

PARLIAMENT OF KENYA

THE SENATE

THE HANSARD

Wednesday, 26th February, 2014

*The Senate met at the County Hall,
Parliament Buildings, at 9.00 a.m.*

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

PRAYERS

QUORUM CALL AT COMMENCEMENT OF SITTING

The Deputy Speaker (Sen. Kembi-Gitura): Order, Hon. Senators! Could we confirm if we have a quorum?

(The Deputy Speaker consulted with the Clerk-at-the Table)

Yes, indeed we have a quorum.
Proceed.

NOTICES OF MOTIONS

APPROVAL OF NOMINATION OF SEN. WETANGULA TO SENATE COMMITTEES

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

THAT, pursuant to Standing Order Nos. 175 (3), 177 (3) and 178, the Senate approves the nomination of the Rules and Business Committee of Sen. Moses Wetangula to the following committees:-

(a) Standing Committee on Finance, Commerce and Economic Affairs - to replace Sen. (Dr.) Boni Khalwale

(b) Standing Committee on National Security and Foreign Relations - to replace Sen. Kennedy Okong'o Mong'are.

Thank you.

ESTABLISHMENT OF NATIONAL OPEN AND DISTANCE LEARNING UNIVERSITY

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

THAT, aware that the Open and Distance Learning (ODL) offers flexible learning opportunities thereby freeing learners from constraints of time and place while enabling them to combine work and family responsibilities with educational opportunities; aware that there is minimum use of ODL in both primary and secondary schools in Kenya; appreciating that this mode of learning would facilitate access to education in areas where physical and socio-economic factors hinder access; the Senate urges the National Government to institutionalize and mainstream policies to support ODL through the development of an effective regulatory and legal framework for ODL and to establish a national university dedicated to ODL.

ADOPTION OF REPORT ON FAMILIARIZATION TOUR OF GEOTHERMAL
POWER PLANTS IN BARINGO AND NAKURU COUNTIES

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

THAT, this House adopts the Report of the Standing Committee on Energy, Roads and Transportation on the Familiarization Tour of the Geothermal Power Plants in Baringo and Nakuru Counties between 11th to 13th July, 2013, laid on the Table of the House on Wednesday, February 26, 2014.

COMPENSATION FOR VICTIMS OF DETENTION AND
OTHER HUMAN RIGHTS ABUSES

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

THAT, aware that the Bill of Rights in the Constitution is an integral part of Kenya's democratic state and its framework for social, economic and cultural policies whose main objective is recognition and protection of human rights to among other things preserve the dignity of individuals and to promote social justice; recognizing that many Kenyans suffered from human rights abuses perpetrated by government agencies especially between 1970s and 1980s including detention without trial and against those suspected of complicity in the *coup* attempt of August 1982; noting with concern that the victims of these abuses were treated inhumanly leading to painful deaths while others were dismissed from employment exposing them and all their families to undignified social, economic and psychological conditions; further noting that the High Court has in the past awarded several former detainees millions of shillings in damages for torture, concerned that most of the surviving victims are poor and cannot afford to access the court processes, this Senate calls on the

national Government to comprehensively deal with the compensation of former detainees and those unfairly dismissed from employment after the August 1982 *coup* so as to facilitate reconciliation and entrench the development of a just society in Kenya.

Thank you.

FORMATION OF A COMMITTEE TO UNDERTAKE
SECURITY REVIEW IN KENYA

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

THAT, aware that national security is prerequisite for maintaining a stable nation state; concerned that Kenya continues to be confronted by factors that threaten national security such as terrorist attacks, road carnage, cattle rustling, inter-ethnic conflicts, food shortage and floods; further concerned that various forms of threats to national security such as cyber-crime and terrorism, constantly mutate thereby posing a challenge to security organs; appreciating the efforts of successive governments to safeguard national security; noting with concern that despite the efforts insecurity continues to increase; further noting that no security review has been carried out since Independence to forge a common strategy on safeguarding national security; the Senate urges the National Government to constitute a Committee to undertake a comprehensive security review with a view to formulating modern strategies capable of containing crime and safeguarding national security interests.

The Deputy Speaker (Sen. Kembi-Gitura): Thank you, Senator.

Yes, Sen. Ongera!

Sen. Ongera: Mr. Deputy Speaker, Sir, on behalf of Sen. Muthama---

The Deputy Speaker (Sen. Kembi-Gitura): Are you duly authorized?

Sen. Ongera: Yes, I am, Mr. Deputy Speaker, Sir.

The Deputy Speaker (Sen. Kembi-Gitura): Go on.

PROVISION OF EDUCATION FOR DECEASED OFFICERS' CHILDREN

Sen. Ongera on behalf of Sen. Muthama: Mr. Deputy Speaker, Sir, I beg to give notice of the following Motion:-

THAT, aware that many officers serving in Kenya's National Security Organs die in the line of duty; further aware that most of them are very young with those who are married having young spouses and children; concerned that the compensation given to their next of kin is not adequate to cater for the needs of their immediate family members, particularly their children's education, family upkeep and other basic needs; the Senate calls upon the National Government to provide for the education of the deceased officers' children up to university level to cater for the basic needs of their immediate families.

Thank you.

The Deputy Speaker (Sen. Kembi-Gitura): Thank you, Sen. Ongera.
Sen. Amos Wako!

COUNTRYWIDE CIVIC EDUCATION ON NEW DEVOLVED SYSTEM

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

THAT, noting that the Constitution of Kenya, 2010 fundamentally changed the architecture of Government in the country; aware that many people in Kenya including elected leaders are not conversant with the new structure and especially the devolved system, the Senate urges the national Executive to undertake comprehensive, well structured and systematic civic education countrywide on the new system so that the Kenyan people can understand and positively participate in its implementation.

Thank you.

The Deputy Speaker (Sen. Kembi-Gitura): Sen. (Prof.) Lonyangapuo.

MEASURES TO DEVELOP RESEARCH IN KENYA

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

THAT, aware that research is a mystified domain which remains a preserve of selected Government agencies, academic institutions of higher learning and a few other organizations; concerned that even in the said institutions of learning, research is usually introduced at post-graduate level; further concerned that research has not been prioritized and very low funding is channelled towards it; the Senate calls upon the National Government to:-

- a) take deliberate measures to cascade research to lower level of education right from early childhood education level;
- b) inculcate and institutionalize research by introducing it as a compulsory discipline at all levels of education;
- c) develop a clear policy and legal framework to guide the development and sustainability of research at all levels of education; and
- d) increase funding for research by allocating at least 1 per cent of the national Budget to research.

Thank you.

Sen. Mositet: On a point of order, Mr. Deputy Speaker, Sir. I am sorry because as far as the procedures and rules of the House dictate, at least I am supposed to have read each and every report on its own and present it in the House.

The Deputy Speaker (Sen. Kembi-Gitura): That is not a point of order, Sen. Mositet. You purported to lay some Papers on the Table of the House; you did not do it correctly. I was going to allow you, in any event, after that order to come back and lay

them properly. So, that is actually not a point of order. I was going to do it out of my own motion.

Sen. Mositet: Thank you, Mr. Deputy Speaker, Sir. So, can I do it now?

The Deputy Speaker (Sen. Kembi-Gitura): Do it now.

Sen. Mositet: Thank you, Mr. Deputy Speaker, Sir.

PAPERS LAID

REPORTS OF THE AUDITOR-GENERAL ON THE FINANCIAL OPERATIONS OF EMBU, ISIOLO AND WAJIR COUNTY GOVERNMENTS

Sen. Mositet: Mr. Deputy Speaker, Sir, I beg to lay the following papers on the Table of the House today, Wednesday, 26th February, 2014:-

The Report of the Auditor-General on the financial Operations of Embu County Government.

The Report of the Auditor-General on the financial operations of Isiolo County Government for the period 1st January, 30th June, 2013.

The Report of the Auditor-General on the financial operations of Wajir County Government for the period 1st January, 30th June, 2013.

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

The Deputy Speaker (Sen. Kembi-Gitura): Yes, Sen. Khaniri!

Sen. Khaniri: Mr. Speaker, Sir, did you just note the Leader of Majority in the House flout our own Constitution? My understanding is that when you have to cross from one side to the other, you have to walk all the way to the Bar, bow to the Speaker then cross but he did not do that. He just bowed at the Mace. Is he in order?

The Deputy Speaker (Sen. Kembi-Gitura): Indeed, that is completely out of order. Can you do it correctly please?

An hon. Senator: Throw him out!

The Deputy Speaker (Sen. Kembi-Gitura): I will not throw him out. Could you please do it correctly so that we can go on with business?

*(The Senate Majority Leader (Sen. (Prof. Kindiki)
walked to the Bar and bowed to the Chair]*

Thank you, Sen. Khaniri; the Rules of the House must be strictly obeyed.

Proceed, Sen. Mositet.

The Report of the Office of the Controller of Budget on the County Budget Implementation Review for the first quarter of the fiscal year, 2013/2014.

The Deputy Speaker (Sen. Kembi-Gitura): Thank you, Senator.

Next Order!

STATEMENTS

OUTBREAK OF FOOT AND MOUTH DISEASE

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IN WEST POKOT COUNTY

Sen. (Prof.) Lonyangapuo: Mr. Deputy Speaker, Sir, I rise to seek a Statement from the Chairperson of the Standing Committee on Agriculture, Land and Natural Resources. The Statement relates to the outbreak of foot and mouth disease in West Pokot on 31st December, 2013; bearing in mind that the county's mainstay is livestock keeping. I would like the chairperson to confirm whether he is aware that following the confirmation of the outbreak, all livestock markets in the county were closed on 13th January, 2014 and have not been re-opened.

Secondly, he should explain what plans the relevant Government department has to contain the disease and assist the affected residents who cannot even pay fees for their children since they depend on the sale of livestock.

Thirdly, state whether the Government will assist the over 30,000 students from the county, many of whom have been suspended from schools, colleges and universities for failing to settle school fees.

Thank you.

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

The Deputy Speaker (Sen. Kembi-Gitura): On that matter?

The Senate Minority Leader (Sen. Wetangula): On the Statement.

Mr. Deputy Speaker, Sir, you may recall that yesterday, the distinguished Senator for Taita Taveta attempted to give a Statement in relation to a request made in the last session. It is in the traditions and precedence of this House that business in the previous session lapses when the session ends. That is why you have seen this morning Members giving Notices of Motions that they had actually previously given and were pending for debate. Bills pending that have not been debated will be republished to follow the process. So, I want to seek your guidance whether the distinguished Senator for Taita Taveta can proceed to issue the Statement and indeed if there are any other Statements that can be issued or they lapsed with the session and therefore those who sought Statements can be given the opportunity and the liberty to seek them once more so that those responsible for issuing them can do so in the course of this session.

The Deputy Speaker (Sen. Kembi-Gitura): Thank you, Sen. Wetangula. That is the position and that is the tradition of Parliament; that everything lapsed when we went on recess. We are in a different session and if you had sought a Statement last session and it had not been issued, it cannot be issued now without you having sought the Statement anew. You must appreciate that circumstances could have changed for the time that we were away and they need to go back to the Cabinet Secretary so that when it is given to the House, it is current. That is part of the reason why the tradition of Parliament has always been that everything lapses with the last session and we are starting a new session.

Indeed, like Sen. Wetangula has said, you have noticed that most of the Motions for which notices have been given this morning were Motions that notices had already been given in the last session but since they were not debated, they lapsed. So, we have to start all over again. Therefore, I concur with Sen. Wetangula that it is the correct position and Members are advised accordingly. Nobody can now purport to give a Statement that was pending from the last session if it was not given during that session.

Sen. (Dr.) Khalwale: On a point of order, Mr. Deputy Speaker, Sir. Maybe you could clarify further in respect of Bills which had already been published. Are we supposed to do anything or the Senate will automatically take its own action?

The Deputy Speaker (Sen. Kembi-Gitura): I was dealing with Motions right now. That was the matter which came to my attention. The issue of Bills has not yet come but when it comes, I will be able to guide on it accordingly.

Sen. (Dr.) Khalwale: That is why I was saying that you could use this opportunity to clarify.

The Deputy Speaker (Sen. Kembi-Gitura): I will clarify when that issue comes up.

Is that okay, Sen. (Dr.) Khalwale?

Next Order!

The Senate Leader of Majority (Sen. (Prof.) Kindiki): On a point of order, Mr. Deputy Speaker, Sir. I rise on a point of order to seek your direction because the Statement that was requested by the Senator for West Pokot has not been---

The Deputy Speaker (Sen. Kembi-Gitura): I agree with you but you see Sen. Wetangula rose to seek a clarification and maybe that took my mind away from that.

The Chairman in charge of matters of agriculture, when are you going to issue a Statement on the matters raised by Sen. (Prof.) Lonyangapuo?

Sen. Khaniri: Mr. Deputy Speaker, Sir, the issue of the outbreak of foot and mouth disease is a very serious one that needs very urgent action. I therefore, give an undertaking that we will endeavour to make a Statement in two weeks time.

The Deputy Speaker (Sen. Kembi-Gitura): This looks like a very urgent issue. Two weeks is very far away.

Sen. Khaniri: Mr. Speaker, Sir, I am putting in consideration that we get these Statements from the relevant Cabinet Secretaries and sometimes, it takes a while for them to respond. Therefore, two weeks is fine. If we get the Statement earlier then we will issue it earlier.

The Deputy Speaker (Sen. Kembi-Gitura): Are you happy, Sen. (Prof.) Lonyangapuo?

Sen. Lonyangapuo: Mr. Deputy Speaker, Sir, I would have been more happier if he said one week because---

The Deputy Speaker (Sen. Kembi-Gitura): Are you okay with two weeks?

Sen. Lonyangapuo: No. He can improve.

The Deputy Speaker (Sen. Kembi-Gitura): Sen. Khaniri, can you do better than two weeks?

Sen. Khaniri: Yes, Sir.

The Deputy Speaker (Sen. Kembi-Gitura): Let us reserve the answer for one week. You will make every effort to make sure that you get the answer. If it is not possible, you will ask for an extension and we shall understand and most likely grant it. Is that okay?

Sen. Khaniri: Gladly, Mr. Speaker, Sir.

Sen. Wako: Mr. Deputy Speaker, Sir---

The Deputy Speaker (Sen. Kembi-Gitura): Order, Sen. Wako. You know you cannot just rise and start talking; it is not allowed. The rules do not allow it. That is why

you either rise on a point of order or on something else, but you cannot just stand and start talking. It is not allowed.

Sen. Wako: On a point of order, Mr. Deputy Speaker, Sir. I am not sure if this is a point of order and that is why I am a bit hesitant. With regard to Statements from the Government, my Committee is also experiencing difficulties in obtaining the requisite Statements from Government in spite of a number of reminders and so on. I see my friend there is at pains; he cannot promise that it will be ready within seven days. I noticed that the Senate Minority Leader is here. I think it should be one of his duties and functions to help committees and to intervene through the necessary departments to issue Statements. Although he has said seven days, I am seeking your indulgence that he is assisted by the Senate Majority Leader to ensure that in seven days, that is done. He should assist committees to ensure that the deadlines for Statements are met.

The Deputy Speaker (Sen. Kembi-Gitura): Leader of Majority, do you have something to say to that?

The Senate Majority Leader (Sen. (Prof.) Kindiki): Yes, Mr. Deputy Speaker, Sir. I have no problem with that. It goes without saying. In fact, for the benefit of the distinguished Sen. for Busia, I had not realised that the Vice Chairperson was here. I realised that the Chairperson was not here and talked to Sen. (Prof.) Lonyangapuo to see how, in the absence of the Chair, I could liaise with the rest of the Committee Members to ensure that they get the answer in good time. So, that is automatic and not just for this Statement. All the committees are welcome to use the good office of the Senate Majority Leader for speedier statements.

Sen. G. G. Kariuki: On a point of order, Mr. Deputy Speaker, Sir. With your permission, I would like to follow up the question by Sen. Wako. Although the new Constitution is very good, it seems as if the whole year we have been in this House, there has been a problem with the Chairs of Committees in delivering Statements at the right time. Our Standing Orders do not allow civil servants to sit in the Chamber. Under the old Standing Orders, we used to reprimand a Minister who failed to respond to Questions in good time and one who was habitually absent from the House. We used to discipline them. However, with regard to Committees, we sympathise with the Chairs because they have no specific authority to give undertakings of giving replies without hesitation. Do you not think that time has come when the Chairpersons and the House Rules and Business Committee should find a way of having these guys around with us – somewhere around the corner - but not in the House?

The Deputy Speaker (Sen. Kembi-Gitura): Who are these guys, Sen. G. G. Kariuki?

Sen. G. G. Kariuki: These are the Principal Secretaries who should give us answers and even if they do not give us the answers, they should understand the spirit of Members. For instance, the Kirinyaga people should have been answered straightaway. A lot of time will be taken to go to the officers and to come back here. Sometimes, we may not even get the right answer.

The Deputy Speaker (Sen. Kembi-Gitura): If the Senate Majority Leader was listening to you, I would have asked him to respond on the issue you have raised. This was the same issue of getting delayed answers from civil servants and whether there is a way we can have them here; whether outside the Chamber or in the galleries as we used

to do in the National Assembly so that they understand the urgency of the issues. That was the issue that Sen. G.G. Kariuki was raising. I do not know whether you got the gist of it and if you want to say something about it.

The Senate Majority Leader (Sen. (Prof.) Kindiki): Mr. Deputy Speaker, Sir, I got the gist of Sen. G.G. Kariuki's comments. I share with my colleagues in this House, the frustration of getting Statements in good time. I do not think it is the fault of either the Chairpersons or the relevant Cabinet Secretaries. This is because of the new architecture in our new Constitution which separates the Executive from the Legislature. Therefore, trying to synchronise legislative business and executive business is very difficult.

There are two things: One, as I said before, a determination was made by the Chair that the Senate Majority Leader was responsible for getting most of the Statements and they used to come in good time. However, the Chair determined that according to the Standing Orders, it was the Chairs of Committees who were responsible for the Statements. How do we move forward?

Mr. Deputy Speaker, Sir, if you direct, we can have the responsible civil servants, as you have said, once attending our sessions in the galleries. Secondly, it is important that we have a session with the Cabinet Secretaries and the entire Senate, if we convert ourselves into a Committee of the Whole. That would help sensitise some of them. However, other than that, we are ready to help. I have not been approached by any Committee Chair who was desperately looking for a Cabinet Secretary because he could not get an answer in time.

The Senate Minority Leader (Sen. Wetangula): Desperate!

The Deputy Speaker (Sen. Kembi-Gitura): Stop making exchanges from the Floor. Address the Chair.

The Senate Majority Leader (Sen. (Prof.) Kindiki): Mr. Deputy Speaker, Sir, thank you for protecting me from the excesses of Sen. Wetangula. Ordinarily, even in the circumstances we are in, if I was approached by a Chair of a Committee who needs an answer urgently and cannot obtain it from a Cabinet Secretary or a Principal Secretary, I would facilitate. That would take hours or minutes. However, I have not been approached. That is the spirit that we should continue with. Let us not blame any person and yet we have not exhausted the avenues that exist.

The Deputy Speaker (Sen. Kembi-Gitura): Sen. (Dr.) Khalwale, before we go to the next Order, with regard to the issue you raised on Bills, I simply want to refer you to Standing Order No.144 which settles the issue completely. This is on re-introduction of Bills. Standing Order No.144 is very clear on the re-introduction of Bills. If you read it, you will understand, exactly, how you should deal with Bills that were dealt with in the last Session.

Is that satisfactory?

Sen. (Dr.) Khalwale: Yes.

PROCEDURAL MOTIONS

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

The Senate Majority Leader (Sen. (Prof.) Kindiki): Mr. Deputy Speaker, 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 Committee shall be limited in the following manner:-

A maximum of three 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.

The purpose of this Motion is simply to try and shorten the time that each speaker will use in contributing to Motions. As you are aware, the Senate is getting busier and busier. During this Session, we expect to have more Motions, more business, more Bills and it is only fair that we give as many Senators as possible a chance to contribute to the business of this House. It is in that spirit that we have found it important to limit the time that is available.

Standing Order No.98 provides the time that is available. However, the Senate is at liberty to shorten the time and that is why this Motion has been brought. The Vice Chairperson of the Committee on Finance, Commerce and Economic Affairs has tabled quite a number of important documents such as the reports by the Controller and Auditor-General. I have seen notices that have already been given of very many Motions. I am aware of a number of Bills which are at the publication stage. Therefore, this Motion, under this Order as well as others which we shall be moving are aimed at ensuring that there is more time, more people and enough business of this House.

Without much ado, I beg to move and request Sen. Wetangula to second.

The Senate Minority Leader (Sen. Wetangula): Mr. Deputy Speaker, Sir, I beg to second this Procedural Motion. We have had it in this House before. I want to urge that being a Procedural Motion, as we have business ahead of us, we should not belabour the points. This timing of Motions has been there and has helped this House to run in an orderly manner. I hope that when it comes to debate, Members will be focused and will address the real issues so that the points they have are recorded in the HANSARD for the prosperity of this Senate and the country. I hope that both sides of the House will, in many matters that affect this country, approach debate in a bi-partisan manner without unhelpful and irrelevant side shows that do not enhance the role of the Senate. I want to encourage Senators to avoid unhelpful polemics in debate and deal with issues that are relevant to Motions.

I want to congratulate Members who have given Notices of Motions here that will be governed by this Procedural Motion. Most of them reflect serious industry in the manner in which Senators are approaching the matters. I have noted the one by Sen. (Prof.) Lonyangapuo and the one by Sen. (Dr.) Khalwale which really touches me because as you know, I was one of the few lawyers, at that time, who had the courage to represent the *coup* plotters and executioners in 1982 that have since been hanged or been left to languish in poverty.

That Motion will go a long way. I am not anticipating debate. However, when we see such pro-people industry coming from the Senate, you feel happy to be here. I hope

that this procedural motions will help us expedite the business and those who stand to benefit from the outcomes of the businesses will truly do.

I support.

(Question proposed)

The Deputy Speaker (Sen. Kembi-Gitura): Hon. Senators, this is not a Motion touching on counties. Therefore, everybody has a vote.

(Question put and agreed to)

Next Order!

LIMITATION OF DEBATE ON MOTIONS
FOR ADJOURNMENT OF THE SENATE

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

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; provided that, when the period of recess proposed by any such Motion does not exceed nine calendar days, the debate shall be limited to a maximum of thirty(30) minutes, and shall be confined to the question of adjournment.

Mr. Deputy Speaker, Sir, similarly, this is a Procedural Motion that does not require a lot of belabouring. This concerns Motions for adjournment of the Senate to a day other than the day when it is supposed to be sitting next. This Motion separates such Motions into two categories. The first category is when there is a Motion to adjourn the House for a period exceeding nine days, which one can call a long adjournment. In such cases, this Motion proposes that such adjournment Motions shall be debated for two hours, which each Senator speaking for five minutes, again, in the interest of shortening the time, so that more Senators can contribute. Ordinarily, a Motion of this nature would be precipitated by important national events or duties of Senators, for example, in the counties or some other serious business that would require the adjournment of the House.

Mr. Deputy Speaker, Sir, there are also Motions to adjourn the House for a period not exceeding nine days, in which case, the debate should not exceed 30 minutes. Again, the requirement is that in such cases, debate shall be confined to the question of adjournment only and nothing else, to reduce irrelevancies and contributors taking a frolic of their own just to discuss about anything in the world.

Finally, the whole idea of shortening time is to keep debate short, sweet and focused.

Mr. Deputy Speaker, Sir, with those few remarks, I beg to move and request the Senate Minority Leader, Sen. Moses Wetangula, to second.

The Senate Minority Leader (Sen. Wetangula): Mr. Deputy Speaker, Sir, I second the Procedural Motion, but invite any Member who is interested to move an amendment to give more time to a Member who seeks a Motion for Adjournment.

Mr. Deputy Speaker, Sir, while we are setting the time, we must not be oblivious to the needs of Members. I say this with regret because these Motions were not tabled before the Rules and Business Committee yesterday for us to go through them. I have said this in the Rules and Business Committee meeting. If a Member comes here to raise a pressing issue in their constituency or county, to give notice of motion for adjournment of the House to debate such an issue, you cannot possibly move such a Motion in five minutes. It is simply not possible. If Dr. Khalwale's bulls have been rustled and he has to bring an issue here, we must give him time to build the story and convince the Members, so that they support. If Sen. Murkomen is caught up in the many contradictions in his life and he wants a Motion for adjournment, we need to give him time to prosecute his story.

Mr. Deputy Speaker, Sir, I want to urge any Member who is interested, as I second the Motion, to move an amendment such that the Mover of the Motion for adjournment be given a minimum of ten minutes and the respondent Chair of a Committee, Senate Leader of Majority or any other responsible respondent is given another ten minutes, so that issues can be addressed adequately.

I beg to second.

Sen. (Dr.) Khalwale: On a point of order, Mr. Deputy Speaker, Sir. Is the Senate Minority Leader in order to mislead the House, when the Motion that he is trying to speak to is not the one which is in the Procedural Motion, in Order No.9? The one in Order No.9 is speaking to adjourning to a day other than the next day, but the one that he is speaking to is the Motion where a Member wants to adjourn to discuss a matter of national, urgent and grave importance. Is he in order to mislead the House?

The Senate Minority Leader (Sen. Wetangula): Mr. Deputy Speaker, Sir, my great friend, Boni, has obviously not read the Motion. The Motion actually covers both; a Motion for adjournment to discuss any matter of grave national importance and a Motion for adjournment to a date other than the next sitting day.

Hon. Senators: No! No!

The Senate Minority Leader (Sen. Wetangula): Read the first paragraph!

The Deputy Speaker (Sen. Kembi-Gitura): Sen. Wetangula, you are on the Floor on the issue that has been raised by Sen. Khalwale. You cannot abandon it. Can you?

(Laughter)

The Senate Minority Leader (Sen. Wetangula): Mr. Deputy Speaker, Sir, let me just read the Motion again.

(Sen. Wetangula read the terms of the Motion)

Mr. Deputy Speaker, Sir, Dr. Khalwale is right and I am not right.

The Deputy Speaker (Sen. Kembi-Gitura): That means you are wrong.

The Senate Minority Leader (Sen. Wetangula): No, Mr. Deputy Speaker, Sir. I am not right.

(Laughter)

The Deputy Speaker (Sen. Kembi-Gitura): So, the Motion is seconded as it is now.

The Senate Minority Leader (Sen. Wetangula): Mr. Deputy Speaker, Sir, I only invited any Member to amend. I did not amend anything.

(Question proposed)

The Deputy Speaker (Sen. Kembi-Gitura): This Motion, again, does not touch on counties and so, everybody has a vote.

(Question put and agreed to)

LIMITATION OF DEBATE ON PRESIDENTIAL
ADDRESS PURSUANT TO S.O.98 (1)

The Senate Majority Leader (Sen. (Prof.) Kindiki): Mr. Deputy Speaker, Sir, I beg to move the following 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. Deputy Speaker, Sir, similarly, this is a Procedural Motion. We are trying also to cut on the time that each speaker takes. This Motion deals with the debate on the Presidential Address to Parliament. It reduces the time for debate to three days. Secondly, it provides that every Senator speaking will take 15 minutes and the Mover of the Motion can take 30 minutes while moving and 30 minutes when replying. Lastly, with regard to the Senate Majority Leader and Senate Minority Leader, each might take 20 minutes.

Mr. Deputy Speaker, Sir, I would have thought that the statements that my brother Sen. Wetangula made, would have been made in respect to this Motion or, perhaps, even the next Motion. This is because we had discussions with him on this issue. We felt, for example, with regard to this specific Motion, that when the President addresses the nation, he talks about broad issues of policy, legislative agenda and what his Government wants to do. For the Senate Majority Leader, one would have expected more than 20 minutes because it is at that point that he would be able to bring down the Presidential Address in terms of legislative agenda. When we discussed, we felt that 20 minutes is a bit constrained. That is one area that we thought somebody could bring an amendment.

(Loud consultations)

No! No! We consulted here, because---

The Deputy Speaker (Sen. Kembi-Gitura): Senate Majority Leader, again, I will bring it to your attention that I do not want altercations across the Floor of the House. If somebody has a point of order, then they should stand up and raise it. I do not want Members engaging directly on the Floor of the House. It is not correct and should not be done.

The Senate Majority Leader (Sen. (Prof.) Kindiki): Thank you, Mr. Deputy Speaker, Sir. I hope that Sen. James Orengo has heard, because he is the one who caused the altercation.

Mr. Deputy Speaker, Sir, with regard to the Senate Majority Leader and Senate Minority Leader, we felt that this is where an interested Senator could bring an amendment. You will expect also the Senate Minority Leader to provide an alternative to some of the policy and legislative interventions that have been proposed by the President during his address.

Mr. Deputy Speaker, Sir, I beg to move the Motion and request Sen. Moses Wetangula to second.

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

Mr. Deputy Speaker, Sir, in so doing, I want to point out to the Senate Majority Leader, who has moved the Motion that, indeed, what he has said is correct. I see a situation, in many cases, where the Mover of the Motion on the Presidential Address will invariably be a person who sits in the Senate Majority Leader's seat, regardless of how he got there.

The Senate Majority Leader (Sen. (Prof.) Kindiki): On a point of order, Mr. Deputy Speaker, Sir. Is the Senate Minority Leader in order to suggest that somebody can sit or occupy the seat of the Senate Majority Leader through ways other the legitimate ways that are constitutional and legal? Is he not imputing improper motives?

Sen. Murkomen: On a point of order, Mr. Deputy Speaker, Sir, is the Senate Minority Leader in order to insinuate that those of us on the Majority side, who consciously elected Sen. (Prof.) Kithure Kindiki to be the Senate Majority Leader, could have used any other means? Is that language fit for description of Senators on the Majority side?

The Deputy Speaker (Sen. Kembi-Gitura): Is that not the same point of order that has been raised by the Senate Majority Leader?

The Senate Minority Leader (Sen. Wetangula): Mr. Deputy Speaker, Sir, the two distinguished young Senators have actually interpreted what I said correctly.

Mr. Deputy Speaker, Sir, I want to continue seconding the Motion.

The Senate Majority Leader (Sen. (Prof.) Kindiki): On a point of order, Mr. Deputy Speaker, Sir. Is my brother, Sen. Wetangula in order also to refer to the Senate Majority Leader as a "young" Senator? "Youth" is defined in the Constitution as one belonging to the age group 18 to 35, and the Senate Majority Leader is way above that. In any case, the Chair has directed before that the only Senators who can be referred in

terms of “youth” are the two Senators who were nominated to represent the youth in this House. Is he in order?

(Applause)

Sen. Ongera: On a point of order, Mr. Deputy Speaker, Sir. Is the Senate Majority Leader in order to allude that being young is negative?

The Deputy Speaker (Sen. Kembi-Gitura): Do you really want us to go on with this matter, or would you rather we deal with the most serious issues of the House?

(Several hon. Senators stood up in their places)

Sen. (Prof.) Anyang'-Nyong'o: On a point of order, Mr. Deputy Speaker, Sir.

The Deputy Speaker (Sen. Kembi-Gitura): What is it, Sen. (Prof.) Anyang'-Nyong'o?

Sen. (Prof.) Anyang'-Nyong'o: Mr. Deputy Speaker, Sir, is it in order for the Senate to be confused with reference to the difference between “youth” and “young”? Youth in the Constitution is anybody between 18 and 35; as for “young”, you are as young as you feel.

(Laughter)

The Deputy Speaker (Sen. Kembi-Gitura): Sen. Wetangula, did you use the word “youth,” “youthful” or “young”?

The Senate Minority Leader (Sen. Wetangula): Mr. Deputy Speaker, Sir, I said “the two young Senators.”

Mr. Deputy Speaker, Sir, yesterday, you heard the Senate Majority Leader confess here how he worked for me in my law firm---

(Laughter)

Surely, he did not do that because of anything else other than he came after me and he is young!

The Deputy Speaker (Sen. Kembi-Gitura): Shall we proceed, please?

The Senate Minority Leader (Sen. Wetangula): Mr. Deputy Speaker, Sir, as I second the Motion---

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

The Deputy Speaker (Sen. Kembi-Gitura): Sen. Sang, I hope you are not rising on the same point?

Sen. Sang: Mr. Deputy Speaker, Sir, I rise on an entirely different point. Initially, the Senate Minority Leader alluded to some extra legal means that might have been used by the Senate Majority Leader to assume office. When the two leaders – the Senate Majority Leader and Sen. Murkomen - intervened, the Senate Minority Leader actually confirmed that the interpretation that was proposed by the two distinguished Senators was correct. Can the Senate Minority Leader clarify and substantiate the allegations as to his

understanding of how the Sen. (Prof.) Kindiki got to his position as the Senate Majority Leader in this House?

The Deputy Speaker (Sen. Kembi-Gitura): Sen. Wetangula, I want to bring this matter to rest. So, can you, please, deal with it and if any improper motive has been imputed, could you kindly deal with it?

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

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

Sen. Sang: Yes, Mr. Deputy Speaker, Sir.

Sen. Oremo: Mr. Deputy Speaker, Sir, the Senate Minority Leader was correct because in so far as the election of the Senate Majority Leader in that position is concerned, we cannot know whether it was by consensus; whether Jubilee and within it URP and TNA had a deal. So, regardless of how they worked out as to who should be the leader in the House, Sen. Wetangula is quite right. We are not saying that you are not fit to be there, but if it was done in a smoking room somewhere behind State House, so be it. You should be happy!

(Laughter)

The Deputy Speaker (Sen. Kembi-Gitura): I take it from the body language that Sen. (Prof.) Kithure, you are satisfied.

The Senate Minority Leader (Sen. Wetangula): He is very satisfied, Mr. Deputy Speaker, Sir---

The Deputy Speaker (Sen. Kembi-Gitura): I did not ask you, Sen. Wetangula; I am talking to Sen. (Prof.) Kindiki so that we can proceed with the Business!

Thank you, Sen. (Prof.) Kindiki.

(Sen. (Prof.) Lonyangapuo stood up in his place)

Yes, what is, Sen. (Prof.) Lonyangapuo? I hope you are on a different issue now.

Sen. (Prof.) Lonyangapuo: Not very different, Mr. Deputy Speaker, Sir. There is a statement; I do not know what Sen. Oremo meant by saying "a smoking room behind State House---?"

(Loud consultations)

Surely, you cannot downgrade honorable Members to that level!

The Deputy Speaker (Sen. Kembi-Gitura): May I remind you, for the sake of record and for the sake of good order that I am not going to allow altercations across the Floor of the House. If you wish to address any issues, you should address it through the Chair, as is the proper system of doing it. Otherwise, we are going to have an anarchical House which is what all of you are aware I am not going to allow. So, I am here; you can rise on a point of order, if you wish, and I am going to allow it. But I am not going to allow altercations across the Floor of the House.

The Senate Minority Leader (Sen. Wetangula): Thank you, Mr. Deputy Speaker, Sir. We stand guided and we rest that matter there. One day, Sen. Murungi will be given an opportunity to have his say on this issue.

Mr. Deputy Speaker, Sir, as I second this Motion, I want to urge that the Motion language be made clearer. When you say that the Mover and the Senator replying will be limited to 30 minutes, in this kind of Motion, invariably it is the Senate Leader of Majority who is the Mover and the Senate Leader of Minority who is the Seconder. If it is our deputies, they still hold the substantive office to do that.

Now, when you now go on to again reflect the Senate Majority and Minority Leaders and give them much less time, apart from being tautologous, it does not quite make much sense. I thought that we should simply have said “the Mover and the Responder get 30 minutes. Whoever is moving, even if it is Sen. (Prof.) Lesan, he will be moving it on behalf of the Senate Majority Leader and if it is Sen. Khaniri speaking from this side, he will be speaking and responding on behalf of the Senate Minority Leader. So, if that tautologous language is cleaned, it will make the Motion cleaner, clearer and more helpful to the proceedings of the House.

Mr. Deputy Speaker, Sir, I invite – after the Question has been proposed – maybe Sen. Murkomen to Move an amendment to clean up the language so that the Motion is more helpful.

I beg to second.

Sen. (Dr.) Khalwale: On a point of order, Mr. Deputy Speaker, Sir. I am at a loss on two different Motions that the Senate Minority Leader has repeatedly said “I invite somebody to make an amendment.” I was assuming that these two Motions, before they came here, they passed through the Rules and Business Committee (RBC), where both the Senate Majority and Minority Leaders sit. Could it be that we are being treated to Business that is strange to the RBC or is it that the Senate Minority Leader is still celebrating his victory in Bungoma?

(Laughter)

Could they make it clear? We want to know; why this exchange?

The Deputy Speaker (Sen. Kembi-Gitura): As far as I am concerned, there has been no Motion for amendment. Sen. Wetangula has seconded the Motion; I am going to propose the Question on Procedural Motion No.10.

(Question proposed)

Yes, Sen. Murkomen!

Sen. Murkomen: Thank you, Mr. Deputy Speaker, Sir. I rise to, first of all, support the Motion, but with amendments.

Mr. Deputy Speaker, Sir, I think this is a very important Motion because it is dealing with a very important subject; a constitutional subject, which is the Presidential Address. If you read Article 132 of the Constitution, it provides that:-

“The President shall—

(a) address the opening of each newly elected Parliament;

(b) address a special sitting of Parliament once every year and may address Parliament at any other time;”

And so on, and so forth. His address is subject to serious debate. In his address, among others, he is expected to:-

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

Mr. Deputy Speaker, Sir, this is a very important subject and, in fact, I would like to use this opportunity to request the Senate Majority Leader, because he doubles up also as the Leader of the party that is in Office representing the President in this House. We do not use powers as such on our side because we understand the Constitution to mean that those who are in office are basically servants, and that the serving President is the President on the side of the Senate Majority Leader.

Mr. Deputy Speaker, Sir, I would like to take this opportunity to remind the Senate Majority Leader that it is important that the Presidential Address be done before 4th March, which is not very far. Because if it says once every year, I would assume that in the first one year of the President, the only address he has given all of us was during the opening of Parliament, and he has not done the second address, which is this Special Address which I understand the Americans would call “The State of the Nation Address.”

Mr. Deputy Speaker, Sir, I hope the Senate Majority Leader is taking notes on that issue so that, later, he will make a point on that. On that note, because of the seriousness of this Procedural Motion and its implication on what the Senate should respond to on the issues that the President will have addressed, I would like to do an amendment, but not in the manner in which the Senate Minority Leader – because of the many contradictions in his life – had suggested.

(Laughter)

Mr. Deputy Speaker, Sir, if we read Order No.10, I would rather propose that the last part of the Motion in the last two lines reads that:-

“in either case and that the Senate Majority Leader and the Senate Minority Leader shall be limited to thirty minutes each.”

The Deputy Speaker (Sen. Kembi-Gitura): Can you indicate to me under which Standing Order you are proceeding to propose that amendment?

Sen. Murkomen: Mr. Deputy Speaker, Sir, Sen. Orengo---

The Deputy Speaker (Sen. Kembi-Gitura): No, can you deal with the situation? Which Standing Order are you proceeding under?

Sen. Murkomen: Mr. Deputy Speaker, Sir, I think it is Standing Order No.53, which states:-

“The proposer of an amendment to a Motion shall, before moving it, hand the proposed amendment in writing, signed by the proposer, to the Clerk at least two hours before the order is read.

(2) Despite---

The Deputy Speaker (Sen. Kembi-Gitura): That cannot be the relevant Standing Order. Is that right?

Sen. Murkomen: Yeah; but it continues to say:-

“despite paragraph (1), the Speaker may, in exceptional circumstances, allow a Senator to move an amendment to a Motion before the Senate at any time during consideration of that Motion.”

Mr. Deputy Speaker, Sir, that is why I requested that, with your permission---

The Deputy Speaker (Sen. Kembi-Gitura): Yes; but there is nothing there to do with my permission; there have to be exceptional circumstances; that is what Standing Order No. 53 (2) says. I have not heard the Mover or the Seconder trying to press any exceptional circumstances for this.

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

The Deputy Speaker (Sen. Kembi-Gitura): Both of them started by saying that this is a Procedural Motion, the same as the one we had dealt with in the last session; which was, in fact, using the same words.

Sen. Murkomen: I thought I made a case for the exceptional circumstances, Mr. Deputy Speaker, Sir.

The Deputy Speaker (Sen. Kembi-Gitura): I have not heard!

Sen. Murkomen: Because I said that this is an exceptional Procedural Motion; it is dealing with a very serious matter in this country.

The Deputy Speaker (Sen. Kembi-Gitura): But it was the same last session.

Sen. Murkomen: This is for the Presidential Address, Mr. Deputy Speaker, Sir.

The Deputy Speaker (Sen. Kembi-Gitura): It was the same last session; was it not?

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

Sen. Murkomen: I would like to be informed by the Senate Minority Leader, Mr. Deputy Speaker, Sir.

The Deputy Speaker (Sen. Kembi-Gitura): Proceed.

The Senate Minority Leader (Sen. Wetangula): Mr. Deputy Speaker, Sir, I would like to inform the distinguished Senator for Elgeyo Marakwet that the exceptional circumstances under which this Motion comes to the Floor is that it is a Motion that does not need notice to be given. When notice is given, then it puts you on notice to go through and prepare yourself, and so on, and so forth. It is a Motion that has just been moved without a notice and that is an exceptional circumstance in itself.

Sen. Murkomen: Mr. Deputy Speaker, Sir---

Sen. Orengo: On a point of order, Mr. Deputy Speaker, Sir. Do not allow the lawyers to play legal gymnastics. Let them come up properly before the House and tell us under which Standing Order this amendment is being moved.

The Deputy Speaker (Sen. Kembi-Gitura): Sen. Murkomen and Sen. Orengo, that is the point I am making. You want to move an amendment but this is the same Motion that was here last session and we proceeded in the same manner in the last session. The Motion was brought to the House this morning through the Rules and Business Committee (RBC) in the same words and language as the last one. So, if you want to move an amendment, I assume that you must have noticed and moved under

Standing Order No.53 (1) in which case notice ought to have been given two hours before in writing.

Now you want to ambush me and tell me the exceptional circumstances which I did not hear. I did not hear the proposer or the seconder talk about any exceptional circumstances. Standing Order No.53(2) talks about “the Speaker may---“ Incidentally, I am not ruling out the fact that I could grant them the right to move an amendment but I am saying that you cannot just stand up and ask me, assuming that is a matter of right because Standing Order No.53(2) talks clearly about exceptional circumstances. So, it assumes that the Speaker would have to be convinced that there are exceptional circumstances under which you want to move that amendment in the course of the debate. It is not automatic, it is not assumed that I am going to allow. You have to convince this Chair that there are exceptional circumstances and not just that you need more than 20 or 30 minutes to respond to the Presidential Address. It is important and that is why we have ruled.

Sen. Murkomen: Mr. Speaker, Sir, the “bull-fighter”, the Senator for Kakamega distracted you when the Minority Leader was making very convincing submissions that this is a Procedural Motion and there is no way Sen. Murkomen would have known it except by finding it on the Floor of the House. In the course of the moving by the Majority Leader and seconding by the Minority Leader it occurred to me such a very important Procedural Motion would need to be amended.

Mr. Speaker, Sir, you are saying that this was the case in the last one year. I expect that the President has now gone through the first transition period and will be having serious issues raised by the presidency this year, next year and the years to come. Moving forward, we need substantive time for the Minority side. I am more concerned for the Minority side because if the Mover who is the Majority Leader has 60 minutes but the minority side will only have 20 minutes for that matter. So, my concern is that we also need the other alternative views to be given enough time.

Sen. Wetangula: On a point of order, Mr. Deputy Speaker, Sir. Is it in order for the distinguished Senator for Elgeyo-Marakwet, who has of late been competing very effectively to replace the Late Ezekiel Barng’etuny in the politics of Kenya, to cast aspersions on the Minority side although they hardly give alternative views on issues? Is he in order or this is an extension of what I said; that he is exhibiting the many contradictions in his life?

The Deputy Speaker (Sen. Kembi-Gitura): Sen. Murkomen, did you say that?

Sen. Murkomen: Mr. Deputy Speaker, Sir, I said that in my own opinion the other side has not given us concrete alternative opinion on public policy. That is my opinion and I am entitled to it. It is even in the public view that we do not have serious alternative views on issues. Therefore, I am begging for extra ten minutes to allow the Minority Leader so that perhaps in the extra ten minutes he will be making stronger alternative views.

The Deputy Speaker (Sen. Kembi-Gitura): So now, Sen. Murkomen, the position is that you have attempted to move an amendment so that I can decide whether to allow it or not.

Sen. Murkomen: Yes. Mr. Deputy Speaker, Sir, I would like to request Sen. Orendo to second me.

Sen. Orenge: Mr. Speaker, Sir, I second.

The Deputy Speaker (Sen. Kembi-Gitura): Sen. Murkomen, can I get it right? What exactly do you want to amend and how exactly do you want to amend this Motion?

Sen. Murkomen: Mr. Deputy Speaker, Sir, I just said that the last two paragraphs where it says:-

“In either case, that the Senate Majority Leader and Senate Minority Leader shall be limited to 20 minutes. The 20 minutes should be revised to 30 minutes each.”

That is the only amendment I am requesting.

The Deputy Speaker (Sen. Kembi-Gitura): Hon. Senators, I take it of course that Sen. Murkomen is coming under Standing Order No.53(2) which does not have the same stringency as Standing Order No.53(1). This allows the Speaker in exceptional circumstances to allow for this kind of an amendment from the Floor of the House. The issue is whether it should be 20 or 30 minutes which is nothing very momentous. First of all, I would like to advise the House that, in this circumstance, it would be preferable, since you see the Order Paper in good time, to bring your amendment in writing so that there is enough time for consultations to agree on the best way forward. I think it is good for the good order of the House.

In these very exceptional circumstances, I will start by proposing the Motion as amended which is that it be amended in the last line to read “30 minutes in place of 20 minutes.”

(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 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 thirty minutes each.

The Deputy Speaker (Sen. Kembi-Gitura): Next Order!

LIMITATION OF DEBATE ON BILLS/COMMITTEE
REPORTS PURSUANT TO S.O. 98 (4)

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

THAT, notwithstanding the provisions of Standing Order 98 (4), the Senate resolves that each speech in a debate on a Bill or Report of a Committee, including a Report of a Joint Committee of the Houses of Parliament, be limited as follows:-

A maximum of sixty (60) minutes for the mover in moving and thirty (30) minutes in replying, and a maximum of fifteen (15) minutes for any other Senator speaking, except the Senate Majority Leader and the Senate Minority Leader who shall be limited to a maximum of twenty minutes.

Mr. Speaker, Sir, this Motion is relating to Bills and Reports of Committees whether they are from this House or the Joint Committees of the Senate and National Assembly.

The Motion is proposing that the Mover of a Bill will be given a maximum of 60 minutes or one hour to move his or her Bill, the Mover of a report of a Committee, whether a Committee of Senate or a Report of a Committee of both Houses will also be given 60 minutes and 30 minutes to reply. Then the Senators who contribute are given 15 minutes for each Senator except the Senate Majority Leader and the Senate Minority who shall be limited to 20 minutes.

Mr. Deputy Speaker, Sir, I am comfortable with the proposals here except again, and I hope this does not irk further Sen. (Dr.) Khalwale, the 20 minutes for the Majority and Minority Leader, subject to your exercise of discretion which you have exercised so judiciously and I must thank you. I am very impressed with the way the Chair has graciously exercised its discretion because that is to help this House function but not to try and stifle debate and business. It is to help the House discharge its responsibilities.

Having said so, I also want to say that the reason why we are of the opinion that the Majority Leader and Minority Leader require a little bit of more time, for example, when there is a Bill before this House as we hope soon, we will have the Community Land Bill or on Agriculture, you expect, from the majority side and the minority side a concrete input, to use the words of Sen. Murkomen, from both sides. This touches on policies and how that function, especially in this era of devolution is going to synchronise both at the county level and at the national level. So, you expect serious policies that will help the majority side and the minority side to drive home what they stand for in agriculture, land and mining among other things.

Mr. Deputy Speaker, Sir, protect me from Sen. Khaniri. He is engaging me with gestures, noises and yet he is the master of Standing Orders. He is the one who complained when the Senate Majority Leader did not bow at the appropriate place. However, he is gesticulating, shouting and doing other things.

Before I move, I want to say one last thing with your permission. Sen. Murkomen previously referred to the issue of every year in terms of the President addressing this House. I do not see anything in Article 132 that requires the subsequent addresses to be made at the beginning of every year. The only requirement is for a newly elected Parliament. He must address it at the beginning. However, subsequently, he can address them once a year. So, this can come any time in the second year. I am saying this to clarify because the consequences of not discharging state functions is that somebody had breached the Constitution and in this case, the President.

Sorry for veering off. Without much ado, I beg to move this Motion and to request, as usual, my brother and friend, Sen. Moses Wetangula to second.

The Senate Minority Leader (Sen. Wetangula): Thank you Mr. Deputy Speaker, Sir. I encourage the distinguished Senator for Tharaka-Nithi to always say, “My senior” among other things.

I beg to second. I fully agree with the distinguished Senator for Tharaka-Nithi that in Bills, there are serious issues of policy that the leaderships of the House need to elucidate and to assist the Senate to come up with good helpful legislation. We need adequate time to do so.

Mr. Deputy Speaker, Sir, I know you came to Parliament a little later. We had great debaters like the late Martin Shikuku who James Orengo can confirm that he used to be very thorough with regard to Bills and could address the House for a full week without ever repeating himself, losing relevance and without ever offending or tiring anybody.

A few of us who have schooled and graduated in the Martin Shikuku School would require the time to do the same. I know that people like Sen. (Prof.) Kindiki whom I have helped shape into good legal thinking will definitely do exactly that. You saw how Sen. Orengo prosecuted an argument on the Floor of this House, not to mention that you, Mr. Deputy Speaker, Sir, are a very good debater. We need adequate time to look at the Bills, analyse them, reflect them, and weigh them against other existing laws, against the Constitution so that we give the country good laws. I am happy that the distinguished Senator for Kakamega has agreed to prosecute an amendment to give effect to what the Senate Majority Leader has suggested. I encourage the distinguished Senator for Kericho to put aside his wars with Governor Ruto and second the amendment when it comes.

I beg to second.

(Question proposed)

Sen. (Dr.) Khalwale: Thank you Mr. Deputy Speaker, Sir. I beg to support this Motion. I would like to request, on the outset, that under Standing Order 53(2), you allow me to support it but with a small amendment which is very significant.

My amendment is that at the end of the Motion, instead of reading maximum of 20 minutes, it should read maximum of 60 minutes. My Motion will therefore read:-

“Notwithstanding the provisions of Standing Order No.98 (4), the Senate resolves that each speech in a debate on a Bill or report of a Committee including a report of a joint Committee of the two Houses of Parliament be limited as follows: a maximum of 60 minutes for the Mover in moving and 30 minutes in replying and a maximum of 15

minutes for any other Senator speaking except the Senate Majority Leader and the Senate Minority Leader who will be limited to a maximum of 60 minutes.”

I want to persuade colleagues---

The Deputy Speaker (Sen. Kembi-Gitura): Sen. (Dr.) Khalwale, if you will move that Motion – I cannot stop you from moving it – you have to see that Standing Order No.98 (4) provides for 60 minutes. Does it not? That is why the Procedural Motion starts with the word “notwithstanding.” It starts by qualifying Standing Order No. 98(4). So, if you want to move an amendment, it must be – it is not in my place to tell you this - pursuant to Standing Order No.98(4) so that the words “notwithstanding the provisions of---“ also go. The Standing Order 98(4) provides for 60 minutes. However, what the Rules and Business Committee tries to do is to qualify that 60 minutes to 20 minutes.

Sen. (Dr.) Khalwale: Thank you Mr. Deputy Speaker, Sir, for correcting me on that oversight.

The Deputy Speaker (Sen. Kembi-Gitura): I am not correcting you. That is just pointing out an oversight.

Sen. (Dr.) Khalwale: Mr. Deputy Speaker, Sir, with your permission, since I stood on Standing Order No. 53(2), I want to further request that this be amended. With your permission, if you have allowed me, I will tell you why I did not write to you two hours in advance.

This is a Procedural Motion. I walked straight from my office to the Chamber. I did not look at the internet, in case the Senate had posted it. So, I did not have the knowledge that we did not have these kinds of proceedings. Otherwise, I would have come prepared.

The Deputy Speaker (Sen. Kembi-Gitura): Sen. Khalwale, I listened to the debate in the previous Motion. I listened to the debate with regard to Order No.10. So, I will allow your amendment to be debated. Do not go into details now. The same way I allowed the amendment under Order No.10 is the same way I will allow your amendment to be debated. I want you to read it now, under Standing Order No.53 (2). This can be allowed during debate. I want you to read the proper amendment that you want to bring.

Sen. (Dr.) Khalwale: Mr. Deputy Speaker, Sir, I am requesting that we delete the words “notwithstanding the provisions of” at the beginning then we also delete the words “20 minutes” at the bottom and replace, at the beginning with; “pursuant to Standing Order No.98(4).” At the end, we should end with the words 60 minutes.

My Motion will, therefore read as follows:-

“Pursuant to Standing Order No.98 (4), the Senate resolves that in each Speech, in a Debate on a Bill or a Report of a Committee including a report of a joint Committee of the two Houses of Parliament be limited as follows: A maximum of 60 minutes for the Mover in moving and 30 minutes in replying and a maximum of 15 minutes for any other Senator speaking except the Senate Majority Leader and the Senate Minority Leader who will be limited to a maximum of 60 minutes.”

Hon. Senators, I beg to persuade you that it is important that we give these two leaders in this House a maximum of 60 minutes. They do not have to use it. They can choose to use five minutes, half of the time or the full time. However, the significance is this: A debate on a Bill will give way to an Act of Parliament and this is a serious step in legislation. Similarly, a report of a committee is one of the most important feedbacks that

committees of this House give to the plenary. It is important, at this time, first and foremost, the Senate Majority Leader is given sufficient time to tell the House and the country what the thoughts of the Government are about that particular committee report. Having given the Senate Majority Leader 60 minutes to tell us what the Government thinks about a report of a committee, it is also important – the word Minority can be a misnomer when not clearly interrogated – that the Senate Minority Leader gives the view or position of the Government in waiting. Therefore, if the Senate Majority Leader; the Government in power has spoken, Kenyans who do not support that Government, who are waiting for their “government” to one day rule the country, need to hear their “government in waiting” tell them how they will lead this country when their time comes.

I, therefore, think that we give both leaders 60 minutes. I beg to move and request Sen. Kanainza to second my amendment.

The Deputy Speaker (Sen. Kembi-Gitura): Before Sen. Kanainza seconds the amendment; this Motion has changed the timings. It has changed Standing Order No.98 (4). If you look at these Standing Orders, you will see that it provides for 30 minutes. However, the Motion is talking about 60 minutes for the Mover. So, this has changed the Standing Order. I regret that I may appear to have misled you by asking you to delete the words “notwithstanding.” It must have these words because the 30 minutes have been changed. The amendment you are asking is 60 minutes as provided in the Standing Orders.

Sen. (Dr.) Khalwale: Mr. Deputy Speaker, Sir, in view of that, it is important that I set the HANSARD record correct by reading the proper Motion.

Mr. Deputy Speaker, Sir, my Motion will, therefore, read:-

THAT, notwithstanding the provisions of Standing Order 98 (4), the Senate resolves that each speech in a debate on a Bill or Report of a Committee, including a Report of a Joint Committee of the Houses of Parliament, be limited as follows:-

A maximum of sixty (60) minutes for the mover in moving and thirty (30) minutes in replying, and a maximum of fifteen (15) minutes for any other Senator speaking, except the Senate Majority Leader and the Senate Minority Leader who shall be limited to a maximum of sixty (60) minutes, as provided for in the Standing Orders.

The Deputy Speaker (Sen. Kembi-Gitura): Thank you, Senator.

Sen. Kanainza can now second.

Sen. Kanainza: Mr. Deputy Speaker, Sir, I second the amendment by Sen. Boni Khalwale.

(Question of the amendment proposed)

The Deputy Speaker (Sen. Kembi-Gitura): This is not a Motion affecting the counties and so, everybody has a vote.

*(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)

Sen. (Prof.) Lonyangapuo: Mr. Deputy Speaker, Sir, I have listened to the amendment proposed by Sen. Khalwale and in comparison to Standing Order No.98 (4)--
- Standing Order No.98 (4) reads:-

“No Senator may speak in a debate on Bills, Sessional Papers, Motions or Reports of Committees for more than thirty minutes without the leave of the Speaker, but the Senate Majority Leader and the Senate Minority Leader may each speak for a maximum of sixty minutes.”

The Deputy Speaker (Sen. Kembi-Gitura): Sen. (Prof.) Lonyangapuo, has the amendment not passed? If you wanted to debate the issue, you could only have done so when I proposed the question of the amendment. You cannot take us back on the issue of the amendment. Can you?

Sen. (Prof.) Lonyangapuo: Mr. Deputy Speaker, Sir, you went too fast.

The Deputy Speaker (Sen. Kembi-Gitura): I do not think that you can.
Hon. Senators, I shall now put the question.

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

Resolved Accordingly:-

THAT, notwithstanding the provisions of Standing Order 98 (4), the Senate resolves that each speech in a debate on a Bill or Report of a Committee, including a Report of a Joint Committee of the Houses of Parliament, be limited as follows:-

A maximum of sixty (60) minutes for the mover in moving and thirty (30) minutes in replying, and a maximum of fifteen (15) minutes for any other Senator speaking, except the Senate Majority Leader and the Senate Minority Leader who shall be limited to a maximum of sixty (60) minutes, as provided for in the Standing Orders.

MOTION

APPROVAL OF SEN. WETANGULA TO MEMBERSHIP OF SENATE COMMITTEES

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

THAT, pursuant to Standing Order Nos. 175 (3), 177 (3) and 178, the Senate approves the nomination of the Rules and Business Committee of Sen. Moses Wetang'ula to the following Committees:-

- a. Standing Committee on Finance, Commerce and Economic Affairs - to replace Sen. (Dr.) Boni Khalwale
- b. Standing Committee on National Security and Foreign Relations – to replace Sen. Kennedy Okong'o Mong'are

Mr. Deputy Speaker, Sir, this is not a Procedural Motion. Nevertheless, it is a fairly straightforward issue, in my view. But I want to persuade the Senators to approve the nomination of my brother and friend, Sen. Moses Wetangula, who insists that I should remind and tell everybody that he is my senior in the profession, which I gladly do. We have no problems in our profession in terms of recognizing our seniors. I want to emphasize that, only with a caveat that in this House, Sen. Moses Wetangula knows the pecking order; he is my junior.

Mr. Deputy Speaker, Sir, the reason Sen. Boni Khalwale and Sen. Kennedy Mong'are took positions in those two Committees is because for a brief moment, Sen. Wetangula was not a Member of this House. He was out there struggling to recapture his seat and come back. I know that I am speaking to many Senators in this House. We are very happy that Sen. Wetangula came back to this House. This House is much richer with Sen. Wetangula and we want to welcome him back.

Mr. Deputy Speaker, Sir, the proposal here is that now that he is back, he should be able to take his position in the two Committees.

Mr. Deputy Speaker, Sir, with those few remarks, I beg to move this Motion and request Sen. Janet Ong'era, who is a Member of the Rules and Business Committee and also the Deputy Minority Whip to second.

Sen. Ong'era: Mr. Deputy Speaker, Sir, I rise to second this Motion. This is a very important Motion in this House because it touches on the very leadership of the House.

Mr. Deputy Speaker, Sir, the Committee on Finance, Commerce and Economic Affairs and the Committee on National Security and Foreign Relations are some of the very important Committees in this House and the leadership of this House must participate. Therefore, Sen. Wetangula, indeed, should be a Member of these Committees.

Mr. Deputy Speaker, Sir, as you are aware, and as has been ably mentioned by the Senate Majority Leader, Sen. Wetangula's term was rudely interrupted and he had to go to a by-election where, I am happy to say, he thoroughly trounced his opponents. We welcome him back to this House. These two Committees are very important, especially at this time when we are interrogating the finances of the counties and their expenditures on the revenue that we allocated them. You are also aware that security issues in this country are a real problem. As you are aware, thieves broke into the homes of some of our Members of Parliament recently. Hon. Dan Maanzo had a rude awakening. There was also, I think the Bangladesh Envoy, who had another rude awakening.

We hope that, as we return Sen. Wetangula to these Committees, these issues can be interrogated and the Jubilee Government can be held to account, so that they can resolve security issues in this country.

Mr. Deputy Speaker, Sir, as I conclude---

Sen. Keter: On a point of order, Mr. Deputy Speaker, Sir. With due respect to my colleague, is it in order for Sen. Janet Ong'era to say that Sen. Mong'are who has

been active in the Committee, was unable to perform his duties and that is why there has been a lot of insecurity in this country? I think it is good that each Member is accorded due respect.

The Deputy Speaker (Sen. Kembi-Gitura): Can you respond to that, Sen. Ong'era?

Sen. Ong'era: Mr. Deputy Speaker, Sir, I certainly shall do so. I do not think that the Senator for Kericho County heard me right. I said that these are very important Committees that require the leadership of the House to participate in. I was coming to my last sentence, in which I wanted to---

Sen. Murkomen: On a point of order, Mr. Deputy Speaker, Sir. I suspect that the nomination of Sen. Wetangula and the replacement of Sen. Boni Khalwale came from the Minority side. Is it in order that the Minority side brought this Motion without telling us where they are taking Sen. Boni Khalwale? Could it be the reason Sen. Khalwale is not even in the House now?

The Deputy Speaker (Sen. Kembi-Gitura): Can you proceed, Sen. Ong'era?

Sen. Ong'era: Thank you, Mr. Deputy Speaker, Sir. In fact, this Motion was actually brought by the Senate Majority Leader and I am merely seconding it.

However---

The Deputy Speaker (Sen. Kembi-Gitura): You have not dealt with Sen. Keter's question.

I have asked you to proceed on the one of Sen. Murkomen, but you need to respond to the issue raised by Sen. Keter.

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

The Deputy Speaker (Sen. Kembi-Gitura): Just a minute. Before you inform Sen. Ong'era, and I do not know whether she wants to be informed, Sen. Keter raised an issue that you have not dealt with. I think that you need to deal with it for the sake of good record.

Sen. Ong'era: Mr. Deputy Speaker, Sir, I ably dealt with the issue.

The Deputy Speaker (Sen. Kembi-Gitura): Can I hear what you said?

Sen. Ong'era: Mr. Deputy Speaker, Sir, I actually told the House that maybe the distinguished Senator for Kericho did not hear me begin by saying that these two Committees are so critical that they require the leadership of the House to participate. Of course, as we are all aware, Sen. Wetangula happens to be our Minority Leader in this House.

Mr. Deputy Speaker, Sir, I do not need to be informed on the issue that was raised by Sen. Murkomen.

With that can I proceed, please?

The Deputy Speaker (Sen. Kembi-Gitura): Proceed!

Sen. Ong'era: Thank you, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker, Sir, I would, first of all, like to thank Sen. Boni Khalwale who ably held brief---

Sen. Sang: On a point of order, Mr. Deputy Speaker, Sir. Is the Deputy Minority Whip in order to give the kind of reasons that she has given for the replacement; that it is important to have the leadership of this House in those Committees? I am very well

aware that the Senate Majority Leader is not a Member of either of the two Committees. Is she in order to suggest that the only reason they are doing these replacements is on the basis of the importance of the leadership of this House being in those Committees, rather than on the merit and experience of the Minority Whip contributing in these two Committees?

The Deputy Speaker (Sen. Kembi-Gitura): Sen. Sang, I take the view that Sen. Janet Ong'era is giving her view on these issues and they do not bind you or anybody else. I think she is entitled to her views. If she thinks that the reason for the replacement was to give the leadership of the minority in the House more clout in the Committees, that is her view and we should respect it. I do not think this is a matter that we should really dwell on, unless you want to insist.

Sen. Sang: Mr. Deputy Speaker, Sir, I was trying to help the minority side in order to sell this idea better in the way she is presenting the reasons for these replacements. We are unlikely on this side to support her. I was trying to help the minority side to give valid reasons why would want to support this Motion from this side.

The Deputy Speaker (Sen. Kembi-Gitura): You are now informed, are you not?

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

The Deputy Speaker (Sen. Kembi-Gitura): Yes, Sen. Orengo.

Sen. Orengo: Mr. Deputy Speaker, Sir, there is something developing in the House when somebody stands on a point of order and in the end, it is not a point of order. The rules of debate are there to make sure that there is articulate and free flowing debate whenever a Member stands to give his or her views.

Sen. Sang whom I respect very much, has just compounded a sin he committed when he stood up in the first place. In my days, he would have been thrown out, but he is a young man. But what I am pleading with the Chair is that when a Member stands on a point of order, it should really be a point of order. Otherwise business which should take 30 minutes will take unnecessarily long. I plead with you to be firm with that.

The Deputy Speaker (Sen. Kembi-Gitura): That is very true, Sen. James Orengo. I agree with you. But, of course, until a Member stands up and says what they would want to say, I will not know whether it is a correct point of order or not.

Proceed, Sen. Janet Ong'era.

Sen. Ong'era: Mr. Deputy Speaker, Sir, I would like to conclude by thanking Sen. (Dr.) Khalwale and Sen. Kennedy Okong'o Mongare; the distinguished Senators of Kakamega and Nyamira counties respectively, for ably holding brief for Sen. Wetangula in these two committees. They had been appointed in acting capacity during the time Sen. Wetangula was not in this House. I would also like to thank Sen. Kennedy Okong'o Mongare for ably having been the acting Deputy Minority Leader. I thank him for the good work that he did.

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

(Question proposed)

Sen. Khaniri: I thank you, Mr. Deputy Speaker, Sir, for the opportunity to support this Motion. I agree with the Senate Majority Leader that this is a straight forward Motion. It is quite in order to reinstate my brother Sen. Wetangula to the

committees he used to serve before he was rudely interrupted by the court rulings in the petition relating to Bungoma County.

I take this opportunity to once again congratulate Sen. Wetangula for his resounding victory. His victory was a clear demonstration that not even the courts of law can overturn the wishes of the people; when people have elected their leader and they believe in him, they should be given that opportunity to be served by the leader of their choice.

Mr. Deputy Speaker, Sir, my only problem with this Motion is that it leaves out my brother Sen. (Dr.) Khalwale as the only Senator in this House who is not serving in any committee. Sen. (Dr.) Khalwale has the brains that we cannot afford to underutilize in this House. Therefore, I urge the leadership of this House to ensure that we make use of these brains. I know that there is---

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

Sen. Khaniri: Mr. Deputy Speaker, Sir, I will take the information.

The Senate Majority Leader (Sen. (Prof.) Kindiki): Mr. Deputy Speaker, Sir, I want to inform Sen. Khaniri that it is true Sen. (Dr.) Khalwale is one of the best brains that this country has. Despite the hiccups that we had at the beginning, we are seriously considering from the Majority side, whipping him back and, therefore, proposing him for committees.

(Applause)

Sen. Khaniri: Mr. Deputy Speaker, Sir, to me, it does not matter, I want Sen. (Dr.) Khalwale to be fully utilized in this House and to serve in committees. I know there is a process. It does not matter how he comes to the committees. I know there is a process of splitting some of the committees, for example, the Committee on Agriculture, Land and Natural Resources which has so many portfolios. I want to encourage that this process be expedited so that we have more committees and we get Sen. (Dr.) Khalwale a slot in some of the committees.

Mr. Deputy Speaker, Sir, having said that, we are all aware of the immense capability of Sen. Wetangula. I know he will make a difference in the committees that he is being proposed to serve. I wish him well as he embarks on those new duties.

Thank you, Mr. Deputy Speaker, Sir.

Sen. Elachi: Mr. Deputy Speaker, Sir, I also rise to support this Motion. First, I want to thank the Members who were in the two committees. I believe Sen. (Dr.) Khalwale and Sen. Okong'o have done us proud in terms of delivering their duties. But it is also important to understand that while I know the Senator of Kakamega County is not in any of those committees, this House---

Sen. Ong'era: On a point of order, Mr. Deputy Speaker, Sir.

The Deputy Speaker (Sen. Kembi-Gitura): What is it, Sen. Ong'era? You must distinguish what you want.

Sen. Ong'era: Mr. Deputy Speaker, Sir, I stand on a point of information.

The Deputy Speaker (Sen. Kembi-Gitura): Sen. Elachi, do you want to be informed?

Sen. Elachi: Yes, Mr. Deputy Speaker, Sir.

The Deputy Speaker (Sen. Kembi-Gitura): Go on.

Sen. Ong'era: Thank you, Mr. Deputy Speaker, Sir. I would like to inform my dear sister, the Majority Whip, that the distinguished Senator of Kakamega County is a member of the Delegated Legislation Committee--- by the CORD coalition.

Sen. Elachi: Mr. Deputy Speaker, Sir, I know that. That is what I was coming to next. It is important that if this House, indeed, respects the rule of law, then we must respect the Political Parties Act. Let us be very clear. If we had gone beyond the punishment of the Act that is Section 14, it means that we would have had to dewhip and say: UDF goes out of the coalition and we would have gone very far." But because we also respected that in terms of the interests of the people, it is important. This must follow to the end.

Mr. Deputy Speaker, Sir, I respect that committees are there. In fact, this year, we have to be very firm in terms of delivering. That is why yesterday I said: "If you feel, as a Member, you are in a committee and you are unable to participate or give your input because it is a committee that is not of your background, you have a right---"

Sen. (Dr.) Khalwale: On a point of order, Mr. Deputy Speaker, Sir. This is a very important issue. Is the distinguished Senator in order to mislead the whole country on coalitions and the Political Parties Act when she knows very well that the only coalition which you are forced by law to stick with is the one which was existing before the elections? For coalitions that come after elections, a Senator, a Member of Parliament, a Member of the County Assembly is not under any force of law to stay there. Please, she had better avoid misleading the country. The country can think that I am a confused politician. I know exactly what I am doing. I am a member of the UDF and I am likeminded to the CORD and we are working very well. We are checking your Government; we are helping you to arrest---

The Deputy Speaker (Sen. Kembi-Gitura): Order, Sen. (Dr.) Khalwale. You rose on a point of order, did you not?

Sen. Elachi: Mr. Deputy Speaker, Sir, I want to tell the Senator that I am not confusing this country. There are two ways in a coalition; either before or after. This is in the law. I am very right that the law is very clear. That is why we are able to sign the coalition after the elections or else those coalitions do not bind.

Mr. Deputy Speaker, Sir, having said that, it is important that we look at our committees. There is a lot of work that is coming. We have to be responsible. Even those who want to be chairs must take their responsibility seriously to ensure that their Members feel that they can contribute within those committees.

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

Sen. Nobwola: Mr. Deputy Speaker, Sir, I rise to support the Motion which is before the House. The two committees which were temporarily held by Sen. (Dr.) Khalwale and Sen. Okong'o Mongare were positions held by the Senate Minority Leader. These positions were decided on by the side of the coalition. He being the Minority Leader, first of all, he was put in this position so that when matters come to the House he is in a better position to defend them because he is in the Committee on Finance, Commerce and Economic Affairs, which is very key. As you know, we are currently having problems with county governments. I do not doubt the ability of my brother Sen.

(Dr.) Khalwale. He was dewhipped by the Majority side and we welcomed him. That is why you see him sitting on our side. We want to continue working with him. He played a very key role in the Bungoma County by-elections which were rudely fixed on our brother Sen. Wetangula. But the people of Bungoma County spoke and they could not unseat Sen. Wetangula.

Congratulations, my brother. People love you out there---

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

(Loud consultations)

The Deputy Speaker (Sen. Kembi-Gitura): Order. Can we have some order in the House, please!

Proceed, Leader of the Majority.

The Senate Majority Leader (Sen. (Prof.) Kindiki): Mr. Deputy Speaker, Sir, I am shocked and surprised. Is the nominated Senator Catherine Mukite in order to suggest that a by-election which was declared by a court of law and the seat declared vacant by the Speaker of this House, and an election date fixed by the Independent Electoral and Boundaries Commission (IEBC) was a fixed by-election? Who fixed it? Where? When? For what purpose? Can she withdraw those remarks otherwise we run the risk of making this House look like a child's playground? This is serious. That was a process and I do not think Sen. Wetangula had any issues. In fact, he even opted not to appeal and said: "Let me go back to the people" because he believed there was a valid court order. If we make this issue look like a joke, then we will confuse this with the other more serious things that we are engaging the Judiciary and the other arms of Government with.

Mr. Deputy Speaker, Sir, is she in order? If you find she is not in order, can she withdraw those remarks?

The Deputy Speaker (Sen. Kembi-Gitura): Sen. Mukite, what did you say?

Sen. Nobwola: Mr. Deputy Speaker, Sir, I think Sen. Wetangula appealed.

The Deputy Speaker (Sen. Kembi-Gitura): No, what did you say? Did you say he was fixed or it was fixed?

Sen. Nobwola: Mr. Deputy Speaker, Sir, I said he was out there fighting Mr. Fix.

(Laughter)

The Deputy Speaker (Sen. Kembi-Gitura): Sorry. Let us get it right because if we do not get it right, we will go to the---

Sen. Nobwola: Mr. Deputy Speaker, Sir, let me clarify.

The Deputy Speaker (Sen. Kembi-Gitura): Sen. Nobwola, you know we have the HANSARD, right?

Sen. Nobwola: Yes, Mr. Deputy Speaker, Sir.

The Deputy Speaker (Sen. Kembi-Gitura): So, I would like you to remember and tell me what you said.

Sen. Nobwola: Mr. Deputy Speaker, Sir, I have---

The Deputy Speaker (Sen. Kembi-Gitura): Well, in what context did you use the word “Fix”?

Sen. Nobwola: “Mr. Fix” is a very broad word. He had forces against him. We know that his case was unfairly ruled---

The Deputy Speaker (Sen. Kembi-Gitura): Sen. Mukiite, all of us know Sen. Wetangula, do we not?

Sen. Nobwola: Yes we do.

The Deputy Speaker (Sen. Kembi-Gitura): The court ruled as it did in a petition. Sen. Wetangula went on and won the by elections, did he not?

Sen. Nobwola: He did overwhelmingly, Mr. Deputy Speaker, Sir.

The Deputy Speaker (Sen. Kembi-Gitura): So now, without seeming to interrogate you, would you to respond to what Sen. (Prof.) Kindiki said. This is an important House. We are not going to use words loosely. I would like you to make a response to what Sen. (Prof.) Kindiki said.

Sen. Nobwola: Mr. Deputy Speaker, Sir, well, I will drop it, but he has heard my point. I withdraw it.

The Deputy Speaker (Sen. Kembi-Gitura): Sen. Mukiite, are you going to withdraw and apologise?

Sen. Nobwola: Mr. Deputy Speaker, Sir, I have withdrawn already.

The Deputy Speaker (Sen. Kembi-Gitura): And apologise?

Sen. Nobwola: My apologies, Mr. Deputy Speaker, Sir. But you have heard me.

The Deputy Speaker (Sen. Kembi-Gitura): You cannot qualify. Let us get it right. This is nothing personal. This is an extremely serious House. You cannot say you withdraw and apologise, then say we have heard you.

Sen. Nobwola: Mr. Deputy Speaker, Sir, I apologise.

The Deputy Speaker (Sen. Kembi-Gitura): You really have to apologise.

Sen. Nobwola: I have apologized, Mr. Deputy Speaker, Sir.

The Deputy Speaker (Sen. Kembi-Gitura): Thank you. Then you can proceed.

Sen. Nobwola: Mr. Deputy Speaker, Sir, these two positions were filled on a temporary basis. We are aware of the work that Sen. (Dr.) Khalwale is doing in this House. He is a brilliant brain. In fact, the CORD coalition is already considering giving him an extra important committee where he can contribute. But even without being in those committees, he is able to articulate issues on the Floor. So, I support the names and ask the House to support the replacements because these were on a temporary basis.

Thank you, Mr. Deputy Speaker, Sir.

The Deputy Speaker: Sen. Keter.

Sen. Keter: Thank you, Mr. Deputy Speaker, Sir.

I wish to support this Motion. The reasons which have been advanced by the Mover, the Senate Majority Leader, and the seconder are valid. I wish to say congratulations to my friend, the Senator for Bungoma, Sen. Moses Wetangula; only that you did not realize that I was really praying hard for you to recapture your seat.

(Applause)

I am just saying that when you were mentioning the people who assisted you in one way or another, you forgot that we met somewhere and I prayed for you next to your place. But, however, with a light touch, I want to say congratulations. Your coming back is of importance to this House and to this country. The Committees in which you are going to serve ; the Standing Committee on Finance, Commerce and Economic Affairs and the Standing Committee on National Security and Foreign Relations, among other Committees – are very important Committees, as the seconder was trying to advance.

All the Committees which we have, in one way or another, are very important to this House and also to this country. I also know that all the Senators who are here – the 67 of us – in one way or another, have some value in all the Committees. Therefore, I want to congratulate Sen. (Dr.) Khalwale and Sen. Okong'o for doing a good job. The insecurity in this country cannot be pinned down on the Committees of this House; it is a national function; it is a big issue and, therefore, if we say that the coming back of Sen. Wetangula will really enhance security, we will not be saying the truth.

Therefore, Sen. (Dr.) Khalwale, as my colleagues have said earlier, really deserves to be in one of the vital Committees. I believe that with the creation of the Public Accounts Committee, whereby in the last Parliament, he did his work very well on the county accounts – and he recently did a very good job on the Special Committee dealing with the Wambora issue, I believe he deserves to get that Committee.

(Applause)

I know that with the membership of Jubilee, who will be there, he may talk to them so that they can give him the Chair. That is why the Senate Majority Leader was saying he is considering whipping him back. It can come through several ways; either through a vote as the Chair; which means again we have whipped you back so that, together, your input can serve this country, but not on partisan issues, but as a Senate, he will be of importance to this House.

So, with those few remarks, I beg to support this Motion.

The Deputy Speaker: Sen. Orengo.

Sen. Orengo: Thank you, Mr. Deputy Speaker, Sir. We would not be discussing this Motion if Sen. Wetangula was not re-elected. In winning back the seat, he did so with an overwhelming majority.

The other thing that pleases me immensely is that I did not see any Senator from the Opposite side campaigning; I do not know whether that was by design, but I took it as a sign of support for Sen. Wetangula. I think that is a good sign. If there is any Senator who shows good leadership and belongs to the party opposite, Senators would be reluctant to be seen outwardly campaigning against that person. I think that one also sends messages – not only to the electorate – but it has also helped this House work in a bipartisan manner.

I think the formation of the Special Committee that was appointed in relation to Governor Wambora concretized the fact that we are working in a bipartisan manner. But having said that, Mr. Deputy Speaker, Sir, I cannot discount the fact that, probably, the party opposite was involved in the elections by proxy. But I also know that there were

some night appearances with some night bags, which helped our opponents on the ground! But having said that, I think we really valued your support.

(Laughter)

Obviously, Sen. Wetangula is a man of immense abilities, and you have seen it in this House; and as a lawyer, I know the many cases he did. Also, in the National Assembly, he was a Member of many important Committees, rising to various positions, including Deputy Speaker and also Assistant Minister and Minister. So, if it is the question of abilities, I think Sen. Wetangula fits the bill. Now that we know that he is also the Senate Minority Leader, therefore, he deserves to be in these Committees to provide leadership.

Mr. Deputy Speaker, Sir, I also want to thank Sen. (Dr.) Khalwale because right at the beginning when we were not working very well, he had to save me from the hands of Jubilee in order to attain the position of Chairman in the Implementation Committee.

(Laughter)

But I know now in this working arrangement, if I ever was to stand for that position, I think the opposite side would judge me, not on account of the party, but on account of what role I may be able to play in that particular Committee. So, Sen. (Dr.) Khalwale is a man of a lot of energy, and I hope that other than being in the Committee on Delegated Legislation, he will find himself in other Committees. But I was a bit disturbed by Sen. Elachi's remarks; and you know I respect her very much – she is one of the very distinguished and articulate lady Senators in the House – because my understanding is that you can have a pre-election agreement which relates to events before the election and subsequent formation of Government; and you can have a post-election agreement. The trouble with the pre-election agreement which involves the party or the coalition that Sen. (Dr.) Khalwale belongs to is that it was breached as soon as it was signed!

(Laughter)

If marriages were like that, there will be no marriage. So, Sen. (Dr.) Khalwale is quite in order to take a position because those agreements were breached at that time. But let us not talk about the past. I think what we need to talk about is what good we can do for this Republic in this House on matters that concern the nation. I know that Sen. Wetangula will serve in these two Committees--- I like what Sen. Keter said; that all Committees are important, and each individual Member belonging to any Committee plays a very important role. We do not want to say that other Members do not play an important role. But I think with these two Committees, we are expecting a lot from them, both in terms of financial control and accountability of the counties, and on matters security – and I served with Sen. Wetangula in the Committee on Security.

So, I wish Sen. Wetangula well in the service of these two Committees, but I hope that as soon as possible – and I think this is work in progress – Sen. (Dr.) Khalwale will

get himself into another Committee. But he should also be happy that just the other day, you chaired a historical committee.

(Applause)

I saw the other side coming this side to encourage him to become the Chair; and I think that was a very good signal. Next time I hope I will also go to the other side and tell one of the Senators, particularly Sen. Mutahi Kagwe because he knows what we enjoy between us, and say: “Mutahi Kagwe should be the Chair of this Committee” without considering party affiliation on matters that are critical to the country.

I thank you, Mr. Deputy Speaker, Sir.

The Deputy Speaker: Sen. Mutahi Kagwe.

Sen. Kagwe: Thank you very much, Mr. Deputy Speaker, Sir. It is just that I know there is a gentleman who is complaining on the other side, but he happens to have joined the Opposition for now. Consequently, he will speak when the Opposition time comes.

Thank you very much, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker, Sir, it is just appropriate that I got this opportunity at a time when Sen. Orengo, my friend, has indicated indeed the spirit with which we should consider my friend, Sen. Wetangula, and my other friend, Sen. Mong’are.

Mr. Deputy Speaker, Sir, from the outset, I also want to congratulate Sen. Wetangula, my brother. We were in college together and I actually did tell him when he was removed – and he is my witness – that he will come back. So, the friendliness, the spirit and the support for him was there, at least in spirit.

Mr. Deputy Speaker, Sir, while congratulating Sen. Wetangula, I think it is very good for us to remember that political parties are crucial for democracy to entrench itself; and without political parties, we will have very serious problems. Indeed, democracy will not actually work without political parties.

But having said that, Mr. Deputy Speaker, Sir, by the end of the day, individuals are the ones who will determine how those parties work. Therefore, the presence of people who think and people who are well versed in all issues of governance is important in those political parties; and that is why parties can get along because individuals can get along.

Mr. Deputy Speaker, Sir, I am glad that Sen. Wetangula has come back to the Committee. I also happen to sit in the Standing Committee on Finance, Commerce and Economic Affairs and, indeed, we missed the honorable Senator when he was not there. We know that Sen. (Dr.) Khalwale was very effective – I can tell you that – while we missed you, the effectiveness of my brother, Sen. (Dr.) Khalwale, was there and we have no doubt that wherever he goes to the other Committees, he will serve just as well as he did in the Standing Committee on Finance, Commerce and Economic Affairs.

Mr. Deputy Speaker, Sir, I am also happy for Sen. Mong’are because I happen to Chair the Committee he is in; the Committee on Education, Information and Technology. One of the things that we must remember, even as we restructure these Committees, is that Committees are made so that we can present more detailed analysis of issues that we discuss here in the House. One of the missing links in the Committees, in my experience,

is that there comes a time when people attend the Committee meetings just to appear, perhaps for financial gain. They just appear, sit there and get whatever it is and, so that you will find a Committee Member moving from one Committee to the other for five minutes---

(Applause)

He will move to one room for ten minutes, very quickly look like he is busy doing something when he is actually doing nothing; he will move with those funny papers to the other Committee, pretend there that he has also done something, and then move away, go and have a good time. This is a very serious issue and it impacts on the Committee; it impacts on the effectiveness of the Committee and it makes the Chairs of those Committees look very bad because by the end of the day, the papers that you present here are papers which you have read and passed on your own!

We pass a Paper here thinking that it comes from a Committee but it is only the chairman like my brother who has looked at it and then presented it here as the Committee's paper. Therefore, it is very important that as we restructure these Committees, we make sure that we do so in such a manner that the Committee you go to, you give it time. That is why in the Liaison Committee, we agreed and passed that Committees can now meet officially after 6.00 p.m. because clearly, given the numbers we have, what happens is that if you have two Committees, one in the morning and one in the afternoon and there is a sitting in the afternoon, then we have to reschedule the meeting to the evening or lunch time. Indeed, from here, we are going to listen to the audit. The Finance, Commerce and Economic Affairs Committee is going to meet the Auditor-General.

Mr. Deputy Speaker, Sir, that is why I am glad that Kennedy is freer now because Senator Kennedy is a Member of the Education Committee and an effective one at that. So, I am glad that he is freer so that he can participate more effectively in that Committee.

Therefore, I support the Motion that is here in front of us. I also want to add that the level of debate that is exhibited in this House from both sides proves one thing; that age and wisdom are present in this place. Age and wisdom are infectious so that you will find that the wisdom of an old hand like Sen. Moses Wetangula is now bringing up, you can tell clearly that 20 years ago, he was not as wise as he is today. Twenty years ago, he would have been a firebrand but today, he comes up with wisdom. Therefore, that is why I am saying age and wisdom go together. When you hear the things we hear from the Attorney-General *Emeritus*, Sen. Wako, you hear wisdom. Even those who are younger and still firebrands in our House will eventually become just as wise. I would like to tell my brother Murkomen not to worry too much about that, it will come and it will come naturally.

Sen. Murkomen: On a point of order, Mr. Deputy Speaker, Sir. This is really serious coming from a senator I totally respect for many reasons including traditional. So for him to say that I am less wiser because of my age or any other young senator, is it really in order when we are facing serious attacks there as a House? Does it mean that our age---

The Deputy Speaker (Sen. Kembi-Gitura): Sen. Kagwe, this is a matter of interpretation. Maybe you can answer him.

Sen. Kagwe: Mr. Deputy Speaker, Sir, I am very surprised that the hon. Senator actually took only one side of what I intended because I am aware that the hon. Senator is my *muthoniwa* and I will never in my wildest dreams insult the man. All I was saying is that---

Sen. Ong'era: On a point of order, Mr. Deputy Speaker, Sir. The distinguished Senator has just used some unparliamentary language and we do not understand the meaning of that word.

The Deputy Speaker (Sen. Kembi-Gitura): What language was it?

Sen. Ong'era: It was something like Muthoni--- I did not get it right.

Sen. Kagwe: Mr. Deputy Speaker, Sir, I do sympathize and indeed do apologize if the honourable lady did not catch the word. If you look at the English Oxford Dictionary, you will find the word safari, it is now an English word. You will even find that *muthoniwa* is now an English word. If you are playing "*scrumble*" and you use the name *muthoniwa*, I guarantee it will pass. It means that I respect the man as an in-law.

Sen. Murungi: On a point of order, Mr. Deputy Speaker, Sir. My colleague Senator is talking about a game called *scrumble*, I have not heard of any such game in English language. Is he talking about *scrumble* or scrabble?

(Laughter)

Sen. Kagwe: Mr. Deputy Speaker, Sir, you know there is something called a bus and something else called a "*mbus*". You will therefore agree with me that if you can call a bus a *mbus*, it is quite clear that you might not have had the intonation clearly. There is even something in this House called *Gavanaa*.

(Laughter)

So, we have many different ways of describing this thing. Having said that, to dispense with Sen. Murkomen's issue---

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

The Deputy Speaker (Sen. Kembi-Gitura): Sen. Orengo has a point of order.

Sen. Orengo: It is information.

The Deputy Speaker (Sen. Kembi-Gitura): Do you want to be informed.

Sen. Kagwe: Indeed, Mr. Deputy Speaker, Sir.

Sen. Orengo: I just wanted to inform Sen. Kagwe that in the Constitution, the state is obligated to promote the development and use of indigenous languages. It is clear that the use of that word which I understand very well, nowhere can it be better promoted than in the Senate.

Sen. Kagwe: Thank you very much, Sen. Orengo. I am indeed advised and informed.

As far as my brother Sen. Murkomen is concerned, I used two words; I said age and wisdom. The one that he does not have is age. I dare say that if Sen. Murkomen had no wisdom he would never have crossed into my area and gotten a beautiful wife.

Thank you, Mr. Speaker, Sir.

The Deputy Speaker (Sen. Kembi-Gitura): I believe I had called Sen. Wako.

Sen. Wako: Mr. Speaker, Sir, thank you for giving me this opportunity. Indeed I support this Motion. I support it because when the Senator left rudely as some people say, the two who replaced him were actually holding the fort for him if he came back. He is just claiming what was his as a Senate Minority Leader because of his wisdom and his position in the party.

This is just like the story of a *Mzee* in the Bible who left and gave one person ten talents and another person 20 talents. I believe that when Sen. Wetangula left, he gave Dr. Khalwale 10 talents and Kennedy another 10 talents and went away. Now that he has come back, I am glad that both Khalwale and Kennedy have doubled the ten talents to 20 talents. I think he is now telling them; “thank you very much for what you have done. You go, you have performed very well. I am now back.”

I am not saying so because Sen. Khalwale is my *muthoniwa*. I am not saying so because he is my *mukhwasi*. I am saying so because as we are stationed here, both Sen. Khalwale and Kennedy are Senators who did a very good job. I am sure that Sen. Khalwale agrees with me that Sen. Moses Wetangula should go back to his job. I support his spirit in so doing because as we all know, he made a very spirited campaign, a vigorous one, for Sen. Wetangula to come back.

If Sen. Khalwale was a person who was thinking about the position he had obtained in the Committee and if he thought that this man should not come back, he would not have gone there to campaign. I want to thank Sen. Khalwale for being public spirited. That brings me to what I am seeing here about membership of the Committees.

It is true that the Committees must be composed of Members from various political parties depending on the strength and so on. At the beginning, depending on the strength, all the Chairpersons could be from the Government side. I want to thank the Jubilee Government for supporting me to be the Chairman of the Justice and Legal Affairs Committee. I can now see a new spirit emerging. This is a spirit that says, as we observe that rule; let us also look at the competence of the person to serve in a particular committee so that committees become effective in the performance of their functions.

Mr. Deputy Speaker, Sir, as we all know, Parliaments all over the world are focused on doing their work at the committee level and not at the plenary. The way committees are appointed, the competence of each and every committee member on the subject matter becomes a very important issue. Therefore, I hope that Sen. Khalwale and Sen. Kennedy’s strengths and abilities and skills will not be wasted in one Committee. From what I hear, we will now not reject Sen. Khalwale because he is recognized as my *muthoniwa*. *Muthoniwas* are very clever people. You can imagine a clever person like me combined with a clever person from my *muthoniwa*’s family and what the product would be.

Having said that, I want to mention that in the appointment of committees, we should look at the competence of the members, among other things. In the appointment of committees, we should look for people who can perform and those who can devote their time as Sen. Mutahi Kagwe stated. In so doing, I know that when Sen. Wetangula goes back to his rightful place in these two committees, he will be such a person because he was such a person before he went away briefly.

I also want to take this opportunity to congratulate Sen. Wetangula for being overwhelmingly elected as the Senator for Bungoma County. I say so because one of the platforms for re-electing him was because of the good work he was doing in this Senate. He was a valuable asset to the Senate. We did not want to lose him in the Senate. Compared to the two, he was the best. People listened and they voted for him. This Motion seeks to reinstate him in obedience and in accordance with the wishes of the people of Bungoma County who elected him to come to continue with his good valuable work.

Sen. Murungi: Mr. Deputy Speaker, Sir, I rise to support this Motion. I so doing, I want to welcome my old friend back. I know that very many people will be talking to him. Very many people will be saying how they prayed for Sen. Wetangula to come back. That happens after the campaigns. Some people come to tell you how they died for you and how they prayed for you. Such people are not with you. You should know the people who were with you even if we did not talk. Sen. Kiraitu Murungi is one of them.

(Laughter)

I am very happy that Sen. Wetangula is going back to the Committee on National Security and Foreign Relations. We should not forget the fact that Sen. Moses Wetangula served as a very able Foreign Minister of this country during the very successful Grand Coalition Government. You will remember that he found himself in problems in West Africa, serving this country. We did not know that he would come back but thank God that he came back. We need such selfless people; people who are ready to lay their lives for Kenyans like Moses did when he was serving as the Minister for Foreign Affairs. This region is facing challenges in foreign relations. You saw President Museveni last night on television saying that we should not accept moral decadence from the West under the guise of human rights.

Mr. Deputy Speaker, Sir, time has come for this country to take back foreign relations where it was during the time of the late Munyua Waiyaki when he said that the great South African doctor, Christian Bernard, would come back to this country over his dead body and Kenya was respected for taking firm positions in foreign relations. The days of wait and see foreign policies are long gone and Kenya will not make a mark in international relations if we do not take firm stands like what President Museveni has done.

So, we would like this Committee to be more aggressive and promote patriotism and nationalism, and act in the fundamental interest of the people of Kenya. I support Sen. Moses Wetangula to go back to these Committees because I know that he is going to give it the punch and bring in a wealth of experience. He knows all those characters there. He confronted them at that time and I am sure that he is going to do it again. My brother, you are most welcome back to that particular Committee. We have been missing your very sober mind in the Rules and Business Committee. Of course, your training as a lawyer---

Sen. Orengo: On appoint of order, Mr. Deputy Speaker, Sir. Do you not think that the contribution by the hon. Member is becoming too sentimental now? He is talking directly to Sen. Moses. Can you provide them accommodation---

(Laughter)

Sen. Murungi: Mr. Deputy Speaker, Sir, when I said that I prayed for him, it should be understood. We have come a long way.

Mr. Deputy Speaker, Sir, regarding the bullfighter, Sen. Boni Khalwale, I would also like to thank him for making this Senate proud. Sen. Boni Khalwale might have problems with political parties, but I think that if there is somebody who has really raised the profile of this Senate, it is him.

(Applause)

We should not be petty by saying that he does not belong here or there. Let us look for a Committee which will be chaired by him, especially the watchdog Committees. He did very well regarding Governor Wambora's case. We in the region took a low profile because we pass through Embu on our way home. But Sen. Boni Khalwale did the job for us. We are now thinking about how we are going to reconfigure the Committees. Therefore, I think that we should not worry too much. I was in Australia in December, thanks to the Senate, and we looked at both the New South Wales Senate and also the Senate at Canberra and how their committees were operating. We saw that many of the Committees had only seven members. Our Committees have nine Members and given that the quorum is three Members, surely, there is no reason why we cannot reduce the number of our Committee membership from nine to seven, so that we can give more people the opportunity to serve in those Committees.

Mr. Deputy Speaker, Sir, we also found that the committees have dual mandates. At one level, they took the legislative work very seriously, including analyzing of Bills which were coming before them and generating Bills. There was the second bit where they spend time meeting the people and listening to them. They do inquiries and all that. I think that our Committees have been focusing too much on handling memoranda which come and ignoring the legislative agenda of the Senate. I think that it is time that the Committees shared this time almost equally, so that the Senate can also be seen as a lawmaker – we are Parliament.

Mr. Deputy Speaker, Sir, we expect to see some Bill coming from the Committee on National Security and Foreign Relations and several Bills from the Committee on Finance, Commerce and Economic Affairs.

Mr. Deputy Speaker, Sir, with those few remarks, I support this Motion.

Sen. (Dr.) Khalwale: Mr. Deputy Speaker, Sir, this is the first time that we are doing such a debate after the by-election in Bungoma. Allow me, in line with the article read by Sen. Orengo, on promotion of local languages, to tell the people of Bungoma: “*Abandu be Ebung’oma, murio muno.*”

The Deputy Speaker (Sen. Kembi-Gitura): Sen. Khalwale, please, give us a translation of that phrase.

Sen. (Dr.) Khalwale: Mr. Deputy Speaker, Sir, Sen. Orengo's grandmother is a Luhya and so, he knows what I am talking about. I was just saying: “To all the people of Bungoma, thank you so much.”

Mr. Deputy Speaker, Sir, the by-election of Bungoma gave me an opportunity---

Sen. Madzayo: On a point of order, Mr. Deputy Speaker, Sir. I have restrained myself from standing on a point of order, because the debate is going on very well in this House. But I think that we are also taking an extremely difficult position when we allow ourselves to go outside the ambit of our Standing Orders. I am referring to Standing Order No.78 which reads:-

“(1) All proceedings of the Senate shall be conducted in Kiswahili, English or in Kenyan Sign Language.

(2) A Senator who begins a speech in any of the languages provided for under paragraph (1) shall continue in the same language until the conclusion of the Senator’s speech.”

Mr. Deputy Speaker, Sir, what we are noticing now is a digression from this Standing Order. Is it in order for the Senator whom I respect and who is a very good friend of mine to use that kind of language, which I did not understand and doubt whether anybody who does not come from Western Kenya understands? It is highly unparliamentary. Could he clarify what he meant or could we get a ruling from the Chair?

The Deputy Speaker (Sen. Kembi-Gitura): I think that there is a difference here. Standing Order No.78 talks about debate being conducted in Kiswahili, English or Kenyan sign language. I do not think that I heard Sen. Khalwale debate in any language other than those three, if you take “debate” in context, neither did I hear Sen. Mutahi Kagwe debate in any language other than English, if you take it in context. I think that a lot of times, even when you write any language--- If you want to put Latin, for instance, you can put it in italics or inverted commas. As long as it is not a prolonged official debate on that issue, and you can tell us what “*muthoniwa*” means or what Sen. Khalwale said in good faith, I do not want to believe that, that would be seen to infringe Standing Order 78 (1).

I am not giving a *laissez faire* or saying that people should speak any language that they want here, because the Standing Order and Constitution are clear. But in my own considered opinion, if you take the words “proceedings of the Senate shall be conducted in Kiswahili or Kenyan Sign Language” in context, with a lot of respect, I think that use of another word in inverted commas cannot be taken to be a debate in that specific language. That is my view and finding.

Proceed!

Sen. (Dr.) Khalwale: Mr. Deputy Speaker, Sir, I had stopped at the point where I was saying that it gave me an opportunity to understand what people say; that all politics is local. Because of the local dynamics that we share with Sen. Wetangula, it put me to a great risk with my status as Senator in this country; because I had to choose between toeing the so-called party line and addressing the most important thing, which is “all politics is local.” Just to affirm what Sen. Wako said, the fact that I had taken over his position, it did not make me greedy to the extent of me trying to shed crocodile tears that he is gone, when I am rejoicing that now I have taken over from him. So, I want to congratulate the Senator and hope that he is going to continue from where he left.

Mr. Deputy Speaker, Sir, when we were in the by-election, the problem in South Sudan broke out, and today, Sen. Wetangula is joining the Standing Committee on National Security and Foreign Relations. When I saw the quality of the people who

accompanied the President to go and look for peace in South Sudan, I said, “maybe if it was in the good old days when I used to call the President and the Deputy President, I would have told him that in Kenya today, the two people they would have afforded to go with were Sen. Wetangula and former Vice President, hon. Kalonzo Musyoka.” Now that the President has chosen to extend an olive branch to the ODM by appointing hon. Dalmas Otieno, maybe, it is also a message to us that the President wants us to work together as a country. He wants us to work as a country, and we must support him.

(Applause)

Mr. Deputy Speaker, Sir, when I say these things, I have gone through a by-election; and it is usually a very humbling experience. You need people like Sen. Murungi. When I was the Chairman of the Public Accounts Committee (PAC) and hon. Martha Karua was an able Member of my Committee, we terrorized Sen. Murungi; but when the by-election came, he took trouble and sent me money to go and pay for my agents!

(Applause)

The same is true for hon. Ruto and hon. Uhuru; and it is because they had seen in me somebody who can stand for Kenya.

I, therefore, want to affirm once again that the little things we had at the beginning, of whipping and de-whipping, do not amount to anything. This is because the people who then remained in that Committee have so far done a very good job and, therefore, we should support them. I am also aware that you demonstrated a lot of confidence in me, as a House, when you gave me the very challenging and, finally, the very rewarding opportunity to chair the Special Committee on the proposed removal of Governor Wambora. I am also so proud of the Judiciary this morning; they have confirmed that Wambora is gone, and he is gone forever! We were starting to get confused!

(Laughter)

Mr. Deputy Speaker, Sir, as I conclude my remarks, I believe that the Senate is like my fighter bull called *Musinga*. *Musinga* is usually controlled by my 12 year old son in the morning when we are driving him to go to a bull fight. Little does he know that he is so powerful that he can not only clear that little boy, but he can also clear the whole crowd that is escorting him! The Senate is this bull; we must, without looking for an opportunity to amend the Constitution---

(An hon. Senator spoke off record)

By just using the laws and the Constitution that we have now, let us save the Republic of Kenya, because we are so powerful. We are more powerful than *Musinga*, my bull, which only discovers its strength when it locks horns with another bull. You saw the other day, when somebody tried to lock horns with the bull called Senate, how we have terrorized them and now they are all running helter skelter in the country!

(Laughter)

Mr. Deputy Speaker, Sir, I, therefore, support this particular Motion. I believe Sen. Mong'are is of the same view; you have fallen in the same step with me. But I also remember that in Bungoma, you and I were the ones who were taking the first shot on the front line.

Mr. Deputy Speaker, Sir, Sen. Orendo is so happy today; I do not know why, because he is using very emotional words like “sentimental” and so on, but it is all in the name of debate.

So, Mr. Deputy Speaker, Sir, we want to use this opportunity to bring the Senate together. If this Senate works together, what you saw happening yesterday in the main Chamber of the National Assembly, we would not have to work for it. We were all there, and all the Members of Parliament (MPs) were very happy with us. As I saw Members addressing the whole plenary, there was no single Member of the National Assembly who tried to throw a jibe at you or heckle you in any way because of the respect they have for the Senate. If we are working together, our brothers and sisters in the Lower House will also realize that they must work together with us, and they must also work amongst themselves. There is time for politics and there is time for us to work. This is the time for us to work to save our counties because we are the true salvation of the counties.

If you think it is a joke, look at what happened in Kiambu; the Speaker, who knows very well that he is not the accounting officer, took away Kshs500,000, went on a spending trip in Mombasa, saying he has gone to Brazil, and so on. You can imagine humble people like the Governor of Migori – such a humble man and I know him; he has been the Chairman of Kenya Sugar Board (KSB) and I helped him a lot when I was the Chairman of the PAC – when it is reported today that he is going to ask for a referendum so that the Senate can be removed; it confirms that these are people who have now joined the gravy train, and who are regretting that the Senate has now decided to exercise its powers! We must not relent; if you have also seen in the media, one of the Governors that I respect most, Kidero; he has humbled himself and said: “maybe these titles we are having, we do not deserve them;” and that is precisely why we want to take them.

(Applause)

I have made a list of further amendments on our Bill and I will submit them to the Leader of the Minority in the National Assembly, including removing the siren and the cabinet, because at the county, there can be no cabinet; also removing the word “Minister” at the county because there can be no such things there. These further amendments will be made and the Bill will come out nicely, and Governors will start working the way Senators are working for the public.

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

The Deputy Speaker (Sen. Kembi-Gitura): Sen. Murkomen.

Sen. Murkomen: Thank you, Mr. Deputy Speaker, Sir. I was worried, that maybe you would not see me because today I sat on this other side as a sign of demonstration of bipartisanship of this House.

(Applause)

Mr. Deputy Speaker, Sir, I would like to basically congratulate Sen. Moses Masinga---

The Deputy Speaker (Sen. Kembi-Gitura): Masika.

Sen. Murkomen: Yes, Masika; Masinga is the--- I thought it was the bull that Sen. (Dr.) Khalwale was referring to!

(Laughter)

I would like to congratulate Sen. Moses Masika Wetangula for his re-election; he told me that he is the only Senator who is serving the second term in the post 2010 Senate of this Republic.

Mr. Deputy Speaker, Sir, I think when it comes to the quality of this House – quality of debate and the quality of contribution – the position of Sen. Wetangula is not in doubt. I congratulate him; I made it clear to him when he went to the by-election that I wished him the very best, and it will be great to have him back, but, unfortunately, I was not going to campaign for or against him. When he finally succeeded, I was very happy. We have conversed with him in the past in this House when we were discussing about the protection of the integrity and status of this House. There are times when I always ask myself “who will address this matter clearly in a manner that the public will realize?” Sometimes I consult him and tell him that if he was to address certain issues, it would come out better than when Sen. Murkomen does it. That is the recognition of various abilities that different people have, because there is no better person who can bring out words such as “polemics” than Sen. Wetangula. I liked it the other day when he said “devolution is not governors;” and so on, and so forth. When they were addressing the press conference the other day as the leaders of both Houses, I chose to accompany them because, again, we had a long conversation with the Senate Minority Leader on matters of law.

Sometimes when I am not so sure about certain interpretations because of the confusing statements that sometimes come from certain people or certain members of the public, I usually go back to people like him to crosscheck, only to realize that the others were pursuing the frolic on their own. Because if Sen. Amos Wako agrees with me, if Sen. James Orengo agrees with me, if Sen. Wetangula agrees with me; if the professor of law, my former lecturer, Sen. (Prof.) Kithure, agrees with me, if Sen. Murungi, a Harvard trained lawyer, agrees with me, I think I will doubt the other interpretations we see out there. That is why I am really grateful that you came back. I was going to oppose this Motion, but because the Senate Majority Leader assured me that Senator--- I was only going to oppose because I was worried that my friend, Sen. (Dr.) Khalwale – my new found good friend – was not going to serve in any Committee. With the creation of new committees, he will be a Member of one of the Committees and I will be proposing that he will be the chair of such a Committee like the Majority Leader, the Senate Majority Leader and Sen. Murungi has said. This is so that he can continue with his senatorial bull fighting to assist us to address issues of concern.

Mr. Deputy Speaker, Sir, I want to tell Sen. Wetangula that there are a lot of misconceptions out there, especially in the role of the Committee he is going to serve, that is, the one for budget. There is a misconception that Senators are interested in

controlling money or having the say in how the money is managed at the county level in terms of nitty-gritty of budgeting. Our interest in matters related to management of finances in the county is basically because we want that money to work. If that money does not make a difference in Elgeyo-Marakwet, it does not matter how many times I tell the people that we have allocated Kshs3 billion to the county. If that money is not going to assist in taking water closer to the people, if it is not going to solve the problem of the roads, if it is not going to solve the problems of illiteracy, if it is not going to build the new pre-primary classes, our work here of allocation of resources to various counties or division of revenue would be in vain. Our interest is just limited to ensuring that whoever is given that responsibility to be the chief accounting officer, who is the governor, and the county leadership is going to ensure that the money makes sense at the local level.

Mr. Deputy Speaker, Sir, it was laughable today when I read in one of the media, in the newspapers, an editorial saying that our interest is basically the money. Before I came here, Sen. Orendo played a role together with the former Prime Minister and the former Deputy Prime Minister in putting me in the task force for devolved government. I was involved in drafting all the six Bills for devolution. Nothing would have been easier for me to go and run for governor. I knew very well the role of governor but I went for senator. All these former Members of Parliament like Sen. Murungi, Sen. Keter, Sen. Wetangula and Sen. Orendo are the men and women who passed the Constitution itself. Nothing would have been so easier for them to go and run for governor than to just wait to become Senator to control money. In fact, we had decided in this House that we do not care about issues of handling money equivalent to the Constituencies Development Fund (CDF). Our concern about devolved funds has been driven by the desire to ensure that the money makes sense.

I was in Elgeyo Marakwet last week and people were asking me that since devolution started, in Kapchorop Division, no single project has been launched in all the three wards. How do I answer them if I do not put pressure on the county government to perform? How will I go for re-election in 2017 if I do not ensure that their money is used for the right purpose? In fact, that is the only interest for this House and the world needs to appreciate that fact.

Sen. Wetangula, we need your Committee and other Committees to pass this message as clear as possible and we are not going to relent. I have made it very clear that we are not going to stop or relent in ensuring that we ensure that accountability is seen all over the country. Sen. Mong'are is one bull-fighter in his own right and I am sure that when he goes back to his Committee, he will continue with his work. He has been exercising direct and collective oversight in his county. We have read in the newspapers. We have seen situations where people are begging him to relent in terms of accountability in Nyamira County and he has been very clear to the public and to his House that he will not relent and that is the spirit. Yesterday, an incident stirred me to think that some people think that when we say we want to hold governors to account that all of them are bad. They are not bad. We are just saying that every human being is prone to dipping his hand in the jar. That is why the Bible says "Lead us not into temptation". We are assisting our governors not to be led into temptation so that they can be delivered from any evil. So, we want to protect those counties so that they can work and make a difference.

I want to congratulate Governor Kidero, just like Sen. (Dr.) Khalwale did, for his humility. He has appeared before my Committee and he continues to say in public that there is no reason why they cannot appear before the Senate. If there is a honorary title that the Senate should give to such governors, then we should honour them as good will ambassadors of devolution because they respect the work of various institutions. So, other governors should follow suit and realize that oversight is not a choice, it is mandatory and we must all over us be able to work together.

The Deputy Speaker (Sen. Kembi-Gitura): The clocks are not synchronised; one is saying 12.17 p.m. and another one is saying it is 12.20 p.m. The Leader of Majority must reply at 12.20 p.m. I do not know whether he will donate his time but in the meantime, I will give this chance to Sen. G. G. Kariuki. You do not have much time because the reply must be about this time.

Sen. G. G. Kariuki: Mr. Deputy Speaker, Sir, thank you for giving me an opportunity to say something about this Motion. I want to say that the Motion is straight forward. In fact, there was no need of taking a lot of time the way we have taken by perhaps talking outside the main issue. Having said that, I would like to congratulate my friend, Sen. Wetangula, because I think I know him very well. He is a man who has a lot of wisdom. He is a man whom you can rely on in politics. He is a man who has proved to be trustworthy in terms of politics of Kenya. He is doing very well in terms of progression in national politics and we congratulate him for that.

As Sen. (Dr.) Khalwale said, Sen. Wetangula is among the people who understand our international relations including Hon. Kalonzo and others. That was the subject that I did in the university many years ago. I have been following what other people are doing about this and I am very convinced, not just now but even before, that Sen. Wetangula really followed those issues of international relations with a lot of stability.

Talking about Sen. (Dr.) Khalwale, who is my greatest friend, I think he is known in this House as a man who has his own stand. He stands by whatever he believes in and in future, and I can say with a lot of humility that he has a very good future especially as a Member of this Senate not that because he witnessed or dictated the exit of hon. Wambora but because all the time, he had to do some homework before he stood to speak. He impressed me big. I am saying this because I have been in Parliament for some time. I have watched most people talking with the intention of doing well. Some talk with a lot of hidden or coveted interests. However, Dr. Khalwale has proved to be a very open person. I support him. Since I do not have so much time, I want to say something about the Committees.

I have heard, especially, Committee Chairpersons complaining of quorum. If you are a Chairman of a Committee, the first question you should ask yourself is: Why you do not get a quorum? Do you really prepare your agenda? Do Members know what they are coming to talk about in the Committee? It has been taken for granted that we go there for allowances. This is a very bad insinuation. We need to be told, as Members of a Committee, what the agenda is when we are having meetings.

The Deputy Speaker (Sen. Kembi-Gitura): Sorry Sen. G.G. Kariuki. Your time is up. I want us to vote on this Motion before we adjourn.

The Senate Majority Leader (Sen. (Prof.) Kindiki): Mr. Deputy Speaker, Sir, for that reason, I want to beg to move. The time I would have used to move, I will donate 30

seconds each to Sen. Moses Wetangula to say thank you, Sen. Madzayo, Sen. Sijeny, Sen. (Prof.) Lesan, Sen. Chelule and Sen. Okong'o in that order.

We have to vote, as the Mr. Deputy Speaker has said, before we adjourn.

The Senate Minority Leader (Sen. Wetangula): Mr. Deputy Speaker, Sir, he started with me. I thank the House. I feel truly humbled by all the good things that the Senators in their distinction have said about me. I want to extend my gratitude to all the Senators who came to be with me in Bungoma, Sen. Janet Ong'era, Sen. Daisy, Sen. Sijeny, Sen. Okong'o; and my good sister sitting there wheeled herself to Bungoma to address rallies with me. That is not something that I take for granted.

The Senators who called to encourage me, Sen. Murkomen, Sen. (Prof.) Kindiki, Sen. Murungi, Sen. Chelule and many others are people I am grateful to. I am very grateful to all of you not to mention you, Mr. Deputy Speaker, a very good friend. I remember you calling me and telling me to take heart because it would all come to pass. Thank you very much, distinguished colleagues. I am here to make a contribution like you all are. We must, truly, leave our country better than we found it. We can only do that by putting in our best industry that we can to get things moving from point "a" to "b."

Sen. Sijeny: Thank you Mr. Deputy Speaker, Sir. Sen. Madzayo has asked me to proceed even though I was not next. I would like support this Motion and to congratulate Sen. Wetangula for making it back. This is because the people of Bungoma and the whole country believed in him. Your expertise and leadership skills have really demonstrated themselves and that is why you are here. That is the reason I want to support this Motion. I know that he will bring in a lot and move the country forward. Let our country go back to the international records where Kenya was great and improve the foreign policy. We know that the Senate will be vibrant. I know that this is a very busy time. Thank you very much and welcome back.

I support.

Sen. Madzayo: Asante sana, Bw. Naibu Spika. Kwanza, nataka kumpatia mkono wa heko ndugu yangu, Sen. Moses Masika Wetangula, kwa ushindi wake mkubwa ijapokuwa mimi sikuenda kule kwa sababu nilikuwa mgonjwa. Lakini sio hoja; ushindi wake ulithibitisha kabisa kwamba watu wa Bungoma wanampenda zaidi.

Bw. Naibu Spika, Sen. Wetangula amekuwa wakili mkubwa katika nchi hii. Mimi nikiwa kama jaji nimemwangalia katika mikakati zake zote za uwanasheria na pia akiwa Waziri wa Mambo ya Nje. Nafikiri kuwa uamuzi wa ndugu yangu, Sen. Boni Khalwale na Sen. Kennedy Okong'o kujiweka kando na kumpisha ndugu yetu, Sen. Wetangula, kuchukua nafasi hiyo, ni jambo la heko.

Bw. Naibu Spika, nampa mkono wa heko na kuunga mkono Hoja hii.

Sen. Chelule: Mr. Deputy Speaker, Sir, I also stand to support this Motion.

Mr. Deputy Speaker, Sir, first and foremost, I want to congratulate Sen. Wetangula for coming back. We are all able in our various Committees and I want to really recognize the efforts that Sen. Khalwale is making in our Committee, where I am also a Member. Congratulations and welcome back. I really appreciate the way we work as Senators, irrespective of our political affiliations. Congratulations to everyone.

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

Sen. Okong'o: Mr. Deputy Speaker, Sir, let me also take this opportunity to congratulate my party leader for making it back.

Mr. Deputy Speaker, Sir, secondly, I had an opportunity also to sit in the Committee on National Security and Foreign Relations where I met very eminent fellows like G.G. Kariuki, Yusuf Haji and the rest. We have a foreign policy in this country which is lacking for the last many years. I sit in Committees which is sufficient for me. We are only asking this House, especially the Rules and Business Committee, to make sure that the Committee on Broadcasting and Library takes its rightful place. As you realize, systems have not been working properly. So, if that Committee comes into place, some of us who have experience in communications can take charge.

Thank you very much, Mr. Deputy Speaker, Sir.

Sen. (Prof) Lesan: Thank you, Mr. Deputy Speaker, Sir.

Like the rest of my colleagues, I wish to congratulate the Senator for Bungoma, Sen. Moses Wetangula, on his re-election. I believe that his re-election was not a fix, but an opportunity for the stars to give him another extra feather on his hat, so that he is the first Senator serving the second term in this House.

Mr. Deputy Speaker, Sir, memory lies in people's minds, but records lie in the HANSARD. It is good that Sen. Moses Wetangula is here to take up his place in the Committees, so that he can exert the memory that he has and improve on the workings of those Committees. I support that he takes his position in that Committee.

Mr. Deputy Speaker, Sir, I had the opportunity to serve in the Committee that Sen. Boni Khalwale was in---

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

Hon. Senators, I think that we have exhausted the Motion and the Senate Majority Leader gave out all his time. So, he will not have a chance to reply.

This is not a Motion affecting counties and so, every Senator has a vote. I will now put the Question.

(Question put and agreed to)

ADJOURNMENT

The Deputy Speaker (Sen. Kembi-Gitura): Hon. Senators, it is now 12.30 p.m. The Senate is, therefore, adjourned until this afternoon at 2.30 p.m.

The Senate rose at 12.30 p.m.