

# PARLIAMENT OF KENYA

## THE SENATE

### THE HANSARD

Wednesday, 17<sup>th</sup> April, 2013

*The Senate met at the Kenyatta International  
Conference Centre at 2.30 p.m.*

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

### PRAYERS

### PROCEDURAL MOTIONS

#### LIMITATION OF DEBATE ON MOTIONS PURSUANT TO S.O. 98(1)

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

THAT, pursuant to Standing Order 98(1), the Senate resolves that debate on a Motion not sponsored by the Majority or Minority Party or a Senator belonging to the Majority or Minority Party or a Committee shall be limited in the following manner:-

A maximum of two hours with not more than fifteen minutes for the Mover, fifteen minutes for the Majority Party Official Responder, fifteen minutes for the Minority Party Official Responder and ten minutes for each other Senator speaking and that ten minutes before the time expires, the Mover shall be called upon to reply.

Mr. Speaker, Sir, I beg to move and I request Sen. Wetangula, the Senate Minority Leader, to second.

**The Senate Minority Leader** (Sen. Wetangula): Mr. Speaker, Sir, I beg to second. Ordinarily I would have just nodded, but to satisfy the curiosity of the “hon. bull fighter”, I will say a few remarks.

*(Laughter)*

Mr. Speaker, Sir, this is a Procedural Motion which lays a foundation for the future conduct of Business in this House. For information of hon. colleagues who are coming in for the first time, you may, from time to time, bring Motions seeking leave of the Senate to introduce a Bill to address certain issues affecting this country either within

your jurisdiction of representation or anywhere else in the country. Such a Motion will always be allocated time on a Wednesday for hon. Senators to articulate and prosecute interests that they have identified and brought to the House.

Traditionally, for those who have been here a little longer like my friends Sen. Orengo, Sen. Wako and myself, debates on this Motion used to be unlimited for Movers and Seconders. Thanks to the late hon. Martin Shikuku who once addressed Parliament for one week on one issue, Parliament decided that to get Business moving, we should limit time for speaking. As we say, indeed, if you cannot make your point in two minutes, you are unlikely to make it in two hours. That is why we have this limitation. You can see these Motions are allocated only two hours. I am sure that once a Senator moves it, there will be as many divergent views and interests as we are. So, giving limited time of ten minutes per Senator is reasonable. It is adequate time and I think it will serve the interest of Senators in articulating their issues.

With those few remarks, Mr. Speaker, Sir, I beg to second.

*(Question proposed)*

**Sen. Kajwang:** Thank you, Mr. Speaker, Sir. I want to respond to this Motion by saying that I think the time is too little to do serious Business. I have been debating in this House now for 15 years. I know that ten minutes for somebody who had done research on the subject matter and wants to persuade as many Senators as possible that may have not explored that matter will find that before he even puts his arguments in place, time will have run out. Therefore, it makes hon. Senators speak in a manner that is not informed. Instead of dealing with the subject matter, they will be looking for some phrases that may catch the eye of the press, so that they are reported to have said something.

Mr. Speaker, Sir, if you really want us to do serious Business, we must do away with limited time. I believe one morning sitting would be sufficient and not two hours. If the one morning is four hours, then we reposition ourselves in within that time, so that, at least, the Mover and Responder would have 30 minutes, respectively. If, of course, you do it quickly, then it is all good. But if you really have something to say, 30 minutes could not be quite sufficient, but it is good enough. The other debaters could get at least 15 minutes, then we will do justice to what has been brought before us. I can assure you I have already consumed two to three minutes since I started speaking. So, ten minutes is really not good enough.

Mr. Speaker, Sir, I do not know when we could be allowed to make some amendments. I would make appropriate amendments to say “four hours” is good enough time and then apportion it accordingly.

**Sen. (Dr.) Khalwale:** Thank you, Mr. Speaker, Sir. Indeed, with the benefit of hindsight, I know most Senators, when the Motion is not theirs, will wait and see the issues that would be put on the Table by the Mover.

Mr. Speaker, Sir, you and I know the experience we have had in this kind of world on this particular matter, if the Mover is speaking for only ten minutes, he will find that he has not been given enough time to convince Senators, probably who have not done enough research, or who thought the Motion was not very attractive for them to

speak to it. So, whereas we want to agree with Sen. Kajwang, mine would be to consider that the Mover should be the one to be given more time, say a minimum of 20 minutes and a maximum of 30 minutes. The rest of the Senators would then use ten minutes each.

Mr. Speaker, Sir, I beg to support and hope that you shall make this consideration.

**Sen. (Eng.) Muriuki:** Thank you, Mr. Speaker, Sir, for giving me the chance to contribute to this Motion. While I support the Motion, I would also like to echo the sentiments that the time allocated is not enough. My concern is the overall time of two hours.

Mr. Speaker, as much as our experience in the last Parliament and so on, has been quoted, we used to have in the National Assembly something called “Question Time”. We used to limit the time on a Wednesday morning for Private Members’ Motions. We would start at 9.00 a.m. with Question Time until 10.00 a.m., then we had two hours for Private Members Motions. So, there was very little time left for the Mover to reply. So, my amendment again – I do not know at what stage maybe these amendments would be allowed – is that instead of two hours, we say three hours, so that will cover the whole of that Wednesday morning. But I do not think I quite agree with my colleague from Homa Bay that ten minutes is very little. In my view, I think we need to give more time to the Mover and then the Senators can chip in 10 minutes so that we accommodate more Senators. This is because with this kind of Motion we will be having only one session and that is all.

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

**The Speaker** (Hon. Ethuro): Hon. Senators, maybe just to guide you, you know this is a Motion for you to support or to defeat. All the contributions so far are making suggestions, and that is not the way to amend the Motion. Especially for those of you who have already spoken to the Motion, you will really have no other time; you have squandered your opportunity to amend. So, you can only talk to your other colleagues to bring the amendment you desired, and then you can speak to that particular amendment because you cannot speak on the same Motion twice.

Yes, Senator for Busia?

**Sen. Wako:** Mr. Speaker, Sir, I seek your guidance on how we can amend this Motion; is it formally in writing or can I make an oral amendment? I can proceed to make some amendments. I do agree that the Mover should be given more time because 15 minutes is too short. Of course, I take into account that he has 10 minutes at the end of the day to respond. But he is the one responsible for explaining what he is moving and, therefore, he should be given more time to explain that. If half an hour is going to be too long, then 20 minutes will suffice I think within the two-hour period.

So, I will move that we delete the words “fifteen minutes” in the first line and substitute thereof “twenty minutes.” I think 20 minutes is sufficient for the Mover. The Mover has to be precise and to the point. We do not want him to be too wordy and say irrelevant things. So, 20 minutes for the Mover is okay; 15 minutes for the two leaders is okay; ten minutes for every Senator is okay. All this should be in a maximum of two-and-a-half hours.

Mr. Speaker, Sir, I beg to move as follows:-

Delete “two” in the first line and substitute thereof “three;” in the same first line, delete “fifteen” and substitute thereof “twenty” and then you leave the rest as it is. So, it will read as follows:-

THAT, pursuant to Standing Order 98(1), the Senate resolves that debate on a Motion not sponsored by the Majority or Minority Party or a Senator belonging to the Majority or Minority Party or a Committee shall be limited in the following manner:-

A maximum of three hours with not more than 20 minutes for the Mover, fifteen minutes for the Majority Party Official Responder, fifteen minutes for the Minority Party Official Responder and ten minutes for each other Senator speaking and that ten minutes before the time expires, the Mover shall be called upon to reply.

Mr. Speaker, Sir, I so move. Is there any lady to second me?

*(Laughter)*

Okay, Sen. Orenge will second me.

**Sen. Orenge:** Mr. Speaker, Sir, I wish to---

**The Speaker** (Hon. Ethuro): Maybe before, so that you get it right and as you second, Sen. Amos Wako, I think you are on the right track, just with a bit of improvement that, ideally, you should have indicated, put that in writing and then it comes to the Clerks-at-the-Table for my approval initially. But since you are at it and this morning we said that we are all learning, we will accept yours for now.

Sen. Orenge, you may proceed.

**Sen. Orenge:** Yes, indeed, Mr. Speaker, Sir, I have been in consultation with the Clerk to find out how we can move this amendment. But I fully support this amendment. One, from experience and knowing from you, particularly when you are moving a Motion – and I have known the many times you moved Motions – I do not recall a day when you were able to move a substantive Motion for less than 15 minutes. In fact, because of the thoroughness of your work, a lot of times we used to have 20 to 25 minutes.

Indeed, the role of the Senate is such that when the Senate is speaking, the senior House must be allowed to express itself fully on any matter, including a Procedural Motion like this one. It will be wrong for a senior House like the Senate, when a Motion is moved that hon. Senators and the country as a whole, do not get to hear arguments for or against such a Motion.

Mr. Speaker, Sir, from my previous experience, 15 minutes is hardly enough to move any Motion unless it is a Procedural Motion like the one we are dealing with. So, I fully support the Senator for Busia County.

One way of informing the Clerks-at-the Table and for that matter the Rules and House Committee, is that if the maximum period is two hours, then on calculation after the Mover and the Responder have given their contributions, and the Mover has replied, there would only be 50 minutes for the rest of the House to contribute. The only way to address this is what the Senator for Busia County has also resolved, by extending the hours for debate to three hours.

Mr. Speaker, Sir, I know that this House will have a lot of business; a lot of which may emanate because of joint responsibilities with the National Assembly. So, it is important that we get sufficient time to deal with any matter that comes before us. For this reason, and for the very good reasons given by the Attorney-General *emeritus* - It should be taken into consideration that he has been a legislator, *ex-officio* though, for 20 years. Informed by that experience, the Motion as amended should be passed by the House.

Mr. Speaker, Sir, I fully second.

*(Question of the amendment proposed)*

**The Speaker** (Hon. Ethuro): Hon. Senators, I will read out the Motion for purposes of clarity. The amended Motion should read as follows:-

THAT, pursuant to Standing Order 98(1), the Senate resolves that debate on a Motion not sponsored by the Majority or Minority Party or a Senator belonging to the Majority or Minority Party or a Committee shall be limited in the following manner:-

A maximum of three hours with not more than 20 minutes for the Mover, fifteen minutes for the Majority Party Official Responder, fifteen minutes for the Minority Party Official Responder and ten minutes for each other Senator speaking and that ten minutes before the time expires, the Mover shall be called upon to reply.

**Hon. Senators:** Put the question!

**The Speaker** (Hon. Ethuro): Hon. Senators, this being a Procedural Motion and since I know you held informal consultations, I will now proceed to put the question.

*(Question, that the words to be left out be left out,  
put and agreed to)*

*(Question, that the words to be inserted in place thereof,  
be inserted, put and agreed to)*

*(Question of the Motion as amended proposed)*

*(Question of the Motion as amended  
put and agreed to)*

*Resolved Accordingly:-*

THAT, pursuant to Standing Order 98(1), the Senate resolves that debate on a Motion not sponsored by the Majority or Minority Party or a Senator belonging to the Majority or Minority Party or a Committee shall be limited in the following manner:-

A maximum of three hours with not more than 20 minutes for the mover, fifteen minutes for the Majority Party Official Responder, fifteen minutes for the Minority Party Official Responder and ten minutes for each other Senator speaking and that ten minutes before the time expires, the Mover shall be called upon to reply.

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

**The Speaker** (Hon. Ethuro): What is it, Senator for Kakamega County?

**Sen. (Dr.) Khalwale:** Mr. Speaker, Sir, in the lower House it was the practice sometime, and unhappily so, where an hon. Member would come up with this kind of good homework and then the responsible Minister ignores and fails to respond. For purposes of this Senate, and since we want to create new traditions, it would be useful if we insisted that because the Senate Majority Leader will be the one who will be responding on behalf of the Government, we make it mandatory that for every such Motion that is brought here by an hon. Senator, that the Senate Majority Leader must at all times respond in person or ask his deputy to do so.

*(The Speaker consulted the Clerks-at-the-Table)*

**The Speaker** (Hon. Ethuro): Hon. Senators, in response to the point of order raised by Sen.(Dr.) Khalwale, if you look at the language of the Motion itself, it talks of the Majority Party Official Responder. This is what we have resolved. This means what you are actually saying is what you have resolved in the Procedural Motion. The expectation would be that either the Majority Party Official or the Minority Party Official or the Deputy Party Official--- And in the absence of the two, somebody they have assigned. So, that will be the position.

Next Order!

**The Senate Minority Leader** (Sen. Wetangula): On a point of order, Mr. Speaker, Sir. Procedurally we have missed out something. The Chair listened to Sen. Wako's amendment then proposed the question, put the question of the amendment, but did not put the question on the main Motion. It seems the Chair skipped something somewhere.

**Hon. Senators:** He did not.

**The Senate Minority Leader** (Sen. Wetangula): Mr. Speaker, Sir, if you look at the HANSARD, there is definitely something that the Chair skipped. I was following the debate.

**The Speaker** (Hon. Ethuro): Order, hon. Senators! The hon. Senator for Bungoma County is right on the issue of procedure, but he was not following the proceedings. We actually put the question on the amended Motion and no Senator was interested in making a contribution. In fact, the mood of the Floor, and from where I sit I can see you sitting on the same Floor, was such that we should dispense with the matter. So, the question that we put was on the amended Motion. That is the way it should be. If there were contributions, then we would have entertained the other sequence which you are suggesting.

Senate Majority Leader, proceed on the next Order.

LIMITATION OF DEBATE ON MOTIONS FOR  
ADJOURNMENT OF THE SENATE

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

THAT, pursuant to Standing Order No.98(1) the Senate resolves that the debate on any Motion for the adjournment of the Senate to a day other than the next normal sitting day in accordance with the calendar of the Senate shall be limited to a maximum of two hours with not more than five minutes for each Senator speaking after which the Senate shall adjourn without question put.

Mr. Speaker, Sir, just like the Procedural Motion which the House has just dispensed with, the whole idea behind this Motion is about limiting the time that is taken by Senators when they are contributing to Motions. It is in the same spirit. The issue here is whether or not the time allocated is enough.

Mr. Speaker, Sir, for the same reason, namely the need to contain the time taken while contributing Motions, I beg to move.

I will, as usual, ask Sen. Wetangula to second.

**The Speaker** (Hon. Ethuro): Yes, Sen. Wetangula.

**The Senate Minority Leader** (Sen. Wetangula): Thank you, Mr. Speaker, Sir. I beg to second.

Again, this is a Procedural Motion. From time to time, hon. Senators will be debating Motions of Adjournment to sit on a day other than the next sitting day when we are taking breaks such as for two or three weeks. When such a Motion is moved, normally, rules of relevance are kept aside and an hon. Senator can say anything and everything provided the hon. Senator is within the context of decorum in the House. This is the tradition in similar jurisdictions. Normally such Motions take two hours. Within two hours, everybody speaking for five minutes will ventilate quite ably on matters of concern.

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

**Sen. (Eng.) Muriuki**: On a point of order, Mr. Speaker, Sir.

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

**Sen. (Eng.) Muriuki**: Mr. Speaker, Sir, could the Senate Majority Leader and his colleague the Senate Minority Leader explain to the House the significance of the statement in the Procedural Motion “that the Senate shall adjourn without question put”? This means the House will not take any decision on the Motion.

**The Speaker** (Hon. Ethuro): Sen. (Eng.) Muriuki, that point of order cannot be duly sustained. You should have raised it when the Mover had the Floor. So, I will not carry it for now. You may wish to peruse the Standing Orders then you can appreciate so.

Hon. Senators, I will now proceed to propose the question.

*(Question proposed)*

Hon. Senators, let us allow some debate.

Yes, Sen. Khaniri!

**Sen. Khaniri:** Mr. Speaker, Sir, I rise to seek your indulgence to move an amendment at this stage. As you said, being the first day, we are all in the learning process. Moreover, we have just received the Order Papers as we walked in here. Therefore, we did not have time to write the amendments to you. Do I have the permission to move the amendment?

**The Speaker** (Hon. Ethuro): Proceed, since we allowed the Senator for Busia!

**Sen. Khaniri:** Thank you, Mr. Speaker, Sir.

My amendment follows the point of order that you ruled out, that was raised by Sen. (Eng.) Muriuki. I want to amend this Motion so that we delete the last three words in the Motion, which are, “shall adjourn without question put.”

Mr. Speaker, Sir, speaking from experience from the National Assembly, I know of cases where the Executive, at some stage, just chose to send Members of Parliament home on recess, for reasons well known to them. They would come up with Motions of Adjournment. If the Senators are not given an opportunity to vote on those Motions, whether or not they want to go on adjournment, it stands that after the Motion, the Senate stands adjourned. Therefore, I want to amend this Motion, so that we delete the words “without question put.”

Mr. Speaker, Sir, the amended Motion will read:-

“THAT, the debate on any motion for the adjournment of the Senate to a day other than the next normal sitting day in accordance with the calendar of the Senate shall be limited to a maximum of two hours with not more than five minutes for each Senator Speaking after which the Senate shall adjourn.”

Mr. Speaker, Sir, I beg to move and call on Sen. (Eng.) Muriuki to second.

**Sen. Abdirahman:** On a point of order, Mr. Speaker, Sir. I am raising this point of order mainly because the amendment being moved is in contradiction of the Standing Orders. If you look at Standing Order No.28 (3), it is fairly very clear that such amendments cannot be moved without the relevant change in the Standing Order. Are we, therefore, in order to actually change the Standing Order on the Floor of the House?

**The Speaker** (Hon. Ethuro): Sen. (Eng.) Muriuki, do you have anything to add?

**Sen. (Eng.) Muriuki:** Mr. Speaker, Sir, I am in the process of acquainting myself with these Standing Orders which we only received the other day.

Mr. Speaker, Sir, all the same, I stand to second the Motion by Sen. Khaniri. We have had, in the past, situations where for one reason or the other, the House was sent on recess when maybe there was a hot matter in the House. If you allow me your indulgence, I can remind the Senators who were with us in the Ninth Parliament. At one time when we had just passed the Constituencies Development Fund (CDF) Act, the money could not be put into the accounts. The only way that the Executive could ensure that we did not demand for that money was by sending us on recess. However, when we refused to go on recess on Wednesday, I think by Tuesday the following week, the money was in the accounts. So, I am strongly of the opinion that we need to amend this Motion, so that the Senate does take a decision whether or not to adjourn.



**The Speaker** (Hon. Ethuro): Order, hon. Senators! Following the intervention by the Senator for Vihiga, which was supposed to have been seconded by Sen. (Eng.) Muriuki, we cannot entertain that for the reasons given by the Senator for Wajir. This is for the simple reason provided under Standing Order No.28 (3) in particular. Let me just start with Standing Order No.28 (1) and (2). It reads:-

(1) The Rules and Business Committee shall, with the approval of the Senate, determine the calendar of the Senate.

(2) The calendar of the Senate once approved shall be published in the *Gazette*, Parliament's website and in at least two newspapers of national circulation."

We, as a House, will already have approved that particular calendar, including the adjournment.

Standing Order No.28 (3) reads:-

"On a day when the Senate is scheduled to adjourn to a day other than the next normal sitting day in accordance with the calendar, the Senate Majority Leader or the Senate Minority Leader or another member of the Rules and Business Committee shall move a Motion of adjournment which shall be debated for not more than two hours after which the Senate shall adjourn without question put."

So, for us to entertain the amendment being proposed, we will be attempting to amend the Standing Orders, which is completely unprocedural. We cannot amend Standing Orders on the Floor. It requires an entire elaborate process in which that is done.

Secondly, I am very sympathetic to the concerns raised by the two Senators. Already the calendar will have taken into account the recess. If you look at Standing Order No.28 (4) it reads:-

"Despite paragraph (2), the Senate may, by resolution, alter its calendar or the adjournment date."

Since it is already in the public domain, including the Senators yourselves having the calendar, if really there is a matter that you feel you should change, then you are given that opportunity in Standing Order No.28(4) by introducing a Motion to that effect. So, we cannot proceed along those lines. This is what our Standing Orders require of us.

Again, as I said in the morning, if the Senate feels like it will need to make some changes when we are reviewing the Standing Orders, it will have an opportunity to make the necessary changes.

*(Question put and agreed to)*

#### LIMITATION OF DEBATE ON PRESIDENTIAL ADDRESS

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

THAT, pursuant to Standing Order 98(1), the Senate resolves that the debate on the Motion on the Presidential Address shall be limited to a maximum of three sitting days with not more than fifteen minutes for each

Senator speaking, excluding the Mover in moving and replying who shall be limited to thirty minutes in either case and that the Senate Majority Leader and the Senate Minority Leader shall be limited to twenty minutes each.

Mr. Speaker, Sir, this particular Motion relates to the debate on the Presidential Address which, according to the Standing Orders, should take a maximum of three consecutive days uninterrupted. Of course, it could take shorter than three days so long as it is uninterrupted. So, the whole idea is to ensure, again, that every Member of this House is able to contribute or make comments on the Presidential Address. We believe that the time allocated should be enough for every Senator to make a contribution.

Mr. Speaker, Sir, we want to also consider the need to constrain time, while at the same time ensuring that we follow the Standing Orders.

Mr. Speaker, Sir, with those few remarks, I beg to move and ask Sen. Wetangula to second.

**The Senate Minority Leader** (Sen. Wetangula): Mr. Speaker, Sir, I beg to second.

Mr. Speaker, Sir, the debate on the Presidential Speech is founded in our Standing Orders and traditions in the House. In fact, in the Lower House, we used to allocate time of ten minutes per hon. Member. I think that this is now informed by the fact that all Senators are senior and experienced, with a lot of things to say about the content of the Speech, hence the allocation of 15 minutes per Member. Being a reasonably sized House as we are, I think that the three days allocated will afford each and every Member who wishes to speak an opportunity to side or not side with the content of the Speech. I remember in the last Parliament when we used to allocate ten minutes and one Member would just stand up and say: "The Speech of the President was very sweet. I support it." I am sure that we will veer away from that sycophantic talk and engage in talking intelligently about the exposition of policy or lack of it in the President's Speech.

Mr. Speaker, Sir, I beg to second.

*(Question proposed)*

**Sen. Wako:** On a point of order, Mr. Speaker, Sir. We are all learning and I want to learn today. Who will be moving this particular Motion? Is it the Senate Majority Leader or somebody else? When I read the Motion, it talks about somebody who will move the Motion which is coming under Order No.11. My question is: Who will be moving the Motion which is coming under Order No.11? If it is going to be the Senate Majority Leader, then are we going to give him first of all 30 minutes to move, 30 minutes to reply and then, as Senate Majority Leader, give him another 20 minutes? This is the way I am reading. Maybe I am not reading something correctly somewhere. This is because this Motion presupposes that the Mover of the Motion under Order No.11 is going to be somebody other than the Senate Majority Leader. If that is so, then I want to know who that person is other than the Senate Majority Leader. But if it is going to be the Senate Majority Leader, then are we going to give him 30 minutes, first of all, to move the Motion and then in his other capacity, another 20 minutes again to comment on the

Motion and another 30 minutes to reply? Am I getting it right? So, I would suggest that it be rephrased so that we know that it is the Senate Majority Leader who will be moving and replying. Therefore, he will require 30 minutes and the Senate Minority Leader can have 20 or 30 minutes. Maybe I can come there and do some drafting.

**The Speaker** (Hon. Ethuro): Please proceed; you have a point.

**Sen. Wangari:** Mr. Speaker, Sir, I want to bring the attention of the House to Standing Order No.24 (6) which reads:-

“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 debate on the Address shall not exceed three sitting days”

Maybe to seek your guidance, when you say a Senator, does it mean the Majority Leader? It does not specify.

**Sen. Hasssan:** Mr. Speaker, Sir, it is also possible, in future, that the President might come from the minority party in the Senate. So, we should not just deal with the situation as it is now, that the President comes from the majority party in the Senate. It is likely in future that the President can also have the minority in the Senate. So, let that drafting be broad enough.

**Sen. Murkomen:** Mr. Speaker, Sir, I think even as the Senator of Busia is trying to redraft that Motion, we must keep in mind---. In my own reading, it is as though the President will have the power to designate a Senator if possible to come and move that Motion, or perhaps, the party where the President represents; whether it is minority or majority, will designate a Senator to come and move the Motion, hence the provision in Standing Order No.24 (6) that it is any Senator who can move that Motion. So, I think what the Senator of Busia is going to draft, it must reflect the possibility that any other Senator can move.

**The Speaker** (Hon. Ethuro): Let us entertain more contributions as the Senator for Busia is drafting.

**Sen. Muthama:** Mr. Speaker, Sir, I have just looked at Standing Order No.24(6). My understanding is that it allows a lot of freedom. It promotes everybody here and it gives any Senator an opportunity to stand here and move this Motion and, more so, with regard to the Presidential Address. So, the Standing Order is very clear and any draft amendment will mean that we have to revisit the Standing Orders. So, that is an issue that you need to consider very seriously.

**Sen. (Dr.) Khalwale:** Mr. Speaker, Sir, when I look at Standing Order No.24(6), it is quite clear that the orders do not contemplate a situation whereby the Mover of this Motion will always be the Senate Majority Leader. If we allow Sen. Wako to introduce that amendment, we will completely have moved away from the letter and spirit of Standing Order No.24(6). It is this Motion as it is that captures the letter and spirit of Standing Order No.24(6).

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

**The Senate Minority Leader** (Sen. Wetangula): Mr. Speaker, Sir, a reading of Standing Order No.24 (6) clearly indicates that even as Sen. Wako appeared to have spotted the contradiction apparent in the Motion, if he had reconciled it with the Standing Orders, he would not have seen it as a contradiction. There will be a time like one

colleague said when the President will have minority in the Senate. So, we cannot talk of the Senate Majority Leader moving a Motion on the Presidential Address. Indeed, if there were no gymnastics played, we would be commanding the majority in this Senate. But that is left for historians to write.

**The Senate Majority Leader** (Sen. (Prof.) Kindiki): On a point of order, Mr. Speaker, Sir. I take great exception - I say this with the seriousness that we attach to the processes and institutions of this country - to the term used to describe the election we have just had. I say so with profound respect to the intelligence and dignity of the Senate Minority Leader. Is he in order to allude to gymnastics that have led to his party becoming a minority?

**The Senate Minority Leader** (Sen. Wetangula): Mr. Speaker, Sir, my learned junior who is the Senate Majority Leader and whom I have a lot of regard for--- I did not allude; I stated and I can state again. But I said we should leave it to historians to write.

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

**The Speaker** (Hon. Ethuro): The Chair had started appreciating the excellent working relationship between the Senate Majority Leader and the Senate Minority Leader until just now. And since both of them call themselves learned friends and they are, I am sure they are also aware that that question has been determined by the Supreme Court. I think every contributor must really contribute on facts. So, I would urge the Senate Minority Leader and the Senate Majority Leader to continue in the initial spirit they came to the Senate with and in the way they had worked very nicely and avoid things that seem to put them on a collision course.

**The Senate Minority Leader** (Sen. Wetangula): Mr. Speaker, Sir, in my community, we have a little story that a hyena was chasing an antelope and the antelope outsprinted the hyena because the hyena limps and cannot run fast. Then the antelope went past a huge rock and disappeared. When the hyena arrived at the rock, it asked the rock: "Have you seen an antelope pass here?" The rock did not answer. The hyena asked twice, but the rock did not answer. Then the hyena turned to the rock and said: "Even if you do not answer me, you have heard me".

*(Laughter)*

Mr. Speaker, Sir, I want to encourage Sen. Wako to withdraw his amendment because it goes against the very spirit of the Standing Orders so that my learned friend the Senate Majority Leader can opt to nominate a Member from his side to move the Motion, then he will be left to utilize the allocated 30 minutes to him in the course of the debate, to utilize in articulating whatever issues will be on the Floor. So, my learned senior counsel, if you read Standing Order No.24(6) as framed, it clearly envisages a situation where the Mover is not necessarily the Senate Majority Leader or the Minority Leader.

**The Speaker** (Hon. Ethuro): Let me just explain so that we do not keep repeating the same thing. You need to appreciate that Standing Order No.24(5) talks of whenever the President delivers an Address, a Senator may, as soon as practically thereafter". Now that Senator happened to have been the Majority Leader this morning. The Motion to debate on the Presidential Address, so far in the Order Paper you are using, bears the

name of the Majority Leader as the Mover and so that is why the confusion is coming up on this particular day. For purposes of the Standing Orders, they have made it elaborate so that those other scenarios that Senators have been demonstrating are actually factored. So, we can only amend this Motion to that extent because the contradiction that Sen. Wako, in the true words of Sen. Orengo as Attorney-General *emeritus*--- He was bringing up a contradiction that in moving and replying you are supposed to do 30 minutes and then towards the end, to say, the Majority Leader now who happens in this particular case to be the one moving and replying is also given another 20 minutes. So, I think we have cured that with the proposed amendments that he is bringing now, so that this is only applicable when it is another Senator and not the Majority Leader. That is to make it clear.

**Sen. Wako:** Mr. Speaker, Sir, I was correct and all other people who opposed my proposal got it all wrong. I was very much conversant with that Standing Order and that is why I actually agree with the Motion in so far as it says the Mover in moving and replying shall be limited to 20 minutes on either side.

**The Speaker** (Hon. Ethuro): He is perfectly in order because the Chair has granted him an opportunity to move his amendment. He is moving it by trying to explain some of the issues that arose from the Debate.

*(Sen.(Dr.) Machage interjected)*

**Sen. Wako:** Mr. Speaker, Sir, I think Sen. (Dr.) Machage needs to read it very carefully.

**The Speaker** (Hon. Ethuro): In terms of procedure, you should move the amendment first.

**Sen. Wako:** Mr. Speaker, Sir, my amendment is that we should put a full stop after the words “in either case” in line four. You will say; “Where the Mover is not a Senate Majority Leader or the Senate Minority Leader, they shall be limited to twenty minutes each.”

That, I think clarifies it. That is the clarity I stood to point out.

**The Speaker** (Hon. Ethuro): Sen. Amos Wako, I am sure that you do not want the Senator for Siaya and the Chair to withdraw the kind words they had put in for you. So, you need to do it properly. Move your amendment.

**Sen. Wako:** Mr. Speaker, Sir, I beg to move that you put a full stop under after the words; “in either case” in line four.

**The Speaker** (Hon. Ethuro): Read the Motion as amended.

**Sen. Wako:** Mr. Speaker, Sir, as amended, the Motion will read as follows:

“THAT, pursuant to Standing Order No.98(1), the Senate resolves that the debate on the Motion on the Presidential Address shall be limited to a maximum of three sitting days with not more than fifteen minutes for each Senator Speaking excluding the Mover in moving and replying who shall be limited to 30 minutes in either case. Where the Mover is not the Senate Majority Leader, or the Senate Minority Leader, they shall be limited to 20 minutes each.”

**Sen. Abdirahman:** Mr. Speaker, Sir, with due respect to hon. Amos Wako whom I highly regard for his eloquence and competence, I feel that that completely changes the concept. You cannot put a full stop and proceed to use the word “and”. The way he read it will completely change it.

Our understanding is that indication of the Majority Leader on the Order Paper is for purposes of procedure. That is why it is indicated as the Majority Leader. However, just like we used to see it traditionally, when the Leader of Government Business was not in the House, any other Government representative could present. We may not alter this. For the purpose of convenience, the fact that the Standing Orders indicate the word “Senator” we may not have to change the entire concept by introducing wherever and so and so. This could be something that a few other Members may feel changes the concept.

**Sen. Kajwang:** Mr. Speaker, Sir let me try to assist.

**The Speaker** (Hon. Ethuro): Are you seconding Sen. Wako?

**Sen. Kajwang:** Mr. Speaker, Sir, I am not seconding. If we accept that the amended Motion is on the Floor, then I can contribute.

**The Speaker** (Hon. Ethuro): The amended Motion is not on the Floor.

**Sen. Kajwang:** Mr. Speaker, Sir, maybe I could say what I wanted to say in assistance to the House in the way I am seeing the confusion coming. If we end at “either case” and put a full stop, we will have cured this problem. We are forcing the Majority Leader and the Minority Leader to contribute even where they would not wish to contribute any more after they have already nominated a Senator to speak. So, why can we not leave it at “either case”? If the Majority Leader wants to be the one to move, then he would move like any other Senator. If the Minority Leader wants to speak, then he would speak like any other Senator. We should not give a Senator time then the Majority Leader speaks as if he is commanded to speak on this Motion.

I will support hon. Wako. After the words “either case” put a full stop and leave it there, and delete all the other words.

**Sen. Orenge:** Mr. Speaker, Sir, while we are verbalizing and contributing - because there is no Motion that has been proposed. We are just verbalizing our opinion on this. For the very reasons that were advanced by the hon. Senator for Mombasa, the Senator for Busia is absolutely right. I think it should be remembered that in accordance to the Standing Orders, the Majority Leader and the Minority Leader are not necessarily representing the Government in place. They represent the Majority and the Minority. You can find circumstances where the Government is neither in the Minority nor in the Majority depending on the results of an election. So, you may find circumstances where the Mover of the Motion is not the Majority Party Leader or the Minority Party Leader. However, because they represent parties which are very important tools in the processing of the business of this House, they may very well want to speak on the Motion.

So, if this amendment is predicated, to some extent, from what the able Senator from Mombasa advanced, then what the former Attorney-General, Senator for Busia, is proposing has some merit. However, if you want to take the objective situation as it is at the moment, the reality is that the majority leader represents a party which is in Government. Therefore, Sen. Kajwang may be right that if we leave the Senate Majority Leader out after the full stop, we should leave the Senate Majority Leader out and have

the Senate Minority Leader being mentioned in cognizance of the objective situation because I cannot foresee a situation where there could be another Mover other than the Majority Leader. If the Majority Leader has acceded to another person in his party to move that Motion, then he would have to comply with the rules of the debate and would not speak twice on any Motion. He should not be given an extra 20 minutes or additional time since he has acceded his time to another person from his party.

Mr. Speaker, you can guide us on this, but I am advising the Attorney-General to move a further amendment because it is properly before the House to leave out the word “Majority Leader” to reflect the objective situation in the House as it is at the moment.

**Sen. (Dr.) Kuti:** Mr. Speaker, Sir, I think there is conflict here in the sense that tradition is conflicting with the Standing Orders. The Standing Orders are silent on the issues of Majority or the Minority Leader in the House. Since we are following the Standing Orders, since it remains silent on the matter and any Senator can move a Motion, I think we should follow what the Standing Orders state instead of referring to the traditions. The Standing Orders assume that the President would come from the Majority Party in the House.

**Hon. Senators:** Not all the time!

**Sen. (Dr.) Kuti:** Mr. Speaker, Sir, this will not happen all the time. Since it remains silent, we should allow it to pass. It would double the number of speeches if we used the word “Majority”. We should follow it the way it is stated here.

**Sen. Kagwe:** Mr. Speaker, Sir, I have two things. First, as hon. Senators are arguing on this matters, I think 90 per cent of us are already confused about what we are debating. This is because an amendment has been moved or may be it has not been moved. We are not even sure. Secondly, a very sound proposal has been made by Senator Kajwang which made a lot of sense to me, that we should stop this whole thing at the end of the word “case”. This is because there are House traditions where the Speaker will always recognize the contributions of either the Majority or the Minority Leader. Just like in the lower House, we saw the Speaker recognize the Chairmen of Committees as having an upper hand in discussing any matter relating to those committees. Therefore, can you save us from this continued debate which has no direction?

**The Speaker (Hon. Ethuro):** Order, hon. Senators. I have been agonizing, just like you, on how to proceed and save the Members from torture. First, let me clarify that the Chair did not propose the Motion as amended because up to now, the Motion has not been seconded. The closest it came to secondment was when the Senator for Siaya stood although he had disqualified himself from seconding it too.

The debate has brought out issues that have enriched my own understanding. First, I cannot question that wisdom now because it is in the Standing Orders – the Majority Leader who is expected to be the one doing it as the Majority Leader in terms of proposing such a Motion has decided not to. This is something that the Standing Orders have allowed the Majority Leader to do. We have seen some scenarios that could lead to that kind of situation and you can live with that. Once you speak to a Motion, you cannot speak twice to it unless you are moving and replying. So, the right to move and reply has been left to the Senator who will be doing it. However, the Motion, since it is important

because it is on the Presidential Address, gives an opportunity to the key people in the House; the Majority Leader and the Minority Leader to have their say.

Hon. Senators, since I have been requested, although it is not my job, I will attempt.

THAT, after the word “case” where we have put the full stop as proposed by the Senator of Busia, you now say “where the mover is neither the Senate Majority Leader nor the Senate Minority Leader, the latter two shall be limited to 20 minutes each.”

*(Loud consultations from Sen. Wetangula)*

I hear you, Senator for Bungoma, but you have forgotten that there is a word at the end saying “each”. Let me see if we have an amended version. We have to cure the fact that we are talking about 30 minutes and the same situation where we have the Senate Majority Leader being the Mover assuming the Senate Majority Leader is the Mover, the Procedural Motion allows him or her to do one hour or 50 minutes. That is the thing that we are trying to cure here. Let me just read it.

“THAT, pursuant to Standing Order No.98(1) the Senate resolves that the debate on the Motion on the Presidential Address shall be limited to a maximum of three sitting days with not more than 15 minutes for each Senator speaking, excluding the Mover in moving and replying who shall be limited to 30 minutes in either case.”

My understanding is “either case” is in moving and replying. So, you put a full stop and say “where the Mover is neither the Senate Majority Leader nor the Senate Minority Leader then the two shall be limited to 20 minutes each.”

If you agree with me Senator for Busia, then move it and I will put the Question.

**Sen. Wako:** Mr. Speaker, Sir, I move the Motion as read by the Speaker. That was my intention from the very beginning. I am glad the entire Senate now agrees with me. This is very important and I thank you, Mr. Speaker, for bringing us together.

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

**Sen. Kajwang:** I second and say that I want to thank the Speaker for helping the House because we were becoming confused.

*(Question of the amendment proposed)*

*(Question, that the words to be left out be left out  
put and agreed to)*

*(Question, that the words to be inserted in place thereof  
be inserted, put and agreed to)*

*(Question of the Motion as amended proposed)*

*(Question of the Motion as amended)*



*put and agreed to)*

*Resolved accordingly:-*

THAT, pursuant to Standing Order No.98(1), the Senate resolves that the debate on the Motion on the Presidential Address shall be limited to a maximum of three sitting days with not more than fifteen minutes for each Senator speaking, excluding the Mover in moving and replying who shall be limited to 30 minutes in either case. Where the Mover is not the Senate Majority Leader, or the Senate Minority Leader, they shall be limited to 20 minutes each."

**The Speaker** (Hon. Ethuro): Order, hon. Members! I am sure you have seen the Supplementary Order Paper. It is a product of the Rules and Business Committee. So, from this stage, we shall use the Supplementary Order Paper.

Sen. (Dr.) Khalwale, I would urge you to look at and raise your point of order when we turn to the Supplementary Order Paper so that I am sure. Before you do so and I want to give you time to familiarize yourself with the Supplementary Order Paper, I have a Communication to make.

### COMMUNICATION FROM THE CHAIR

#### STANDING ORDERS INDUCTION WORKSHOP FOR HON. SENATORS

**The Speaker** (Hon. Ethuro): Hon. Senators, you have been invited to participate in an induction workshop from 18<sup>th</sup> to 20<sup>th</sup> April, 2013 at Simba Lodge Naivasha. This event has been organized by the Senate in collaboration with the Parliamentary Strengthening programme implemented by the State University of New York (SUNY) Kenya.

The purpose of this workshop is to enable Senators to be well-equipped with the Standing Orders and other procedural documents of the Senate, to be fully apprised with the necessary information on the Parliamentary work process and welfare, share useful views and perspectives on how to perform their duties effectively. This workshop is part of the wider programme that will be undertaken by the Senate to assist the Senators in discharging their constitutional mandate of oversight, legislation and presentation. In ensuring robust discussions during the workshop we have put in place an elaborate programme that involves eminent resource persons and senior parliamentary officers to take you through the Standing Orders and other related matters.

Hon. Senators can obtain additional conference details from the Office of the Clerk. All the Senators are, therefore, requested to attend and participate in this very important workshop.

**POINT OF ORDER****AMENDMENT OF STANDING ORDERS TO CREATE  
OVERSIGHT COMMITTEE**

**Sen. (Dr.) Khalwale:** On a point of order, Mr. Speaker, Sir. I rise on Standing Order No.244 which says that the Rules and Business Committee may at any time propose amendments to these Standing Orders. I want to invite you to look at this because of this constitutional issue that I want to raise.

Article 2(4) of the Constitution of Kenya states:-

“Any law, including customary law, that is inconsistent with this Constitution is void to the extent of the inconsistency, and any act or omission in contravention of this Constitution is invalid.”

The same Constitution in Article 96(3) states as follows:-

“The Senate determines the allocation of national revenue among counties, as provided in Article 217 and exercises oversight over national revenue allocation to the county governments.”

I have cited these two articles of the Constitution because these Standing Orders, when you look at the sessional committees and departmental committees, nowhere did the team that was preparing them contemplate a committee that would oversight in accordance with the Constitution. As we are now, if we do not invoke Standing Order No. 244 whereby the Rules and Business Committee will then initiate the amendment of these Standing Orders, it means that the Rules and Business Committee will set up committees that have no oversight role over the county governments. How can we call ourselves as people who are over-sighting the county expenditure when we do not have a committee that we can use to invite the Auditor-General to come forward and table his report and through it we will invite the leader of the executive committee of the county government or the Governor himself so as to come and account for their expenditures? I am moving on this Standing Order to invite you that you direct that the rules and business committee immediately brings before this House an amendment to these Standing Orders so that we create an oversight committee that will be responsible for what I am saying.

**The Speaker** (Hon. Ethuro): I want to thank the Senator for Kakamega for raising that particular point. Indeed, you have made references to proposals for amendments by the Rules and Business Committee. You will recall that it is only this morning that you formed the Committee. So, we are still doing the basic things. This matter will definitely be coming up for discussion next.

Having said so, the matter you are petitioning in terms of our fourfold mandate, especially the third one on revenue will be taken care of by two committees.

Let me start with Standing Order No.209 which has a Sessional Committee on devolved government. The Sessional Committee on Devolved Government shall consider all matters related to inter-governmental and inter-county relations, governance and management of county governments, cities, towns and urban areas. If you look at the second schedule where we have standing committees on page 167, there is the Committee

on Finance, Commerce and Economic Affairs. For the benefit of the House, I will read subjects assigned to the Committee:-

“To consider all matters related to resolutions and Bills for appropriations, share of national revenue among the counties and all matters concerning the National Budget, including public finance, monetary policies and public debt, trading activities and commerce, tourism investment and divestiture policies, planning and development policy.

But the issue is not the debate now. My reading of this is that let us get the Committees first to work and then, those Committees will make recommendations to the House if they find that, that mandate is inadequate. There are sufficient provisions within the Standing Orders for those amendments to be brought to the House. While I appreciate your enthusiasm to try to get things right from day one, let us give the proposed Committees an opportunity to actually look at them and find themselves that we have not given them sufficient capacity to deliver on the mandate of the Senate. From there, the matter should definitely come to the Rules and Business Committee which can now propose certain amendments that will cure deficiencies, if any.

Next Order!

### MOTION

#### ADJOURNMENT OF THE SENATE TO ALLOW SENATORS ATTEND OFFICIAL OPENING OF COUNTY ASSEMBLIES

**The Speaker** (Hon. Ethuro): Senators, we are on the Supplementary Order Paper. The Senate Majority Leader!

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

THAT, pursuant to Standing Nos.28(4), 31(1) and 50(b), and notwithstanding the provisions of Standing Order No.30, aware of the central role occupied by the Senate in the constitutional order in general and in devolved governance structure in particular; further aware of the special role of the Senate to represent the counties and protect the interests of the counties and their governments; and noting that the county assemblies will hold their official opening to be addressed by the County Governors on Thursday 18<sup>th</sup> April, 2013, and to enable Senators to attend the events, the Senate resolves to adjourn until Tuesday 23<sup>rd</sup> April, 2013, at 2.30 p.m.

Mr. Speaker, Sir, the Motion is self-explanatory; that tomorrow county assemblies will begin business and the information I have is that Senators have been invited to attend. In any case, the Standing Orders allow Senators, on invitation by the respective Speakers of the County Assemblies, to occasionally attend the sittings of the county assemblies.

Mr. Speaker, Sir, I think that this link between Senators and the county assemblies is extremely critical if the devolution project has to function. Moreover, we are rolling out the exercise of our mandate at a time when there is a lot of misunderstanding on the role of the Senators, especially in relation to county governments. I think that you have already heard about certain public statements being made to the effect that, perhaps, our work as Senators is to work here in Nairobi and it ends there. So, it is extremely important that Senators take their role, which is not only to represent counties and county governments, but also to be able to supervise or exercise oversight of what happens there. In that connection, I want to move that this House adjourns, so that the Senators who are able to attend tomorrow's function will go a long way in actually asserting our position and also creating a good relationship between the county assemblies and county governments and their Senators here in Nairobi.

Mr. Speaker, Sir, with those few remarks, I beg to move and request Sen. Wetangula to second "without gymnastics".

*(Laughter)*

**The Senate Minority Leader** (Sen. Wetangula): Mr. Speaker, Sir, you may recall my learned friend saying that the word "gymnastics" was not suitable here, but I am happy that he has accepted that it is appropriate.

Mr. Speaker, Sir, I beg to second. This emanates from the Rules and Business Committee that took cognizance of the fact that as Senators, you have a critical role and link with the county assemblies. We, as Senators, have to continue engagement with them and tomorrow is a very critical day for the county assemblies, where all the assemblies are being launched as it were or officially opened. We have heard innuendos here and there of attempts to either backtrack or be lukewarm in paying attention to matters of devolution for which this Senate is the custodian. I think that it is absolutely important and desirable that Senators be given an opportunity where they can, to go and exhibit authority and relevance in these county assemblies as they start their business and assure them that, as a House, we stand united in the support and defence of devolved units, united and focused in supporting their existence and that we shall at all times, be available to support allocation of sufficient revenue and, in the words of Sen. (Dr.) Khalwale, provide good and strong oversight in the expenditure of those resources.

Mr. Speaker, Sir, I know that the time is limited and colleagues from as far as Wajir and Mandera may find it difficult, if they do not own aircraft, to fly to their counties but those who can, as many as we can, it will be desirable to go and express our solidarity and presence with the county assemblies as they open. It is equally important, because I will not have an opportunity to speak again, for Senators to continue encouraging members of the county assemblies and remind them that they are not councillors, but members of the county assemblies with a clear mandate to legislate and work for the counties. This is because the impression you get is something like "they have just transitioned from councillors to other councillors in different capacity". They are actually not councillors. They should be reminded constantly that their role must be carried out with decorum, dignity and patriotic thinking; that they have a duty to support

the devolved units to grow from this nascent stage to units that will be the pillars of development in the country. I want to encourage Members to all times remain steadfast in support of devolution, because we are actually the foundation and the rock on which devolution is going to flourish. We must at all times, when it comes to matters of devolution, take a bi-partisan approach in defending devolved units because that is what Kenyans have fought for.

Mr. Speaker, Sir, with those few remarks, I beg to second the Motion and encourage that we do exactly what we have proposed that we should do.

*(Question proposed)*

**Sen. Kajwang:** On a point of order, Mr. Speaker, Sir. Since this is an Adjournment Motion, I propose that we limit the time allocated to each member to two minutes, because I can see that many Senators want to speak. We need to get to the aircraft, if there are any.

**The Speaker** (Hon. Ethuro): We have just passed a Procedural Motion under Order No.9, which gave five minutes. I suggest that we proceed on that basis since it allows a maximum of two hours. I am sure that after one hour, we will see how much time we have.

**Sen. Haji:** Mr. Speaker, Sir, I very strongly feel that we have been ambushed by the proposal to adjourn the House, simply because some people want to attend the opening of the county assemblies. We wanted to do that, but there was a letter which was written by the Senate requiring us that after the adjournment of the Senate tomorrow, we will proceed to Naivasha so that we can participate in the induction course. Now, it looks like the Mover and Seconder have ambushed us because it is only taking into account the interest of those who come from very close areas. Some of us come from very far and because of honouring the request of this Senate that we should all be in Naivasha tomorrow, we have told our counties that it will not be possible for us to attend. So, in future, the Movers and Seconders, particularly the Senate Majority Leader and the “Deputy Leader” should not consider themselves but the interests of the entire House, so that we are treated equally.

**The Senate Minority Leader** (Sen. Wetangula): On a point of order, Mr. Speaker, Sir. Just for the record, I want to remind my good friend, Sen. Haji, that I am the Senate Minority Leader and not the Deputy Leader.

**The Speaker** (Hon. Ethuro): Governor Machage! My apologies. Yes, Sen.(Dr.) Machage!

**Sen. (Dr.) Machage:** Mr. Speaker, Sir, I strongly also support the views of Sen. Haji. Accepting this Motion as it is would put some of the Senators in this House in bad repute in their areas of jurisdiction and especially so where the news media and every Kenyan will know that the Senate did adjourn so that Senators should attend the opening of the County Assemblies. In any case, this Motion should have said; Senators to attend the events “if possible”. The way it is, it is not possible.

So, I would want to make an amendment to this Motion on the second last sentence to include the words “if possible”.

**The Speaker** (Hon. Ethuro): I do not know what to make of that particular amendment procedurally. He first spoke and then suggested an amendment. Since we have been learning, I am happy to entertain it, but just to caution that I know Sen. (Dr.) Machage has good standing with respect to these particular Standing Orders. You will need then somebody to second you.

**Sen. Haji:** Mr. Speaker, Sir, I second the proposed amendment.

**The Speaker** (Hon. Ethuro): Sen. Haji, you can only speak after the amendment has been proposed. So, we need a Seconder because you had already contributed to the Motion. When you move an amendment, it is like a contribution to the original Motion until the amendment itself has been proposed.

**Sen. Godana:** Mr. Speaker, Sir, I stand to second the proposed amendment.

*(Question of the amendment proposed)*

**Sen. (Dr.) Khalwale:** Mr. Speaker, Sir, I want to support the amended version because, really, it is clearly in accordance with Standing Order No.239 which tells you that you may address any County Assembly where you are a registered voter. So, the amendment by the Senator is making our Motion be confluent with Standing Order No.239, which I wish to support. But because some people in the Executive want to make the Senators and Members of the National Assembly look cheap, we would like a direction from your Chair, clear that when travelling tomorrow, whether a Senator uses an aircraft or a personal car, it will be at the cost of the taxpayer so that we do not travel to the county, come back into Nairobi and go to Naivasha at our own cost and when people look at us they think we are cheap.

Mr. Speaker, Sir, definitely, we are not cheap! I want to encourage you to make that particular directive so that my good friend who was my best Provincial Commissioner for three years can have the choice of flying to Garissa and coming back. It is only after that that the President and his Deputy will realize that the Senate is up and running, picking and working.

I support.

**Sen. Kajwang:** Mr. Speaker, Sir, first, I want to thank Sen. (Dr.) Khalwale for reminding us that, actually, we have as a matter of duty the right to address our County Assemblies because it says that we may. But I have not seen the rules of the County Assemblies themselves. I hope that in those same rules, it is provided that the Senators may attend the County Assembly proceedings and also a Committee of the County Assembly proceedings. If that is so, then I think that is the umbilical cord that connects us with the County Assembly.

In fact, the County Assemblies look at us as their political leaders. In fact, they look up at us for direction. They look up to us for what direction they are supposed to go in matters of governance of those County Assemblies. Because of that, the speeches that will be made by the many of us who may attend will give direction to those governments on the way we would wish to see them go and also to remind them that one of our roles is not only to fight for their allocation, but also to look after that allocation – our oversight role, so that when the Senator appears in the office of the Governor, he or she knows that

you have a role to look at how he manages his affairs, especially financial affairs. If that is not made clear, you might find that Senators might go to their County Governments and be ignored. It would be terrible that a Senator would come here and move a Motion to dissolve his own county assembly because it is not running properly; it is not accountable and transparent as it should be. So, this ceremony is more than a ceremony. It is an occasion to address the assembled representatives and to tell them that we are working together and that we will fight for them, where we must fight for them but we will oversight them where we must, and that we want to work together to see that this country moves forward.

If you look at the Address of the President although it will come up for debate later, he says that devolution is the heart of his Government. I think that was beautiful to some of our ears because we fought many battles for devolution. In fact, when we call them devolved units, we undermine them because sooner or later, we will be calling them what we used to call the county councils. I think they are another level of Government recognized in our Constitution and we will work mutually with respect of each other and I think where we have a role to play, we will play it fiercely but always trying to help so that the whole country moves.

Mr. Speaker, Sir, I listened to you yesterday and I think you were at one with the President in saying that devolution is in your heart because if it is not for devolution, some of our counties will remain where they have been for 50 years because there was no devolution of resources in those areas. Now that there is a promise of that devolution, we want to hold the Government to account that, that promise is kept and that money is used well and that the whole country moves together. Some of us who come from the lake, in islands which have been forgotten, this is the first time we are going to see Government money and we want it to be used properly.

Thank you, Mr. Speaker, for suggesting this and although I had not planned to travel because I had not seen the SMS inviting me, now I will travel and I will attend and possibly address the county assembly.

I support.

**The Speaker** (Hon. Ethuro): For the benefit of the entire Membership, even if you spoke to the original Motion, now you have an opportunity; you can still contribute to the amended Motion.

**Sen. Murkomen:** Mr. Speaker, Sir, I rise to support this Motion specifically because if you read Article 6 of the Constitution, it is very clear that counties are the second level of Government and, therefore, we have 48 governments in this country. In Article 96, it talks about our responsibility to be the guardian angels of devolution. I have a problem with the current devolution laws. I had the advantage of serving in the task force that drafted the devolution legislation including the Devolved Government Act, 2012. One of the proposals then was to ensure that Senators have a link with county Assemblies and particularly make it mandatory for all Senators to address County Assemblies at least three times in a year. The reason was that it gives the opportunity for the Senator to report what they have been doing as per Article 96 of the Constitution. It also gives the opportunity to the Senator to be able to collect the ideas that come from the County Assembly.

Mr. Speaker, Sir, I believe that at the opportune time, this House will bring back those provisions to allow the Senators, as a matter or right, to address the County Assembly. The reason for that is that it must not be assumed that all Senators are basically recognized by their County Assemblies as it were, either because the political leanings that the Senator may be different from the County Assembly and so forth. But that must be explained through a legislation because, tomorrow, it is possible that most of us will go there and you will be lucky to sit in the House because it is not mandatory. The rules are merely permissive, but it does not make it mandatory for these hon. Senators to sit there. If that is not done, we will continue undermining the position and the responsibility of the Senator.

So, I support this Motion and I believe at the opportune time, this shall not be just a mere permissive will of the County Assembly nor is it just a mere permissive will of the County Government but it shall be mandatory.

The other issue to note is that the County Assemblies complement our work as much as they oversight the County Executive which we are also doing. We are doing oversight role for the County Assemblies and the Legislature. They play a major role and most of the County Assemblies think, particularly in areas where the Members are elected from the same party as the Governor that they are there to be subordinates to the Governor, to be the footnotes to the County Assembly and to endorse everything that comes from the governors. It is important for us to restate and tell them that they play a major role in checking the use of resources and putting the County Executive in check.

For those reasons, I support.

**The Speaker** (Hon. Ethuro): Let us get the last contribution on the amendment of the Motion from the Mombasa Senator. We will then put the Question and continue with the contributions.

**Sen. Hassan:** Thank you, Mr. Speaker, Sir, for this opportunity. I rise to support the Motion. First, I go for this function with a heavy heart. In Mombasa, we have the luxury of about eight flights to and from Mombasa, every day. However, that notwithstanding, I think you should reprimand the Salaries and Remuneration Commission (SRC) for trying to define the status and position in the organization of Government out of whatever volition or rationale that the Senate is. In fact, they have contributed immensely in undermining the stature and authority of the Senate.

I want to commend the President on his Address yesterday. It appeared as if the chronology of how he articulated the Senate had an appreciation that the Senate is the Upper House as he referred to the Speaker of the Senate and thereafter, Speaker of the National Assembly.

Finally, I would like to tell The Transitional Authority (TA) to act with a little more diligence since it has created a perception that we, Senators, are here for nothing with regard to the way they have conducted their business with respect to facilitating the Government. They have not stated the position of Senators in the entire arrangement of this transition. Therefore, as we go there, as Sen. Murkomen from Elgeyo Marakwet indicated ably, we might just be footnotes to be seen politically but not to be heard and be effective at that level. At that opportune time, I will be supportive of any amendment to a law that makes it mandatory for Senators to be acknowledged in the entire organization.



Their proper place in respect to the entire organization of Government must be restated again and again with the firmness it deserves so that this Senate is not looked at as an appendage that can be dismissed.

Finally, for those who will get an opportunity, we must state to this County Assemblies; quite eloquently, in respect of what Sen. Murkomen said that it seems as if most County Assembly Members appear to be part of the formation and part and parcel of the Government. I think whereas that may be true to a certain respect, they must look at their wars independently. This Senate must lead the onslaught or the initiative to ensure that County Assembly Members appreciate their role as County Assembly Members.

Therefore, I would like to support this Motion. I think this is a great opportunity for every Senator to be seen. Those who are lucky should attend. This Senate should take the initiative to place the Senate where it belongs in the structure of Government.

Therefore, Mr. Speaker, Sir, you may need to move your seat a little, either to the right or to the left, so that we see the words “Senators” in this classroom kind of arrangement.

**The Speaker** (Hon. Ethuro): The Senator from Mombasa is definitely hawk-eyed. I will make the necessary amends. Before I put the Question to the necessary amendment Motion, I also want to direct us to the issue by the Senator for Kakamega that this should be official business and that Senators should be facilitated in the usual manner.

*(Question, that the words to be inserted be inserted  
put and agreed to)*

*(Question of the Motion as amended proposed)*

Hon. Senators, now you can debate the amended Motion. Yes, Sen. G. G. Kariuki.

**Sen. Kariuki:** Mr. Speaker, Sir, I suggest that we now call the Mover of the Motion to reply.

**Sen. Obure:** Thank you Mr. Speaker, Sir, for this opportunity. First of all, I want to thank the Rules and Business Committee for taking the initiative to bring this Motion at this particular time. Devolution is, perhaps, the most important innovation of the new Constitution. I feel, in devolution, we address many of the challenges experienced in this country. It will address the issue of resource allocation and also remove the notion that certain parts of this country have been marginalized because resources will be equitably distributed.

Our role as Senators is very clear, specific and stipulated in the Constitution. The role, specifically, is to represent the counties, to protect their interests and to protect the county governments. I, therefore, do not, personally, see any room for conflict with the governors or holders of other offices. As a matter of fact, the governors and Members of the County Assemblies will be looking up to us to for advice and guidance from time to time. It is, therefore, opportune that we visit our respective County Assemblies for these ceremonies tomorrow. We will take the opportunity to interact with the Assembly Members, governors and give them appropriate advice because that is our role.

Lastly, I would like to take this opportunity to thank you, Mr. Speaker, for the remarks you made to ensure that the role of this Senate is clearly understood by everybody and that we take our rightful role in managing the affairs of this country. We look forward to your support and direction to protect this institution and make sure that we play our rightful role.

With those remarks, I support.

**Sen. Ongoro:** Thank you, Mr. Speaker, Sir. I want to support the Motion of Adjournment that allows us, as Senators, to attend the opening ceremonies that will be held tomorrow in our respective counties. You are aware that when we promulgated our new Constitution, one of the pillars that Kenyans were excited about was that of devolution.

As Senators, we are the bridge between these two levels of Government. Our absence in such meetings might allow the County Governments not to understand the very critical role that they play while at the same time recognizing the importance of certain specific roles that still join them to the central government.

I also want to add my voice to the fact that Senators should be adequately facilitated to ensure that they are able to travel to their respective counties appropriately, to attend such functions and again to come back to Nairobi. Some of us have the advantage of having our counties from within; a walking distance or within where we sit. However, some of my fellow Senators have to hire choppers to ensure that they attend such functions and still be relevant in the Senate.

With those few remarks, I support.

**Sen. Sang:** Thank you, Mr. Speaker, Sir. I have tried severally to catch your eye. I am excited that finally, I was able to catch your eye before the end of this sitting.

First, I stand to support the Motion on these two accounts. As it has been mentioned by fellow Senators, the role of the Senate is to protect and to serve the interests of, not only the county, but also the County Governments. In the last three weeks or so, we have seen governors struggling to engage with the County Governments especially on issues touching on the county governments. Kenyans have been wondering what the position of the Senate is. We may not have come out as Senators to assert our authority and to specifically come out clearly that we are the people who are in charge in terms of dealing with the interests of the counties. I think that this, for those who can attend the official opening of the county assemblies, presents an opportunity for us to position ourselves and assert our authority as the Members and the institution that is in place to support the counties and to serve the interests of the counties.

I also want to agree with a number of our Senators, especially the Senator for Elgeyo Marakwet who mentioned that if you look at the Standing Orders, you will see that our participation in the County Assemblies is subject to the Standing Orders of the County Assemblies. We know that some of us come from counties where the Speaker and the Governors may not be coming from the same party as we do. It may be important to think through which of the Standing Orders takes precedence in terms of these matters. Is it that we will serve at the mercies of the Speakers of the County Assemblies or do we have a rightful role as Senators in our County Assemblies?

If need be, I will be proposing, when the right time comes, that we amend some of the rules that we have in this House and some of the Legislation that was passed in the previous Parliament to allow the Senators, as a matter of right, to attend the sittings of the County Assemblies, if need be, to address some of these things. This is especially in the first two years where we will have a lot of engagements and discussions in terms of trying to entrench devolution in this country.

I sympathize with our colleagues who come from very difficult areas and who may not be able to find their way to their County Assemblies because the impression this may create, at the end of the day, is that some of us who will attend are more concerned about our counties than other Senators, especially those elected, who will not attend due to logistical challenges. An impression may be created that they are not keen or interested in serving and protecting the interests of their counties. Probably, in future, it will be important for all of us to be considerate and to discuss these things in good time so that all of us can present the picture that the entire House, especially the County Delegations; are all concerned about the interests of our counties.

With those very many remarks, I wish to support the Motion.

**Sen. Kembi-Gitura:** Mr. Speaker, Sir, I want to stand here and support the Motion as has been amended. I am of the strong opinion that this is an extremely important Motion so that, tomorrow, as many of us as possible should be able to attend the opening ceremonies of our county assemblies. It is important also to note that it would have been ideal if each and every one of us was able to attend these opening ceremonies but then one must add that it is logistical because the date for us to go to Naivasha was made long before any of us knew that these county assemblies would be opening tomorrow. So, it is unfortunate that some of us may not be able to attend but in pursuance of the Standing Orders and particularly Article 96 of the Constitution, which sets out the role of the Senate, it is imperative in my considered opinion that we should attend tomorrow's ceremonies.

We have been talking about the assertion of our authority as the Senate as pertains to the county assemblies and other devolved units. We are the bridge or the nexus between the county assemblies and the government. I heard what Sen. Sang said and I support what he said about Standing Order No.239 because it is permissive but does not quite allow because at the moment, we do not know what the rules of procedure at the various county assemblies are and whether they are going to be the same for each county or each county is going to make its own rules of procedure without reference to what the others have to do or have to say. I would like to clarify here again that the governors have nothing to do with allowing us or not allowing us to the county assemblies. This is the sole decision of the assembly itself together with the speaker because these are two different arms of the government, that is, the executive and the legislature. What we have to deal with as pertains Standing Order No.239 is the legislature.

I would like to propose, like Sen. Sang, that we should work very strongly towards seeing how we can amend this specific Standing Order so that it is not a permissive Standing Order but it is a right for the Senator to be able to address the County Assembly at least for a given number of times, even if it only once per session per year, then for the other times, the elected senators to address the county assembly as

issues arise. That is the only moment at which we are able to communicate our position as Senators and to assert our authority, to create and strengthen the nexus that exist between us and the county assemblies.

Therefore, I stand to support very strongly this Motion. We appreciate that it is better that we adjourn the Senate for tomorrow instead of there being a lack of quorum. Whereas we realize that some of us come from very far, I would like to mention that even the Mover and the Seconder of this Motion are not in the proximity of the Senate. So, they did not bring this Motion selfishly but did so in the interest of us all so that those who are able to attend and state the position of the Senate *vis-à-vis* that of the county assembly may be able to do so tomorrow or when need and occasion arises. Tomorrow is going to be historical also because it is happening throughout the nation that all county assemblies would be opened by the governors. The governor would state his case of how he or she intends to lead and also state his or her vision for the county. It is good that most of us are there to be able to understand what that kind of vision it is and what it is indeed that the governors want to do. If they are acting in excess of their authority as pertains to the county assemblies, we as Senators are the ultimate House under Article 96 to be able to guard and guide them on how to proceed so that they are within the ambits of the Constitution.

With those few remarks, I support the Motion as amended.

**Sen. Abdirahman:** Mr. Speaker, Sir, I want to start by saying that I join my colleagues who have supported this very important Motion of Adjournment. As much as Wajir, where I come from is not within the radius of a number of counties that are near Nairobi, I feel that this adjournment is very important for any one of us who can attend. This is a great opportunity for us to set the agenda at the counties and somehow create some bond between the Senate, the governors and even the county assemblies.

Mr. Speaker, Sir, we all know that any new thing, including the establishment of devolved governments, has teething problems. You will very much understand that in establishing our own Senate here, as rightfully put by one of the Senators this morning, we are using a make-shift Chamber. This is something that can be explained as one of the examples. You must be following that the devolved governments are facing numerous challenges ranging from how best they can link with the national government, funding and transition. Therefore, we must work together and develop synergies between the various actors in the devolved government. Some of us, where we come from, we have complained for too long about marginalization and we do not intend to complain this time round. So, it is going to be crucial for us to attend and help in terms of building a vision from day one. We would not want people to imagine that the Senate is subordinate to any of those structures. We do not want to create that impression from the onset. The Senate must be viewed as the Upper House that is championing the cause of devolved governments. Governors alone cannot do it. They are more or less playing or executing the roles in which services will be provided. Our oversight role will actually be developed from day one as we help in developing the way forward. I want to say that although it is day one and our first sitting, the benefits outweigh what we would miss tomorrow afternoon.

So, I support this Motion of Adjournment.

**Sen. Wamatangi:** Mr. Speaker, Sir, while I support this Motion, now that we have a clear exposition and a good debate as to the existence of an umbilical cord between this House and the county governments, the next question should be the urgency on how the proposed changes or amendments would be done especially in pursuit of Standing Order No.239. If you look at the language that is used, it says that “a Senator may address or attend” but there is no definitive language. With the current language used and the power that a Senator would derive from, it would be impossible for a Senator to execute his or her duties as per the Constitution. A Senator would be required to exercise oversight over a county government, but how would he or she do that “if he may” and yet he is not told that “he should”. So, the focus should be with our committees, which, as you explained would undertake this role and do it with urgency.

I support the Motion and request that this House moves urgently to correct those anomalies.

**Sen. Karaba:** Mr. Speaker, Sir, thank you very much for giving me a chance to contribute to this Motion. I would like to remind the Senators who are here that the devolution matter has taken us a long time, that is, since the time we had the constitutional making process at the Bomas of Kenya in 2005. This is something that we should be proud of because it has come to a fruitful conclusion and we are happy about that move. It is therefore very important to emphasize that devolution is in the right direction. This is the right time because the assemblies in Kenya are having their first sitting tomorrow. Therefore, we need to clarify that we are with the Governors and the County Representatives. Noting that we were elected at the same platform, it is therefore prudent that we appear to be in support of our own child of devolution.

Mr. Speaker, Sir, it is also important to note that most of the Senators are travelling long distances and it is already 5.00 p.m. therefore, I ask you to bring this debate to a halt so that we can travel. It is also important that you, as the Speaker of the Senate, should come up with some rules that would guide the assemblies because it is us who will be guiding them and from tomorrow, they should see that we are there to guide them.

With those few remarks, I support.

**Sen. Elachi:** Mr. Speaker, Sir, I also stand to support the Motion. I would want to remind Kenyans and my fellow hon. Senators that when you look at the commitment of our Government, indeed, the President has always in his speeches reminded us that devolution is in his heart. It is up to us, as Senators, to go in our assemblies and guide, especially the Governors who have received their first lot of resources, and if we are not careful, if they are audited in June, we will find some of the counties being questioned about mismanagement. It would also be important for us to remember that the counties started on a wrong foot. The Speakers were sworn in and yet women who were to be nominated were not in the House. As Senators go back, we would want to see a House that abides to Article 177 of the Constitution and to also start showing authority that the Senate is indeed the overseer of the counties. One of the things that I have seen with the governors is that they want power, and I know most of them have been Members of Parliament, so they are used to power, but they forgot in that position you have to deliver

services to the people and the Senator has the power to make sure that the governor delivers those services.

As I support, I hope the Senate will remember that we have to oversee and help them to legislate laws that will guide each county.

I beg to support.

**Sen. (Prof.) Lesan:** Mr. Speaker, Sir, the Senator to your right is Prof. Lesan from Bomet County.

Mr. Speaker, Sir, I also rise to support the Motion. The fact that we are a significant Senate in making devolution successful has been stated by the Senators who have spoken before me. What I want to bring forth here is that since there are three Speakers in the three Houses of Parliament and counties in this country, I wish to suggest, because it is in our interest, including the Speakers that devolution succeeds, that the three Rules and Business Committees occasionally put their heads together, especially bearing in mind the fact that there is an extra space in the back of our minds to be able to look at the calendar of the three Houses and probably, include in the calendar a session in which we can have joint meetings. We already have joint meetings with the National Assembly, but do not have joint meetings with the county assemblies. I think that there can be joint meetings between the Senators and the County Representatives. This can be inserted in the calendar for the year, so that it becomes a phenomenon which we can continue to follow, without necessarily making it uncomfortable for those Senators who come from far, to be able to rush or miss sessions with their electorate. So, I think that this should fall in the calendar of Parliament, so that this can be a phenomenon which goes on throughout the year.

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

**Sen. Ndiema:** Mr. Speaker, Sir, I rise to support the Motion for Adjournment for the purpose of attending the opening of the county assemblies.

Mr. Speaker, Sir, our primary role here as Senators, as has been said, is really to support and defend the devolved governments, in this case, the county assemblies. This is more so now that they are in their formative stage where there are a lot of teething problems. I am aware that they are very keen to get our support as early as this. So, for those Senators who will be able to attend, I believe that they will add a lot of value to the function tomorrow. For those of us who may not be able to attend for one reason or another, more particularly because of the distance, I would propose that there be a meeting; maybe not a joint meeting as such, but a quick one – maybe a Kamukunji sort of or workshop – between us and the governors, so that we can exchange views.

Mr. Speaker, Sir, regarding the issue of attendance, as mentioned here in Standing Order No.239, I do not really understand the wisdom of saying that a Senator “may” attend a county Assembly in which he is a registered voter. That is superfluous to me because already where I am a Senator, definitely, I am a registered voter.

**An hon. Senator:** Some are nominated!

**Sen. Ndiema:** Mr. Speaker, Sir, I can now see the wisdom. But really, it should not necessarily say “where you are registered.” Really, it should be expressly mentioned that where a Senator represents a county, he has a duty and responsibility to attend.

Thank you, Mr. Speaker, Sir.

**Sen. Sijeny:** Mr. Speaker, Sir, I wish to support the Motion because it is very important at this stage and time of the country making history. We saw the importance of the Joint Sitting of the Senate and National Assembly yesterday. We synergized and came up with ideas even as Members of the National Assembly and Senate mingled. This will also give the Senate and county assembly members an opportunity to come up with bright ideas of how they are going to govern this country.

Mr. Speaker, Sir, it is important also, as my other colleagues have said, that the Senators who have attended today's sitting will be of assistance to the people who are yet to start. They will teach them what we have learnt, which is very useful. We thank you for agreeing to facilitate those who are going to travel far, so that they are able to carry out their mandate accordingly.

Thank you, Mr. Speaker, Sir.

**Sen. G.G. Kariuki:** Mr. Speaker, Sir, thank you for giving me this opportunity to say a few words regarding this Motion.

Mr. Speaker, Sir, one of the importance of this Motion is the message that will go to Kenyans to clarify our relationship between the county governments and us. It will be seen clearly that we are not abdicating our responsibility and that when these people meet, we have a role to play, which is very important.

Mr. Speaker, Sir, the other message which is equally important is when you authorized that the occasion tomorrow has been made official through you and that all of us will be facilitated to be where we are supposed to be.

Mr. Speaker, Sir, thirdly, I was wondering whether this is not too open for us to start discussing the county governments, because I think that we have a long way to go. Both the Senators and county governments themselves are not very much aware of their roles. I think that the meeting which is going to be held Naivasha will be our starting point, which should make us realize what we are supposed to do with the county governments and what kind of assistance we are supposed to give to our county governments so that the people of Kenya can know our stand. This is because this is not an easy exercise. It is quite new to all of us. When the governors went to Naivasha, there was a big problem, because some of them did not realize or care to read the Constitution which says that the purpose of devolution is to devolve power from individuals and give it to institutions. But some of them thought that power was going to be allocated to them. This is because I believe that no Senator, Governor or any other organization in this country can claim to have the power, because the power has already devolved and gone to so many institutions. This is because the whole idea of county governments had nothing to do with who was going to be what, but what kind of service that people were going to get from those institutions.

Mr. Speaker, Sir, since I think that we will have ample time in Naivasha, if we will still go there tomorrow or the day after, God willing, I would like to propose, if the Standing Orders allow, that the Mover be called to reply.

**Sen. Leshore:** Mr. Speaker, Sir, thank you for giving me a chance to say a few words.

Mr. Speaker, Sir, I am a bit confused because having read this Motion, it wants us to adjourn in order to attend the opening of county assemblies. Some of us come from

very far and also the roads that go to Samburu are in bad shape now since the rains have come and yet, you want us to adjourn in order to attend county assemblies tomorrow. There must be something missing between you and the speakers of the county assemblies. I stand to be corrected. I would have liked to attend the opening of the Samburu County Assembly tomorrow, but by telling us to adjourn now in order to attend, and yet we do not have airports, I stand confused. There must be something missing between the Senate and county assemblies. I would like to propose that, knowing how brilliant and knowledgeable you are about our country and the system, you must put things right next time. If you want us to attend the opening of the county assemblies, you must give us adequate time – maybe three or four days – so that we attend.

Mr. Speaker, Sir, with those few words, I support the Motion.

**The Speaker** (Hon. Ethuro): Maybe, for the benefit of the Senator for Samburu, you will appreciate that we formed the Rules and Business Committee only this morning and it was in the inaugural meeting that this agenda cropped up and the Committee agreed unanimously. So, there is nothing between the Speaker of the Senate and the other Speakers. I appreciate your concerns and confirm that I know them for sure. While I would have loved to ensure that Senators from Samburu, Turkana, Wajir and Mandera attend, we cannot also deny others who have the advantage of proximity – and they are the majority - to be able to participate. But the Chair notes your concerns, where it is possible - and I think that, that is why the Motion has been amended – even for us in the future, we will always try to do things in good time. But you will appreciate that yesterday, we had the Joint Sitting of Parliament and this is the only day we had to be in the Chamber. This Motion could not have come at any other time. This is actually the earliest opportunity we were able to debate the Motion.

Hon. Senators, since there are no other contributors interested and we do not have to put the Question of the closure of debate, I will invite the Mover to reply.

**The Senate Majority Leader** (Sen. (Prof.) Kindiki): Mr. Speaker, Sir, mine is to thank all those who have spoken in support of this Motion. I think in the process of learning how to conduct our affairs as Senators and also from the Chair's side – I have heard a few comments that relate to the communication between the administration of the Senate and the administration of the County Assembly Speakers – I hope next time there is such an adjournment for such purposes. It can only be better.

Mr. Speaker, Sir, I do not want to take a lot of time and because I can see the mood of the House, I beg to move.

**Mr. Speaker:** Hon. Senators, you will recall that on the Procedural Motion No.9, there was a robust debate on whether the Senate should adjourn without Question put and we determined that we do not have to put the Question. But because we have not set our calendar and because this Motion has come now, we will have to put the Question for this particular one.

*(Question of the Motion as amended, put and agreed to)*

*Resolved accordingly:-*



THAT, pursuant to Standing Order No.28 (4), 31 (1) and 50 (b) and notwithstanding the provisions of Standing Order No.30, aware of the central role occupied by the Senate in the constitutional order in general and in the devolved governance structure in particular, further aware of the special role of the Senate to represent the counties and to protect the interest of the counties and their governments and noting that the county assemblies will hold their official opening to be addressed by the County Governors on Thursday 18<sup>th</sup> April, 2013 and to enable Senators to attend the events, if possible, the Senate resolves to adjourn until Tuesday 23<sup>rd</sup> April, 2013 at 2.30 p.m.

### ADJOURNMENT

**The Speaker** (Hon. Ethuro): Order, hon. Senators. Having passed that particular Motion and also having exhausted the business on the Order Paper, it is now time to adjourn the House. The House will, therefore, stand adjourned until Tuesday 23<sup>rd</sup> April, 2013 at 2.30 p.m.

The Senate rose at 5.30 p.m.