

PARLIAMENT OF KENYA

THE SENATE

THE HANSARD

Tuesday, 1st April, 2014

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

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

PRAYERS

COMMUNICATION FROM THE CHAIR

PROCEDURE FOR DEBATE ON THE PRESIDENTIAL ADDRESS

The Speaker (Hon. Ethuro): Order, hon. Senators. I have a Communication to make which will relate to one of the Papers to be laid.

As you are aware, His Excellency the President, pursuant to Article 132(1) (b) and (c), delivered the State of the Nation Address on 27th March, 2014, at a Special Sitting of Parliament. During the occasion, His Excellency the President also submitted two reports to the Senate. The reports are as follows:-

(i) The report of measures taken and progress achieved in the realization of national values and principles of governance.

(ii) The annual report to Parliament on the state of national security.

Hon. Senators, Standing Order No.24 (5) and (6) of the Senate Standing Orders provides as follows:-

“Whenever the President delivers an Address, a Senator may, as soon as practicable thereafter, lay the Presidential Address on the Table of the Senate following the reading of such Address.”

Part (VI) says:-

“A Senator may give a notice of Motion, that “The thanks of the Senate be recorded for the Exposition of Public Policy contained in the Address of the President” but the debate on the Address shall not exceed three sitting days.”

Article 132(1) (c) (i) says:-

“The President shall-
once every year-

(i) report, in an address to the nation, on all the measures taken and the progress achieved in the realization of the national values, referred to in Article 10;"

Further, Article 240(7) read together with Section 16 of the National Security Council Act, 2012, provides for the annual reporting to Parliament on the state of the security of Kenya.

Hon. Senators, arising from the above, I wish to guide the Senate as follows:-

(1) The Senate Majority Leader will table the following Papers:-

(a) The Speech by His Excellency, the Hon. Uhuru Kenyatta, President and Commander in Chief of the Defence Forces of the Republic of Kenya during the state of the nation Address at Parliament Buildings, Nairobi, on 27th March, 2014.

(b) The report by His Excellency the President on measures taken and progress achieved in the realization of national values and principles of governance submitted on 27th March, 2014 during the state of the nation Address at Parliament Buildings.

(c) The annual report by His Excellency the President to Parliament on the state of national security submitted on 27th March, 2014 during the state of the nation address at Parliament Buildings, pursuant to Article 240(7) of the Constitution and Section 16 of the National Security Council Act, 2012.

(2) The Senate Majority Leader will give a notice of Motion to allow for debate on the Address by the President pursuant to Standing Order No.24(6) and another notice of Motion to allow debate for noting the annual report to Parliament on the state of national security.

(3) Pursuant to Article 132(1), the debate on the Address by the President shall proceed together with the report on measures taken and progress achieved in the realization of national values and principles of governance.

(4) After the conclusion of debate on the Address by the President, the Senate will commence debate on the Motion to note the annual report to Parliament on the state of national security.

I thank you.

Sen. (Prof.) Kindiki, you may proceed.

PAPERS LAID

PRESIDENTIAL SPEECH

The Senate Majority Leader (Sen. (Prof.) Kindiki): Mr. Speaker, Sir, I beg to lay the following Papers on the Table of the Senate, today, 1st April, 2014.

The Speech by His Excellency the President, Hon. Uhuru Kenyatta, CGH, President and Commander-in-Chief of the Defence Forces of the Republic of Kenya during the State of the Nation Address at Parliament Buildings on 27th March, 2014.

PROGRESS REPORT ON REALIZATION
OF NATIONAL VALUES

The Report by His Excellency the President on Measures Taken and Progress Achieved in the Realization of National Values and Principles of Governance, submitted on 27th March, 2014 during the State of the Nation Address at Parliament Buildings.

ANNUAL REPORT ON NATIONAL SECURITY

The Annual Report by His Excellency the President to Parliament on the State of National Security submitted on 27th March, 2014, during the State of the Nation Address at Parliament Buildings, pursuant to Article 240(7) of the Constitution and Section 16 of the National Security Council Act of 2012.

Mr. Speaker, Sir, I now lay these papers on the Table of the Senate.

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

The Speaker (Hon. Ethuro): Sen. Wako, you may proceed.

REPORT OF THE MEDIATION COMMITTEE ON
THE COUNTY GOVERNMENTS (AMENDMENT)
(NO.2) BILL, SENATE BILL NO.4 OF 2013

Sen. Wako: Mr. Speaker, Sir, I wish to lay on the Table of the Senate the Report of the Mediation Committee on the County Governments (Amendment) (No.2) Bill, Senate Bill No.4 of 2013.

(Sen. Wako laid the document on the Table)

The Speaker (Hon. Ethuro): Next Order.

NOTICES OF MOTIONS

THANKS FOR THE PRESIDENTIAL ADDRESS

The Senate Majority Leader (Sen. (Prof.) Kindiki): Mr. Speaker, Sir, I beg to give notices of the following Motions:-

THAT, the thanks of the Senate be recorded for the exposition of public policy contained in the Address of the President to Parliament on Thursday, 27th March, 2014.

Mr. Speaker, Sir, with your permission, I have a second notice of Motion to give as follows:-

NOTING OF ANNUAL REPORT BY THE PRESIDENT
ON THE STATE OF NATIONAL SECURITY

THAT, the Senate notes the Annual Report to Parliament on the State of National Security, submitted by His Excellency the President on Thursday, 27th March, 2014, pursuant to Article 240(7) of the Constitution and Section 16 of the National Security Council Act of 2012.

The Speaker (Hon. Ethuro): Sen. Wako, you may proceed.

APPROVAL OF MEDIATION COMMITTEE REPORT ON
THE COUNTY GOVERNMENTS (AMENDMENT) (NO.2)
BILL, SENATE BILL NO.4 OF 2013

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

THAT, in accordance with Article 113 of the Constitution and Standing Order No.15(1) and (3), the Senate approves the Report of the Mediation Committee on County Governments (Amendment) No.2 Bill, 2013, laid on the Table of the House on Tuesday, 1st April, 2014.

The Speaker (Hon. Ethuro): Next Order.

POINT OF ORDER

INABILITY BY COMMITTEE CHAIRS
TO GET RESPONSES FROM THE EXECUTIVE

The Speaker (Hon. Ethuro): Sen. Dullo Fatuma, you may proceed.

Sen. Adan: Mr. Speaker, Sir, there are two statements which I promised to issue today. Unfortunately, we do not have those two statements. This is simply because we have communicated with the Ministry and due to overwhelming insecurity issues, they have promised us that they are working on the statements. We promise we will give the statements on Thursday. I have shared the same frustrations with the Senate Majority Leader. So, he will also take up this issue with the relevant Ministry.

The Speaker (Hon. Ethuro): Sen. (Prof.) Kindiki.

The Senate Majority Leader (Sen. (Prof.) Kindiki): Mr. Speaker, Sir, I stand to support the information which has been given by the Vice Chairperson of the Committee on National Security and Foreign Relations of the Senate. She called me this morning and shared with me their inability to get the statements, which is understandable given the circumstances. But on the other hand, it is my considered view, and I already communicated to the Vice Chairperson of that Committee, that as much as there are other pressing needs, this House and its deadlines has to be respected. It is in that connection, that between me and the Vice Chairperson, we want to seek the indulgence of this House,

one last time. I personally undertake to ensure that the statements are available to this House by Thursday, this week.

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

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

Sen. Abdirahman: Mr. Speaker, Sir, I do not think it will be appropriate for us to allow this particular Committee to take this House in circles. In fact, the performance of this particular Committee is wanting. If the particular Ministry cannot multi-task - the Ministry is not about an individual, it is an institution. I plead with you not to allow these fellows – sorry to say these fellows – but this Committee should give us these statements on time. Some of us requested for these statements two or three weeks ago.

Mr. Speaker, Sir, I also seek your indulgence to ensure that this particular Committee performs as expected by the House.

Sen. (Dr.) Machage: On a point of order, Mr. Speaker, Sir. The fact that we had episodes of insecurity over the weekend is even a greater emphasis of the importance of the delivery of the statement so asked from this Committee as a matter of urgency. Is the Senate Majority Leader in order to assume that we will understand that, that is the reason they could not present the report today?

The Speaker (Hon. Ethuro): Let us first hear the Senate Majority Leader and then the Vice Chairperson.

The Senate Majority Leader (Sen. (Prof.) Kindiki): Mr. Speaker, Sir, I truly and sincerely understand the gravity of the matter at hand, especially issues to do with national security. I do not think we are here to try and cover up anybody. What I have assured this House, and I told the Vice Chairperson this in the morning, is that we will do whatever it takes in the next two days to make sure that, that statement is here. I have already disclosed that I got informed of this challenge this morning. Had I known earlier, I would have helped. But these are some of the things that none of us can really be blamed.

Mr. Speaker, Sir, I sincerely and profoundly request your indulgence and the indulgence of this House.

The Speaker (Hon. Ethuro): Vice Chairperson; you also need to clarify the statements you are referring to.

Sen. Adan: Mr. Speaker, Sir, one is the statement requested by Sen. Wetangula. I was in the Office of the President this afternoon. I looked at what the Ministry had prepared but it was not adequately answering the questions that he raised. So, I told them to go back and work on it.

Secondly, is the statement that was asked by the Deputy Speaker, Sen. Kembigitura. That one is also not ready.

However, let me inform this House that from last week when you gave the directive, I was in and out of the Office of the President with my committee clerk. So, it is not fair for Members to blame the Committee because the statement does not come from the Committee. But we have tried what was within our powers to make sure that we are able to have the statements. I have even requested the committee clerk to put together the reminders that we have sent to the OP. But nevertheless we are trying to push the Ministry to have the relevant statements issued latest by this Thursday.

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 have been waiting; in fact, I came rushing, with the belief that the distinguished Senator was going to issue the statement in relation to my request about the reckless conduct of some Administration Police officers at Kamukuywa. She told this House that this statement was coming today.

Mr. Speaker, Sir, the matter is much deeper and more fundamental than what the distinguished Senator for Tharaka-Nithi is telling us. I have done my homework and survey. When a statement is requested for in the Lower House and promised by any organ of Government, it is delivered on time. But when statements are requested for in this House, we are taken on a charade sometimes for up to one full month before we receive those statements. We represent much larger constituencies than Members of the Lower House. When we come here to ask for statements, we mean business. I have no doubt that the distinguished Senator for Nithi – sorry – the Senator for Tharaka-Nithi and the lady Senator are---

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

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

The Senate Majority Leader (Sen. (Prof.) Kindiki): Mr. Speaker, Sir, the fact that the Senator for Bungoma County, who is also the Senate Minority Leader, has corrected himself when I rose is an indication that he is perpetuating a consistent pattern of distorting two things. One, that I represent a County called Tharaka Nithi, but even more fundamentally, that I occupy the office of the Senate Majority Leader. It is not something that looks as superficial as it appears. The moment I rose, he already corrected some of the problems.

Mr. Speaker, Sir, I want to request that you firmly and unequivocally direct the Senate Minority Leader to respect the Senate Majority Leader.

(Sen. Wetangula said something off the record)

You see, he is still making fun. I am not making fun, okay! This is the Senate. This is not the place where you can do the small things we do in political rallies.

Mr. Speaker, Sir, I thank you and wait for your direction.

The Speaker (Hon. Ethuro): Sen. Wetangula.

The Senate Minority Leader (Sen. Wetangula): Mr. Speaker, Sir, if I am referred to by my name, the county I represent or any other description, those are matters of form and not substance. I think we should not engage ourselves in matters of form.

Mr. Speaker, Sir, nobody---

Sen. Kembi-Gitura: On a point of order, Mr. Speaker, Sir. Except, Mr. Speaker, Sir----

The Senate Minority Leader (Sen. Wetangula): But I am responding to a point of order.

Sen. Kembi-Gitura: Mr. Speaker, Sir, I am on my feet.

The Speaker (Hon. Ethuro): Sen. Wetangula, I have allowed him.

Sen. Kembi-Gitura: Except, Mr. Speaker, Sir, for the sake of good record, the Standing Orders are very clear. They state clearly that every Senator shall refer to the other Senator as hon. Senator, not by any other epithets. That should be respected.

The Senate Minority Leader (Sen. Wetangula): Mr. Speaker, Sir, I do not understand what my learned senior, the Deputy Speaker, is talking about because I referred to my colleague as the distinguished Senator---

Sen. Kembi-Gitura: For Nithi!

The Senate Minority Leader (Sen. Wetangula): I am sorry I said Nithi. I ought to have said the Senator for Tharaka-Nithi. That is what he is.

The Speaker (Hon. Ethuro): Sen. Wetangula, let me start from where the Deputy Speaker intervened. The Standing Orders state that you refer to another Senator as "Senator so-and-so." But in the case of the Senate Majority Leader, particularly on this matter, he is actually coming in support of the Vice Chairperson of the Committee in that capacity as the Majority Leader. So, when you are dealing with him, you are dealing with him as the Senate Majority Leader. I do not think that asking for you just to conform because that is the basis in which you are interrogating him is form. In any case, where you are sitting might also be considered "form". You can imagine if somebody else sat there. So, this House recognizes certain formalities which need to be appreciated.

Proceed, Sen. Wetangula.

The Senate Minority Leader (Sen. Wetangula): Mr. Speaker, Sir, I was saying that the organs of Government seem to take business in the Lower House more seriously than this House. The Senate Majority Leader, as he wants to be called, must ensure that this House is taken seriously and we get information when we need it. In fact, the Government side owes this House explanations on matters even without us asking, like what happened in Eastleigh yesterday. One would expect that the Senate Majority Leader comes here and volunteers a statement to the House and explains the anxiety gripping the country. When it is not the Joy in Jesus Church being attached, it is the same in Eastleigh, Kamukuywa, Moyale and so on. These are issues we should not be asking because in the traditions of this House, there are always moments when the Government offers unsolicited statements to explain what is happening, to allay fears, anxiety and so on and so forth.

Mr. Speaker, Sir, the Committee on National and Foreign Relations, which unfortunately, I am a Member, is not establishing a very good record on giving statements to this House yet security is the core of what we keep asking here. I want to ask you to intervene and ensure that tomorrow, when we ask about a security challenge in Turkana County, they do not come rushing because the Speaker comes from that county. They must treat each and every incident and every county as important.

(Applause)

The Speaker (Hon. Ethuro): Sen. Wetangula, I do not know where that one is coming from but the point has been made. Of course, every county and every issue is

important. This is particularly so for security matters, which we must treat with the sense of urgency that they deserve.

Hon. Senators, let us allow the Senate Majority Leader because the Vice Chairperson brought it to his attention this morning. The two of them have agreed to expedite some responses in two days. My calculation of two days will take him to latest, Thursday. So, let us have the statements on Thursday.

STATEMENTS

CAUSE OF POWER BLACKOUT IN RHAMU TOWN, MANDERA NORTH

Sen. Billow: Mr. Speaker, Sir, I sought an urgent statement about two weeks ago, regarding the power blackout at Ramu Town, the district headquarters. I was there on Sunday and still the whole town has no power. Schools and hospitals are all shut down. I would really appreciate it if the Chairperson of the Committee on Energy could tell us what is happening.

The Speaker (Hon. Ethuro): Sen. Musila.

Sen. Musila: Mr. Speaker, Sir, I stood here last week on behalf of the Chairperson. As you are aware, there was reorganization and my Committee is in the process of getting a Chair. But that notwithstanding, I undertook to give a statement on the matter raised by Sen. Billow on the cause of power blackout in Ramu Town, Mandera North District.

Mr. Speaker, Sir, I received a statement which I unfortunately do not find suitable to be given to the hon. Senator for two reasons. First, this statement does not come from the Ministry of Energy and Petroleum. It comes from the Kenya Power (KP), which is not proper in my view. It should come from the Ministry.

Secondly, this statement does not give a solution to the problem that is existing in Ramu Town. It simply says the generators have failed. I want to agree with the sentiments expressed by my colleagues that committees are finding it difficult to get information that the House requires in order to give satisfactory answers. So, I am seeking another indulgence to go back to the Ministry and get a proper statement because I think this statement does not meet the threshold of a statement for this Senate.

Thank you, Mr. Speaker, Sir.

Sen. Billow: Mr. Speaker, Sir, two weeks have since passed and the district headquarters has no electricity and thousands of people are suffering. So, we have been told the same thing last week and even the week before; there was another Chair who told us the same thing. There is a Government in place and it is the same Government that seems to be announcing everyday about how they are performing. So, I do not understand why the honorable Chair is not able to get the Cabinet Secretary (CS) to explain why there is no electricity. I mean, there is money voted by Parliament and they should get electricity back to the towns! Really; I mean, it is not about--- How did the Statement come to the Chair of this Committee if it is not signed by the CS or if it does not originate

from the CS's office? I think there is clearly a serious disconnect between the Committee and the Ministry.

Sen. Murkomen: On a point of order, Mr. Speaker, Sir. Am I in order to ask why the Committee did not--- If they cannot get a proper Statement, why can they not use their constitutional powers to summon the necessary officer so that they get a comprehensive answer other than this story? They can use a day or two to summon them to come and give a comprehensive answer than this private engagement between the Chair of the Committee and the relevant officer.

The Senate Minority Leader (Sen. Wetangula): On a point of order, Mr. Speaker, Sir. This request by Billow Kerrow fortifies what I just said; when Statements are---

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

The Senate Minority Leader (Sen. Wetangula): Mr. Speaker, Sir, I am on a point of order on a very important issue which you may appreciate if you hear me.

The Speaker (Hon. Ethuro): That does not stop me from declaring you out of order; and I am going to make that declaration. I thought you had benefitted from the earlier altercation between you and the Senate Majority Leader. So, there is nobody here known as Billow Kerrow; there is only one Senator known as Sen. Billow Kerrow.

(Laughter)

The Senate Minority Leader (Sen. Wetangula): Mr. Speaker, Sir, this fortifies my intervention on the Statement sought by the Senator for Mandera, Sen. Billow Kerrow. When we request for Statements in this House, we direct them to line Ministries. When you look at the Statement that the distinguished Senator for Kitui has been holding here, it is not even from the Ministry; it is just a letter from the Managing Director of Kenya Power (KP) to our Clerk. The Clerk should not even forward this kind of communication to the Committees; he should send them back and tell them that these are Statements from unauthorized persons. You can hear the distinguished Senator for Keiyo Marakwet – whose proximity to power is known – referring to officers and not to CSs. We do not want Statements from officers; we want Statements from CSs of Government when issues are raised here.

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

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

So, Mr. Speaker, Sir, we want you to help this House. Senators do not ask Questions here in vain; and it is preposterous for a managing director of a public utility company to purport to answer a question from this House on behalf of the CS. They must give information to the line CSs, who will, in turn, answer the question.

(Applause)

Mr. Speaker, Sir, this brings me to my last point. A month ago, I heard the Speaker of the Lower House make a pronouncement in a Communication from the Chair

that he was going, in future, to require CSs to attend the Chamber and answer Questions when they are raised. It may very well be necessary for this distinguished Senate to set aside some time – a day or two in a month – for CSs to come here to be interrogated on their portfolios when issues arise, especially matters of security and matters such as this, when the Statement simply says: “Currently all the customers at Rhamu are out of supply.”

Mr. Speaker, Sir, this is unacceptable and we urge you to help this House to do its work.

Sen. Murkomen: On a point of order, Mr. Speaker, Sir. This is just for the record. Were it not for the record, I would not have a problem with Sen. Wetangula. I just want to remind him that the English word “officer” has also found its way into the Constitution and that a CS is a State officer, just like ourselves. That is just for the record.

(Applause)

(Sen. (Dr.) Khalwale stood up in his place)

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

Sen. (Dr.) Khalwale: On a point of order, Mr. Speaker, Sir. Indeed, what we are seeing is the casual manner in which some people in the Government are treating the Senate. I urge that in considering the request by Sen. Wetangula – that we set aside time for CSs to respond to these issues – you should not find any difficulty with that request because a precedent has already been set, where the CS in charge of the National Treasury addressed the National Assembly. That, therefore, opened the floodgates for any other CS to be allowed to address any of the Houses.

I thank you, Mr. Speaker, Sir.

The Speaker (Hon. Ethuro): Sen. (Prof.) Kindiki, I think those are your issues. Let me hear you out now.

The Senate Majority Leader (Sen. (Prof.) Kindiki): Based on my knowledge, Mr. Speaker, Sir, they were issues that were addressed to Sen. Musila on behalf of the Committee on Energy.

(Several Senators stood up in their places)

The Speaker (Hon. Ethuro): Order, Senators! Order! You do not need to contribute to this one; I will help you on this one. It is true that your points of order were in relation to the Statement by Sen. Musila, but they were not being addressed to Sen. Musila. They were being addressed to the Government.

(Applause)

We spent a few minutes earlier trying to protect the Senate Majority Leader for him to be given that kind of recognition.

(Laughter)

These things also have responsibilities; you cannot run away from them.

The Senate Majority Leader (Sen. (Prof.) Kindiki): Mr. Speaker, Sir, in light of the gravity and urgency of this matter, and also considering that this Statement was requested a couple of weeks ago, I request the Chair and this House to indulge me for two days. The Statement from an appropriate authority will be tabled in this House on Thursday afternoon.

(Applause)

Sen. Billow: On a point of order, Mr. Speaker, Sir. What the people of Rhamu, who are Kenyans, want is not a Statement; we want electricity restored in that town. Could the Senate Majority Leader undertake to ensure that when he comes with that Statement or when that Statement comes, electricity will be available in that town? It is not about giving Statements; it is about giving service to people; it is about fulfilling even the pledges made by the Government!

The Speaker (Hon. Ethuro): Order! Order, Sen. Billow! You are now also splitting hairs! First, you sought the Statement yourself; so, you are going to get a response through another Statement, and the content of the Statement is what you are referring to! So, let us not debate whether it is a Statement or not.

(Applause)

Senate Majority Leader, there was also the important issue pointed out by the Senate Minority Leader, that he has done his homework and there seems to be a tendency to delay responses to Statements in this House. Maybe not now, but when you make that Statement – or between you and the Chairperson, whoever will make the Statement – you may also wish to comment at least on that one.

From where I sit, I want to assure the House that we have actually even gone further to conduct a one day workshop with the responsible officers of Ministries on how they engage with the Senate. That was done in February. So, we have taken that into account and it is really now up to the Chairperson and the Senate Majority Leader to pursue it further.

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

The Speaker (Hon. Ethuro): Except that, Sen. (Prof.) Kindiki, now that it has come to you; the point still made by the Senator for Mandera is critical – service provision – two weeks down the road without electricity; you can imagine the economic losses that Mandera County will incur.

Sen. Murkomen: On a point of order, Mr. Speaker, Sir. When the Chairperson of the Committee on Budget, who is somewhere just below the Senate Majority Leader in terms of rank and file when it comes to the Majority Side and for that purposes, Jubilee - when he was asking that question, he appeared a little bit more distant that I thought in terms of having equal access to the Senate Majority Leader and to the Government Side.

(Applause)

I thought the tone and manner of his presentation did not betray that closeness to the Senate Majority Leader.

Sen. Billow: On a point of order, Mr. Speaker, Sir. I asked for the Statement as the Senator for Mandera County in my right and on behalf of the people of Mandera County. I am not close to any power; let it be known by all and sundry that I am not as close to the powers as the gentleman who has just spoken.

(Applause)

But, Mr. Speaker, Sir, if I was that close, electricity would have been connected within 48 hours as it happens, indeed, for other Senators who are in this House.

So, Mr. Speaker, Sir, could the hon. Senator desist from those kind of insinuations?

The Senate Majority Leader (Sen. (Prof.) Kindiki): Just one small issue, Mr. Speaker, Sir.

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

The Senate Majority Leader (Sen. (Prof.) Kindiki): Mr. Mr. Speaker, Sir, there is one small issue for clarity.

The Speaker (Hon. Ethuro): The only issue I will allow is for you to tell me that the electricity is on in Mandera.

The Senate Majority Leader (Sen. (Prof.) Kindiki): Yes, Mr. Mr. Speaker, Sir; the electricity will be on.

The Speaker (Hon. Ethuro): Sen. (Prof.) Kindiki, with your proximity to power--

The Senate Majority Leader (Sen. (Prof.) Kindiki): Thank you, Mr. Mr. Speaker, Sir. I want to assure you that I take my work seriously, and I do so because I am an officer of this Senate. My only worry is that, the method we are using is bordering on untruthfulness, because the Chairperson of the Committee on Budget – who is a Senior Member in the Jubilee Government – is attempting to say that he is not close to anybody; yet, yesterday, he was in State House with the President!

(Loud consultations)

(Several hon. Senators stood up in their places)

No! No! No! It is good for the record so that when the Senator---

The Speaker (Hon. Ethuro): Order! Order, Sen. (Prof.) Kindiki! Order, Sen. Billow! Order, all Senators! Order!

Sen. (Prof.) Kindiki, I am sure you have been to that State House more times than the Senator for Mandera but your frequency there has not expedited the kind of responses we are getting!

(Laughter)

So, let us not go that way. Let us get the responses, whether you are close or the furthest; or whether you are in the middle. Whether you meet all those parameters of mathematics of mean, mode or median, the most important thing is that you are a Senator in the Republic of Kenya. You have certain responsibilities to undertake, and they can only be undertaken in this House.

So, let us get the responses. Who knows, maybe the frustration of getting power may have taken him maybe further!

(Laughter)

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

The Speaker (Hon. Ethuro): No, let us clear this issue now.

Sen. Billow: Mr. Speaker, Sir, for the record - it is good to clarify for the record, because there has been a history in this country that if you go to State House to eat *Ugali*-- I want it to be clear that we were invited as the Chairpersons of the Committee on Budget and Committee on Devolution, himself and the ones from the National Assembly to discuss issues regarding the division of revenue. So, it would be wrong for him to insinuate that I went there, as he often does, for other things.

But, Mr. Speaker, Sir---

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

(Several Senators stood up in their places)

The Speaker (Hon. Ethuro): Order, Senators! Sen. Musila was up before Sen. Orendo. In fact, I thought he was holding brief for Sen. Musila.

Proceed, Sen. Musila!

Sen. Musila: Mr. Speaker, Sir, in view of the direction which this matter has now taken -- that the person closest to State House is that person who answers this -- would I be in order to now pass this Statement to the Senate Majority Leader so that he can take this matter over from now henceforth in my response to my friend, Sen. Billow?

The Speaker (Hon. Ethuro): You are completely out of order, Sen. Musila! You are a Member of the Committee and the Committee has that responsibility. What the Senate Majority Leader is only expected to do, is to assist to expedite some of those responses that are being delayed or the kind of response that you have, which is even unacceptable to you and the House.

Sen. (Dr.) Khalwale: Mr. Temporary Speaker, Sir, you have heard the distinguished Senator for Mandera disclose that they were summoned to State House to discuss division of revenue. You know very well that, that exercise is vested in the National Assembly and the Senate. Could he substantiate what exactly they were discussing about division of revenue and also go further and confirm that whatever deals

that they might have cut there are not going to influence the decision of his Committee, on what is going to lead this House in deciding as far as that important issue of division of revenue is concerned? There are many counties that have no opportunity of going to State House. Therefore, if a few people who have proximity to power, the way they claim, will be going to State House to cut deals, it defeats the very purpose of the creation of the Senate.

The Speaker (Hon. Ethuro): Order! Order, hon. Senator! By the way, I discontinue this matter. First, what Sen. Khalwale is engaging in, is anticipating some debate, which will definitely come. Secondly, Sen. Khalwale, you are imputing improper motives on our Chairs. In fact, the genesis of this debate was from a report that was not coming from a Cabinet Secretary. So, you would expect, naturally, Chairs to be consulting Cabinet Secretaries. If they can do so, there is even a better value in consulting the Chair of the Cabinet himself. So, I think that to use words like “cutting deals” is really unfair.

Let us leave it there. Sen. Billow, you do not need to tell us what you discussed. I am sure that you will have an opportunity when you will be presenting your report to this House on the position of the Government on a few things, which by the way, the Chair is not expected to accept. But he will be truthful to the position of the Government and tell us what they will have decided as a Committee. That is the most important thing.

Sen. (Prof.) Kindiki, I cannot help but come back to you, because when you actually generated this debate, it was on the basis that the Senator for Mandera was not engaging in full disclosure and that he is too close to power. The Senator for Mandera has put a very clear case that the issue of closeness did not really arise in that particular meeting and that, that meeting was convened for a particular purpose, which is a legitimate responsibility and function that he performs as a Chair of a committee of the House. So, I also think that you imputed improper motives on him. I think that you must really apologize.

The Senate Majority Leader (Sen. (Prof.) Kindiki): Mr. Speaker, Sir, I withdraw and apologize.

The Speaker (Hon. Ethuro): Is there another Statement?

Sen. Kerrow Billow!

APPOINTMENT OF COMMISSIONERS TO THE GENDER AND HUMAN RIGHTS COMMISSION

Sen. Billow: Two weeks ago, I sought a Statement from the Senate Majority Leader regarding the constitution of the Gender and Equality Commission that has not been fully constituted since early last year. Candidates had done interviews in June last year. I asked for a very comprehensive Statement and wanted a response. The House was promised two weeks which ended on Thursday last week.

The Speaker (Hon. Ethuro): Order! Order! Sen. Kerrow, I think that you are also getting fascinated with the Senate Majority Leader. That Statement was actually taken by the Chair of Committee on Legal Affairs. You will remember that they put a very convincing case on why it should be them and not anybody else, and we agreed.

Vice-Chair, Committee on Legal Affairs!

Sen. Sang: Mr. Speaker, Sir, the issue was taken up by the Chair, Sen. Amos Wako. I am not aware of how far he has gone in getting that response. He did not give me a brief with that regard. I seek the indulgence of the House so that the Chair can provide an answer on Thursday afternoon.

The Speaker (Hon. Ethuro): Okay, Thursday this week.

STATUS OF LAND ADJUDICATION AND ISSUANCE
OF TITLE DEEDS IN MERU COUNTY

Sen. Murungi: Mr. Speaker, Sir, two weeks ago, I requested for a Statement from the Chairman, Committee on Lands and Natural Resources regarding issuance of title deeds in Meru County. From tracking it was due today. So, I would like to know the progress regarding that Statement.

Sen. Orengo: Mr. Speaker, Sir, if I may be of some assistance, the Chair, Vice-Chair and membership of that Committee are in Spain. I happened to encounter them two days ago. So, we do not have anybody in that Committee who is in a position to tell him when that Statement will be delivered.

The Speaker (Hon. Ethuro): Order, Sen. Orengo! You are not being of any assistance to us. These things are in the HANSARD and a Chair receives the request. Even if he is not there, another Member receives it. So, it is up to them to organize their work. We really do not mind where you meet them, but what we mind is the promise that they make to this House and they must deliver on it. For the record, the Statement was to be delivered on 2nd April, which is tomorrow and not today. So, we will still revisit the matter tomorrow when the Statement is supposed to be due.

The same applies to the Vice-Chair of the Committee on Legal Affairs. Sen. Sang, I am actually surprised by your response; because it appears that your Chair and the entire Committee seem not to have met on this matter. But let me not go that way for now. Let us take your word since you are here, that we will get the Statement on Thursday.

Sen. Sang: Mr. Speaker, Sir, I have just been reminded by one of the Members of the Committee that most likely, the Chair will not be around on Thursday. He may be participating in the Governor's Conference in Mombasa. As a matter of fact, we have never met as a Committee on this matter. I think you will remember that we have had discussions in this House as to whether seeking a Statement from the Chair of a Committee is the responsibility of the Chair or the entire Committee. In our Committee, that has always been the responsibility of the Chair and when the Chair is unable to do it, then he delegates to the Vice-Chair. But that is an individual responsibility. So, we have not discussed this matter as a Committee.

The Speaker (Hon. Ethuro): So, will we have the Statement on Thursday or not?

Sen. Sang: Next week on Tuesday, Mr. Speaker, Sir. I take personal responsibility as the Vice-Chair to deliver the Statement.

The Speaker (Hon. Ethuro): I think we can allow that.

PAYMENT OF DUES OWED TO BUSINESSMEN
FROM WEST POKOT COUNTY BY KMC

Sen. Ndiema: Mr. Speaker, Sir, this is in reference to a Statement sought by Sen. (Prof.) Lonyangapuo in respect of payment for livestock delivered by businessmen to the Kenya Meat Commission (KMC). I seek the indulgence of the House, because there are some issues that need further clarification, to respond fully on Tuesday.

Sen. (Prof.) Lonyangapuo: Mr. Speaker, Sir, I can attest to what my brother has said, that there are issues. One of the issues relates to what we have been discussing here, where instead of the Cabinet Secretary taking responsibility, a junior officer is the one that signs some of these documents and sends them directly to the Senate. Therefore, they are not really authentic documents. So, I will wait for the answer to be brought properly. I had the privilege of reading it.

The Speaker (Hon. Ethuro): Order, Senator! Why are you telling us all that in some many words? All we need is an indication that you are in agreement with the Chair. I think that we have already ventilated on those other issues and the Senate Majority Leader is here. We will, definitely, take appropriate action on how documents come from the Government to the House.

Sen. (Prof.) Lonyangapuo: Agreed, Mr. Speaker, Sir.

The Speaker (Hon. Ethuro): Sen. Dullo.

Sen. Adan: Mr. Speaker, Sir, I have two Statements to issue. One of them is a Statement sought by Sen. Mositet which I was given this afternoon, but I have not interrogated it. I can see the Senator is not in the House and I do not know whether he was given a copy. So, you will give me directive as to whether to issue it in his absence or not.

The second Statement was sought by Sen. Abdirahman. He is in the House although he has not seen a copy, but he told me to proceed.

The Speaker (Hon. Ethuro): Regarding the first one, you can do so when the Senator is in the House. You can proceed with the one sought by Sen. Abdirahman.

SEIZURE OF MOTOR VEHICLE REGISTRATION
No. KBQ 133U IN WAJIR

Sen. Adan: Thank you, Mr. Speaker, Sir. The Statement sought by the Senator for Wajir is about the impounding of a car with registration number KBQ 133U at Wajir Camp. The first question was about the circumstances that led to the impounding of the vehicle and the goods in it. The answer reads as follows:-

On 10th June, 2013 at Dadajabula in Wajir, officers from the National Police Service manning a roadblock next to the Kenya-Somalia border intercepted a vehicle loaded with an assortment of substances that were suspected to be explosive material being illegally conveyed to Somalia. Against the prevailing repeated attacks that had occurred in various parts of the country and the continuing threats of *Al Shabaab* militants attacking the Kenya Defence Forces (KDF), the vehicle was detained and

escorted to Wajir Military Camp for safe keeping, pending investigation to confirm the content of the substances.

Samples were drawn from the consignment and presented to the Government Chemist for analysis. The Government Chemist's opinion was that the substance constituted chemicals used in industries that manufacture class, detergents and tanneries. The owner had by then moved to court seeking a release order. Upon presenting the report in court, the court issued a release order. Despite the Government Chemist report declaring the chemicals harmless, the engineering corps advised that it was possible to separate the chemicals through electrolysis and iron exchange or combine the chemicals with other compounds to form chemicals that would be used to make Improvised Explosive Devices (IEDs) Taking into account the huge quantity of chemicals that was being ferried and the fact that there was no industry of such nature within the locality even in Somalia, the chemicals were considered a risk. A further opinion was sought from the University of Nairobi, Engineering Department and the Attorney-General also made an application to stay the release order which was granted.

The second question was; what steps the Government is taking to release the vehicle to the owner. As indicated above, the matter is the subject of an ongoing court matter; Wajir PMTC 4, 2013 – Abdi Aziz Mohamed Vs Attorney-General. The orders to have the vehicle released were set aside until the chemical engineer from the University of Nairobi confirms that the chemicals cannot be recombined and/or mixed with other chemicals to produce Improvised Explosive Devices (IEDs).

The last question is about the damages caused and whether the owner will be compensated for the loss incurred resulting from unlawful withholding of the said vehicle and goods. Since this matter is before the court, any issues of liability resulting thereof can only be addressed once the matter is fully heard and determined in court.

Sen. Abdirahman: Mr. Speaker, Sir, I want to thank the Vice Chairperson of the Committee for the efforts she made in at least getting us some response. It is the second time that I had raised this matter. It is like this is a Government that does not know what its right hand does or what its left hand does. I know this was a subject of a court case, but they seem not to have the latest information because the vehicle is now released. That is why I would not want to pursue the matter further. The information you have given us is outdated or obsolete. It is no longer useful. It is not the first time that the Kenya Army officers patrolling our borders get into responsibilities that they are not involved in. This vehicle was not actually held at the police station, but at the army camp from July last year until two weeks ago. I do not know where they got the orders from, maybe you could find out.

The vehicle is now released and the truth of the matter is that the Government Chemist cleared these goods. They were bought from an industry in Nairobi. I would only attribute what happened to the innocent Abdi Aziz to the constant suffering of our people in that part of the Kenya. In that part of Kenya, I would say, the oppression continues 50 years after Independence. Could the Vice Chairperson undertake to ensure that these bad occurrences do not happen again? The border which is 800 kilometres on that side to Mandera cannot be manned by a few vehicles. They should actually solicit for support from local communities and their leadership. So, could the Chairperson

undertake to make sure our people are safe and that our goods are protected so that our businessmen from that region are not interfered with?

Sen. Billow: Mr. Speaker, Sir, you heard what the Vice Chairperson of the Committee on National Security and Foreign Affairs said. I cannot believe it. She read a Statement that this matter is before the court and the goods in the vehicle can be used for making Improvised Explosive Devices (IEDs). We have also heard that these are goods that were bought in a factory in Nairobi and have been cleared by Government Chemist and the vehicle released. We are seeing a situation where it seems the Government does not seem to know what it is doing.

Will the Government compensate this businessman whose vehicle has been wrongfully held for nearly nine months? Could the Vice Chairperson undertake to ensure that she also gets an explanation as to why she has been misled and given an answer that does not exist in this day and age?

Sen. (Dr.) Machage: Mr. Speaker, Sir, I would like to congratulate the Government for the action they took on materials whose chemical nature is such that by electro-chemical procedures they could be used to manufacture bombs. Could the Vice Chairperson tell us which factory these chemicals were bought from in Nairobi and why they keep chemicals whose use is not even in Kenya or Somalia? There is no factory which uses those chemicals in Kenya or Somalia. Why are the goods being traded in this country?

(Several hon. Senators stood up in their places)

The Speaker (Hon. Ethuro): I thought I was clear that the last clarification is from Sen. (Dr.) Machage.

Okay, let me allow only two. Yes, Sen. Kagwe!

Sen. Kagwe: Mr. Speaker, Sir, I rise to seek your guidance on this matter because whereas Sen. (Dr.) Machage has rightfully congratulated the Government on this matter, it is not possible for a vehicle that is suspected to have serious chemicals that can be used for bombs to be released immediately. We know that under the current structure even fertilizer or simple chemicals can be used to manufacture home-made bombs---

The Speaker (Hon. Ethuro): Order, Sen. Kagwe! Could you conclude?

Sen. Kagwe: Mr. Speaker, Sir, would I be in order to propose that there was no mistake in holding the vehicle to make absolutely sure that the chemicals would not be used to make bombs - even if it was for two years.

The Speaker (Hon. Ethuro): Order, hon. Senators! Sen. Kagwe is completely out of order to propose such. In any case, you are attempting to be the responded and yet you are not. Let us allow the Vice Chairperson to do her work.

Sen. (Prof.) Lonyangapuo: Mr. Speaker, Sir, in light of what is happening in terms of security, it would be proper to leave our security agencies to thoroughly do their work.

The Speaker (Hon. Ethuro): Order! I have just made an intervention to what Sen. Kagwe had proposed and it is similar to what you are trying to do. That is the job of the Chair. Let her respond. This is not debating time.

Sen. Adan: Mr. Speaker, Sir, first, I would like to respond to the delay in issuing this Statement. This Statement was sought by Sen. Abdirahman before we went on recess. Clearly, this House gave a directive that all Statements that were sought before we went on recess lapsed. So, we need to bring them up right now. The second point is that what I have read here is what was given to us by the relevant department. I am actually not aware that the vehicle is released. So, as a Committee, this is an issue that we need to pick up with the relevant department to find out why the vehicle was released.

Mr. Speaker, Sir, there are concerns raised by Members on how communities living on the border are being harassed. I would request the Senators to allow me to take up those issues and concerns raised with the relevant Ministry and get back to you in a week's time.

Sen. Billow: On a point of order, Mr. Speaker, Sir. The Vice Chairperson has not responded to my question. It is clear from what the Senator has said that there was wrongful detention of that vehicle---

The Speaker (Hon. Ethuro): Order! Sen. Billow, you are only reminding, so you do not need to expound.

Sen. Billow: Mr. Speaker, Sir, she did not respond on the issue of compensation.

The Speaker (Hon. Ethuro): Mr. Speaker, Sir, I said earlier in the Statement that the matter is still pending in court. That is the information that I was given by the relevant Ministry. We are not aware about the release of the vehicles. Unless we have proper information from the relevant Ministry, I cannot commit myself in terms of compensation that should be given to that particular person.

Sen. Omondi: On a point of order, Mr. Speaker, Sir. Will I be in order if I say that we cannot rely or trust the report from the Committee because from the explanation it seems that whatever she is presenting in this House, she is not 100 per cent sure. Will I be in order to say that she is cheating or I do not know what language I can use?

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

Sen. Omondi: I am on a point of order.

The Speaker (Hon. Ethuro): Order, Sen. Omondi! Your point of order will be interrupted. Let us allow the Vice Chairperson. What is your intervention?

Sen. Adan: On a point of order, Mr. Speaker, Sir. It is very wrong for the hon. Senator to say that I am cheating in the House. That is very wrong language.

The Speaker (Hon. Ethuro): Order, hon. Senators! Hon. Senators have no capacity to cheat, at least, not on the Floor of the House. So, the word "cheating" is unparliamentary. You should not use it.

Sen. Adan: Mr. Speaker, Sir, I withdraw and replace it with "misleading" the House.

The Speaker (Hon. Ethuro): That is correct.

Let us conclude this matter. She had already responded. The issue of compensation is what had not been responded to. So, it is now time barred.

The Vice Chairperson has promised that the statement they got has been challenged by the Senator from that county. She should go back and seek the information that we have raised. That is only fair. She is acting on a statement that we have

challenged. So, let us give her that time and she will come back with more appropriate answers.

I was expecting you, Vice Chairperson, to say that if the vehicle has been released, then we ought to talk about compensation.

Sen. Adan: Mr. Speaker, Sir, I did not want to commit myself because the information we have is that the vehicle is still detained. This is a matter that we need to interrogate with the relevant Ministry so that we give full information in terms of the concerns raised by the Senator for Wajir.

Sen. Chiaba: Mr. Speaker, Sir, I have a statement from the Ministry of Lands and Housing. The request for the statement was made by the Senator for Mombasa who is not here. The statement is not signed and it is not satisfactory. I seek your guidance.

The Speaker (Hon. Ethuro): Let us move to the next order.

MOTION

THANKS FOR THE PRESIDENTIAL ADDRESS

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

THAT, the thanks of the Senate be recorded for the exposition of public policy contained in the address of the President to Parliament on Thursday 27th March, 2014.

On 27th March, 2014, the President gave his address to the nation under Article 132 of the Constitution in which he outlined a number of things which are demanded by that article of the Constitution. This was particularly with regard to bringing the nation up to speed on what his administration has done with regard to national values, national security and foreign relations. According to the Constitution, the last aspect on foreign relations is not supposed to come to this House. However, the other two, according to the Constitution, are supposed to come to this House.

I want to start by saying that the President's Speech - and I hope every Member has a copy - reflected the state of our country. In the Speech, the President highlighted a number of things with regard to the values of our nation. Owing to restricted time, I will not delve into every paragraph or sentence of that Speech. Members had time and can still look at it more critically as they contribute to this debate. However, allow me to say the following.

Of the 22 national values provided for in Article 10 of the Constitution, the President's Speech highlighted two critical national values. One is the issue of devolution. He spend a bit of time talking about where we are in terms of devolution and also gender equity which is one of the national values under Article 10 of our Constitution.

Let me say that in this Speech, the President, with regard to devolution brought out several things. First, his administration has witnessed the birth of a two tier Government structure, namely, the national Government and the county governments under our new Constitution. The other thing he brought out in that Speech relates to the

amounts of money that have been debated and passed between the two Houses of Parliament as going through to fund counties.

Allow me to reiterate page 2 of the Speech, fourth paragraph, where he talks about the percentage of revenue that has gone to counties. The reason I am highlighting this is because there have been a lot of distortions out there. I have seen some senior people and opinion shapers misleading the public to the effect that the amounts transferred fall short of the 15 per cent which is allowed by the Constitution. I think this is quite inappropriate and quite deceptive for the following reasons.

Article 203(2) of the Constitution says that at least 15 per cent of the revenues collected nationally shall go to counties. Those who are perpetuating the erroneous figure rely on 202 (2). They do not read the next paragraph which says; in computing the revenues under paragraph 2 of this Article, the figures to be used will be those of the last audited accounts received, discussed and approved by the National Assembly.

Mr. Speaker, Sir, with that in mind, therefore, the percentage of the amount that was transferred to devolved units last year stands at 32 per cent of the last audited accounts approved by Parliament which are the 2010/2011 accounts. These are accounts of last year. For this year, the accounts to be used in accordance to Article 203 will be the ones for the 2011/2012 Financial Year.

It is important, as leaders in this country that we stick to the truth and to only challenge things when there is need to. When we challenge, then we should challenge them with decorum. You should not talk as if there is no tomorrow. This Report is today being given by President Uhuru Kenyatta. Some years to come, it will be somebody else. So, let us not personalize some of these things. That is what I wanted to clarify about the amounts transferred to counties.

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

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

Sen. (Dr.) Khalwale: On a point of order, Mr. Deputy Speaker, Sir. The Senate Majority Leader has informed us that arriving at the sharable revenue of this year; the last audited accounts will be 2011/2012 Financial Year. Is he in order to mislead us when we know that the year to be used is the one preceding the current one which is 2012/2013 Financial Year?

The Senate Majority Leader (Sen. (Prof.) Kindiki): Mr. Deputy Speaker, Sir, for the record, the law says that the year that will be used will be the financial year of the audited accounts of that year as approved by Parliament, whichever the year is. If you take last year's allocation, you get 32 per cent.

Sen. Muthama: On a point of order, Mr. Deputy Speaker, Sir. Is the Senate Majority Leader in order to tell us that we have to stick to the audited accounts that were done five years ago while we know that this House and the other House can compel the Auditor-General to give us audited accounts? Is he in order to tell us that we have to wait and be given money based on Kshs690 billion when revenue that was collected to serve people in his own county was utilized for the defence of one person?

The Senate Majority Leader (Sen. (Prof.) Kindiki): I thank you Mr. Deputy Speaker, Sir. I was quoting Article 203 of the Constitution which says that we should use the audited accounts as approved by Parliament. Whether the approved accounts are up to date or not, this is a challenge that faces Parliament. In fact, Parliament should be the one answering that question and not anybody else. It is Parliament to ask, for example, why the latest approved accounts are behind schedule.

I will continue to say that other than the issue of the percentage, it is also---

Sen. (Dr.) Machage: On a point of order, Mr. Deputy Speaker, Sir. I hope you heard what the Senate Majority Leader said. He said we should not personalize this statement to the Head of State. As far as we are concerned, these are statements by the Head of State and every issue here is by the President. Is he in order to gag us from discussing the Head of State's Statement in the House?

Sen. (Dr.) Khalwale: On a point of order, Mr. Deputy Speaker, Sir. My point of order on the audited revenue is not theoretical.

The Deputy Speaker (Sen. Kembi-Gitura): Could we deal with Sen. (Dr.) Machage's point of order first?

Sen. (Dr.) Khalwale, yours seems to be different.

The Senate Majority Leader, are you gagging Members from discussing the President's Speech? Should I take it that Sen. (Dr.) Machage is correct?

The Senate Majority Leader (Sen. (Prof.) Kindiki): You are not correct because even if I tried, that would be against the law and the Constitution.

The Deputy Speaker (Sen. Kembi-Gitura): Sen. (Dr.) Machage, I want to get you on this. What are you complaining about? What did the Senate Majority Leader say that did not please you?

Sen. (Dr.) Machage: Mr. Deputy Speaker, Sir, he said that we should not personalize this statement to the Head of State. As far as we are concerned, this is a statement by the Head of State where he is telling us what he thinks. It is not a proxy statement. This is his statement.

The Senate Majority Leader (Prof. Kindiki): Mr. Deputy Speaker, Sir, Sen. (Dr.) Machage is from the medical background and maybe part of the English challenges we are facing has something to do with that training. Let me say that when I say "personalizing", I did not mean that you remove the Statement from the maker of it. All I was saying is that this is a Statement from the President as the President of the country.

Sen. (Dr.) Khalwale: On a point of order, Mr. Deputy Speaker, Sir. Thank you for indulging me. The issue of audited accounts is so critical. The economy of Kenya is growing. Therefore, if we fail to use the audited accounts of 2012/2013 Financial Year---

The Deputy Speaker (Sen. Kembi-Gitura): Order. Sen. (Dr.) Khalwale, may I refer you to Article 203 (3) of the Constitution. Could you read it out yourself?

Sen. (Dr.) Khalwale: Mr. Speaker, Sir, I am conscious of that.

The Deputy Speaker (Sen. Kembi-Gitura): You cannot go against the Constitution. It talks about the last audited accounts. So, if the last audited accounts that are available for this purpose are for 2013, then that is what we will go by. That is my understanding of the Constitution.

Sen. (Dr.) Khalwale: Mr. Deputy Speaker, Sir, it is very important that I make my point. I understand these things.

The Deputy Speaker (Sen. Kembi-Gitura): I am sure you do, but the only point I am making and it is important for the House, is that we must go by the Constitution. Article 203(3) of the Constitution to me appears plain and clear. So, all of us would wish that it is the audited accounts of 2013 that we are dealing with. However, if they are not approved by the National Assembly, then possibly we cannot deal with them.

Sen. (Dr.) Khalwale: Mr. Deputy Speaker, Sir, that is my point of order. The Senate Majority Leader represents the Executive in this House. At least, he speaks for it. We know that because of the tyranny of numbers, business in the National Assembly does not go by the will of the legislative agenda. Could it be that in so saying, the Executive is deliberately refusing to pass accounts that have already been audited by the Auditor-General so that shareable revenue does not reflect what is really on the table? Could he tell us why the Government does not want to table before Parliament, the accounts that have long been audited by Edward Ouko so that they are approved and so that more money goes to the devolved structure?

The Deputy Speaker (Sen. Kembi-Gitura): Hon. Members, even before we talk about procedure, this is a very important issue that we are discussing here. Therefore, it is a matter I would like us to look at. I want us to do it in the context of Article 203(3). If you want to impute a motive on anybody then do it in that light, but not to say that we can do other than what is provided for in the Constitution at Article 203(3). What we have at the moment and what can guide us, if you know things that we do not know, maybe you can talk about them. But as we sit here now, we only know that it is the last approved accounts by the National Assembly, and that is a clear provision of the law. Everything else as I sit here could be extraneous and a matter for debate another day, but not for the purposes of the debate that we are pursuing now.

Sen. Orenge: Mr. Speaker, Sir, the point that Sen. (Dr.) Khalwale is making is very important. If you read the Constitution selectively then you can reach the conclusion that the Senate Majority Leader has reached. But if you read the Constitution as a whole and apply the principle of interpretation which requires a purposive interpretation of the Constitution which includes obedience to the rule of law, then it will not be lost to the Senate Majority Leader to read Article 229 (4). It assumes that everybody is obeying the law, including Parliament. It says this:-

“Within six months after the end of each financial year, the Auditor-General shall audit and report in respect of that financial year.”

What happens after the report has been made, it requires of Parliament that within three months after receiving it, Parliament shall debate and consider it. This means that if we had a government like this Government which is not committed to devolution, then you will read Article 202 exclusively without reading Article 229. The operative Article is not really the Article that the Senate Majority Leader is---

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

Sen. Orenko: I am on a point of order. Please, have some decorum like you said. When another Member is on his feet, you are duty bound to be sitting even if you are the Senate Majority Leader.

(Laughter)

Mr. Deputy Speaker, Sir, this was a mischief that the makers of this Constitution wanted to deal with. Under the old Constitution, the auditing---

The Deputy Speaker (Sen. Kembi-Gitura): Sen. Orenko, what is your point of order?

Sen. Orenko: Mr. Deputy Speaker, Sir, is it in order for the Senate Majority Leader to read the Constitution selectively? If he does it, then he will not interpret the Constitution purposively as a living document. He will interpret it in such a manner as an Englishman used to say; laws are there for the guidance of the mighty, but for the obedience of the poor. The Constitution of Kenya did not want that state of affairs.

The Senate Majority Leader (Sen. (Prof.) Kindiki): Mr. Deputy Speaker, Sir, I have listened to the sentiments of my learned senior, Sen. Orenko, and I have no problem with the rules of interpretation. For 12 years, I taught constitutional law. I am aware not just about that rule, but the seven other rules of interpretation. However, this subject does not belong to this discussion. If the Auditor-General has not submitted reports, that is not the subject matter of what I am saying. Secondly, if those reports have not been approved by the National Assembly, that is not part of what I am saying. I am saying that Article 202(3) as read together with part 4, that you use the audited accounts approved by the National Assembly----. It is that simple. As to how we are in terms of the record; whether we are up to date, that is a matter which is extraneous to the point I am making. I was just stating the law as it is.

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

Sen. (Prof.) Kindiki: Mr. Deputy Speaker, Sir, protect me from unnecessary points of order.

The Deputy Speaker (Sen. Kembi-Gitura): Order, hon. Senators! In my opinion, it is as if we are debating audited accounts under Article 203(3). If that is what we are talking about, then it is clear. Sen. Orenko has brought to our attention 229(4) and (8) of the Constitution. Article 229(4) says that within six months at the end of each financial year, the Auditor-General shall audit and report in respect of that financial year.

Then Sub-Article 8 says:-

“Within three months after receiving an audit report, Parliament or the County Assembly shall debate and consider the report and take appropriate action”.

So, the issue is quite simple really; has the National Assembly approved the audited accounts and for which year? I do not think we can put the Senate Majority Leader to task on that issue if he is talking about the provisions of the Constitution at Article 203(3). Everything else with respect to all of you is going to be extraneous because he can only deal with what is there and what the Constitution provides for. If there has been a failure to comply - whether by the Auditor-General to comply with

229(4) or by the National Assembly to comply with 229(8) - it cannot be in the province of the Senate Majority Leader to deal with that specific issue.

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

The Deputy Speaker (Sen. Kembi-Gitura): On what? It cannot be on the same issue. Sen. Murkomen we cannot continue dealing with the same issue. If it is on the same issue, then we cannot continue with it. What is your point of order?

Sen. Murkomen: Mr. Deputy Speaker, Sir, I think it is important that we set certain things straight for the record of the House.

Sen. Orengo has tried to impute improper motive on the side of the current Government when we know very well that the statistics that were used last year for Division of Revenue were the statistics that were put in place by an Auditor-General who was being coordinated by a party and a party leader who Sen. Orengo was leading at that time.

Sen. Orengo: Mr. Speaker, Sir, if I was the former President I would just say, *bure* Murkomen!

The Deputy Speaker (Sen. Kembi-Gitura): Sen. Murkomen, we are dealing with a simple and direct issue and it is not my wish to go into history. We are dealing with a situation where we are not going to cast aspersions, but deal with the issues as they are. The issue is on the provisions of the Constitution. If the Senate Majority Leader goes against the provisions of the Constitution, I will stop him in his tracks. If anybody else goes against the provisions of the Constitution, I will do likewise. It is not a question of this side or the other side. This is the Senate and we are going to proceed in that manner. I have made a ruling on that and said that we cannot stop the Senate Majority Leader from referring to what is patently provided for in the Constitution under Article 203(3).

Sen. Orengo: Murkomen *bure kabisa!*

(Laughter)

The Senate Minority Leader (Sen. Wetangula): On a point of order, Mr. Deputy Speaker, Sir. Like the late Martin Shikuku, we should be subservient to the rules of this House. Have you noticed that as another Senator is standing on a point of order, the two young Senators sitting in front of me; Sen. Murkomen and Sen. (Prof.) Kindiki, were permanently shouting "point of order", standing up, sitting down and standing up when, in fact, the rules do not provide for that.

Secondly, did you hear Sen. Murkomen saying your ruling was misleading?

The Deputy Speaker (Sen. Kembi-Gitura): Did you say that, Sen. Murkomen because then you were completely out of order?

The Senate Minority Leader (Sen. Wetangula): He did! You can check the HANSARD.

(Sen. Murkomen stood up in his place)

You can even see I am on a point of order and he is on his feet. This is the problem we run into when---

The Deputy Speaker (Sen. Kembi-Gitura): Sen. Wetangula, let us go to the substance.

The Senate Minority Leader (Sen. Wetangula): Mr. Deputy Speaker, Sir, this is the problem we run into when colleagues have been sent to defend a position they cannot defend with clarity.

Sen. Murkomen; Mr. Deputy Speaker, Sir, for avoidance of doubt, I did not challenge your ruling.

The Deputy Speaker (Sen. Kembi-Gitura): I have not given you the Floor. If you want the Floor you should indicate that you want the Floor. Sen. (Prof.) Kindiki, can you proceed with your debate?

The Senate Majority Leader (Sen. (Prof.) Kindiki): Mr. Deputy Speaker, Sir, I thank you.

Other than the issue of amounts, there is also the issue of transfer of functions. I think also it is proper to say that the relevant institutions that are charged with the transfer of functions executed their work and that is also contained within the President's Speech. That is mainly that the Transition Authority (TA) was able to gazette the functions that were to go to counties. The counties that were not satisfied with the transfer of functions and the gazettment as provided for by the law had an opportunity to appeal to this House; this House through the Committee on Devolution has already, as you know, prepared a report which will be soon tabled before it. In other words, the issue of transfer of functions is on course.

Thirdly, Mr. Deputy Speaker, Sir, on the same issue of devolution other than the transfer of functions and the issue of the disbursements to counties, is the issue of accountability. The President's Speech is very clear that on the resources that counties get, there must be accountability. I want to make reference to one sentence, which is very critical to me. In the President's Speech on page 2, I think on paragraph six, he says:-

“But let us be careful: in devolving power and resources to the counties, we must remember that to infect our new county government with the worst vices of the old is to betray the great hope of the Constitution and its tenets of leadership and integrity.”

Mr. Deputy Speaker, Sir, in this sentence, I see a very bold admission by His Excellency the President and this is what those who are fighting accountability are trying to use; that it is true that for nearly 50 years, the national Government in this country has acquired some bad habits around wastage and around corruption. These are the problems that we, as a nation, are confronting. To say that the fact that the national Government has acquired these habits over the last 50 years, therefore, is an excuse that counties can start being corrupt and wasteful, is not only misleading, but is also actually against the Constitution, especially the Chapter on Leadership and Integrity.

Mr. Deputy Speaker, Sir, I say so because, for me, this is an admission that the national Government is fighting to tackle old problems that this country has acquired around wastage, corruption and non-commitment to the ideals of our Constitution. Therefore, for me, I really want to support this position; that counties present a great opportunity that you can have a lean, small, efficient Government that is service oriented;

that spends most of its resources and energies to serve the people as opposed to extravagance, opulence, wastage and corruption.

(Applause)

The fact that the same problems are bedeviling the national Government is not an excuse for counties. For us, as Senate, we are in charge of the counties as a primary mandate. Our desire is to see counties perform and, therefore, the issue of corruption and wastage must not be tolerated, whatever the excuse. We cannot say that because so-and-so is doing it, I should be left to do it.

Mr. Deputy Speaker, Sir, I just wanted to emphasize that point and the admission by the President that, indeed, the national Government itself is facing challenges and, according to his Speech, he wishes that counties, because they are starting afresh, do not have to build these kind of inefficiencies that can dwarf down service delivery.

Mr. Deputy Speaker, Sir, because of time, the other aspect that he mentions is the state of our situation as a country in terms of security. I want to take this opportunity to convey my condolences to the families and relatives of those who lost their loved ones last night and today also in yet another barbaric attack on innocent people. We have had so many other incidents like the Joy of Jesus Church attack and at the Westgate Mall last year on the 21st of September. I think time has come for this country to look at the challenge of insecurity with a fresh lens. I have seen, in the speech of the President, that he has talked about overhauling the security infrastructure in this country, which in itself, if you ask me, is an admission that the system is deficient. This is a problem that we have, again, accumulated over the years. The security apparatus that we have put in place has not served this nation well. It is for this reason that we are witnessing the kind of morbid fear that citizens are now living in because of these kinds of attacks.

Mr. Deputy Speaker, Sir, Kenya today is where the Americans were on 11th September, 2001; that is where our country is now. So, we should ask ourselves the question; what is it that they did that we can learn from so that we can tackle this challenge, once and for all? So, I have seen the proposals in the President's Speech. I believe that in the next three days as we debate this Speech, we, as leaders and legislators, should enrich the alternatives and the policy suggestions that the President is giving so that we can take the agenda forward as problem solvers as opposed to problem makers.

Mr. Deputy Speaker, Sir, the increase in gun attacks and the increasing menace on our wildlife is alarming; terror groups which are targeting civilians and, in general, the public has completely lost faith in our security apparatus. So, we must do something. It is in this connection I hope that even as we discuss this Speech, we can explore both suggestions even beyond what the Executive itself thinks are the solutions. For example, even as I move and support this Motion, the time has come for us to have an institutional framework under a single command to tackle threats of terror with all the necessary skills, equipment and apparatus.

Mr. Deputy Speaker, Sir, I have heard some saying, for example, that there is no way our men and women who served in the military can be under the command of any

other person other than the Commander in Chief or the Chief of Defense Forces. That argument is not only unconstitutional, but it is an unpatriotic and a violation of the principles and values of public service. You will not tell me that because you are a military officer, you cannot just be asked to do something by somebody else who is not your direct boss. If we have to amend the law, so be it. I say so because it has happened in other countries with success.

Mr. Deputy Speaker, Sir, if you allow me, I want to refer specifically to 2001. I am moving towards the end of my speech. In 2001, the Americans enacted a legislation called the Homeland Security Strategy Act of 2001. The fourth component of that strategy was to involve members of the military in specific operations which require addressing threats to internal security and to subject them to the command of other security formations for that operation only. Otherwise, to say that we have people who have skills to help us fight violence, terror and death, but because of pride, arrogance and professional rivalry, they cannot submit themselves to the authority of other security agencies, that argument is backward, unpatriotic, unconstitutional and it cannot hold water. I say so because in September last year, we witnessed in dismay as our military and security forces kept us in suspense and terror for four good days. It is possible that, perhaps, the reason for the longevity and confusion in that operation was caused by some of these problems.

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

The Senate Majority Leader (Sen. (Prof.) Kindiki): In terms of tackling this problem, I believe that there is need for very bold and a new way of doing things. I want to really---

The Deputy Speaker (Sen. Kembi-Gitura): Would you like to be informed?

The Senate Majority Leader (Sen. (Prof.) Kindiki): Yes, Mr. Deputy Speaker, Sir.

The Senate Minority Leader (Sen. Wetangula): Thank you, Mr. Deputy Speaker, Sir. That is the spirit we want to embrace. In fact, I want to inform the distinguished Senator for Tharaka-Nithi, who is the Senate Majority Leader, that, in fact, the bungling of Westgate was so bad that the Cabinet Secretary (CS) for Security was seen on Television giving a different version of the number of people involved while the Commander of the Armed Forces was telling him to say something different. Then, one arm of Government said that there was no looting by the military while another one said that there was, in fact, looting. Some soldiers were seen on Closed Circuit Television (CCTV) looting. So, I thank you for being so honest for a change.

(Applause)

The Senate Majority Leader (Sen. (Prof.) Kindiki): Mr. Deputy Speaker, Sir, we are always honest because we hold our loyalty to the Constitution and to the rule of law. Our loyalty is to our motherland. We have no other loyalties; other loyalties are secondary.

Mr. Deputy Speaker, Sir, I want to thank the Senate Minority Leader and continue as follows. That apart from a sound command structure, we will also need an institutional arrangement where border control officers are trained in policing, because at the moment our immigration officers are just people who have no policing skills. So, we need to look at the immigration and citizenship law and introduce proper training for border control. For example, officers in immigration, people in the Criminal Investigation Department (CID) and those in the National Intelligence Service (NIS) can co-operate in investigation, analysis and recommendation in terms of terror threats. The moment we have separation in terms of activities, then we are likely to face challenges where one institution has not been involved in investigation in terms of implementing the recommendations. So, we need an integrated approach.

Mr. Deputy Speaker, Sir, I think time has come to ask ourselves a number of hard questions. Why are we facing some of the threats that we are facing as a nation? Some people tell us “Oh, it is because Kenya sent its troops into Somalia.” Uganda has its troops in Somalia---

The Senate Minority Leader (Sen. Wetangula): Even more troops!

The Senate Majority Leader (Sen. (Prof.) Kindiki): Up to now, there was only one attack, I think a year or two ago. But even the better example is our neighbour, Ethiopia, where you have not heard of a single attack, yet it sent 5,000 soldiers into Mogadishu. It means that something is not right in our country.

(Applause)

It means that we must right it. We can forget everything else and even forget our grand dreams about whatever we want to do in various sectors, but we must prioritize national security.

Mr. Deputy Speaker, Sir, tough times require tough decisions. Tough decisions require tough people. Therefore, if we have to reorganize our institutions and if we have to reorganize our legal framework, we must do whatever we have to do to save this country which appears now to be under the hands of bandits, cattle rustlers, terrorists as well as poachers.

Mr. Deputy Speaker, Sir, with those many remarks, I beg to move this Motion and request the Chairperson of the Committee on Devolution, who is also the Senator for Elgeyo-Marakwet, to second this Motion.

Thank you, Mr. Deputy Speaker, Sir.

(Applause)

Sen. Murkomen: Mr. Deputy Speaker, Sir, I want to say from the outset that I second this Motion. First of all, I want to congratulate His Excellency the President for being the first President in the history of our Republic to give what we call the State of the Nation Address. The State of the nation Address emanates from the history of the American people. It happened that America was formed as a federation or federal State because the various states were considering themselves to be different entities. So, after

they had signed their declaration to come together, it became necessary that the President of America would every year give the state of the nation address to update the nation as to how far the nation has moved in terms of keeping to its federal agenda. This has been borrowed by many countries all over the world and when we adopted our new Constitution in 2010, one of the key provisions was Article 132 on the State of the Nation Address.

Mr. Deputy Speaker, Sir, many people were asking: “Why did the President say the things that he has been saying? Why did he not say new things? Why did he not give an agenda for the next one year? Why did he not propose a different way of handling matters security?” It was not possible for the President to give new agenda, issues and ideas, because what was expected of him was to update the nation as to what his Government has been doing for the last one year. So, it appeared as though some of the issues that the President was saying had been said in one function where he was launching a project or another time when he addressed Parliament and when he was addressing a conference. The State of the Nation Address is a sum of all the things that the Government has done for the past one year.

Mr. Deputy Speaker, Sir, I was impressed that the President focused on how the country has been able to achieve the values that are provided for in Article 10. One of the values required is unity, and Article 10 talks about devolution. If we want to move as a nation and unite as a country, one important principle of governance in Article 10 is devolution. I want to commend this Government for the good job that they have done in so far as shepherding devolution in the first year. I am saying this because in a record one year, we have been able to assist counties to be on their feet and form their governments. Through capacity building, we have assisted the counties to establish the county public service boards, working together with the national Public Service.

Within the first year, we were able to allocate, as Parliament, with the support of the Jubilee Government, the first Kshs190 billion to the counties. I know that there is a lot of debate as to why they have not used the money, and it is true. There is a lot of money that is lying in the Central Bank of Kenya that has not been used by the counties. But it is important to refer this House to the provision of the Public Finance Management Act, which makes it clear that even if the money will not have been used by the end of the financial year, it reverts back to the county governments. It cannot go back to the national Government. It is important that we continue replenishing the accounts of our counties even if in the first instance they are unable to use that money. Therefore, it is commendable that the national Government, working with this House and the National Assembly--- although we were interrupted rudely midway, we were able to put counties on a good pedestal to start.

Mr. Deputy Speaker, Sir, the legislations that were put in place by the previous Parliament, in which the Senate Minority Leader and Sen. Orengo sat, were very important. I think it is important that the national Government also assisted the counties to implement those legislations. Therefore, we must make it clear that devolution is the best principle that can equalize this country. Without devolution, we will not have the kind of unity that we are intending. Even with the challenges that we have, we must work every day to ensure that devolution is grounded.

I have heard so many people express particular assertions. Some of them say that devolution is under threat and that the Senate is attacking devolution when we ask questions of accountability. They also say that the national Government wants to do away with devolution. But when you ask them to show evidence of how the Senate or national Government wants to bring down devolution, you will realize that they are lofty statements that are made by individuals whose intention is basically to protect their turf, so that questions of accountability are not asked.

Mr. Deputy Speaker, Sir, on the issue of dealing with the vulnerable in the society, I want to commend the national Government for moving with speed and actually doing a good job in the process of resettling squatters, plus people who are in IDP camps. I know that the President, while reading his Speech – I think either because someone had typed badly – mentioned that the national Government settled only 900 people. That is not true. The national Government where I come from – Embobut – paid 2,740 individuals Kshs400,000 each to get out of the forest. The same was done for the IDP camps and in Mau Forest, and we must commend the Government. There are many other people who are yet to be paid, but it is important that, that step was started in terms of dealing with the vulnerable. It is important also to note that the Government moved with speed---

Sen. Muthama: On a point of order, Mr. Deputy Speaker, Sir. Is the Chairman of the Committee on Devolved Governments really in order to talk about compensation of IDPs, when indeed, that money was paid to people in just one part of this country? Actually, we have IDPs at the moment – women and children – who are sleeping in stadia, more so where the hon. Senator comes from. Is he in order to give praise and credit where it is not deserved?

(Sen. Obure stood up in his place)

The Deputy Speaker (Sen. Kembi-Gitura): Sen. Obure, is it on the same issue?

Sen. Obure: Mr. Deputy Speaker, Sir, perhaps it is on something different.

The Deputy Speaker (Sen. Kembi-Gitura): We would like him to deal with this one first and then we will take your point of order.

Sen. Murkomen: Mr. Deputy Speaker, Sir, the Chinese said: “A journey of 1,000 miles starts with one step.” In the first year, the first step that the Government took was to issue title deeds in Coast Province and parts of Rift Valley where we had actually the hotspots of post-election violence. This is commendable. I did not say that everything was done. I was very clear that, that is the beginning. Even in Embobut, where about 2,700 people were paid, which is commendable, not everybody has been paid. There are others who have been told to wait for another phase, because it is not an easy thing. This is something that the Coalition Government in the past regime spent so many years doing nothing about. I do not want to say that its representation is in the House, but even men and women who were running those departments are in this House and know how it was difficult for the Coalition Government to deal with it. Now in less than one year, this Government has been able to take a step.

The Deputy Speaker (Sen. Kembi-Gitura): Sen. Obure, has your point of order been spent?

Sen. Obure: Not exactly, Mr. Deputy Speaker, Sir. If you allow, I will raise the point of order.

Mr. Deputy Speaker, Sir, the hon. Senator on the Floor has suggested that in terms of cash payments to IDPs, 777 people – according to the President’s Speech - have been paid. The Senator is now suggesting that this figure is not correct. Are we now being told that the Speech by the President that we are debating is not factual?

Sen. Murkomen: Mr. Deputy Speaker, Sir, I mentioned that there must be an error somewhere. It is either a typo---

An. hon. Senator: Computer error!

Sen. Murkomen: Mr. Deputy Speaker, Sir, someone is shouting “computer error,” but in all honesty, that is not the figure. As I told you, even in Embobut where I come from, it was over 2,700 people. Therefore, there must have been a problem with that figure.

Sen. Obure: Mr. Deputy Speaker, Sir, in that event, are we in order to proceed to debate this Speech if it is not factual?

Sen. Murkomen: Mr. Deputy Speaker, Sir, I am just one of the debaters of this Motion. I do not want to say whether it is me to validate the factual nature of that statement---

Sen. (Dr.) Machage: On a point of order, Mr. Deputy Speaker, Sir. Is Sen. Murkomen in order to insinuate that the President actually did not speak his mind in the State of the Nation Address and that he was actually reading somebody else’s Speech?

Sen. Orengo: On a point of order, Mr. Deputy Speaker, Sir. I think that the hon. Senator should take a little time to read this Speech, because it would appear that he has not properly read it. The President was talking about households and now he is talking about individuals. Can you go and apologize to your President, that you misrepresented him in this House?

The Deputy Speaker (Sen. Kembi-Gitura): Sen. Murkomen, may I refer you to page 3; the second paragraph of the Speech by the President. He talks about 8,298 households and that a total of 777 have received cash payments. You can then, maybe, make a correction. If it is an error, it is an error.

Sen. Murkomen: Mr. Deputy Speaker, Sir, I was only drawn to the attention that a total of 777 have received cash payments of Kshs400,000. In my opinion, this is erroneous because if it is 777, the figure that we are working with, I can confirm that in Embobut, it was 2,700. But the good thing is that prior to that statement of 777, there is a figure of 8,298 households. That may cure the error.

The Deputy Speaker (Sen. Kembi-Gitura): There is no error. Sen. Orengo is asking you to read it in its totality. It says:-

“A total of 777 have received cash payments of Kshs400,000 per household, totalling Kshs3.3 billion.”

So, you must take 8,298 and 777 in context.

Sen. Murkomen: I agree with you, Mr. Deputy Speaker, Sir. I think that Sen. Orengo is correct; that maybe, if you marry all figures they will match up. But I must

admit that I never got the message as it ought to be, because of the presentation of that section. But I stand corrected.

Sen. Muthama: On a point of order, Mr. Deputy Speaker, Sir. Even going by what is written here, if you take 777 households getting Kshs400,000---

The Deputy Speaker (Sen. Kembi-Gitura): Sen. Muthama, with a lot of respect to you, that is a point of debate, and I am sure that you will have a moment to debate this issue. You can bring out the figure at that point if you wish to. But as it is now, the Speech is here and you are debating it. Everybody can give their own opinions about the debate, but I will not allow a debate on a point of order.

Sen. Murkomen: Thank you, Mr. Deputy Speaker, Sir. I have lost a lot of time and so, I hope that I will be compensated.

The Deputy Speaker (Sen. Kembi-Gitura): Your time is being held.

Sen. Murkomen: Mr. Deputy Speaker, Sir, I was saying that it is commendable - whatever the stake - even if it was ten people. We are moving in a particular direction in addressing issues of the vulnerable.

Mr. Deputy Speaker, Sir, my last issue is on security. I agree with the Senate Majority Leader that when it comes to issues of security, we have to rethink as a country. It will be unnecessarily defensive for anyone to say that we are happy with the state of affairs of our security at the moment. Someone said in my twitter account last night, after the blast occurred in Eastleigh, that we are operating in fear in Nairobi and when you get out of your house, you do not know if you will be able to come back to that house in the evening. That is not supposed to be the state of affairs in our country.

Mr. Deputy Speaker, Sir, on Friday last week, I was in Bungoma in a very rural area called Malakisi and I found that the police have new motor vehicles. The other week, I was in Elgeyo-Marakwet and I found new motor vehicles. So it is important for us to appreciate the effort that the Government has made in terms of investing in security equipment. In fact, our counties have gone further to supplement it by buying vehicles although that is not a function that has been devolved to counties. We must collectively, as a country, come together and reason together instead of engaging in blame games. I want to invite our brothers from the Minority side that instead of reducing themselves to people who are critiquing everything, they must also table policy alternatives so that we can see what they have. We love the opposition and we love to be checked, that is why we can do better. We can come together even as a Senate and have policy alternatives. The Majority Leader has proposed that we need to merge the various arms of security so that they can work together like the Americans came up with homeland security. Therefore, the other side of government, the Opposition or the government in waiting even if they are waiting for 50 years, should have policy alternatives on matters of security.

The Deputy Speaker (Sen. Kembi-Gitura): Order. Your time is up.

Sen. Murkomen: With those few remarks, I beg to second.

(Question proposed)

The Senate Minority Leader (Sen. Wetangula): Mr. Deputy Speaker, Sir, I stand to contribute to this Motion and listening to young Sen. Murkomen, you feel so sad and unhappy with the goings on in this country. I walked into the National Assembly Chamber with a lot of hope and I came out a very unhappy person. Listening to the President, the person I know very well and a friend, whom we have worked with in the same Cabinet, you could see a very demoralized President. You could see a frustrated President. No wonder that even when you look at the paragraph you referred us to, that is, paragraph two on page three, when the President says that 777 households have received Kshs400,000 totalling to Kshs3.3 billion, you wonder where this came from because 777 times Kshs400,000 only comes to Kshs310,800,000 so where did the Kshs3.3 billion come from or is the difference the money that has already been stolen through corruption?

Mr. Deputy Speaker, Sir, this country has serious challenges and the biggest challenge is the issue of security. With what is going on in the country, including what happened at the Joy in Jesus Church in Likoni, Mombasa, in Eastleigh today, the bus to Garissa and so on; one would expect a responsible Government to even have the President address the nation and tell the nation what we are going to do to face these challenges. Instead we are told that the President is boarding a plane to go out of the country for two weeks when the country is under very severe strain on matters of security. If you look at the annual report on the state of national security, you feel even more disappointed. It is just banding together useless statistics that have no value and do not help anything.

If you ask any Kenyan today what the biggest challenge to our security is, you will be told even by a child that it is terrorism but when you look at this report as they have outlined the crimes we are facing, they talk about homicide, offences against morality, other offences against persons, robberies, break-ins, theft of stock, stealing, theft by servant, theft of vehicles and other thefts, dangerous drugs, traffic offences, criminal damage, economic crimes, corruption, offenses involving police officers, offenses involving tourists and other penal code offense. There is no mention of terrorism yet that is the greatest challenge we are facing today. Stock theft has always been there, offences against morality have always been there, offences against persons, aggravated assaults and ordinary assaults have been there, thefts have always been there and so on. One would have expected the Head of State to pick terrorism as the new challenge to our security structures in the country.

Terrorism has made the country insecure and it is undermining our economy. If you go to Mombasa and the entire coast region, tourism is suppressed, there are cancellations of bookings. Yesterday, I saw that Australia has issued a travel advisory that Australians should not be travelling to Kenya. The British have done that already, the Americans do that and renew it every month. So, one would expect that this is the challenge on security but instead, we are being told about *Nyumba Kumi*. Can you fight terrorism with *Nyumba Kumi*? You are dealing with fire power. These are people with Improvised Explosive Devices (IEDs). This is what we have been seeing in churches, in social places and everywhere.

Mr. Deputy Speaker, Sir, hand in hand with terrorism - and we salute the gallant Kenyans who have fallen to these evil hands, may God rest their souls in eternal peace. Regarding poaching, one would have expected to hear the President come up with a no nonsense statement and warn the Kenya Wildlife Service (KWS) and put them on notice that if they do not stop poaching with all the money we give them, with all the equipment, they are going to be disbanded and a new structure put in place, but what did we see, a very casual mention about poaching. I expect the distinguished Senator for Narok to come strong on this. Your economy is in shambles because of poachers. Poachers are roaming everywhere, shooting our elephants, slaughtering our rhinos, killing every animal in their way and what does the President say; "poaching is becoming a menace, we shall seek to control it." What measures do we have to control poaching? These are very serious issues. In fact, if I was from Kajiado and Narok, I would cross the Floor and sit where people who care for my economy sit.

Mr. Deputy Speaker, Sir, hand in hand with security, we have challenges between the National Police Service Commission (NPSC) and the police force. Every other day, you see one arm of the police trying to outdo the other. These are matters within the realm of the President to call these two officers to order and tell each to keep their lane under the Constitution. We are sick and tired of hearing the Inspector-General is doing something he ought not to be doing and Kavuludi is doing something he ought not to be doing and so on. What we want is not a competition on who is doing what and who is right or wrong but we want security.

You have seen an upsurge of police turning on *wananchi*. I sought a Statement here the other day where police in Bungoma shot people for no reason at all. This is not just in Bungoma alone but it has happened in many other places. We fully appreciate the difficult circumstances under which the police work and we want them to be given even better facilities to work. I have said on the Floor of this House before that when you have a policeman in Nakuru supposed to be commanding Rift Valley Province and you give him a Land Rover or a Passat, how do you expect him to attend to security challenges in Kibich? How do you expect him to attend to security challenges at the tip of the northern part of the country? One would expect that police are given equipment like helicopters. I read the other day that all the Russian giant helicopters the police have are grounded and only one is working. It was in the media coming from the state. How do we meet our security needs when we have situations such as this?

Mr. Deputy Speaker, Sir, this country is deeply religious. Everybody works and if you are a Muslim on Friday, you dutifully go to the mosque to pray and if you are Christian, you dutifully go to the church to pray. Those who believe in *Dini ya Musambwa* like some of my kinsmen go to their shrines to pray but now crime has taken over even houses of worship. Innocent people go to church on a Sunday to pray and thugs walk in with guns and spray them with bullets indiscriminately. You know the case of the little child in Kenyatta National Hospital (KNH). That is a collective shame to all of us that we can let our security situation come to this level.

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

The Senate Minority Leader (Sen. Wetangula): Inform me.

Sen. Murkomen: I just wanted to inform the Minority Leader that the little child has successfully been operated upon and we thank our doctors for the good job.

The Senate Minority Leader (Sen. Wetangula): Indeed, the child has been operated on not because of the Government but because of the doctors. The child should never have been in that state in the first place if the Government discharged its constitutional responsibility of security for all. So, I welcome the information but it is a useless piece of information.

The Deputy Speaker (Sen. Kembi-Gitura): Sen. Wetangula, you should be a bit more gracious to people who undertake to inform you.

Sen. Elachi: On a point of order, Mr. Deputy Speaker, Sir. Is the Minority Leader in order to say that “it is useless information” and yet I saw them in KNH and they went to see the child? I think they will be very happy today and thank God that the boy is alive. Are you in order to say that it is useless information”?

The Senate Minority Leader (Sen. Wetangula): Mr. Deputy Speaker, Sir, I withdraw the word “useless” and replace with the word “worthless” because I already knew the child had been operated.

The Deputy Speaker (Sen. Kembi-Gitura): Are you satisfied Sen. Elachi?

Sen. Elachi: No.

The Deputy Speaker (Sen. Kembi-Gitura): Sen. Elachi, Sen. Wetangula sought to be informed and he was informed and he did not think it was important. So, your point of order is---

The Senate Minority Leader (Sen. Wetangula): Mr. Deputy Speaker, Sir, when information is used and my distinguished learned junior can accept, it is either useful or the opposite. That is the opposite of useful.

Mr. Deputy Speaker, Sir, houses of worship are under severe threat. One expected the President to tell this country that we are a country that abides by the rule of law. One would have expected the President to tell us the steps his Government is taking to protect houses of worship. The clergy are now demanding guns to use as they preach. What will happen if a clergyman wielding an AK-47 disagrees with his flock? Would he use that gun?

The arms of the clergy are the Bible and the Koran. That is all we want. The state of the nation is that it is sick; very sick. The President was to address us on three issues; national values, security and discharge of our international obligations.

With regard to discharge of international obligations, the President said nothing apart from saying that we have gone to South Sudan. We can conclude that our international engagement and obligations are at sea level. We wait for the CORD Government to come and engage a better gear on that.

On national values, as the President rightly pointed out on page one of his Speech, these are national unity and sharing of powers, which they pay lip service to. We know that power has been shared in the most inequitable manner in this country. We know that devolution is under severe threat from the Jubilee Regime. They do not believe in it. They also do everything humanly possible to trip and trick devolution so that we see failure in it.

Sen. Wangari: On a point of order, Mr. Deputy Speaker, Sir. Is the Senate Minority Leader in order to incriminate the Government without giving substantial evidence?

The Senate Majority Leader (Sen. Wetangula): Mr. Deputy Speaker, Sir, I do not want to be rude to the gracious lady.

Sen. Wangari: Mr. Speaker, Sir, the Senate Minority Leader said that the Jubilee Government is doing everything possible to make sure that devolution does not work. Could he lay the evidence on the Table?

The Senate Majority Leader (Sen. Wetangula): Mr. Deputy Speaker, Sir, one time, the late Jean Maria Seroney was sitting on the Chair the way you are. The late Martin Shikuku stood and said; “this people want to kill Parliament the way they have killed KANU.” When challenged by the Speaker on the Chair, the late Jean Maria Seroney said that a Member of the House cannot be called to substantiate the obvious. I invite you to follow the same precedence.

The Deputy Speaker (Sen. Kembi-Gitura): You are inviting me to do what?

The Senate Majority Leader (Sen. Wetangula): Mr. Deputy Speaker, Sir, I am inviting you to follow the precedence set by---

The Deputy Speaker (Sen. Kembi-Gitura): And what should I do in the circumstances?

The Senate Majority Leader (Sen. Wetangula): Mr. Deputy Speaker, Sir, you should rule that I do not substantiate or be challenged.

The Deputy Speaker (Sen. Kembi-Gitura): All I can say, at this juncture, is that you are giving your own opinion. Whether or not you know it is right, that is not for me to say. This is a matter of debate. That is all I can say but you cannot tell me to follow precedence that I have no intention of following at this moment.

The Senate Majority Leader (Sen. Wetangula): Mr. Deputy Speaker, Sir, well done.

Sen. (Dr.) Khalwale: On a point of order, Mr. Deputy Speaker, Sir. Allow me to remind you, Chair, that should you go the route he is suggesting, what befell Jean Maria, detention, might befall you.

(Laughter)

The Deputy Speaker (Sen. Kembi-Gitura): That is a reckless point of order. If you ask me, that does not assist the House at all.

The Senate Majority Leader (Sen. Wetangula): Mr. Deputy Speaker, Sir, for purposes of clarity and the good knowledge of my distinguished sister here---

Sen. Muthama: On a point of information, Mr. Deputy Speaker, Sir. Let me inform my leader here that the point he raised of the Jubilee wanting and trying to kill devolution can be demonstrated. A good illustration is the money that we increased to the counties. The same Jubilee Government reduced the amount to weaken the counties. Is there any other better example that can be given to show how devolution is being killed?

The Deputy Speaker (Sen. Kembi-Gitura): Hon. Members, it is very good to debate these issues and to give information. The trouble with giving information and a

Member agreeing to be informed is always predicated on the fact that the Member does not know the information they will get. I also do not know the information to be granted. However, let me say this because of other responsible Members. Let us try very hard to ensure that the information you purport to give is useful to this House but you are not trying to debate through the backdoor. We have three days of debate. You have taken about ten minutes of Sen. Wetangula's time in your points of order. I am not saying that is bad and I will not stop anybody from giving points of order. However, let the point of information that you will give be such that it will assist, not only the Senator, but also the House.

However, I will not allow somebody giving information and trying to debate through the backdoor. I hope that you will not bring your own opinion and debates into the Floor of the House through the so called points of information.

The Senate Majority Leader (Sen. Wetangula): Thank you, Mr. Deputy Speaker, Sir. I hope there will be fewer points of order. I thank the distinguished Senator for Machakos for that information. Devolution is being tripped in this manner; inadequate allocation of resources and even when this Senate recommends money, it is reduced elsewhere.

Two, there is a team going out there called the Sarah Serem Commission (SRC). If you do not know what they are doing, then you will see that they are stage managing a process. They want *wananchi* to come out and say that devolution is expensive. When somebody says; "if you want to cut the national wage bill, reduce on devolution, deal with devolution." That is attacking devolution. Look at your own county, you have a Governor and a County Commissioner. What does the County Commissioner do and what does the Governor do? When you go to the lower level, you will find that you have a Sub County Administrator who is now the District Commissioner in a new name. You will find a ward administrator who is the District Officer with a new name.

All these people are doing is to consume public resources for nothing and to undermine devolution by pretending that they have authority which they do not have - because they are not elected - against the elected Governors and their structures. We do not need to hear any more; the Jubilee Government is not for devolution, it is not interested in devolution and does not support it; instead, it is undermining devolution.

Participation of the people is one of the phrases that the President used. However, truth be said. Look at the country, in a country with 42 communities recognized under the Constitution, over 90 per cent of the communities are helpless by standards in the current Government. This is not encouraging national values, participation of people, unity of purpose and does not bring people together. We have said this before and we will continue to say it. You will see, when CORD forms the next government, how we will give this country the face of Kenya. We will not sit and limit the face of Government to two regions. It is not good for this country; it is not good for national cohesion and for fighting ethnicity or for anything.

In the state of the nation Address, one would have expected the President to own up that they started on the wrong foot and that they will correct this situation so that the country moves towards a more equal society. You cannot pay lip service to inclusiveness when, in fact, you are practising exclusion.

Sen. (Prof.) Lonyangapuo: On a point of order, Mr. Deputy Speaker, Sir. The hon. Senator for Bungoma, whom I really praised last week, in his absence, is now going overboard to say that the Jubilee Government is concentrating on two small regions in Kenya in its appointments. What appointments is he talking about? Is he in order to mislead the country that the Jubilee Government is simply concentrating on some regions that he knows? I do not know which ones. Probably he should bring the list of Ministers here we see.

The Senate Majority Leader (Sen. Wetangula): Mr. Deputy Speaker, Sir, some points of order are actually irritating.

The Deputy Speaker (Sen. Kembi-Gitura): You are not the one to say that.

The Senate Majority Leader (Sen. Wetangula): Mr. Deputy Speaker, Sir, I am the one irritated.

The Deputy Speaker (Sen. Kembi-Gitura): No, he has raised a point of order with you and I think it is good that you respond to it.

The Senate Majority Leader (Sen. Wetangula): Mr. Deputy Speaker, Sir, first, he said that I talked about two small regions. I did not use the word “small.” I said that the Government is shared between two regions. It does not take a rocket scientist or a genius to know this. This is common knowledge. Everybody knows and even the distinguished Senator for West Pokot knows that very well. We have discussed with him about the exclusion that is being entrenched in this country.

Sen. (Prof.) Lonyangapuo: On a point of order, Mr. Deputy Speaker, Sir. Let him table the Ministers and the Principal Secretaries list so that we speak from numbers that we are seeing.

The Senate Majority Leader (Sen. Wetangula): Mr. Deputy Speaker, Sir, I do not need to respond to that lest I am labeled differently.

If you look at the formation of the Cabinet for 2003, you will see how many Ministers who came from which region. I do not want to go into it but if you want me to do it, I can do it with a lot of pleasure. We want to correct the ills of this country. We can do it. You do not have to table what is in public domain. My distinguished young lawyer knows that there are matters which we notice as being of public notoriety. You do not need to be told some of these things.

Let me continue. I expected the President to address the challenges facing farmers. I come from a region where cane growing is the livelihood of close to 20 million people. This runs from Trans Nzoia through to the constituency of my brother, Sen. Sang, of Nandi, down to South Nyanza up to the Tanzanian border including Narok and Trans Mara which is part of Narok. They are now growing cane. All sugar factories are under the threat of imminent collapse. Why is this so? This is because the Government does not even attempt to control imports of sugar.

We are constantly told that they have extended the Common Market for East and Southern Africa (COMESA) window. However, sugar is flowing into this country from all directions; from Kisumu and Mombasa. It is flowing from each and every direction to the extent that even a cash strapped sugar factory like Nzoia Sugar Company is today holding 110,000 bags which they cannot sell because sugar is arriving here from other jurisdictions that is much cheaper. It is cheaper because of corruption; duty and Value

Added Tax (VAT) are not paid. You cannot explain how sugar can come from Malawi, Zambia or Brazil and be cheaper than our sugar here other than the fact that there is no duty paid and no VAT paid. I expected the President to address the plight of the 30 million Kenyans that live—

Sen. Kajwang: On a point of order, Mr. Deputy Speaker, Sir. It is not proper for me to bring a point of order against my leader, but is it in order to speak about the illegitimate sugar in the economy without naming the barons that are known and well connected in this country? They are destroying our farmers and our people. It is with the tacit approval of this Government.

The Senate Minority Leader (Sen. Wetangula): Mr. Deputy Speaker, Sir, I wish the distinguished Senator for Homa Bay sought to give me information so that he can name those barons who are known. All I said is that we must protect the farmer. Coffee is gone, tea is in problems and sugar is now gone. When we now stand to give the State of the Nation Address, what state of the nation are we talking about? It is like a State in shambles. From a Kenya that walked the bridal stool in 1963, in a suit with a bow tie as a new wed country, we are now in tatters and are now embarrassed. We are now a country that cannot handle our youth, women and anything in terms of economy.

Mr. Deputy Speaker, Sir, we were told of the *Uwezo* Fund; that this was money meant for the re-run of the elections if there was a second round. I hear that that money is gone, because under our budgetary cycle, that money cannot be sitting in an account, waiting. Where is the *Uwezo* Fund? There are no laptops. What is the President saying about ICT? He simply said, “This is in tandem with my administration’s ICT initiative”. Even if you do not want to tell the truth or own what you say, never lie to a child. Children of this country were told that they were going to be given laptops. Where are they? Now we are giving excuse upon excuse. Corruption has crept in and this has destroyed the dream that the children were given. We have said as CORD that this kind of populist, misguided policies must stop. The money to buy those laptops is money from the taxpayers of Kenya who include you and me. We have said that that money should go and build computer labs in every school. Then the children are given an opportunity even if it is two hours or three hours a week to go and learn and acquaint themselves with how to be ICT compliant.

Even if you were to give every child in Standard One a laptop, only 20 per cent of the country is on the national grid with power. Where are they going to charge these laptops when they run out of power and where are they going to store them? You can imagine a five year old child carrying a laptop to school and yet there are thugs on the way. How will they manage? Again, the President was unable to address this issue.

Mr. Deputy Speaker, Sir, yes, we need a railway and the President rightly said so, but he must answer questions surrounding the procurement of the standard gauge railway. These matters cannot be wished away. We have been told - we believe the information - that the cost of the standard gauge railway line from Mombasa to Nairobi alone has been doubled. Everybody is insisting that it must start. Nobody here can say that we do not need a standard gauge railway line, but we are saying that Kenyans must have value for money.

The Member of Parliament for Tinderet has tabled documents showing that a contract that was to cost Kshs200 billion is now costing Kshs428 billion and nobody is answering the questions. All they are saying is that these are enemies of development; people who do not want trade and yet some of us are very experienced in matters of trade.

I beg to dismiss this Statement and oppose it as worth nothing.

Sen. Elachi: Thank you, Mr. Deputy Speaker, Sir. I rise to support this Motion knowing very well that when the President started his Speech, he said that the challenges that we face today are challenges that have been there with the three successive governments that have passed and, therefore, we need to confront them in order to move on as a nation. There is a reason why we have in this Senate hon. Members who have served in two or three past governments. There is a reason why they chose to come to the Senate.

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

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

Madam Temporary Speaker, I believe they wanted to see this country move in the right direction knowing very well that in the last 50 years, we have not moved well. However, I am worried as any other Kenyan when I sit in this House and wonder whether indeed we have solutions to Kenyan problems or we will behave like the Lower House by just complaining. Kenyans are looking at the Senate as the House that gives them hope.

I want to thank the President for his Speech because for one year, he was able to come out regardless of the challenges and stand bold and say what we have achieved as a country though with challenges and how we intend to move on and to ensure that Kenyans are secure. The issue of insecurity is not the President's concern alone. It is for the whole country to start asking ourselves where we went wrong. Indeed this House has to give some of those solutions knowing very well the challenges we face in terms of the security apparatus. When we sit down and look at Kimaiyo and Kavaludi contradicting each other, we wonder whether we are moving in the right direction. If the law is the challenge, we should look at it and amend it.

Madam Temporary Speaker, when the Senate Minority Leader stands up and says that he wonders whether this country is serious in terms of moving on, you ask yourself whether they were serious to move on during the 20 years they have been in Government. I also wonder if they ever took power, whether they will continue to complain or what will happen. They were in the previous Government and they were unable to move it forward. They were unable to give Kenyans any hope. We were all in the NARC Government and we gave them hope, then in 2005, we decided that since there was no more hope, we looked for new hope and this is where we are. I think it is time the Senate became bold enough and stopped dealing with issues the way the National Assembly is doing. We should protect the counties that are the beneficiaries of all these things we are talking about.

I am praying very hard, knowing very well that sometimes we assume a lot. That is why I was sad when the Senate Minority Leader said that this process is useless. It was

a miracle for the doctors to have succeeded in removing a bullet lodged in baby Satrin's head. It is now up to us, as the Senate, to ask the Government to start paying our doctors well so that they do not run away from our country but to continue working for us. When we refer to that process as useless, people watching these proceedings on television wonder whether this is coming from the Senate or the National Assembly. I think as the Senate---

Sen. (Dr.) Zani: On a point of order, Madam Temporary Speaker. Is the hon. Senator in order to allude to what had been said by Sen. Wetangula when he talked about useless information to have been referring to the useless processes that have been encountered? What Sen. Wetangula referred to as useless was the information that had been given.

The Temporary Speaker (Sen. Ongoro): Sen. Elachi, what exactly are you referring to?

Sen. Elachi: Madam Temporary Speaker, Sir, I was referring to the process. A layman watching us on television will not understand the debate that way. He or she will think that we are saying that it no use for us to see the doctors.

The Temporary Speaker (Sen. Ongoro): Sen. Elachi, I listened to the Deputy Speaker's ruling even on that issue and I think we were all of the opinion that the Senator was in order to give his sentiments and that the point of information that he was given is what he was specifically referring to and the process which I do not find out of order. I think we will sustain what the Chair previously ruled.

Sen. Elachi: Madam Temporary Speaker, I agree and that is why I said that this is a House of wisdom; when we talk, we must understand that we are communicating to our constituents. In Kiswahili, we say *kule chini hawaelewi Kizungu nyingi*.

The Temporary Speaker (Sen. Ongoro): Order Sen. Elachi! You were contributing in English and according to the Standing Orders, you cannot switch to any other language. So, that is overruled. You have to continue contributing in English.

Sen. Elachi: Madam Temporary Speaker, Sir, I appreciate your guidance but sometimes the tongue can slip into a different language.

The President looked at agriculture and alluded to the Galana Project which I think cuts across the two counties. As we devolve more functions to the counties, as the Senate, we should strive to see the project spread across. We can also do it in West Pokot in Kerio Valley. We hope and believe that the Cabinet Secretary in charge of agriculture will be able to see not just the Galana Project move on, but also other projects within the counties that are agro-based. The national Government should partner with our county governments. The Governors should be brought on board to understand that we passed this Constitution because we knew the challenges we were facing at the national Government. Even as we celebrate the one year since devolution, we know that if we concentrate development in our counties, we will see growth in this country. As the Governors celebrate their one year in office in Kwale, we hope they will look at the challenges and the way forward especially in supporting the county assemblies to come up with legislation that can guide the whole process so that people start appreciating services from the county governments.

Madam Temporary Speaker, when you look at copies of HANSARD, you will see majority of Members who fight devolution in the Lower House are Members of the CORD. They are the ones who do not believe in the devolution. Therefore, I would urge the Senate Minority Leader who has just left to sit down with the Members of the National Assembly from the CORD side and prevail upon them to support devolution. When we look at some Bills---

Sen. (Dr.) Khalwale: On a point of order, Madam Temporary Speaker.

The Temporary Speaker (Sen. Ongoro): What is your point of order, Sen. (Dr.) Khalwale?

Sen. (Dr.) Khalwale: Madam Temporary Speaker, the whole country is keen to know who amongst Members of the National Assembly and the Senate has made it their business to fight devolution. The hon. Senator has said that there are Members from CORD in the National Assembly who are doing exactly that. Could she, please, substantiate by stating the names of each and every one of them who are fighting devolution?

Sen. Elachi: Madam Temporary Speaker, this is public information and it is in the HANSARD. If he hon. Senator wants to know---

(Sen. (Dr.) Machage stood up in his place)

The Temporary Speaker (Sen. Ongoro): What is it, Sen. (Dr.) Machage?

Sen. (Dr.) Machage: Madam Temporary Speaker, our Standing Orders are explicit on this. It says a Member on the Floor of this House is responsible for his or her Statements and utterances, and may be called upon to substantiate. Please, substantiate.

(Applause)

Sen. Elachi: Madam Temporary Speaker, I want to substantiate using the Division of Revenue Bill which we passed in this House. Indeed, it was hon. Mbadi from CORD side who opposed it when it went to the Lower House. This was the money meant for the counties. So, it is in the HANSARD. So, I do not think it would be fair to name them.

The Temporary Speaker (Sen. Ongoro): Hon. Senator, the rules of debate would actually demand that such a very strong allegation must be substantiated, and you made reference to CORD Members, not just one Member. So, when we are talking about percentages of one against the many, could you, probably, up that list by at least 25 Members so that your statement can be validated? This is about the rules of debate. You rightfully implied that this is the Upper House and we should not be giving Statements without substantiating them. So, respect your own statement.

Sen. Elachi: Madam Temporary Speaker, I know I would not be able to get 25 names since I am in the Senate. It would be wrong for me if I will not pronounce their names correctly since the HANSARD is recording. But I will agree to bring the names if given an opportunity within a week and table them.

The Temporary Speaker (Sen. Ongoro): Therefore, since you have not complied with Standing Order No.94, I will rule that you withdraw that Statement and continue with your contribution.

Sen. (Dr.) Khalwale: On a point of order, Madam Temporary Speaker.

The Temporary Speaker (Sen. Ongoro): Yes, Sen. (Dr.) Khalwale?

Sen. (Dr.) Khalwale: Madam Temporary Speaker, for purposes of record, because it is important that we get our record right, there are only two Bills that are in the process of attempting to kill devolution. The first one is by hon. Kang'ata; he wants to abolish the Senate. He is a Member of Parliament (MP) elected on a TNA ticket in the Jubilee Coalition. The second one is by Benjamin Lagat, the MP for Ainamoi, elected on a URP ticket of the Jubilee Coalition; he wants to abolish all nominated women MPs and special seats for women.

Madam Temporary Speaker, this is the evidence at hand. Could she counter it by giving similar evidence, other than just waving it off? We want the country to know that the Opposition is committed to implementing the Constitution, and the Government is doing everything – including using MPs – to kill devolution through dubious amendments of the Constitution?

(Several Senators stood up in their places)

The Temporary Speaker (Sen. Ongoro): Order! He is on a point of order.

Hon. Senator, I wish to draw your attention to Standing Order No.94. While I appreciate that this is a debating Chamber and you are free to air your sentiments, but we are guided by the Standing Orders and make reference to Standing Order No.94. For the avoidance of doubt, I will read it:-

“(1) A Senator shall be responsible for the accuracy of any facts which the Senator alleges to be true and may be required to substantiate any such facts instantly.

(2) If a Senator has sufficient reason to convince the Speaker that the Senator is unable to substantiate the allegations instantly, the Speaker shall require that such Senator substantiates the allegations not later than the next sitting day, failure to which the Senator shall be deemed to be disorderly within the meaning of Standing Order 110 (Disorderly conduct) unless the Senator withdraws the allegations and gives a suitable apology, if the Speaker so requires.

Sen. Elachi, under the circumstances, if you read this together with Standing Order No.110 as referred, then the spirit that you already alluded to in your opening remarks then will require that you withdraw, since you are not able to substantiate this instantly; then you can continue with your debate.

Sen. Sang: On a point of order, Madam Temporary Speaker.

The Temporary Speaker (Sen. Ongoro): Is that another point of order?

Sen. Sang: Madam Temporary Speaker, the distinguished Senator for Kakamega has mentioned two Bills that are, in his view, out to kill devolution. But he forgot two other Bills that also have the potential to kill devolution, and they are the Bill by hon. Mutambu aimed at reducing the numbers of counties, the number of MPs and even number of Members of the Senate; that is a CORD Member. The other Bill that Sen.

(Dr.) Khalwale forgot is the Bill by hon. Keynan, who is also a Member of the CORD. So, I think we need to have all this information in totality so that the four Bills – two by CORD Members and two by Jubilee Members – should be able to bring the balance.

(Several Senators stood up in their places)

The Temporary Speaker (Sen. Ongoro): Hon. Senator, I appreciate your sentiments, but can we stick to the contribution of Sen. Elachi? When that issue of the other two Bills, which have not been referred to, comes up, then I think we will deal with it at that time.

So, Sen. Elachi, please, withdraw your remark and continue with your debate.

Sen. Elachi: Madam Temporary Speaker, I withdraw.

The Temporary Speaker (Sen. Ongoro): Proceed!

(Loud consultations)

Order, Senators! Allow the Senator to continue with her contributions.

Sen. Elachi: Madam Temporary Speaker---

Sen. G.G. Kariuki: On a point of order, Madam Temporary Speaker.

The Temporary Speaker (Sen. Ongoro): What is out of order, Sen. G.G. Kariuki?

Sen. G.G. Kariuki: Madam Temporary Speaker, my point of order is that Sen. (Dr.) Khalwale made a very serious allegation that the Government is trying to use some MPs to kill devolution. Could he substantiate by telling who are these MPs being used by the Government to kill devolution in this country?

The Temporary Speaker (Sen. Ongoro): Sen. (Dr.) Khalwale made reference to two Bills and mentioned the two sponsors of those Bills. Are you disputing those facts?

Sen. G.G. Kariuki: Madam Temporary Speaker, he made a categorical statement that the Government is using some MPs – not the Senate or the National Assembly; he did not specify – he just said MPs. Could he tell us who they are so that we are on the same footing?

The Temporary Speaker (Sen. Ongoro): Sen. Beatrice Elachi, proceed with your contribution.

Sen. Elachi: Madam Temporary Speaker, I just want to talk about one thing which I think is an issue that all of us are really worried about. This is the issue of security which, indeed, the President talked about, specifically the concept of *Nyumba Kumi*---

The Temporary Speaker (Sen. Ongoro): I think we have been unfair to the Senator. I do not want to comment, but so much time was taken and I thought the Clerks were holding her time. Nevertheless, we will move on to the next Senator.

Sen. (Dr.) Machage!

Sen. (Dr.) Machage: Asante, Bi. Spika wa Muda. Leo tunajadili Hotuba iliyotolewa na Mheshimiwa Rais wa nchi hii ndani ya Bunge, akihutubia taifa nzima. Yeye mwenyewe alinukuu vipengele vya 10, 132 na 140 sehemu ya 7 katika Katiba ya

Kenya. Alijua kwamba ataongea mambo ambayo Katiba imemuongoza ayaongee. Hasa Kipengee cha 10 kinataja kwamba anafaa kuongea mambo ya uchumi, uhusiano wetu na mataifa ya nje na usalama. Alitoa Hotuba kwa Kiingereza sanifu na ushujaa wa kupendeza. Yeye akiwa Rais wa nchi ya Kenya ninauhakika kwamba yuko na wale wanaomsaidia kuandika hotuba na kuisoma, kutafsiri na kuangalia kwa undani na nje kabla ya kutoa mawazo hayo kwa taifa nzima. Swali la kwanza ni: Je, alijua alichokuwa akisoma au alipewa karatasi tu na akaanza kuisoma?

Bi. Spika wa Muda, namjua Rais wa nchi hii kama mtu mwenye hekima, aliyesoma vya kutosha na mwerevu sana. Afadhali angetoa Hotuba bila kusoma karatasi ile, kwa sababu nina uhakika kuwa angehutubia taifa na kutoa maelezo na maelekezo ambayo taifa la Kenya lingepata faida kubwa. Lakini sasa tuko na Hotuba ya Rais ambayo tunahitaji kusoma na kutafsiri.

Bi. Spika wa Muda, mhe. Rais alitaja kwa uchache mambo ya usalama. Alitaja Sudan na Somalia ambako tumetuma wanajeshi wetu na tunafurahi kuwa nchi hizo zina usalama. Lakini kuna haja gani kufagia nje ya nyumba na kuwacha ndani? Kuna uchafu uliomo nchini. Wananchi wanalia kwa sababu hakuna usalama. Mabomu yanalipuliwa hapa na pale. Eastleigh imekuwa janga la vita. Pia kuna Pwani na sehemu zingine ambazo labda hazitajwi na waandishi wa magazeti. Kuna kilio kutoka kwa masikini na hata matajiri. Watu kule Karen wanapigwa kushoto, katikati na kulia. Juzi mhe. Mbunge alipigwa. Mtondo goo, mhe. Mbunge na Balozzi walipigwa. Haya ndio mambo ambayo tulitarajia Rais ayaseme na kutupa undani uliomo. Sisi tunajua kwamba maafisa wa Serikali wenyewe wanapigana kushoto na kulia wakitaka madaraka.

Bi. Spika wa Muda, mojawapo wa mapendekezo katika Hotuba ya Rais ni kuwa Mawaziri wataanza kusimama na kueleza taifa kazi walioifanya na wanayotarajia kuifanya. Juzi nimewaona kwa runinga wakisema yale wamefanya lakini mchezo wa kuigiza wa “vioja mahakamani” ni afadhali. Kwa mwaka mzima hakuna chochote ambacho wanaweza kuwaambia wananchi wa Kenya walifanya. Tutasaga meno na kulia kwa sababu hawa ndio wanaotumia pesa ambazo Rais analia kila siku kwamba uchumi umezorota, mpaka ameamua mshahara wake na misharaha ya naibu wake na Mawaziri ipunguzwe kwa asilimia 20 na 10 mtawalia. Hawastahili kula mshahara wowote kwa sababu hakuna kazi ambayo wamewafanyia Wakenya hata kidogo.

Bi. Spika wa Muda, niruhusu nitaje machache kuhusu Kaunti ya Migori. Sasa hivi kwa sababu ya uamuzi wa mahakama, Gavana wa Migori ametimuliwa. Amesema kwamba ataenda kwa Mahakama Kuu. Natoa wito kwa watu wa Migori wawe na amani na utulivu. Wangoje haki ya kisheria itekelezwe. Lakini iwapo Mahakama Kuu haitabadilisha uamuzi huo, basi tutajua la kufanya wakati kiti cha Migori cha Ugavana kitatangazwa wazi. *Facebook* isiandike mambo ya Sen. (Dr.) Machage na fikira zake. Fikira zangu nazijua mimi mwenyewe na kila mwananchi wa Migori ana haki sawa kuwa Gavana wa Migori. Naomba kwamba Serikali pia isiingilie kwa sababu kiti cha Migori ni cha ODM. Hayo yametosha.

Bi. Spika wa Muda, katika Hotuba ya Rais, alisema kwamba ameangazia mawazo yake kwa kutambua wale wadhaifu. Alisema kwamba amewatambua wanawake. Ni kweli kuwa wanawake wametambulika. Wako ndani ya Bunge na katika madaraja

mengine ya Serikali. Lakini jamii ndogo hazijatambuliwa katika Serikali hii ilhali sheria inawatambua wadhaifu wote.

Bi. Spika wa Muda, kuhusu mambo ya kitaifa, mhe. Rais alitaja mambo ya usalama katika Somalia na South Sudan. Lakini nchi nyingi ambazo ni marafiki wa Kenya hazina Mabalozi wa Kenya katika nchi hizo. Imechukua muda kwa mhe. Rais tangu achukue hatamu za utawala kutangaza mabalozi katika nchi rafiki zetu. Sasa uhusiano utakuwa mbaya na mgumu na kutekeleza hata biashara itakuwa ngumu. Haya ni mambo ambayo angeongea kuhusu. Angetuambia ikiwa tuna uhusiano mzuri na marafiki wetu.

Sen. Sang: On a point of order, Madam Temporary Speaker. Could Sen. (Dr.) Machage table the list of the Kenyan embassies in friendly nations that are vacant, as he has alleged in his presentation? As far as we know, most of our Embassies are represented.

The Temporary Speaker (Sen. Ongoro): Sen. (Dr.) Machage, could you substantiate, because that is, indeed, a very strong allegation?

Sen. (Dr.) Machage: Bi. Spika wa Muda, kila siku hapa tunasema kuwa Serikali iliyopita ya Muungao ilikuwa bure, lakini Mabalozi walioko katika nchi hizo waliteuliwa na Serikali iliyopita. Kwa hivyo, kama ni kutoa orodha ya majina ya Mabalozi, nitaweka majina ya Mabalozi wote, kwa sababu hao ni wale walioteuliwa na Serikali iliyopita.

The Temporary Speaker (Sen. Ongoro): Hon. Senator, you claimed that some embassies are not represented, if I heard you well. That is what Sen. Sang wants you to substantiate. I think that he is in order. Making reference to Standing Order No.94, I think that you are under obligation to comply or withdraw.

Sen. (Dr.) Machage: Bi. Spika wa Muda, kwa sababu sina orodha hiyo hapa, nitayaondoa hayo mawazo na kuomba radhi na niendelee.

The Temporary Speaker (Sen. Ongoro): Continue.

Sen. (Dr.) Machage: Bi. Spika wa Muda, tuliambiwa kwamba uchumi wa Kenya utakuwa asilimia sita. Mhe. Rais amesema hapa katika Hotuba yake kuwa uchumi umeimarika. Muulize mama kijijini bei ya mafuta taa mwezi huu ukilinganisha na miezi minne iliyopita. Muulize huyo mama bei ya mkate, kiberiti na gharama ya usafiri. Je, mhe. Rais alikuwa anasema ukweli kwamba uchumi umeimarika? Ufikirie mwenyewe. Hotuba ya Rais ni hotuba ambayo siyo tu kusema mambo lakini pia kuangaza hatua za kuimarisha na kuwapa haki wananchi kwa mambo ya maisha ya kila siku.

Mwaka uliyopita akichukua madaraka, alisema kwamba akina mama hawatalipa chochote hospitalini wanapojifungua. Ukienda hospitali za mashinani, hali ni tofauti. Hakuna madaktari. Wote wanaondoka kwa hospitali hizo. Maisha ya mama yamo hatarini hapa Kenya; haswa kwa akina mama watakozaa. Akina mama 470 watakufa wakati wa kuzaa. Kule Nyanza kila watoto 1,000 watakozaliwa, 128 watakufa kabla umri wa mwaka mmoja. Huu ndio tunasema uchumi na sera nzuri za uongozi?

Sasa tumeanza kupata mafuta na madini kama dhahabu na kadhalika. Haya mambo mhe. Rais angeyaangaza kidogo akituambia ni lini tutaanza kupata pesa kutoka kwa mafuta ya nchi hii. Hatujui uchimbaji wa mafuta umefika wapi. Imewekwa siri na mashamba yananuliwa kushoto na kulia.

Bi. Spika wa Muda, tungependa kujua kilimo cha kahawa na kilimo cha majani chai kimefika kiwango gani kwa kukuza uchumi wa taifa. Zao la tobako Nyanza halina faida. Kilo moja ni Kshs140 ambapo hiyo kilo moja itatoa pakiti kumi au zaidi na kuwapa faida hawa wawekezaji maradufu. Mwananchi yeye mwenyewe anakufa kwa sumu ya kukuza tobako. Misitu imefiekwa na haya ndiyo mambo angetuangazia. Je, huyu mkulima atainuliwa namna gani? Sasa hivi hapa Kenya hata kiwanda cha ngozi, mazao ambayo yanapatikana kwa kuchinja ng'ombe na mbuzi imekuwa ngumu.

Bi. Spika wa Muda, sitaunga mkono Hoja hii.

Sen. (Prof.) Lonyangapuo: Madam Temporary Speaker, I thank you for giving me the opportunity to contribute to this Motion. From the outset, I want to support it. I want to say that the President came to speak to Kenyans at the right time. We are undergoing many challenges. So, he was reassuring when he stood to give his speech to the nation, everybody in the Republic was keen to hear what he has to say, one year into devolution.

Madam Temporary Speaker, he extensively talked about Article 10 which affirms the values and principles named therein; that as a nation we must stand to guard so jealously the national unity for our people as a nation. Indeed, we must begin to remember that Kenya, 50 years ago, was redeemed from the hands of the colonial masters by our forefathers. So, we must stand to guard it so jealously, but make sure that integrity, transparency and all other values are really honoured. As he went deeper into the speech, he talked about key things that have been achieved in our time, that is, devolution. Although the Constitution envisages that we must devolve slowly and surely in the next three or so years, in page two, the President talked about his willingness in supporting the county governments to be given almost their functions at one go. This was done although there are challenges. Again, he said that people had been sent to the counties to support the county government. This means that skilled manpower was involved.

Madam Temporary Speaker, in the 2011/2012 Financial Year, Sen. Obure and I, participated fully in identifying key officers in the Ministry to make sure that the best officers were sent to the ground to prepare for devolution. So, he was right by saying that very trained personnel were sent to the ground prior to that. The only challenge we are seeing is that every Governor has gone into an employment spree. Now we have double payment of salaries now, particularly in areas where there were officers who were already on the ground; governors are getting others who are doing the same job. Those officers are being employed by the county government are earning a bigger salary than those who were deployed by the national Government. That is why I am expecting that in the second year of devolution, the President and his Executive wing will make sure that there is realignment in this section to avoid the problems we are seeing now.

He talked about the national revenue that has been allocated to county governments. This moved from 15 per cent in the first year to 32 per cent. Personally, as a mathematician, I am supporting this. However, after doing the mathematics, I do not know who introduced 32 per cent after it had been proposed that we allocate 15 per cent in the first year. That means the economy was doing better; that is why we shifted from 15 per cent to 32 per cent. If you look at the arithmetic, you will see that, probably, the

people at the Treasury had not given correct figures. From a layman's point of view, this arithmetic should have gone as follows. That, the total expenditure was Kshs1.6 trillion and what Senate had proposed was Kshs258 billion and that we eventually settled at Kshs210 billion. The Kshs210 billion is equivalent to 12.8 per cent. The Kshs258 billion is equivalent to 15.8 per cent. That means that the Senate obeyed the law.

Sen. Sang: On a point of order, Madam Temporary Speaker. We had this discussion for quite a while when the Senate Majority Leader was contributing to this Motion. We even got guidance, from you, with regard to the constitutional provisions on the percentages.

Is the hon. Member in order to continue misleading the House? What the President stated in his Speech is what is provided for in the Constitution. We are not talking about Kshs1.6 trillion. We are talking about the audited accounts. I think this a discussion that we already had.

Is he in order to mislead the House by suggesting that the percentages are wrong when they are based on what the Constitution says?

The Temporary Speaker (Sen. Ongoro): Do you have a contrary presentation of the percentages?

Sen. Sang: The exact information is as provided for in the Speech by the President.

The Temporary Speaker (Sen. Ongoro): Sen. Lonyangapuo, I believe that you are making introduction to your contribution. As you proceed, could you substantiate and satisfy the inquiry from Sen. Sang?

Sen. (Prof.) Lonyangapuo: Madam Temporary Speaker, I want to confirm to my colleagues who come from the other side of the House, these percentages I am giving are based on the expenditures. Our budget was Kshs1.6 trillion. We gave a budget of Kshs210 billion to the counties. I am trying to give the House the layman's arithmetic.

I am supporting the Speech. However, I am giving you what some of our technocrats – we are now fighting to have more funds in the counties. The President is on record saying that he wants devolution and counties to emerge stronger which is supposed to be the case. Some of these percentages would shock anybody. Was there any need of going into devolution if we are jumping quickly from 15 per cent to 32 per cent overnight?

I do not know what the percentages will look like this time round, but we need to move progressively. The Senate was very correct when it proposed to have Kshs258 billion. However, for some reason, we were told to settle on Kshs210 to begin with which is okay because we are moving on.

He also talked about the old habits that have destroyed the image of Kenya like corruption and other vices that are not right. It was necessary for him to mention this because as a result of devolution those of us who used to be in Government know that the problems that were in Government have now found their way to the counties. Some new leaders, Governors and the leadership on the ground may not know some of the misleading things that some characters may be introducing from up here. It is important to give a warning, early in advance.

We should not entertain some people who come in the name of professionals and service providers and, in the process, cause problems on the ground.

I want to agree with the President that, indeed, he was right to say that almost all Internally Displaced Persons (IDPs) were settled. Some of them were given Kshs400,000 each. However, some of them like the externally displaced persons have not been taken care of. I have such people in Ahero. Today, I saw in *The Standard* newspaper, on page 17, the usual ritual of displacement which has begun. This happens by nature. In my county, I have a place called Tambach where people are displaced. When it rains, people are displaced. I am asking the Government and the President to look at this keenly.

Another key thing that he talked about that my colleagues are really criticizing is about insecurity. With regard to this, we all agree that more steps need to be taken by the Government and, more so, by the Head of State. When we hear of what happened last night in Eastleigh, we wonder where these characters are coming from. I remember the President saying that we now have an improved percentage and that for every one policeman, we have 535 people. Why can we not improve this ratio? We have many students finishing college and universities every year. These are between 100,000 and 200,000 who are being churned out by our universities. Other nations that have been attacked like Kenya, Israel, America and others have improved to make sure that their youth are enrolled to work for the country. I propose, as I support this, that more police officers and other security officers be employed. We have people who are willing to serve the nation and to protect. The child who was shot, recently, in church should not have gone through that suffering.

We hear of initiatives such as the *Nyumba Kumi*. Those are very good initiatives. However, we, as a Senate, want to see documentation on this initiative. We want to include a proposal in this initiative. It is known as *watu wa mtaa*. I tabled a Motion here on this. This is a terminology that is used very much. People are working closely with the chiefs and sub chiefs in Kenya. They are not paid any salaries neither are they recognized. Can we formalize these people, who sleep in their houses and villages? As we adopt the *Nyumba Kumi* initiative, we need to get more information on how many people we are talking about. If there are other initiatives that my colleagues know about, then Government may need to adopt them. If you have any idea that can enrich security measures which we can include in Kenya here, we would really appreciate.

We have been talking about installing CCTVs. However, personally, we need to use and strengthen the systems that we have. We need to employ more officers, pay them well and give them good equipment. I am happy that some of them were given good vehicles recently. In the counties, sometimes they do not have fuel. They may have a vehicle, but for three months they do not have fuel. So, how does that vehicle assist them? These are some of the challenges we need to look at critically.

The president talked about farming and how it can be improved. I also still stand by what I said last time on the Galana Kulalu Scheme. The President said that 10,000 acres are now under cultivation on a pilot scheme. What does it cost if we can do more?

I support.

The Temporary Speaker (Sen. Ongoro): Sen. Omondi, do you intend to contribute?

Sen. Omondi: Yes, Madam Temporary Speaker.

The Temporary Speaker (Sen. Ongoro): Proceed!

Sen. Omondi: Madam Temporary Speaker, thank you for allowing me to contribute to the President's Speech. As a Senator representing people with disabilities, I was somehow happy simply because he talked about the 30 per cent procurement of Government contracts to women, youth and people with disabilities. The Government may have good plans for people with disabilities, but somewhere along the line, the implementers give us a raw deal. I want to request the President to stick to his word by ensuring that implementation is done.

Madam Temporary Speaker, I want to also talk about insecurity in the country. Even though the President mentioned it, the situation is still "fifty-fifty". This is because terrorism is resulting into so many disabilities. As I speak, I am sure the young baby who underwent a successful operation after a bullet was lodged in his head is going to have a problem of disability. What measures is the Government putting in place for disaster preparedness? How serious and ready are we to handle disability cases in this country? It appears on paper, but on the ground, it has been left to a few people.

We should flashback and ask ourselves what would have happened if there was a disabled person in that church. If something goes wrong in this Chamber who is likely to be more affected? I am sure it would be Sen. Godliver Omondi. There are so many like me out there who go unnoticed when such tragedies occur. I normally feel bad because when it comes to implementation, the implementers stigmatize disability. I was so happy when the President mentioned the three categories of persons to be given priority in procurement processes in Government.

Madam Temporary Speaker, the Government has good plans for Kenyans, but the problem is with the implementers. The issue of insecurity is of concern to all of us. When we leave it to the Government we should ask ourselves what role we are playing and who is sleeping on their job.

We are allocating money to various projects to improve our roads infrastructure, but the procurement officers are letting us down because the quality of work that is being done does not match the money that is being paid. The people who are affected are Kenyans who are the taxpayers of this country. Every year we factor in our Budget, funds for road repairs. We wonder at the quality of work that is being done in this country. I want to go on record that I am not happy with the way those in charge are running the affairs of this country. They are simply messing with our funds. Before we complain about the Government, we should ask ourselves what we are doing to enable this country grow economically, socially and politically.

I am not wholly supporting this Speech because the disabled are facing a lot of problems in this country. The Severely Disabled Fund and the Older Persons Fund is discriminating against people with disabilities who should be the real beneficiaries. The President mentioned about them, but if I can table incidents where the people who are supposed to benefit from these funds are being sidelined; you will notice that we are still lagging behind.

Madam Temporary Speaker, I was not happy when the President said that he launched the Older Persons and the Severely Disabled funds because these are

programmes that have been on for a long time. I wondered why he was talking of having launched something which has been in place for the last two to three years.

Thank you.

The Temporary Speaker (Sen. Ongoro): Sen. Omondi, are you supporting the Motion or not because you cannot support 50 per cent and oppose 50 per cent. Are you supporting or opposing?

(Laughter)

Sen. Omondi: I support.

Sen. Mositet: Thank you, Madam Temporary Speaker. From the outset, let me support the President's Speech during the joint sitting of Parliament.

Even though we may say that the Speech was not well written or was short in certain aspects, the Jubilee Coalition Government has done a lot within one year.

Sen. (Dr.) Khalwale: Aaahi!

Sen. Mositet: Sen. (Dr.) Khalwale, one thing you will accept is that the President we have is the most humble President we have ever had. Even when the Opposition makes requests from him, he always gives them. He has not discriminated against any part of this country.

Madam Temporary Speaker, the Speech captured the mood of the country because the President spoke on development. The Jubilee Coalition Government has achieved a lot in one year because the President was reconstituting the Government and still making a lot of achievements on development. Looking at his Report, there are some projects which will be completed in 2016. Some of the projects are from Lamu to Lokichar and Lamu to Moyale. These are major projects which will change that part of the country.

When it comes to devolution, the Government has tried a lot because the transition is supposed to take three years, but within one year, a lot of functions have been devolved. The counties were given Kshs210 billion. However, up to now, there are a lot of challenges and the counties have not even spent that amount. Given that we only have two to three months before the end of the financial year, I would like to congratulate the President on what he has done with regard to devolution and what he intends to do. I think there is no other way to achieve development other than through devolution.

Madam Temporary Speaker, we know very well that our President was elected as the Chairman of the East African Community (EAC). As the head of that important docket, his mandate is also to make sure that the EAC people are secured. When we hear and read that our security forces are in Somalia, it is quite in order because there is no way we can achieve development if our neighbours are in problems. I do believe that we have a major problem currently due to terrorism. This war on terrorism must be fought by all of us. I do believe that each and every Kenyan knows very well that terrorism is an act of cowardice. Terrorism is just a way to make people live under fear and we should not allow ourselves to live in that state. It is upon each and every citizen to make sure that if a suspected person is seen somewhere, or if any act which is suspect is seen, it should be

reported to the authorities. Sometimes even the citizens should make sure that, at least, they capture or even arrest the culprits.

Madam Temporary Speaker, there are some other areas where I feel some staff within the Government are sabotaging our Government, like the Kenya Wildlife Service (KWS). When we talk about poaching, it is a clear fact that this poaching is being done by the rangers themselves. There are no poachers. It is high time that we should not even hide and say that the morale of those officers is down, but it is a cartel and it is a major thing.

Madam Temporary Speaker, in areas where we have animals, we should also enable those people who stay around those areas to protect our animals. We should employ them to take care of our animals and assist the rangers.

Madam Temporary Speaker, I am told that when a rhino is killed, its horn costs about Kshs20 million. It is high time we told those people in charge of the KWS to pack and go home. The Government must come up with measures to curb poaching. But if we just allow the KWS to be the people who are going to tell us who are the poachers while they themselves are poachers, then I think we are in for a rude shock.

Madam Temporary Speaker, just the other day, Dr. Leakey proposed poaching be pronounced as a national disaster because it will wipe out our animals. However, the KWS management said this is not a national disaster. So, for sure, which other way can you really explain that? It is that department itself which should be held accountable for all the animals that have been killed.

Madam Temporary Speaker, I remember I moved a Motion where I said that all able Kenyans and those who are contributing to the economy of this country need to be given guns. I still insist that any capable or able Kenyan contributing to the economy of this country should be armed. Why do I say this? In my county, a number of my people are living in fear. This is simply because some incidents will happen and by the time maybe you get a police officer to come, the criminals would have already run away. If only those Kenyans were armed, I strongly believe that there is no way those young criminals would try to go and interfere with them.

Madam Temporary Speaker, today I had an incident which was very bad. Some departments from the national Government have just decided that the best way to do things here is to go on a looting spree. The Department or Ministry of Livestock is a devolved function. Any land which is within the counties belongs to those counties, but right now, they have gone on apportioning themselves and allowing the grabbers to continue grabbing. These are public areas which we know very well because our people have been using them. I am just from Kitengela and I have been tear-gassed and my people have been shot. In fact, one person is already admitted in hospital with a bullet lodged in his body. The person who shot him is an Officer Commanding Station (OCS). He just came running simply because the citizens were very furious about a wall which had been put up by a land grabber. They went on to pull down the wall and the best thing that the OCS could do was to shoot at us.

(Several Senators stood up in their places)

Madam Temporary Speaker, as a leader, I protested and said I cannot allow that to happen under my watch, I was tear-gassed. The OCS---

Sen. (Dr.) Khalwale: On a point of order, Madam Temporary Speaker. What the Senator is saying is very painful. We know for a fact that if the matter is not amplified, the OCS will receive cover, so that he is not held to account. Could he substantiate and state the name of this OCS for purposes of record and shaming him, so that we can pursue him later?

The Temporary Speaker (Sen. Ongoro): Hon. Senator, going by the same Standing Order that we have been making reference to today, could you substantiate?

Sen. Mositet: Madam Temporary Speaker, the OCS is from Kitengela and his name is Wafula. This OCS came running and not aiming even to scare the *wananchi*. There were no other officers accompanying him. The *wananchi* did not have any arms and he started shooting. I would request the Ministry in charge of internal security to treat that OCS as a criminal. I do not believe that the gun that he was given was meant to shoot *wananchi*. It was meant to protect them. These are the people who are sabotaging the fight against insecurity.

Madam Temporary Speaker, with those few words, I beg to support.

Sen. (Dr.) Khalwale: Madam Temporary Speaker, the Senate Majority Leader is asking that the Senate records its thanks to the President for his exposition of public policy. But from what we listened to on Thursday, how can we record thanks of the Senate of the Republic of Kenya for such kind of Speech? I want to oppose this Speech, so that the President next time can get a more talented person to do his Speech and take trouble to go through his Speech before he approaches the Senate. I, therefore, oppose.

Madam Temporary Speaker, before I go into the substance of the matter, may I record that for whatever I will say and 100 more reasons, I wish to grade the President's Speech and performance in the first year with a D Plus. Having said that, I want to thank the President for respecting the provisions of the new Constitution that mandate him to give us a Speech once every year.

Madam Temporary Speaker, I also want to record my thanks to Kenyans, who have been enduring the current economic and social difficulties to go on with their way of life; all these perpetuated by the inadequacies of the Jubilee Government. I was shocked that in this Speech, the President has mentioned the word "transport" not even in a complete sentence, but a fraction of a sentence and yet, today the issue of transport is one of the biggest challenges in Kenya. We all know that today, thanks to the good work and hands of Eng. Michael Kamau, we are trying to bring order into the public service sector by way of transport. We expect the President to carry the country with him, so as to prepare the country that his Government is committed to making sure that public transport is safe and orderly. The President could only have done this if he had made pronouncements on the cartels that, today, levy illegal taxes in the name of facilitation, so that for one to put his public transport vehicle into practice, he must pay a fee. The sad thing---

The Temporary Speaker (Sen. Ongoro): Order! Sen. Khalwale, you have 14 minutes remaining when we resume tomorrow.

ADJOURNMENT

The Temporary Speaker (Sen. Ongoro): Hon. Senators, it is now 6.30 p.m. The Senate stands adjourned to tomorrow, Wednesday, 2nd April, 2014, at 2.30 p.m.

The House rose at 6.30 p.m.