to make on the appointment of Members of the Mediation Committee. Yesterday, I made a communication following the

receipt of a message from the National Assembly rejecting the County Governments (Amendment) (No.2) Bill of 2013, which the Senate had passed and forwarded to the Assembly for concurrence on 4th December, 2013 pursuant to Standing Order No.147.

In the communication, I directed the Senate Majority Leader and the Senate Minority Leader to submit to me names of Senators to form the Senate team of the Mediation Committee. I wish to inform the House that I have received names of the following Senators to constitute the Senate membership of the Mediation Committee:-

1. Sen. Kiraitu Murungi
2. Sen. Stephen Sang
3. Sen. Amos Wako

This is the team that will work with the National Assembly team to attempt to develop a version of the County Governments (Amendment) (No.2) Bill of 2013 that both Houses will pass pursuant to Article 113 (1).

Thank you.

Senator (Dr.) Kuti, you may now move your Motion.

MOTIONS

APPROVAL OF MEMBERS FOR APPOINTMENT TO THE PARLIAMENTARY SERVICE COMMISSION

Sen. (Dr.) Kuti: Thank you, Mr. Speaker, Sir. I beg to move the following Motion:-

THAT, the House adopts the Report of the Standing Committee on Health, Labour and Social Welfare on the approval of nomination of Dr. Abdullahi Ibrahim Ali and Mrs. Lorna Mumelo to be members of the Parliamentary Service Commission (PSC) pursuant to Article 127 (2) (d) of the Constitution, laid on the Table of this House today, 13th March, 2014.

Mr. Speaker, Sir, the Speaker of the Senate on Thursday, 27th February 2014, pursuant to Standing Order Nos.43 and 44 informed the House that the Clerk had delivered a message from the National Assembly to him regarding approval by the Assembly members for appointment to the Parliamentary Service Commission and that the National Assembly by a resolution passed on Wednesday, 26th February, 2014, and pursuant to the provision of Article 127 (1) (d) of the Constitution, approved the appointment of Dr. Abdullahi Ibrahim Ali and Mrs. Lorna Mumelo to be members of the Parliamentary Service Commission. The message was conveyed via a letter Ref: KNA2/4/302 dated 26th February, 2014.

When the Speaker receives such a message, he has three options. The first is either to direct the message to be dealt with forthwith on the Floor of the House. Secondly, appoint a day for the consideration of the message on the Floor of the House by the full plenary of Senators or thirdly, refer the message to the relevant committee of the Senate for consideration. The Speaker chose the third option and therefore, the matter was referred to the Committee on Health, Labour and Social Welfare.

Mr. Speaker, Sir, the Committee immediately took up the responsibility and I wish to thank the membership of the Committee who sat every day. It is now my pleasure to deliberate on what the Committee did. We looked at what transpired from the Parliamentary Service Commission all the way to how the matter arrived at our table. I would like to brief the House in a very short time exactly what steps were followed.

First, there was an advertisement by the Parliamentary Service Commission (PSC) on June 26th 2013 in all the local daily newspapers. It required persons who have qualifications in public affairs but who were not Members of Parliament and it had to be one man and one woman for appointment. About 323 applications were received. The PSC met on 1st August, 2013, and referred the applications to the Committee on Members' Welfare for consideration and recommendation.

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

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

Mr. Temporary Speaker, Sir, the Committee on Members' Welfare sat on 12th August and made its recommendations to the PSC. The PSC met on 27th August, and 20th September to consider the applications. The minutes of the 189th meeting of the PSC included a resolution in which Mrs. Jennifer Baraza was replaced with Mrs. Lorna Mumelo. This is after the initial resolution was sent to the House and there was debate on the Floor and there were some Members who had rejected the nomination of Mrs. Jennifer Baraza. Therefore, that matter was also discussed in the last Session and it lapsed.

Thereafter, there was a Motion moved on 25th February on the Floor of the National Assembly and it was agreed on, on Wednesday, February 26th by the National Assembly. Pursuant to Standing Order No.41 (1), the Speaker of the National Assembly conveyed the Message to the Senate vide Message Ref: No.1 of 2014 dated February 2014, that the National Assembly by a resolution passed on Wednesday, February 26th, 2014 and pursuant to the provision of Article 127 (1) (d) of the Constitution, approved for appointment Dr. Abdullahi Ibrahim Ali and Mrs. Lorna Mumelo to be members of the Parliamentary Service Commission (PSC).

The Speaker of the Senate received the conveyed message via letter Ref:No.KNA2/4/302 dated 26th February 2014. The Senate Standing Order No.40(6) provides that when the Speaker reports a message from the National Assembly under paragraphs 4 and 5, the message shall be deemed to have been laid before the Senate and the Speaker may as I had said earlier choose the three options. In this case, he chose the Committee.

Mr. Temporary Speaker, Sir, we checked the following considerations in approving this appointment because we did not want to repeat what happened at the National Assembly because basically the same procedures will be followed; that is the academic qualifications, employment record, professional affiliations, potential conflict of interest, knowledge of the relevant subject, overall suitability for the position, tax compliance and integrity.

Following this, my Committee agreed with the resolutions of the PSC and the passage of the Motion by the National Assembly. I, therefore, present for adoption this Report that upheld the decision of the National Assembly to have these two appointed as members of the Parliamentary Service Commission.

Just to run through the qualifications, Mrs. Lorna Mutoro Mumelo, HSC, PhD from Canada, MA, Bachelor of Education with honors. She was a student at Masinde Muliro University where she did her PhD. She was also a student at Wales University with a Master of Arts degree. She was also a student at the University of Nairobi for her undergraduate and she also had a lot of professional experience at Shanzu Teachers College as the Dean of Students.

She was at Shieywe Secondary School as Chief Principal, Moi Girls as Chief Principal and many other leadership positions. She belongs to very many professional organizations like the African Representative of the International Convention of Principals, Secretary to Kenya Secondary Schools Heads Association, Executive member and many others.

She was also awarded the Head of State Commendation (HSC) and Head of State elevation to Job Group "M" and based on this, we fully encourage the House to adopt this Report and approve her appointment.

Mr. Temporary Speaker, Sir, the second person is Hon. (Dr.) Abdullahi Ibrahim Ali who has a Masters degree in executive business administration from Moi University. He studied Bachelor of Medicine and Bachelor of Surgery at the University of Nairobi. He was a student at Kangaru High School where he sat his KACE. He also has a lot of professional experience. He was a board member of the Kenya Tourist Development Corporation. He was also a board member at the National AIDS Control Council, a Member of Parliament and also a member of the Parliamentary Service Commission (PSC). He was also the Chairman of the Departmental Committee on Health, Labour and Social Welfare while he was a Member of Parliament. Therefore, Dr. Ali comes along as a very qualified person. He was an MOH at Wajir District Hospital. He was a medical officer in Isiolo District Hospital, Medical officer in charge of Moyale District Hospital and served in various other capacities.

I would therefore like to conclude by saying that the Committee recommends that Mrs. Lorna Mumelo and Hon. (Dr.) Abdullahi Ibrahim Ali be appointed as members of the Parliamentary Service Commission under Article 127 (2) (d) of the Constitution of Kenya, 2010.

We have attached annexes which are the minutes of my Committee; the HANSARD of the Senate of how the document was handed from the Speaker to us. Votes and Proceedings of the National Assembly on the 26th February, 2014 that approved the Motion of appointment to PSC and also the National Assembly HANSARD report for Wednesday February, 26th 2014 and Tuesday, February 25th 2014.

I beg to move and ask Sen. Abdirahman to second me.

Sen. Abdirahman: Mr. Temporary Speaker, Sir, I stand to second this Motion which has been moved by the Chairman of the Committee on Health, Labour and Social Welfare that I belong to. Having gone through those documents which belong to the proposed names of Dr. Ali and Mrs. Mumelo, I would want to state that they have actually very impressive curriculum vitae (CVs).

I have a feeling that both will bring into the PSC a wealth of experience in various fields ranging from Public Service to politics. We have somebody like Dr. Ali who had previously served in the Commission and I am sure he has good insights which he will use to help the Commission particularly from outside, now that he is coming in as somebody from outside. From what I read in the CV of Mrs. Lorna Mumelo, although I have not physically seen her, I have a feeling that she will be able to bring in some useful input.

From our observation, the process was above board and it was passed unanimously by the National Assembly and , therefore, as the Senate, I will ask my colleagues to support it so that they can commence work at the PSC at the earliest opportunity.

Thank you.

(Question proposed)

The Senate Minority Leader (Sen. Wetangula): Thank you, Mr. Temporary Speaker, Sir. I congratulate Dr. Kuti for very ably moving this Motion and my able deputy for seconding it.

Mr. Temporary Speaker, Sir, these are two very distinguished Kenyans. We served with Dr. Ali in the Ninth Parliament and he distinguished himself as a very formidable campaigner and supporter of parliamentary independence and freedom. You will recall how he used to raise numerous points of order on anything that needed his attention and the Speaker's attention. Dr. Ali is also credited alongside Jimmy Angwenyi and John Sambu as Members of Parliament who fought gallantly to improve the welfare of Members. Hon. Oloo Aringo, of course, is the father of reforms of Parliament.

Mr. Temporary Speaker, Sir, many of the Members today, in both Houses, enjoy the facilities, perks and allowances, courtesy of, among others, Dr. Ali. For the record, Prof. Anyang'-Nyong'o and my brother, Sen. Leshore, and I, came to Parliament at the same time. Sen. Orengo came much earlier. In 1993, the take-home salary of a Member of Parliament was Kshs36,000 and mileage allowance was Kshs9,000 a month. It progressed and by the time we finished the Seventh Parliament, it had reached about Kshs74,000 and mileage allowance was about Kshs25,000 a month. These Members have fought to bring it to where we are. Sen. Leshore may recall and confirm that the parking at the Main Parliament was like an open air garage. As Members drove in, in the morning, the bonnets of their cars would be opened until evening; with Jua Kali mechanics fumbling with their cars to make sure that by the weekend they would be able to go home. There was no car allowance, but today, things are different, courtesy of, among others, Dr. Ali. I personally know him and support his nomination.

Mr. Temporary Speaker, Sir, I have no doubt that among the many challenges that he will be able to confront is to help the Parliamentary Service Commission (PSC) understand the distinction between the National Assembly and the Senate. You know very well that Senators, particularly the elected Senators, represent vast areas. The distinguished Senator for Kakamega has a constituency that has 12 National Assembly constituencies, yet the allowances that he gets for his constituency work are equal to each one of those Members. The office that he runs is funded at the same level as each of the

Members, and it applies to all of us. I hope that these new members will be able to inject new thinking. The Senate is not asking to be treated differently. All that we are saying is that they must respect and appreciate the geographical area and population that we represent. You cannot possibly run through five, six or ten constituencies at the same cost as running through one constituency, and yet, everytime that the matter has gone to the National Assembly-dominated PSC, they have just parried it off.

Mr. Temporary Speaker, Sir, we have made presentations that by virtue of their constituencies, the PSC should even consider giving each Senator a four-wheel drive vehicle in the constituency to be able to do their work. Nobody thinks about it. I have even made a presentation to some of the commissioners and told them that if, for example, a Senator represents 17 constituencies, like the distinguished Senator for Nairobi, one would expect in his office to have at the very least, a representative or employee from each of those single constituencies for connection and work to be done. But what do you hear, particularly from the Speaker of the Lower House? "Senators are not special." That kind of talk does not enhance democracy, efficiency of work or help anybody. So, I hope that as we approve the list, we are going to see a difference.

Mr. Temporary Speaker, Sir, Mrs. Lornah Mumelo is also a very distinguished lady. She happens to come from my county and I know her. She is a very successful academician. She has done a lot of positive public work and brings to the PSC a wealth of experience. She comes as person who has a very huge capacity for listening and appreciating issues, and that is what we want. In fact, like Sen. Kiraitu has indicated, he is drafting a Bill to create a Service Commission for the Senate, so that we can work in a manner that people appreciate. This is because when this new Constitution was being drafted, many people did not appreciate what the Senate would look like or do. I remember when we were in Naivasha, some Members even referred to the Senate as a council of elders. Others wanted to call it a House of counties; and other said that the Senate should sit three months in one year. But you can see now all the work that is coming here, including the impeachment processes and so on.

This Senate has its work cut out. I have no doubt that Mrs. Lornah Mumelo will join Dr. Ali and other positive-thinking Members of the PSC to see and appreciate what it means to have a Senate and National Assembly and run a constituency called a county as a Senator. If you go to Canada, members who represent constituencies in the Northern Frontier, called territories, are actually even provided state helicopters to do their work. How do you expect, for example, the Senators for Garissa, Kitui, Marsabit and Turkana, which is almost 20 per cent of the landmass of Kenya, to cover their counties, and yet they are treated equally to the Member for Makadara in Nairobi? It is not possible.

Mr. Temporary Speaker, Sir, I will urge Lornah and Dr. Ali to get into this PSC and bring in a breath of fresh air and make a difference and the work of Parliament, which consists of the National Assembly and the Senate; to be distinguished as to what our duties are and appreciate that we need to work efficiently.

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

Sen. Musila: Thank you, Mr. Temporary Speaker, Sir. I stand here to support this Motion.

Mr. Temporary Speaker, Sir, I was honoured by this Senate to be nominated and appointed as a Member of the Parliamentary Service Commission, which position I have

served to the best of my ability, despite the shortcomings that my able leader has mentioned.

Mr. Temporary Speaker, Sir, the Constitution is very clear that in addition to the Members of the National Assembly and Members of the Senate who serve in this Commission, two nominees must come from outside, hence the reason this Motion is before us; in order to appoint the proposed Members, Hon. (Dr.) Abdullahi Ibrahim Ali and Mrs. Lornah Mumelo to be members of the Parliamentary Service Commission.

Mr. Temporary Speaker, Sir, for the last one year or so, the Parliamentary Service Commission has been operating less two members. Therefore, the purpose of the appointment of these members is to make the Commission to be fully representative, as it is envisaged in our Constitution. So, the process of nominating the persons to fill these two positions has been completed and the names of hon. (Dr.) Abdullahi Ibrahim Ali and Mrs. Lornah Mumelo were proposed. I want to confirm that Hon. (Dr.) Ali, as it has been said, is a distinguished former Member of the National Assembly. He served with a lot of distinction during his tenure and left. He is a medical doctor and was a previous member of the Commission. I want to confirm, like hon. Wetangula has done, that he served the membership of Parliament to the extent that the welfare facilities that we enjoy today, he and others were responsible in creating. So, I have a lot of faith that by approving the nomination of Dr. Ali, the Parliamentary Service Commission will be even richer. It is my hope that his presence in the PSC will help minimize the deficiencies that might have been pointed out in the Commission and with his wealth of experience, he should be able to do much more in the Commission. As a Member who represents this House in the Commission, I will be very happy to work with Dr. Ali in that capacity.

Mr. Temporary Speaker, Sir, Mrs. Lornah Mumelo came into the limelight after a previous nominee, Mrs. Baraza; was rejected by the National Assembly. I want to confirm that a lot of hunting was done to come up with somebody who we were sure will not have any issues, in order to face any challenges of rejection. She is currently a senior lecturer at Shanzu Teachers College. She is actually a head of department in Shanzu. She is very qualified and her Curriculum Vitae (CV) is very rich. We are certain that by nominating her to the Parliamentary Service Commission, we will add a lot of value to the institution. I am sure that she will be able to serve this institution with distinction.

Mr. Temporary Speaker, Sir, therefore, I hereby very strongly recommend to my colleagues, the distinguished Senators, that without wasting a lot of time, we should approve the appointment of Dr. Ali and Mrs. Lornah Mumelo to be members of the Parliamentary Service Commission, pursuant to Article 127 (2) (d) of the Constitution.

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

Sen. (Dr.) Khalwale: Mr. Temporary Speaker, Sir, I beg to support this Motion and if there was any doubt in the minds of the members of the public especially the media that this Senate is not working well with the Lower House, then this is evidence that we are working very well. This is the new spirit whereby the Speaker of the National Assembly having read and interpreted Article 127(b) that one man and one woman appointed by Parliament, he has correctly allowed the procedure to be concluded at the Lower House and referred the matter to this House and because they unanimously supported this particular Motion, I feel that it is a calling for us also in the same spirit to unanimously support it.

Mr. Temporary Speaker, if anyone wanted to know the history of these two young appointees, I am privileged to have grown up with both of them. I first knew Lona Mutoro before she got married to Mumelo as a sixth form student at Lugulu High School when I was a sixth form student at Kakamega High School. I met the young lady when I was also a young man at Kakamega High School in a Mathematics club meeting of A – Level students of the then Western Province. We continued sharing as distinguished students in our region because she was studying Mathematics, Chemistry and Physics and I was studying Mathematics, Chemistry and Biology. She went on and studied education at the University of Nairobi while I was studying medicine. We have grown up with her and she went on and became a principal. She has taught in several schools in my county Kakamega before she went to teach in Bungoma, her home county and eventually to the University of Masinde Muliro and later on at Shanzu Teachers Training College where she is a distinguished dean of students.

Mr. Temporary Speaker, Sir, I would therefore, based on the history that I grew up with her, have no reason why I would not encourage my colleagues here from supporting her to become a member of our Parliamentary Service Commission. On the other hand, Dr. Ali was two years my junior at the medical school. When he came to the medical school, Dr. Ali found me in second year and we studied with him for all those many years that people stay in medical school. We went on and joined the Kenya Medical Association. We have done a lot together as doctors of medicine. More importantly, I was privileged to work with Dr. Ali in the Ninth Parliament and he is a perfect parliamentarian. He worked as our commissioner, as my medical junior and my political senior, Dr. Kuti, will attest, I call him senior because he rose to become a Minister and the furthest I could go was assistant minister before I was sacked.

The same things I am saying about Dr. Ali, I would say about Dr. Kuti because they were in the same class at the medical school. I remember the many times we could sit with them when we were preparing to go on strike, all in the interest of the welfare of society.

Therefore, I would like to request our colleagues that we support Dr. Ali. He is a very principled man. I remember during the election of 2007, Dr. Ali lost his seat by a margin of three votes but since he is a very religious man, he said that it was the will of Allah. Other people would have called those who conducted election names and so on, but he went through the due process and accepted the vote. More importantly, I asked him why he said it is the work of Allah and he told me that while in the counting hall after the verdict, his main agent demanded for a recount and the recount again brought a difference of three votes. It is this kind of principled Kenyans that we want to allow in public service. These are people who respect the rule of law.

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

Sen. Obure: Thank you, Mr. Temporary Speaker, Sir, for giving me the opportunity to support this Motion which was very ably moved by Sen. (Dr.) Kuti. I am very impressed with the process that has been put into motion to give us these two names. The process has been very open and transparent. This is a process that has been subjected to scrutiny in all the stages. Therefore, I want to say that it is a very democratic process. That is the way it should be when appointing people expected to serve in public service.

The process has given us qualified and very experienced persons. These are Kenyans with proven record of performance, Kenyans who are real achievers in their respective professions. I am confident in making these few remarks that the addition of these two to the Parliamentary Service Commission will add value and improve the quality of performance of the Commission. Therefore, I am looking forward to improved performance at the Parliamentary Service Commission for the benefit of all Members of Parliament.

I support.

Sen. Hargura: Mr. Temporary Speaker, Sir, I stand to support this Motion because as it has been said for the last one year the Parliamentary Service Commission has been not fully constituted because the two members from the public were not in place. This means that all the Members were parliamentarians from either House, a situation which might lead to them seeing things from the point of view of their respective House. These two members will bring sanity into the Commission and we hope its performance will improve greatly.

Also, we are looking at the two members and gaining very much from the contributions which have been made by those who have contributed; that they are Kenyans of integrity who will enrich the Parliamentary Service Commission and who will enable us move in the right direction.

I stand to support.

The Temporary Speaker (Sen. (Dr.) Machage): May I therefore call upon the Mover to reply?

Sen. (Dr.) Kuti: Mr. Temporary Speaker, Sir, I would like to say that I am very grateful to the Members who supported this Motion and especially those who have personal knowledge and may have worked with the two individuals. I am sure you have learnt that these are very distinguished Kenyans who are fully qualified and have vast experience to contribute to the work of the Parliamentary Service Commission. It is true that Dr. Ali actually joined the Parliamentary Service Commission at a time when there was a lot of clamour for independence of Parliament and especially improvement of the welfare of Members of Parliament. It is at that time that together with other Members mentioned like hon. Oloo Aringo, hon. Angwenyi, hon. Keynan and the rest, they steered the PSC.

Therefore, Dr. Ali is again rejoining the Parliamentary Service Commission, at a very interesting time when the Parliamentary Service Commission is not only serving one House but it is now serving two Houses, and there has been jostling for resources especially now that the Senate is very new and requires a lot of support. While every Member may be agitating for the House he comes from, I think Dr. Ali and Mumelo, will bring sanity, as said by Sen. Hargura. Dr. Ali could also advise and talk about his experience thus bringing the two sides together and help us at the Senate because there are various issues that could have moved faster had there been a better way of looking at the issues of the Senate. I hope these two will positively contribute to this.

I do not want to take a lot of time and would like to say thank you very much to the Committee on Health, Labour and Social Welfare. Thank you very much to the Members who saw it fit to support and adopt this report.

With those few remarks, I beg to move.

The Temporary Speaker (Sen. (Dr.) Machage): This is not a matter affecting counties, therefore, every Member of the Senate can vote. I, therefore, put the Question.

(Question put and agreed to)

Next Order!

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

THAT, this House adopts the Report of the Standing Committee on Energy, Roads and Transportation on the Familiarization Tour of Kenya Ports Authority (KPA), Kenya Petroleum Refineries Limited (KPRL), and Kenya Pipeline Company Limited (KPC), in Mombasa County between 5th – 8th August, 2013 laid on the Table of the House on Thursday, February 27, 2014.

(Sen. Mwakulegwa on 11.3.2014)

(Resumption of Debate interrupted on 11.3.2014)

The Temporary Speaker (Sen. (Dr.) Machage): You have 25 minutes.

Sen. Mwakulegwa: Mr. Temporary Speaker, Sir, I will use less than that. When I was interrupted on Tuesday this week, I was actually giving my last recommendation regarding the Kenya Pipeline Corporation (KPC). I would want to basically run through the recommendations, then summarize and give an opportunity to my colleagues to debate. While making recommendations for KPC, I had said that the line from Mombasa to Nairobi is 35 years old. It is very old and it has gone through tear and wear. Therefore, there is need for the Government to actually make sure that we replace this line with a new one. We also said that the Government of Kenya should encourage KPC to look for external funds or loans so that they can build capacity and capability in terms of infrastructure so that they can continue serving. We also said that the Kenya Government would need to hold the privatization of KPC so that they are allowed to concentrate in building infrastructure so that they can build their worthiness. In future, if they are to sell the facility, they will realize more money than if it is to be sold today.

The other recommendation from the Committee was the Government to support KPC to effectively participate in the regional and also local pipeline infrastructural development like the LAPSET project. The KPC should be allowed to participate and to also extend its services to other areas like Kisumu and Nakuru. There is also a pipeline from Nairobi to Isiolo.

The Treasury should assist in efforts to engage the Kenya Revenue Authority in debonding Kenya Pipeline Company (KPC) facilities to handle only duty paid material and improving on their Information Communications Technology (ICT) systems. Currently, KPC is paying rent of Kshs385,000. They should be assisted so that they do

not continue to pay rents. The other recommendation was to assist KPC to reduce the large number of oil market companies. Right now, we have 79 and if they are reduced to 55, they will become more efficient and effective to serve the Kenyan market.

The Government also needs to strictly enforce regulations for oil marketing companies to keep and maintain fuel stocks that can last for, at least, 21 days. You will find that oil marketers, due to what has been happening at the Kenya Petroleum Refineries, have been holding stocks for two to three days. If there is a catastrophe on the line, they run out of fuel. Therefore, it is important for them to enforce the 21 days stock so that in case of any eventuality, the country does not run dry.

The Kenya Ports Authority should also regulate the jetty and enhance it so as to receive four vessels. Currently, the country has only one jetty. In the event of any catastrophe, this country would not receive any fuel. We are recommending that the KPC is funded so that they put one or two more jetties so that they own them to serve this country.

We also recommended that the KPC should continuously engage markets to enhance utilisation of their terminus here in Nairobi. As it is, most oil marketers, as I said, do not have adequate stock as per the regulation of 21 days. Therefore, you will find that the KPC terminus in Nairobi is underutilized. Therefore, this means that the KPC and the other oil marketers must have a way of making sure that they stock for 21 days.

Lastly, the KPC has to install an integrated security system in all installation and enhance security surveillance. As I said, we have seen in some areas, all the way from Mombasa to the border, people vandalise the pipeline which is very dangerous. When the pipeline is vandalized, it becomes very catastrophic in terms of fire and other disasters.

Therefore, the Committee, while visiting these three corporations undertook a very important role in terms of the economic development of this country. The Committee will also revert to these three corporations with any suggestions to improve that will come from the Floor of the Senate.

I beg to move and call upon my colleague, Chris Obure to second this Motion.

Sen. Obure: Thank you, Mr. Temporary Speaker, Sir. I stand to second the Motion moved by the Vice Chairperson of the Committee, hon. Sen. Mwazo. I want to start by thanking Members of the Committee for putting together a very useful Report which documents the activities of the three institutions that the Committee visited; the Kenya Ports Authority (KPA), the Kenya Petroleum Refineries (KPR) as well as the KPC.

I also want to thank hon. Mwazo for the elaborate manner in which he has moved this Motion. I will start with the KPA. The mandate of the KPA is to promote global maritime trade through provision of competitive port services. The Port of Mombasa is one of those operated by the KPA. This is a major port located in the east coast between Tanzania and Kenya all the way to the Red Sea.

The Kenya Ports Authority, therefore, has a huge mandate or responsibility to provide effective, reliable and efficient services, not only to Kenya but also to the countries neighbouring Kenya particularly within the East African region; Tanzania, Rwanda, Burundi, Eastern Democratic Republic of Congo (DRC), Uganda as well as South Sudan. That responsibility is very huge. I was privileged to be a Member of this Committee. When we visited this place, we saw very notable features. The KPA had put

in place a number of initiatives and measures which had yielded very good results. For example, we noticed that the turnaround or the dry time had reduced from 14 days to 4.8 days. This is a remarkable achievement and KPA management should be congratulated. That should not be the end. They should improve this to turn around of three days, similar to what has been achieved in other jurisdictions.

We also noted clear roadmaps aimed at increasing productivity and efficiency at the port. We are encouraging them to pursue this roadmap and ensure that efficiency is improved to the highest level possible. However, in the long-term, it is necessary to encourage KPA because it has one of the organizations that are recognized all over the world as the most efficient port operator. Here, we think that in the long-term, we will facilitate and improve the work of the KPA by ensuring that the Lamu Port which we have been talking about under the LAPPSET Project is ultimately complete because it will enhance the work of KPA and the Port of Mombasa in particular. We also feel that for many years, we have been talking about reducing traffic congestion around the port. The Dongo Kundu by-pass will be very critical and it is time that it was fast tracked to ensure that all the congestion is reduced to the very bare minimum.

In the long-term, it will be necessary to do the standard gauge railway we have been talking about. In this country, we are in the habit of talking but no action at the end of the day. The time has come when we must be serious in implementing projects. We must be serious in improving the welfare of our people.

We also noted that there are a lot of challenges affecting the operations of the Port of Mombasa. One of the major ones has been highlighted by hon. Mwakulegwa which is the irregular power supply. There are far too many power outages disrupting operations and forcing operations to be very expensive. This is a major setback which, as a nation, we must find a way of resolving. It is affecting, not just the KPA but many other operations. It has become a bottleneck to the growth of the economy.

We also think that the quality of clearing agents is not good. There are far too many clearing agents involved in the process in Mombasa. Some of them are not facilitating the work of KPA. Many of them are small operators with limitations. They do not have the financial capacity to complete the assignments given by their clients. When there is a pile of cargo to be cleared from KPA, then they do not have the financial resources to clear. They cannot pay duty or clear the goods because their operations are limited by lack of resources. Therefore, time has come when we should think in terms of introducing a legal framework that will set certain minimum threshold so that those who do not meet that threshold in terms of financial capacity and quality of staff are barred from operating as agents. If we had strong efficient clearing agents, they would help KPA to improve their turnaround. This is one of the bottlenecks we saw.

Going forward, I happened to be a Member of the delegation that visited the Port of Dubai a week or so ago. We saw the huge volumes that they handle. The used cars trade has become the centre of the world. People are travelling from all over, from West Africa, for example, to go to Dubai to buy second hand cars. They come from the Democratic Republic of Congo (DRC), Nigeria, and Senegal and from South Africa. You begin to wonder why we have not taken advantage of this. We are going all the way to Dubai simply because this is a free port. As a result, the economy of Dubai is thriving. If we are talking about hosting one million tourists, then Dubai hosts millions and millions

of tourists because of that facility being a free port. We should take advantage of that and start by declaring Mombasa a free port for used cars. We will be taking great advantage of that.

We also visited the Kenya Petroleum Refineries. This is an old refinery built to the capacity of refining 80,000 barrels of oil per day. This facility is handling between 30 per cent and 40 per cent of that. It is not meeting the expectations of Kenyans. This facility cannot compete with modern refineries because it is far too small and it is operating on the basis of outdated technology. This results in expensive products that are not of international standards. They do not even meet the environmental specifications and yet we are allowing that plant to operate. What is the justification? This is a plant that in 28 months, as Sen. Mwakulegwa told us, incurred losses to the tune of Kshs13 billion and a further Kshs1.5 billion in demurrage. This money has to be borne by the Kenyan taxpayer. What is the justification of operating a plant like that for all this period of time? The way forward, in my view, and in the view of the Committee, is to build a modern refinery at the Lamu Port because at least now, we are assured of producing our own oil from Turkana. This should be processed at the Lamu Port and---

Sen. (Dr.) Kuti: On a point of information, Mr. Temporary Speaker, Sir. I would like to inform the distinguished Senator for Kisii that the refinery he is speaking about is actually going to be done in Isiolo because of the environmental conditions in Lamu considering the conservation issues and the mangroves. The Isiolo people are going to be the beneficiaries of this refinery.

Sen. Obure: Mr. Temporary Speaker, Sir, I want to thank Sen. (Dr.) Kuti for that information and agree that Isiolo will be a good location for a new refinery. It should be a modern refinery that will meet our requirements and the requirements of our neighbouring countries.

I beg to second.

(Question proposed)

Sen. (Dr.) Khalwale: Thank you, Mr. Temporary Speaker, Sir, for giving me a chance to contribute to the Report. I beg to support this Report very strongly. Allow me to thank Sen. Mwakulegwa for ably moving the Motion and for leading the Committee, along with his Chair, Sen. Moi, in this tour. Allow me also to thank the Committee for the quality of the Report. Every time I look at reports of this House and I compare them with the reports that we used to have when we were Members of the Lower House, I see the difference.

On this Committee, it might be lost to Members that there was a unique Member on this Committee in the name of Sen. Obure. Sen. Obure was the Minister for Finance at one point in the history of this country and it was during his time as Minister for Finance, in the spirit of *Chinkororo*; hardwork and tough spirit that he---

Sen. (Dr.) Kuti: On a point of order, Mr. Temporary Speaker, Sir. Did you hear the distinguished Senator for Kakamega saying that the Senator for Kisii was acting in the spirit of *Chinkororo* which according to our understanding is a gang?

The Temporary Speaker (Sen. (Dr.) Machage): Did you say that?

Sen. (Dr.) Khalwale: Mr. Temporary Speaker, Sir, I must confess that I used the word *Chinkororo* and if you allow me I can correct Sen. (Dr.) Kuti. He does not understand the Kisii Language whereas I do. To some Kenyans, *Chinkororo* means what he thinks, but to Kisiiis, *Chinkororo* is synonymous with heroism; the warrior spirit. So, he carried that spirit of heroism in his tenure as the Minister for Finance to make sure that improvements were done at the Kenya Ports Authority (KPA), the Kenya Refineries Limited and so on. I was just thanking Sen. Obure who is seated on my left.

The Temporary Speaker (Sen. (Dr.) Machage): Next time use a language that the House can understand.

Sen. (Dr.) Khalwale: Mr. Temporary Speaker, Sir, I would like at this moment to compliment our former colleague, hon. Mungatana, who was recently appointed as the Chairman of the Kenya Ports Authority. As I compliment him, may I request him to avoid the route that was taken by some of his predecessors who thought that their being appointed as Chairs of KPA meant securing jobs for locals and attempting to---

ADJOURNMENT

The Temporary Speaker (Sen. (Dr.) Machage): Order, Sen. (Dr.) Khalwale. Hon. Senators, it is now time for interruption of business. Sen. (Dr.) Khalwale, you have 12 more minutes when the House next convenes. Therefore, the Senate stands adjourned until Tuesday, 18th March, 2014, at 2.30 p.m.

The Senate rose at 6.30 p.m.